

Advocacy

What do we mean by advocacy?

Advocacy is about helping people speak up about what is important to them in all aspects of their life. It can be carried out by anyone a person wants to speak up for them or to help them speak up for themselves. This includes friends, family members, workers, volunteers as well as advocates from independent advocacy organisations.

Some people have no-one in their lives to help them speak up for what they think is important. They may feel isolated and alone, or may be surrounded by people who help but who all have conflicting interests.

Independent advocacy services bring together people who can act as advocates with people who need them. The organisations have advocacy as their main or only function. The advocates are accountable first and foremost to the people they advocate for.

What are the different types of independent advocacy services?

There are different types of independent advocacy services. They can be described in a number of ways.

Here is one way of looking at them:

Professional advocacy organisations use paid workers to act as advocates. They usually support people through a specific issue and work with them until it is resolved.

The same person may use the service on a number of separate occasions. Each advocate may work with a number of people at the same time.

Volunteer advocacy is when the same function is carried out as above, but the advocates are volunteers rather than paid workers.

Citizen advocacy is a special kind of advocacy carried out by volunteers who each work with one person at a time over a long time span. The citizen advocacy 'partnerships' are supported by the organisations but are controlled by the partners within them. They aim to have a long term impact on the communities in which they operate, not just on the individuals they support.

Group or collective advocacy is when a group of people with a shared issue get together to work through it, either with a facilitator, or on their own.

Further information

Further information on all these topics is available from

Michael Diamond - North Ayrshire Council - 01294 317 776

Graham Charlton - South Ayrshire Council - 01292 513 010

Chris Sutton - East Ayrshire Council - 01563 554 889

Lesley Brady - Community Health Division - 01292 513 933

Mental Health (Care and Treatment) (Scotland) Act 2003

Update two

January 2005

This update provides you with information about the Training/Awareness programme, Named Person, Advance Statements and Advocacy.

Training/Awareness Programme

Ongoing - Mental Health Officer training leading to re-accreditation. Contact Mike, Chris or Graham for more information. (Contact details on back page)

January 2005 and ongoing - NHS Education Scotland and Royal College of Psychiatry jointly developed training materials, leading to re-accreditation as Section 22 Approved Medical Practitioners (AMP)

January 2005-March 2005 - Team profession-specific training (Administration staff).

March 2005 - Delivery of training Information to Primary Care Teams

From October 2004 people have been able to start to identify their Named Person and develop their Advanced Statement in preparation for implementation of the Act in April 2005.

Named Person

What is a Named Person?

A Named Person can help to protect your interests if you have to be given care or treatment under the new Act. Under the new Act, you can have a Named Person who will have to be informed and consulted about aspects of your care, and who can make certain applications.

Anyone aged 16 or over can choose their own Named Person so long as the witness can certify that they understand the effect of choosing a Named Person and that they have not been under any undue influence.

If you are under 16 you cannot choose your Named Person. The Act says that your Named Person will be either:

- A person who has parental rights and responsibilities for you, as long as they are 16 years old or more;
- The local authority, if you are being looked after under a care order under the Children Act 1989, or;
- In all other cases your main carer, as long as they are 16 years old or more.

All of our publications are available in other formats.

document reference MH Act Issue2



In this situation, your Named Person will have all the same rights to information, to be consulted and to make applications as they would if you had chosen the person yourself.

What does a Named Person do?

If you have to be treated under the Act any person involved in your care must take account of the views of your named person, unless it is unreasonable or not practicable to do so. They must also take account of your own past and present wishes, and the views of your carer, guardian and welfare attorney if you have them.

Although you can nominate someone as your Named Person at any time after October 2004, **your Named Person will only have rights if :**

- An application is being made, or
- A certificate has been issued, or
- An order has been made

for you to be treated under the Act.

If you are being treated as a voluntary patient and there is no application pending for you to be treated under the Act, then your Named Person has no rights or powers.

It is important that you and your Named Person know that you can both act independently of each other. For example, your Named Person can decide whether to make an application to a Tribunal on your

behalf without waiting for you to ask them to do so. It might be that sometimes you and your Named Person might not agree on what action to take, and you are both entitled to act as you think fit.

When you nominate someone as your Named Person you will want to choose someone who knows you well and whom you trust to act in your best interests.

A Named Person has a number of rights that appear throughout the Act. There are six different kinds of rights, and an example of each kind is listed below.

The Named Person has the right:

- To be consulted when certain things happen - such as when a short-term detention or an application for a compulsory treatment order (CTO) is being considered;
- To be notified when certain changes to your circumstances happen - for example, if your short-term detention is revoked;
- To receive copies of certain records or information which are given to you, including the record made if treatment has been given which conflicts with your advance statement (If you have made one). There is a separate booklet in this series about Advance Statements;
- To make applications or appeals to the Mental Health Tribunal for Scotland (the Tribunal), and to speak and give or lead evidence at a hearing;

- To consent to two medical examinations taking place at the same time, if you are not capable of giving your consent to this (where two medical examinations are needed when an application has been made for a compulsory treatment order);
- To ask for an assessment of your needs from the local authority and/or Health Board.

(Scottish Executive, Edinburgh 2004)

Advance Statements

What is an Advance Statement?

Doctors and other people who are treating you for a mental disorder have a duty to take into account your wishes about how you would like to be treated. Sometimes this can be difficult if, for instance, you are too unwell to make your own decisions.

If you have a mental disorder the Act gives you the right to make a written statement saying how you would like to be treated if you become too unwell in the future to make decisions yourself. **It is not the same as a 'living will', which people sometimes use to say how they would like to be treated if they were dying. An advance statement is only about the treatment you would prefer to receive, or not receive, for your mental disorder.** It must be made while you are well enough to state your treatment preferences, and will only come into force if, in the future, you become too unwell to

make decisions about your treatment for yourself. To be valid an advance statement must be in writing, signed, and witnessed according to the following criteria:

- At the time of making (or withdrawing) an advance statement, the person must have the capacity of properly intending the wishes specified in it;
- The advanced statement must be in writing;
- It must be subscribed (signed) by the person making it;
- The person's subscription of it is witnessed by a person who signs the statement as a witness to that subscription; and
- The witness certifies in writing on the document that, in their opinion, the person making the statement has the capacity referred to in paragraph (i) above.
- An advanced statement may be withdrawn by the person who made it if-
 - At the time of making it the person has the capacity properly to intend to withdraw the statement; and
 - It is made by means of a written document which is signed and witnessed in the same way as the original statement.

(Scottish Executive, Edinburgh 2004)