

# Sectioning

Explains the rights that you have if you are sectioned and detained in hospital under the Mental Health Act 1983. Applies to England and Wales.

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# Overview

If you are sent to hospital for treatment of your mental health problems under a [section](#) of the [Mental Health Act 1983](#), you or someone who is caring for you may have questions about your rights.

Watch this video for a quick summary of what sectioning means:

## Quick facts

- Being sectioned means that you are kept in hospital under the [Mental Health Act 1983](#). You can be sectioned if your own health or safety are at risk, or to protect other people.
- There are different types of sections, each with different rules to keep you in hospital. How long you have to stay in hospital depends on which [section you are kept in hospital under](#).
- Before you can be lawfully sectioned under one of the main detention sections, you will be [assessed by a team of health professionals](#).
- If you are sectioned, you can be kept in hospital, stopped from leaving the ward and given treatment for your mental health problems, possibly without your consent.
- If you are sectioned, you normally have the right to get help from someone called an [independent mental health advocate](#) (IMHA). They can help you find out what rights you have while you are sectioned, and how to be discharged from hospital and get the section lifted. You also have [other rights](#).
- If you have been sectioned and you want to challenge the decision, there are several ways of [getting discharged](#).
- A family member called your [nearest relative](#) will have [certain legal rights](#) related to your sectioning.
- You don't have to be sectioned to get treatment in hospital – you can go to hospital the normal way and be a [voluntary or informal patient](#).

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| <ul style="list-style-type: none"><li>• If you are having treatment in hospital as an in-patient but have not been sectioned, <a href="#">see our information on voluntary patients</a>.</li><li>• If you have been sent to hospital by a court, <a href="#">see our information on mental health and the courts</a>.</li></ul> |
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## Please note

- This guide only covers sectioning from the point of view of a person with a mental health problem.
- This guide applies to England and Wales.

- This guide contains general legal information, not legal advice. We recommend you get advice from a specialist legal adviser or solicitor who will help you with your individual situation and needs. See [Useful contacts](#) for more information.
- The legal information in this guide does not apply to children unless specifically stated.

## Terms you need to know

Term	Meaning
<b>Appropriate treatment</b> or <b>appropriate medical treatment</b>	<p>This means medical treatment for your mental health problem that is:</p> <ul style="list-style-type: none"> <li>• suitable for you</li> <li>• available</li> <li>• takes into account the nature and degree of your mental health problem and your individual circumstances.</li> </ul>
<b>Approved clinician</b>	<p>A mental health professional who has certain responsibilities related to your healthcare. They are approved to do this by the Department of Health (England) or by the Welsh Ministers (Wales).</p> <p>Approved clinicians may be:</p> <ul style="list-style-type: none"> <li>• doctors</li> <li>• psychologists</li> <li>• nurses</li> <li>• occupational therapists</li> <li>• social workers.</li> </ul> <p>Some decisions under the <a href="#">Mental Health Act</a>, such as deciding on your medication or giving you permission to leave the ward or hospital, can only be taken by approved clinicians.</p>
<b>Approved mental health professional (AMHP)</b>	<p>AMHPs are mental health professionals who have been approved by a local social services authority to carry out certain duties under the <a href="#">Mental Health Act</a>. They are responsible for coordinating your assessment and admission to hospital if you are <a href="#">sectioned</a>.</p> <p>They may be:</p> <ul style="list-style-type: none"> <li>• social workers</li> <li>• nurses</li> <li>• occupational therapists</li> <li>• psychologists.</li> </ul>

<p><b>Community treatment order (CTO)</b></p>	<p>If you have been <a href="#">sectioned</a> and treated in hospital under certain sections, your <a href="#">responsible clinician</a> can apply for you to be put on a CTO. This means that you can be discharged from the section and leave hospital, but you might have to meet certain conditions such as:</p> <ul style="list-style-type: none"> <li>• living in a certain place</li> <li>• going somewhere for medical treatment.</li> </ul> <p><a href="#">See our pages on community treatment orders (CTOs).</a></p>
<p><b>Conditional discharge</b></p>	<p>This is where you are discharged from hospital into the community by a tribunal or the Secretary of State for Justice, but you have to meet certain conditions. If you break these conditions, you can be recalled to hospital by the Secretary of State for Justice.</p> <p>You will only be put under a conditional discharge if you have been:</p> <ul style="list-style-type: none"> <li>• <a href="#">sectioned</a> by a court under certain sections of the <a href="#">Mental Health Act</a> and have been charged with a crime and you are a restricted patient under a restriction order, or</li> <li>• transferred to hospital from prison under the Mental Health Act and you are a restricted patient under a restriction direction.</li> </ul>
<p><b>Detained</b></p>	<p>A person is detained if they are being kept in hospital under section and are not free to leave.</p>
<p><b>Equality Act 2010</b></p>	<p>This is the law that explains:</p> <ul style="list-style-type: none"> <li>• what behaviour counts as unlawful discrimination</li> <li>• who has a right to challenge discrimination.</li> </ul>
<p><b>Escorted leave</b></p>	<p>This is where you are allowed to leave the ward accompanied by a member or members of the hospital staff. Your <a href="#">responsible clinician</a> grants you permission to leave the ward under section 17 of the <a href="#">Mental Health Act</a>.</p>
<p><b>Guardianship</b></p>	<p>This is where someone called a 'guardian' is appointed to help you live as independently as possible in the community, instead of being <a href="#">sectioned</a> and kept in hospital.</p> <p>You would be placed under guardianship if your mental health problem meant that it would be difficult for you to avoid danger or people taking advantage of you. Your guardian has the power to make certain decisions about you and to make conditions that you will be asked to keep to.</p>

