



## **TRANSFER UNSENTENCED PRISONER**

## Why am I in hospital?

You have been moved to this hospital because the Secretary of State for Justice has been advised by two doctors that you have a mental disorder and that you need to be in hospital for medical treatment.

The Secretary of State for Justice has issued a “transfer direction” under section 48 of the Mental Health Act 1983 that allows an un-sentenced prisoner to be transferred to hospital.

The Secretary of State may also have given you a restriction direction under section 49 of the Mental Health Act.

## What is a restriction direction?

If you have been given a restriction direction, it means that you cannot be discharged from hospital unless the Secretary of State for Justice says that you can leave. In this case, your discharge may be subject to certain conditions that would be explained to you nearer the time. While you are in hospital the person in charge of your care (your responsible clinician) must get the Secretary of State for Justice’s agreement before you can go on temporary leave or be sent to another hospital.

## How long will I be here?

You will be kept in hospital until your transfer direction ends.

If you have been transferred here after being remanded by a Magistrates’ Court:



### How long will I be here? (continued)

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You will be kept in hospital until your period of remand ends, unless you are sent to the Crown Court for trial or you are remanded again by the Magistrates' Court (in which case you will stay in hospital). The Magistrates' Court can also order the transfer direction to end if your responsible clinician says that you no longer need medical treatment for a mental disorder in hospital. You would then return to prison, unless the court decides to release you on bail.

If you have been transferred as a civil prisoner or under immigration laws:

You will be kept in hospital until the date when you would have been released from prison or removed from the detention centre, unless your responsible clinician says you no longer need treatment. If you have been given a restriction direction and your responsible clinician says that you no longer need treatment, you will be returned to prison or a detention centre.

In other cases:

You will be kept in hospital until your responsible clinician says you no longer need treatment or until your case has been decided by the court. If your responsible clinician says you no longer need treatment you will be returned to prison, unless the court decides to release you on bail.

### Can I be kept in hospital after the transfer direction ends?

It is possible that you will be kept in hospital under a different section of the Mental Health Act if you need more treatment after your transfer direction ends. If so, you will be given a leaflet to explain this.

**Someone cared enough to help me.**



## What will happen if I have to go back to court?

If you are on remand and have not yet stood trial, you may have to go back to court. The Court will look at your case and may make a hospital order under section 37 of the Mental Health Act saying you should stay in hospital, or may give you an alternative sentence. The Court can only make a hospital order if two doctors say that you have a mental disorder and that you need to be treated under the Mental Health Act.

## Can I appeal?

You cannot appeal against the Secretary of State for Justice's decision to transfer you to a hospital, or against remand by a magistrates' court.

But there are people you can ask to let you leave hospital.

If you have not been given a restriction direction, you can ask the Hospital Managers to let you leave hospital. You can do this at any time. The Hospital Managers are a special committee of people set up within the hospital to decide whether people should be kept in hospital. The Hospital Managers may want to talk to you before deciding whether to let you leave. You can ask a member of staff you help you contact the Hospital Managers.

Whether or not you have been given a restriction direction, you can ask a Tribunal to say that you should not be kept in hospital.

## What is a Tribunal and what happens?

The Tribunal is an independent panel which can decide whether you should be allowed to leave the hospital. It will hold a meeting with you and with staff from the hospital who know you. This meeting is called a "hearing". You can ask someone else to come to the hearing to help you, if you want. Before the hearing, the members of the Tribunal will read reports from the hospital about you and your care. One of the members of the Tribunal will also come to talk to you.





## **When can I apply to the Tribunal?**

You can apply to the Tribunal once at any time during the first six months after you were given your transfer direction.

You can then apply once during the next six months, and then once in every year you are kept in hospital after that.

If you have not been given a restriction direction, your nearest relative can also apply to the Tribunal once during the second six months after your transfer direction and once in every year after that. This leaflet explains further down who your nearest relative is.

You can ask a solicitor to write to the Tribunal for you and help you at the hearing. You will not have to pay for help from a solicitor with this. It is free of charge under the Legal Aid scheme.

