SCHEDULES

SCHEDULE 1

Authorisation by panel of certain serious interventions

Part 3

The criteria for authorisation

Criteria for treatment

9.—(1) In relation to the provision to P of particular treatment, the criteria for authorisation are—

(a) that P lacks capacity in relation to the treatment;

(b) that it would be in P's best interests to have the treatment; and

(c) if P's nominated person has reasonably objected to the proposal to provide the treatment and has not withdrawn that objection, that the prevention of serious harm condition is met.

(2) The prevention of serious harm condition is—

(a) that failure to provide the treatment to P would create a risk of serious harm to P or of serious physical harm to other persons; and

(b) that carrying out the treatment would be a proportionate response to—

(i) the likelihood of harm to P, or of physical harm to other persons; and

(ii) the seriousness of the harm concerned.

(3) Subsections (2) and (3) of section 22 (situations where there is a choice of treatments) apply for the purposes of sub-paragraph (2).

Criteria for detention amounting to deprivation of liberty

10. In relation to detention of P in a place in circumstances amounting to a deprivation of liberty, the criteria for authorisation are that—

(a) appropriate care or treatment is available for P in the place in question;

(b) failure to detain P in circumstances amounting to a deprivation of liberty in a place in which appropriate care or treatment is available for P would create a risk of serious harm to P or of serious physical harm to other persons;

(c) detaining P in the place in question in circumstances amounting to a deprivation of liberty would be a proportionate response to—

(i) the likelihood of harm to P, or of physical harm to other persons; and

(ii) the seriousness of the harm concerned;

(d) P lacks capacity in relation to whether he or she should be detained in the place in question; and

(e) it would be in P's best interests to be so detained.

Criteria for requirement to attend for treatment

11. In relation to the imposition on P of a requirement to attend at a particular place at particular times or intervals for the purpose of being given particular treatment that would or might be treatment with serious consequences, the criteria for authorisation are that—

(a) failure to impose such a requirement would be more likely than not to result in P's not receiving the treatment;

(b) P lacks capacity in relation to whether he or she should attend for the purpose of being given the treatment at the place and times or intervals concerned; and

(c) a requirement to attend for that purpose at the place and times or intervals concerned would be in P's best interests.

Criteria for community residence requirement

12. In relation to the imposition on P of a community residence requirement, the criteria for authorisation are that—

(a) failure to impose a community residence requirement would create a risk of harm to P;

(b) imposing such a requirement would be a proportionate response to—

(i) the likelihood of harm to P; and

(ii) the seriousness of the harm concerned;

(c) P lacks capacity in relation to the matters covered by the community residence requirement;

(d) any services which, under regulations under section 33, are required to be available to people subject to community residence requirements are available in the area in which P would be required by the community residence requirement to live; and

(e) the community residence requirement would be in P's best interests.

Measures proposed to be carried out only if particular circumstances arise

13. In applying the criteria in this Part of this Schedule in a case where a measure is proposed to be carried out only if particular circumstances arise, any question—

(a) whether the measure would be in P's best interests,

(b) whether failure to carry out the measure would create a particular risk, or

(c) whether carrying out the measure would be a proportionate response,

is to be decided on the basis of what the situation would be if those circumstances arose.