	Find out more about guardianship in <a href="#">our information on community care and aftercare</a> .
<b>Hospital managers (also known as Mental Health Act managers)</b>	An independent team of people in a hospital who make sure that the requirements of the Mental Health Act are properly applied. They have certain important responsibilities and can make decisions related to your detention – for example, they can hear your application to be discharged from your <a href="#">section</a> and decide whether or not to discharge you.
<b>Immediate care or control</b>	This means that you are vulnerable because of your mental health problem and you need a level of care or control that you are not receiving in the public place to keep you safe and healthy.
<b>Independent mental health advocate (IMHA)</b>	An IMHA is an advocate specially trained to help you find out your rights under the <a href="#">Mental Health Act 1983</a> and help you while you are detained. They can listen to what you want and speak for you.  For more information see our full pages on: <ul style="list-style-type: none"> <li>• <a href="#">statutory advocacy</a></li> <li>• <a href="#">IMHAs (England)</a></li> <li>• <a href="#">IMHAs (Wales)</a></li> </ul>
<b>Medical treatment</b>	In the <a href="#">Mental Health Act</a> this means medical treatment that is used to relieve the signs and symptoms of your mental health condition, or to stop it from getting worse. It includes: <ul style="list-style-type: none"> <li>• nursing</li> <li>• psychological intervention and specialist mental health habilitation (learning skills)</li> <li>• rehabilitation (relearning skills)</li> <li>• care.</li> </ul>
<b>Mental disorder</b>	When the <a href="#">Mental Health Act</a> talks about someone with mental health problems and whether or not they should be <a href="#">sectioned</a> , it often uses the term “mental disorder”. The Act defines this as “any disorder or disability of mind” (section 1).  Mental disorder can include: <ul style="list-style-type: none"> <li>• any mental health problem normally diagnosed in psychiatry</li> <li>• learning disabilities, if the disability makes you act in a way which may seem "abnormally aggressive" or "seriously irresponsible".</li> </ul>

<b>Mental Health Act 1983 (MHA)</b>	This is a law that applies to England and Wales which allows people to be detained in hospital ( <a href="#">sectioned</a> ) if they have a mental illness and need treatment. You can only be kept in hospital if certain conditions are met.
<b>Mental Health Act Code of Practice</b>	<p>This tells health professionals how they should follow the <a href="#">Mental Health Act 1983</a>.</p> <p>It is not law, so it cannot be enforced by going to court, but health professionals should follow it unless there is a good reason not to.</p> <p>The Code covers some areas not specifically mentioned in the Mental Health Act 1983, such as visiting rights and the use of seclusion.</p> <p>If a health professional doesn't follow the Code, you can make a complaint.</p> <p>There is both an English and Welsh Code of Practice. They are mostly identical, but have certain differences based on the fact that there are some laws which are different in England and Wales.</p>
<b>Mental Health Tribunal</b>	<p>This is a special court that deals with cases relating to the <a href="#">Mental Health Act 1983</a>. The Tribunal decides whether you can be discharged from your <a href="#">section</a> and can decide about suitable aftercare and make recommendations about matters such as hospital leave, transfer to another hospital, <a href="#">guardianship</a> and <a href="#">community treatment orders</a>.</p> <p>The court is made of a panel, which normally includes:</p> <ul style="list-style-type: none"> <li>• a legally qualified chairperson</li> <li>• a 'lay person' who has appropriate experience and qualifications in the area of mental health</li> <li>• an independent psychiatrist, who will speak to you and examine you before the tribunal hearing in certain circumstances, and when you request to see them.</li> </ul> <p>Where you see a reference to the Mental Health Tribunal in this guide, it means:</p> <ul style="list-style-type: none"> <li>• First Tier Tribunal (Mental Health), if you live in England, or</li> <li>• Mental Health Review Tribunal for Wales, if you live in Wales.</li> </ul>
<b>Nearest relative (NR)</b>	This is a family member who has certain responsibilities and powers if you are detained in hospital under the <a href="#">Mental</a>

	<p><a href="#">Health Act</a>. These include the right to information and to discharge in some situations.</p> <p>The law sets out a list to decide who will be the nearest relative. This can sometimes be changed.</p> <p><a href="#">See our information on the nearest relative.</a></p>
<b>Not kept under proper control</b>	This means that you are vulnerable because of your mental health problem, and you need a level of care or control that you are not receiving at the time of the warrant to keep you safe and healthy.
<b>Place of safety</b>	A locally agreed place where the police may take you to be assessed, usually a police station or a hospital. A police station should normally only be used in an emergency.
<b>Registered medical practitioner</b>	A qualified doctor, for example a GP or psychiatrist.
<b>Remand</b>	This means that you will go to prison until you go to court to have your case considered. Sometimes you can be remanded to hospital instead of prison.
<b>Responsible clinician (RC)</b>	<p>This is the mental health professional in charge of your care and treatment while you are <a href="#">sectioned</a> under the <a href="#">Mental Health Act</a>.</p> <p>Certain decisions, such as applying for someone who is <a href="#">sectioned</a> to go onto a <a href="#">community treatment order</a> (CTO), can only be taken by the responsible clinician.</p> <p>All responsible clinicians must be <a href="#">approved clinicians</a>. They do not have to be a doctor, but in practice many of them are.</p>
<b>Second opinion appointed doctor (SOAD)</b>	<p>This is an independent doctor appointed by the <a href="#">Care Quality Commission</a> in England or by the <a href="#">Healthcare Inspectorate Wales</a>. You need his or her approval to be given or continue to be given certain forms of medical treatment under the <a href="#">Mental Health Act 1983</a>.</p> <p>To find out more <a href="#">see our information on consent to treatment</a>.</p>
<b>Section</b>	In this guide, being 'sectioned' means that you are kept in hospital under the <a href="#">Mental Health Act</a> . There are different types of sections, each with different rules to keep you in hospital. The length of time that you can be kept in hospital depends on which section you are detained under.
<b>Section 12 approved doctor</b>	A doctor trained and qualified in the use of the <a href="#">Mental Health Act 1983</a> , usually a psychiatrist. They may also be a <a href="#">responsible clinician</a> , if the responsible clinician is a doctor.

