

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?

The Scottish Health Council has developed a Participation Standard for NHS Scotland – as the access to independent advocacy is acknowledged as important in this document, it would be appropriate and relevant to ensure this is referenced within the Guide. As one of the key principles of the Mental Health (Care & Treatment)(Scotland) Act it is important that the role of independent advocacy to facilitate this effectively is highlighted.

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?

As an independent advocacy provider who has been subject to tendering and commissioning processes we feel that while the Guidance on the procedures for Procurement of Care and Support Services is clear and transparent, for much of the basic contractual elements, there is no acknowledgement of the uniqueness of the nature of independent advocacy provision and the way it is provided is in many ways significantly different from care & support provision.

Often the model tender / contract / commissioning documents are based on care provision and we, as providers, have to work with our commissioning partners to agree a meaningful interpretation and understanding. It would be useful to produce a model for NHS & Local Authority commissioners that meets the aforementioned guidance but is specific to the role and responsibility of independent advocacy.

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?

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?

The issue around accessing an advocate for 2 members of the same family is a situation that, unless there is only one worker in an organisation, should not present a problem. Allocating separate advocates for related individuals who both meet referral criteria is effectively managed within organisations and does not present a dilemma.

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.

We feel that, while the format of presenting a situation and reflecting on the impact and potential solution can give commissioners a more contextual view of the conflicts that arise, it can also present judgemental impacts & actions that influences individuals.

We are guarded against being too prescriptive on this as the elements of conflict are often not apparent on initial referral.

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.

Based on 20 years of experience in delivering an independent advocacy service we are committed to the principle of independence and believe that the role, responsibility and professionalism of advocacy is distinctive and should remain separate from any connection to other services that are provided.

The clarity of independence enables commissioners to focus on quality, performance and effective monitoring arrangements without further complexities of minimising conflicts.

The introduction of Self Directed Support Act, we believe, could present further elements of potential confusion id advocacy provision is not independent and distinct.

We are grateful for your response. Thank you.