



# Section 37/41

## Self Help Toolkit

Supporting you to be listened to





# Introduction

**This booklet is designed to help you understand your rights and the processes involved while you are under Section 37/41 of the Mental Health Act.**

It includes information on your rights, the treatment process, and useful tools to support your recovery.

## QUESTIONS YOU MAY HAVE:



# In this booklet you will find:



## Process

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# What is a Section 37/41?

**Purpose:** Section 37/41 is used when a court orders hospital treatment instead of a prison sentence, with additional restrictions for public protection (this is where the number 41 comes from, this is known as a restriction order). This means the court believes you need treatment for your mental health and there are extra rules to keep the public safe.

**Duration:** Since 2007, a restricted hospital order does not have a time limit. This means that there is no end date and does not need to be renewed like other sections. They are reviewed periodically to decide if they are still needed. The doctor in charge of your care (also known as your responsible clinician (RC) will have to ask the Secretary of State for Justice to agree for you to be discharged. You cannot leave hospital until they agree.

## **Leave - Section 17**

### **Types of Leave**

You can get different types of leave, such as:

- On hospital grounds
- Off hospital grounds
- Overnight leave
- Home leave

### **Approval:**

Only your doctor can grant leave with the approval from the Ministry of Justice (MoJ). They can also take it away, but they must tell you why.

### **Process:**

You cannot have leave until the doctor has completed a form and had the approval from the Ministry of Justice. You might only get short periods of leave at the start, but this can become longer if things go well.



# Your Rights

## **Appeal:**

You have the right to appeal your section with a Tribunal or a Hospital Managers' Hearing.

## **Complaints:**

You can complain about your care or treatment if you are not happy with it. Ask the ward staff or an Independent Advocate for help.

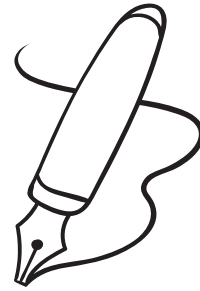
## **Independent Mental Health Advocate (IMHA):**

You have the right to have support from an IMHA who can support you to understand your rights and be involved in decisions about your care and treatment.

## **Visitors:**

You generally have the right to see anyone you want, see them in private and contact people by phone and letter.

Sometimes your responsible clinician can stop someone from seeing you if they have concerns, they should explain this to you.



Use this space for  
your own  
notes/questions

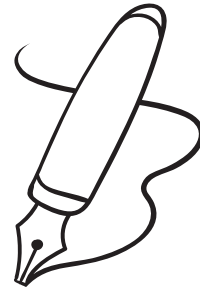
# How to Appeal a Section 37/41

## Court appeal:

- You can appeal to the court of appeal if you think you should not be on a restricted hospital order, this **must** be done with 28 days of the order being made. Your solicitor can help with this.

## Tribunal:

An independent panel that can discharge you from your section. This means they can decide if you should stay in hospital or not. You can apply to the Tribunal after you have been in hospital for 6 months and once a year after that.



Use this space for  
your own  
notes/questions



To help you to prepare for your meetings, use the handy self-help tool on page 14.

Find a Tribunal Form on page 15.



# The Tribunal Process

## **1. You can apply for a tribunal by:**

- Filling out the form yourself
- Asking the Mental Health Act Administrator in hospital
- Calling a solicitor (free of charge)
- Speaking to your Independent Advocate (free of charge)

## **2. Meeting:**

The Tribunal meeting should take place within 7 days of completing the form.

## **3. Participants:**

You, your doctor, your solicitor, your care coordinator, your independent advocate, and family/friends (if you wish).

## **4. Outcome:**

The Tribunal can make recommendations about your treatment, stay in hospital, leave, and discharge plans. The hospital does not need to follow their recommendations.

If the Tribunal decide you should leave hospital, they can give you a conditional discharge or an absolute discharge. If you are given a conditional discharge, there will be certain conditions you need to follow when you leave hospital. The Ministry of Justice can change these conditions. The Ministry of Justice does not have to approve an absolute discharge.

