

The Mental Health Act 1983 – A Summary Guide for ED

For the purposes of the Act a Mental Disorder is defined as

“any disorder or disability of the mind”

Clinically recognised conditions that could fall under this definition are listed below – this is not an exhaustive list

- Affective disorders, such as depression and bipolar disorder
- Schizophrenia and delusional disorders
- Neurotic, stress-related and somatoform disorders, such as anxiety, phobic disorders, obsessive compulsive disorders, post-traumatic stress disorder and hypochondriacal disorders
- Organic mental disorders such as dementia and delirium (however caused)
- Personality and behavioural changes caused by brain injury or damage (however acquired)
- Personality disorders
- Mental and behavioural disorders caused by psychoactive substance use
- Eating disorders, non-organic sleep disorders and non-organic sexual disorders
- Learning disabilities
- Autistic spectrum disorders (including Asperger’s syndrome)
- Behavioural and emotional disorders of children and young people

Any decisions made under the act must adhere to the **5 overarching Guiding Principles.**

- 1. Least Restrictive Option and Maximising Independence**
- 2. Empowerment and Involvement**
- 3. Respect and Dignity**
- 4. Purpose and Effectiveness**
- 5. Efficiency and Equity**

Specific Sections of the Mental Health Act

Section 2

- **Criteria** – Suffering from mental disorder + in interests of health or safety or protection of others
- Assessment order
- Lasts for 28 days and cannot be renewed
- Application by AMHP or nearest relative supported by 2 doctors, one of which needs to be Section 12 approved

Section 3

- **Criteria** – Suffering from mental disorder + in interests of health or safety or protection of others + treatment cannot be provided without detention
- Detention for treatment
- Up to 6 months initially and may be renewed
- Application by AMHP or nearest relative supported by 2 doctors, one of which needs to be Section 12 approved

Section 4

- **Criteria**
 1. Suffering from mental disorder + in interests of health or safety or protection of others
 2. Patient's detention required as matter of urgent necessity **AND**
 3. Obtaining a second medical recommendation would cause undesirable delay
- Detention for Assessment
- Treatment not allowed without consent until 2nd medical recommendation received
- Application by AMHP or nearest relative
- Lasts 72 hours and only > 24 hours after 2nd Medical recommendation

Section 5 (2)

- **Criteria**
 - Doctor or approved clinician in charge of a **hospital in-patient** concludes detention required
 - **Cannot be used in ED or outpatients**
 - **Does not apply to those liable to be detained under Sections 2/3/4 or those under section 135/136**
- Holding Power whilst arrangements made for assessment
- Application made on Form 12 to Hospital Managers
- Maximum of 72 hours

Section 5 (4)

- **Criteria**
 - **Hospital in-patient** already receiving treatment for mental disorder
 - Invoked by registered mental health nurse
 - **Cannot be used in ED or outpatients**
 - Necessary to immediately prevent patient from leaving hospital
 - Not practicable to secure attendance of doctor immediately
- Holding power for **6 hours** until clinician with power to use 5(2) arrives

Section 135(1)

- Provides police officers with power to enter private premises for purposed of removing person to a place of safety for mental health assessment
- **Application by AMHP and granted by magistrate**
- Arrangements for assessment either in person's home or elsewhere should then be made

Section 135(2)

- Warrant to provide police officers power to enter private premises and remove patient liable to be taken/returned to hospital under the Mental Health Act
- **Granted by magistrate**

Section 136

- Emergency power allowing police to remove a person from a public place to a place of safety
- Used if appears to police officer person is suffering from a mental disorder and need immediate care or control
- **Can be applied to the Emergency Department**
- **Only used to enable person to be examined by doctor/AMHP**
- Maximum period of detention is 72 hours
- Does not allow treatment without consent
- Police should be allowed to leave once agreed to be safe for patient and staff

Places of Safety

- There is locally agreed policy between the local authority, NHS commissioners, hospitals, police and paramedics as to agreed places of safety.
- A police station **should not be used as a place of safety** apart from in exceptional circumstances
- All patients should be conveyed to a **Health Based Place of Safety**. In the surrounding area these are:-
 - Sandalwood Court, Swindon
 - Green Lane Hospital, Devizes
 - Fountain Way, Salisbury
 - **Or GWH ED if no other capacity or concurrent health concerns eg self poisoning, self harm.**