<b>Supervised community treatment</b>	<p>You can be under supervised community treatment if you are put under a <a href="#">CTO</a>.</p> <p>To find out more, see our information on the <a href="#">Mental Health Act</a>.</p>
<b>Voluntary patient (also known as informal patient)</b>	<p>These are people who are staying in a psychiatric hospital but are not detained under the <a href="#">Mental Health Act</a>. They should be able to come and go from the hospital within reason and are able to discharge themselves if they decide to go home. See our <a href="#">Voluntary patients</a> resource for further information.</p>

## About sectioning

- [What does sectioning mean?](#)
- [When can I be sectioned?](#)
- [What do the different sections mean?](#)
- [Do I have to be sectioned to get treatment in hospital?](#)

### What does sectioning mean?

If you are [sectioned](#), this means that you are kept in hospital under the [Mental Health Act 1983](#). There are different types of sections, each with different rules to keep you in hospital. The length of time that you can be kept in hospital depends on which section you are detained under.

What will happen to you once you are sectioned depends on which section you are detained under, your specific mental health problem and need for care and treatment, and your personal circumstances.

### When can I be sectioned?

You may be [sectioned](#) if you or someone has raised concerns about your mental health.

You should only be sectioned if:

- you need to be assessed and treated for your mental health problem urgently
- your health would be at serious risk of getting worse if you did not get treatment quickly
- your safety or someone else's safety would be at serious risk if you did not get treatment quickly
- your doctor thinks you need to be assessed and treated in hospital, for example if you need to be monitored very regularly because you have to take new or very

powerful medication. Otherwise, you may be asked to attend a hospital out-patient clinic.

Before you can be lawfully sectioned, you will need to be [assessed by health professionals](#), to make sure that it is necessary.

### Example

Kenneth has schizophrenia and has had repeated hospital admissions since he was in his 20s.

He has recently been acting irrationally and out of character; he seems unable to look after himself. It turns out he has not taken his mental health medication for several months.

He seems to have lost a lot of weight, but when food is offered to him he gets irritated saying "I told you, I'm not hungry", and just pushes it away. He has become forgetful and doesn't seem aware of everyday dangers any more, and a few times has wandered into the path of traffic on a busy road.

His wife thinks that he may need medical treatment urgently otherwise his health and safety will be at risk.

### What do the different sections mean?

There are different types of [sections](#), each with different rules to keep you in hospital.

The three main sections you can be detained under are [section 2](#), [section 3](#) and [section 4](#).

Section	What this section means	How long you can be kept under section
<b>Section 2</b>	You can be detained if: <ul style="list-style-type: none"><li>• you have a <a href="#">mental disorder</a></li><li>• you need to be detained for a short time for assessment and possibly medical treatment, and</li><li>• it is necessary for your own health or safety or for the protection of other people</li></ul>	Up to 28 days.  The section can't normally be extended or renewed, but you may be assessed before the end of the 28 days to see if sectioning under <a href="#">section 3</a> is needed.
<b>Section 3</b>	You can be detained if: <ul style="list-style-type: none"><li>• you have a <a href="#">mental disorder</a></li></ul>	Up to 6 months.

	<ul style="list-style-type: none"> <li>• you need to be detained for your own health or safety or for the protection of other people, and</li> <li>• treatment can't be given unless you are detained in hospital</li> </ul> <p>You cannot be sectioned under this section unless the doctors also agree that <a href="#">appropriate treatment</a> is available for you.</p>	<p>The section can be renewed or extended by your <a href="#">responsible clinician</a>:</p> <ul style="list-style-type: none"> <li>• for 6 months, the first time</li> <li>• then for 6 months, the second time</li> <li>• after that, for 12 month periods. There is no limit to the number of times the responsible clinician can renew the section 3.</li> </ul> <p>Your responsible clinician can also discharge you from your section before it comes to an end. If this happens, you are free to go home.</p> <p>If your mental health gets worse again in the future, you could be sectioned and taken to hospital again on a new section.</p>
<p><b>Section 4</b></p>	<p>You need to be detained if:</p> <ul style="list-style-type: none"> <li>• you have a <a href="#">mental disorder</a></li> <li>• it is urgently necessary for you to be admitted to hospital and detained, and</li> <li>• waiting for a second doctor to confirm that you need to be admitted to hospital on a section 2 would cause "undesirable delay"</li> </ul> <p>You can be sectioned by one doctor only (together with the <a href="#">approved mental health professional</a>) and you can be taken to hospital in an emergency and assessed there.</p> <p>Your rights are different compared to your rights under other sections. For example, you cannot be treated without your consent.</p>	<p>Up to 72 hours.</p>

*Other sections*

This table explains some of the other Mental Health Act sections that are used most often.

