



Mental Capacity Act 2005

2005 CHAPTER 9

PART 1

PERSONS WHO LACK CAPACITY

Independent mental capacity advocate service

39A Person becomes subject to Schedule A1

[^{F1}(1) This section applies if—

- (a) a person (“P”) becomes subject to Schedule A1, and
 - (b) the managing authority of the relevant hospital or care home are satisfied that there is no person, other than one engaged in providing care or treatment for P in a professional capacity or for remuneration, whom it would be appropriate to consult in determining what would be in P's best interests.
- (2) The managing authority must notify the supervisory body that this section applies.
 - (3) The supervisory body must instruct an independent mental capacity advocate to represent P.
 - (4) Schedule A1 makes provision about the role of an independent mental capacity advocate appointed under this section.
 - (5) This section is subject to paragraph 161 of Schedule A1.
 - (6) For the purposes of subsection (1), a person appointed under Part 10 of Schedule A1 to be P's representative is not, by virtue of that appointment, engaged in providing care or treatment for P in a professional capacity or for remuneration.]

Textual Amendments

- F1** Ss. 39A-39E omitted (16.5.2019 for specified purposes) by virtue of [Mental Capacity \(Amendment\) Act 2019 \(c. 18\), s. 6\(3\), Sch. 2 para. 7](#)

Changes to legislation:

There are currently no known outstanding effects for the Mental Capacity Act 2005, Section 39A.