

Understanding your **Mental Health Act** assessment



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Mental Health Act assessment

A Mental Health Act Assessment is an assessment to decide whether you should be detained in hospital under the **Mental Health Act 1983** to make sure you receive care and medical treatment for a mental disorder.

Mental Health Act assessments are arranged through your local Oxfordshire Approved Mental Health Professional (AMHP) service:

Tel: **01865 898080**

It is a 24-hour service, 365 days a year.

What is an AMHP?

AMHPs are mental health professionals who have received specialist training in Mental Health Law. They have been approved by the local authority, Oxfordshire County Council, to carry out certain duties under the Mental Health Act 1983. They are responsible for coordinating a Mental Health Act assessment.

AMHPs have a professional background in social work, occupational therapy, nursing or clinical psychology.

Why you have been referred for a Mental Health Act assessment

Before the AMHP Service accepts a referral for assessment we expect that all attempts to help you with your mental health outside of hospital have been tried.

These may include:

- a recent appointment with a psychiatrist
- a visit to your GP
- an outpatient appointment with a mental health professional

- support from the mental health urgent care services via a mental health assessment

AMHPs want to be sure that all other support and options have been attempted before initiating a Mental Health Act assessment. If possible, we would prefer that you are able to remain in the community at home with a supportive plan. This is because the assessment is a formal procedure that can result in a legal detention in hospital. This will restrict your liberty for a period of time.

If the above examples were unsuccessful in keeping you safe and well enough to remain in the community...

or

you have declined to allow staff to see you and there are high levels of concern about your health and safety or the safety of others...

or

If you have declined to have treatment, then a Mental Health Act assessment will be requested.

Setting up the assessment

The AMHP will co-ordinate the assessment. In doing so, they should be sensitive to a person's age, sex, gender identity, social, cultural or ethnic background, religion or belief, and/or sexual orientation. They should also consider how any disability the patient has may affect the way the assessment needs to be carried out. It is, therefore, important that the AMHP gathers relevant information about the person from professionals and individuals (including family) who know them.

If you require an independent advocate, interpreter or equipment for you to understand your assessment we will help you to find the appropriate assistance.

Safeguarding children and vulnerable adults

Professionals involved in your assessment have a statutory duty to protect children and vulnerable adults. The AMHP will ask about your children and gather information including their names, dates of birth and if any support services are involved.

If the assessment is going to take place at your home, the AMHP will discuss with you and your family who will be supervising your children while the assessment is taking place. Generally, it is better if your children are not at home if possible.

Before making an application, the AMHP should ensure that appropriate arrangements are in place for the immediate care of any dependent children and adults who may rely on the patient for care.

Who will be involved in the assessment process?

In addition to the AMHP service, two doctors are needed to participate in the Mental Health Act assessment. At least one of the doctors will have had extra training called Section 12 approval. This means they have specialist knowledge of mental health and the Mental Health Act.

We will always try to get a doctor who knows you but there may be times when this is not possible. But the AMHP will share all relevant information with the doctors beforehand.

If possible, one of the doctors will be a specialist in an area relevant to your situation. For example, a learning disability psychiatrist or a child/adolescent psychiatrist.

All three of the Mental Health Act assessment team should ideally see you at the same time. Sometimes this is not possible. If one of the two doctors saw you in the past five days for an examination of your mental health, they can use that information to write a medical recommendation to use at this assessment.

All professionals present will carry identifying documents and the AMHP will explain the purpose of their visit at the start of your assessment.

During the assessment you can also ask to see the AMHP alone if you wish.

Who can request a Mental Health Act assessment?

Various professionals can request a Mental Health Act assessment. For example, a psychiatrist, GP, care co-ordinator, social worker, nurse, or a police officer.

A 'nearest relative' can also ask the AMHP service to consider a referral. (Under Section 13(4) of the Mental Health Act). If the AMHP does not think you meet the criteria under the Act, they will let your nearest relative know why in writing.

There is more information about this on the Rethink Mental Illness website at:

www.rethink.org/advice-and-information/rights-restrictions/mental-health-laws/nearest-relative/

Location of your assessment and who can be with you

The Mental Health Act assessment can take place in a variety of locations. This depends on who has referred you, your physical health, and whether you are already in hospital or at a place of safety. The police can use Section 136(1) of the Mental Health Act in a police station – see more information below.

We will always try to assess you in private to uphold your confidentiality, dignity and to protect your rights. The AMHP and assessing team will aim to reduce the impact and any stigma which may arise from your assessment.

If you are agitated or aggressive, police may need to be present to keep you, your family or others safe during your assessment.

Your assessment may take place in:

- your home
- hospital
- a place of safety suite
- a care home or nursing home
- a community mental health team office
- a police station

Your Nearest Relative, friends and significant others

You can ask for a person you know and trust to be present at the Mental Health Act assessment, (e.g., a familiar person or an advocate) ordinarily the AMHP should assist in securing that person's attendance, unless the urgency of the case makes it inappropriate to do so or cause unreasonable delay. You may feel safer or more confident with a friend or other person you know well in attendance. As an alternative, you can ask to speak to the person you know and trust on the telephone.

