



Mental Health (Wales) Measure 2010

2010 nawm 7

PART 4 **W**

MENTAL HEALTH ADVOCACY

37 **Duty to give information about independent mental health advocates to Welsh qualifying compulsory patients** **W**

After section 130J of the Mental Health Act 1983 insert–

“130K Duty to give information about independent mental health advocates to Welsh qualifying compulsory patients

- (1) The responsible person in relation to a Welsh qualifying compulsory patient (within the meaning given by section 130I above) shall take such steps as are practicable to ensure that the patient understands–
 - (a) that help is available to him from an independent mental health advocate; and
 - (b) how he can obtain that help.
- (2) In subsection (1) above, the “responsible person” means–
 - (a) in relation to a Welsh qualifying compulsory patient falling within section 130I(2)(a) above (other than one also falling within paragraph (b) below), the managers of the hospital or registered establishment in which he is liable to be detained; or
 - (b) in relation to a Welsh qualifying compulsory patient falling within section 130I(2)(a) above and conditionally discharged by virtue of section 42(2), 73 or 74 above, the responsible clinician;
 - (c) in relation to a Welsh qualifying compulsory patient falling within section 130I(2)(b) above, the responsible local social services authority within the meaning of section 34(3) above;
 - (d) in relation to a Welsh qualifying compulsory patient falling within section 130I(2)(c) above, the managers of the responsible hospital;

Changes to legislation: There are currently no known outstanding effects for the Mental Health (Wales) Measure 2010, Section 37. (See end of Document for details)

- (e) in relation to a Welsh qualifying compulsory patient falling within section 130I(3) above, the registered medical practitioner or approved clinician with whom the patient first discusses the possibility of being given the treatment concerned.
- (3) The steps to be taken under subsection (1) above shall be taken–
- (a) where the responsible person falls within subsection (2)(a) above, as soon as practicable after the patient becomes liable to be detained;
 - (b) where the responsible person falls within subsection (2)(b) above, as soon as practicable after the conditional discharge;
 - (c) where the responsible person falls within subsection (2)(c) above, as soon as practicable after the patient becomes subject to guardianship;
 - (d) where the responsible person falls within subsection (2)(d) above, as soon as practicable after the patient becomes a community patient;
 - (e) where the responsible person falls within subsection (2)(e) above, while the discussion with the patient is taking place or as soon as practicable thereafter.
- (4) The steps to be taken under subsection (1) above shall include giving the requisite information both orally and in writing.
- (5) The responsible person in relation to a Welsh qualifying compulsory patient falling within section 130I(2) above (other than a patient liable to be detained by virtue of Part 3 of this Act) shall, except where the patient otherwise requests, take such steps as are practicable to furnish any person falling within subsection (6) with a copy of any information given to the patient in writing under subsection (1) above.
- (6) A person falls within this subsection if–
- (a) the person appears to the responsible person to be the patient's nearest relative;
 - (b) the person is a donee of a lasting power of attorney (within the meaning of section 9 of the Mental Capacity Act 2005) created by the patient and the scope of the donee's authority includes matters related to the care and treatment of the patient;
 - (c) the person is a deputy appointed for the patient by the Court of Protection under section 16 of that Act and the scope of the deputy's authority includes matters related to the care and treatment of the patient.
- (7) The steps to be taken under subsection (5) above shall be taken when the information concerned is given to the patient or within a reasonable time thereafter.”

Commencement Information

II S. 37 in force at 3.1.2012 by S.I. 2011/3046, art. 2(e) (with art. 5)

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