



Voluntary patients

This resource explains your rights if you are having treatment in hospital as a voluntary patient (by choice).

Please note:

- This guide only covers voluntary patients 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 specific situation and needs. See [Useful contacts](#) for more information.
- The legal information in this guide does not apply to children unless specifically stated.

If you need this information in Word document format for compatibility with screen readers, please email: publications@mind.org.uk

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Overview

If you want to get treatment for your mental health problem as a voluntary patient, you or someone caring for you might have questions about your rights.

Quick facts

- You are a voluntary patient (sometimes called an 'informal patient') if you are having in-patient treatment in a psychiatric hospital of your own free will.
- Being a voluntary patient is different to being sectioned under the [Mental Health Act](#). Being sectioned is where you are kept in hospital even if you do not want to go and receive treatment. See our information on [sectioning](#) to find out more.
- As a voluntary patient, you have the right to get treatment for your mental health problem, as well as physical health problems. You also have the right to refuse treatment you don't want. You can leave the hospital when you want, but you are still expected to take part in your treatment plan.
- Some hospitals will have rules about what you can and can't do on the ward. But if the rules are too restrictive and unnecessary, it could breach the [Human Rights Act](#).
- You would only be sectioned if the care team is worried about the risks to yourself or others if you leave the ward.
- If you need support from different people, you should be given [community care](#) under the Care Programme Approach in England or the Care and Treatment Planning in Wales.

Terms you need to know

Term	Meaning
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. Find out more on our advocacy information page.
Approved mental health professional (AMHP)	AMHPs are mental health professionals who have been approved by a local social services authority to carry out duties under the Mental Health Act. They are responsible for coordinating your assessment and admission to hospital if you are sectioned. They may be: <ul style="list-style-type: none"> • social workers • nurses • occupational therapists • psychologists
Capacity	'Capacity' means the ability to understand information and make decisions about your life. It can also mean the ability to communicate decisions about your life. If you do not understand the information and are unable to make a decision about your care, for example, you are said to lack capacity.
Care coordinator	A care coordinator is the main point of contact and support if you need ongoing mental health care. They keep in close contact with you while you receive mental health care and monitor how that care is delivered – particularly when you're outside of hospital. They are also responsible for carrying out an assessment to work out your health and social care needs under the care programme approach (CPA). A care coordinator could be any mental health professional, for example: <ul style="list-style-type: none"> • nurse • social worker • other mental health worker This is decided according to what is most appropriate for your situation. A care coordinator usually works as part of the community mental health team.
Care Programme Approach (CPA) or	The Care Programme Approach (CPA) is a way that secondary mental health services are assessed, planned, co-ordinated and

<p>Care and Treatment Planning (CTP)</p>	<p>reviewed for someone that lives in England. Secondary mental health services include the Community Mental Health Team, Assertive Outreach Team and Early Intervention Team.</p> <p>The Care and Treatment Planning (CTP) is a similar process for people living in Wales. But it comes from a law called the Mental Health (Wales) Measure 2010.</p> <p>In both England and Wales you should get:</p> <ul style="list-style-type: none"> • a full assessment of your health and social care needs • a care plan • regular reviews • a care coordinator who will be responsible for overseeing your care and support
<p>Deprivation of liberty</p>	<p>A deprivation of liberty is where your liberty is taken away from you – that is, you are not free to leave and under continuous supervision and control. The Mental Capacity Act says that the law allows this only in very specific situations.</p> <p>This may happen to you if you need to go into a care home or hospital to get care or treatment, but you don't have the capacity to make decisions about this yourself.</p>
<p>Detained</p>	<p>A person is detained if they are being kept in hospital under section and are not free to leave.</p>
<p>Equality Act 2010</p>	<p>This is the law that explains:</p> <ul style="list-style-type: none"> • what behaviour counts as unlawful discrimination • who has a right to challenge discrimination
<p>Human Rights Act (HRA)</p>	<p>This is a law that the government has brought in to protect our human rights in the UK.</p>
<p>Independent mental health advocate (IMHA)</p>	<p>An IMHA is an advocate specially trained to help you find out your rights under the Mental Health Act 1983 and help you while you are detained. They can listen to what you want and speak for you.</p> <p>You have a right to an IMHA if you are:</p> <ul style="list-style-type: none"> • detained in hospital under a section of the Mental Health Act, but not if you are under sections 4, 5, 135 and 136 • under Mental Health Act guardianship, conditional discharge and community treatment orders (CTOs) • discussing having certain treatments, such as electroconvulsive therapy (ECT). <p>In Wales, voluntary patients can also have an IMHA.</p>
<p>Mental Capacity Act (MCA)</p>	<p>If you can't make decisions for yourself because you don't have the mental capacity to make them, the Mental Capacity Act 2005 tells you:</p>

