

# Mental Health Act

## Sectioning

This factsheet is about detention under the Mental Health Act 1983. This is called 'sectioning'. We explain why you may be sectioned and what rights you have. If you care for someone who has been sectioned, you might also find this information useful.



- The Mental Health Act says when you can be taken to hospital and treated against your wishes. This is known as being 'sectioned'.
- You can be sectioned if professionals think your mental health puts you or others at risk, and you need to be in hospital.
- If you are sectioned, NHS staff can give you treatment even if you don't want it.
- There are different sections of the Mental Health Act.
- When you are sectioned, you have the right to appeal and the right to get help from an advocate.

### This factsheet covers:

1. [What is the Mental Health Act?](#)
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## 1. What is the Mental Health Act?

The Mental Health Act says when you can be taken to hospital, kept there and treated against your wishes. This can only happen if you have a mental disorder that puts you or others at risk.

Being detained is called being 'sectioned' because the law has different sections. Your rights depend on what section you are under.

This factsheet does not cover criminal law sections. You can find more information about criminal law sectioning in these factsheets:

- Section 35
- Section 36
- Section 37
- Section 37/41
- Section 38
- Section 47/49
- Section 48/49

at [www.rethink.org](http://www.rethink.org). Or call 0121 522 7007 and ask us to send you a copy.

## 2. What is a mental disorder?

You can only be sectioned if you have a 'mental disorder'. This includes:

- schizophrenia,
- depression,
- bipolar disorder,
- anxiety disorder,
- obsessive-compulsive disorder (OCD),
- eating disorders, and
- personality disorders.

You cannot be sectioned for drug or alcohol addiction.<sup>1</sup> But you can be sectioned if drugs cause mental health problems, like if you have delusions because of using cannabis.<sup>2</sup>

You can get more information about 'Drugs, alcohol and mental health' at [www.rethink.org](http://www.rethink.org). Or call 0121 522 7007 and ask us to send you a copy.

## 3. How can I be sectioned?

An approved mental health professional (AMHP) will apply to a local hospital.<sup>3</sup> Your nearest relative can also do this, but this is rare.

You can find out more about nearest relatives at [www.rethink.org](http://www.rethink.org). Or call 0121 522 7007 and ask us to send you a copy.

### **What is an AMHP?**

AMHPs apply for a bed in a hospital if they think you need to be sectioned. They can be social workers, psychologists, occupational therapists and nurses. A doctor cannot be an AMHP.

### **Who decides if I should be sectioned?**

Usually, 3 people have to agree that you need to be sectioned. This is not always the case and depends on how urgent the situation is.

The 3 people are normally:

- the AMHP,
- a doctor who has special training in mental disorders, called a 'section 12 approved doctor', and
- another doctor.

If possible, at least one of the doctors should have met you before.

The AMHP can only apply if they have seen you in the past 14 days.<sup>4</sup> The doctors must either have seen you at the same time or within five days of each other.<sup>5</sup>

### **How do they assess me?**

This depends on where you are. The process might start at your home, in a public place or in hospital.

If you are at home, the AMHP may ask if the professionals can come in to speak to you. If you refuse and they are worried about you, they can apply to court for a warrant for the police to enter your home to take you somewhere safe. This is called a 'section 135'.

If you are away from home in a public place, the police can take you to a safe place under 'section 136'. A safe place includes a hospital or police station.

When you are safe, the professionals will decide if you need to be sectioned. They will ask you questions and think about all your circumstances. They may ask you:

- how you are feeling,
- if you have plans to harm yourself or others,
- about your lifestyle, daily routine and living conditions,
- if you have been taking your medication, and
- if you have been using drugs or alcohol.

### **What happens next?**

If you are not already in hospital, the AMHP will arrange for you to go there in an ambulance. Sometimes the police will go with you.

Staff will tell you which section you are under and what your rights are. They will also give you a 'Patient Information Leaflet' about your rights.<sup>6</sup> If you have any difficulty understanding, let them know.

