



7 Minute Briefing

Statutory Advocacy

What is Advocacy?

Advocacy is free, independent support to involve people in decisions about their health, care and wellbeing.

Sometimes, people find it hard to speak up about what they need or want. Advocacy is all about helping people get their voice heard. An advocate can speak for someone when they can't or help them speak up when they can. This is really important for people who may struggle because of mental health issues, learning disabilities, being very old or frail, or where English is a second language.

Advocates work with people to explore all of the choices and options that are available, to ensure the best decisions are made to safeguard the person and help protect them from preventable harm or mistreatment.

NICE Guidance: Advocacy Services for Adults with Health and Social Care needs:

<https://www.nice.org.uk/guidance/ng227>



The Care Act 2014 & Advocacy

The Care Act 2014 Statutory Guidance (7.4) states there is a duty to arrange an Independent Advocate for adults to enable those who may otherwise have (1) "substantial difficulty" in being involved if there is (2) "no appropriate individual available to support and represent the person's wishes".

The local authority can refer adults for advocacy support for any stage, for any of the following:

- S.9 Needs Assessment.
- S.10 Carer's Assessment.
- S.25 The preparation of a Care and Support Plan or Support Plan.
- S.27 A review of Care and Support Plan or Support Plan.
- S.42 Safeguarding Enquiry.
- S.44 Safeguarding Adults Review (SAR).

The local authority has a duty to instruct an Independent Care Act Advocate if the person meets the criteria above.

Why is Advocacy important in Safeguarding?

When a safeguarding enquiry happens, the process can be stressful and confusing, especially when tough decisions need to be made. For someone who has experienced abuse or neglect, it can be even harder—they might feel scared, upset, or embarrassed. That's why having an independent advocate by their side is so important. The advocate helps them understand what's going on and supports them in achieving the best possible outcome.

Independent Mental Capacity Advocacy (IMCA)

There is a legal duty to appoint an IMCA for any person aged 16 or older in situations where a decision is needed about Serious Medical Treatment (SMT) or Change of Accommodation (CoA). AND the person lacks the capacity to make the decision at that specific time. AND the person has no close family or friends who are appropriate or available to consult.

IMCAs can be instructed for adult safeguarding cases:

- Where protective measures are proposed or undertaken.
- Where the person lacks capacity for proposed protective measures.
- Where there are clear benefits to the person.
- To support victims or person(s) suspected to have caused harm.
- Regardless of family/friends involvement.
- Where there is an intractable conflict of views.
- The person strongly indicates their views are not being taken into consideration by the decision maker.

Independent Mental Health Advocacy (IMHA)

The IMHA service is free, confidential and independent for qualifying patients. If the adult has been placed under a non-temporary section of the Mental Health Act 1983 (MHA) and detained within Gateshead, they can use this service if they:

- Are currently detained under certain sections of the MHA.
- Wanted to know about their rights, apply for a hearing or tribunal.
- Are voluntary patients considering certain treatments.
- Are subject to guardianship, conditional discharge or a Community Treatment Order (CTO).
- Informal patients under 18 and are being considered for electroconvulsive therapy (ECT).

Your Voice Counts promotes inclusive advocacy and access to rights by delivering an opt out IMHA service.

Your Voice Counts Statutory Advocacy Provider



Contact us

Tele: 0191 478 6472 or Freephone 0800 048 7856

Web: www.yvc.org.uk Email: mail@yvc.org.uk

Making a Referral

Referral Forms are available on our website:
<https://www.yvc.org.uk/refer>

Head of Advocacy Sharon de Jesús



Relevant Person's Paid Representative (RPPR)

Person's being deprived of their liberty have a statutory right to a representative. If no appropriate person can be found then the Supervisory Body MUST instruct an RPPR. RPPRs maintain contact with the person and represent and support them in all matters relating to the deprivation of liberty safeguards (DoLS). RPPRs can appoint solicitors for 21a appeals under Schedule A1 of the Mental Capacity Act 2005.

Your Voice Counts works with all persons where the Supervisory Body is Gateshead Council.