	<ul style="list-style-type: none"> • what you can do to plan ahead • how you can ask someone else to make decisions for you • how you can make decisions for someone else
Mental Health Act 1983 (MHA)	<p>This is a law that applies to England and Wales which allows people to be detained in hospital (sectioned) if they have a mental illness and need treatment. You can only be kept in hospital if certain conditions are met.</p>
Mental Health Tribunal (MHT)	<p>This is a special court that deals with cases relating to the Mental Health Act 1983. The Tribunal decides whether you can be discharged from your section and can decide about suitable aftercare and make recommendations about matters such as hospital leave, transfer to another hospital, guardianship and community treatment orders.</p> <p>The court is made of a panel, which normally includes:</p> <ul style="list-style-type: none"> • a legally qualified chairperson • a ‘lay person’ who has appropriate experience and qualifications in the area of mental health • 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 <p>Where you see a reference to the Mental Health Tribunal in this guide, it means:</p> <ul style="list-style-type: none"> • First Tier Tribunal (Mental Health), if you live in England, or • Mental Health Review Tribunal for Wales, if you live in Wales
Place of safety	<p>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.</p>
Responsible clinician (RC)	<p>This is the approved clinician in charge of your care and treatment while you are sectioned under the Mental Health Act.</p> <p>Certain decisions, such as applying for someone who is sectioned to go onto a community treatment order (CTO), can only be taken by the responsible clinician.</p> <p>All responsible clinicians must be approved clinicians. They do not have to be a doctor, but in practice many of them are.</p>
Secondary mental health services	<p>These are services provided by medical specialists who generally do not have the first contact with you.</p> <p>This means that you will need to be referred to them by your GP or another specialist. For example, if you go to your GP’s surgery and see your doctor or nurse this is primary care.</p>

	<p>If your doctor refers you to the Community Mental Health Team or another service this would be secondary care.</p> <p>In mental health, these services would include</p> <ul style="list-style-type: none"> • Community Mental Health Team • Assertive Outreach Team • Early Intervention Team
Section	<p>In this guide, being 'sectioned' means that you are kept in hospital under the Mental Health Act. 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.</p> <p>See our information on sectioning to find out more.</p>
Section 117 aftercare	<p>Health authorities and local social services have a legal duty to provide free aftercare for people who have been detained under Mental Health Act sections 3, 37, 47 or 48, but who have left hospital. The duty to provide aftercare also applies if you are under a community treatment order. Aftercare services in the aftercare plan should be provided free of charge.</p>
Section 136	<p>Under this section of the Mental Health Act, a police officer can take you to a place of safety if you are in a public area it seems that you are “suffering from mental disorder” and “in need of immediate care or control”. See our information on sectioning to find out more.</p>
Voluntary patient or informal patient	<p>You are a voluntary patient (sometimes called an ‘informal patient’) if you are staying in a psychiatric hospital but are not detained under the Mental Health Act. You should be able to come and go from the hospital within reason and are able to discharge yourself if you decide to go home.</p>

About voluntary patients

- [What is a voluntary patient?](#)
- [How can I be admitted to hospital as a voluntary patient?](#)
- [What rules will I have to follow as a voluntary patient?](#)
- [What are the advantages and disadvantages of being a voluntary patient?](#)

What is a voluntary patient?

