

MENTAL HEALTH (WALES) MEASURE 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 34 – Independent mental health advocates: supplementary powers and duties

59. New section 130H of the 1983 Act, as introduced by section 34 of the Measure, applies in respect of both Welsh qualifying compulsory patients and Welsh qualifying informal patients. IMHAs may meet such patients in private, and visit and interview anyone professionally concerned with the patient's medical treatment. Regulations may be made by the Welsh Ministers to specify other persons who the IMHA may visit and interview.
60. Where a patient has the capacity, or is competent, to consent to records being made available to an IMHA (and does consent), the IMHA may require the production of any hospital or local authority records relating to the patient. If a patient lacks the capacity or is not competent to consent to records being made available to an IMHA, the record holder can still allow access to such records. The record holder can only do this if it is appropriate and relevant to the help the advocate will provide to the patient, and such access does not conflict with a valid decision of a donee of deputy (within the meaning of the Mental Capacity Act 2005).
61. An IMHA must meet with a Welsh qualifying compulsory patient on the reasonable request of the patient themselves, the patient's nearest relative, the responsible clinician, an approved mental health professional (AMHP), a social worker professionally concerned with the patient, hospital managers or a person duly authorised on their behalf, or the patient's donee or deputy.
62. An IMHA must meet with a Welsh qualifying informal patient on the reasonable request of the patient themselves, the hospital managers or a person duly authorised on their behalf, the patient's carer, the patient's donee or deputy, or a social worker professionally concerned with the care, treatment or assessment of the patient.
63. A patient is not obliged to accept the help provided or offered by an IMHA.