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“The Scottish Government’s policy is, and will remain, that independent advocacy should be available to all who need it. No-one should need to ask for an advocate. Health professionals should recognise when someone could benefit from advocacy and ensure that they have access to it.”

Shona Robison, May 2008,
(cited within SIAA, 2009)
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References
1. Introduction

1.1 Introduction & Background

In 2003, the Ayrshire & Arran Advocacy Steering Group developed the ‘Advocacy Plan for Ayrshire and Arran 2004-2007’ (NHS Ayrshire & Arran, 2004). The plan was developed following the introduction of the statutory right to independent advocacy for all people with mental disorder, granted by the Mental Health (Care and Treatment) (Scotland) Act 2003, and the mutual statutory duty that legislation placed on NHS Boards and Local Authorities to secure such provision.

The plan outlined the desired strategic direction for the commissioning of Ayrshire-based independent advocacy services and set out a three year action plan for the ongoing development and delivery of independent advocacy services across each of the three Ayrshire local authority areas in order to meet legislative and policy requirements.

- **367,160** people live in Ayrshire & Arran of whom it is estimated that 20% live with some form of mental disorder.

- This equates to **73,432** Ayrshire & Arran residents with a legal right of access to independent advocacy under the Mental Health (Care & Treatment) (Scotland) Act 2003.

- It is estimated that 8.3% of children in Scotland have a diagnosed mental health problem – this equates to **5,323** children living in Ayrshire & Arran who should be routinely offered access to independent advocacy services.¹

Since publication of the 2004-2007 plan, a number of additional legislative measures, national policies and priorities have been implemented that have already impacted on and/or will affect the demand placed on local independent advocacy services in the medium to longer-term (see Appendix 2).

As such, NHS Ayrshire and Arran and its Local Authority partners agreed to review and update the Advocacy Plan for Ayrshire & Arran in order to ensure that the NHS and Local Authority partners were continuing to meet their obligations in respect of securing quality independent advocacy service provision for their most vulnerable and marginalised service users.

¹ All figures quoted are drawn from the 2010 Health & Wellbeing Profiles for East, North & South Ayrshire Community Health Partnerships, as published by the Scottish Public Health Observatory. (see www.scotpho.org.uk/profiles).
1.2 Refreshed Plan Development Phase (2009-2011)

In order to drive forward development of a refreshed Advocacy Plan, the Ayrshire and Arran Advocacy Steering Group was reconvened in autumn 2009 with an initial remit to map existing advocacy service provision and review advocacy commissioning processes across Ayrshire and Arran. The Ayrshire-wide review (NHS Ayrshire & Arran, 2009) aimed to audit the current availability of independent advocacy service provision; map locally available independent advocacy service provision against statutory requirements to identify any gaps; and recommend a range of options for the future commissioning of independent advocacy services.

The review identified a number of challenges and gaps relating to the independent advocacy provision currently commissioned by the NHS and the Local Authorities in Ayrshire (see section 3.2). However, the area of greatest need was the identified gaps in local provision for those groups of vulnerable people with a legal entitlement to independent advocacy service provision under the Mental Health (Care and Treatment) (Scotland) Act 2003 – particularly in relation to a lack of available independent advocacy provision for children and young people with mental disorder.

The Ayrshire Strategic Alliance\(^2\) considered the initial findings of the review in late 2009, following which each of the Local Authorities were tasked to complete an internal review of their own arrangements for the securing of independent advocacy in order to ensure that statutory obligations could be met as a matter of priority. However, in taking forward this work it was quickly identified that the advocacy-specific review could not be undertaken in isolation and would be considered as part of wider funding review during financial year 2010/11.

Since that time, the Scottish Government has formally requested that NHS Boards, with support from the Scottish Independent Advocacy Alliance, determine local need for independent advocacy services and develop formal plans in order to offer assurance that gaps in local independent advocacy provision are being identified and addressed.

In support of the advocacy planning process, the membership of the original Advocacy Steering Group has recently been reviewed and extended to include local advocacy providers as a first step towards the formation of an ‘Ayrshire Advocacy Partnership’. It is envisaged that the partnership will have the delegated responsibility for the ongoing development and implementation of the Strategic Plan for Independent Advocacy across Ayrshire and Arran.

Discussions between partners involved thus far (see figure 1, page 3) have been instrumental in the development of this refreshed, outcome-focused strategic overview of the priorities for independent advocacy development within Ayrshire and Arran over the next two to three years. Moreover, all partners are now fully committed to continue to work collaboratively in order to develop local operational action plans in support of the agreed joint-outcomes.

