

Mental Health (Independent Advocacy) (England) Bill

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TO

Amend the Mental Health Act 1983 to make further provision for the powers and duties of independent mental health advocates for qualifying compulsory patients and qualifying informal patients in England; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Independent mental health advocates

- (1) The Mental Health Act 1983 is amended as follows.
- (2) In section 130C (Section 130A: supplemental), subsection (3) paragraph (b) delete the words “not having attained the age of 18 years and”.
- (3) After section 130D, insert—

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“130DA Non-qualifying inpatients and advocacy

- (1) This section applies where clinical assessment of a patient who is voluntarily admitted to hospital or registered establishment, and not otherwise falling within section 130C (Section 130A: supplemental) as a qualifying patient, identifies that patient as experiencing substantial difficulty in doing one or more of the following—
 - (a) understanding relevant information,
 - (b) retaining that information,
 - (c) using or weighing that information as part of the process of being involved, or
 - (d) communicating their views, wishes or feelings (whether by talking, using sign language or any other means).
- (2) In cases falling under subsection (1) the responsible person in relation to the patient shall take such steps as are practicable to ensure that the patient understands—
 - (a) that help may be available to him from an independent advocacy service; and

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- (b) how he may obtain that help.
- (3) In subsection (2) a “responsible person” means –
- (a) the clinician or medical practitioner responsible for the care or treatment of a patient falling under subsection (1), or
 - (b) a manager, or person designated by, a manager of the hospital or registered establishment to which such a patient is admitted. 5
- (4) The duty under subsection (2) does not apply if the responsible person has satisfied himself that there is a person who –
- (a) is an appropriate person to represent and support the patient for the purposes of facilitating the patient’s involvement and engagement with the care and treatment proposed or being undertaken, and 10
 - (b) is not engaged in providing treatment for the patient in a professional capacity or for remuneration.
- (5) For the purposes of subsection (4), a person is not to be regarded as an appropriate person unless – 15
- (a) where the patient has capacity or is competent to consent to being represented and supported by that person, the patient does so consent, or
 - (b) where the patient lacks capacity or is not competent to so consent, the responsible person has satisfied himself that being represented and supported by that person would be in the patient’s best interests. 20
- (6) Where steps are to be taken under subsection (2) these should, where practical, include providing the relevant information orally and in writing. 25
- (7) The responsible person in relation to a patient falling within subsection (1), except where the patient otherwise requests, shall take reasonable steps to – 30
- (a) identify the patient’s nearest relative, and
 - (b) provide such a person with a copy of any information given to the patient in writing under subsection (6),
- at the same time as the information is provided to the patient or within a reasonable time thereafter.”
- 2 Extent, commencement and citation 35**
- (1) This Act extends to England only.
 - (2) This Act comes into force 6 months after the day on which it receives Royal Assent.
 - (3) This Act may be cited as the Mental Health (Independent Advocacy) (England) Act 2016. 40

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To amend the Mental Health Act 1983 to make further provision for the powers and duties of independent mental health advocates for qualifying compulsory patients and qualifying informal patients in England; and for connected purposes.

*Presented by Mr Geoffrey Cox,
supported by
Stephen Hammond,
Mr Charles Walker,
Mrs Sheryll Murray,
Stephen Phillips,
Oliver Colvile,
Mr Nigel Evans,
Daniel Kawczynski and
Geoffrey Clifton-Brown.*

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