AMHP's are required by the Act to attempt to identify your Nearest Relative. The Nearest Relative is defined under Section 26 of the Mental Health Act and is not the same as next of kin. The AMHP will identify who your nearest relative is by having a discussion with you. This person will play an important role in assuring that you receive appropriate treatment.

When AMHPs make an application for admission under section 2, they must take such steps as are practicable to inform your Nearest Relative and, if different, carer, that the application is to be (or has been) made and of the nearest relative's power to discharge.

Before making an application for admission under section 3, AMHPs must consult the Nearest Relative, unless it is not reasonably practicable or would involve unreasonable delay. This is to determine if they object to you being detained under section 3 of the Act.

Please tell us if you have any concerns or worries about the person deemed to be your legal nearest relative. A court can change your nearest relative if they are not deemed to be suitable or if there is no identified nearest relative.

Examples might include:

- You have experienced abuse at the hands of your nearest relative.
- You are afraid of your nearest relative or are seriously distressed at the possibility of their involvement in your care.
- A situation where you and your nearest relative are unknown, or not familiar with each other.
- Your nearest relative is incapable of acting in this role due to a mental or other illness.

Embassy/consulate support

If you are from overseas, we can make a call to your country's embassy or consulate in the UK so that you can speak to them if required. They may sometimes be able to send a representative to see you. If not, we can arrange for a language interpreter to attend your assessment.

The legal criteria for being detained under the Mental Health Act

1. You are suffering from a mental disorder. This is the term used in the Mental Health Act. Examples include mental illness, dementia, personality disorder, learning disability accompanied by abnormally aggressive or seriously irresponsible conduct.
2. You can be detained under section 2 of the Mental Health Act if your mental disorder is of a nature or degree which warrants your detention in hospital for assessment or assessment followed by treatment for up to 28 days in the interests of your health, or your safety, or with a view to protecting others.
3. You can be detained under section 3 only if all the following criteria applies:
 - You are suffering from a mental disorder of a nature or degree which makes it appropriate for you to receive medical treatment in hospital.
 - It is necessary for your health or safety or for the protection of other people that you should receive such treatment and it cannot be provided unless you are detained under section 3.
 - Appropriate medical treatment is available.

When the police can remove you to a place of safety

Under section 136(1) of the Mental Health Act 1983, if a police officer believes that you “appear to be suffering from a mental disorder and to be in need of immediate care or control,” they can remove you to a Place of Safety (PoS).

A police officer cannot use Section 136 in any house, flat or room that you live. This also extends to the garden and outhouses of a private dwelling.

Police officers usually consult a mental / health care professional before placing someone under Section 136.

Section 136(1) can last up to 24 hours, but a doctor can grant an extension for a further 12 hours under section 136(b). The extension cannot be authorised because of a delay in finding an appropriate place.

Oxford Health Foundation Trust currently has three Place of Safety suites:

- Vaughan Thomas Ward, Warneford hospital, Oxford
- Phoenix Ward, Littlemore Mental Health Centre, Oxford
- Ashurst Ward, Littlemore Mental Health Centre, Oxford

If you are under 18 years a designated PoS is based at Vaughan Thomas Ward, Warneford Hospital, Oxford. Ideally a child or young person should not be taken to a place of safety in a police station unless, having regard to the best interests of the child or young person, there is no suitable alternative available.

When we can enter your home

At all times, the AMHP co-ordinating the Mental Health Act assessment will seek your co-operation. Sometimes this is not possible because you refuse to engage with us and there are concerns for your health, your safety and/or the safety of others.

In these cases, we will apply to the magistrate's court for a warrant issued under Section 135(1) of the Mental Health Act. We will provide you with a copy of the warrant once signed by the police officer present.

This allows the AMHP, one or two doctors and a police officer to enter your home by force if you still refuse to have any form of contact. We can then remove you to a place of safety to continue the assessment.

We will only take these steps when there is enough evidence that all possible attempts to engage with you have failed.

The assessment can take place in your home if you agree and the professionals believe that there is no risk to yourself or others.

A section 135(1) warrant lasts up to 24 hours but, on occasions, a doctor can grant an extension for a further 12 hours.

What the AMHP and doctors must consider

The AMHP and doctors must always consider alternative ways of providing your care and treatment when deciding whether it is necessary to detain (section) you under the Mental health Act or not.

There is no obligation for the AMHP to make an application even if there are two medical recommendations to do so from the doctors. If we decide not to make that application, this will be supported by an alternative care and treatment plan. For example, intensive support from mental health services that will aid and monitor your recovery at home.

The outcome of your assessment

Possible outcomes of your assessment are:

1. No admission. Decision will be made about whether and what support or treatment you may need at home.
2. Informal admission – You have the capacity to not object to admission and are able to engage with treatment plan in hospital.
3. Admission under the Mental Health Act often referred to as ‘sectioned’. This could be under S.2, S.3 or S.4.
4. Discharge from any section you are on and you become an informal patient in hospital. The AMHP and doctors will assess your capacity to understand what this means. They will also assess your capacity to agree to further assessment or treatment and care.