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\(^2\) The Strategic Alliance are senior officers from East Ayrshire Council; North Ayrshire Council; South Ayrshire Council; and NHS Ayrshire and Arran who work collaboratively to improve partnership arrangements in the planning and delivery of services within the context of community planning.
PLEASE NOTE

The plan that follows highlights the main areas identified for priority action with regards to the independent advocacy services currently commissioned in Ayrshire, and outlines the desired strategic outcomes to be achieved within the lifetime of this plan in order to address those gaps.

The outcomes have been developed and jointly-agreed by NHS Ayrshire & Arran and Local Authority Commissioning Officers in collaboration with local independent advocacy service providers.

Local commissioners acknowledge that there are a wide range of organisations that offer an advocacy, advice and support role as part of their wider remit e.g. housing support organisations; carers centres etc. However, the content of the plan that follows relates specifically to those organisations that provide ‘independent advocacy’ due to the specific statutory duties in that regard. Whilst commissioners recognise the important role that organisations with an advisory and advocacy support role play within the communities they serve, such organisations are deemed to be outwith the scope and remit of this particular plan.
2. Definition & Scope of Independent Advocacy

2.1 What is Independent Advocacy?

The aim of independent advocacy is to ensure that vulnerable people are supported to express their own needs and wants and are able to make their own informed decisions (SIAA, 2008). Independent advocacy therefore has an important role to play in ensuring social justice for those who are at risk of exclusion and for people who face particular difficulties when trying to make their own needs and wants known (SIAA, 2010).

The Scottish Independent Advocacy Alliance (SIAA, 2010) has defined that advocacy:

- Safeguards people who are vulnerable and discriminated against or whom services find difficult to serve.
- Empowers people who need a stronger voice by enabling them to express their own needs and make their own decisions.
- Enables people to gain access to information, explore and understand their options, and to make their views and wishes known.
- Speaks up on behalf of people who are unable to do so for themselves.

The SIAA further state (SIAA, 2010) that advocacy becomes an organised activity because:

- Some people in our society are more likely than others to be treated badly, either because of other people’s prejudice, or their own vulnerability, or both.
- Some people have no connections to family or friends or the wider community who could support them.
- For some people family and friends are part of the problem.
- Some people may only have professional paid workers involved in their lives. No matter how good the relationship may be, or how well supported they may feel, situations can arise when the person’s wishes are not what the paid worker may feel is the right way forward.
- A paid professional may be constricted by their role, their legal responsibilities or by their employer.

The role of the advocate is to ensure that the voice and opinions of the vulnerable person are heard – particularly in circumstances where decisions are being made by service systems that will directly affect or impact on that vulnerable person. Therefore, the loyalty of the independent advocate lies solely with the person for whom they are advocating.
2.2 The Scottish Advocacy Movement

Independent advocacy provision within Scotland has grown and developed over a number of years with over 100 independent advocacy organisations now operating in Scotland (SIAA, 2008). This has, to some extent, been due to greater levels of consistent, longer-term funding being provided by statutory bodies, in addition to the increased availability of other charitable funding streams (e.g. National Lottery Grants), in order to ensure vulnerable people within local communities have greater access to independent advocacy services.

The main membership body for advocacy providers within Scotland is the Scottish Independent Advocacy Alliance (SIAA). The SIAA represents and supports a wide range of member advocacy organisations from across Scotland and is funded through governmental grants. Recent SIAA achievements have included the publication of Principles and Standards for Independent Advocacy (SIAA, 2008); Code of Practice for Independent Advocacy (SIAA, 2008); and Independent Advocacy: An Evaluation Framework (SIAA, 2010).

The SIAA has also been instrumental in driving forward and promoting the role of independent advocacy at a national level in its overall aim to ensure that independent advocacy is available to any vulnerable person in Scotland (SIAA, 2010). As a result, the requirement for statutory bodies to consider the importance of ensuring adequate independent advocacy provision within local areas is, increasingly, being embedded within a range of national governmental policy documentation in addition to recent legislative measures (see Appendix 2).

The SIAA (2010) definition of ‘independence’ states that an independent advocacy organisation should be structurally, financially and psychologically separate from service providers and other services.

- **Structurally** - an independent advocacy organisation should be a separate organisation in its own right e.g. registered as a charity or company and have their own Management Committee or Board of Directors. Everyone involved in the organisation should recognise that they are separate and different from other organisations and services.

- **Financially** - an independent advocacy organisation should have its own source of funding that does not cause any conflicts of interest and that does not compromise the work it does.

- **Psychologically** - everyone involved in the organisation should know that they are only limited in what they do by the principles of independent advocacy, resources and the law. It is important to recognise that although there may be conflicts of interest present, psychological independence is vital.