<b>Section</b>	<b>What this section means</b>	<b>How long you can be kept under section</b>
<b>5(2)</b>	<p>Applies to you if you are a <a href="#">voluntary patient</a> or inpatient (including inpatients being treated for a physical problem).</p> <p>A doctor or other approved clinician in charge of your treatment needs to report to the hospital managers that an application to keep you in hospital (a detention section) 'ought to be made'.</p>	Up to 72 hours.
<b>5(4)</b>	<p>Applies if you are a voluntary patient receiving treatment for a <a href="#">mental disorder</a>. A nurse specially qualified and trained to work with mental health problems or learning disabilities can detain you if they think that your mental health problem is so serious that:</p> <ul style="list-style-type: none"> <li>• you need to be kept in hospital immediately for your health or safety or for the protection of others, and</li> <li>• it is so urgent that it is not practicable to get a practitioner or clinician to provide a report to the hospital managers.</li> </ul>	Up to 6 hours, or until a doctor or clinician with authority to detain you arrives, whichever is earlier.
<b>7</b>	<p>This section deals with <a href="#">guardianship</a>. To find out more, <a href="#">see our information on community care and aftercare</a>.</p>	
<b>17</b>	<p>Applies if you are already detained under the Mental Health Act. This section gives the <a href="#">responsible clinician</a> power to grant you leave for a specified period of time from the ward and the hospital.</p> <p>You are likely to be asked to keep to certain conditions, such as returning on a certain day or at a certain time, or staying at a particular place or in the care of a particular person.</p>	
<b>26 and 29</b>	<p>These sections deal with the <a href="#">nearest relative</a>.</p> <ul style="list-style-type: none"> <li>• Section 26 sets out who your nearest relative will be.</li> <li>• Section 29 tells you the grounds under which you can change your nearest relative.</li> </ul> <p><a href="#">See our information on the nearest relative</a>.</p>	

<b>35</b>	<p>Applies if you are a person accused of a crime in criminal proceedings. The Crown Court or Magistrates' Court can <a href="#">remand</a> you to hospital if one doctor has evidence that:</p> <ul style="list-style-type: none"> <li>• there is reason to suspect that you have a <a href="#">mental disorder</a>, and</li> <li>• it would be impracticable for a report on your mental condition to be made if you were remanded on bail.</li> </ul>	<p>Up to 28 days, renewable for further periods of 28 days to a maximum of 12 weeks in total.</p>
<b>37</b>	<p>Under this section, you can be sent to hospital for treatment.</p> <p>The Crown Court can make a hospital order before or after you have been convicted of a crime. The Magistrates' Court can only make a hospital order when you have been convicted of an offence that could be punished with a prison sentence.</p> <p>The court makes a hospital order on evidence from two doctors that:</p> <ul style="list-style-type: none"> <li>• you have a <a href="#">mental disorder</a> of a nature or degree that makes detention for medical treatment appropriate</li> <li>• <a href="#">appropriate medical treatment</a> is available for you, and</li> <li>• a hospital order is the most suitable option for you, after taking into account all the relevant circumstances (including your past history and character and other methods of dealing with your mental health problem that might be available to the court).</li> </ul>	<p>Up to 6 months, and then can be renewed for a further 6 months, and then for 1 year at a time.</p>
<b>41</b>	<p>If the Crown Court has made a hospital order under section 37, it can also impose a 'restriction order'. This means that you can only be discharged, transferred or given section 17 leave with permission from the Ministry of Justice.</p> <p>The Court will make a restriction order if it thinks it is necessary to protect the public from serious harm.</p>	<p>No fixed time limit.</p> <p>It changes the time limit of section 37.</p>
<b>47</b>	<p>The Ministry of Justice can order you to be transferred from prison to hospital for treatment of your mental health problems.</p>	<p>Up to 6 months, renewable for a second 6 months, and then 1 year at a time.</p>

<b>49</b>	<p>If the Ministry of Justice has ordered you to be transferred from prison to hospital under section 47, at the same time it can also impose a 'restriction direction' on you under section 49. This means that you can only be discharged, transferred and given leave from hospital with permission from the Secretary of State for Justice.</p>	<p>Until the end of the section 47 or the date when you should be released from prison.</p>
<b>117</b>	<p>Health authorities and local social services have a legal duty to provide free aftercare for people who have been discharged under Mental Health Act sections 3, 37, 45A, 47 or 48. The duty to provide aftercare also applies if you are given s17 leave or are under a <a href="#">community treatment order</a>.</p> <p>Aftercare services in the aftercare plan should be provided free of charge. The services will meet a need relating to your mental health problem and prevent you from returning to hospital.</p>	
<b>135</b>	<p>You can be placed under this section if there is reasonable cause to suspect that you have a <a href="#">mental disorder</a> and you are:</p> <ul style="list-style-type: none"> <li>• being ill-treated or neglected or <a href="#">not kept under proper control</a>, or</li> <li>• unable to care for yourself and live alone.</li> </ul> <p>A magistrate can issue a warrant authorising a police officer (with a doctor and an <a href="#">approved mental health professional</a>) to enter any premises where you are believed to be and take you to (or keep you at) a <a href="#">place of safety</a>.</p> <p>(See our legal pages on <a href="#">the police and mental health</a> for more information.)</p>	<p>Up to 24 hours.</p>
<b>136</b>	<p>If it appears to a police officer that you have a <a href="#">mental disorder</a> and are "in need of immediate care or control", they can take you to (or keep you at) a <a href="#">place of safety</a>. You will be kept in the place of safety you were taken to so that you can be examined by a doctor and interviewed by an <a href="#">approved mental health professional</a>, and any necessary arrangements can be made for your treatment or care.</p> <p>(See our legal pages on <a href="#">the police and mental health</a> for more information.)</p>	<p>Up to 24 hours.</p>

## **Do I have to be sectioned to get treatment in hospital?**

No, you can agree to go into hospital in the normal way. You can be referred by your GP or your psychiatrist. You will then be an [informal or voluntary patient](#) and have the same rights as patients getting treatment for other health problems: [see our information on voluntary patients](#).

## **Being assessed**

- [How am I assessed?](#)
- [What questions will I be asked?](#)
- [What are my rights while I am being assessed?](#)

### **How am I assessed?**

Before you can be lawfully [sectioned](#), a team of health professionals will be sent out to assess you. This may happen at home or in hospital, or in a [place of safety](#).

The team of health professionals would normally be:

- a person who is an [approved mental health professional](#) (AMHP)
- a [registered medical practitioner](#) (usually a doctor who knows you, such as your GP)
- a [section 12 approved doctor](#) (usually a psychiatrist)

When they arrive, the AMHP should explain who they are and why you are being assessed. They should also carry some identification so you know who they are.

