

## Section 2 of the Mental Health Act 1983

Section 2 (s2) allows for you to be detained in hospital for the assessment of your mental health and any treatment you might need if the doctors think that you are mentally unwell. Whilst you are being assessed your clinical team consider a) Whether you are suffering from a mental illness or mental disorder b) Which type of mental disorder you might have and c) Whether you need treatment for that illness or disorder and, if prescribed to you, how you are responding to it.

You will normally be kept in hospital under a s2 if you have not been assessed in a psychiatric hospital before, or if you have not had such an assessment for a long time. There can be other reasons why people are detained under s2 however.

### How long it lasts

S2 can last for up to 28 days but it need not last that long. If you have not been discharged by the end of the 28 day period, you will be free to go, unless the doctors and other mental health professionals think that you need to be treated in hospital for longer. If this is the case they can detain you under Section 3 of the Mental Health Act. The s2 cannot be renewed.

### How admission is carried out

To be placed under a s2:

- An application for admission to hospital under a s2 must be made by either an Approved Mental Health Professional (AMHP) or your Nearest Relative.
- They must have seen you within 14 days of making the application,
- You must also be seen by two separate doctors, one of whom must have had specialist training to carry out Mental Health Act assessments.
- The doctors must have seen you within 5 days of each other,
- Admission to hospital must be arranged within 14 days of the last medical examination.

### Your Rights

You have the following rights whilst you are detained under s2:

- You have the right to appeal against your detention before a Mental Health Tribunal. Any such appeal has to be made in writing within the first 14 days of your detention.
- You have the right to free and independent legal advice and representation in the preparation of and before any Mental Health Tribunal.
- You have the right to appeal to the hospital's Mental Health Act managers.
- You can ask for the help of an Independent Mental Health Advocate (IMHA) who can help you to raise any issues you have with your care and treatment.

You should be given a Patient Rights Leaflet by a member of the hospital staff which tells you about your legal rights. Hospital staff should also be willing to help you complete an application to either a Mental Health Tribunal or the hospital managers, as should the IMHA, or any solicitor who is accredited to represent clients before the Mental Health Tribunal.



## Getting Discharged

There are four ways in which you can be discharged from s2:

Your doctor can discharge you at any time.

Your nearest relative can order your discharge. If they do this your doctor has 72 hours to agree (and you will be discharged) or disagree (and you will remain detained). Your nearest relative can only ask for your discharge once during the 28 day period. Whilst they do not have to, we would recommend that your nearest relative takes legal advice about exercising this right.

The Hospital Managers can discharge you. They review reports usually prepared by your doctor, social worker and nurse and ask them questions and should also speak to you to find out what your wishes are. They can also adjourn for further information or make informal recommendations about your case.

The Tribunal can discharge you. The Tribunal is an independent panel of 3 people, a lawyer, psychiatrist and a layperson. Reports will be provided by your doctor and nurses. The Tribunal can: discharge you (immediately or delayed for a period of time); adjourn for further information; or make recommendations about leave in the community, or transfer to another hospital, or into guardianship.

Neither Mental Health Tribunals, nor Hospital Managers Meetings have the power to order your doctor to change any clinical decision, such as the taking or stopping of any medication.

## Other useful information

Taking medication:

You do not have to take medication, but if you do not agree to take any prescribed to treat a mental health condition, it be given to you against your wishes for the whole 28 days of your s2. Some other treatments can't be given to you without your consent. This includes electro-convulsive therapy (ECT). Whilst there is no right to appeal against the doctor's decision about medication, if you are unhappy about it, or any other aspect of your treatment, you should speak to your named-nurse or the doctor themselves. An IMHA may also be able to help you.

Getting leave:

If your doctor or the Tribunal give permission for you to have leave, you will be able to go off the ward for a period of time. This is sometimes referred to as S.17 leave. Leave is time restricted and can be subject to conditions such as being escorted by a nurse. If you do not keep to the time limits or restrictions you can be brought back to hospital, by the police if necessary.

Aftercare:

Returning home after a period of time in hospital can be extremely stressful and difficult. Your mental health team will be aware of this. Before you are discharged, a care plan should be made, perhaps at a Care Programme Approach Meeting, which looks at how your needs in the community will be met. Even if you are not allocated a community mental health team, many hospitals are happy to speak to former patients and there are a number of charities, such as Mind and Rethink, who may be able to help.