Most recently, the SIAA has been tasked by the Scottish Government to review and update the Guide for Commissioners (previously published by the Scottish Executive in 2001). The finalised document ‘Independent Advocacy: A Guide for Commissioners’ was published by the SIAA in 2010 to clearly outline the statutory obligations of commissioners under legislation and provide commissioners with detailed guidance in relation to the planning, prioritisation and commissioning of local advocacy provision.
2.3 Roles & Responsibilities

Independent advocacy (as an organised activity) is usually provided by voluntary sector, community-led, charitable advocacy organisations. Independent advocacy service provision can take a number of different formats dependent on the type(s) of advocacy provision being offered by the advocacy organisation (see Appendix 1).

NHS Boards and Local Authorities have a range of statutory responsibilities in relation to the commissioning of independent advocacy provision for specific groups of vulnerable people and/or supporting their vulnerable service users to access local independent advocacy services (see Appendix 2). As such, NHS Boards and Local Authorities jointly-commission local independent advocacy services in order to comply with their statutory duties and meet the independent advocacy needs of their local communities.

2.4 Local Understanding of ‘Independence’

It is vital that the role of an independent advocate is not compromised in any way. As such, it is important to ensure that the advocacy services provided to an individual are divorced from the interests of all other persons concerned with the patient’s care or welfare (Scottish Executive, 2005). It is therefore essential to ensure that the advocacy services being provided locally are ‘independent’.

For the purpose of this plan the definition of ‘independence’ to be adopted by the NHS Board and Local Authorities for commissioning purposes will be that as outlined within the Mental Health (Care and Treatment) (Scotland) Act 2003 and associated Code of Practice (Volume One, s108-110, pg 111) (Scottish Executive, 2005).

As such, an advocacy organisation will be considered to be ‘independent’ if it is not a statutory public body i.e. a Local Authority, Health Board or NHS Trust (or member thereof). In most circumstances, it would be expected that the sole role and remit of an independent advocacy organisation would be to provide independent advocacy services. However, local commissioners may consider an organisation with additional service strands to be ‘independent’ in circumstances where it is not a statutory public body, and where the organisation can demonstrate that the other tasks undertaken by the organisation either complement, or do not conflict with, the provision of independent advocacy. In such cases, consideration would be given as to whether the advocacy services were structurally, financially or psychologically separate from the other services provided by the organisation. Furthermore, assurances would be sought from the organisation that there are clear policies and procedures in place to identify and manage/minimise the risk of any conflict of interest. Moreover, if the independent advocacy service or advocate identifies a conflict of interest, it would be expected that they would inform all relevant parties of this and withdraw from acting for the client/service user.

In all circumstances, it would be expected that all organisations commissioned to provide independent advocacy services would be able to demonstrate that they have robust processes in place to ensure that all persons who directly deliver advocacy (the ‘advocates’), whether employed or volunteering with the independent advocacy organisation, have no other involvement in an individual’s care, treatment or in providing any other services to them.
3. Agreed Priorities 2012-14

3.1 Strategic Vision

The desired vision of the NHS Board and its Local Authority partners is for independent advocacy service provision to be made available to all vulnerable people within Ayrshire and Arran who require it.

NHS Ayrshire and Arran; East Ayrshire Council; North Ayrshire Council; and South Ayrshire Council remain committed to securing the best possible independent advocacy service provision for the most vulnerable people of Ayrshire and Arran within the financial resources available.

As such, the partners have adopted a pragmatic approach for the lifetime of this plan in order to ensure that we can guarantee responsive and timely access to independent advocacy service provision for all adults and children with a statutory right to such provision.

Figure 2 - Our Long-Term Vision for Independent Advocacy in Ayrshire

“all vulnerable people living within Ayrshire & Arran are aware of their local independent advocacy service provision and are pro-actively supported to access the services to which they are entitled, in order to have their voice and opinions heard, make informed choices and maintain control over their lives at the point of advocacy need”
3.2 Current Challenges & Gaps

The main challenges and gaps as identified by the initial review undertaken by NHS Ayrshire & Arran in 2009, and as identified through more recent discussions with public sector staff; local independent advocacy service providers; and ongoing discussion with existing service users can be summarised as follows.

i. Impact of the Mental Health (Care & Treatment) (Scotland) Act 2003

The need to prioritise those clients requiring independent advocacy services as a result of the Mental Health (Care and Treatment) (Scotland) Act 2003 has seen a sharp rise in the need for individual, issue based advocacy for those people in crisis who are subject to compulsory measures under the Act. As a direct result, those people with mental disorder living within the community who are not in crisis, and who are as equally entitled to independent advocacy provision under the Act as those subject to compulsory measures, are now facing lengthier waits for access to independent advocacy services. Furthermore, one-to-one, issue based advocacy is much more staff-time intensive for advocacy organisations which thereby limits service capacity to pro-actively develop other models of advocacy delivery e.g. collective or self-advocacy.