### **The approved mental health professional will interview you**

The AMHP will then interview you so that they can decide if keeping you in hospital is the best way of providing the care and treatment you need. The two doctors must also agree with this.

### **The doctors will assess you**

The doctors may ask to examine you physically, as well as assessing your mental health. This may happen on the same day as the AMHP assessment, or on a different day, but it should happen within a few days. The two doctors may also have to examine you at different times.

### **The decision of whether to section you will be made**

The AMHP will decide whether to go ahead with the application to [section](#) you, and give you reasons for the decision. They should also tell this to:

- your [nearest relative](#)

- the doctors who have assessed you
- your care coordinator, if you have one
- your GP, if they were not involved in the assessment.

For most sections this must take place within 14 days but if you are put on a [section 4](#) you must be admitted within 24 hours.

There will not always be a gap between assessment and admission. If a suitable bed is available, you may be admitted very soon after assessment. What happens in the interval depends on where you are and your circumstances when you are assessed. The AMHP should explain what will happen.

The AMHP is responsible for:

- deciding which hospital you will go to and which hospital is suitable
- making sure the hospital can admit you and has a hospital bed available
- making sure that you arrive at the hospital safely.

### **If the decision is to take you to hospital**

- You will be taken there as soon as possible after your assessment. This could be immediately after your assessment, or at some later time.
- The AMHP should have already made arrangements for the immediate care of any children or anyone else you are caring for. The same applies if you have any pets. Arrangements should also be made to make your home secure if no one is going to be there when you are taken to hospital.
- The [hospital managers](#), or the officer they have appointed, will check your sectioning papers in hospital to see they have been filled in properly. Once this happens, you are lawfully detained in hospital.

### **What questions will I be asked?**

During your assessment, you will be asked questions about:

- **Your mental health and your general health.** This includes how your mental health problem is making you feel, how you are coping with the symptoms and whether these make it difficult for you to look after yourself properly.
- **If you are acting in a way that harms your health**, such as self-harming or neglecting yourself.
- **Your situation at home.** This includes what support you have at home, whether you are coping with your daily routine and whether anyone else is relying on you for their care.
- **Any medication you are on**, including how you are getting on with it and whether you are taking it regularly.

The health professionals will also want to find out if:

- **your health or safety is at risk because of your mental health.** They will also consider whether other people may be at risk if your mental health gets worse.

## What are my rights while I am being assessed?

- **You can have someone present with you.** You can ask for a friend, family member or [advocate](#) to be with you during your assessment. This may help to make sure your views are listened to.
- **You can ask to speak to the AMHP alone,** but they have the right to have another professional present.
- **The Mental Health Act Code of Practice should be followed.** The health professionals should follow the rules and guidance in the [Mental Health Act Code of Practice](#). This says that all the facts relevant to you should be taken into consideration, and any possible alternatives to [sectioning](#) should be discussed with you (though in an emergency situation this may not be possible).
- **The approved mental health professional doesn't have to follow the doctors' recommendations.** Even if the [AMHP](#) has the doctors' recommendations to support the application to section you, they don't have to make the application. They can think about whether this would be the best way of getting you the care and treatment you need at the time.
- **Your individual situation should be taken into consideration.** The AMHP should consider your age, gender, social background and sexual orientation, and how any disability you may have affects the way the assessment needs to be carried out. For example, this might include thinking about whether you need a Sign Language interpreter to follow what is going on.
- **You have the right to an interpreter.** If your first language is not English and you need an interpreter, ask the AMHP to arrange this.
- **You have the right to ask questions and express your views,** but the [Mental Health Act 1983](#) says that the health professionals do not always have to follow your views.
- **You should be kept fully informed.** The health professionals should keep you fully informed of what is happening, and should answer any specific questions you may have. Health information on your records can only be kept from you if it is likely to cause serious harm to you or someone else.
- **You have the right to not answer questions.** No one can force you to answer questions or to talk to the health professionals. But they can still make decisions about you, such as whether to section you, even if you decide not to answer.

### Example

Emma decides not to tell the [AMHP](#) about her self-harming and that she has a mental health history and was treated for it in the past. She is afraid she is more likely to be [sectioned](#) if she does. The AMHP has to accept that Emma will not tell her, although he may try to find out some other way.

Emma can still be sectioned, even though she does not give the AMHP all the information he asks for.

## Family members

- [Do any of my family members have the right to get involved?](#)
- [Do I have to tell the AMHP who my nearest relative is?](#)
- [What if I don't want my nearest relative to be involved in my care and treatment?](#)

## **Do any of my family members have the right to get involved?**

Yes. A family member called your [nearest relative](#) has certain legal rights related to your [sectioning](#). If your nearest relative is concerned about your mental health, they can:

- tell the [approved mental health professional](#) (AMHP) their concerns, which can lead to you being [assessed](#), or
- apply for you to be sectioned (although generally it is the AMHP who does this)

Your nearest relative should be consulted first if:

- the AMHP wants to section you. They should do this before they complete the process and take you to hospital.

If your nearest relative doesn't think you should be sectioned:

- they have the right to object to you being sectioned, if you are being sectioned under [section 3](#) of the [Mental Health Act](#). However, if you are being sectioned under [section 2](#), the AMHP does not have to listen to them and can still go ahead with the sectioning.

[See our information on the nearest relative.](#)

## **Do I have to tell the AMHP who my nearest relative is?**

No – you cannot be forced to tell the [AMHP](#) anything about yourself if you do not wish to. But the AMHP has a duty under the [Mental Health Act](#) to consult your [nearest relative](#), and they will find out your nearest relative's details if they can and it is practical for them to consult them.