## **What happens if the Tribunal says I should not be kept in hospital?**

If the Tribunal says you should not be kept in hospital, it may mean you are taken back to prison or a detention centre, unless the Tribunal has recommended you stay in hospital.

## **What treatment will I be given?**

Your responsible clinician and other hospital staff should talk to you about any treatment that you need for your mental disorder..

After three months, there are special rules about any medicine or drugs you are being given for your mental disorder. If you do not want the medicine or drugs, or are too ill to say whether you want them, a doctor who is not from this hospital will visit you. This independent doctor will talk to you and to staff at the hospital who know you. The independent doctor will decide what medicine and drugs you can be given. Unless it is an emergency, these are the only medicine and drugs you can be given without your agreement.

# Someone cared enough to help me.

What treatment will I be given? (continued)

This independent doctor is called a SOAD (Second Opinion Appointed Doctor) and is appointed by an independent Commission which monitors how the Mental Health Act is used.

There are different rules for some special treatments, like electro-convulsive therapy (ECT). If the staff think you need one of these special treatments, the rules should be explained to you and you will be given a leaflet.

## Help from an independent mental health advocate.

You are entitled to help from an independent mental health advocate if you want it. These advocates are independent of people involved in your care. They can help you get information about your care and treatment, why you are being kept in hospital, what it means and what your rights are. They can come to see you and help you understand what you are told by people involved in your care and treatment. If you want, they can help you talk to these people or they can talk to them for you. They can also help you with the Tribunal.

You can contact the independent mental health advocacy service yourself. There should be a telephone where you can contact the advocacy service and talk to them in private. You can ask a member of staff where this telephone is.

If you do not want to contact the advocacy service yourself, you can ask a member of staff to contact the advocacy service for you.

## Letting your nearest relative know.

If you have not been given a restriction direction, a copy of this leaflet will be given to the person the Mental Health Act says is your nearest relative.



### Letting your nearest relative know. (continued)

There is a list of people in the Mental Health Act who are treated as your relatives. Normally, the person who comes highest in that list is your nearest relative. The hospital staff can give you a leaflet which explains this and what rights your nearest relative has in connection with your care and treatment.

If you do not want this person to receive a copy of the leaflet, you should tell your nurse or another member of staff.

### Changing your nearest relative.

If you do not think this person is suitable to be your nearest relative, you can apply to the County Court for someone else to be treated as your nearest relative instead. The hospital staff can give you a leaflet that explains this.

