**Section 5: Competency framework for understanding legislation in the context of independent advocacy. This should be completed by independent advocates who wish to work in Wales after qualifying in England or Northern Ireland along with one of the relevant sections listed below if they are moving from one type of independent advocacy to another:**

* **Independent Mental Health advocate**
* **Independent Mental Capacity advocate**
* **Independent advocate with children**
* **Independent advocate with adults**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Learning outcome**   1. Understand the importance of developing knowledge of legislation in the context of advocacy | | | | |
| **You understand:** | | | | |
| **Criteria** | **Suggested actions** | **Suggested sources of evidence** | **Notes** | **Dated and initialed** |
| 1.1 Why it is important for independent advocates to have knowledge and understanding of legislation and how this relates to their role | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| * 1. The importance of understanding the inter-relationship between different pieces of legislation and how this may impact on: * The role of independent advocates * Individuals and carers | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Learning outcome**   1. Understand the Human Rights Act | | | | |
| **You understand:** | | | | |
| **Criteria** | **Suggested actions** | **Suggested sources of evidence** | **Notes** | **Dated and initialed** |
| 2.1 The aim, purpose and **application** of the Human Rights Act 1998 | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 2.2 How human rights law has been incorporated into other legislation, national policy and guidance | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 2.3 The articles of the Human Rights Act | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 2.4 The absolute and restricted rights of the Human Rights Act | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 2.5 Routes under which the Human Rights Act can be used to enforce an individual’s human rights | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 2.6 Case law brought under the Human Rights Act which can be used to promote an individuals’ human rights | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 2.7 Responsible bodies under the Human Rights Act | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 2.8 UN Conventions and Human Rights Instruments and how these relate to the Human Rights Act | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| **Range:**  **Application**: where it applies and responsibilities, role of public bodies/authorities  **Routes**: informal, formal | | | | |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Learning outcome**  3. Understand the Equality Act | | | | |
| **You understand:** | | | | |
| **Criteria** | **Suggested actions** | **Suggested sources of evidence** | **Notes** | **Dated and initialed** |
| 3.1 The aim, purpose and application of the Equality Act 2010 | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 3.2 Protected characteristics and how these are defined | Guided reading  Support from mentor | Discussion in supervision or with mentor Discussion in supervision or with mentor |  |  |
| 3.3 How the Equality Act has been used to further the development of equality and antidiscriminatory practice in the UK | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 3.4 Types of prohibited behaviour and how these are defined | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 3.5 Reasonable adjustments and how these should be used to ensure that disabled individuals are not disadvantaged | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 3.6 Routes under which the Equality Act can be used to enforce equality and anti-discriminatory practice | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 3.7 Specific duties under the Equality Act for public sector bodies in Wales | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 3.8 Case law brought under the Equality Act which can be used to promote equality and anti-discriminatory practice | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Learning outcome**  4. Understand the Mental Capacity Act | | | | |
| **You understand:** | | | | |
| **Criteria** | **Suggested actions** | **Suggested sources of evidence** | **Notes** | **Dated and initialed** |
| 4.1 The aim and purpose of the Mental Capacity Act (2005) | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 4.2 The main provisions introduced with the Mental Capacity Act | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 4.3 The key principles of mental capacity legislation | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 4.4 The two stages of a capacity assessment, who can undertake these | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 4.5 How advocates can use the Mental Capacity Act to protect an individual’s human rights | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 4.6 Liberty Protection Safeguards and how these should be applied | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 4.7 How to raise concerns about restrictions or deprivations of liberty  process | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 4.8 When and how an advocate should access the Court of Protection | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 4.9 The inter-relationship between the Mental Capacity Act and Mental Health Act | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 4.10 When there is a duty and a power to refer to an Independent Mental Capacity Advocate | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 4.11 The function of regulatory bodies | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 4.12 How independent advocates can use regulatory bodies to support their work | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 4.13 Case law brought under the Mental Capacity Act which can be used to promote an individual’s human rights | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| **Range:**  **Provisions:** lasting powers of attorney, court deputy, advance decisions, official solicitor, litigation friend | | | | |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Learning outcome**  5. Understand the Mental Health Act | | | | |
| **You understand:** | | | | |
| **Criteria** | **Suggested actions** | **Suggested sources of evidence** | **Notes** | **Dated and initialed** |
