



Consultation response: Charter of Patient Rights and Responsibilities

About the Scottish Independent Advocacy Alliance

The Scottish Independent Advocacy Alliance (SIAA) is a membership organisation which promotes, supports and defends Independent Advocacy in Scotland. It aims to ensure that Independent Advocacy is available to any vulnerable person in Scotland.

The right to Independent Advocacy for those with mental disorders or who are potentially at risk is enshrined in Scottish legislation. However, Independent Advocacy can also have a key part to play in supporting other vulnerable groups such as black and minority ethnic groups and people with problem drug and/or alcohol use, amongst others.

Independent Advocacy organisations do not provide any services other than advocacy. They are separate organisations in their own right, are financially independent, and all those employed in an Independent Advocacy organisation know that they are only limited in what they do by the principles of advocacy, resources and the law. This ensures they are able to assist vulnerable individuals whilst being as free as possible from any conflicts of interest.

Charter of Patient Rights and Responsibilities

Key to enabling patient rights is the ability of individual patients to speak up about the issues that affect them and empowering patients to make informed choices and have a degree of control over their care. Equally important is to safeguard the patient's rights where needed. Independent Advocacy helps to achieve this.

Independent Advocates enable the person they support (their advocacy partner) to become more empowered, less alone and isolated, to access information and speak up for themselves. The advocate will also speak up on behalf of their advocacy partner where requested. Where the advocacy partner lacks capacity the Independent Advocate observes, questions, challenges and ensures their rights are upheld (non-instructed advocacy).

Question 1

a) Do you think the level of detail in the Charter is useful and appropriate?

The level of detail in the Charter is useful as an initial introduction. However it does not provide details about what will happen if the Health Boards do not adhere to it.

The Charter should be available in a various formats and languages to ensure that it is accessible to all using NHS services.

b) Is there any information not included in the Charter that should be covered?

The Charter does not make reference to the statutory right for anyone with a mental disorder (which covers mental illness, personality disorder, dementia and learning disability) to access Independent Advocacy. People have the right to access Independent Advocacy through different legislation and the Charter should make reference to this. The Charter should do more to signpost individuals to Independent Advocacy organisations. The document makes several references to Independent Advocacy but does not provide information about where the person can find further information about Independent Advocacy and how to find an advocate in their area. They should be directed to the SIAA website where they can find out more.

Independent Advocacy helps people by enabling them to express their own needs and to make their own informed decisions. Independent Advocates support people to gain access to information and explore their options. They speak up on behalf of those who are unable to speak for themselves or choose not to. Independent Advocacy is about tackling injustice by enabling a person to have control over their life and to make their views heard. Independent Advocacy will therefore be essential support to help many people recognise their rights and take action under the Charter.

c) What would make it better?

We believe the following changes should be made to strengthen the Charter:

- Page 6, bullet point 4, in addition to the individuals already referenced who can be present at an appointment at the request of the patient, Independent Advocates should also be included.
- Page 11, reference to the Adults with Incapacity (Scotland) Act 2000, should include reference to the Mental Health (Care and Treatment) (Scotland) Act 2003 and the right for all with a mental disorder (including those who are assessed as lacking capacity under the Adults with Incapacity Act) to access Independent Advocacy.
- Page 12, under the patient's right to be involved, should include a bullet point stating that patients should be informed about any forums, including Patient Councils and Collective Advocacy groups, through which they can help to inform and shape services.
- Page 20, bullet point 4, the reference to patients being able to ask for Independent Advocacy should be strengthened to include the statutory right to Independent Advocacy for anyone with a mental disorder and place responsibility

on NHS staff to provide information regarding Independent Advocacy to the patient so that they can access Independent Advocacy independently rather than through NHS staff should they choose. This is essential in order to maintain the independence of the advocate from service providers both in terms of process and also in the perception of the patient.

- Page 22, in addition to referencing the patient's right to make a complaint, this section should place responsibility on NHS staff to refer the patient to a local Independent Advocacy organisation.
- Pages 24 & 25, the list of organisations signposted to, should include a link to the SIAA website for information about Independent Advocacy and contact details for local Independent Advocacy organisations (see our comments in response to question 1(b)).

Question 2

a) Do you think the information in the Charter is written in a way that is easy to understand?

We find the Charter straightforward to read and understand, however, as noted in response to question 1(a) the format of the draft will not be appropriate for all and the document should also be provided in shorter, Easy Read, and other accessible formats and languages to ensure that all everyone is aware of their rights under the Charter.

b) Does the format of the Charter make it easy to find the information you need?

See comments to question 2(a).

c) What would make it better?

See comments to question 2(a).

Question 3

Do you have any comments on the design of the Charter?

It is essential that the Charter is accessible to all those who may use it.

Question 4:

a) What do you think is the most appropriate way for people to get a copy of the Charter?

Copies of the Charter should be available at a person's first point of contact with NHS services and the availability of alternative formats should be widely advertised. Copies should be readily available in GP Offices, hospital receptions and waiting areas, and from community services. All NHS staff across departments and roles should be encouraged to provide copies of the Charter to new and existing patients and to include the Charter in any information packs provided. Copies should be widely distributed amongst third sector organisations including Independent Advocacy organisations and user and equality groups. Copies should also be distributed to libraries, community centres, residential and supported housing, and other community and residential focus points so it is readily available to all who may access NHS services.

Mechanisms should be in place to enable individuals and organisations to easily order copies of the Charter in various formats via telephone (including Textphone), post and email. The copies should be provided free of charge. The Charter should also be available in various formats to download from all NHS websites, the individual websites of GP surgeries and all other NHS service provider websites.

b) Do you agree that we should only make alternative formats available on request?

No.

Question 5

a) Do you have any comments on the balance of rights and responsibilities set out in the Charter?

We refer the Scottish Government to our comments in response to question 1(b). The Charter makes no mention of the right to Independent Advocacy under the Mental Health (Care and Treatment) (Scotland) Act 2003.

b) What would make it better?

See our comments in response to questions 1(b) and 1(c).

Question 6

Do you have any additional comments to make about the Charter of Patient Rights and Responsibilities?

We have no further comments.

The SIAA is a registered charity (SC033576) Company Number: 236526