There are a number of particular challenges within Ayrshire in relation to securing advocacy provision under the Mental Health (Care and Treatment) (Scotland) Act 2003 for the following client groups:-

- Children and Young People with Mental Disorder

   In 2009, NHS Ayrshire and Arran and the local authorities identified a major gap in relation to independent advocacy service provision for children and young people with mental disorder across Ayrshire in order to meet the requirements of the Mental Health (Care and Treatment) (Scotland) Act 2003. Work has been ongoing throughout 2010/11 to look at how this gap could be addressed and this will continue to be an important area for priority action throughout the lifetime of this plan. A further challenge has been identified as to how best to ensure referral to independent advocacy services at as early an opportunity as possible – particularly for children in crisis e.g. the need to develop more robust referral processes in order to ensure direct access to independent advocacy services in the interim period between referral to child and adolescent mental health services and the children being seen by those services.

- Prisoners with Mental Disorder

   In late 2011 the responsibility for the healthcare of prisoners transferred from the Scottish Prison Service to NHS Boards. To date, prisoners with mental disorder have not routinely had access to independent advocacy service provision whilst in prison. It is envisaged that this gap in existing provision will be brought into greater focus by the transfer of healthcare responsibility to NHS Boards. This gap in provision may require to be addressed jointly by NHS Ayrshire and Arran and East Ayrshire Council given their duties under the Mental Health (Care and Treatment) (Scotland) Act 2003.
Child Protection – Support for Vulnerable Parents and Children

An increasing number of vulnerable people (e.g. parents or children with learning disability or other mental disorder) are seeking the assistance of an independent advocate when involved in formal child protection processes. Independent advocacy service provision for this client group requires specialist, in-depth knowledge of the formal child protection processes and procedures and is not routinely offered by all independent advocacy organisations who provide services under the Mental Health (Care and Treatment) (Scotland) Act 2003.

ii. Impact of the Adult Support and Protection Act 2007

The statutory duty placed on local authorities to consider the importance of advocacy for those adults subject to the Adult Support and Protection Act 2007 has not yet been fully explored. As a result, the continued commissioning of condition-specific advocacy services as a result of the mental health legislation may result in the potential inability to provide access to advocacy services for vulnerable adults under the ASP Act who do not have a mental disorder.

iii. Impact of Increased Use of Direct Payments for Self-Directed Care

An increasing number of vulnerable people who wish to implement direct payments for personal social care services are now seeking assistance and support from independent advocacy organisations. This has increased the demand on, and the specialist knowledge required of, local independent advocacy organisations.

iv. Impact of the Patient Rights (Scotland) Act 2011

The future impact of the Patients’ Rights legislation is not yet known, but there is currently no local independent advocacy provision for those vulnerable patients who have no known mental disorder to be referred (other than for people aged over 65). The duty to refer patients to appropriate sources of support under the Patient Rights Act will also undoubtedly increase demand for independent advocacy from those patients who do have a mental disorder at a time when waiting lists are already common place for those people not in immediate crisis.

v. Need for Additional Training and Awareness-Raising

There would still appear to be a lack of understanding within the statutory organisations/referral agencies as to the role of the advocate and referral protocols. Furthermore, due to the increasing number of referrals to independent advocacy organisations for more specialised types of support (e.g. as a direct result of child or adult support and protection processes), independent advocates are now expected to have a much more in-depth knowledge of statutory and legislative processes. Additional access to training and/or awareness-raising for statutory sector staff and independent advocates within these areas would enable all organisations to better address the needs of those vulnerable people who could benefit from access to independent advocacy as a result of their involvement in formal or legislative processes.
3.3 Statutory Funding Commitment for Independent Advocacy

The reality of public service commissioning is such that there is a limited financial resource available to fund all the important work that takes place within our communities. Therefore, it is acknowledged that the financial pressures currently being experienced within the public sector may impact on the availability of additional financial resources for independent advocacy during the lifetime of this plan.

However, it is hoped that the challenging financial circumstances that we now find ourselves in will not unnecessarily hinder further development of our independent advocacy services, but will instead be a catalyst for innovation; new ways of working; and strengthened partnerships in order to generate additional capacity and create new opportunities for further development of our local independent advocacy services beyond minimum statutory requirements.

Independent advocacy service provision in Ayrshire is currently commissioned and financially supported by NHS Ayrshire and Arran; East Ayrshire Council; North Ayrshire Council; and South Ayrshire Council. Services are commissioned jointly between NHS Ayrshire and Arran and the local authority within which the independent advocacy organisation operates in order to meet the requirements of the Mental Health (Care and Treatment) (Scotland) Act 2003. A summary of the Ayrshire-based independent advocacy services currently commissioned and/or operating independently of statutory funding can be found at Appendix 3.

