

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?

We agree with the revision to standard 3.1 as it applies to one to one advocacy, but the revision to standard 3.2 could present problems if not altered. We can see how collective advocacy organisations would also be able to undertake ‘other tasks (that either complement, or do not conflict with, the provision of independent advocacy.’ For example, in Highland HUG provide collective advocacy, but also undertake other activities, such as anti stigma campaigns in schools, which complement their advocacy activities, but are funded and organised in a different way. For individual independent advocacy it is difficult to identify any tasks that would ‘complement, or do not conflict with, the provision of independent advocacy.’ We would recommend that this second element of 3.2 be removed completely for individual independent advocacy. If 3.2 were altered in this way, there would be less of a need for standard 3.1.

It would also be helpful to have reference to carers’ advocacy as related to conflicts of interest. It needs to be made clear that carers’ advocacy and service users’ advocacy need to be provided by separate organisations, for both collective and individual advocacy.

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?

Section 10 refers to detailed procurement guidance, but further clarification is needed in this document on how this is best applied to advocacy. Advocacy organisations need to be rooted in the community and accountable to it, but this can be difficult if it also has to compete on criteria that are more easily met by large organisations. There needs to be further clarification on the balance between these two elements.

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

We believe that independent evaluation is extremely important in ensuring advocacy services are good quality and effective. As commissioners, we are committed to effective evaluation to ensure that service users' needs are being met. Budgets for evaluation can come under pressure, however, when there are tightening financial constraints. In these circumstances usually service delivery necessarily becomes the priority use of funds. If the pilot proves successful and the evaluations are funded, then we would support a programme of evaluations based on the model.

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

Are there any others you would add/remove?

It would be helpful to have both further details and further case studies. There are two specific situations that we would recommend are included. One is where there are conflicts of interest between a carer and a service user and the other is a case study related to collective advocacy.

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.

None of these situations, except the first one, would arise if changes to revised standard 3.2 were made as per our suggestion in the answer to question one. If individual non independent advocacy is allowed ('complement or do not conflict' tasks), then all of the issues in the other case studies may arise and many more besides.

If revised standard 3.2 is not changed for individual advocacy, then this guidance will also be essential (with added sufficient details) for advocacy organisations, as much as for commissioners.

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?

Are there any you would remove?

General Comments

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

It may be helpful for the guidance to refer to 'independent advocacy' when this is what is meant, rather than just advocacy. Advocacy in general can apply to a huge array of situations, as described in section 1.1.5, but independent advocacy is quite specific. It would be good to have this distinction reflected in the language used in the guidance.

The Code of Practice Volume 1 for Mental Health (Care & Treatment) (Scotland) Act 2003 provides a clear definition of an independence in the context of advocacy provision. It would be confusing to re define independence for forms of advocacy not necessarily covered by the Mental Health Act. It would also then appear that forms of advocacy not covered by the Mental Health Act have a lesser standard to comply with. We recognise, as commissioners, that this can be very difficult, but feel that effective advocacy must be independent and where it is not all efforts must be made to support organisations to divide appropriately. There needs to be one source of clear guidance that all those involved in commissioning and providing advocacy can sign up to.

We are grateful for your response. Thank you.