

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?

No

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

I would like more clarity on the importance of independent advocacy. For the benefit of statutory organisations. As a person who has been labelled with a mental disorder and would have benefited from independent advocacy, and as a carer of sons who would have benefited from independent advocacy, and couldn't access it when required, and of the quality necessary to help them have a voice, I believe that advocacy has to be as independent as possible. Especially since it is funded by statutory agencies and the advocacy offered is to help people who may be locked in and/or detained under the mental health act.

I would like more information as to what being 'independent' means, in terms of advocacy. For example, an English service provider organisation bidding for Scottish independent advocacy service provision is surely a conflict of interests? A service provider is a service providers, regardless of where they are based. An English service provider setting up a Scottish based organisation to deliver an *independent* advocacy project but still managing from England therefore isn't independent of services, whatever they may say. In my opinion.

Service provider organisations might be used to giving support to vulnerable people, making decisions on their behalf, saying what they need, especially if they work with the learning disabled. An organisation that thinks they know best is the worst sort of organisation to deliver an independent advocacy project. For independent advocacy, as a philosophy and way of working, is about people being enabled to say what they think, what they want, what they don't want. It's not about telling people what they should be saying or wanting. So the wrong people for the job. In every way.

The advocacy movement was and is a human rights movement. Helping vulnerable and oppressed people to have a voice, in psychiatric and mental health settings. To dilute this or to silence the voices of the oppressed is a regressive step. Scotland should not be going backwards, especially since they are looking, politically, to be independent. Which makes it even more important. And ironic.

I want to see a more detailed explanation of what independent advocacy is, the human rights base, the reasons for people who are under the mental health act requiring independent, unbiased, non-clinical support to speak up and speak out. Otherwise there will be human rights abuses in psychiatric settings. It is inevitable and happens as we speak. In Scotland.

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?

No

If not, why not?

Engagement with service users. I would like to see much more about the meaningful involvement of service users in the commissioning of independent advocacy services. That public bodies have to evidence this. That service users, survivors and carers are seen to be involved or engaged with, proof from the horse's mouth. In Fife there is little meaningful engagement of people with lived experience in the commissioning or selection of independent advocacy services. The statutory agencies working in mental health, Fife Council and NHS Fife, weren't happy with the user led groups working in independent advocacy so tendered the service and awarded the contract to an English service provider. And have done so a second time.

It seems that they can do what they like, regardless of user and carer voices. Or, to put it another way, they will only listen to the voices of users and carers who are in agreement with them. Is that not a totalitarian way of doing things? The total opposite of what independent advocacy is about. Another irony.

I would suggest creating a panel of users, survivors and carers, not just folk who agree with the status quo but dissenters and critical voices, to grapple with the term 'meaningful involvement', so that you do get something meaningful written down and prescriptive, regarding the commissioning of independent advocacy, so that public bodies cannot do what they like without being answerable to the consumers or customers. Folk like me.

You can write sentences saying this and that. Public bodies can say this and that. And at the end of it the service users, patients, carers and families are still without a voice, isolated and even oppressed.

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, in theory but there are a number of other considerations if SIAA is taking on this job.

The funding to SIAA over the last few years has been reduced, year on year, by 10%. Are you going to give independent advocacy the place it deserves and fund SIAA appropriately? You will be aware of the saying about peanuts and monkeys. No offence to monkeys.

I think the reduced funding to SIAA, the fact there is no more advocacy safeguards agency and the tendering of advocacy contracts shows how little that government values the voices of mental patients, service users and their families. As if it all got sorted in the 90's and we now don't need to bother about human rights abuses in psychiatric wards. Well we do, need to bother. My son got assaulted by a nurse, restrained, secluded and forcibly treated. I had to advocate for him. For which I got bullied and intimidated by groups of nurses then accused of psychological harm by a co-ordinated group of statutory 'professionals'. Passing the buck, trying to put the blame on a mother for an abusive, psychiatric service and system. Unforgiveable.

Scotland needs to get real, regarding the importance of free speech, having a voice and independent advocacy for people who are detained under the mental health act. The power of psychiatry is such that non-conformist individuals like me and family can be forcibly and humiliatingly treated by psychiatric personnel because we are in mental distress and want to be respected and seen as human beings. Being assaulted by nurses because we want to give an opinion is unacceptable for any reason. My son had to break his own hand to escape the bullying of 3 male mental nurses. There is no excuse for that sort of behaviour. And they got away with it.

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

Are there any others you would add?

A carer makes a complaint about an advocacy project and the advocacy host service provider sends solicitor letters to the carer in response to the complaint.

A bullying exercise? Intimidation? Well fortunately it didn't put me off, although I got no justice from the English learning disability service provider who continued on it's merry way. And I on mine, as a writer, activist and campaigner. For it's often injustice and unfairness that causes campaigners to emerge from being mothers and grandmothers.

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 he responses and add as part of the guidance.

It's the last day of the consultation, so apologies, I haven't got time to respond to each one. I recommend that you read through my blogs, putting advocacy or speaking out or critical voices in the search:

<http://chrysmuirheadwrites.blogspot.co.uk/>

<http://chrysmassociates.blogspot.co.uk/>

<http://strathedenhospital.blogspot.co.uk/>

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 to some extent

Are there any others you would add?

Yes I'd like to see links to websites on human rights in psychiatric setting, on independent advocacy, on having a voice. Not just Scottish websites eg

<http://www.echr.coe.int/Pages/home.aspx?p=home>

http://www.who.int/topics/mental_health/en/

and many others that are more user oriented, putting users first before systems.

I am more and more convinced that the mental health act contravenes basic human rights by allowing the use of compulsory treatment on vulnerable, mentally distressed people. I was forcibly treated, grabbed and jagged, similarly many other family members of mine. I'm not happy about it. A label of mental disorder shouldn't mean a licence to subdue and subjugate, force and dominate. To my mind that is oppression.

Are there any you would remove?

General Comments

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

I'm not sure what has happened to independent advocacy in Scotland, why it has become to an extent powerless. I worked in independent advocacy in 2000-2, in Perth when a manager in a voluntary sector project. It seemed to have the potential to protect the vulnerable, by giving them a voice. I was an advocate for different individuals in different settings. It did help them to speak out.

But my experiences in Fife as a patient and service user in 2002-4 was a totally different experience. A postcode lottery? I had no voice, was made to take the psychiatric drugs, labelled and consigned to a lifetime of mental illness. I eventually made my own way out of the fog, by taking charge of my own mental health and making a complete recovery. Defying the diagnosis and SEMI label. I didn't believe them anyway but the drugs had kept me captive, for a while.

Since then I've supported two sons in and through the psychiatric system, advocating and giving peer support when they asked me for help. It was their choice to involve me. My sons and I are close. Psychiatry couldn't separate us. Whatever labels they try to pin on us. It's a matter of family trust and loyalty.

And now I find myself an activist and campaigner, blogger and getting more involved in the human rights mental health agenda. Along with fellow activists worldwide. Collective advocacy.

We are grateful for your response. Thank you.