

# Section 37

## Hospital order

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This factsheet looks at section 37 of the Mental Health Act. It looks at the professionals you might come across in hospital, when and how the courts use this section. It explains what your rights are during this section and what could happen afterwards.



KEY POINTS

- The Mental Health Act is the law which mental health professionals use section 37 to bring you to hospital for treatment. This is also known as being 'sectioned'.
- You must need treatment in hospital. This must be the best thing for your health or safety or to protect other people.
- The criminal courts can use section 37 if they think you should be in hospital instead of prison.
- It is a sentence and does not have a fixed end date.
- You can appeal to the courts if you do not agree with this sentence. You need to appeal in a certain time period so you should get legal advice from a solicitor.
- You can also appeal to the hospital managers and the Mental Health Review Tribunal (MHRT).
- The hospital can treat you without your permission for up to 3 months.
- Your Responsible Clinician (RC), hospital managers or tribunal can discharge you from this section.
- When you are discharged, you get free aftercare services under section 117 of the Mental Health Act.

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### 1. What professionals might I come across in hospital?

There are different professionals that might be involved in your care while you are in hospital under the Mental Health Act. We talk about some of these professionals in this factsheet.

**Approved Clinician (AC):** an AC is a mental health professional who is allowed to use the Mental Health Act. A doctor, psychologist, nurse, occupational therapist and social worker can be ACs. They are trained to assess you for mental illness.

**Responsible Clinician (RC):** the RC is responsible for your care or treatment. The RC decides if you can leave hospital or they can renew your section. A RC is an Approved Clinician with more training.

**Second Opinion Appointed Doctor (SOAD):** a SOAD is an independent doctor who can make decisions about your treatment under the Mental Health Act. They decide if you should continue getting treatment and if your views and rights have been taken into account.

**Approved Mental Health Professional (AMHP):** an AMHP is a mental health professional who is trained to use the Mental Health Act. This can be a psychologist, nurse, social worker or occupational therapist. They can be involved in bringing you to hospital under a section of the Mental Health Act.

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### 2. When do the courts use this section?

You need to have a mental illness that needs treatment in hospital. This must be the best thing for your health or safety or to protect other people.

There are certain offences that you can go to prison for. The court must have convicted (found guilty) you of one of these.

The courts can use this section without convicting you. The court may decide that you are too unwell to understand the pleas of guilty or not

guilty (known as being unfit to plead). If so, they can use section 37 if they decide you did what you have been charged with.

A section 37 is a hospital order, which is different to a prison sentence. This means the court send you to hospital instead of prison. The courts can use section 37 if two doctors have assessed you and have said you have a severe mental illness and should be in hospital.

If the court feels that you are a risk to the public because of the offence they could use section 37/41 of the Mental Health Act. This adds more restrictions onto the hospital order. You can find more information about 'Section 37/41' from [www.rethink.org](http://www.rethink.org). Or call 0121 522 7007 and ask for the information to be sent to you.

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### 3. How do the courts use this section?

Two registered medical practitioners have to assess you to see if you have a mental illness and you should be in hospital. If they both agree an Approved Clinician should find you a hospital bed within 28 days.

You might have to wait in prison for a bed if there is none available. Some prisons have healthcare units where you could stay. These units are similar to being in hospital. If they do not find you a bed in 28 days they have to do the assessment again.

The court decides if you need to be in a secure hospital. There are 3 main types of secure hospital, low, medium or high security.

You can find more information on [www.rethink.org](http://www.rethink.org) about:

- **Healthcare in Prison**
- **Forensic Mental Health Services**

Or call 0121 522 7007 and ask for the information to be sent to you.

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### 4. How long will I be on section?

You will be in hospital on section 37 for up to six months at first. Your Responsible Clinician (RC) can renew it for another six months. After that they can renew it for 12 months at a time. Your RC will renew the section if they feel you need care and treatment and still meet the criteria set out in the Mental Health Act.

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### 5. What are my rights?

