

WELCOME to City of York Council's Care Act Bulletins, which provide information about the Care Act and how we're working to implement it in York.

Independent Advocacy

The Care Act requires local authorities to involve people in assessments, care and support planning and reviews. In order to facilitate the involvement and engagement of people who would otherwise have difficulty it introduces a new requirement to arrange independent advocacy for people:

- (a) who have substantial difficulty in being involved/engaged in these processes and
- (b) where there is no one else available to help facilitate this involvement and engagement.

This is so that people can be active partners in the key care and support processes of assessment, care and support planning, review and any enquiry in relation to abuse or neglect. The duty to involve applies to all settings, including the community and care homes.

The local authority must form a judgement about whether a person has substantial difficulty in being involved with these processes. To do this the local authority must consider whether a person has substantial difficulty within one of more of the following areas:

- Understanding relevant information
- Retaining information
- Using or weighing the information as part of engaging
- Communicating their wishes and feeling.

If it is thought that they do, and that there is no appropriate individual to support or represent them for the purpose of facilitating their involvement, then the local authority must arrange for an independent advocate to support and represent the person.

In many situations a person will have an appropriate individual to support them, but it cannot be someone who is already providing the person with care or treatment in a professional or paid capacity. This means that it cannot be the person's GP, nurse or care and support worker.

The person can say that they don't want to be supported by an individual, for example the person may not want to be supported by a family member because they wish to be moving towards independence from their family.

It is not enough for the appropriate individual to know the person well or to love them deeply. They will need to be able to support and represent the person and facilitate their involvement in the process.

It is not suitable or appropriate for a person to be regarded as an appropriate individual if they are implicated in any enquiry of abuse or neglect or have been judged in a Safeguarding Adults Review to have failed to prevent an abuse or neglect.

Independent Advocates must have:

- A suitable level of appropriate experience
- Appropriate training/qualification , e.g. working towards the National Qualification in Independent Advocacy (level 3) within one year of being appointed and to achieve it in a reasonable amount of time
- Competency in the task
- Integrity and good character
- The ability to work independently of the local authority or body carrying out the assessments, planning or reviews on the local authority's behalf
- Arrangements for supervision

The advocate's role is to assist the person who has substantial difficulty to understand the assessment, support planning and reviewing processes; communicate their views; understand how their needs can be met by the local authority; make decisions about their care and support arrangements; understand their rights under the care act and assist them to challenge a decision or process made by the local authority.

The local authority must recognise the advocates duty to support and represent a person who has substantial difficulty in engaging with the local authority processes, including that the advocate's role incorporates 'challenge' on behalf of the individual. The local authority must ensure that there is sufficient provision of independent advocacy to meet their obligations under the Care Act.

From 1st April 2015, Care Act Advocacy in York will be provided by a partnership of advocacy organisations (CAAPY - Care Act Advocacy Partnership York). Referrals will all be made to the lead organisation of the partnership, which is York Advocacy.

York Advocacy will ensure that the individual is given a named advocate. This advocate will either be York Advocacy's own Care Act Advocate, or an advocate from one of their partner organisations as appropriate.

The other organisations involved in the partnership are; Older Citizen's Advocacy York (OCAY), Cloverleaf, York Carers Centre and Age UK York.

You can view the Department of Health Care Act Guidance by visiting:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/366104/43380_23902777_Care_Act_Book.pdf

The factsheet regarding general responsibilities is available at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/366080/Factsheet_1_-_General_responsibilities.pdf