

## **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

**The level of detail given in this section is good and the information provided is clear. However, it would be helpful to have some clarification as to what type of service might be viewed as complementary to advocacy provision.**

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

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

**Yes. However, a statement would be helpful on how the Scottish Government might provide support to statutory bodies and advocacy organisations when legislative measures are introduced that increase the demand for advocacy services. If, for example, an annual review demonstrates an increase in demand because of legislative imperatives, will additional funding to support evidenced need follow?**

**In addition, one of the local commissioning partners is currently reviewing its advocacy provision and funding arrangements, and some stability in terms of Service Level Agreement duration would be helpful.**

**If not, why not?**

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

**Whilst supporting the programme described, it should be noted that no additional funding is available overall for advocacy provision locally. Consequently, evaluation costs must be met from within this budget. Providing additional funding locally to undertake evaluation may present as discriminatory to other voluntary organisations that are funded without an allocation for the evaluation of the service they provide.**

**It is not clear from the consultation document what the funding arrangements might be for the pilot evaluation service. If such a service were to be provided by SIAA free of charge, discussion with them about evaluation parameters would be welcomed. Clarity would also be needed as to where the pool of sessional evaluators would be drawn from as this could introduce a potential conflict of interest if the person who is evaluating a service or who is part of an evaluation team is a potential competitor for contracts.**

**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

**Appendix 2 helpfully clarifies the type of situations that might arise if the commissioning process is not robust.**

**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.**

**Scenario 1:**

**It might be uncomfortable to raise a complaint about a “colleague”. Nevertheless, there is evidence that this type of situation has been handled well before. Robust principles that are enshrined in the work of the advocacy service are required to**

ensure that there is clarity about the role of the advocate. “Chinese walls” would have to be built to separate the function of the support and advocacy arm of providers in order to negate any conflict of interest.

**Scenario 2:**

As above. The role of the advocacy wing of the organisation has to be clear and separate from the function of the “host” organisation.

**Scenario 3:**

The advocate will have to ensure that their interaction with their advocacy partner is value-free and impartial whilst discussion options and, if appropriate, declare that there might be a conflict of interest. Once again, the role of the advocate should be clear and their relationship with other organisations transparent.

**Scenario 4:**

Similar to Scenario 3: transparency and honesty are essential.

In several of the above scenarios, the dual role might be seen as positive, as relationships with the host organisation may already be in place. Nevertheless, if the commissioning process is robust and fair, and a support-providing organisation is judged to be the best for the people within the specific local authority, there needs to be a separation of management and systems; and the advocacy component must have an “arms’ length” agreement with the host. This should ensure that the person is at the centre of all activity and the advocacy arm of the service is free to act solely for their advocacy partner.

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

Yes. It provides very useful reference points and signposts to sources of relevant information. It is very helpful to have all the reference material and links together, along with the brief explanations. It makes for a complete Guide for Commissioners.

Are there any others you would add?

Are there any you would remove?

**General Comments**

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

**The advocacy service providers within Lanarkshire are well-established and work in close partnership with health and the local authorities who jointly commission services to meet the needs of local people.**

**We are grateful for your response. Thank you.**