If you do not think the court should have given you a hospital order you can appeal.

If the magistrates' court gave the hospital order, you need to appeal to the Crown Court. You can appeal within 21 days of the court making the order. If the Crown Court made the hospital order, you need to appeal

to the Court of Appeal. You can appeal within 28 days of the court making the order.

It is important to get legal advice before appealing. Your solicitor will be able to help.

While you are in hospital, you can appeal to the Hospital Managers.

You can appeal to a Tribunal after the first six months of being in hospital and every year after that. You can ask for a list of mental health solicitors who will be able to advise and represent you. People in hospital under the Mental Health Act get legal aid to pay for solicitors at Tribunals.

If you are unhappy about any part of your care and treatment while in hospital, you can speak to an Independent Mental Health Advocate (IMHA). An IMHA can help you take part in decisions about your care and treatment and can tell you about your rights. Hospital staff, including your Responsible Clinician (RC), should tell you about the IMHA service at your hospital. You can find more information about **'Advocacy'** at [www.rethink.org](http://www.rethink.org). Or contact 0121 522 7007 and ask for the information to be sent to you.

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## **6. Can the doctor treat me if I don't want it?**

Doctors can treat you for three months even if you don't want it. If they want to continue the treatment but you don't agree to this, they need a second opinion. An independent doctor known as a Second Opinion Appointed Doctor (SOAD) will visit you to give their opinion. The doctors can only continue treatment if the independent doctor agrees you should have it.

Doctors cannot give you electroconvulsive therapy (ECT) unless you agree. If they want to give you ECT but you do not agree they have to get a SOAD to assess you and agree you need it.

You should speak to your named nurse or psychiatrist if you are unhappy about your treatment. You can also speak to an Independent Mental Health Advocate (IMHA) who can help raise any issues you have about your care and treatment.

You can find more information on [www.rethink.org](http://www.rethink.org) about:

- **Electroconvulsive Therapy (ECT)**

Or call 0121 522 7007 and ask for the information to be sent to you.

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## 7. Who can discharge me and what might happen?

You can be discharged from Section 37 by:

- your Responsible Clinician (RC)
- the Mental Health Act or Hospital Managers
- the Mental Health Review Tribunal

No one needs to tell the court when they discharge you.

Your RC may think you need Supervised Community Treatment (SCT) when they discharge you. Under SCT, the RC and an Approved Mental Health Professional set up a Community Treatment Order (CTO). If you are under a CTO, you may have to agree to certain conditions. This could include you getting medical treatment or taking certain medication. Your RC should make any conditions clear to you. You cannot be treated without your permission on a CTO.

A CTO means that your Responsible Clinician (RC) can bring you back to hospital if they feel you:

- need treatment in hospital again, or
- do not keep to your conditions.

Your RC can extend your CTO. You can appeal against a CTO. You can find more information about '**Community Treatment Orders (CTOs)**' on [www.rethink.org](http://www.rethink.org). Or call 0121 522 7007 and ask for the information to be sent to you.

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## 8. What sort of aftercare could I get?

The NHS and Social Services must provide you with free aftercare services under section 117 of the Mental Health Act. This can include things such as therapies, services or supported housing. You can find more information about '**Section 117 Aftercare**' on [www.rethink.org](http://www.rethink.org). Or call 0121 522 7007 and ask for the information to be sent to you.

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You can find more information on [www.rethink.org](http://www.rethink.org) about:

- Complaints about Prison
- Criminal Courts and Mental Health
- Mental Health Act
- Legal Advice

Or call 0121 522 7007 and ask for the information to be sent to you.





South London and Maudsley NHS Foundation Trust. *The Maze – A Practical Guide to the Mental Health Act 1983 (Amended 2007)*. UK: South London and Maudsley NHS Foundation Trust; 2010.

The Mental Health Act 1983. *Section 37*. Available from <http://www.legislation.gov.uk/ukpga/1983/20/section/37> [accessed July 2015].

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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.



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### 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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