

Title: <i>Advocacy in Safeguarding Adults</i>	
Business Area: <i>Devon Safeguarding Adults</i>	
Document Version No: <i>1.0</i>	Document Ref:
Author: <i>Various</i>	Date: <i>April 2016</i>
Business Owner: <i>Sarah Mackereth, Principal Social Worker</i>	
For queries relating to this Guidance, please contact: adultswayweworkgroup-mailbox@devon.gov.uk	
Related Legislation / Strategy / Policy: <i>Care Act 2014; Care Act 2014 Statutory Guidance; Police and Criminal Evidence Act 1984; Youth Justice and Criminal Evidence Act 1999; Sexual Offences Act 2003; Protection from Harassment Act 1997; Criminal Justice and Courts Act 2015</i>	
Related Practice Guidance: <i>Legal Framework; Managing HR Concerns with Safeguarding Adults; Operational Guidance; Recording and Preserving Evidence; Responsible Manager; Responsibilities of a Safeguarding Adults Investigator</i>	

Contents

1. Advocacy in Safeguarding Adults	3
2. Independent Mental Capacity Advocates.....	4

1. Advocacy in Safeguarding Adults

- 1.1. Where an the adult at risk may otherwise not be able to fully involved in a safeguarding Enquiry it should be arranged for them to have the support of an advocate. An advocate can be a family member, a friend, or an independent advocate, such as an Independent Mental Capacity Advocate (IMCA).
- 1.2. Anyone who is un-befriended and who would have substantial difficulty in being involved (i.e. informed and consulted) in a SA Enquiry, will require an independent advocate of some sort. This would only have to be an IMCA if they lack capacity to make the decisions required.
- 1.3. The advocate can be an IMCA if the person lacks capacity and there is not likely to be any change in treatment or care but the advocate does not have to be an IMCA in these circumstances. The need for and IMCA can be decided on a case by case basis.
- 1.4. There are different types of advocacy that an advocate can provide:
 - Instructed advocate; they take their instructions from the person they are representing. For example, they will only attend meetings or express views with the permission of that person.
 - Non-instructed advocate they work with people who lack capacity to make decisions about how the advocate should represent them. Non-instructed advocates independently decide how best to represent the person.
- 1.5. Advocates can attend Safeguarding meetings, either accompanying the adult at risk, or on their behalf, to represent the person's views and wishes. Instructed advocates would only attend with the permission of the adult at risk.
- 1.6. An adult who has been abused, or is at risk of abuse, can consider using one of a number of different types of advocacy:
 - Formal advocacy – e.g. provided by a solicitor
 - An informal advocate, such as a friend, a relative, or the support of a group of people with similar issues
 - A paid advocate from a specialist advocacy organisation
 - Advocacy from the person's key worker – e.g. Social Worker or Nurse
 - Independent Mental Capacity Advocate (IMCA)
- 1.7. Where someone has Lasting Powers of Attorney (LPA) for an adult at risk of abuse, the person with LPA should be considered as their advocate (consider which LPA the person holds; Finances and/or Welfare). However, where there is reasonable belief that the person holding LPA is not acting in the best interests of the person lacking capacity, an application should be made to the Court of Protection or to the Office of the Public Guardian, for either a best interest decision, or to displace the LPA and for an Independent Advocate to be considered.

2. Independent Mental Capacity Advocates

- 2.1. As stated, there is a legal requirement to instruct an IMCA for an adult at risk if they lack capacity to make decisions about their safety.
- 2.2. Instruct an IMCA if the following requirements are met;
 - Where Safeguarding Adults measures are being put in place in relation to the protection of adults from abuse, and
 - Where the person lacks capacity, and
 - Consulting family or friends is compromised by the reasonable belief that they would not have the person's best interests at heart, or
 - Where the person is abusing, or has abused, another person
- 2.3. Devon County Council and the NHS Services in Devon have commissioned advocacy services that can be offered to adults involved in Safeguarding Adults processes. [link?](#)
- 2.4. As a general rule, if an IMCA or other advocate is needed, they should be involved at the earliest opportunity. This does not preclude emergency action, which may need to take place to protect someone from harm. The Chair of the Safeguarding process and Responsible Manager (if different) should discuss if and when an IMCA instruction should be made.
- 2.5. The SCIE document '[Practice Guidance on the Involvement of Independent Mental Capacity Advocates \(IMCAs\) in Safeguarding Adults](#)' is also helpful. <http://www.scie.org.uk/adults/safeguarding/selfneglect/index.asp>