

Appendix B**WHO IS THE NEAREST RELATIVE?**

For the purposes of the Act, the term “nearest relative” is applied to a person who has certain rights in connection with the treatment and care of a mentally ill person.

The nearest relative is the person who comes highest in this list:

- Husband, wife or civil partner (includes a partner/same sex partner who has lived with the service user as their husband or wife for more than 6 months)
- Eldest child
- Elder parent
- Eldest brother/sister
- Eldest grandparent
- Eldest grandchild
- Eldest uncle/aunt
- Eldest nephew/niece

The only exceptions to this list are that:

- If the patient normally lives with or is cared for by one or more relatives, the eldest of those will be considered the nearest relative;
- If the highest person(s) on the list is living abroad *or* is under 18 *or* is not allowed access to the patient for legal reasons, then the next eligible person is regarded as the nearest relative;
- If the patient is under 18 and in the care of a local authority or another person, then that authority or person will take priority over everyone in the list (except spouse);
- If the patient is under 18 and subject to guardianship, the guardian will be regarded as the nearest relative.

Any of the patient’s relatives, or any person she or he has been living with, or Social Services authority, may apply to the County Court to be regarded as nearest relative.