## **What if I don't want my nearest relative to be involved in my care and treatment?**

The [Mental Health Act](#) has rules for deciding who your [nearest relative](#) is, and the [AMHP](#) has to follow these rules. You can change who your nearest relative is if you would prefer a different person. To find out how to do this, [see our information on the nearest relative](#).

If you are [sectioned](#) and taken to hospital, you have the right to say that you do not want information about your care or treatment to be passed on to your nearest relative. There needs to be a good reason not to give them information. You can do this even if you have not gone to court to replace your nearest relative.

For example, normally the [hospital managers](#) must tell your nearest relative when you are due to be discharged, but if you give instructions that they should not tell your nearest relative this or share other information about you, they should respect your wishes.

## Example

Hari has a history of being physically abused as a child. He is still not close to his father and would prefer not to have him involved in his care.

Hari is under [section](#) and will be going home in a few days' time. He lives in a flat which he shares with his friends.

He is then told that his father, as his [nearest relative](#), should normally be informed when Hari is going to be discharged from hospital because it is the duty of the [hospital managers](#) to do this.

Hari says that he absolutely does not want his father to be told this or any other information about him. The hospital has to respect his wishes.

## Can I avoid being sectioned?

- [Can I get legal advice before I am sectioned?](#)
- [Can I lock my door to avoid being sectioned?](#)
- [Can I refuse to go to hospital?](#)

## Can I get legal advice before I am sectioned?

You have the right to consult a solicitor or legal adviser about your rights before you are [sectioned](#), but:

- the health professionals do not have to wait for this to happen before they decide whether to section you or not
- a solicitor or legal adviser will not be able to stop you from being sectioned. They may be able to advise you on how to apply to be discharged from your section, but you can only do this after you have been sectioned and taken to hospital.

An [independent mental health advocate](#) (IMHA) may be available to help you express your views and support you, if that is what you want.

- You can ask the [approved mental health professional](#) (AMHP) to arrange this. But they will not be able to stop you from being sectioned.
- Also, in an urgent situation, the health professionals do not have to wait for the [advocate](#) to arrive before they assess you.

## Can I lock my door to avoid being sectioned?

If you are at home and lock your door, normally it would be against the law for anyone to enter without your agreement or break in. But the health professionals who want to assess you can use the law to enter your home.

The [Mental Health Act](#) allows the [AMHP](#) to get a warrant from a magistrate so that the police can get in, and even break in if necessary. They will come with the AMHP and a medical practitioner.

They can only enter your home if they have reason to think that:

- you are living on your own and not caring for yourself, or
- you are being cared for by someone else, but not being kept under [proper control](#).

You can then be taken to a hospital or other [place of safety](#) to be assessed. You should not be kept for assessment for longer than 72 hours, but you may then be [sectioned](#) and kept in hospital for longer.

## Can I refuse to go to hospital?

The [Mental Health Act 1983](#) gives the [AMHP](#) and the other health professionals the right to take you to hospital. If you refuse to go with them, they have the right to use reasonable force to take you to hospital or they may call the police for assistance.

As long as the health professionals follow the right steps as set out in the Mental Health Act, and they fill in the [section](#) papers correctly, your sectioning will be lawful and you will have to go to hospital to be assessed and possibly treated.

### Practical things you can do

If you want to refuse to go to hospital, here are some practical things you can do:

- Talk to the professionals and make sure they know that you are coping, or can cope, in the community and without going to hospital.
- Ask them why they are assessing you and what concerns they have about you.
- Make sure they know your views, how you manage your situation, and any support network you have, such as friends or family.

## My rights

- [What are my rights when I am in hospital?](#)
- [Can I find out more information on why I've been sectioned?](#)
- [Can I leave the ward?](#)
- [Can I refuse treatment?](#)
- [Can I challenge my section?](#)
- [Can I make a complaint about how I've been treated in hospital?](#)
- [What are my rights after I leave hospital?](#)

## What are my rights when I am in hospital?

If you are sectioned and detained in hospital, you have the following rights:

- **Get leaflets with information** when you arrive on the ward. If you are not given any leaflets straight away, you can ask the ward manager or a senior member of your care staff, or your [independent mental health advocate](#) (IMHA), to get them for you.
- **Appeal** against your section to the [Mental Health Tribunal](#).
- **See your sectioning papers.** If you are not given a copy, and would like to see them, you should ask the ward staff or your [IMHA](#) to help you get them.
- **Get help and support from an IMHA.** They can help you understand the effects of your [sectioning](#), or complain about anything that has happened while you are in hospital.
- **See a copy of the [Mental Health Act Code of Practice](#).**
- **Ask for a meeting** with the [hospital managers](#).
- **Complain** to the [Care Quality Commission](#) or, if you are in Wales, to the [Healthcare Inspectorate](#).
- **Correspondence** from your solicitor and other people and to have visitors.
- **Some telephone access.**
- **Vote.** You still have the right to vote if you are sectioned (unless you were sent to hospital by a criminal court, or transferred from prison).

To vote, you must register on the electoral register as living either at your hospital address or at a recent home address. To do this you must apply to your local council. You cannot vote unless you are registered under an address where your local council can send you information about how and where to vote.

Once you have registered, you can also ask your local council for a postal vote, or you may be able to get permission to leave the hospital to vote, either accompanied by hospital staff or on your own.

Alternatively, you can have someone you can trust to vote on your behalf, called 'voting by proxy'.

### Asking for information

While you are in hospital, you also have the right to ask for and be told information, such as:

- what section of the [Mental Health Act](#) you have been [sectioned](#) under, or your [community treatment order](#) (CTO)
- your rights to apply to a [Mental Health Tribunal](#), and how to contact a mental health solicitor
- your right to see an [IMHA](#), and how to get help from one
- your rights to be discharged from your section by your [responsible clinician](#), the [hospital managers](#), and your [nearest relative](#)
- the consent to treatment rules and when you can be given treatment against your wishes
- the rules about getting correspondence in hospital

### **Example 1**

Adena came into hospital a few days ago under a [section 2](#). She has never been [sectioned](#) before.

