

# Legal frameworks

		England and Wales	Scotland	Northern Ireland
Legal rights	Patients' powers to REFUSE treatment	<a href="#">Mental Capacity Act 2005 Guidance for People who work in Health &amp; Social Care</a>  <a href="#">Mental Capacity Act</a>  <a href="#">Mental Capacity Act Code of Practice Principle 3 Page 24</a>		
Legal rights	Powers to PERMIT a clinician to treat whilst detained under the Mental Health Act	<a href="#">Mental Health Act 1983 Section 63 – Treatment not requiring consent</a>	<a href="#">Mental Health (Care and Treatment) (Scotland) Act 2003 Section 243 – Urgent medical treatment</a>	
Legal rights: advanced decisions	When patients have made a directive to refuse treatment	<a href="#">Mental Capacity Act 2005 Guidance for People who work in Health &amp; Social Care</a>  <a href="#">Mental Capacity Act Sections 24-26</a>  <a href="#">Mental Capacity Act Code of Practice Chapter 9 Page 158</a>	<a href="#">Mental Incapacity Act (Scotland) 2000</a>	
Consent	Consent can occur in different ways	<a href="#">CQC guidance</a>	<a href="#">Mental Health (Care and Treatment) (Scotland) Act</a>	Mental Health (Northern Ireland) Order 1986.

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			<a href="#">2003 Section 243 – Urgent medical treatment</a>	
Capacity	Legal frameworks for the assessment of capacity and the management of incapacity	<a href="#">Mental Capacity Act 2005 Guidance for People who work in Health &amp; Social Care</a>  <a href="#">Mental Capacity Act</a>  <a href="#">Mental Capacity Act Code of Practice</a>	<a href="#">The Adults with Incapacity (Scotland) Act 2000</a>	A draft Mental Capacity bill is under parliamentary review in Northern Ireland.
Confidentiality	Professional Legal Data protection	<a href="#">DoH Confidentiality Code of Practice</a>  <a href="#">Supplementary Notes</a>	<a href="#">Guidance</a>	
Documentation	Standards for the clinical structure and content of patient records	<a href="#">Academy of Medical Royal Colleges</a>	<a href="#">Guidance</a>	
Mental Health	Temporary hold for an assessment to be arranged: In hospital	<a href="#">Mental Health Act 1983 Sections 5(2) and 5(4)</a>  <a href="#">MHA Code of Practice Page 139 onwards</a>	<a href="#">Sections 36 – Emergency detention and 44 – Short term detention of the Mental Health (Care and Treatment) (Scotland) Act 2003</a>	
Mental Health	Police powers: Search for and remove a person: In private premises	<a href="#">Mental Health Act 1983 Section 135</a>  <a href="#">MHA Code of Practice Page 139 onwards</a>		
Mental Health	Remove a person: In places other than a private residence	<a href="#">Mental Health Act 1983 Section 136</a>	<a href="#">Sections 36 – Emergency detention</a> 11.2.4 If the	

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		<a href="#">MHA Code of Practice</a> <a href="#">Page 159 onwards</a>	<p>patient has been seen that day by any fully registered medical practitioner, e.g. the ward Doctor, then the option exists for that doctor to issue an Emergency Detention Certificate. They should then inform the appropriate duty AMP and the police, asking the police to consider the patient a missing person and to return them to hospital using the powers of the Emergency Detention Certificate. It should be noted that police have no power under this certificate to remove a person from a private place. If the person is found in a private place, an MHO would require to obtain a S.292 warrant</p>	