



Mental Health Act

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The Mental Health Act (the Act) is the main piece of legislation guiding the compulsory inpatient admission and treatment of people with mental health problems in England and Wales. The Act affect a small number of people compared to all those using mental health services.

At any one time around one in six people are experiencing symptoms of mental illness and one in four people will experience mental health problems at some time in their lives (Department of Health). The vast majority of these will be treated on an outpatient basis.

A much smaller number will be treated voluntarily or informally as inpatients. Fewer still (around 25% of inpatients) will be admitted formally (sectioned) under the Act and treated compulsorily in hospital. Even fewer will be diverted into psychiatric hospital either before or after being sentenced for a criminal offence.



The guiding principles

Information giving and rights to appeal

These are principles which should be considered when making decisions under the Act. These are:

- **Least restrictive option and maximising independence-** Where it is possible to treat a patient safely and lawfully without detaining them under the Act, the patient should not be detained. Wherever possible a patient's independence should be encouraged and supported with a focus on promoting recovery wherever possible.
- **Empowerment and involvement-** Patients should be fully involved in decisions about care, support and treatment. The views of families, carers and others, if appropriate, should be fully considered when taking decisions. Where decisions are taken which are contradictory to views expressed, professionals should explain the reasons for this.
- **Respect and dignity-** Patients, their families and carers should be treated with respect and dignity and listened to by professionals.
- **Purpose and effectiveness-** Decisions about care and treatment should be appropriate to the patient, with clear therapeutic aims, promote recovery and should be performed to current national guidelines and/or current, available best practice guidelines.
- **Efficiency and equity-** Providers, commissioners and other relevant organisations should work together to ensure that the quality of commissioning and provision of mental healthcare services are of high quality and are given equal priority to physical health and social care services. All relevant services should work together to facilitate timely, safe and supportive discharge from detention.

The Act prioritises clear communication and thorough explanation of patients' rights and circumstances, especially where they have been detained. Information must be provided both orally and in writing.



Where a patient is detained, they must be told the legal and factual grounds for this so that they may appeal. Patients (and in certain circumstances their nearest relative - see below) may appeal to both the First-Tier Tribunal (Mental Health), which is a national independent tribunal composed of a legally qualified judge, a medical member who is a consultant psychiatrist and a lay member who often has a background in social care) and (in certain circumstances) to the hospital managers (panels of volunteers engaged by the Trust to hear patient appeals). Both appeal bodies have the power to discharge a patient from detention.

Detention under the Act

People may be detained under the Act following (in most cases) an application by an approved mental health professional (who will usually be a specially trained social worker) based on two medical recommendations from appropriately qualified doctors.

This is based on an assessment in hospital, in the community or following a person being taken by police from a public place to a hospital or police station. A person can only be detained if they appear to be suffering from a mental disorder and present a risk to their own health, safety or to others.

A person may be detained initially for assessment and treatment for up to 28 days (on section 2) or up to six months for treatment (on section 3), which can be renewed. Detained patients can be treated against their wishes initially for three months and for longer if certain conditions are met. On discharge from hospital, certain patients may be placed on a community treatment order, under which they must comply with conditions regarding treatment and can be recalled to hospital and treated if they do not do so.

The nearest relative

A patient who is detained under the Act will normally have an identified nearest relative. This is not the same as a person's next of kin, but is identified by means of a strict procedure set out in the Act.

The Act specifies that a person's nearest relative must be consulted prior to their detention and if a nearest relative objects to the patient being placed on section 3, the detention cannot go ahead, unless the nearest relative is displaced, which can only happen if the County Court agrees that certain conditions are met.

The nearest relative has rights to information as well as right to be consulted. They may also in certain circumstances apply for the patient to be discharged from section, but the patient's doctor may refuse if the patient is considered dangerous, in which case a hospital managers' hearing will be convened to decide whether or not the patient should be discharged.

You might find that being taken to hospital against your will is stressful and upsetting. If you are detained under the Mental Health Act and wish to appeal, our staff will assist you. The ward you are on will have a list of mental health solicitors who will be able to advise and represent you. In most cases, you can get free legal representation at your Tribunal or managers' hearing under the Legal Aid scheme. You may find it useful to get support from an Independent Mental Health Advocate (IMHA).





Further information

The Mental Health Act Code of Practice

 <https://www.gov.uk/government/news/new-mental-health-act-code-of-practice>

Care Quality Commission- Information leaflets for detained patients

 <http://www.cqc.org.uk/content/information-people-detained-hospital>

Mind- Information and advice

 http://www.mind.org.uk/help/rights_and_legislation/mental_health_act_1983_

Trust MHA offices

Springfield MHA Office

First Floor, Building 30
Springfield University Hospital
61 Glenburnie Road, London SW17 7DJ

 **020 3513 6968**

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Tolworth Hospital
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 **020 8487 6822**

Contacting the Trust

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☎ **020 3513 5000**

In an emergency (for existing patients of the Trust)

• **Mental Health Support Line: 0800 028 8000**

(5pm to 9am Monday to Friday, 24 hours Saturday and Sunday).

Patient Advice and Liaison Service (PALS)

You can call our dedicated Patient Experience team and talk to someone about the service you, or the person you care for, has received.

☎ **020 3513 6150** (Monday to Friday 9am to 5pm)

Disclaimer

We make every effort to ensure that the information we provide is accurate and up to date but it should not be relied upon as a substitute for specialist professional advice tailored to your situation. So far as is permitted by law, South West London and St George's Mental Health NHS Trust does not accept liability in relation to the use of any information contained in this publication, or third-party information or websites included or referred to in it.

We are the leading provider of mental health services across south west London and a beacon of excellence for national mental health specialist services.

Help us make our services even better

The views of patients, their carers, friends and families are at the heart of improving the way we deliver our services. We are committed to delivering high quality care. Your feedback will help us understand what we do well and what we can do better.

If you would like to give us feedback please contact:

- Patient Advice and Liaison Service (PALS): **020 3513 6150**
 - Feedback online at: <https://feedback.swlstg-tr.nhs.uk>
 - Patient Opinion: www.patientopinion.org.uk
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NHS Trust

Mental Health Act

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please call: **020 3513 6006**

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