WELSH STATUTORY INSTRUMENTS

2008 No. 2437 (W.210)

MENTAL HEALTH, WALES

The Mental Health (Independent Mental Health Advocates) (Wales) Regulations 2008

Made - - - -	*15 September 2008*
Laid before the National Assembly for Wales - -	*17 September 2008*
Coming into force - -	*3 November 2008*

The Welsh Ministers make these Regulations in exercise of the powers conferred by section 130A of the Mental Health Act 1983(**1**) and by sections 12 and 204 of the National Health Service (Wales) Act 2006(**2**).

Title, commencement and extent

1.—(1) The title of these Regulations is the Mental Health (Independent Mental Health Advocates) (Wales) Regulations 2008 and they come into force on 3 November 2008.

(2) These Regulations apply in relation to Wales.

Interpretation

2. In these Regulations —

"the Act" ("*y Ddeddf*") means the Mental Health Act 1983;

"IMHA" ("*EAIM*") means an independent mental health advocate;

"provider of advocacy services" ("*darparydd gwasanaethau eirioli*") means a body or person, including a voluntary organisation, that employs persons who may be made available to act as an IMHA;

"qualifying patients" ("*cleifion cymwys*") mean those persons who qualify for help from an IMHA under sections 130C(2), (3) and (4) of the Act

(**1**) 1983 (c. 20). Section 130A was inserted by the Mental Health Act 2007 (c. 12).
(**2**) 2006 c. 42.

Arrangements for independent mental health advocates

3.—(1) Subject to directions that may be given by Welsh Ministers, a Local Health Board will make such arrangements as it considers reasonable to enable IMHAs to be available to act in respect of a qualifying patient who—

(a) is liable to be detained in a hospital or registered establishment which is in the area of the Local Health Board;

(b) is subject to guardianship under the Act or is a community patient and is usually resident in the area for which the Local Health Board is established;

(c) qualifies under section 130C(3) of the Act and is usually resident in the area for which the Local Health Board is established.

(2) In making arrangements under paragraph (1) a Local Health Board may make arrangements with a provider of advocacy services.

(3) No person may act as an IMHA unless that person is approved by the Local Health Board or is employed by a provider of advocacy services to act as an IMHA.

(4) Before approving any person under paragraph (3) a Local Health Board must be satisfied that the person satisfies the appointment requirements in regulation 4.

(5) A Local Health Board must ensure that any provider of advocacy services with whom it makes arrangements under paragraph (2) is required, in accordance with the terms of that arrangement, to ensure that any person who—

(a) is employed by that provider of advocacy services, and

(b) is made available to act as an IMHA,

satisfies the appointment requirements in regulation 4.

(6) For the purposes of regulation 2(2) of the Local Health Boards (Functions) (Wales) Regulations 2003(**3**) a Local Health Board is not responsible for making arrangements in accordance with paragraph (1) in respect of a qualifying patient if that qualifying patient—

(a) is usually resident in the area for which the Local Health Board is established; and

(b) is liable to be detained in a hospital or registered establishment which is not in the same area in which he or she is usually resident.

Appointment requirements for independent mental health advocates

4.—(1) The appointment requirements in regulation 3(4) and (5) are that a person—

(a) has appropriate experience or training or an appropriate combination of experience and training;

(b) is of integrity and good character; and

(c) will act independently of any person who

(i) requests that person to visit or interview the qualifying patient;

(ii) is professionally concerned with the medical treatment of the qualifying patient.

(2) In determining whether a person satisfies the appointment requirement in paragraph (1)(a) regard will be had to standards in guidance that may from time to time be issued by Welsh Ministers.

(3) For the purposes of paragraph (2) standards may include any qualification that Welsh Ministers may determine as appropriate.

(4) Before a determination is made for the purposes of paragraph (1)(b) in relation to any person, there must be obtained in respect of that person–

(**3**) S.I.2003/150 (W.20).