# Hospital Managers' Hearing

Similar to a Tribunal but conducted by hospital managers (not from the hospital you are in). They can also decide if you should stay in hospital. You can apply to the Hospital Managers at any time.

## **You can apply for a Hospital Managers' Hearing by:**

- Filling out the form yourself
- Asking the Mental Health Act Administrator in hospital
- Speaking to your Independent Advocate (free of charge) .

## **Participants:**

You, your doctor, your care coordinator, your independent advocate, and family/friends (if you wish). Sometimes your solicitor can attend too.

## **Outcome:**

The Hospital Managers can review your detention and discharge you from your section, they can only do this if the Secretary of State for Justice agrees.



To help you to prepare for your meetings, use the handy self-help tool on page 14.

Find a Hospital Managers' Review Application Form on page 21.



# Treatment Process



In most cases you need to agree before receiving treatment.

## Saying “Yes” to treatment:



You should be informed about your treatment and agree to it. This means your doctor should explain what the treatment is, why you need it, and what could happen if you don’t get it.

## Saying “No” to treatment:



If you do not agree to the treatment, after 3 months, a Second Opinion Appointed Doctor (SOAD) must agree with the treatment for it to continue. This means another doctor will check if the treatment is right for you.

**First 3 Months:** Your doctor can give you treatment without your consent within the first 3 months of your hospital admission.

**After 3 Months:** The doctor must get an opinion from a SOAD. Only when both doctors agree with the treatment can it continue without your consent.

# Care Programme Approach (CPA)



To help you to prepare for your meetings, use the handy self-help tool: 'Preparing for my meetings' on page 14.

## **Purpose:**

CPA meetings discuss your care, treatment, and discharge plans. This is a plan to make sure you get the right care and support.

## **Participants:**

Your doctor, care coordinator, independent advocate, and family/friends (if you wish) will attend these meetings.

## **Process:**

The CPA will:

- Assess your needs
- Make a plan with you
- Put the plan into action
- Review the plan regularly



# Ward Rounds or Patient Meetings

**Purpose:**

These meetings are where you can talk to your care team about your treatment and stay in hospital. It's a chance to ask questions and share how you feel.

**Participants:**

Your doctor, other medical staff like nurses and therapists, and family/friends (if you wish).

**Topics to Discuss:**

You may wish to raise issues such as:

- Medication and its side effects
- Having visitors
- Your discharge plan
- Complaints
- Looking at your records



# People Involved in Your Care

## **Responsible Clinician:**

Your doctor in charge of your care. They make decisions about your treatment and leave.

## **Mental Health Act Administrator:**

Manages the day-to-day meetings of the Mental Health Act. They help arrange Tribunals and Hospital Managers' Hearings.

## **Care Coordinator:**

You might have a Care Coordinator or Social Worker. They help with your care plan and support. They make sure you get the help you need in hospital and when you leave.

## **Independent Mental Health Advocate:**

Supports you in understanding and exercising your rights. They are specially trained and can help you with things like appealing your section or making a complaint.







# Self Help Tools



# Useful Information

## ABOUT YOU

Name: \_\_\_\_\_

Home Address: \_\_\_\_\_

Community Treatment Order Start date: \_\_\_\_\_

Community Treatment Order Review date: \_\_\_\_\_

Nearest Relative: \_\_\_\_\_

## MY ADVOCATE

advocacy  
focus

My Advocate is: \_\_\_\_\_



0300 323 0965



[www.advocacyfocus.org.uk](http://www.advocacyfocus.org.uk)

## STAFF INVOLVED IN MY CARE AND TREATMENT

Responsible Clinician (Doctor): \_\_\_\_\_

Care Co-ordinator: \_\_\_\_\_

Solicitor: \_\_\_\_\_



# Preparing for my meetings

## WHAT IS THE MEETING

Date \_\_\_\_\_

Time \_\_\_\_\_

Place \_\_\_\_\_

Who I want there \_\_\_\_\_

## WHAT I WANT TO ASK OR SAY

## NOTES





# Application to First-tier Tribunal (Mental Health)

Mental Health Act 1983 (as amended)

The Tribunal Procedure (First-tier Tribunal) (HESC) Rules 2008

An application must be completed according to the Procedure Rules.

