



# Mental Health Act 1983

## 1983 CHAPTER 20

### PART X

#### MISCELLANEOUS AND SUPPLEMENTARY

##### *Miscellaneous provisions*

#### **[<sup>F1</sup>130H Independent mental health advocates for Wales: supplementary powers and duties**

- (1) For the purpose of providing help to a patient in accordance with arrangements made under section 130E, an independent mental health advocate may—
  - (a) visit and interview the patient in private;
  - (b) visit and interview—
    - (i) any person who is professionally concerned with his medical treatment;
    - (ii) any other person who falls within a description specified in regulations made by the Welsh Ministers;
  - (c) require the production of and inspect any records relating to his detention, treatment or assessment in any hospital or registered establishment or to any after-care services provided for him under section 117 above;
  - (d) require the production of and inspect any records of, or held by, a local social services authority which relate to him.
- (2) But an independent mental health advocate is not entitled to the production of, or to inspect, records in reliance on subsection (1)(c) or (d) above unless—
  - (a) in a case where the patient has capacity or is competent to consent, he does consent; or
  - (b) in any other case, the production or inspection would not conflict with a decision made by a donee or deputy or the Court of Protection and the person holding the records, having regard to such matters as may be prescribed in regulations under section 130E above, considers that—

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*Status: Point in time view as at 02/04/2012. This version of this provision has been superseded.*

*Changes to legislation: Mental Health Act 1983, Section 130H is up to date with all changes known to be in force on or before 28 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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- (i) the records may be relevant to the help to be provided by the advocate;
  - (ii) the production or inspection is appropriate.
- (3) For the purpose of providing help to a Welsh qualifying compulsory patient in accordance with the arrangements, an independent mental health advocate shall comply with any reasonable request made to him by any of the following for him to visit and interview the patient–
- (a) the patient;
  - (b) the person (if any) appearing to the advocate to be the patient's nearest relative;
  - (c) the responsible clinician for the purposes of this Act;
  - (d) an approved mental health professional;
  - (e) a registered social worker who is professionally concerned with the patient's care, treatment or assessment;
  - (f) where the patient is liable to be detained in a hospital or registered establishment, the managers of the hospital or establishment or a person duly authorised on their behalf;
  - (g) the patient's donee or deputy.
- (4) For the purpose of providing help to a Welsh qualifying informal patient in accordance with the arrangements, an independent mental health advocate shall comply with any reasonable request made to him by any of the following for him to visit and interview the patient–
- (a) the patient;
  - (b) the managers of the hospital or establishment in which the patient is an in-patient or a person duly authorised on their behalf;
  - (c) any person appearing to the advocate to whom the request is made to be the patient's carer;
  - (d) the patient's donee or deputy;
  - (e) a registered social worker who is professionally concerned with the patient's care, treatment or assessment.
- (5) But nothing in this Act prevents the patient from declining to be provided with help under the arrangements.
- (6) In subsection (2) above the reference to a patient who has capacity is to be read in accordance with the Mental Capacity Act 2005.
- (7) In subsection (4) above–
- (a) “ carer ”, in relation to a Welsh qualifying informal patient, means an individual who provides or intends to provide a substantial amount of care on a regular basis for the patient, but does not include any individual who provides, or intends to provide care by virtue of a contract of employment or other contract with any person or as a volunteer for a body (whether or not incorporated);
  - (b) “ registered social worker ” means a person included in the principal part or the visiting European part of a register maintained under section 56(1) of the Care Standards Act 2000.
- (8) In subsections (2) to (4) above–
- (a) the reference to a donee is to a donee of a lasting power of attorney (within the meaning of section 9 of the Mental Capacity Act 2005) created by the patient, where the donee, in making the decision referred to in subsection (2) or the

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request referred to in subsection (3) or (4), is acting within the scope of his authority and in accordance with that Act;

- (b) the reference to a deputy is to a deputy appointed for the patient by the Court of Protection under section 16 of that Act, where the deputy, in making the decision referred to in subsection (2) or the request referred to in subsection (3) or (4), is acting within the scope of his authority and in accordance with that Act.]

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**Textual Amendments**

- F1** S. 130H inserted (15.2.2011 for specified purposes, 3.1.2012 for specified purposes and 2.4.2012 in so far as not already in force) by [Mental Health \(Wales\) Measure 2010 \(nawm 7\)](#), **ss. 34, 55(1), (2)**; [S.I. 2011/3046](#), arts. 2(c), 3(c) (with art. 5)

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