Most people with mental health problems are able to get treatment and support at home, sometimes with the help of their GP. But there may be times when you need to go to hospital to get treatment.

You are a voluntary patient (sometimes called an informal patient) if you are having in-patient treatment in a psychiatric hospital of your own free will.

You should have capacity to understand that you are going into hospital and agree to treatment for your mental health problem.

Being a voluntary patient is different to:

- being [sectioned](#) under the [Mental Health Act](#). Being sectioned means you are kept in hospital even if you do not want to go or do not want treatment. To find out more, see our information on [sectioning](#).
- a deprivation of liberty under the Mental Capacity Act. This might happen if you don't have capacity to consent, but don't meet the criteria to be sectioned. To find out more, see our information on the [Mental Capacity Act](#).

How can I be admitted to hospital as a voluntary patient?

If you are feeling unwell, and feel that you need treatment in hospital, you can get a referral from your GP or psychiatrist. If you need help more urgently, you can either phone for an ambulance or go to your local accident and emergency department.

Sometimes, a local mental health team may come and assess you if they are worried about you. Depending on how unwell you are, you might then be admitted to hospital informally or sectioned under the [Mental Health Act](#). See our information on [sectioning](#) to find out more about how the sectioning process works.

In some areas, there is a shortage of beds so it may not be possible for you to be get treatment in hospital unless you are sectioned.

You should be given information about your legal rights – for example, the right to leave the ward and consent to treatment as well as how to make a complaint. You should get this information in a language and format that you understand.

What rules will I have to follow as a voluntary patient?

Hospitals have rules about what you can and can't do that apply to everyone, whether you are a voluntary patient or you are sectioned – for example, meal times and acceptable behaviour. Policies about searching should include the rights of voluntary patients.

However, blanket restrictions – rules that restrict the freedom of all patients without individual risk assessments – should not be used such as limiting your:

- access to the outside world
- access to the internet
- access to (or banning) your mobile phone and charger
- incoming or outgoing mail
- visiting hours
- access to money or the ability to make personal purchases
- taking part in preferred activities.

If the rules are very restrictive and unnecessary, it could be a deprivation of liberty and could be a breach of Article 5 of the [Human Rights Act](#).

What are the advantages and disadvantages of being a voluntary patient?

There are advantages and disadvantages of being a voluntary patient, compared to being under section. Whether or not it is the right choice for you will depend on your individual circumstances.

Advantages	Disadvantages
<ul style="list-style-type: none"> • You have greater control and say on your life. For some people this is very important and can improve wellbeing. • You have more freedom. You are able to leave the ward when you want, within reason. You should also have less restrictions placed on you, like having your mail checked on the ward or having access to your possessions. • You can refuse treatment, including medication. This means that you can have more discussions with your care team, which leads to better understanding and you are more likely to take the medication. • You are less likely to experience discrimination. People who are detained under the Mental Health Act are more likely to be discriminated against at work or when taking out insurance. The Equality Act could protect you from discrimination in some situations. See our information on disability discrimination to find out more. • It is less likely to show up on a DBS check. If you are taken to a place of safety under section 136 of the Mental Health Act, it may show up on a DBS check when you're applying for a job because the police have been involved. So this could affect your ability to find a job, especially if you work with children or vulnerable adults. See our information on DBS checks to find out more. 	<ul style="list-style-type: none"> • You do not have the right to get section 117 aftercare. This means that you do not always get the same level of support in the community as you would if you were sectioned, and that you may have to pay for some services. Because you do not have the same rights to aftercare, sometimes the discharge planning is not as detailed as it would be if you were under section. • There is no right to review. This is different to if you are sectioned, where you would have the right to challenge your detention by applying for a mental health tribunal. To find out more see our information on sectioning. • It can sometimes be difficult to get a bed in hospital. There is currently a shortage of hospital beds which means that in some areas you cannot be admitted unless you are sectioned. • (In England only) You don't have the right to an independent mental health advocate (IMHA). IMHAs are only available if you are sectioned. But there may be other advocacy services available in your area. See our information on advocacy to find out more. In Wales, you have the right to an IMHA even as an informal patient.

