



# LEGAL EAGLE



WITH PAUL HARBISON


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## Your mental health rights

**T**his week, the Duke and Duchess of Cambridge pledged their support to raising awareness of mental illness.

Mental Health services have been under the spotlight in recent months amid concerns over planned government cuts. Mental Health problems account for twenty three per cent of the country's illnesses and yet receive only five per cent of the NHS budget.

Concerns have been raised that further cuts to services in this already underfunded area will lead to more of those suffering with mental health problems being unable to access the support and treatment which they need. Without this treatment more people will reach

crisis point which could lead to an increase in those being detained in hospital under the Mental Health Act.

The number of people being detained in hospital has increased year on year, but how much do you really know about what it means to be "sectioned"? Below is a basic guide to this often complicated and misunderstood area.

### "Sectioned" – What does this mean?

The most common sections used to detain people in hospital are sections 2 and 3 of the Mental Health Act 1984.

Section 2 allows a Doctor to detain a person in Hospital against their will for up to 28 days to allow for assessment of their mental health. Section 3 of the Act allows a

Doctor to detain a person for up to six months so they can receive treatment for a mental health problem.

### Can a Doctor detain a person in Hospital for any reason?

No. A person can only be detained if it can be justified. There are a set of criteria which must be met before a person can be detained.

The main reason for detention is that a person's mental health has reached a point that they are at risk to themselves and others, and that the risk is so high that it can only be managed in hospital.

### What if a person does not agree with the decision to keep them in hospital?

It is usually the case that a

person who has been detained, does not agree with the Doctor's decision. There are a number of ways in which the doctor's decision can be challenged. However the main way of challenging the decision is to appeal to a Mental Health Tribunal.

### What is the Mental Health Tribunal?

The Tribunal is a Court and is made up of three members, a judge, who is a specialist in the field of mental health law, a psychiatrist and a specialist member, who is neither a lawyer nor psychiatrist, but is often an experienced social worker. A hearing will be arranged before the Tribunal who will consider the evidence for and against detention. If the

Tribunal disagree that a patient should be detained in Hospital they have the power to discharge, or remove the section.

### Can a patient appeal whenever they want?

As you would expect, there are rules about when, and how many times a patient can appeal and this depends on which section they have been detained under.

A patient detained under section 2 must appeal to the Tribunal, if they wish to do so, within 14 days of the start of their detention. They can only appeal once. Section 3 patients can appeal once to the Mental Health Tribunal at any time during the six month period of detention.

This is a very basic outline of the reasons for detention and the rights of a detained patient. If you or a relative has been detained in hospital contact a solicitor for specialist advice.

**• Paul Harbison is a solicitor in the firm's specialist mental health team who advise and represent patients and their families before the Mental Health Tribunal and in the Court of Protection.**

**The team is headed by Mike Bishop who is nationally recognised by Chambers Directory as a Star Individual in Mental Health, one of two in the country.**

**Contact David Gray Solicitors LLP via their website or call 0191 232 9547.**

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