**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 X**

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

I believe that reference to the principle of participation as identified by the Millan Committee should be included.

The Participation Standard for the NHS in Scotland, developed by the Scottish Health Council acknowledges the importance of access to independent advocacy. The Guide for Commissioners needs to make reference to the Participation Standard.

Why have standards 3.1 and 3.2 been taken from the Mental Health Act and not all standards from the advocacy movement? If so why would this be given the amount of consultation and work that went into their drafting and adoption. Why has there been a decision not to use the principles as agreed and defined by the SIAA? I believe that even subtle changes to any of the principles do more harm to the importance of a service having independence than possible areas of conflict of interest.

This is an area of concern and I believe is inappropriate, to have adopted a mix of standards when there was tacit acceptance of all principles/standards already agreed and adopted by the advocacy movement. Such variation should surely be discussed, consulted on and not appear for the first time in a consultation document for commissioners.

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 X**

**If not, why not?**

I feel that there needs to be more detail on the specific commissioning of independent advocacy. I further believe that the information around planning should include reference to the need for extensive, meaningful involvement of current and potential advocacy service users and other stakeholders in the whole planning and commissioning process. This will support the achievement of the key factor underpinning good independent advocacy (page 12) – 'advocacy groups should be firmly rooted in, supported by and accountable to a geographical community or a community of interest'. Many of our clients would have a say on this but are unaware of the consultation.

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 X** **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 X** **No ☐**

**Are there any others you would add/remove?**

The situation regarding advocacy for a carer should not present a dilemma. Advocates are very aware of any possible areas where conflict of interest may arise and as an organisation we look at this closely. It is an important consideration reviewed as part of service self-governance .The notion is subjective and must be cautiously interpreted.

**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.**

I would advise caution in adding any individual thoughts on impact and ways to minimise potential conflicts of interest. This section will be helpful as an exercise for commissioners to use to encourage consideration of potential conflicts and how these might be minimised rather than as a section that poses questions and then provides answers. Conflicts of interest may not always be immediately apparent and the potential conflicts detailed in this section do not provide and exhaustive list of issues that may be encountered.

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 X** **No ☐**

**Are there any others you would add?**

The Participation Standard for the NHS in Scotland

**Are there any you would remove?**

**General Comments**

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

I strongly believe that advocacy should only be delivered by independent advocacy organisations that only provide advocacy, conflicts of interest will arise for any organisation providing other services and advocacy. The 4 key principles that underpin independent advocacy have been developed over many years by the advocacy movement and other relevant stakeholders. Conflicts of interests are not always easy to identify or manage or apparent from the outset. The best way to minimise the likelihood of conflicts of interests arising is for the organisation to only provide advocacy. The perception of a conflict of interests by service users or potential service users and others is important and needs to be avoided and appropriately managed. This is particularly important in a remote and rural area like Orkney with a relatively small community. There remains a pervasive lack of understanding at times of what advocacy is and I do not think that anything that compromises the need for independence would be beneficial. True independence for advocacy agencies would also be assisted by the right to statutory funding to provide consistent, high quality advocacy to allow agencies to develop and not fire-fight to exist.

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