The Tribunal may return an application form that is not complete.

A copy of the Procedure Rules can be found here:

[www.gov.uk/government/publications/health-education-and-social-care-chamber-tribunal-rules](http://www.gov.uk/government/publications/health-education-and-social-care-chamber-tribunal-rules)

**Do not complete this form if the patient is subject to guardianship, you must complete form T116 - Guardianship - Application to First-tier Tribunal.**

[www.gov.uk/government/publications/form-t110-guardianship-guardianship-application-to-first-tier-tribunal-mental-health-mental-health-act-1983-as-amended](http://www.gov.uk/government/publications/form-t110-guardianship-guardianship-application-to-first-tier-tribunal-mental-health-mental-health-act-1983-as-amended)

1. What type of application are you applying for?

- ☐ Application for a Section 2 patient
- ☐ Application for a community patient (community treatment order or conditional discharge)
- ☐ Application for a non-restricted inpatient
- ☐ Application for a restricted inpatient
- ☐ Application by the patient's nearest Relative
- ☐ Other application by a non-restricted patient

2. What is the patient's full name?

3. What is the patient's date of birth?

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4. Under what section is the patient detained?

5. What is the date of the original section?

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6. Where does the patient currently live?

- ☐ in hospital
- ☐ in the community

- 7.** What is the name and address of the hospital responsible for care of the patient?

Name of hospital

Address

Postcode

- 8.** What is the patient's full address?

Address

Postcode

- 9.** What is the full name and address of the community supervisor or care co-ordinator?

Name

Address

Postcode

## Nearest relative details – Non-restricted cases only

10. Full name of nearest relative?

11. Full address of nearest relative?

Address

Postcode

12. What is the relationship to the patient?

13. Does the patient object to the nearest relative being informed about the case?

☐ Yes

☐ No

## Legal representative's details

14. Do you have a legal representative acting for you?

☐ Yes – **complete questions 15 – 17**

☐ No

☐ I intend to appoint a legal representative

☐ I would like a legal representative to be appointed on my behalf

☐ I do not wish to appoint a legal representative

Legal advice and representation is available free of charge for any person applying to the Tribunal. Hospital staff should be able to help you find someone if you would like to appoint your own legal representative.

If you have ticked that you would like a legal representative appointed on your behalf, a legal representative will be chosen and appointed for you by the Tribunal. The legal representative will contact you to help you with your case after they have been appointed.

15. What is the legal representative's name?

16. What is the name and address of the legal representative's firm?

Name of legal representative's firm

Address

Postcode

17. What is the legal representative's secure email address?

### Special requirements

18. Do you require an interpreter?

☐ Yes – I need an interpreter for

language

dialect

☐ No

19. How would you like your hearing to be conducted?

☐ I would like my hearing by video

☐ I would like my hearing face to face

☐ I have no preference which type of hearing I have



## Declaration

20. This application is

submitted by the

☐ Patient

☐ Nearest relative

**Or**

submitted on behalf of the

☐ Patient

☐ Nearest relative

who has personally authorised me to submit this application on their behalf.

Signature

--

Date

--	--	--	--	--	--	--	--

Print name

--

## What to do when you have completed your application

- Check the form is complete and the information given is correct
- If you are unsure, you can contact our Customer Support team on 0300 123 2201
- Only information given on this form will be registered

## Where to send your completed application

### By Email

<b>Section 2 Application to:</b>
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mhtsection2applications@justice.gov.uk

<b>All other applications to:</b>
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mhtapplications@justice.gov.uk

### By Post

<b>You can post all applications to</b>
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#### send by DX to:

HM Courts & Tribunals Service,  
First-tier Tribunal (Mental Health)  
DX: 743090 Leicester 35

#### Or send by first class post to:

HM Courts & Tribunals Service  
First-tier Tribunal (Mental Health)  
PO Box 8793  
5th Floor  
Leicester  
LE1 8BN

**Please do not submit the form more than once.**

## APPLICATION FOR A HOSPITAL MANAGERS' REVIEW

Please complete this form as far as you are able. If you are unsure how to complete it, you can ask anyone at the hospital, a relative or friend, to help.