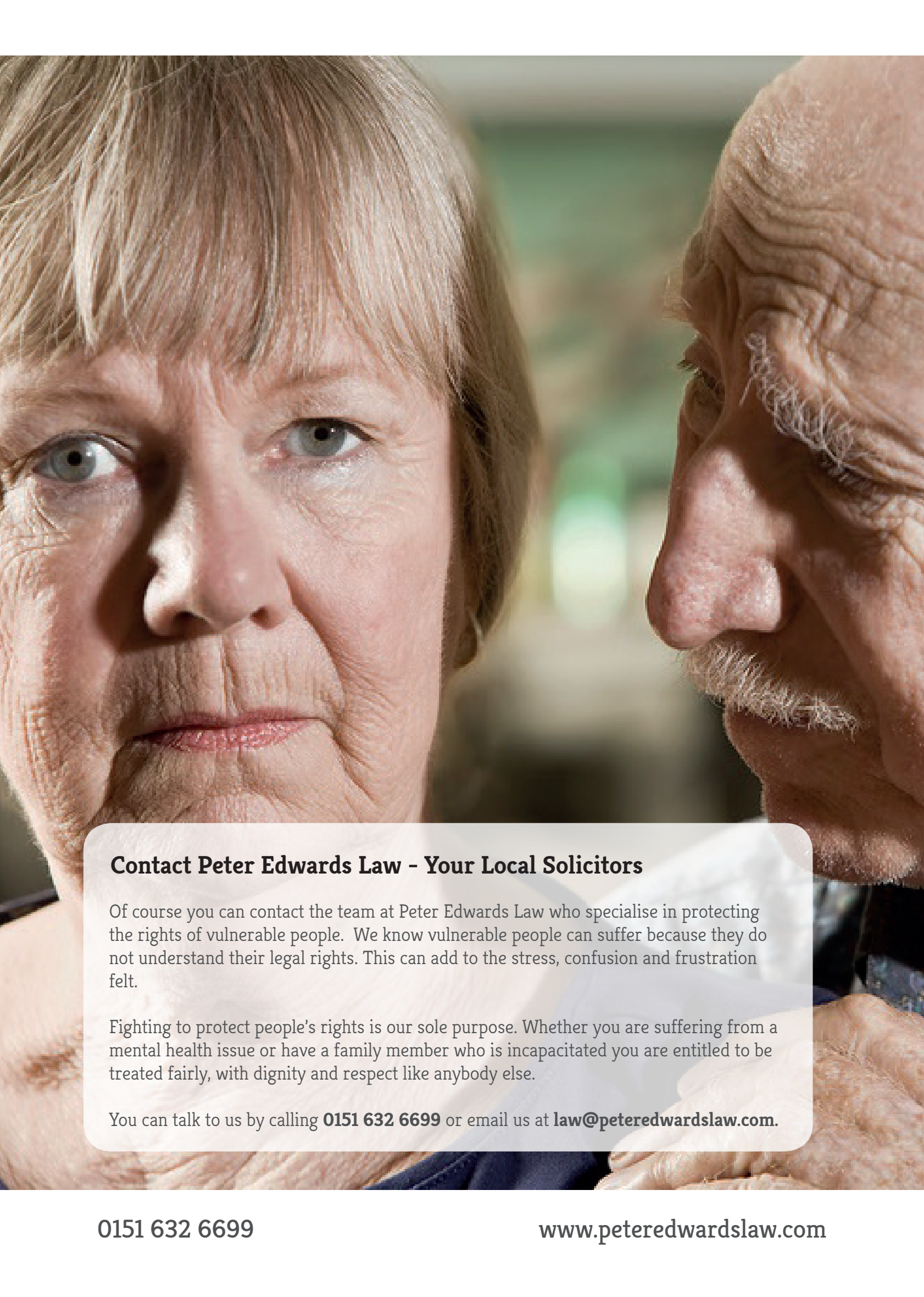
### Code of Practice.

There is a Code of Practice that gives advice to the staff in the hospital about the Mental Health Act and treating people for mental disorder. The staff have to consider what the Code says when they take decisions about your care. You can ask to see a copy of the Code, if you want.

### How do I complain?

If you want to complain about anything to do with your care and treatment in hospital, please speak to a member of staff. They may be able to sort the matter out. They can also give you information about the hospital's complaints procedure, which you can use to try to sort out your complaint locally. They can also tell you about any other people who can help you make a complaint, for example an independent mental health advocate (see above).

If you do not feel that the hospital complaints procedure can help you, you can complain to an independent Commission. This is called the Care Quality Commission and it monitors how the Mental Health Act is used, to make sure it is used correctly and that patients are cared for properly while they are in hospital. The hospital staff can give you a leaflet explaining how to contact the Commission.

A close-up photograph of an elderly couple. The woman on the left has short, light brown hair and is looking directly at the camera with a serious expression. The man on the right is shown in profile, looking towards the woman. He has a white mustache and is wearing a dark jacket. The background is blurred, showing some greenery.

## Contact Peter Edwards Law - Your Local Solicitors

Of course you can contact the team at Peter Edwards Law who specialise in protecting the rights of vulnerable people. We know vulnerable people can suffer because they do not understand their legal rights. This can add to the stress, confusion and frustration felt.

Fighting to protect people's rights is our sole purpose. Whether you are suffering from a mental health issue or have a family member who is incapacitated you are entitled to be treated fairly, with dignity and respect like anybody else.

You can talk to us by calling **0151 632 6699** or email us at **[law@peteredwardslaw.com](mailto:law@peteredwardslaw.com)**.

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**[www.peteredwardslaw.com](http://www.peteredwardslaw.com)**