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STATUTORY INSTRUMENTS

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**2008 No. 1184**

**The Mental Health (Hospital, Guardianship  
and Treatment) (England) Regulations 2008**

**PART 7**

**Correspondence of Patients**

**Inspection and opening of postal packets**

**29.**—(1) Where under section 134(4) (inspection and opening of postal packets addressed to or by patients in hospital) any postal packet is inspected and opened, but neither the packet nor anything contained in it is withheld under section 134(1) or (2) the person appointed who inspected and opened it, shall record in writing—

- (a) that the packet had been so inspected and opened,
- (b) that nothing in the packet has been withheld, and
- (c) the name of the person appointed and the name of the hospital,

and shall, before resealing the packet, place the record in that packet.

(2) Where under section 134(1) or (2) any postal packet or anything contained in it is withheld by the person appointed—

- (a) that person shall record in a register kept for the purpose—
  - (i) that the packet or anything contained in it has been withheld,
  - (ii) the date on which it was so withheld,
  - (iii) the grounds on which it was so withheld,
  - (iv) a description of the contents of the packet withheld or of any item withheld, and
  - (v) the name of the person appointed; and
- (b) if anything contained in the packet is withheld, the person appointed shall record in writing—
  - (i) that the packet has been inspected and opened,
  - (ii) that an item or items contained in the packet have been withheld,
  - (iii) a description of any such item,
  - (iv) the name of the person appointed and the name of the hospital, and
  - (v) in any case to which section 134(1)(b) or (2) applies, the further particulars required for the purposes of section 134(6),

and shall, before resealing the packet, place the record in that packet.

(3) In a case to which section 134(1)(b) or (2) applies—

- (a) the notice required for the purposes of section 134(6) shall include—

- (i) a statement of the grounds on which the packet in question or anything contained in it was withheld, and
  - (ii) the name of the person appointed who so decided to withhold that packet or anything contained in it and the name of the hospital; and
- (b) where anything contained in a packet is withheld the record required by paragraph (2)(b) shall, if the provisions of section 134(6) are otherwise satisfied, be sufficient notice to the person to whom the packet is addressed for the purposes of section 134(6).
- (4) For the purposes of this regulation “the person appointed” means a person appointed under section 134(7) to perform the functions of the managers of the hospital under that section.

### **Review of decisions to withhold postal packets**

**30.**—(1) Every application for review by the Commission under section 121(7) (review of any decision to withhold a postal packet, or anything contained in it, under section 134) shall be—

- (a) made in such manner as the Commission may accept as sufficient in the circumstances of any particular case or class of case and may be made otherwise than in writing, and
- (b) made, delivered or sent to an office of the Commission.

(2) Any person making such an application shall furnish to the Commission the notice of the withholding of the postal packet or anything contained in it, given under section 134(6), or a copy of that notice.

(3) For the purpose of determining any such application the Commission may direct the production of such documents, information and evidence as it may reasonably require.

### **Patient advocacy and liaison services and independent mental capacity advocate services**

**31.**—(1) In section 134 (correspondence of patients), for the purposes of subsection (3)(ea) “patient advocacy and liaison service” means a service affording assistance in the form of advice and liaison for patients, their families and carers provided by—

- (a) an NHS trust<sup>(1)</sup>,
- (b) an NHS foundation trust<sup>(2)</sup>, or
- (c) a Primary Care Trust<sup>(3)</sup>.

(2) For the purposes of section 134(3A)(b)(iii), the prescribed arrangements are arrangements in respect of independent mental capacity advocates made under section 35 to 41 of the Mental Capacity Act 2005<sup>(4)</sup> (independent advocacy service).

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(1) As provided for by Part 2, Chapter 3 of the National Health Service Act 2006 (c.41).  
(2) As provided for by Part 2, Chapter 5 of the National Health Service Act 2006.  
(3) As provided for by Part 2, Chapter 2 of the National Health Service Act 2006.  
(4) 2005 c.9.