

Using human rights as a practitioner

Seclusion of young people in mental health hospitals

This flowchart is for practitioners considering whether to seclude a young person in a mental health hospital

Which of my Human Rights Act duties are triggered?



Duty to protect the young person from inhuman and degrading treatment



Duty to respect the young person's right to private life (autonomy)



Duty to respect the young person's right to liberty

Step 1

Is the impact of seclusion on the young person likely to cause them serious harm?

Protecting from inhuman or degrading treatment

YES

Take immediate action to prevent this by considering other options or ways to reduce the impact of the seclusion on the young person.

NO

If the decision to seclude is against the young person's will, this is likely to interfere with their right to private life.

Step 2

Are you considering secluding a young person against their will?

Respecting autonomy

YES

The right to private life protects the person's right to make their own decisions without outside interference. This right is not absolute (it can be restricted) so if you need to interfere with it, you have to follow this 3 stage test:

- 1. Lawful:** Is the young person detained under the MHA or has an emergency application been made?
- 2. Legitimate reason:** What are you trying to achieve through seclusion? For example, protecting others from immediate risk?
- 3. Proportionate:** Is the seclusion the least restrictive step you could take to achieve that aim?

YES TO ALL

NO TO ANY

Seclusion is not likely to be rights compliant. Reconsider your decision.

NO

Step 3

Are you still considering secluding the young person?

Respecting liberty

YES

A seclusion will restrict the young person's right to liberty. This right is not absolute (it can be restricted) but you will need to ensure the correct procedural safeguards are in place and working effectively.

If the young person is detained under the MHA you will need to show:

- reasonable measures have been taken to avoid having to seclude
- the young person is informed of their rights and the reasons why it is lawful to seclude them
- the seclusion ends as soon as it stops being necessary and proportionate

- there are regular reviews to consider the need for seclusion to continue

If the young person is not detained under the MHA and you think seclusion is necessary, arrange a MHA assessment as soon as possible.

NO

Exit the flowchart

This flowchart is taken from BIHR's toolkit 'Mental Health Care for Children and Young People and Human Rights: A practitioner's guide'

The toolkit gives more information on these rights, your duties as a practitioner and covers other key issues for mental health care for children and young people.

Other toolkits in this series include flowcharts on key issues for dementia, learning disability and rehab. Get your free copy of the toolkits or posters at:

www.bihr.org.uk/health
0207 882 5850

info@bihr.org.uk
@BIHRhumanrights

