

CONDITIONAL DISCHARGE

A Guide for Healthcare Professionals



WHAT IS CONDITIONAL DISCHARGE?



A conditional discharge (CD) order is an order under Cap. 136 of the Mental Health Ordinance section 42B.

CD terms restrict the liberties of patients who are thought to pose danger to society after being discharged from the hospital.

Legal provisions require the satisfaction of two criteria:

1. A medical history of criminal violence or a disposition to commit such violence;
2. The doctor in charge is of the opinion that the patient may be safely discharged subject to conditions.

Patients on CD may be recalled to a psychiatric hospital if they fail to comply with the conditions imposed on them under section 42B (3).

WHAT CONDITIONS ARE IMPOSED?

Examples of the conditions that could be imposed include:



Living at a prescribed place of residence



Taking prescribed medicine



Attending regular follow up consultations

As a result of the residency condition, many patients face additional conditions imposed by the halfway houses where they are required to live. These include for example:



Curfews



Inability to leave the halfway house for the initial weeks or months of arrival

CAN CONDITIONS CHANGE?

Doctors in charge have full discretion over the conditions and can adjust them as they deem appropriate by providing written notice.

The conditions last **indefinitely** unless a patient is recalled to a psychiatric hospital, discharged through informal instigation by a doctor, or discharged upon adjudication of the Mental Health Review Tribunal (MHRT).



THE RIGHT TO REVIEW A CD STATUS

The Mental Health Review Tribunal (MHRT) is composed of a Chairman with legal experience, 15 medical members, 15 social workers and 15 members of other suitable backgrounds.

Patients on CD have the right to request a review of their CD with the MHRT every 12 months.

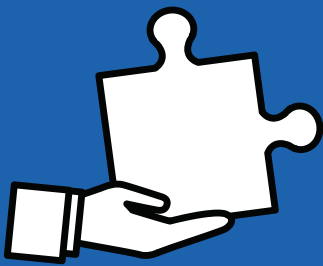
Unlike compulsory hospital treatment or detention, there is no existing duty to refer patients on CD to the MHRT.



COMMON COMPLAINTS BY CD PATIENTS AND HOW TO MITIGATE THEM

1 Conditions are often more restrictive than necessary

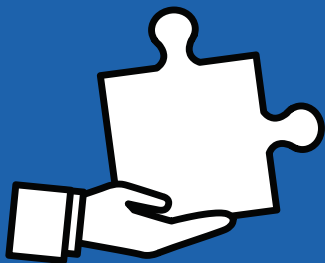
Restrictions imposed by the halfway houses often lead to frustration and mental distress over inconveniences in everyday life. This includes, for example, not being able to work in certain professions due to curfews in halfway houses.



Doctors in charge can evaluate more carefully whether prescribing a residency condition, which drastically restricts a patient's individual freedom, is indeed needed to ensure public safety.

2 Many patients only have limited understanding of their health status

According to academic studies, many patients are not provided with relevant information regarding the progress of their treatment or their CD status. For example, some patients are not even aware of the kind of mental illness they have and are simply take their medication as ordered.

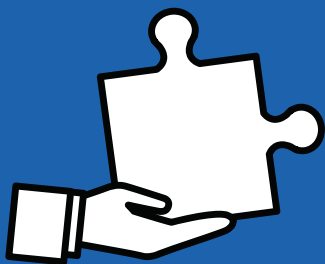


Doctors in charge should proactively advise their patients, and offer transparency throughout the treatment process.

To improve treatment for CD patients, discussions between patients on CD and psychiatrists should include detailed information on their diagnosis, treatment options, and their CD status.

3 Patients on CD are often insufficiently informed about their legal rights

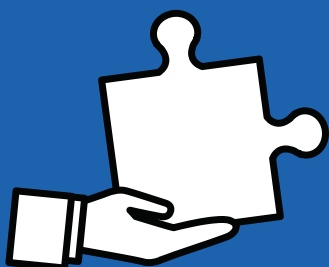
The majority of patients on CD does not know about their right to request a review of their CD status with the MHRT. Since no extension or renewal procedures are needed to maintain a patient's CD status, many remain restricted in the CD regime for years.



Healthcare professionals and doctors in charge can ensure that their patients know about their rights, including the right to review their CD status, and the right to seek legal advice through the Legal Aid Department.

4 The CD regime currently may not have sufficient statutory safeguards

The rules implemented by halfway houses and other residency options connected to the CD order often include heavy restrictions on civil liberties. At the same time, there are no patient advocates that help to monitor and ensure proportionate restrictions on the civil liberties of CD patients.



Care practitioners in halfway houses and other residency options are in a good position to assist the establishment of necessary guidelines. This may include contributing to the formation of:

- a Code of Practice
- a Care Quality Commission

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