
STATUTORY INSTRUMENTS

2008 No. 3166

The Mental Health Act 1983 (Independent Mental Health Advocates) (England) Regulations 2008

Independent Mental Health Advocates: conditions

6.—(1) A person may not act as an IMHA unless the conditions specified in paragraph (2) are satisfied.

(2) Those conditions are that the person referred to in paragraph (1)—

- (a) has appropriate experience or training or an appropriate combination of experience and training;
- (b) is a person of integrity and good character;
- (c) is able to act independently of any person who is professionally concerned with the qualifying patient's medical treatment; and
- (d) is able to act independently of any person who requests that person to visit or interview the qualifying patient.

(3) For the purposes of the condition referred to in paragraph (2)(a) regard must be had to standards in guidance that may be issued from time to time by the Secretary of State.

(4) The standards referred to in paragraph (3) may include any qualification that the Secretary of State may determine as appropriate.

(5) For the purposes of the condition referred to in paragraph (2)(b) there must be obtained in respect of that person—

- (a) an enhanced criminal record certificate issued pursuant to section 113B of the Police Act 1997⁽¹⁾ (enhanced criminal record certificates); or
- (b) if the purpose for which the certificate is required is not one prescribed under subsection (2) of that section, a criminal record certificate issued pursuant to section 113A of that Act (criminal record certificates).

(1) 1997 c.50. Sections 113A and 113B were inserted by section 163(2) of the Serious Organised Crime and Police Act 2005 (c.15). Section 113A was amended by paragraph 14 of Schedule 9 to the Safeguarding Vulnerable Groups Act 2006 (c.47), section 78 of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14) and section 50 of the Criminal Justice and Immigration Act 2008 (c.4). Section 113B was amended by paragraph 14 of Schedule 9 to the Safeguarding Vulnerable Groups Act 2006, paragraph 149 of Schedule 16 to the Armed Forces Act 2006 (c.52) and section 79 of the Protection of Vulnerable Groups (Scotland) Act 2007.