



The IMHA role

IMHA services provide an additional safeguard for patients who are subject to the Act.

IMHAs are specialist advocates who are trained specifically to work within the framework of the Act and enable patients to participate in decision-making, for example, by encouraging patients to express their views and supporting them to communicate their views.

*Mental Health Act Code of Practice*

# Background to the IMHA role

There is a long and proud history of the provision of independent advocacy services for people who use mental health services both in the community and in inpatient and forensic settings.

In addition to this mental health advocacy role, and in recognition of the need to ensure the right to advocacy was upheld in specific circumstances, the statutory Independent Mental Health Advocate role was introduced in the 2007 Mental Health Act.

# The IMHA role

An IMHA is a specialist type of mental health advocate, granted specific roles and responsibilities under the 2007 Act.

Their role is to help qualifying patients understand the legal provisions to which they are subject under the 1983 MH Act; the rights and safeguards to which they are entitled, and help those patients exercise their rights through supporting participation in decision-making.

# The IMHA role

IMHA services exist to make sure that people's rights are taken seriously and protected. Being detained against your will in a mental health hospital can be a very frightening, confusing and traumatic experience for many people - advocates are there to make sure that someone is available to be on the person's side and walk side by side with them through the mental health system.

# Who can have an IMHA?

There are different arrangements in England and Wales for IMHA provision. At the time of writing, more people are entitled to support from an IMHA in Wales.

**In England**, people are eligible for support from an IMHA if they are:

- detained under the Act (even if they are currently on leave of absence from hospital)
- liable to be detained under the Act even if not actually detained (incl those who are on leave of absence or absent without leave or those for whom an application or court order for admission has been completed (but not for those described in the next subsection))
- conditionally discharged restricted patients
- subject to guardianship; or
- supervised community treatment (SCT) patients

# Who can have an IMHA?

For these purposes, detention does not include being detained on the basis of an emergency application (section 4) until the second medical recommendation is received; under the holding powers in section 5 or in a place of safety under section 135 or 136

Other patients (“informal patients”) are eligible if they are:

- are being considered for a treatment to which section 57 applies: or
- under 18 and being considered for electro-convulsive therapy or any other treatment to which section 58A applies

# Who can have an IMHA?

## In Wales...

...the IMHA role includes the people above however was extended under the Mental Health (Wales) Measure 2010 to include the right to an IMHA to all people admitted to psychiatric hospitals specifically:

- patients on shorter term emergency sections of the Act (principally s4, s5) and
- patients in hospital voluntarily or informally (who are not subject to the MHA)

People who are eligible to receive support from an IMHA are referred to as Qualifying Patients through the Act and Code of Practice.



# The IMHA role

The role of the IMHA, like all other advocacy roles, is one of supporting the person to make decisions, express choices, be heard and achieve their own goals. As the IMHA is a specialist advocate working within mental health settings, this is always related to supporting the person on issues connected with their mental health, treatment under the MHA and how the Act affects them.

The Code of Practice sets out how the IMHA can support qualifying patients in a range of ways to help them to understand their rights under the MHA 1983 and to ensure they can participate, as fully as possible, in the decisions that are made about their treatment and care.

# The IMHA role

The Act says that the support which IMHAs provide must include helping patients to obtain information about and understand the following:

- their rights under the Act
- the rights which other people (e.g. nearest relatives) have in relation to them under the Act
- the particular parts of the Act which apply to them (e.g. the basis on which they are detained and which therefore make them eligible for advocacy)
- any conditions or restrictions to which they are subject (e.g. as a condition of leave of absence from hospital, as a condition of a community treatment order, or as a condition of conditional discharge)
- medical treatment that they are receiving or might be given
- the reasons for that treatment (or proposed treatment) and
- the legal authority for providing that treatment, and the safeguards and other requirements of the Act which would apply to that treatment

# The IMHA role

The IMHA role also includes helping patients to exercise their rights, which can include representing them and speaking on their behalf.

IMHAs may also support patients in a range of other ways to ensure they can participate in the decisions that are made about their care and treatment.

The involvement of an IMHA does not affect a patient's right (nor relative's right) to seek advice from a lawyer. Nor does it affect any entitlement to legal aid and IMHAs may assist people to access legal advice and support people at Tribunal hearings.

# IMHA rights....

## Meeting people in private

In order to provide support, the Act says IMHAs should be able to meet with the people they are helping in private, where they think it appropriate. This reflects the need to offer person led and confidential support by offering people a safe space to speak freely and explore issues.

IMHAs however should always balance this with the need to keep both the person and themselves safe - so in practice you should always check with the clinical team where is suitable to meet with the person and what steps are appropriate to take should there be specific risk present.

If the clinical team are repeatedly preventing access to people this should be raised with the hospital managers to seek a suitable way forward in ensuring IMHA support is available to everyone who is entitled to receive this.

# IMHA rights....

## Accessing Records

The Act gives IMHAs the right to access records relating to qualifying patients, under certain circumstances, for the purpose of providing help.

An IMHA, has the right to see any clinical or other records relating to the persons detention or treatment in any hospital, or relating to any after-care services provided to the patient. IMHAs have a similar right to see any records relating to the patient held by a local social services authority - so long as they are relevant to the work the IMHA is undertaking.

# IMHA rights....

Where the person has the capacity to instruct, the IMHA should agree with them beforehand which records will be accessed. Subject to their consent these records should be directly relevant to the help the IMHA is providing to the patient.

If the IMHA is helping a person who lacks capacity they should only ask for the records that are relevant to the help they are providing to the patient.

Where the patient does not have the capacity (or in the case of a child, the competence) to consent to an IMHA having access to their records:

- the holder of the records must allow access if they think that it is appropriate and that the records in question are relevant to the help to be provided by the IMHA
- records must not be disclosed if that would conflict with a decision made on the patient's behalf by the patient's attorney or deputy, or by the Court of Protection.

# IMHA rights....

## **Meeting with and interviewing professionals**

IMHAs have a right to visit and speak to any person who is currently professionally concerned with a patient's medical treatment, provided it is for the purpose of supporting that patient in their capacity as an IMHA.

In practice, the IMHA will need to contact the person concerned and arrange a meeting at a mutually convenient time. It is expected that the professionals will make themselves available in good time.

# IMHA rights....

## Supporting people in meetings

The Code of Practice says IMHAs should be allowed to attend any meeting that the person would be expected to attend, either with or without the person

Where the person has the capacity to instruct an IMHA, the IMHA should only attend meetings and speak on issues with their agreement. Where the person does not have this capacity, the IMHA can attend the meeting to speak on their behalf, if the IMHA thinks it is appropriate.

Where an IMHA attends a meeting to support the person, they can help:

- support the person to feel confident
- remind the person of what they wanted to say
- speak on their behalf if they do not wish to self-advocate
- reflect with the person after the meeting what was said.



An effective IMHA will always be thinking about how to support their partner as they stay in hospital. What do they need in order to make decisions, feel safe, return home?

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