

BRIEFING FOR GENERAL HOSPITAL STAFF

Managing Patients Detained Under the Mental Health Act on General Wards

1. Introduction

Patients are sometimes detained under the Mental Health Act 1983 (as amended) while receiving treatment on a general medical ward. This creates obligations for staff across both physical and mental health services.

This briefing provides a clear overview of the legal framework, your statutory duties, and the immediate practical steps required to ensure safety, compliance and patient rights.

2. The Legal Framework

2.1 Mental Health Act 1983

The Mental Health Act (MHA) governs when and how patients may be detained and treated for mental disorder. Detention on a general ward most commonly involves:

- Section 5(2): A doctor/approved clinician's holding power (up to 72 hours).
- Section 5(4): A nurse's holding power (up to 6 hours).
- Section 2 or 3: Admission for assessment or treatment following AMHP assessment.
- Section 4: Emergency admission (72 hours) when a full assessment is not immediately possible.

2.2 Mental Capacity Act 2005

Where the patient lacks capacity and is not detained under the MHA, staff may rely on the MCA for decisions about physical healthcare. However, **the MCA cannot be used to deprive someone of liberty to treat mental disorder.**

2.3 Human Rights Act 1998

Key rights relevant to general ward detention include:

- Article 5: Right to liberty
- Article 8: Respect for private and family life

- Article 3: Protection from degrading treatment

Any restriction must be lawful, necessary and proportionate.

3. When a Patient Is Already Detained Under the MHA

3.1 Your Immediate Responsibilities

- Confirm the patient's legal status on arrival or admission.
- Ensure statutory detention paperwork is present or urgently requested.
- Identify the Responsible Clinician (RC) and communicate clinical updates. This persona may be a psychiatrist employed by *your* Trust, or someone from a local mental health Trust.
- Ensure the patient understands their rights and arrange access to an Independent Mental Health Advocate (IMHA).

3.2 Observation and Safety Measures

General ward staff must ensure:

- The patient is safely accommodated and supervised.
- Any restrictions (e.g. constant observation, escorted leave) match the legal framework and are the least restrictive option.
- Doors or physical barriers used to prevent leaving are justified and recorded.

4. When You Need to Prevent a Patient From Leaving

4.1 Using Holding Powers

If an informal patient attempts to leave and there is immediate concern for their mental health or safety:

- A nurse may apply section 5(4) for up to 6 hours.
- A doctor/approved clinician may apply section 5(2) for up to 72 hours.

These powers cannot be renewed and are used only as a short-term measure to allow proper assessment.

4.2 Escalation to AMHP Assessment

Holding powers should trigger an urgent request for a Mental Health Act assessment by an Approved Mental Health Professional (AMHP) and two doctors.

Staff must cooperate in coordinating attendance, providing medical reports and ensuring safe observation until assessment occurs.

5. Treatment of Mental Disorder on a General Ward

5.1 Treatment Under the MHA

Part IV of the MHA governs treatment rules for detained patients:

- Medication for mental disorder may be given without consent for the first 3 months.
- Beyond 3 months, a Second Opinion Appointed Doctor (SOAD) may be required.
- Emergency treatment is permitted where urgently necessary.

5.2 Treatment of Physical Illness

Physical healthcare is governed by the Mental Capacity Act where the patient lacks capacity, or by common law consent if they retain capacity.

5.3 Advance Decisions and Court Orders

Advance decisions under the MCA do not prevent compulsory mental health treatment under the MHA, though they should be considered as part of good practice.

6. Documentation, Records and Communication

6.1 Required Documentation

General hospital staff must:

- Ensure all detention forms are present, valid and legible.
- Record decisions, observations, restrictions and rationale.
- Document all communication with the RC and mental health teams.

6.2 Nearest Relative and Nominated Person

Depending on commencement stage under the MHA 2025 reforms, patients may have a:

- **Nearest Relative** (current system)
- **Nominated Person** (forthcoming reform)

Staff must check which model applies and ensure the correct person receives required notifications.

7. Tribunals, Reviews and Discharge

7.1 Tribunal Access

Detained patients have the right to apply to the Mental Health Tribunal. General ward staff should:

- Ensure the patient has information about how to apply.
- Assist with practical arrangements (forms, phone access).

General ward staff may not be used to solicitors coming to the ward to speak to patients, but this is a normal part of review of Mental Health Act detention. Solicitors may ask you general questions about your patient's behaviour and how their physical care is going. They are more interested in the mental state of the person which they will obtain from notes usually kept by the mental health trust.

7.2 Hospital Managers and RC Powers

The RC or hospital managers may discharge a patient at any time if criteria for detention are no longer met.

7.3 Aftercare (Section 117)

Patients detained under certain sections are entitled to aftercare. General ward staff should ensure discharge planning involves mental health teams to make sure that rights under s117 of the Mental Health Act are fully engaged and made use of.

8. Practical Steps for General Hospital Staff

Immediate Actions

- Identify detention status
- Confirm paperwork
- Check observation level
- Contact mental health liaison team
- Document risks and restrictions
- Provide rights information
- Arrange IMHA access

If the Patient Tries to Leave

- Consider s.5(4) or s.5(2)
- Maintain patient safety
- Request urgent AMHP assessment

If There Is Uncertainty

- Contact the mental health hospital's Mental Health Act Office
- Seek advice from the mental health liaison team or RC