



Mental Capacity Act 2005

2005 CHAPTER 9

PART 1

PERSONS WHO LACK CAPACITY

Independent mental capacity advocate service

36 Functions of independent mental capacity advocates

- (1) The appropriate authority may make regulations as to the functions of independent mental capacity advocates.
- (2) The regulations may, in particular, make provision requiring an advocate to take such steps as may be prescribed for the purpose of—
 - (a) providing support to the person whom he has been instructed to represent (“P”) so that P may participate as fully as possible in any relevant decision;
 - (b) obtaining and evaluating relevant information;
 - (c) ascertaining what P’s wishes and feelings would be likely to be, and the beliefs and values that would be likely to influence P, if he had capacity;
 - (d) ascertaining what alternative courses of action are available in relation to P;
 - (e) obtaining a further medical opinion where treatment is proposed and the advocate thinks that one should be obtained.
- (3) The regulations may also make provision as to circumstances in which the advocate may challenge, or provide assistance for the purpose of challenging, any relevant decision.

Commencement Information

- II** S. 36 wholly in force at 1.10.2007; s. 36 not in force at Royal Assent see s. 68(1)-(3); s. 36 in force for E. at 1.11.2006 for certain purposes and otherwise 1.4.2007 by [S.I. 2006/2814](#), [art. 5](#); s. 36 in force at 1.10.2007 for W. by [S.I. 2007/856](#), [art. 5](#)

Status:

Point in time view as at 01/04/2013. This version of this provision has been superseded.

Changes to legislation:

Mental Capacity Act 2005, Section 36 is up to date with all changes known to be in force on or before 18 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.