

Compulsory Admissions and Detentions under the Mental Health Act 1983

CCH 18 May 2015

This Factsheet gives a broad summary of the legal position relating to compulsory admission and detention in hospital.

Admission

The great majority of patients admitted to mental health hospitals are admitted informally, that is they go in after discussion with their General Practitioner, and leave of their own accord when they feel ready to do so. If a person is so unwell that it is considered to be in the interest of their health or safety, or for the protection of others, it may be necessary to admit them to hospital compulsorily, and to detain them there for a period of time, for assessment or treatment.

Procedure

A compulsory admission usually takes place when two doctors and an Approved Mental Health Professional (AMHP) have all agreed that admission is appropriate and necessary. At least one of the doctors must be approved under the Mental Health Act (most likely to be a psychiatrist), and if possible at least one of the doctors should already have previous knowledge of the person.

In order to provide sufficient authority for a compulsory admission, both doctors must make a medical recommendation, and the AMHP must make an application. This also provides the authority to convey the person to hospital, where they can be detained for a specific period.

If both doctors recommend detention in hospital, but the AMHP is unwilling to make an application, the person's nearest relative may make the application, and the AMHP will be required to facilitate the admission to hospital.

Admission for assessment - Section 2

Patients detained under section 2 of the Mental Health Act **can** be detained **for up to 28 days**, but not **necessarily** for the whole of the 28 day period. At the end of this period, if further detention is considered necessary, an assessment for Section 3 would need to be carried out – see next section.

Admission for treatment - Section 3

Patients detained under this section of the Mental Health Act **may** be detained for **up to 6 months**, but not **necessarily** for the whole of this period. At the end of this period, if the person is considered to need further treatment, the detention can be renewed for a further six month period, and thereafter for periods of 12 months. As above, the person will not necessarily be detained for the full period.

Community Treatment Order (CTO)

A Community Treatment Order (CTO) can be used for people who have been detained in hospital for treatment, where the responsible clinician (RC) considers that the person requires further treatment, which doesn't need to take place in a hospital setting, but the person is unlikely to comply with their treatment in the community in the absence of a CTO. CTOs come with conditions to promote the person's ongoing treatment and recovery. Failure to comply with these conditions can result in being recalled to hospital where the original detention for treatment can be reinstated.

Emergency Admission - Section 4

In an emergency situation a person can be detained **for up to 72 hours** based on only one medical recommendation, and an application, during which time another doctor may complete the second recommendation necessary for a Section 2.

Discharge

The responsible clinician (RC) in overall charge of the patient's assessment or treatment may discharge the patient from detention **at any time**.

The nearest relative may also discharge the patient from detention by giving 72 hours notice in writing to the hospital managers. During the notice period the RC may overrule the nearest relative, in which case detention continues to apply. Once discharged from detention, if the RC agrees, the person may remain in hospital as an informal patient for further assessment or treatment.

Nearest Relative

There are very specific rules within the Mental Health Act 1983 indicating who qualifies as nearest relative. It is the duty of the AMHP to determine exactly who is the nearest relative within the meaning of the Act.

The AMHP must make every effort:

- i) to inform the nearest relative of the patient's detention under Section 2
- ii) to consult the nearest relative in relation to a detention under Section 3.

The AMHP cannot make an application for detention under Section 3 if the nearest relative objects.

Appeals

Patients detained under Section 2 or 3 have the right to appeal against their detention. Appeals can be made to the hospital managers and to the Mental Health Review Tribunal (MHRT). The MHRT is an independent hearing with a panel composed of a lawyer, a doctor and a lay person. The Tribunal has the power to order the patient's discharge, if it considers there are no grounds for further detention. The hospital managers must ensure that detained patients are informed of their right to appeal and must deal with any appeal made within the required timeframes. As stated above it is possible for the RC to overrule a nearest relative request for the discharge of detained patients. In this instance, the nearest relative has the right to appeal to the Mental Health Review Tribunal (MHRT).

What happens at a Mental Health Review tribunal?

The Tribunal members will come and meet with the patient and listen to his or her views and to those of the patient's representative (if there is one). The Tribunal doctor will also come and see the patient before the Tribunal hearing. They will speak to the patient's doctor, social worker and read reports about the patient before deciding if they are well enough to be discharged from detention. The Tribunal will give the patient a written decision within 7 days of the date of the hearing. Patients are entitled to free legal advice and representation in relation to any appeal.

Useful Contacts

AMHP Duty Desks

South Gloucestershire: Intensive Team, Bybrook Lodge, Blackberry Hill Hospital, Manor Road, Fishponds, Bristol BS16 2EW. Tel: 0117 378 4242

Bristol: Health and Social Care, Welsman, Princes Street, Bristol, BS2 9JA. Tel: 0117 352 1990

BANES: AMHP service, Hillview Lodge, Coombe Park, Bath, BA1 3NG. Tel: 01225 362778

North Somerset: AMHP service, Longfox Unit, Weston General Hospital, Weston-Super-Mare, BS23 4TQ. Tel: 01934 836460

An AMHP may be contacted through duty desks from 8.30am to 5pm Monday to Thursday, and 8.30am to 4.30pm on Fridays. Outside of these hours, referrals should be made to:

The Emergency Duty Team: Tel 01454 615 165

Psychiatric hospitals

Callington Road Hospital, Marmalade Lane, Brislington, Bristol, BS4 5BJ.

Tel: 0117 919 5600

Southmead Hospital Westbury-on-Trym, Bristol BS10 5NB.

Tel: 0117 950 5050

Independent Mental Health Advocates

Any person detained under the Mental Health Act is entitled to support from an Independent Mental Health Advocate (IMHA). An IMHA works alongside the detained person to help them understand their rights, to provide information and support for people to get their views across. An IMHA is independent of any person who is professionally concerned with the patient's care or medical treatment. People can refer themselves or be referred by someone else.

Phone: 0117 965 4444

Fax: 0117 965 0200

Email: imha@thecareforum.org.uk

Web: www.thecareforum.org

Write to: The Independent Mental Health Advocacy Service, The Care Forum, The Vassall Centre, Gill Avenue, Fishponds, Bristol BS16 2QQ.

The Mental Health Advocacy Project

The Mental Health Advocacy Project provides free mental health support for people aged 18-65 years who use mental health services in South Gloucestershire. The Project supports people to look at different options and possible outcomes. For more information:

Phone: 0117 958 9331

Fax: 0117 965 0200

Email: sgmha@thecareforum.org.uk

Web: www.thecareforum.org

Write to: Mental Health Advocacy, The Care Forum, The Vassall Centre, Gill Avenue, Fishponds, Bristol BS16 2QQ.