UNIVERSITY OF EXETER

ESMI Evidence Synthesis & Modelling for Health Improvement

the BRIEFING

Exeter HS&DR Evidence Synthesis Centre November 2018

Experiences of the 'Nearest Relative' provisions in the compulsory detention of people under the Mental Health Act

In England and Wales, if people with severe mental health problems are assessed or treated against their will due to concerns about the safety of themselves or others, the Mental Health Act 1983 states that a relative or carer should be appointed as the 'Nearest Relative'.[1] This person will receive important information and be involved in decisions about the person who is unwell. The Nearest Relative is an important but controversial role, with some perceived flaws in the way they are selected, the powers they have and the sensitive information they receive. In Scotland, there is experience of a different Named Person provision, which provides an alternative approach to the appropriate involvement of relatives, carers or trusted friends

This is a summary of an 8 week project focusing on the experiences of service users, carers and professionals of the Nearest Relative provision of the Mental Health Act 1983(MHA).

The review was commissioned by the Department of Health and Social Care and intended to inform the independent review of the MHA. The findings highlight:

- The importance of involving service users in selecting their Nearest Relative/Named Person.
- Tension between the need to preserve service user and carer confidentiality and the need to share information.
- How information, staff training and proactive support are essential to enable people within their role as Nearest Relative/Named Person.
- Further primary research on the use and impact of Nearest Relative/ Named Person role is warranted.

"It's something so anti-therapeutic to be giving the power to the historical abuser, power of information, power to determine whether the patient receives treatment[…]

Particularly if one's feeling that there is a link between that experience in childhood and the illness ..."

Approved Social Worker [2]

Please use the above QR code to view the full project report

Exeter HS&DR Evidence Synthesis Centre, University of Exeter
http://medicine.exeter.ac.uk/esmi/workstreams/exeterhsdrevidencesynthesiscentre/
Siftingandsensemaking.wordpress.com

Funded by NHS National Institute for Health Research

Why did we do this review?

Despite amendments to the MHA (2007)[2] and the introduction of a revised Code of Practice (2015)[3] to give guidance in applying the MHA, there are still concerns about the use of Nearest Relative provisions.

The Care Quality Commission has raised concerns that detained service users are not given enough say in their care.[4] Others have highlighted how the system for involving partners, carer and family members in the care service users receive under the Nearest Relative provision of the MHA is inflexible, and does not always represent either the wishes of the service user or the person identified as their Nearest Relative.[5]

In 2017, the government commissioned an independent review of the MHA, to focus on how the legislation is being used in practice and examine its impact on service users, families and carers.

This rapid review was intended to contribute towards this independent review by exploring on the experiences of service users, carers, family members and professionals of the Nearest Relative provisions of the MHA.

How did we do this review?

Finding the literature: We searched seven bibliographic databases. We also searched the references of included sources, relevant reviews and websites, which in addition to author contact enabled the identification of relevant grey literature.

Eligibility criteria: We included interview and survey evidence from the UK, published after 1998 and pertaining to the experiences of those involved in compulsory detention under the MHA (or UK variants, including the MHCT). We excluded studies relating to the experiences of the Nearest Relative provision for individuals detained under the criminal pathway. We considered the perspectives of service users, carers, family members, Nearest Relative/ Named Person, mental health professionals, policy makers and legal professionals.

Study selection, data extraction and study quality: All stages were completed independently by two reviewers using the approach detailed in Figure 1. Key characteristics of non-prioritised studies were extracted, described and tabulated.

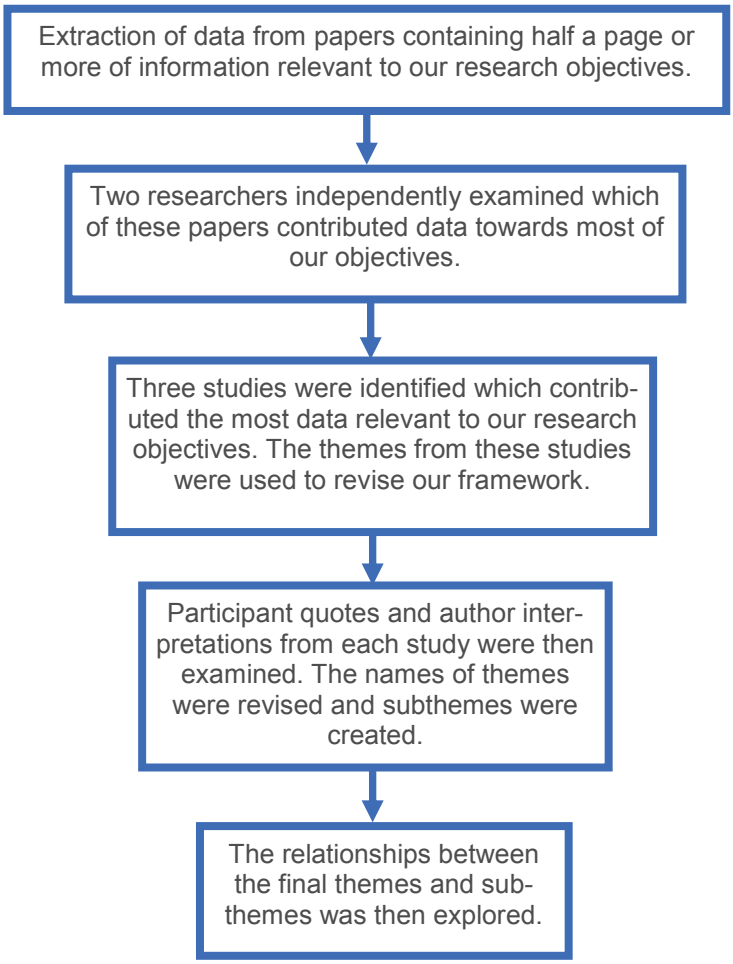

Figure 1: Main stages of data extraction and synthesis

Where was the evidence from?