I wish to apply for a Hospital Managers' Review.

My full name is \_\_\_\_\_

The ward I am detained on is (If not on a CTO) \_\_\_\_\_

I would like you to notify and invite my nearest relative to the review hearing

☐

**Yes**

☐

**No**

My nearest relative's name is \_\_\_\_\_

I would like the Advocacy Service to be informed of my appeal so that they might support me during this process

☐

**Yes**

☐

**No**

I would like to be legally represented at the hearing.

☐

**Yes**

☐

**No**

My solicitor is \_\_\_\_\_

Please ask a member of staff for a list of Solicitors in the area

I would like to discuss the appointment of a Solicitor with a nurse or the mental health law administrator

☐

**Yes**

☐

**No**

I would like my hearing to be conducted:

☐

Face to face

☐

By video

☒

☐

I have no preference which type of hearing I have

Signed: \_\_\_\_\_ Dated: \_\_\_\_\_

**Please send your completed form to the Mental Health Law Administrator  
who will process your appeal**

NEAREST RELATIVE’S ORDER FOR DISCHARGE UNDER SECTION  
23 OF THE MENTAL HEALTH ACT 1983

My name is:  
\_\_\_\_\_

My address is:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

To the best of my knowledge and belief, I am the nearest relative (within the meaning  
of the Mental Health Act 1983) of  
\_\_\_\_\_

I give you notice of my intention to discharge the person named above from their Section  
on date  
\_\_\_\_\_