| 5.1 The aim and purpose of the Mental Health Act 1983, as amended by the Mental Health Act 2007, Mental Health (Wales) Measure 2010 | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 5.2 The difference between formal and informal patients under the Mental Health Act | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 5.3 What is meant by the term ‘compulsion’ | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 5.4 The **routes** and criteria for being detained under the Mental Health Act | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 5.5 How the key principles of current mental health legislation impact upon the Independent Mental Health Advocacy role | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 5.6 When there is a duty to inform an individual to their right for support from an Independent Mental Health Advocate | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 5.7 Where there is a duty to consider a referral to Independent Mental Health Advocate for non-instructed advocacy | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 5.8 **Powers** within current mental health legislation and who may exercise these | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 5.9 A range of **safeguards** within the current mental health legislation. | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 5.10 Case law brought under the Mental Health Act which can be used to promote an individual’s human rights | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| **Range:**  **Routes:** for individual patients who are admitted to hospital by force under civil and forensic sections, made subject to guardianship, made subject to the Supervised Community Treatment Order  **Powers**: detaining powers, treatment powers, holding powers, police powers  **Safeguards:** First Tier Tribunal, Hospital Managers’ Hearing, Nearest Relative, Independent Mental Health Advocate, right to request a Second Opinion Appointed Doctor, right to complain | | | | |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Learning outcome**  6. Understand legislation that relates to children and young people | | | | |
| **You understand:** | | | | |
| **Criteria** | **Suggested actions** | **Suggested sources of evidence** | **Notes** | **Dated and initialed** |
| 6.1 The main **provisions** of the Children Act 1989 and 2004 that apply in Wales | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 6.2 The main **provisions** of the Children and Family Act 2014 that apply in Wales | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 6.3 Part 6 of the Social Services and Well-Being (Wales) Act 2014 and associated statutory guidance | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 6.4 The Rights of Children and Young Persons (Wales) Measure 2011 | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 6.5 The United Nations Convention on the Rights of the Child | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 6.6 When a child or young person has a right to access an independent advocate | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 6.7 Case law brought under children’s legislation which can be used to promote a child or young person’s human rights | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 6.8 Other legislation, national policy and guidance that promotes the rights of children and young people | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| **Range:**  **Provisions:** To include protections - rights to complain, be visited by professionals, participation rights | | | | |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Learning outcome**  7. Understand the Social Services and Well-being (Wales) Act 2014 | | | | |
| **You understand:** | | | | |
| **Criteria** | **Suggested actions** | **Suggested sources of evidence** | **Notes** | **Dated and initialed** |
| 7.1 The aim, purpose and principles of the Social Services and Well-Being (Wales) Act | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 7.2 Part 10 of the Social Services and Well-Being (Wales) Act and associated Code of Practice in the context of independent advocacy, complaints and representation | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 7.3 Part 2 of the Social Services and Well-Being (Wales) Act and associated Code of Practice in the context of independent advocacy | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 7.4 The definition of well-being and the role of preventative services | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 7.5 The definition and role of Information, Advice and Assistance | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 7.6 The National Outcome Statements and how these relate to the principles of the Act | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 7.7 The assessment process - including eligible and ineligible needs | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 7.8 Direct payments, how these are defined and how they can be used | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 7.9 The care and/or support planning process and the review process | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 7.10 The different forms of advocacy defined in the Act and the Code of Practice | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 7.11 When independent professional advocacy is triggered under the Act | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 7.12 Safeguarding, including the Part 7 Code of Practice, duties and how they relate to independent advocacy for both adults and children | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Learning outcome**  8. Understand the Regulation and Inspection of Social Care (Wales) Act 2016 | | | | |
| **You understand:** | | | | |
| **Criteria** | **Suggested actions** | **Suggested sources of evidence** | **Notes** | **Dated and initialed** |
| 8.1 The aim and purpose of the Regulation and Inspection of Social Care (Wales) Act | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 8.2 How the Regulation and Inspection of Social Care (Wales) Act applies to independent advocacy services | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 8.3 The Regulated Advocacy Services (Service Providers and Responsible Individuals) (Wales) Regulations | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Learning outcome**  9. Understand legislation related to Welsh language | | | | |
| **You understand:** | | | | |
| **Criteria** | **Suggested actions** | **Suggested sources of evidence** | **Notes** | **Dated and initialed** |
| 9.1 Legislation related to Welsh Language and how this relates to the provision of advocacy | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 9.2 The key principles and provisions of the Welsh Language Act (1993) and Welsh Language Wales Measure (2011) | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 9.3 Requirements set by Welsh Language legislation for **public bodies** | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| 9.4 How to raise concerns around the application of Welsh Language legislation | Guided reading  Support from mentor | Discussion in supervision or with mentor |  |  |
| **Range:**  **Public bodies**: including independent advocacy services | | | | |

|  |
| --- |
| I confirm that ……………. has demonstrated achievement of the knowledge and practice learning outcomes set out in this competency framework  Signed: (manager)  Signed: (independent advocate) |