



# Being sectioned



## Please note:

This article refers to the law in England and Wales. **The laws in Scotland and Northern Ireland differ slightly**, though the basic principles are similar.

**See the links below.**

## Detention under the Mental Health Act

Why is someone sectioned? Do you have to be mentally unwell? Do you have to break the law? Does it mean that you're locked up in a 'mental institution'? In short, what does it really mean to be sectioned? Mental health lawyer Justyn Grant explains.

## What does the term 'sectioned' mean?

Sectioned is a commonly used term that refers to someone who is being detained in a psychiatric hospital, under a section (paragraph) of the Mental Health Act.

The law enables people to be admitted, treated and held in hospital against their will, as long as certain procedures are followed, with the aim of getting them better. Once sectioned, there are provisions in place for people to be given medication without their consent. This means that if necessary they may be restrained and given medication by injection.

## Who can be sectioned?

Anyone with a mental disorder or a learning disability (in limited situations) can be sectioned if they require assessment or treatment. It must be necessary for the person's health or safety, or for the protection of others. It is worth bearing in mind that a mental disorder includes depression and other mood disorders, eating disorders and some types of personality disorder, as well as psychotic disorders.

You do not need to have committed a criminal offence to be sectioned. The Mental Health Act is designed for both the general public and those in the criminal justice system. There are separate sections that apply to people who have committed a criminal act, and the courts can send people to hospital instead of prison if they are mentally unwell.

## How long can someone be sectioned for?

For the general public, the two most significant powers to detain people last for up to 28 days (section 2) and six months (section 3). The longer detention can be extended, if needed, for a further six months and yearly after that.

Someone can only be detained under these sections if there is a medical recommendation by two psychiatrists. There is also an emergency section for a period of up to 72 hours when only one medical recommendation



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is required. Detention must be supported by a specialist social worker or nearest relative. That relative (usually the next of kin) can also object to the longer detention.

For those detained under the longer sections, they may be released under a Community Treatment Order that allows them to live in the community under certain conditions. In practice, this usually includes a requirement to take medication. The law also guarantees 'aftercare provisions' for those who were detained under the longer-term section. This is an important safeguard, as it entitles them to support once they leave hospital.

### **How can people be discharged once they are sectioned?**

It depends on the section, but generally, someone has to be discharged if they become well and/or the criteria for detention no longer apply. This can be decided by the doctor in charge of the case, or by a Mental Health Tribunal at a hearing. The tribunal is made up of an independent panel, consisting of a doctor from a different hospital, a legal member and a specialist tribunal member. It is an extremely important process, as it allows the patient to challenge their detention with the help of a legal representative, free of charge, who acts solely for them.

The nearest relative can request a person's discharge and the consultant must discharge the patient within 72 hours unless certain risks apply. A patient can ask the 'hospital managers' to consider their case and the managers have the same powers of discharge as a Mental Health Tribunal.

### **Is it fair that people still get locked up for being unwell?**

Regardless of the necessity, being sectioned can be an undignified and terrifying experience. Last year over 50,000 detentions were authorised under the Mental Health Act in England and Wales – and this number is increasing. It is a sad reality and something that I grapple with on a regular basis. These people are not, in the normal sense of the word, free. And they are, in every sense of the word, people.

The fact is: psychiatric hospitals are not beautiful places – and sometimes they are far worse than that – but nor are they prisons. They are hospital wards for people who are there not because of any wrongdoing, but because they need assessment or treatment and the law dictates that the safest place for them is in hospital.



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As a mental health lawyer, I have the privilege of calling many sectioned patients my clients. And I have yet to meet any mental health professional that likes the fact that people are locked up for being mentally unwell. The Mental Health Act attempts to provide a fair and just system in an overwhelmingly complex and difficult situation. Accordingly, being sectioned can seem unfair yet also be uncomfortably correct.

## ⇒ Helpful links:

### England and Wales

An overview of the England and Wales legislation written by a firm of solicitors who represent detained patients:

⇒ [www.mentalhealthaccesspack.org/practical-tips/law-and-rights](http://www.mentalhealthaccesspack.org/practical-tips/law-and-rights)

The summary prepared by leading mental health charity Mind:

⇒ <https://tinyurl.com/mind-mental-health-act>