It is likely that you will be taken to a specialist ward for people with mental illness. They may call this an 'acute ward' or a 'psychiatric ward'. In most hospitals, the door to the ward will be locked.<sup>7</sup>

In hospital you will be introduced to your 'responsible clinician'. This is the person who is in charge of your care and treatment. They are usually a psychiatrist but they can be other professionals too.

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#### **4. What support can I get?**

Being taken to hospital against your will can be stressful and upsetting. You may feel that you need a lot of support.

##### **Friends, family and carers**

Your friends and family can visit you in hospital if you want this. There may be set visiting times. If your doctors want to stop visits, they will need to justify this on safety or security grounds.<sup>8</sup> You should be able to keep in touch with your family by telephone, email or social media.<sup>9</sup>

##### **Emotional support lines**

You may want to talk to someone about the way you feel. Ask the ward staff if you can use a phone to call a listening service like Samaritans.

##### **Independent Mental Health Advocate (IMHA)**

IMHAs help you to tell staff about your concerns and find out what your rights are. If you think you will find this helpful, ask staff about how to get in touch with an IMHA. You may have to ring a number to make an appointment.

You can get help from an IMHA if you are under section 2 or 3 of the Mental Health Act.

You can't get help from an IMHA if you are:

- under an emergency section (Section 4),
- under holding powers of the Mental Health Act (Section 5), or
- in a place of safety under police powers (section 135 or 136).

##### **Solicitor**

If you think you should not have been sectioned under section 2 or 3, you can appeal to a tribunal. You can get free legal representation at your tribunal hearing under Legal Aid.

There may be a list of solicitors on the ward. You can also search for mental health solicitors using Civil Legal Advice.

### **Civil Legal Advice**

**Telephone:** 0345 345 4 345 (Monday to Friday 9am to 8pm, Saturday 9am to 12.30pm)

**Website:** <http://find-legal-advice.justice.gov.uk/>

You can find out more about hospital in our ‘**Going into hospital**’ factsheet. You can download this for free from [www.rethink.org](http://www.rethink.org) or call 0121 522 7007 and ask us to send you a copy.

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## **5. Can I avoid being sectioned?**

People often get sectioned because their mental health is putting them or others at risk, and they won't accept treatment. Taking steps to improve your mental health can reduce the chance of sectioning.

If it is likely you will be assessed soon, think about the possibility of accepting treatment and reducing risky behaviour. During the assessment, you may want to explain how things are at home and what support you already have.

If the professionals think you are at risk, talk to them about other options for reducing these risks. The professionals should listen to what you have to say and consider all alternatives to sectioning you.<sup>10</sup> This could be treatment from local mental health services or you agreeing to go to hospital.

If you want a friend or family member with you during a Mental Health Act assessment, let the approved mental health professional (AMHP) know.

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## **6. Section 2 - Assessment**

Under section 2, you can be kept in hospital for up to 28 days. This section gives doctors time to decide:

- what type of mental disorder you have,
- if you need any treatment, and
- how treatment will affect your health.

An approved mental health professional (AMHP) is more likely to use section 2 than section 3 if:

- you have never been assessed in hospital before, or
- you have not been assessed for a long time.

A psychiatrist may offer you treatment. If you refuse treatment, the staff can give it to you without your permission.

## **Can I be sectioned?**

You can be sectioned if:

- you have a mental illness,
- you are unwell enough to be in hospital, and
- professionals think you should be in hospital for your health or safety or to protect other people.

## **How will I be sectioned?**

An approved mental health professional (AMHP) needs to apply to hospital. Your nearest relative can also do this, but this is rare.

The AMHP can only apply if they have seen you in the last 14 days. They need recommendations from 2 doctors, and can only apply if one of the doctors has seen you in the last 14 days.