Everything happened very quickly and she doesn't know anything about her rights, or what to expect, or how long she might have to stay in hospital. No one has been to visit her and she has not been able to phone anyone. She thinks she was given some information on the first day, but can't find it.

She tells the ward staff that she needs some help to find things out about her situation. A nurse says she will try and get an [independent mental health advocate](#) (IMHA) to help her. When Adena sees the [IMHA](#), she helps her to:

- find a telephone to tell her friends what has happened
- get her the written information about her rights

### **Example 2**

Petra wants to get out of hospital because she thinks she should not have been sectioned. She has read the information she was given when she came into hospital.

She asks to see an [IMHA](#), who explains about Petra's right to go to a [Mental Health Tribunal](#) to have her section lifted. As Petra is on a [section 2](#), she will have to apply within the first 14 days. Petra realises she has the right to a mental health solicitor for the tribunal hearing for free, but she has to find one quickly. Her IMHA helps her to find details of a suitable solicitor, who agrees to come and see her on the ward.

### **Example 3**

Eli has been in hospital under a [section 3](#) for 2 weeks. He finds out that his family has been to visit him but were told that they could not see him. After a few days some friends rang the ward to see if it was okay to visit him, but were told this wasn't a good idea at the moment.

Eli feels very angry that he wasn't told about this and can't understand why his friends and family were not allowed to visit him. He wants to complain about it and to find out what is going on.

An [IMHA](#) goes through the options for complaining. He decides he would like to have a meeting with the [hospital managers](#), and she helps him arrange this.

## **Can I find out more information on why I've been sectioned?**

If you want to find out the reasons why you have been [sectioned](#), you can:

- **Look at your medical notes and records.** You could ask your [IMHA](#) to help you do this. To find out how to make a request to the hospital authorities to see your records, [see our page on accessing your personal information](#).
- **Ask your responsible clinician.** Your [responsible clinician](#) should answer your questions about your mental health and your treatment honestly.

They should also give you information about any medication you are made to take. This includes information about any side effects, why they have decided this treatment is the most suitable treatment for your mental health problem, how long the treatment might take and how long you might have to stay in hospital.

If they say you have behaved in a way that has posed a risk to yourself or others, or has harmed your health, ask them to be specific about what behaviour they are talking about.

- **Discuss your situation with ward staff.** They might be able to explain what is written in your medical notes. You can also ask about anything that happens on the ward, such as ward rounds, how often your responsible clinician will come to see you and whether any other professionals will want to talk to you.

### Example 1

Toni is [sectioned](#) and is in hospital. She feels that the medication she is on is very strong and has a lot of side effects. It sometimes makes her feel dizzy and sick, and that the world is a bit unreal. She wonders whether anything can be done about it, like reducing the dose she is on.

She asks the ward staff if she can speak to her [responsible clinician](#) about it. They tell her when the responsible clinician will be coming, and whether it would be possible to ask her to come the next day.

### Example 2

Teri has asked to see her [section](#) papers and thinks that they are not correct. They say that before she was sectioned, she was found shouting and screaming in the middle of a busy road. She thinks this is an exaggeration of what actually happened.

She discusses the situation with her [IMHA](#) and whether she should complain about it. Her IMHA agrees to get her information about the complaints procedure, and to ask the [AMHP](#) who assessed her if she will come and see her. She also offers to help her to see her medical records.

### Can I leave the ward?

When you first come into hospital, you will probably not be allowed to leave the ward while you are under [section](#). The [Mental Health Act](#) gives the nursing staff and other health professionals the power to keep you on a locked ward.

If you have a good reason for wanting to leave the ward, you can ask your [responsible clinician](#) for permission to do this.

- You can ask them when they come to see you on a ward round or, if it is urgent, you could ask the ward staff to let them know that you need to see them because you need an answer urgently.
- Section 17 of the Mental Health Act says that they can allow you to leave the ward or the hospital for short periods of time, but they may ask you to keep to certain conditions, such as returning within a certain time.
- You will need to explain your reasons for wanting leave. If they need you to put any of the details in writing or they need to speak to anyone else about your leave, such as your family, carer or another professional, they should tell you this.

Sometimes you might be able to leave the ward accompanied by a member or members of the hospital staff – this is called [escorted leave](#). But the hospital does not have a legal duty to agree to this. They may refuse you leave if they consider you or someone else would be at risk if you left the ward on your own.

If you are going to be on leave from hospital for more than 7 days, your responsible clinician should consider whether to use a [community treatment order](#) instead.

### **Example**

Lina's daughter is going to be eight years old next week. She does not understand why she can't see Lina on her birthday. Lina asks her [responsible clinician](#) if she can have leave from the ward so that she can go home and see her daughter. Her responsible clinician says she can, as long as her partner stays with her all the time, and brings Lina back to the ward in the evening.

If your [section](#) is lifted, and you stay in hospital as a [voluntary patient](#), your rights to leave the ward will change: [see our information voluntary patients](#).

### **Can I refuse treatment?**

If you are [sectioned](#) under sections 2, 3, 37 and certain other sections of the [Mental Health Act](#), and your treatment is for your mental health problem and prescribed by your [responsible clinician](#), legally it may be given to you without your consent. This may still happen even if you physically resist being given the treatment.

If you are sectioned under sections 4, 5, 35, 135 and 136, or you are under [Mental Health Act guardianship](#) or [conditional discharge](#), you have the right to refuse treatment for your mental health problem, but you may be given treatment in an emergency.

[See our information on consent to treatment](#) to find out more.

### **Can I challenge my section?**

It may not be possible to challenge the health professionals' opinion during the time that you are being sectioned.

