

The Duty to Offer Independent Advocacy

Local authorities must involve people in decisions made about them and their care and support or where there is to be a safeguarding enquiry. The Care Act outlines what support the local authority must offer people to help them understand how they can be involved, how they can contribute and take part and sometimes lead or direct the process.

This requirement means that people should be active partners in the key care and support processes of assessment, care and support and support planning, review and any enquiries in relation to abuse or neglect.

No matter how complex a person's needs, local authorities are required to involve people, to help them express their wishes and feelings, to support them to weigh up options, and to make their own decisions.

This is called Supported Decision Making.

Many people have natural allies – friends and family - in their life, who can offer this support to make their own decisions. The Care Act does not prevent an individual from choosing who they would like to help them participate within processes and make decisions.

Some people however do not have anyone who is able, willing and has the knowledge and skill set to effectively facilitate their involvement. The Care Act introduces the duty on local authorities to offer independent advocacy to certain groups of people undergoing decision making processes.

Where the local authority considers that a person has substantial difficulty in engaging within decision making process and does not have anyone appropriate to facilitate their active involvement, the local authority must arrange for an independent advocate in the following areas:

- 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.