## **How long can I be kept in hospital?**

Up to 28 days. But this doesn't mean you will be in hospital for that long. Your doctor should discharge you from section 2 when you don't meet the criteria any more.

The hospital staff cannot extend a section 2. If you need treatment in hospital for longer, you will need to go on to section 3.

You can stay on a section 2 longer than 28 days if the county court is thinking about changing your nearest relative.

## **What are my rights on a section 2?**

You have the following rights when you are under section 2.

- To appeal to a tribunal during the first 14 days
- To appeal to the hospital managers
- To see an Independent Mental Health Advocate (IMHA). They can help you to raise concerns

## **Can I be treated against my will?**

Yes. But the staff should ask you to accept treatment first. If you are unhappy about your treatment, talk to your named nurse or psychiatrist. An Independent Mental Health Advocate (IMHA) may be able to help.

The staff can only give you some treatments, like electro-convulsive therapy (ECT), if certain criteria are met. You can find out more about '**Electro-convulsive therapy**' at [www.rethink.org](http://www.rethink.org). Or call 0121 522 7007 and ask us to send you a copy.

## **Who can discharge me?**

You can be discharged by:

- the professional in charge of your care (known as your ‘responsible clinician’),
- the Mental Health Act managers,
- your nearest relative, and
- the tribunal.

### **What happens next?**

If your doctor thinks you should stay in hospital longer than 28 days and you won’t agree to this, they may put you on a section 3.

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## **7. Section 3 - Treatment**

Section 3 is detention in hospital for treatment for up to 6 months. But it can be extended for longer than this.

### **Can I be sectioned?**

You can be sectioned if:

- you have a mental illness,
- you are unwell enough to be in hospital,
- professionals think you should be in hospital for your health or safety or to protect other people,
- you will not get treatment unless you are sectioned, and
- appropriate treatment is available for you.

### **How is a section 3 carried out?**

An approved mental health professional (AMHP) needs to apply to hospital. Your nearest relative can also do this, but this is rare.

### **How long will I be in hospital for?**

You can be detained for up to 6 months, but your doctor can discharge you earlier.

A section 3 can be renewed for 6 months to start with. After that, it can be renewed 1 year at a time.

If your responsible clinician thinks your section should be renewed, they have to assess you in the 2 months before it ends. They will then write a report for the hospital managers.

### **What are my rights?**

You have the following rights when you’re under section 3.

- You can appeal to a tribunal once in the first 6 months. If your section is renewed, you can appeal once every time it is renewed.
- You can ask the Mental Health Act managers to discharge you.

- You can ask for the help of an Independent Mental Health Advocate (IMHA). They can help you to raise any issues you have in hospital.

### **Can I be treated against my will?**

You can be treated against your will for 3 months. After 3 months, staff can only treat you without your consent if a 'second opinion approved doctor' (SOAD) approves this.<sup>11</sup>

If you are unhappy about your treatment you should talk to your named nurse or psychiatrist. An Independent Mental Health Advocate (IMHA) may be able to help.

### **Who can discharge me?**

You can be discharged by:

- the professional in charge of your care (known as your 'responsible clinician'),
- the Mental Health Act managers,
- your nearest relative, and
- the tribunal.

### **What happens next?**

When you leave hospital, you will get free aftercare. This is known as section 117 aftercare. It is likely that mental health services will plan your care under the 'Care Programme Approach'.<sup>12</sup>

You can get more information about Section 117 aftercare and the Care Programme Approach at [www.rethink.org](http://www.rethink.org). Or call 0121 522 7007 and ask us to send you copies.

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## **8. Section 4 - Emergencies**

Section 4 is used in emergencies, where only 1 doctor is available at short notice. Unlike a section 2, you can be sectioned with only 1 medical recommendation. You can be kept for up to 72 hours, which gives the hospital time to arrange a more thorough assessment.

