

Case study

Care Quality Commission: Detaining people in a mental health inpatient setting

The Care Quality Commission continues to find instances of informal mental health patients (meaning those not detained formally under the Mental Health Act 1983) being locked into wards and therefore deprived of their liberty. This raises serious concerns under Article 5 of the ECHR which sets out the right to liberty. This right may be limited, if various safeguards are in place, in relation to those formally detained under the Mental Health Act. However, this is not the case for those patients who are informally detained. If they are locked into a ward against their wishes, this may constitute a breach of their right to liberty.

On one locked ward, there was a mixture of formal and informal patients. Staff assured the inspectors that informal patients would be let out if they asked staff, except in the case of one informal patient about whom they were particularly worried and they thought might leave the ward.

The inspectors decided that:

- if there were serious concerns about an informal patient leaving the ward, the person should have been assessed under the Mental Health Act and appropriate action taken. The person should have been lawfully detained under an appropriate legal framework, and
- other informal patients on the ward had also had their liberty taken away.

While the Trust in this instance reacted to the inspectors' findings in a piecemeal way, in other Trusts where this issue has been raised Trust-wide action has been instigated to address the issue of protecting the rights of informal patients. This has included extra training for staff on appropriate use of the legal frameworks relevant to detention and the publication of a charter of rights for informal patients which such patients receive on admission.