

## INDEPENDENT MENTAL HEALTH ADVOCACY - SECTION 5(2)



### WHAT IS INDEPENDENT MENTAL HEALTH ADVOCACY?

If you are an adult and restricted or being detained under the Mental Health Act, you are legally entitled to help and support from an Independent Mental Health Advocate (IMHA).

An advocate is someone who will speak up for you, or support you to speak up for yourself, if you don't understand what's happening to you, want to challenge a decision about your care or support, express your preferences or assert your rights.

This applies to hospital patients and those who are on a Supervised Community Treatment Order (CTO) or under Guardianship.

Also eligible for an IMHA includes:

-  Those being considered for Section 57 treatment
-  Those under 18 and being considered for Electroconvulsive Therapy (ECT)

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### What does "Section 5(2)" mean?

You are being detained at the hospital because a doctor thinks you have a mental health problem and that you are not well enough to leave. A doctor or an approved clinician has authorised this detention, under Section 5(2) of the Mental Health Act.

You can be kept at the hospital for a maximum of 72 hours, in this time you will be seen by two doctors and an Approved Mental Health Professional (AMHP) who will decide if you need to stay for longer. Section 5(2) it is sometimes referred to as a "Doctors' holding power".

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### Can I be given treatment against my will?

Section 5(2) is short term and the staff at the hospital will tell you about any treatment they think you need. You can refuse to take medication that you do not want.

You have no right to leave of absence under Section 17 of the Mental Health Act whilst you are under Section 5(2) and you cannot appeal your Section 5(2) detention with the Hospital Managers or the Mental Health Tribunal.

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### What happens at the end of a Section 5(2)?





If it is decided that you do not need to be detained under another section of the Mental Health Act, you will be free to leave. If the doctors have not seen you within 72 hours, you will also be free to leave. You may be able to stay in hospital as a voluntary patient if you feel you need more support.

If the AMHP agrees with the doctors' recommendations, you may be detained under a different section of the Mental Health Act, such as Section 2 or a Section 3.



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### What rights do I have?

Although Section 5(2) is short term, you have rights that should be enabled.







-  The reasons for your detention should be shared with you.
-  You should be informed about the section of the Mental Health act that you are detained under.
-  Your rights around consenting to treatment should be explained.
-  You should be informed how to make a complaint.

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-  You should be supported to understand the safeguards that are in place for you.
-  You should be advised about the Care Quality Commission, who monitor all care providers.

### What do Independent Mental Health Advocates (IMHAs) do?

An IMHA can support you to:

-  Be fully involved in your care planning
-  Access Mental Health Reviews and Tribunals, prepare for them and understand decisions made
-  Access other support or services
-  Discuss appropriate aftercare
-  Understand how to raise concerns about your experience/care
-  Exercise your rights

An IMHA will:

-  Listen carefully to what you tell them about your views and feelings
-  Support you to speak up or speak up on your behalf if needed
-  Make sure you are fully involved in decisions being made about you

### What is the Mental Health Act?

The Mental Health Act is a law which tells people with a mental health disorder what their rights are and how they can be treated.

'Mental health disorder' means any disorder or disability of the mind.

It is important that you know what happens to you when you are detained, what your rights are and where you can seek help. The Mental Health Act Code of Practice tells everyone how to use this law and what they must do.

### How can I make a referral?

Mental Health professionals have a duty to inform patients in their care and their nearest relative about the IMHA services available to them. These measures ensure that each patient who is entitled to receive IMHA support is aware of their right to approach the service.

Referrals to the IMHA service are usually made by Health or Social Care professionals, however, n-compass will accept IMHA referrals from the person themselves or their family.



**TO LEARN HOW ADVOCACY  
CAN HELP PLEASE GET IN TOUCH**

**The n-compass Digital Advocacy Hub provides free and impartial information on a range of common advocacy issues. n-compass delivers several advocacy services across the north of England.**

**To find out if we deliver in your locality:-**

Website: <https://www.n-compass.org.uk/our-services/advocacy>

Sign video: <https://ncompass.signvideo.net>