

## ADVOCACY POLICY



For certain decisions where the individual lacks mental capacity, and has no one unpaid in their life, an independent mental capacity advocate (IMCA) will be brought in.



We recognise that whilst there might be some situations where Advance staff are able to act in an advocacy role, we need to understand when there may be real or perceived conflict of interest, and we may not be the best person to carry out this role. Signposting to advocacy organisations is a priority.



Each person's Support and Safety Plan should say who the individual wants to support them with decisions about different things.



An advocate might be a family member, or friend, a peer advocate or a paid independent advocate, but can be whoever the individual chooses.



We will make sure that everyone has an advocate when they need one, or if they want one.

### POLICY

Advance is committed to ensuring that people we support have adequate support with self advocacy and access to advocacy. An advocate is someone who speaks up on behalf of the individual and represents their needs.

An advocate might be a family member, or friend, a peer advocate or a paid independent advocate, but can be whoever the individual chooses.

Where someone is deemed not to have mental capacity to make their own decisions, and no other advocate is available, an Independent Mental Capacity Advocate will be appointed by the local authority to support individuals with specific decisions.

We will prioritise supporting people to connect with people in their community, with the aim of supporting them to make friends, so that everyone has someone in their life who isn't paid to be there and can support them to speak up.

#### 1. PROCEDURE

- 1.1 As part of the Safety and Support Planning process the individual and their family need to decide who will support them with decision making around which areas of their life, where they need support to make decisions.
- 1.2 Wherever appropriate we will signpost individuals to local self advocacy organisations so that they can learn the skills and confidence to speak up for themselves.

- 1.3 An individual may have a variety of people who support them with different decisions and may self advocate for others. Staff should always check that the individual feels they are getting the right support from the right person.
- 1.4 Where there is no one in the individual's life who can advocate for them already then connecting individuals with advocates needs to be a proactive process, not left until an emergency arises.
- 1.5 Where there is disagreement between the family and the individual over a decision, advocates will be needed to support the individual's viewpoint to be heard.
- 1.6 In some situations staff might be advocates for individuals, but we need to be aware of where there is or might be perceived to be conflict of interest, such as decisions around changes to support or to accommodation and ensure advocacy is provided by another agency or organisation.

## **2. INDEPENDENT MENTAL CAPACITY ADVOCATE (IMCA)**

- 2.1 The Mental Capacity Act 2005 states that when people lack mental capacity for certain decisions and have no appropriate person (apart from paid staff) to support them with making the decision then an IMCA will be appointed.
- 2.2 The local authority and NHS employees have a duty to bring an IMCA in when certain decisions are being made. These are when:
  - The decision is about serious medical treatment provided by the NHS.
  - It is proposed that the person be moved into long term care of more than 28 days in hospital or 8 weeks in a care home.
  - A long term move (8 weeks or more) to another hospital or care home is being considered.
- 2.3 They may also be brought in if it is felt they could be of benefit for:
  - Care reviews about accommodation or changes to accommodation.
  - Adult protection cases, even if the person who lacks capacity has family members or friends.
- 2.4 The Mental Capacity Act says people who lack capacity cannot:
  - Understand information given to them.
  - Retain that information long enough to make a decision.
  - Weigh up the information available to make a decision.
  - Communicate their decision, although it's recognised that people can communicate by any means possible, including squeezing a hand, or blinking.
- 2.5 A person who does not lack mental capacity cannot be kept somewhere against their will or prevented from taking part in a certain activity, if they decide they want to do so, unless they are detained under the Mental Health Act 1983 & 2007
- 2.6 If staff feel an IMCA is needed in a certain situation, they must clearly state this to the Local Authority Social Services or NHS professionals involved in the decision making process.

### 3. INDEPENDENT MENTAL HEALTH ADVOCATE (IMHA)

- 3.1 An IMHA is an independent advocate who is specially trained to work within the framework of the Mental Health Act 1983 to support people to understand their rights under the Act and participate in decisions about their care and treatment.
- 3.2 Access to an IMHA is a statutory right for people detained under most sections of the Mental Health Act, subject to Guardianship or on a community treatment order (CTO).
- 3.3 IMHAs are independent of mental health services and can help people get their opinions heard and make sure they know their rights under the law.
- 3.4 It is the responsibility of health professionals to ensure that an IMHA is appointed where required.

<b>Policy owner</b>	Director of Support
<b>Date written</b>	April 2016
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<b>Date of approval</b>	July 2016
<b>Who was consulted</b>	<ul style="list-style-type: none"> <li>• Adebayo Oyeniya</li> <li>• Ian Bond</li> <li>• Chris Pascoe</li> <li>• Diane Benden</li> <li>• Faye Zarb</li> <li>• Matthew Wilson</li> </ul>
<b>Related Policies</b>	<ul style="list-style-type: none"> <li>• <a href="#">Mental Capacity</a></li> <li>• <a href="#">Support Planning</a></li> </ul>