



QUICK GUIDE

Advocacy

What is advocacy?

Advocacy helps and supports individuals to:

- Say what they want
- Secure their rights
- Represent their interests
- Obtain services they need.

There are many different types of advocacy, including self-advocacy and peer advocacy. However, there are certain circumstances set out in law when local authorities must provide an independent advocate. Local authority commissioned advocacy services can be accessed via a referral from a social worker.

The legislation sets out who can act as an advocate. An advocate must have appropriate training for the particular type of advocacy; competency; integrity and independence from the local authority.

When does the Local Authority have to provide an independent advocate?

Social Care advocacy under the Care Act 2014. The Care Act imposes a duty on the local authority to arrange an independent advocate to facilitate an individual's involvement in:

- Care assessment
- Carers assessment
- Care and support planning and reviews
- Planning for transition from childrens' to adult services
- Young carer's assessment
- Safeguarding enquiries or a Safeguarding Adults Review.

The duty applies where the individual would have 'substantial difficulty' participating without the involvement of an advocate, and where there is no appropriate individual available to support and represent the person's wishes who is not paid or professionally engaged in providing care or treatment to the person or their carer. A family member or friend may be an appropriate person to represent the individual, provided they are available and willing to support the adult and the adult consents to them acting, or, if they lack capacity to consent, it is in their best interests for that person to act.

The local authority makes a decision on whether the person would have 'substantial difficulty' participating by considering whether the person has difficulty in understanding information,

retaining information, using and weighing that information and in expressing their wishes and feelings.

Independent Mental Capacity Advocacy

The Mental Capacity Act 2005 sets out a legal requirement to appoint an Independent Mental Capacity Advocate (IMCA) to assist vulnerable people who lack the mental capacity to make their own decisions about serious medical treatment and where they live.

The Deprivation of Liberty Safeguards (DoLS) also require local authorities to appoint an advocate if they feel it is in an individual's best interests to deprive them of their liberty, and there is no appropriate person (such as close family/friend) to support them and represent their views.

Independent Mental Health Advocacy

Certain individuals are eligible for advocacy (an Independent Mental Health Advocate (IMHA) under the Mental Health Act 1983, for example under some circumstances if they have been detained under the Mental Health Act, are liable to be detained, or are subject to a Community Treatment Order.

Further information

Social Care Institute for Excellence: Independent advocacy under the Care Act 2014

<https://www.scie.org.uk/care-act-2014/advocacy-services/commissioning-independent-advocacy/duties/independent-advocacy-care-act.asp>

Care Act 2014 Statutory Guidance on Independent Advocacy

<https://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance#Chapter7>

Links to advocacy services

Portsmouth: <https://www.solentmind.org.uk>

Southampton: <http://www.choices-advocacy.org.uk> and <https://www.solentmind.org.uk>

Hampshire: <https://www.voiceability.org/support-and-help/services-by-location/our-services-in-hampshire>

Isle of Wight: www.southernadvocacyservices.co.uk