

ADOPTING A FAMILY APPROACH

Short Guide Series

Advocacy for Adults

What is advocacy?

Advocacy helps and supports individuals to:

- say what they want,
- secure their rights,
- represent their interests, and
- obtain services they need.

There are many different types of advocacies 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 Care Act 2014 sets out who can act as an advocate. An advocate must have appropriate training for the particular type of advocacy required and be independent from the local authority.

When does the local authority have to provide an independent advocate?

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

- Care assessment.
- Carer's assessment.
- Care and support planning and reviews.
- Planning for transition from children 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 there is no appropriate individual available to

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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 (IMCA)

The Mental Capacity Act 2005 sets out a legal requirement for local authorities 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 (IMHA)

Certain individuals, known as 'qualifying patients' are eligible for help and support from an Independent Mental Health Advocate (IMHA), under the Mental Health Act 1983. This applies under some circumstances, for example, 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

- [Care and support statutory guidance](#)
- [Care Act 2014](#)

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- VoiceAbility: [About Advocacy](#)
- Social Care Institute for Excellence:
 - [Commissioning independent advocacy under the Care Act](#)
 - [Care Act training: independent advocacy](#)

Links to advocacy services

- Hampshire: [VoiceAbility | Hampshire](#) and [HCC Family Information and Services Hub | Advocacy](#)
- Isle of Wight: [SWAN South West Advocacy Network](#)
- Portsmouth: [Solent Mind](#)
- Southampton: [Choices Advocacy](#)