<p>If you go voluntarily, the police are less likely to be involved.</p> <ul style="list-style-type: none">• You are more likely to be allowed in foreign countries. If you want to travel to a country that needs a visa, some of the application forms will ask you about mental health problems. You are more likely to be allowed in the country if you have not been sectioned.	
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Voluntary treatment

- [Can I get treatment if I'm a voluntary patient?](#)
- [Can I be given treatment against my wishes?](#)
- [Can I get support from an advocate?](#)

Can I get treatment if I'm a voluntary patient?

Yes – you have the right to get treatment for your mental health problem. As with any type of in-patient stay, you can discuss your treatment plan with your [responsible clinician](#). And you still have the right to get treatment for other physical health problems, just as you would have in the community.

It's important to have regular physical health checks, because people with severe mental illnesses are more likely to develop preventable conditions like diabetes and heart disease. Sometimes healthcare professionals think that physical health problems are symptoms of a mental health problem and the concerns are ignored.

If you are worried about this, you could speak to the [Patient Advice and Liaison Service \(PALS\)](#) in your hospital.

Can I be given treatment against my wishes?

No – as a voluntary patient you have the right to refuse treatment, including medication. You can only be forced to have medical treatment for your mental health problem if you are [sectioned](#) under the Mental Health Act.

See our legal pages on [agreeing to treatment](#) for more information about your rights regarding treatment.

Can I get support from an advocate?

It can sometimes be hard to get your views across to healthcare professionals, especially when you're not well. Advocates can help you make your voice heard. See our pages on [advocacy](#) to find out more about what advocates do, and how to find an advocate.

If you are in Wales, you also have the legal right to an Independent Mental Health Advocate (IMHA) if you are a 'qualifying informal (voluntary) patient'. See our legal page on [IMHAS in Wales](#) for more information.

But in England you don't have a legal right to an IMHA as a voluntary patient unless certain treatments are being considered for you, such as [electroconvulsive therapy \(ECT\)](#) or [neurosurgery](#). See our legal page on [IMHAS in England](#) for more information.

Can I leave hospital as a voluntary patient?

- [Can I temporarily leave the hospital?](#)
- [What can I do if I don't want to stay in hospital?](#)
- [Will I be sectioned if I leave the hospital?](#)
- [Can I get support when I am discharged?](#)

Can I temporarily leave the hospital?

Yes – you can temporarily leave the ward if you are a voluntary patient. But you will be expected to take part in your treatment plan, which could include therapeutic activities and talking to staff. So this means that you will need to spend some time on the ward.

You should talk to your care team about how much time they expect you to spend on the ward to make sure that you agree. You may want to go out for an hour, a day, or overnight, so it's important to be clear about how much time you want to spend on the ward.

You will also need to let ward staff know about your plans so that they know where you are. This is for health and safety reasons, for example if there is a fire drill.

Your ward may be locked, so you should be told who you can speak to if you want to leave, and must be able to leave at any time you want to.

What can I do if I don't want to stay in hospital?

You have the right to leave the hospital if you don't want to stay. Your care team must tell you if they believe leaving hospital could put you or others at risk, or if they're considering stopping you by detaining you under the [Mental Health Act](#).

Health professionals can't threaten to section you to make you agree to treatment or to stay on the ward if you don't want to.

You may be entitled to support in the community after you leave hospital, so it's important to speak to your care team so that they can assess your needs. See our legal pages on [health and social care](#) for more information.

