



## Care Act Advocacy Factsheet

Advocacy Hub  
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### When would a Care Act advocate become involved?

A referral should be made for Care Act advocacy where all three criteria below are met:

1.	The Local Authority are engaged in a review of care, an assessment of needs, a preparation of a care and support plan, or a safeguarding enquiry <sup>1</sup>	<ul style="list-style-type: none"> <li>• Advocacy should be considered from first contact with the person, as soon as the LA are involved.</li> <li>• Where there are joint assessments etc with Continuing Health Care, the social work professional should make a Care Act advocacy referral</li> <li>• Carers are equally eligible for Care Act advocacy, if other criteria below are met</li> </ul>
2.	The person has substantial difficulty being involved in the process	<ul style="list-style-type: none"> <li>• No formal capacity assessment is required</li> <li>• Similarly to the Mental Capacity Act, substantial difficulty arises when the person is unable to either retain or weigh information, or communicate their views.</li> </ul>
3.	There is no other appropriate person who can advocate for them and support them to be involved in the process.	<ul style="list-style-type: none"> <li>• This must not be someone paid to look after the person</li> <li>• Family may be inappropriate due to not wanting to take on an advocacy role, or to concerns they aren't able to advocate in person's best interests</li> <li>• Disagreement between family and professionals does not necessarily mean they aren't appropriate, but all parties may agree an advocate would be helpful</li> </ul>

<sup>1</sup> Care Act Guidance 7.19 states advocacy should be considered for the following:

- a needs assessment under section 9 of the Care Act
- a carer's assessment under section 10
- the preparation of a care and support plan or support plan under section 25
- a review of care and support plan or support plan under section 27
- a child's needs assessment under section 58
- a child's carer's assessment under section 60 (therefore some people below 16 years of age)
- a young carer's assessment under section 63
- safeguarding under section 68

We accept Care Act advocacy referrals for people whose care is funded by CYC and who live in York or up to 25 miles outside York's boundary.

Referrals need to be made electronically, via our referral form which can be found under the professionals tab on [www.yorkadvocacy.org.uk](http://www.yorkadvocacy.org.uk)

### **What is the advocate's role?**

The advocate's role is to identify what the wishes, thoughts and beliefs of the client are in relation to whichever social care process they're in, and to support the client to communicate this. They will help the client to make informed decisions about their care and treatment, and understand their rights under the Care Act and their wider human rights.

In the case of clients who don't have capacity to tell us what they want, the advocate reviews records, consult with others and the client where possible to determine what the wishes, thoughts and beliefs of the client would be. The advocate would also observe the client in their current environment.

### **What isn't the advocate's role?**

The advocate is not there to make best interest decisions, but to inform you of the client's views and wishes. For client's lacking capacity, this will be based on the evidence they have gathered and they will feed in what the client might have wanted in the circumstances.

The advocate is not there to communicate difficult decisions, or make decisions about someone's care, support or treatment.

The Care Act advocate is also not there to provide wider 'generic' advocacy (such as around housing needs or welfare benefits), although a referral may be made to our generic advocacy service or the Care Act advocate will signpost the client to further support.

### **The right to challenge**

The advocate has a duty to challenge a decision where they have concerns about how the local authority has acted or what decision has been made; they will do this in a written report, which the local authority has a duty to consider, meet with the advocate to discuss and respond in writing. The advocate may challenge a decision if they feel it is inconsistent with the local authority's duty to promote the person's wellbeing, or where the decision does not appear to meet all eligible needs, or where they believe the client would not have wished this outcome had they the capacity to communicate this.

### **What we need from you**

The local authority should take reasonable steps to assist the advocate, including:

- Letting other agencies know the advocate is involved
- Facilitating access to the person (in private where possible) and records
- Proposing a reasonable timeframe for assessment etc which should allow the advocate to consult relevant people
- Keep the advocate informed of developments

Please ensure that you inform us of any risk in advance of meeting a client that might affect the safety of the advocate.