

## **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?**

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?**

**The COSLA guidance says that they should ensure advocacy support for service users and carers involved in care service commissioning again a question as to how the advocate from a service provider could offer support to the service user involved in the commissioning panel without feeling compromised themselves.**

**The need to ensure that advocacy support is tailored to the individual group and that all equality and diversity issues are addressed may be the incentive by well meaning people to allow providers of service for young people for example also to advocate however this support while still crucial is and should be offered in addition to the offer of independent advocacy and not be confused by that service provider being asked to or reconfiguring their organisation to offer some sort of support role that talks for the child. That is not fulfilling the independent advocacy role.**

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?**

**We are supportive of this idea however vox as the National Service user organisation and with a role to support group members from around Scotland would welcome the opportunity to form part of a peer review team that looked at advocacy provision in the round in the individual health board areas.**

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?**

**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?**

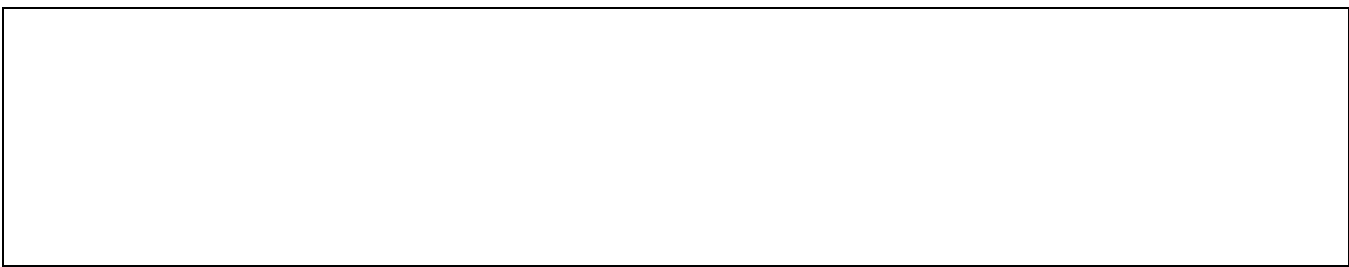
Yes  No

**Are there any others you would add?**

**Are there any you would remove?**

### **General Comments**

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



Our main concern is the lessening of independence that will be created by, as we see it, the change that potentially allows a service provider organisation to also offer advocacy.

For a number of reasons we believe this is absolutely inappropriate. We believe we should ensure independent advice and support for the most vulnerable when their liberty could be restricted by for example a tribunal decision.

The tribunal is just one area where the provision of support by a completely independent individual is crucial. The care plan, which is often considered at a tribunal, often stipulates care services. Our contention is should the advocate be from the organisation that also provides that care the individual could feel compromised in giving freely of their views in relation to their satisfaction or otherwise with that service.

Finally as we move into the world of self directed support it is well recognised that the service providers will, have to treat the service users like commercial customers in order to attract business. In other fields we would not fund an advisory and support service staffed by people employed within an organisation from only one of the competing market providers



**We are grateful for your response. Thank you.**