at the time of  
\_\_\_\_\_

Signed  
\_\_\_\_\_

Name  
\_\_\_\_\_

Date  
\_\_\_\_\_





# Solicitors list

Lancashire			
<b>Blackburn</b> <b>Lisa Marie McNulty</b> <b>Solicitors</b> <b>756 Whalley New Road</b> <b>Blackburn</b> <b>BB1 9BA</b> <b>Tel: 01254 248209</b>	<b>Preston</b> <b>Southern Solicitors</b> <i>(previously O'Donnell's solicitors)</i> <b>68 Glovers Court</b> <b>Preston</b> <b>PR1 3LS</b> <b>Tel: 01772 881000</b>	<b>Burnley / Blackpool</b> <b>Southern Solicitors</b> <b>6 A Hargreaves Street</b> <b>Burnley</b> <b>BB11 1ES</b> <b>Tel: 01282 422711</b> <b>01282 438446</b>	<b>Burnley</b> <b>John Black Solicitors</b> <b>Lodge House</b> <b>Cow Lane</b> <b>Burnley</b> <b>BB11 1NN</b> <b>Tel: 01282 502656</b>
<b>Blackburn</b> <b>Kendalls Solicitors</b> <b>Enterprise Centre</b> <b>Syndicate Room 2</b> <b>Furthergate</b> <b>Blackburn</b> <b>BB1 3HQ</b> <b>Tel: 01254 505039</b>			
Yorkshire			
<b>Bradford</b> <b>Alastair Bateman Solicitors</b> <b>46 Westgate</b> <b>Bradford</b> <b>BD1 2QR</b> <b>Tel: 01274 739973</b>	<b>Bradford</b> <b>APPLETON SOLICITORS</b> <b>Hub 26</b> <b>26 Hunsworth Lane</b> <b>Cleckheaton</b> <b>BD19 4LN</b> <b>Tel: 01274 062698</b> <b>No direct line, will take details and ring back</b>	<b>Leeds</b> <b>GT Stewart Solicitors</b> <b>25a Park Square West</b> <b>Leeds</b> <b>LS1 2PW</b> <b>Tel: 0113 222 4888</b>	<b>Harrogate</b> <b>Francina Whelan &amp; Co</b> <b>Regent House</b> <b>13-15 Albert Street</b> <b>Harrogate</b> <b>HG1 1JX</b> <b>Tel: 01423 787278</b>
<b>Harrogate</b> <b>Grahame Stowe Bateson</b> <b>Raglan Chambers</b> <b>4 Raglan Street</b> <b>Harrogate</b> <b>HG1 1LT</b> <b>Tel: 01423 562121</b>	<b>Leeds</b> <b>Graham Stowe Bateson</b> <b>7 Portland St</b> <b>Leeds</b> <b>LS1 3DR</b> <b>Tel: 0113 246 8163</b>	<b>Leeds</b> <b>Graham Stowe Bateson</b> <b>87 Middleton Park Rd</b> <b>Middleton</b> <b>Leeds</b> <b>LS10 4LS</b> <b>Tel: 0113 276 0044</b>	<b>Leeds</b> <b>Michael Heath Solicitors</b> <b>LTD</b> <b>Po Box 389</b> <b>Leeds</b> <b>LS19 9JD</b> <b>Tel: 0113 226 1572</b>
Greater Manchester			
<b>Oldham</b> <b>Quality Solicitors Gruber</b> <b>Garratt</b> <b>King Street Buildings</b> <b>Manchester Street</b> <b>Oldham</b> <b>OL8 1DH</b> <b>Tel: 0161 665 3502</b>	<b>Manchester</b> <b>Bison Solicitors Manchester</b> <b>Earl Mill Business Centre</b> <b>Dowry Street</b> <b>Oldham</b> <b>OL8 2PF</b> <b>T: 0161 710 2368</b>	<b>Manchester</b> <b>AGI Solicitors</b> <b>489 Chester Road,</b> <b>Manchester</b> <b>M16 9HF</b> <b>Tel: 0161 226 2070</b>	<b>Manchester</b> <b>Robert Lizar Solicitor</b> <b>101 Princess Road</b> <b>Manchester</b> <b>M14 4RB</b> <b>Tel: 0161 227 7777</b>
<b>Manchester</b> <b>Clifford Johnston &amp; Co</b> <b>434 Burnage Lane</b> <b>Burnage</b> <b>Manchester</b> <b>M19 1LH</b> <b>Tel: 0161 9751900</b> <b>Doesn't Cover Lancaster and South Cumbria</b>	<b>Manchester</b> <b>Reeds Solicitors</b> <b>Piccadilly House,</b> <b>49 Piccadilly,</b> <b>Manchester</b> <b>M1 2AP</b> <b>Tel: 01865 592 670</b>	<b>Manchester</b> <b>OTTEN PENNA</b> <b>339 Palatine Road</b> <b>Northenden</b> <b>Manchester</b> <b>M22 4HH</b> <b>Tel: 0161 945 1431</b>	<b>Manchester</b> <b>AJM Solicitors</b> <b>Adamson House,</b> <b>Towers Business Park,</b> <b>Wilmslow Road,</b> <b>Didsbury,</b> <b>Manchester,</b> <b>M20 2YY</b> <b>Tel: 07812 049296</b>