The SIAA Guide for Commissioners (2010) recommends that funding should be agreed for a minimum period of three years taking account of inflation and a cost of living increase for staff with funding ring-fenced for external evaluation. However, due to the various funding reviews currently underway and some local variance in current commissioning arrangements, it has not been possible during the development of this plan to formally approve the overall funding levels across Ayrshire and Arran, as yet, for the full term of this plan.

However, the statutory partners have committed to continue to work in partnership over the coming months in order to develop and jointly approve a core service specification for commissioned independent advocacy services, with a commitment that the associated funding required will be identified, agreed and committed by all statutory partners. In doing so, the people of Ayrshire and Arran will have access to the same level of independent advocacy services regardless of where they are in Ayrshire, offering greater consistency and equity of access to independent advocacy services than is available currently.

Moreover, the statutory partners remain fully committed to ensuring that all statutory obligations continue to be met in the interim, with the confirmed funding levels for 2011/12 detailed overleaf at Table 1.
### Table 1 – Financial allocation (2011/12) for the commissioning of independent advocacy service provision in Ayrshire & Arran

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<th>NHS Ayrshire &amp; Arran</th>
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<th>North Ayrshire Council</th>
<th>South Ayrshire Council</th>
<th>Total Allocation 2011/12</th>
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Estimated total spend per head of population 2011-2012

*(based on an estimated Ayrshire & Arran total population of 367,160)*

£2.48
3.4 Agreed Joint-Outcomes 2012-2014

The statutory partners, working in partnership with local advocacy service providers, have committed to working collaboratively in order to drive forward the development of local independent advocacy service provision across Ayrshire and Arran.

In order to move forward over the next two to three years, a number of joint-outcomes have been agreed to which all partners have committed to working towards throughout the lifetime of this plan. The agreed joint outcomes and resultant key inputs and outputs (by organisation) are outlined at Figure 3 overleaf.

East, North and South Ayrshire Council will also develop and implement operational action plans for each local authority area, in partnership with all stakeholders, in order to specifically determine and address any identified community priorities for independent advocacy development. Local action plans will clearly outline how each locally-determined action links to the achievement of the overarching joint-outcomes. Moreover, it has been agreed that some actions will continue to be undertaken on an Ayrshire-wide, collaborative basis (see below).

By adopting an outcome-based approach, it is hoped that the flexibility to determine areas of greatest need at a community level will be retained whilst offering increased opportunity to move towards greater equity and consistency of access across Ayrshire; increased opportunities for partnership working; with the potential to identify new, innovative and efficient ways of working on an Ayrshire-wide basis.

Joint actions in support of agreed outcomes

- Ensuring greater consistency and equity of access to independent advocacy services through formalised commissioning processes supported by the development of a core service specification for implementation by all statutory partners.

- Joint development and implementation of a locally agreed performance management framework to ensure greater consistency and reduced burden with regards to monitoring and reporting arrangements for local independent advocacy service providers.

- Formal audit and review of existing referral pathways and protocols in order to offer greater assurance that those people with a right of access to independent advocacy services are being supported to do so.

- Identification and development of joint-training opportunities and other opportunities for collaborative working.
Figure 3 – Jointly Agreed Outcomes Framework for Independent Advocacy Development in Ayrshire 2012-14

**Inputs/Stakeholders**
- Collaborative Commissioning Group (Chaired by NHS Ayrshire & Arran)
- NHS Commissioning Officers
- LA Commissioning Officers
- NHS Operational Services – Adult MH (Including LD), CAMHS, Patient & Community Relations
- LA - Adult & Older Peoples Services
- LA - Children & Family Services
- Advocacy Service Providers
- Advocacy Service Users
- General Public

**Activities/Output**
- Robust governance and commissioning arrangements
- Commissioning and monitoring of core independent advocacy services consistently across Ayrshire
- Ongoing development of Ayrshire Advocacy Steering Group
- Development and implementation of local advocacy action plans by each local authority
- Ongoing Community Engagement

**Short Term (by 31/12/12)**
- Robust referral pathways and operational monitoring processes provide assurance that independent advocacy is being routinely offered to all adults and children who are subject to compulsory measures under the Mental Health (Care & Treatment) Act 2003.
- Independent advocacy services for looked after and accommodated children is jointly commissioned on a pan-Ayrshire basis.

**Intermediate (By 31/12/14)**
- Appropriate high quality, best value services are commissioned consistently and equitably by the NHS Board and local authorities in order to ensure that the minimum level of service provision available, regardless of where a person is in Ayrshire, fully meets the advocacy needs of:
  - all vulnerable adults and children with mental disorder who have a legal right of access to independent advocacy services under the Mental Health (Care & Treatment) Act 2003 (e.g. inpatients; people living in the community; people living in residential care settings; prisoners etc);
  - all vulnerable adults and children (with or without mental disorder) who are directly involved in local-authority-led statutory or legislative processes (e.g. adult support and protection; adults with incapacity; child protection proceedings etc).
- All locally commissioned independent advocacy service provision is monitored robustly and consistently across Ayrshire based on a common, locally agreed performance management framework.

