

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?

The following points were made before this document went out to consultation:

'3.1: need for clarity on whether an independent advocacy provider is an individual, organisation or both.'

'3.2: need for clarity on what tasks 'complement, or do not conflict with, the provision of independent advocacy'. This is a central point in the debate and must be clarified, in our view, to enable any progress'

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?

More detail is required on the specific commissioning of independent advocacy

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?

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

Not in this way. The following point was made before this document went out to consultation:

‘Appendix 2 highlights the problems that non-independent advocacy poses without offering any guidance on resolution of these difficulties. It might be reasonable to expect that this appendix, as part of the guide for commissioners, would offer guidance rather than only illustrate typical difficulties’

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

General Comments

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

I acknowledge the small changes which have been made in section headings and in definitions in response to points made by Your Voice prior to consultation. I am concerned that the substantive points made prior to consultation have not been addressed in any sense.

The following points were made before the document went out to consultation:

'The statement that Independent Advocacy should always be the preferred option is helpful. In the context of children's services, it may be helpful to be clear about how (non-independent) advocacy service such as those provided by Children's Rights officers are covered/affected by this guidance'

It appears that this statement - that Independent Advocacy should always be the preferred option - has been removed, without explanation given.

Also -

Footnote on page 15: 'standards 3.1 and 3.2 – the new standards proposed – do not make clear how they 'differ' from SIAA's Principle 3 standards. This could be clarified by acknowledging that SIAA's standards under this principle are higher than those proposed in the new draft guidance'

It is concerning that significant concerns about this document have been raised by a member organization of the National Steering Group on Advocacy for Children and Young People, without explanation as to why they have not been addressed in this document (see answers to Q1, Q4, and this answer above). It is also concerning that the helpful statement on Independent Advocacy (above) has been removed.

We are grateful for your response. Thank you.