### **Can I be sectioned?**

You can be detained under section 4 if:

- you have a mental illness,
- you are unwell enough to be in hospital,
- professionals think you should be in hospital for your health or safety or to protect other people,
- it is urgent and necessary for you to be in hospital, and
- finding another doctor would cause "undesirable delay."

### **How is section 4 carried out?**

An approved mental health professional (AMHP) needs to apply to hospital. Your nearest relative can also do this, but this is rare.

You must have been seen by a doctor in the last 24 hours. The doctor will write a report that says you should be sectioned.

### **How long can I be detained for?**

You can be detained for up to 72 hours, but this does not mean that you will be kept for this long. A second doctor should assess you as soon as possible. They will decide if the section 4 should be changed to a section 2. The AMHP does not need to make another application to change the section to a section 2.

### **Can I be treated against my will?**

You can refuse treatment.<sup>13</sup> The staff can only treat you without your consent if:

- you do not have the capacity to make a decision about treatment, and
- the treatment is in your best interests.

If you can make your own decisions, the staff cannot treat you without your consent until they get a second medical opinion.<sup>14</sup>

### **Who can discharge me?**

You can be discharged by the professional in charge of your care in hospital. They are called your responsible clinician.

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## **9. Section 5 – Holding powers**

Section 5 allows a doctor or nurse to stop you from leaving hospital. They may do this if you are in hospital voluntarily, are very unwell but want to leave.

If you are in hospital voluntarily and you are on a locked ward, the staff either have to let you leave when you want to or use their section 5 powers. If they stop you from leaving without using section 5, this is against the law.

The staff should only use section 5 when it is not possible or safe to use sections 2, 3, or 4.

### **Doctor's holding power – section 5(2)**

A doctor can hold you in hospital for up to 72 hours if they write a report explaining why you need to be detained, and send this to the hospital managers. A doctor can do this in any hospital.

## **Nurse's holding power – section 5(4)**

A mental health nurse can keep you in hospital for up to 6 hours if:

- they need to immediately stop you leaving hospital for your own health or safety or for the protection of others, and
- it is not possible to find a doctor who can section you under section 5(2).

## **How long can I be detained for?**

If a doctor uses their holding power under section 5(2), you can be held for up to 72 hours. The doctor cannot renew or extend it. An approved mental health professional (AMHP) and doctors must assess you as soon as possible to see if you should be sectioned under section 2 or 3.

A nurse can keep you in hospital for up to 6 hours under section 5(4). This is not renewable. The holding power ends as soon as a doctor arrives. The doctor may transfer you onto a section 5(2) or you may continue as a voluntary patient.

## **Can I be treated against my will?**

You can refuse treatment.<sup>15</sup> The staff can only treat you without your consent if:

- you do not have the capacity to make a decision about treatment, and
- the treatment is in your best interests.

If you have the ability to make your own decisions, the staff cannot treat you without your consent unless you agree or they use section 2 or 3.

## **When does the section end?**

Section 5 ends when the time runs out, or if you are sectioned under a different section. If the time runs out and the staff have not sectioned you under section 2 or 3, you should be able to leave.

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## **10. What happens next?**

### **Discharge**

You can be discharged from the Mental Health Act when you don't meet the criteria any more. Supposing you are in hospital because your health put you at risk, you can be discharged when this risk is low enough.

Being discharged from the Mental Health Act is not the same as being discharged from hospital. If the hospital staff think you should stay, you can if you want to.

Most people will not have completely recovered from their illness when they leave hospital. If the staff think you are ready to leave, they should plan what will happen next. This is called 'discharge planning'.

The majority of people get a discharge plan.<sup>16</sup> Your discharge plan will be part of your care plan. Your care plan depends on what staff think will be best for you, and what you want. It might say:

- where you will live,
- what medication will help you,
- what social support you will have, and
- what mental health services can help.

You can find out about how to be discharged from the Mental Health Act in our 'Discharge from the Mental Health Act' factsheet. You can download this for free from [www.rethink.org](http://www.rethink.org) or call 0121 522 7007 and ask us to send you a copy.