**Longer-Term**
- All vulnerable people living within Ayrshire & Arran are aware of their local independent advocacy service provision and are pro-actively supported to access the services to which they are entitled in order to have their voice and opinions heard, make informed choices and maintain control over their lives at the point of advocacy need.
- All NHS, Local Authority and other appropriate staff who come into contact with vulnerable service users are aware of all Ayrshire-based independent advocacy service provision and refer vulnerable people appropriately and timely for independent advocacy services.
- The advocacy support needs of local communities within Ayrshire are continuously identified, checked and prioritised for action.
3.5 Informing, Engaging & Consulting

The Ayrshire advocacy partners are fully committed to ensuring the ongoing and meaningful involvement of all stakeholders to this plan. As such, it is the preference of the partners to ensure ongoing and continued engagement with independent advocacy service users and the wider public throughout the lifetime of this plan as opposed to tokenistic one-off public consultation. The partners therefore commit to:

- implementing an open and transparent community engagement process that fully meets the National Standards for Community Engagement (Communities Scotland, 2005) throughout the lifetime of this plan in order to continuously identify and consider how to address unmet need;

- engaging with all stakeholders and communities of interest in order to inform the development, implementation and ongoing monitoring of locally-determined action plans that pro-actively support achievement of the agreed joint-outcomes whilst addressing the areas of greatest need and priority at a local community level.

3.6 Governance & Performance Management

Overall accountability for implementation of this plan will rest with the NHS Board and the designated director for the commissioning and development of independent advocacy, namely the Director for Primary Care and Mental Health Services. Each of the respective local authority partners will have a joint-responsibility for ensuring that appropriate action is taken at a commissioning and community planning level in order to support achievement of the joint-outcomes as outlined within this plan.

The Ayrshire Advocacy Steering Group (or future partnership structure there of) will have the delegated responsibility, on behalf of each of the statutory partner organisations, to monitor and report on progress towards achievement of the joint-outcomes. Membership of the steering group will include commissioning officers and appropriate operational staff from each of the local authorities and NHS Board, alongside representation from local independent advocacy providers. All members of the steering group will be expected to be pro-active in leading and advising on appropriate action to ensure achievement of the agreed joint-outcomes. In addition, the group will be the main forum for the ongoing identification of unmet need and provide opportunity for early discussion of any operational issues that require to be addressed. Administration of the Steering Group will be led by NHS Ayrshire and Arran.

All decisions specific to current and future commissioning arrangements for local independent advocacy service provision will be directed and managed by the NHS Mental Health Collaborative Commissioning Group with reference to the Ayrshire Strategic Alliance as required.

Each local authority will retain responsibility for the development and implementation of local operational action plans in order to address any locally-determined areas of particular need, whilst supporting achievement of the agreed joint-outcomes as outlined within this plan.
Appendix 1
Different Types of Independent Advocacy

Professional Issue-Based Advocacy

The most common type of advocacy provision offered by independent advocacy service providers within Scotland is individual, one-to-one, issue-based professional advocacy. The SIAA (2009) define independent professional advocacy as provision by a paid or unpaid advocate on a one-to-one basis with an individual that aims to:

- Support that person to represent their own interests;
- Represent the views of that person if the person is unable to do this for themselves;
- Provide support on specific issues (and following resolution of the specific issue the advocacy relationship with the person would usually end);
- Provide information not advice;
- Provide short or long-term support as required until resolution of the issue in question.

Collective or Group Advocacy

Group or collective advocacy is usually facilitated by an advocacy organisation in order to help support groups of people who are facing a common problem to come together in order to enable them to support each other to tackle their common problem. The SIAA (2009) state that the benefits of this approach include:

- Reducing an individual’s sense of isolation when raising a difficult issue;
- A collective voice can be stronger than that of an individual as groups are more difficult to ignore.

Peer Advocacy

A peer advocate will have encountered significant life experiences similar to their advocacy partner e.g. age, gender, ethnicity, diagnosis or issues and can share their own experiences in order to empathise with their advocacy partner (SIAA, 2009). The purpose of peer advocacy is to increase the confidence, assertiveness and self-awareness of the person so that they can be empowered to speak up for themselves (SIAA, 2009).

