



LEAFLET 7

What is the Mental Health Act 1983?

This leaflet is one of a series that have been designed to give you a better understanding of Mental Illness.

This leaflet looks at the Mental Health Act 1983 and the Mental Health (Patients in the Community) Act, April 1996.

It would probably be of help if you ask a key worker to explain how this leaflet relates to you.



The Mental Health Act (the Act) 1983 covers the assessment, treatment and rights of people with a mental illness.

How does it work?

The Act is divided into a number of 'Sections' which cover different situations.

Doctors or Social Workers may use the term 'to Section someone,' which means using the Act to make sure the person goes to hospital for care. It is worth noting that some social workers have been given special training and are 'Approved' to apply parts or sections of the Mental Health Act. These are known as 'Approved Social Workers' (ASWs) The sections of the Act most frequently used are described overleaf.

The Mental Health Act Commission

This is an independent public body responsible for drawing up a Code of Practice for the Mental Health Act and overseeing the facilities provided to detained patients. They carry out official visits to hospitals, interview detained patients and their relatives and deal with any complaints.

What are the patient's rights?

In each case, a person detained in hospital under the Mental Health Act should be given written information about the Section under which they have been detained and how they may appeal against it. The hospital must also inform the nearest relative of their own rights.

FOOTNOTE

The Mental Health Act 1983 is currently undergoing a major review and some important changes are expected around 2002.

WHAT HAPPENS WHEN A PERSON SUFFERING FROM A MENTAL DISORDER, WHO NEEDS IMMEDIATE CARE AND CONTROL, IS FOUND IN A PUBLIC PLACE?

SECTION 136 **Mentally disordered persons found in public places**

This order is the one most often applied by the police. It authorises a police officer who finds a person suffering from a mental disorder in a public place and in need of immediate care and control, to remove the person to 'a place of safety.' The place of safety is usually a hospital but may also be a police station or nursing home.

The person may be held at the place of safety for up to 72 hours until a medical examination by a psychiatrist and interview with an Approved Social Worker (ASW) can be arranged. An ASW is a social worker who has been specially trained and approved to apply the Sections of the Mental Health Act.

As a result of these assessments, the person may be:

- Released from the place of safety;
- Admitted to hospital of their own free will.
- Admitted to hospital against their will under another Section of the Act.

WHAT HAPPENS WHEN A PERSON IS SUFFERING FROM A MENTAL DISORDER THAT IS SEVERE ENOUGH TO NEED ADMISSION TO HOSPITAL FOR ASSESSMENT.

SECTION 2 **Admission for assessment**

This allows compulsory admission to hospital (against a person's will) for up to 28 days.

The person must be suffering from a mental disorder severe enough to

need assessment and it must be felt necessary to detain them for their safety or the protection of others.

An application for compulsory admission may be made by an ASW or the sufferer's nearest relative (husband, wife, son, daughter, mother, father, etc.) The relative must have seen the sufferer within the previous 14 days.

The order also requires the medical recommendation of two doctors (usually the consultant psychiatrist and the person's GP) who have seen the patient within five days of signing the order.

The person may be detained for up to 28 days under Section 2. This period is not renewable and if doctors feel a longer period is required they must apply Section 3 of the Act.

SECTION 3 **Admission for treatment**

This Section allows doctors to hold a person in hospital for up to six months for treatment.

It is renewable for a further six months and then for one year at a time. It requires an application by an ASW or nearest relative, together with medical recommendations from two doctors.

OTHER POWERS PEOPLE HAVE TO ADMIT OR KEEP SOMEONE WITH A MENTAL DISORDER IN HOSPITAL

SECTION 4 **Emergency admission for assessment**

This allows compulsory admission for assessment only, for up to 72 hours. It can be used by an ASW or nearest relative, together with the person's GP, without a psychiatrist's recommendation.

It is designed to be used only in an emergency when the person needs





to be admitted to hospital immediately.

Section 4 cannot be renewed but can be converted to a Section 2 by a psychiatrist within 72 hours of admission.

SECTIONS 35, 36, 37, 38 & 41

These Sections may be applied by the Crown Court or Magistrates Court, when the courts decide that a person arrested by the police ought to be detained in hospital for care or treatment of a mental illness, rather than go to prison.

SECTION 5.2

Detention of a patient already in hospital

This is a temporary order made by the hospital doctor when a patient already in hospital, wishes to leave against the doctor's advice. It lasts for 72 hours, after which the person may leave unless a Section 2 or 3 is applied.

SECTION 5.4

Detention of a patient already in hospital by a senior nurse.

This is a temporary order applied by a senior nurse (RMN Level 1) when a patient already in hospital wishes to leave against medical advice.

This lasts for six hours but a doctor must be informed as soon as possible.

After the six hours, the patient may leave unless a Section 2 or 3 is applied.

Compulsory Treatment

The psychiatrist must first ask for the patient's consent to provide treatment. If consent is not given, then under Sections 3 treatment with medication can be given for up to three months.

Treatment with electroconvulsive therapy (ECT) may only be given, without the patient's consent, after a second opinion from another independent consultant psychiatrist.

The independent consultant psychiatrist is appointed by the Mental Health Act Commission after consultation with the patient's doctor, nurse and another health professional eg occupational therapist. After three months, the psychiatrist must again ask the patient to consent to further drug treatment.

OTHER POWERS/ RIGHTS UNDER THE ACT

SECTION 117

Assessment of care after discharge statutory duty of care

This Section of the Mental Health Act is relevant to patients held in hospital under Section 3 of the Act. It requires the Health Authority and Local Authority Social Services Department, between them, to provide assessments and care after the patient's discharge from hospital. This should include:

- A plan of the future care of the person;
- Preparation of a programme for treatment;
- Allocation of a key worker;
- Patient consent to the plan before they are discharged (usually).
- This should last until the authorities are satisfied that this is no longer necessary.

SECTIONS 7-10

Guardianship

An ASW or the nearest relative, can apply for a person over 16 years old to be received into the guardianship of a local Social Services Department or a person approved by the local Social Services Department in the area where the person lives.

SECTIONS 25

Mental Health (Patients in the Community) Act Supervised discharge

Since the Mental Health Patients in the Community Act (April 1996), a

patient is appointed a supervisor to ensure that they continue to receive medical treatment. Supervised discharge applies initially for six months after discharge. At the end of this period, it may be applied for another six months, and then for twelve month periods after that.

Patients have the right to appeal to the Mental Health Review Tribunal against supervised discharge being imposed.

See also leaflet 9.

How can a patient appeal?

A patient or nearest relative may wish to appeal against the doctor's order to be held in hospital, under any Section of the Mental Health Act.

Patients should be given written information about their rights whilst in hospital, and about the ways they can appeal against the Section if they wish.

Appeals may be made through the 'Hospital Manager's Appeal Panel' (not paid managers who work in the hospital but lay people appointed by the local Health Authority) or through the Mental Health Review Tribunal an independent organisation of three people which visits the hospital and sees both the patient and the doctor.

Carers/relatives and the Mental Health Act

A very important right under *Section 13, paragraph 4*, allows the nearest relative to request an assessment for hospital admission. This should only be necessary when help cannot be obtained in other ways and can be particularly upsetting for carers and the cared for person. If you are considering this you may need to get advice from a social worker (see section on coping with crisis).





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