

# ADVOCACY UNDER THE CARE ACT

## What is Advocacy?

**Advocacy in all its forms seeks to ensure that people, particularly those who are most vulnerable in society, are able to:**

- Have their voice heard on issues that are important to them
- Defend and safeguard their rights
- Have their views and wishes genuinely considered when decisions are being made about their lives

Advocacy is a process of supporting and enabling people to:

- Express their views and concerns
- Access information and services
- Defend and promote their rights and responsibilities
- Explore choices and options

The Care Act says that the Council is responsible in some circumstances to provide independent advocacy to help people who have substantial difficulty saying what they want to say

## What should an Advocate do?

**Acting as an advocate for a person who has substantial difficulty in taking part in care and support or safeguarding processes is a responsible position. It includes assisting a person to:**

- understand the assessment, care and support planning and review and safeguarding processes
- communicate their views, wishes and feelings to the staff involved
- understand how their needs can be met by the Local Authority or other organisation
- make decisions about their care and support arrangements.
- understand their rights under the Care Act
- challenge a decision or process made by the Local Authority

In terms of support during safeguarding, the role of the independent advocate is to support and represent the adult and to facilitate their involvement in their safeguarding enquiry, including:

- decide what outcomes/changes they want;
- understand which actions of their own may expose them to avoidable abuse or neglect;
- understand what actions that they can take to safeguard themselves;
- understand what advice and help they can expect from others, including the criminal justice system;
- understand what parts of the process are completely or partially within their control;
- explain what help they want to avoid reoccurrence and also recover from the experience

## Who might need an Advocate?

**The Council and its Partners, must arrange an independent advocate to support and represent the person if two conditions are met:**

- 1) That if an independent advocate were not provided then they would have substantial difficulty in being fully involved in these processes and;
- 2) There is no appropriate individual available to support and represent their wishes that is not paid or professionally involved in providing care or treatment to the person or their carer

There are four areas where “substantial difficulty” in being involved might be found, these are:

- Being able to understand the relevant information
- Being able to retain information
- Being able to use or weigh up the information
- Being able to communicate their views, wishes and feelings



## Who can act as an Independent advocate?

An Independent Advocate must be suitably experienced and qualified and most importantly have the ability to work independently of the Council, and/or its partners.

The independent advocate must not be someone who is paid to provide care or treatment for the person or an organisation that is paid by the council to carry out assessments, care and support plans or reviews.

## Can a Friend or relative be an advocate?

If there is an appropriate individual the person trusts to help them say what is important to them and who knows their wishes they can choose for them to be their advocate. That person cannot be someone they pay to provide their care or treatment or who supports them professionally e.g. their social worker.

## Specialist Advocacy for People Assessed as Lacking Mental capacity

For People aged 16 and over who have been formally assessed to be lacking mental capacity and have no appropriate friends or family to consult an Independent Mental Capacity Advocate (IMCA) must be instructed when:

- A decision must be made on their behalf about providing, withdrawing or withholding of serious medical treatment
- A decision must be made on their behalf about long term accommodation in hospital, residential nursing or other supported care environment

An IMCA may be instructed when:

- It is proposed to take protective measures under adult protection procedures (over 18). It is unlikely a referral to the IMCA service will be required when a Service User is already working with a Generic Advocate
- the responsible body are reviewing the accommodation arrangements for a person who lacks capacity and there are no friends and family that it would be appropriate to consult

## Specialist Advocacy for People Receiving Treatment under the Mental Health Act

An independent Mental Health Advocate (IMHA) should be provided for people who qualify as follows:

- People being detained under a Section of the Mental Health Act\* or are on leave of absence from hospital
- People on conditional discharge and restricted patients
- Those subject to Guardianship
- Those on Supervised Community Treatment

- Those being considered for a section 57 treatment
- People under 18 and being considered for a Section 58A treatment like electroconvulsive therapy

An IMHA should help people to:

- Understand their rights and the rights others have in relation to them
- Find information, including information about any treatment and the legal authority for providing that treatment
- Have a voice in decisions affecting them by supporting them to speak out, or by representing their views, choices and opinions

\*This does not include emergency and short term detentions such as those made under Sections 4, 5(2), 5(4), 135 or 136

## Other Specialist Advocacy

Independent Sexual Violence Advocate (ISVA) will work closely with the person who has been subject to rape or sexual assault to help them understand the criminal justice system.

Independent Domestic Violence Advocate (IDVA) work closely with the person to assess the level of risk, discuss protective measures and implement protection plans.

## Where can I go for Independent Advocacy in Coventry?

- **Voiceability** is our provider for independent advocacy services (Care Act, IMHA & IMCA):

E-mail [helpline@voiceability.org](mailto:helpline@voiceability.org)

Phone **0300 303 1660**

Web [www.voiceability.org/support-and-help/services-by-location/coventry](http://www.voiceability.org/support-and-help/services-by-location/coventry)

- **ISVA** - Refer by contacting Coventry Rape and Sexual Abuse Centre (CRASAC) helpline on **024 7627 7777** or visit [www.crasac.org.uk/need-help/advocacy](http://www.crasac.org.uk/need-help/advocacy)
- **IDVA** - Refer by contacting Coventry Domestic Violence and Abuse Partnership on **0800 111 4998** or visit [www.safetotalk.org.uk/servicedirectory](http://www.safetotalk.org.uk/servicedirectory)