Will I be sectioned if I leave the hospital?

It depends – if the care team is worried about the risks to yourself or others if you leave the ward, they may decide to [section](#) you.

If that happens, your doctor may keep you on the ward for up to 72 hours while they decide whether you need to be detained and kept in hospital. If a doctor isn't available, a nurse can stop you from leaving the ward for up to six hours until one can be reached.

Health professionals can't threaten to detain you under the [Mental Health Act](#) to make you agree to stay in hospital. You can only be detained if two doctors and an approved mental health professional (AMHP) agree that:

- you need to be assessed and/or treated for your mental health problem in hospital
- your health would be at risk of getting worse, or wouldn't get better, if you don't get treatment
- your safety or someone else's safety would be at risk if you don't get treatment.

To find out more about different sections and what they mean, see our information on [sectioning](#).

Can I get support when I am discharged?

Yes – if you need support from different people, you should be given community care under the [Care Programme Approach](#) (CPA) in England, or the [Care and Treatment Planning](#) (CTP) in Wales.

Under the CPA or CTP, your needs should be assessed by your care team. You will be given a [care coordinator](#) who is often a social worker or a nurse. You should be involved in this assessment.

As a result of this assessment, a care plan should be written explaining how issues around your care and treatment will be addressed. You should be given a copy of your care plan and this should be regularly reviewed. For more information see our legal pages on [health and social care rights](#).

How can I make a complaint?

If you have a complaint about the way you have been treated as a voluntary patient, there are a number of things you can do. What's best for you will depend on exactly what has happened, but generally it is best to try to sort it out informally if you can.

Speak to someone informally

Sometimes a problem can be sorted out by speaking with the person involved without having to follow a formal process. An [advocate](#) may be able to help you if you would like support in doing this.

Make a complaint to the hospital

If you can't resolve it informally, you can make a complaint to the complaints manager of the hospital. Every hospital will have a complaints procedure for you to access – you can ask for a copy, and this will give you details of the complaints process, including how to appeal the decision.

You should report your concerns **within 12 months** of the incident or the treatment.

Make a further appeal

If you have followed the complaints procedure are still not happy with the outcome, you can appeal the decision to the [Parliamentary and Health Service Ombudsman](#) in England or the [Public Service Ombudsman for Wales](#).

You could also write a letter or email to the [Care Quality Commission](#) (in England) or the [Healthcare Inspectorate](#) (in Wales).

For more information about making a complaint see our pages on [Complaining about health and social care](#).

Useful contacts

Mind's services

- **Helplines** – all our helplines provide information and support by phone and email. Our Blue Light Infoline is just for emergency service staff, volunteers and their families.
 - Mind's Infoline – 0300 123 3393, info@mind
 - Mind's Legal Line – 0300 466 6463, legal@mind
 - Blue Light Infoline – 0300 303 5999, bluelightinfo@mind
- **Local Minds** – there are over 140 local Minds across England and Wales which provide services such as [talking treatments](#), [peer support](#), and [advocacy](#). [Find your local Mind here](#), and contact them directly to see how they can help.
- **Elefriends** is a supportive online community for anyone experiencing a mental health problem. See our [Elefriends page](#) for details.

Care Quality Commission (CQC)

03000 616161 (press '1' to speak to the mental health team)
enquiries@cqc.org.uk
cqc.org.uk

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

Carers UK

0808 808 7777
carersuk.org
advice@carersuk.org

Independent information and support for carers.

Civil Legal Advice

0845 345 4345
gov.uk/civil-legal-advice

The Civil Legal Advice can tell you if you're eligible for legal aid and can give you free and confidential legal advice in England and Wales.

Healthcare Inspectorate Wales

0300 062 8163
hiw@wales.qsi.gov.uk

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

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

Where can I get support?

Local Minds

Local Minds support people across England and Wales. Their services can 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 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](#).