

Legal frameworks

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

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

		England and Wales	Scotland	Northern Ireland
Mental Health	Remove a person: In places other than a private residence	Mental Health Act 1983 Section 136 MHA Code of Practice Page 159 onwards	Sections 36 – Emergency detention 11.2.4 If the 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	