# Solicitors list

<b>Merseyside</b>			
<b>Liverpool</b> <b>RMNJ Solicitors</b> <b>63 Hamilton Square</b> <b>Birkenhead</b> <b>Wirral</b> <b>CH41 5JF</b>  <b>Tel: 0151 647 0000</b>	<b>Hoylake</b> <b>Peter Edwards Law</b> <b>Ventura House 8</b> <b>Market Street</b> <b>Hoylake CH47 2AE</b>  <b>Tel: 0151 632 6699</b>	<b>Liverpool</b> <b>Hogans Solicitors</b> <b>10 Station Street</b> <b>Prescot</b> <b>Merseyside</b> <b>L35 0LP</b>  <b>Tel: 0800 328 3601</b>  <b>Lancashire Only</b>	<b>Liverpool</b> <b>Broudie, Jackson &amp; Canter</b> <b>Dale House</b> <b>27 Dale Street</b> <b>Liverpool</b> <b>L2 2HD</b>  <b>Tel: 0151 227 1429</b>  <b>Preston, Chorley,</b> <b>Blackpool and Ormskirk</b> <b>only</b>
<b>London</b>			
<b>London</b> <b>Cale</b> <b>Unit 3 Arden House</b> <b>52-54 Thurston Rd</b> <b>London</b> <b>SE13 7GT</b>  <b>Tel: 0208 694 2269</b>	<b>London</b> <b>Redms</b> <b>123 King St</b> <b>Hammersmith</b> <b>London</b> <b>W6 9JG</b>  <b>Tel: 0208 616 2792</b> <b>Tel: 07752 424660</b>		
<b>National Solicitors</b>			
<b>Middlesbrough</b>			
<b>Watson Woodhouse Solicitors, 102-108 Borough Road, Middlesbrough, Teesside, TS1 2HJ</b>  <b>Tel: 01642 266559</b>			



# Consent Form

We are a free, independent and confidential service. There may be times when we need to speak to other people about you. We need you to say that is ok.

Secret recording of any meeting isn't allowed. If you would like to talk about this please speak to your advocate.

Is it ok for us to:

- Talk to other people about your situation with a good reason. We will do this by email or on the phone. We will always ask you first.
- Store your personal information safely on our computer system, in relation to a Law call General Data Protection Regulations 2018. You can see any information that is on your file, you just need to ask.
- Find and use your telephone number or address if your Advocate is off sick, to cancel any appointments.
- Use information about you to show people how we work, but we would never use anything personal, like your name or date of birth. The local authority, funders and our supporters need to know the number of people we are supporting and how we help.

We might need to tell someone if you were going to hurt yourself, someone else or break the law.

## SUBJECT ACCESS REQUEST

If you wanted to look at the information we hold about you, let us know. This is called the right of access. You use this right by asking for a copy of the information, which is known as making a 'subject access request'.

## HOW TO ACCESS YOUR DATA

You can make a request to find out what data is held and how it is used. You can make a request before using your other information rights.

You can make a subject access request verbally or in writing. If you make your request verbally, we would suggest you follow it up in writing to make sure you have a record of it. It will also provide clear evidence of your actions.

continued on next page



# Consent Form

## USING INFORMATION WE HAVE ABOUT YOU

Advocacy Focus creates a range of resources to share with the public. We like to share the experiences of the people we work with in our communications, as it helps to demonstrate the difference we are making. We would never use anything personal, like your name, where you live or date of birth.



## WHAT WILL MY STORY BE USED FOR?

(Please tick the options you are happy with)

- ☐ Presentations: training and awareness sessions that we deliver
- ☐ Website: Advocacy Focus' website
- ☐ Social media: Advocacy Focus' social media pages (i.e. Facebook, Instagram, LinkedIn, Twitter)
- ☐ Publications: leaflets, posters, newsletters and other marketing materials
- ☐ Print and online media: National, regional and local media
- ☐ Please tick this box if you consent to being photographed and featured in imagery or video footage

I have read, understand and consent to the information on pages 29 and 30 of this booklet.

Signature:

---

Date:

---

Print name:

---

Nothing about you, without you





# Notes

SPACE FOR NOTES, DRAWING OR IGNORING



# Notes

SPACE FOR NOTES, DRAWING OR IGNORING

**This information booklet and self help toolkit  
has been created by:**



advocacy  
focus



**SUPPORT US**

If you have any comments, compliments or complaints about Advocacy Focus, or our Advocates, please get in touch.



**Tel: 0300 323 0965**



**Live chat: [www.advocacyfocus.org.uk](http://www.advocacyfocus.org.uk)**

We hope that this information booklet has been useful. If you have any ideas how to make this booklet any better, please email us at:



**[admin@advocacyfocus.org.uk](mailto:admin@advocacyfocus.org.uk)**

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