20 studies were included in the review with 12 prioritized for further analysis. Of the 12 studies analysed, 1 was conducted in Northern Ireland, 3 reported on experiences of the Nearest Person provisions of the MHCT in Scotland and 8 were conducted in England although only half were published since the 2007 amendments to the MHA.

What did we find?

Issues regarding the Identification of the Nearest Relative / Named Person	The prescriptive process for choosing the Nearest Relative role in England can leave service users vulnerable to abuse and biased care and may not always represent the home and family circumstances of service users and their carers. This may mean that the Nearest Relative role may be assigned to someone who is not involved with the care of the service user, or who may not be appropriate to be so. Evidence from Scotland suggests that it may be preferable to the service user to be able to allocate a Nearest Relative of their choice. Experiences of both the Nearest Relative provisions in England and the Named Person in Scotland indicate that the current legislation does not fully support the needs of individuals who do not have and/or do not wish to have an identified Nearest Relative/Named Person.
Confidentiality and information sharing	Confidentiality was highly valued by both service users and carers when providing information to the professionals supporting them. Professionals worked flexibly with carers to ensure the carers had access to the support they need, whilst respecting the service user's right to privacy. However, some carers indicated they would like to improve the processes which would enable them to discuss information about a service user with professionals. They highlighted that whilst they wanted to be able to provide information, they did not always want the service user to know about these conversations, through fear of damaging their relationship. Service users valued having the opportunity to withhold certain information from their Nearest Relative or carer.
Enabling the use of the Nearest Relative / Named Person role	The role of the Nearest Relative/Named Person is complex and may be poorly understood by service users, carers and professionals alike. Service users and carers highlighted the need for adequate information to be provided to allow the Nearest Relative to fulfil their role. In Scotland, some individuals felt that it was helpful for staff working with service users to use a proactive approach to encourage people previously admitted to hospital under the MHA to choose their Named Person in advance whilst they were well. Being recognised as the Nearest Relative or Named Person can enable carers to support the service user. The level of support provided can be improved with increased awareness of their rights and powers conveyed to the Nearest Relative by all parties.
Importance of maintaining relationships	Good working relationships between service users, carers and professionals are essential to ensure: • The balance between protecting the service user's confidentiality whilst ensuring that adequate information is shared between individuals supporting the service user is maintained. • That service users are able to determine who is involved in supporting them during their admission to hospital. • That service users and carers are empowered to influence the care and thus act as a protective factor against abuse of the service user and carer burn-out. The extra responsibility associated with the Nearest Relative /Named Person role, disagreements over treatment decisions, feeling ignored or unsupported and conflicts with mental health professionals, can place an additional strain on these relationships.

What are the implications of this review?

The Nearest Relative provisions of the MHA are complex, of significant importance to individuals detained under the Act and their carers, and have not been studied in great detail. In order to better understand the Nearest Relative provisions of the MHA and their influence on the individuals involved, more high quality primary research specifically focussed on the use and impact of the Nearest Relative provision is required. In particular:

1. Examination of experiences of Nearest Relative/Named Persons in light of the most recent legislative changes throughout the UK,
2. Further research is warranted in all areas of the UK. Northern Ireland and Wales were particularly under-represented. In England, most of the useful evidence arose from a small number of studies, and none of these were conducted since key legislative amendments were made in 2007,
3. Further consideration of the experiences of those who are not married or in a civil partnership,
4. Further evaluation of the views of mental health professionals and mental health advocates,
5. Further exploration of the specific experiences of the Nearest Relative/ Named Person provisions from the perspective of ethnic minorities,
6. Qualitative methods may be the most appropriate means of eliciting data about experiences of the Nearest Relative/Named Person provisions of the MHA.

Contact Us

Exeter HS&DR Evidence Synthesis Centre
South Cloisters
St Lukes Campus
University of Exeter
EX1 2LU

E.H.Shaw@exeter.ac.uk

@ExEvidSC

Link to full report:
http://bit.ly/NearestRelativeReview

Exeter HS&DR Evidence Synthesis Centre

We are one of three research groups in the UK commissioned by the National Institute of Health Research HS&DR (Health Services & Delivery Research programme) to conduct syntheses of evidence about the organisation and delivery of healthcare (Project number 16/47/22).

The views expressed are those of the authors and not necessarily those of the NHS, the NIHR or the Department of Health and Social Care.

References

1. Mental Health Act 1983. London: HMSO; 1983. URL: http://www.legislation.gov.uk/ukpga/1983/20 (accessed 1 March, 2018) .
2. Rapaport J. The Nearest Relative Under the Mental Health Act 1983: a Relative Affair. PhD thesis. Cambridge: Anglia Polytechnic (now Anglia Ruskin University); 2002.
3. Department of Health. Mental Health Act 1983: Code of practice. London: HMSO; 2015.
4. Care Quality Commission. Monitoring the Mental Health Act in 2015/16. London: HMSO; 2016.
5. Mental Health Alliance. A Mental Health Act fit for tomorrow: an agenda for reform. 2017. URL: https://www.rethink.org/media/2854020/a-mental-health-act-fit-for-tomorrow.pdf (accessed March 1, 2018).
6. Independent Review of the Mental Health Act. 2017. URL: https://www.gov.uk/government/groups/independent-review-of-the-mental-health-act (accessed April 30, 2018).