

Health and Social Care Alliance Scotland

Consultation on Independent Advocacy – Guide for Commissioners

19 July 2013



About the ALLIANCE

The ALLIANCE's vision is for a Scotland where people of all ages who are disabled or living with long term conditions, and unpaid carers, have a strong voice and enjoy their right to live well, as equal and active citizens, free from discrimination, with support and services that put them at the centre.

The ALLIANCE has three core aims; we seek to:

- Ensure people are at the centre, that their voices, expertise and rights drive policy and sit at the heart of design, delivery and improvement of support and services.
- Support transformational change, towards approaches that work with individual and community assets, helping people to stay well, supporting human rights, self management, co-production and independent living.
- Champion and support the third sector as a vital strategic and delivery partner and foster better cross-sector understanding and partnership.

Introduction

People who are disabled or live with long term conditions must always be consulted, involved and have their views respected in decisions or choices that affect their lives. Some people who are disabled or live with long term conditions will have difficulty in expressing themselves and will require assistance to make their views known. Advocacy involves establishing, as far as possible, the views of the individual and expressing their voice in whatever forum or decision making process that the individual has a right to be part of.

Advocacy plays an essential role in ensuring that the rights of people who live with long term conditions are realised. This role is increasingly important at a time of cuts to public sector budgets and significant changes to service provision and benefits, alongside the roll out of Self-Directed Support, across Scotland. The introduction of new benefits and systems of assessment (for example the Personal Independence

Payment) make it more critical than ever that people are able to access advocacy support and that their voice and views are heard.

Consultation Questions

Question 1: Are you content with the level of detail given in relation to the statutory responsibilities and that the information is clear?

We welcome the clear instructions in guidance on the legal duties of commissioners in ensuring compliance with the provisions of the Mental Health (Care and Treatment) Act 2003.

We recognise that the proposed amendment to the principles and standards included in the command paper do not match the standards of independent advocacy as produced by the Scottish Independent Advocacy Alliance in 2008¹.

This document contained the following standards:

- **Standard 3.1** – Independent advocacy cannot be controlled by a service provider
- **Standard 3.2** – Independent advocacy and promoting independent advocacy are the only things that independent advocacy organisations do

These standards have been replaced as follows in the command paper:

- **Standard 3.1** – Independent advocacy providers (individuals or organisations) cannot be involved in the welfare, care or provision of other services to the individual for which they are 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.

The 4 key principles that underpin independent advocacy have been developed over many years by the advocacy movement and other relevant stakeholders. We believe that this change to the standards requires consultation with stakeholders, such as people who use support and services, carers, third sector organisations and other independent advocacy providers.

¹ <http://www.siaa.org.uk/images/stories/siaaprinciples%26standardsforweb.pdf>

Question 2: Are you content that the level of detail given in Section 10 on the Commissioning of Independent Advocacy is appropriate?

No – the ALLIANCE welcomes the explanation but we feel that the guidance should reemphasise the importance of independent advocacy for people who use advocacy services. Such an emphasis should help commissioners to meet their statutory duties as required by the Mental Health (Care and Treatment) Act by upholding the principles of the Act and of independent advocacy. This is particularly crucial at a time of local authority spending cuts, the welfare reform agenda and the roll out of self-directed support.

Organisations providing independent advocacy must be independent in what they do, the way they do it and the way they govern themselves. We are keen that the proposed update to the Guide for Commissioners continues to give clear guidance on the importance of commissioning effective independent advocacy. We believe that this will help commissioners to meet their statutory duty as required by the Mental Health Act while firmly holding onto the principles that underpin the Mental Health Act and independent advocacy.

Question 3: Would you support a programme of evaluations based on the pilot model of evaluation set out in paragraph 5 of Part 2 of the consultation paper?

Yes – there are different methods for evaluating quality of independent advocacy services, just as there are different situations, expectations and requirements for the provision of advocacy from people who use the services. As such, evaluating whether an independent advocacy service meets people’s requirements cannot take a standard approach and must be adapted to meet different contexts and needs with an emphasis on achieving the personal outcomes of those using the service.

The ALLIANCE believes that the SIAA framework (as referenced in the command paper at 12.6.6) provides a good set of values that should be adopted in the evaluation of an advocacy service. Piloting the approach set out in the consultation will allow for adaptation and modification.

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 – it is helpful to highlight potential situations and conflicts of interest that may occur throughout the process of commissioning independent advocacy that should be considered by the commissioners.

In our response to the Scottish Government's recent consultation on the regulations and guidance related to the Self-Directed Support Act 2012², the ALLIANCE has called for guidance to encourage local authorities to present the option of advocacy to all individuals going through the process of Self Directed Support. As such, we believe that these examples should contain a specific reference to self-directed support and the provision of information about this.

Question 5: Do you find the information on additional reference material/useful links in Appendix 3 helpful?

Yes.

Are there any others you would add?

It would also be helpful to include reference to the new learning disability strategy "The Keys to Life"³, which contains a section on advocacy, proposing a future scoping process of the need for advocacy, and developing an Action Plan to improve delivery and uptake of independent advocacy at a local level.

General Comments

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

A limited group of people who live with long term conditions in Scotland have a statutory right to advocacy support under the Mental Health (Care and Treatment) (Scotland) Act 2003⁴. Beyond statutory obligations, and despite support for advocacy as a concept, it is generally poorly supported and funded, with limited availability across Scotland. Beyond this, there is a limited availability of advocacy across Scotland where this is not a statutory obligation. The ALLIANCE is concerned that this situation may be further exacerbated by the impact of local authority cuts to services and funding restrictions across the public sector.

The Scottish Independent Advocacy Alliance (SIAA) most recent survey of advocacy services in Scotland, A Map of Advocacy across Scotland 2011-12 edition⁵, shows limited provision of specialist advocacy support for physically disabled people, older people and carers in some areas of Scotland.

The ALLIANCE believes that the right to advocacy support should be enshrined in law, placing a legal duty on the NHS and local authorities to provide independent advocacy

² <http://www.scotland.gov.uk/Resource/0041/00418607.pdf>

³ <http://www.scotland.gov.uk/Resource/0042/00424389.pdf>

⁴ <http://www.legislation.gov.uk/asp/2003/13/contents>

⁵ http://www.siaa.org.uk/images/stories/SIAA_AdvocacyMap_2011_2012.pdf

services. This will help to improve access to high quality and consistent advocacy services for people who live with long term conditions and ensure that their views are heard in all processes and decisions related to them.

For more information

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