### **Aftercare**

If you need ongoing mental health care when you leave hospital, professionals should plan this under the 'Care Programme Approach' (CPA).

If you have been in hospital under section 3, you are entitled to free aftercare under section 117.

You can find more information about:

- Care Programme Approach (CPA)
- Section 117 Aftercare

at [www.rethink.org](http://www.rethink.org). Or call 0121 522 7007 and ask us to send you a copy.

### **Community treatment**

A Community Treatment Order (CTO) means that you can leave hospital. But you have to meet conditions to stay in the community. You may be taken back to hospital if you don't meet the conditions in the CTO and you become unwell. This is often called 'supervised community treatment'.

You may go on a CTO if you are discharged from section 3. You can't go on a CTO if you are under section 2 or if you are not sectioned.

You can find more information about Community Treatment Orders at [www.rethink.org](http://www.rethink.org). Or call 0121 522 7007 and ask us to send you a copy.

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You can find more information about:

- Advocacy
- Community Treatment Orders (CTOs)
- Complaints
- Discharge from the Mental Health Act
- Going into hospital?
- Legal advice
- Nearest relative
- Section 117 Aftercare

at [www.rethink.org](http://www.rethink.org). Or call 0121 522 7007 and ask us to send you a copy.

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<sup>1</sup> s1(3), Mental Health Act 1983 c20.

<sup>2</sup> Secretary of State for Justice v MP [2013] UKUT 025 (AAC), para 15.

<sup>3</sup> As note 1 (MHA 1983), s11(1)

<sup>4</sup> As note 1 (MHA 1983), s11

<sup>5</sup> As note 1 (MHA 1983), s12

<sup>6</sup> This is how the Department of Health ensures hospital managers meet their obligations under section 132 of the Mental Health Act 1983.

<sup>7</sup> Care Quality Commission. *Monitoring the Mental Health Act in 2014/15*. UK: Williams Lea Group; 2015. At page 34.

<sup>8</sup> Department of Health. *Mental Health Act 1983 Code of Practice*. UK: TSO (The Stationery Office); 2015 pg 84-85

<sup>9</sup> As note 8, at para 8.16.

<sup>10</sup> As note 8, at para 14.11.

<sup>11</sup> As note 1 (MHA 1983), s58

<sup>12</sup> As note 8, at para 34.8.

<sup>13</sup> As note 1 (MHA 1983), s56(3)

<sup>14</sup> Re B (Adult, refusal of medical treatment) [2002] 2 All ER 449

<sup>15</sup> As note 1 (MHA 1983), s56(3)

<sup>16</sup> As note 7, at page 45.

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This factsheet is available  
in large print.

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## Rethink Mental Illness Advice Service

Phone 0300 5000 927  
Monday to Friday, 10am to 2pm

Email [advice@rethink.org](mailto:advice@rethink.org)

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### Did this help?

We'd love to know if this information helped you.

Drop us a line at: [feedback@rethink.org](mailto:feedback@rethink.org)

### or write to us at Rethink Mental Illness:

Feedback  
PO Box 68795  
London SE1 4PN

or call us on 0300 5000 927.

We're open 10am to 2pm, Monday to Friday.



Leading the way to a better  
quality of life for everyone  
affected by severe mental illness.

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 [www.rethink.org](http://www.rethink.org)

### Need more help?

Go to [www.rethink.org](http://www.rethink.org) for information on symptoms, treatments, money and benefits and your rights.

### Don't have access to the web?

Call us on 0121 522 7007. We are open Monday to Friday, 9am to 5pm, and we will send you the information you need in the post.

### Need to talk to an adviser?

If you need practical advice, call us on 0300 5000 927 between 10am and 2pm, Monday to Friday. Our specialist advisers can help you with queries like how to apply for benefits, get access to care or make a complaint.

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