But once you have been [sectioned](#) and are in hospital, there are several ways of getting discharged:

- Ask your responsible clinician to discharge you.
- Ask your hospital managers to consider discharging you.
- Ask your nearest relative to discharge you.
- Apply to the [Mental Health Tribunal](#) to be discharged.

If you want to challenge the fact that you have been sectioned at all, you will need to go to the High Court (not the Mental Health Tribunal), and show:

- specific reasons why you should not have been sectioned
- medical evidence for your opinion.

For more information see our pages on [leaving hospital](#).

## **Can I make a complaint about how I've been treated in hospital?**

Yes, your [independent mental health advocate](#) can help you to make a complaint. You can complain to the hospital or their regulator which is the [Care Quality Commission](#) (in England) or the [Healthcare Inspectorate](#) (in Wales).

For more information see our pages on [complaining about health and social care](#).

## **What are my rights after I leave hospital?**

When you are no longer under a section and leave hospital, you have the following rights:

- **The right to be free from discrimination** because of your mental health history and to take action if this happens – [see our information on disability discrimination](#) to find out your rights under the [Equality Act](#).
- **The right to vote**, as long as you are well enough to decide between candidates, and you are registered on your local council's electoral register at your home address or another address.
- **The right to travel abroad**. You have the right to travel out of the UK, but some countries have restrictions on accepting people with a history of mental health problems. This is because the Equality Act, which protects you from discrimination in the UK, does not apply abroad.

Each country will have different rules on this. So you will have to check with the embassy of the country you are planning to visit whether you will have trouble getting a visa and whether they are likely to ask for information about your mental health history.

- **The right to drive.** You have the right to drive, but if you are diagnosed with certain severe mental health conditions and taking certain types of medication, your driving licence may be temporarily suspended. For more information, visit the [DVLA website](#) and [see our information on fitness to drive](#).

### **Aftercare services or care plans**

- You should be told before you leave hospital whether you will have the right to aftercare services after you leave hospital, and whether these are likely to be free.
- Or you will have a care plan which you should be invited to discuss, and you will have the right to the services on the care plan, but you may be means tested and asked to contribute something towards your services: [see our information on community care and aftercare](#).

## **Useful contacts**

### *Mind Legal Line*

0300 466 6463 (Monday to Friday, 9.00 am to 5.00 pm)  
[legal@mind.org.uk](mailto:legal@mind.org.uk)

The Mind Legal Line can provide you with legal information and general advice.

### *Care Quality Commission (CQC)*

03000 616161 (press '1' to speak to the mental health team)  
[enquiries@cqc.org.uk](mailto:enquiries@cqc.org.uk)  
[cqc.org.uk](http://cqc.org.uk)

For complaints about anything that may have happened during your time in hospital under section (in England).

### *Citizens Advice*

03444 77 20 20 (Wales)  
03444 111 444 (England)  
TextRelay users should call 03444 111 445  
[citizensadvice.org.uk](http://citizensadvice.org.uk)

Provides free, independent, confidential and impartial advice to everyone on their rights and responsibilities. They also have an [online self help](#) service.

### *Driver and Vehicle Licensing Agency (DVLA)*

0300 790 6806 (Monday to Friday, 8am to 5.30 pm, Saturday, 8am to 1pm)  
[gov.uk/government/organisations/driver-and-vehicle-licensing-agency](http://gov.uk/government/organisations/driver-and-vehicle-licensing-agency)

The DVLA maintains registers of drivers and vehicles in Great Britain. You can contact the Drivers Medical Enquiries Team for information on:

- the rules relating to fitness to drive
- the forms you need to complete to tell the DVLA about your mental health problem
- the process involved in assessing your fitness to drive.

*Healthcare Inspectorate Wales*

0300 062 8163

[hiw@wales.gsi.gov.uk](mailto:hiw@wales.gsi.gov.uk)

[www.hiw.org.uk](http://www.hiw.org.uk)

For complaints about anything that may have happened during your time in hospital under section (in Wales).

*The Law Society*

020 7242 1222 (England)

029 2064 5254 (Wales)

[lawsociety.org.uk](http://lawsociety.org.uk)

The Law Society provides details of solicitors you can get in touch with for specialist legal advice.

*Mental Health Lawyers Association*

[mhla.co.uk](http://mhla.co.uk)

Professional association of Mental Health Lawyers in England and Wales.

*Mental Health Tribunal (England)*

0300 123 2201

[gov.uk/mental-health-tribunal](http://gov.uk/mental-health-tribunal)

Deals with cases in England relating to the [Mental Health Act 1983](#), for example deciding whether you can be discharged from your [section](#).

*Mental Health Tribunal for Wales*

029 2082 5328

[mentalhealthreviewtribunal.gov.wales](http://mentalhealthreviewtribunal.gov.wales)

Deals with cases in Wales relating to the [Mental Health Act 1983](#), for example deciding whether you can be discharged from your [section](#).

*Revolving Doors Agency*

020 7407 0747

[revolving-doors.org.uk](http://revolving-doors.org.uk)

For people with mental health problems in contact with the criminal justice system.

## **Where can I get support?**

*Local Mind*

Local Minds support over 280,000 people across England and Wales. Their services include supported housing, crisis helplines, drop-in centres, employment and training schemes, counselling and befriending. They may be able to help you find advocacy services in your area.

Find your local Mind [here](#).

*Find an advocate*

An advocate is a person who can both listen to you and speak for you in times of need. Having an advocate can be helpful in situations where you are finding it difficult to make your views known, or to make people listen to them and take them into account.

For information on advocacy services and groups in your area, you could start by contacting the [Mind Legal Line](#) and your [local Mind](#). You can also contact the [Patient Advice Liaison Service \(PALS\)](#) in England, or the [Community Health Council](#) in Wales.

Read more about how [advocacy](#) might help you.

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Published in September 2017.

To be revised in 2019.