



City of
Stoke-on-Trent

Guidance for Social Workers Reference Young People Admitted to Tier 4 CAMHS

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What is The Mental Health Act (MHA) 1983?

- The law used to admit/detain & treat adults, children and young people who need treatment for a mental disorder.
- MHA 1983, amended recently (MHA 2007).
- The Code of Practice provides guidance to registered medical practitioners, approved clinicians, managers and staff of hospitals and Approved Mental Health Professionals on how they should proceed when undertaking duties.

What is Mental Disorder?

- Mental Disorder is defined for the purposes of the Act as “any disorder or disability of the mind”

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Examples:

- Depression & bipolar
- Schizophrenia & delusional disorders
- Post-traumatic stress
- Mental and behavioural disorders caused by psychoactive substance use
- Eating disorders
- Learning disabilities
- Autistic spectrum disorders (incl. Asperger's syndrome)
- Behaviour and emotional disorders of children and adolescents

What is a Mental Health Act (MHA) Assessment?

- An assessment to determine if a person should be admitted to hospital formally, i.e. detained/sectioned
- Requires 2 doctors, and an Approved Mental Health Professional (AMHP).

In the case of a MHA it is essential that social workers contribute to these assessments to offer alternatives to detention, a social perspective and consider the protective factors, in the event of identifying required support if a young person is **not** admitted to hospital.

For example, where and who the young person lives with, parenting capacity, education, training or employment, cultural or spiritual needs, involvement of other family members, agencies and community mental health services.

Section 2 of the Mental Health Act (MHA)

Section 2 is an 'assessment' order. It allows for someone who is unwell to be admitted to hospital so health professionals can find out what is wrong, recommend how to help and start treatment.

- Two doctors must agree that someone should be detained in hospital for assessment, and one of them must be a 'Section 12 approved' doctor.
- An Approved Mental Health Professional will make an application for detention.
- An AMHP should inform the nearest relative if someone is to be detained under Section 2.
- People admitted under Section 2 can be kept in hospital for up to 28 days.
- Section 2 cannot be renewed: if health professionals want to detain a patient for a longer period, they must do so under Section 3 of the Act.

Section 12 Approved doctor

A registered medical practitioner that has undertaken training and approved under Section 12 of The Mental Health Act by the Secretary of State. This means that a Section 12 approved doctor who does not have to be a psychiatrist, but may be a GP or staff grade doctor, who has specific interest in Mental Health and has undertaken appropriate training. The training usually includes shadowing a number of MHA assessments and attending several days of specialist training.

Section 3 of the Mental Health Act (MHA)

- Section 3 allows people to be admitted and detained for treatment for up to six months.
- Two doctors have to agree someone should be detained for treatment in the interests of their health or safety, or for the protection of others. One of them must be a Section 12 approved doctor. Following this agreement;
- An Approved Mental Health Professional (AMHP) or nearest relative can then apply to hospital managers for an individual to be admitted under Section 3.
- A nearest relative must be consulted by an AMHP before someone is detained under Section 3 unless it is not practicable to do so, or unless consultation would result in 'unreasonable delay.'
- If a nearest relative objects, detention under Section 3 cannot go ahead unless legal action is taken to remove the title of nearest relative (and the rights that accompany the title) from the person who is objecting.
- There are other sections of the MHA that may be pertinent in relation to mental disorders however, for the purposes of this document Section 2 and Section 3 of the MHA are the most relevant.

Whether or not S117 of the Act applies, a young person who has been admitted to hospital for assessment and/or treatment may be a child in need and assessments and services should be provided as appropriate.

Other sections that relate to 117

- S3 deals with patients who are detained in hospital for treatment.
- S37 gives the magistrates' court or crown court a power to direct that a person will be detained in hospital either following conviction for an offence or on being satisfied that the person carried out the action that would have constituted the offence.
- S45A gives the higher courts a power to direct that a person convicted of an offence shall be detained in hospital instead of being detained in prison.
- S47 authorises the Secretary of State to direct that a person serving a prison sentence shall be detained in hospital.
- S48 authorises the Secretary of State to direct that a person who has been remanded to custody or detained under immigration legislation shall be detained in hospital.
- Where eligible patients have remained in hospital informally after ceasing to be detained under the Act, they are still entitled to after care under S117 once they leave hospital. S117 does not apply to patients who have been detained in hospital under any other section of the Mental Health Act, for example S2, 4, 5(2), 135 or 136.

Nearest Relative (NR) verses Parental Responsibility (PR)

- The Code of Practice states “it is essential that those taking decisions under the MHA are clear about who has PR”
- It is crucial to establish who has PR to be the NR, this gives consent to treatment.
- Nearest Relative (NR) is the oldest parent with PR, unless parents are separated – it’s the parent with PR who child resides with.
- A care order supersedes NR (Local Authority becomes NR).
- A residence order also gives NR duties.

It is important for social workers to establish who has Parental Responsibility to inform the MHA legislation procedures for MHA assessments, to ensure young people are legally detained.

MHA Terms of Reference and roles for Children’s Social Care

Care Programme Approach (CPA)

Care Programme Approach is an overarching system for co-ordinating the care of people with mental disorders. CPA’s are relevant for young people in hospital and sets out plans for discharge and support.

It is essential that Social workers attend and participate in the CPA process to ensure a social perspective is offered, to ensure a systemic approach to admission and discharge. CPA’s are generally held every 4-6 weeks. When you have a young person admitted to hospital – it is good practice to telephone the hospital within 7 days to ascertain the arrangements for the CPA to discuss and formulate a plan for a timely discharge.

Section 117 (After-Care)

Section 117 of The MHA places a responsibility upon Health and Local Authorities to provide appropriate aftercare for clients following detention under Section 3. Section 117 requires clinical commissioning groups, local authorities to provide or arrange the provision of aftercare of patients detained in hospital for treatment, and then cease to be detained.

The ultimate aim is to reduce the risk of the deterioration of the patient’s mental condition and need for future re-admissions to hospital.

Mental Health Tribunals

If a young person appeals against their Section status then a Mental Health Tribunal will be convened, by The Mental Health Law team.

The Mental Health Review Tribunal is an independent panel that can discharge a young person from the MHA. The tribunal's function is to decide if a young person continues to meet the criteria for being under a section of the MHA or not.

The social worker who writes the Social Circumstance Report is required to attend the Mental Health Tribunal. The tribunal will require the social worker to give verbal evidence to what might happen if the young person does have a nature or degree of mental disorder.

Social Circumstances Report (required for the Tribunal)

Social workers are best placed to write these reports if they are involved with the child/family, see template example. The report is an overview of the young person's social situation and should take account of the views of the young person, family, education, any wider multi-disciplinary teams and relevant others. It should include the local authority's view/recommendation about whether the young person should continue to be detained.

Section 85 of The Children Act 1989

When a young person is admitted to hospital and remains in an in-patient facility for longer than 3 months, the hospital has a duty to notify the local authority. This relates to the legislation set out in Section 85 of The Children Act 1989. The local authority is required to assess the social circumstances at this point to ensure the discharge plans are sufficient for when the child /young person is discharged from hospital.

At this point services for example Early Help/Family Intensive Support Services/co-operative working systems may be helpful to contribute to effective discharge plans.