

Status: Point in time view as at 16/05/2019.

Changes to legislation: Mental Capacity Act 2005, Paragraph 24 is up to date with all changes known to be in force on or before 11 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

[^{F1}SCHEDULE AA1

DEPRIVATION OF LIBERTY: AUTHORISATION OF ARRANGEMENTS ENABLING CARE AND TREATMENT

Textual Amendments

- F1** Sch. AA1 inserted (16.5.2019 for specified purposes) by [Mental Capacity \(Amendment\) Act 2019 \(c. 18\)](#), s. 6(3), [Sch. 1](#)

PART 2

AUTHORISATION OF ARRANGEMENTS

Pre-authorisation review

- 24 (1) A pre-authorisation review for the purposes of paragraph 18(e) or 19(d) must not be by—
- (a) a person who is involved—
 - (i) in the day-to-day care of the cared-for person, or
 - (ii) in providing any treatment to the cared-for person, or
 - (b) a person who has a connection, of a kind prescribed by regulations, with a care home.
- (2) The review must be by an Approved Mental Capacity Professional if—
- (a) the arrangements provide for the cared-for person to reside in a particular place, and it is reasonable to believe that the cared-for person does not wish to reside in that place,
 - (b) the arrangements provide for the cared-for person to receive care or treatment at a particular place, and it is reasonable to believe that the cared-for person does not wish to receive care or treatment at that place,
 - (c) the arrangements provide for the cared-for person to receive care or treatment mainly in an independent hospital, or
 - (d) the case is referred by the responsible body to an Approved Mental Capacity Professional and that person accepts the referral.
- (3) In determining whether either of paragraph (a) or (b) of sub-paragraph (2) applies, the responsible body must consider the views of any relevant person about the wishes of the cared-for person that are brought to the responsible body's attention.
- (4) In sub-paragraph (3) “relevant person” means a person engaged in caring for the cared-for person or a person interested in the cared-for person's welfare.

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- (5) Regulations made by the appropriate authority under sub-paragraph (1)(b) may make provision about a connection of any kind (financial or otherwise).
- (6) The “appropriate authority” means—
- (a) where the pre-authorisation review is in relation to an authorisation by an English responsible body, the Secretary of State, and
 - (b) where the pre-authorisation review is in relation to an authorisation by a Welsh responsible body, the Welsh Ministers.]

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