Citizen Advocacy

Citizen advocacy is when ordinary citizens within the community are ‘matched’ with a vulnerable person on a one-to-one, long-term, voluntary, unpaid basis in order to offer that person advocacy support. Citizen advocacy is often facilitated by local advocacy organisations that focus solely on this type of advocacy provision given that the approach is fundamentally different to other types of advocacy.
Non-Instructed Advocacy

Non-instructed advocacy relates to people who require an independent advocate but who cannot tell the advocate what they want e.g. due to communication difficulties or disability. This approach is often used for people with dementia or more profound learning difficulties (SIAA, 2009). The SIAA (2009) states that in such circumstances an advocate would be required to get to know the person, as well as significant others in their life, and make use of non-instructed advocacy in order to:

- Look for alternative methods of communication which will enable the person to express their views and wishes;
- Ensure the person’s rights are upheld;
- Challenge service providers in order to promote a person-centred independent approach.
Appendix 2
Statutory Roles & Responsibilities

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

The Mental Health (Care and Treatment) (Scotland) Act 2003 was the first piece of Scottish legislation to place a mutual duty on local authorities and health boards to collaborate with each other in order to secure the availability of independent advocacy services for people with a mental disorder (whether medically diagnosed or not; and as equally applicable to those people living within the community with a mental disorder as to those detained under the Act) (SIAA, 2010).

As such, the right of access to independent advocacy services is now a legal entitlement for all people with a mental disorder (i.e. mental illness; personality disorder or learning disability):

- regardless of age, disability, ethnic origin, culture, faith, religion, sexuality, social background or personal circumstances;
- whatever their need for advocacy; and
- whether or not they are ordinarily resident in Scotland

(Scottish Executive, 2005)

The Act does not stipulate the type of independent advocacy to be secured and therefore can be applied to all types of independent advocacy. However, section 259 of the Act states that the advocacy services must be ‘independent’.

The Code of Practice that accompanied the Act (Scottish Executive, 2005) states that in order for advocacy to be considered ‘independent’, it must be provided by persons other than a local authority or a health board responsible for providing services in the area where the patient is to receive care or treatment (or a member of those bodies), or any other person involved in their care, treatment or in providing services to them. The code further states that independent advocacy should be provided by an organisation whose sole role is independent advocacy or whose other tasks either complement, or do not conflict with, the provision of independent advocacy. Independent advocacy organisations should therefore have policies in place to identify and manage/minimise the risk of any conflict of interest.

In addition to the mutual duty to secure advocacy services, the Act places a further duty on a range of professional staff working within local authority and health settings, in a range of circumstances, to:-

- inform the patient of the availability of independent advocacy services under section 259 of the Act;
- take appropriate steps to ensure that the patient has the opportunity of making use of those services.
**Adult Support and Protection (Scotland) Act 2007**

The Adult Support and Protection (Scotland) Act 2007 places a duty on local authorities to consider the importance of providing independent advocacy services (and other appropriate services) to adults at risk of harm. Given that advocacy organisations tend to be funded to work with specific groups of people (e.g. those with mental disorder), the SIAA (2009) has identified that within many health board and local authority areas there would be no organisation to which an individual coming within the powers of the Adult Support and Protection (Scotland) Act 2007 could be referred.

**Adults with Incapacity (Scotland) Act 2000**

The Adult Support and Protection (Scotland) Act 2007 amended the Adults with Incapacity (Scotland) Act 2000 to explicitly outline that an independent advocate would be recognised by the court system when representing the wishes and feelings of any adult subject to the Act.

**Children’s Hearings (Scotland) Act 2011**

The Children’s Hearings (Scotland) Act 2011 places a statutory duty on the chairing member of the children’s hearing to inform the child of the availability of children’s advocacy services. The Act further creates the power for Scottish Ministers to make provision for, or in connection with, children’s advocacy services; the qualifications to be held by persons providing children’s advocacy services; and the training of persons providing children’s advocacy services. Two national pilots are currently underway to consider suitable children’s advocacy service provision models – one of which is being delivered by Youth Advocacy (East Ayrshire).

**Patient Rights (Scotland) Act 2011**

The Patient Rights (Scotland) Act 2011 will make provision about the rights of patients when receiving health care. One of the key outcomes of the Act will be the creation of a Patient Advice and Support Service (PASS) in order to promote awareness and understanding of the rights and responsibilities of patients. One of the statutory duties of the PASS service will be to make persons aware of and, where appropriate, direct them to persons providing representation and advocacy services. Furthermore, the Act will also place a duty on Health Boards to provide patients with details of the advice and support available to them. It is therefore envisaged that referrals to independent advocacy service providers will increase as a direct result of these measures.
Equality, Diversity and Human Rights

The Equality Act 2010 provides a new, simplified legislative framework to protect the rights of individuals and advance equality of opportunity for all. Furthermore, the Act places general and specific duties on public sector bodies (including the NHS and Local Authorities) to meet the needs of those who work for it and use its services. The protected characteristics covered by the Act are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation. Furthermore, the Human Rights Act 1998 enables individuals to pursue actions under the European Convention on Human Rights within the Scottish legal system. The provision of independent advocacy is one way to secure greater equality in the options available to people (SIAA, 2010).

