

## Advocacy Under the Care Act

Advocacy enables people to be actively involved in their care and support, to express their wishes and feelings, supporting them to weigh up options, and to make their own decisions.

No matter how complex their needs, Local Authorities have a duty to actively involve people in their care and support. The Care Act has set out the responsibilities of professionals to ensure access to independent advocacy for people during the care and support process to ensure this duty is met.

### The Role of an Independent Advocate

Advocates support people to make their own decisions and be involved as fully as possible, supporting them to communicate their views and speaking on their behalf if necessary. Advocates work with people to:

- understand the local authority process;
- access and understand information;
- communicate their wishes, views and feelings;
- secure their rights;
- have their interests represented;
- explore choices and support them to develop plans that incorporate the least restrictive options available to them;
- challenge decisions if the person wishes them to.

If the advocate does have concerns about decisions that have been made, they will write a report stating these and the local authority must address issues face to face and in writing.

The advocate may need to access records and information on behalf of the person they are representing and will need to be kept informed of any developments and of the outcome of the assessment and the care and support plan.

### Who can get an advocate?

- Adults with care and support needs;
- Carers of adults and carers of children in transition;
- Children who are approaching the transition to adult care and support.

### When?

During care and support processes, including:

- Care assessments including child needs assessment and young carer's assessments.
- Care and support planning and care reviews
- Safeguarding enquires and Safeguarding Adult Reviews (SARs – previously serious case review)

### Eligibility Criteria

Independent advocacy must be made available to people who have substantial difficulty in being fully involved in the care and support process, who do not have an appropriate individual to support that involvement.

## Substantial Difficulty

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Substantial difficulty in being fully involved in decisions about their care and support, means the person finds one or more of the following very difficult:

- Understanding relevant information
- Using or weighing up the information
- Retaining information
- Communicating their views, wishes and feelings

## Appropriate Individuals

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If somebody has substantial difficulty being involved, an appropriate individual must be able to facilitate the person's involvement. In the majority of cases, if there is nobody appropriate to facilitate, for whatever reason, access to an independent advocate **MUST** be offered.

There are two exceptions to this where an appropriate individual **AND** an advocate can be appointed.

- a) When a placement is being considered in NHS-funded provision in either a hospital (for four weeks or more) or in a care home (for eight weeks or more) and the local authority believes that it would be in the best interests of the person to arrange an advocate.
- b) Where there is a disagreement between the local authority and the appropriate individual and both think an independent advocate would be beneficial to the person.

## Referrals

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Referrals should take place immediately when it is clear that someone needs advocacy support. Considering the need for advocacy should be made from the point of first contact, request or referral (including self-referral) and at any subsequent stage of the care and support process.

If a referral is not made straight away, because advocacy was not required, a referral can be made at any stage in the care and support process. Additionally, somebody who has previously worked with an advocate during an earlier process should be re-referred at any time if they need support.

The right to an advocate applies in all settings whether the person lives in the community, a care home and includes prisons (except for safeguarding enquiries or SARs)

## Other Types of Statutory Advocacy

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Advocacy under the Care Act interacts with other statutory advocacy, including Independent Mental Health Advocacy (IMHA), Independent Mental Capacity Advocacy (IMCA) and Children's Advocacy. If you are not sure what type of advocacy is needed, just consult your local Care Act or IMCA provider.



**Helpline: 0300 222 5704**



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