

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?

There remains potential for misinterpretation of the differences between 3.1 and 3.2, and perhaps greater emphasis should be placed on the advocacy provider's ability, policy and procedural capacity to manage and minimise conflict of interest.

Organisational structure in itself does not guarantee quality of provision.

Otherwise, the information is adequate as guidance.

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?

This section reads very well and appears comprehensive. There is strong emphasis on managing and minimising conflict of interest. It may be worth considering adding a clause which establishes the advocacy user's right to choose the individual, service or organisation they use for advocacy, irrespective of the external criteria expected of

providers. This is an aspect of the person centred approach which is often omitted, the user's own choice.

Independent Advocacy providers could have a role in helping such potentially conflictual partnerships to avoid or manage conflict of interest.

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?

By taking the sole lead role in this process SIAA is at risk of creating a conflict of interest with its core role (defending / empowering) and a new "policing" role. Users, Commissioners, NHS and SIAA could jointly facilitate the training and recruitment of independent evaluators. A clearer distinction could be drawn between the monitoring and evaluation elements of this process, and advocacy providers could also be encouraged to commission their own independent evaluations, whether subject/need specific or based on the model outlined here. Greater emphasis could be placed on the Evaluation Tool and other resources alluded to in this paper to assist evaluation as a dynamic process rather than an event.

There could therefore be a wider range of options available to both commissioners and providers. The single approved route for evaluation could become restrictive and conflictual in itself and encourage vested interests.

Who evaluates the evaluators? How is "independent" to be defined in terms of independent evaluator? How would the proposed process affect the independence and role of SIAA?

Funding should be made available to advocacy providers to access independent evaluation, either from direct commissioning or via SIAA to local providers, if not from specific funding streams.

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?

Could add a reference to conflict with a carer who is advocating for someone (eg family member).

Also a reference to how to manage a perceived conflict if a person chooses to use a service provider as their effective advocate (personal / person centred choice).

Action : Advocacy providers could offer support and guidance on these matters to those involved, either by self referral or by referral.

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.

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?

The Vulnerable Witnesses Act (Scotland) 2004

Are there any you would remove?

No

General Comments

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

1.1.6 include references to ill-health, enduring illnesses.

End of para should read outside institutions (remove comma)

12.3 Line 5 errata advocacy organisation...(s)

We are grateful for your response. Thank you.