When we have decided whether to make an application or not, we will tell you and give our reasons. We will let you know which hospital you will be admitted to, if this is the outcome. If not, we will discuss a suggested community support plan with you.

We will also inform your nearest relative. (See above for more information.)

We may also inform the following people so they can support your treatment/care plan:

- the doctors involved in your assessment if they were not present at the interview
- your care co-ordinator
- your GP
- your significant other, at your request

Your rights

If you are detained under the Mental Health Act, you have the right to appeal against the section in place. Shortly after your admission you will be notified of your rights under Section 132 of the Mental Health Act. This will enable you to start the appeal process.

You also have the right to have an Independent Mental Health Advocate. We can arrange this at your assessment. Or the ward staff can organise this.

Hospital admission

If admitted to hospital you will always have the right to:

- ask for an advocate
- have Section 132 information shared with you by nursing or medical staff
- request an appeal

Your pets and property

The AMHP will arrange for someone to take care of any pets you have. We will also arrange for social services to secure your home and property if required.

Hospital discharge

Throughout your hospital admission the care team will consult with you about your assessment and treatment. You will also be fully involved with your discharge plan. This is co-ordinated through the Care Programme Approach (CPA). You can find a more detailed fact sheet on the Rethink Mental Illness website:

www.rethink.org/advice-and-information/rights-restrictions/mental-health-laws/discharge-from-detention/

If detained under S.3 of the Mental Health Act you may be entitled to Section 117 aftercare. This is a legal duty placed on the National Health Service (NHS) and Social Services to provide free help and support after you leave hospital. This will come into effect upon your discharge.

Section 117 aftercare

Before you are discharged from hospital a multi-professional after-care planning meeting will be arranged by your care coordinator. Your after-care plan will explain what services are in place, provided by which agency, frequency of intervention and the name of the professionals involved. Section 117 entitlement is subject to annual review.

Personal Information

The AMHP service collects personal information in order to perform services which we provide as part of our statutory functions. Where services are not part of our statutory functions, we may seek your consent to collect and process your personal information.

We will use your information to create a case record for you and we are responsible by law for decisions relating to the security and use of your personal information.

Generally, we will not use your information without your permission for purposes not directly related to the services we provide; If your information is to be used for purposes such as training or planning and improving services, your information will be anonymised; It might be necessary to share your information for a purpose not related to the services if:

- your health or safety, or that of others, is at risk;
- we wish to help prevent or investigate crime;
- we are required to comply with a legal obligation.

Professionals can normally only share information about you to your carer or relatives if you have given consent. They can then be included in any discussions about your care and treatment.

For more information on your data protection rights you can visit:

<https://www.oxfordshire.gov.uk/council/about-website/privacy-notice#paragraph-5977>

Frequently asked questions

Q. What does 'section' mean?

- A.** Being 'sectioned' means that you are kept in hospital under the Mental Health Act 1983. You can be sectioned if your own health or safety are at risk, or to protect other people. There are different types of sections, each with different rules to keep you in hospital:
- **Section 2** - Assessment and Treatment order, for up to 28 days.
 - **Section 3** - Treatment order up to 6 months
 - **Section 136** - detention for up to 24hrs initiated by a Police Officer, a person is taken to a Place of Safety, for assessment & support, due to the belief that they are a risk to themselves or others due to their mental health.

Q. Why can't the AMHP arrange for an admission to a hospital of choice?

- A.** Whilst an AMHP has the duty and legal powers to arrange transport for the person to go into hospital, an AMHP has no say in the actual location of a bed. This is the responsibility of the Doctors and the NHS Trust.

Q. As a family member or friend I have not been allowed to sit in on the Assessment when I wanted to, why is this?

- A.** Every consideration to include family and friends being part of an assessment will be made. However, the AMHP also has to give primary consideration to the patient's wishes whilst balancing the related risks to all concerned. Sometimes this will mean that it may be inappropriate for certain people to be present.

Q. Why does my relative/friend have to go to hospital in an ambulance, why can't a friend or family member take them?

A. AMHPs have to take into account the risks at the time to ensure the safest and most dignified way for the person to reach hospital. On occasions, alternatives to an Ambulance can be agreed, however the wellbeing and safety of all concerned is paramount.

Q. Can the AMHP influence the ambulance arrival time?

A. The AMHP can only 'book' an ambulance and has no control over the time the service takes to respond. AMHPs will always try to escalate concerns over any delays to agreed times.

Q. I am the registered Carer for my relative/friend, I have always been part of their social care reviews and received a copy of any reports. Why can't I see or receive a copy of the section Papers?

A. When the person gets to hospital, the registered carer can formally request to see a copy of the Mental Health Act assessment.

Q. I have an unpaid carer, can I get support?

A. A carer is anyone who cares for a family member or friend who, due to illness, disability, a mental health problem or an addiction, needs support. Carers are entitled to a carer's assessment under the Care Act 2014 in order to identify ways that they can be supported.

For more information visit:

<https://www.rethink.org/aboutus/what-we-do/our-services-and-groups/carers-support/>

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