

Draft Advocacy Guide for Commissioners

Consultation questions

1. Since the publication of the Guide for Commissioners by SIAA in 2010 there have been several developments. For example the publication of the NHS Healthcare Quality Strategy in 2010; the introduction of the Patient Rights (Scotland) Act 2011; the publication of the Patients Charter of Rights and Responsibilities in October 2012; publication of the Carers and Young Strategy in 2010, and the provision of joint Scottish Government and COSLA Guidance on Procurement of Support and Care Services in 2010.
2. The guide has been updated to incorporate these and other relevant developments.
3. Sections 5 and 6 of the Guide explain commissioner's statutory responsibilities under the Mental Health (Care and Treatment) Act 2003 which are further explained in the Code of Practice Volume 1. Based on the definition taken from the legislation the guide provides the following Principles and Standards for Independent Advocacy:

Principle 3

Independent advocacy is as free as it can be from conflicts of interest.

Standard 3.1 - Independent advocacy providers cannot be involved in the welfare, care or provision of other services to the individual for which it is providing advocacy.

Standard 3.2 - Independent advocacy should be provided by an organisation whose sole role is independent advocacy or whose other tasks either complement, or do not conflict with, the provision of independent advocacy.

Standard 3.3 – Independent advocacy looks out for and minimises conflicts of interest

Please note:

- Standards 3.1 and 3.2 associated with Principle 3 above reflect the definition of independent advocacy in the Mental Health Act (Care & Treatment) (Scotland) Act 2003 and differ from the standards used by the advocacy movement in the SIAA Principles and Standards.
- The remaining Principles and Standards i.e. Principles 1, 2 and 4 and the associated standards set out in Appendix 1 are consistent with the Principles and Standards given in the SIAA Principles and Standards.

Question 1: Are you content with the level of detail given in relation to the statutory responsibilities and that the information is clear?

Yes

No

If no, what additional information do you think should be included?

In considering the implications for NHS National Services Scotland (NSS) it would be helpful if the guidance considered defining the role of the National Boards in advocacy to maintain effective working relationships with local NHS Boards whilst ensuring that a patient or those acting on their behalf receive the advocacy needed.

Page 16 point 6.10 and 6.12:

6.10- Although independence is explored at this point in the document further clarity could be provided as this could be interpreted as subjective rather than objective.

6.12- This could be developed to include the links to the current developments for whistle blowing and raising concerns, and lessons learned from the Francis Report.

Section 9 – page 19:

It would be helpful to include the role of the National Boards in developing the strategic action plan for advocacy. It will be important for Local Authorities to equality impact assess at local level to consider local demographics and local inequality and it would be helpful if the guidance reflect this.

4. Section 10 covers commissioning of independent advocacy. This is a much shorter section than in the previous guide as it refers to the Guidance on the procedures for Procurement of Care and Support Services given in the joint Scottish Government and COSLA guidance issued in 2010 and available at:

<http://www.scotland.gov.uk/Resource/Doc/324602/0104497.pdf>.

Question 2: Are you content that the level of detail given in Section 10 on the Commissioning of Independent Advocacy is appropriate?

Yes

No

If not, why not?

It is not clear if the guide and resources have considered the Public Sector Equality Duty and the requirement to meet the Specific Procurement duty. In this regard, the guidance and resource provided by the EHRC should be considered.

<http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-procurement/>

It is not clear from the guidance what role, if any, NSS's National Procurement service will have in this process; it would be helpful to clarified this.

It would be helpful to clarify if engagement be expected at national and local levels. Consideration should be given to joining up with the Participation Standard in NHS and Complaints process for the NHS. Complaints and Patient Rights are referenced in the document however it is not clear if consideration has been given to the “join up” in a strategic sense.

5. Both commissioners and the advocacy groups have a responsibility to ensure that the advocacy being provided is of good quality and is effective. Section 12 of the guide covers Monitoring and Evaluation and mostly reflects the arrangements currently set out in the 2010 guidance. However we understand that the cost of independent evaluations is high and is not always undertaken. In relation to this we are currently exploring a pilot for evaluation of advocacy projects with the SIAA. This will involve the recruitment of independent sessional evaluators to undertake evaluations based on the Principles and Standards within this guide over an 18 month period. SIAA will facilitate the appointment and training of the evaluators. The report of the evaluation will be prepared by the evaluators and will go to the commissioners and the advocacy group. The SIAA will be in a position to offer support to the advocacy group in the event that improvements are required. An evaluation of the pilot will be conducted prior to any decision on whether to proceed with this model. The evaluations will not be restricted to SIAA member organisations.

Question 3: Would you support a programme of evaluations based on the pilot model of evaluation set out at 5 above?

Yes No

If not, why not?

Consideration should be the potential role of National Boards in the pilot.

6. Examples of situations that can potentially cause a conflict of interest which might impact on the person receiving the advocacy support, the advocate, the advocacy organisation or a service provider have been included at Appendix 2.

Question 4. Do you think it is useful to highlight situations (such as those given in Appendix 2) that commissioners should be mindful of in order that consideration is given to how these would be avoided/handled/resolved?

Yes No

Are there any others you would add/remove?

We would welcome your thoughts on what the impact of each of these situations would be and also your views on what action should be taken to minimise conflict. We will consider the responses and add as part of the guidance.

Consideration should be given to training and awareness in relation to the Equality Act protected characteristics to encourage organisations and staff to recognise diversity and acknowledge where a different approach and process should be considered.

Where conflict arises, e.g. page 31 examples, consideration should be given to cross organisation advocacy to reduce the conflict of interest in certain situations.

7. The layout of the guide has been changed to provide information and direct links to a list of relevant policy and guidance documents in Appendix 3.

Question 5: Do you find the information on additional reference material/useful links in Appendix 3 helpful?

Yes

No

Are there any others you would add?

- References to equalities legislation and policy
- References to Equality and Human Rights Commission (EHRC)
- Reference to Scottish Human Rights Commission (SHRC)
- Reference to the Scottish Action Plan for Human Rights in Scotland

Are there any you would remove? No

General Comments

We would welcome any further general comments you may wish to offer here.

We are grateful for your response. Thank you.