Other Legislative Measures

There are a number of other pieces of legislation and associated codes of practice and/or supporting guidance that make reference to the benefits of providing access to independent advocacy services.

The Direct Payments for Self-Directed Care: Draft Policy and Practice Guidance (Scottish Government, 2006) states that it may be appropriate for local authorities to consider the benefits of people having access to advocacy support to assist them to manage direct payments.

Furthermore, a number of pieces of legislation specific to children and young people, in addition to the Children’s Hearings (Scotland) Act 2011, also make reference to the potential benefits of providing vulnerable children and young people access to independent advocacy e.g.

- Education (Additional Support for Learning) (Scotland) Act 2004
- Commissioner for Children and Young People (Scotland) Act 2003
- Children (Scotland) Act 1995
Appendix 3
Existing Independent Advocacy Service Provision in Ayrshire

Pan- Ayrshire

Who Cares? Scotland

Who Cares? Scotland is currently commissioned by East Ayrshire Council, North Ayrshire Council and South Ayrshire Council to provide dedicated advocacy support and independent safeguarding for children and young people in looked after and accommodated care for children and young people up to 25 years of age (including non-instructive advocacy for those children and young people with profound communication difficulties).

The three local authorities have recently agreed to jointly-commission Who Cares? Scotland on an Ayrshire-wide basis: the process for which is being led by East Ayrshire Council.

East Ayrshire

East Ayrshire Advocacy Services Ltd

East Ayrshire Advocacy Services Ltd is commissioned to provide independent advocacy services for adults aged over 16, and young people aged under 16 who are subject to the Mental Health (Care and Treatment) (Scotland) Act who live within East Ayrshire. EAAS have a client group/condition-specific eligibility criteria with their services open to residents of East Ayrshire with mental health problems, learning disability, acquired brain injury and people aged over 65 (age-specific criteria for older people rather than condition specific). The service also provides a service dedicated to the needs of parents with mental health problems/learning disability who are involved in child protection procedures.

Youth Advocacy – East Ayrshire

Youth Advocacy – East Ayrshire is an independent advocacy provider for children and young people aged 11 to 18 years living within East Ayrshire. The service is currently piloting a children’s advocacy model as part of the national implementation of the new Children’s Hearing (Scotland) Act 2011 but is not currently commissioned by the NHS Board or Local Authority to provide any form of independent advocacy service provision.
**North Ayrshire**

**AIMS Advocacy**

AIMS Advocacy is commissioned to provide independent advocacy in North Ayrshire for people over the age of 16 years who are members of a recognised community care group, prioritising people affected by the powers of legislation. The organisation provides professional advocacy services to individuals and also supports group advocacy when appropriate.

**Children 1st**

Children 1st provide a dedicated independent advocacy support service for children who are involved in child protection procedures within North Ayrshire. The service has been allocated funds to cover approximately 60% of its operating costs by North Ayrshire Council (on an ongoing yearly basis) with the remaining 40% of funding provided directly by Children 1st.

**South Ayrshire**

**VOICE Advocacy (Managed by Ayr Action for Mental Health)**

Ayr Action for Mental Health (AAMH) is commissioned to provide issue-based advocacy for adults aged 16 to 65 years old who are living with the effects of severe mental illness and who are ordinarily resident within South Ayrshire. A service is also now provided to older people aged 65+ with mental health problems (including Dementia).

**Citizen Advocacy Support Service (CASS)**

The Citizen Advocacy Support Service (CASS) is commissioned to provide independent citizen advocacy support to people with learning disability living within South Ayrshire. The founding principle of CASS was to develop a bespoke advocacy service at the request of and to meet the specific needs of service users with learning disability.

**Hear 4 U Children’s Advocacy Service (Managed by Barnardo’s)**

Barnardo’s Charity has developed and continues to manage a children’s advocacy service within the West of Scotland known as ‘Hear 4 U’. This service currently receives funding from a number of local authorities including South Ayrshire Council, Dumfries and Galloway Council and Renfrewshire Council to deliver advocacy support to children and young people living within those local authority areas.
References

Adult Support and Protection (Scotland) Act 2007. (asp.10)

Adults with Incapacity (Scotland) Act 2000. (asp.4)

Children (Scotland) Act 1995. (c.36)

Children’s Hearings (Scotland) Act 2011. (asp 1)

Commissioner for Children and Young People (Scotland) Act 2003. (asp.17)


Community Care (Direct Payments) Act 1996.(c.30)

Education (Additional Support for Learning) (Scotland) Act 2004. (asp.4)

Equality Act 2010. (c.15)

Human Rights Act 1998. (c.42)

Mental Health (Care and Treatment) (Scotland) Act 2003. (asp.13)


Patient Rights (Scotland) Bill [As Passed], Edinburgh: The Scottish Parliament


