

# Advocacy

## Making your voice heard

You might have found it difficult to get what you want from the NHS or social services. Advocates can help you to express your concerns, get information and explore options for moving forward. This factsheet explains more about what advocates do. And how they can help you and how you can find one near you.

### KEY POINTS

- There are different types of advocates depending on what you need.
- Advocates can help you understand your rights and get services.
- They can talk to people on your behalf or help you to speak for yourself.
- Advocates are independent of the NHS and social services.
- Advocates are usually free of charge.
- If you are in hospital under the Mental Health Act 1983, you can get an Independent Mental Health Advocate (IMHA).
- If you cannot make decisions for yourself, an Independent Mental Capacity Advocate (IMCA) can sometimes help.
- You might like help with being involved in decisions to do with your care and support provided by the local authority. You may be able to get an independent advocate.
- If you would like to make a complaint about the NHS, an NHS Complaints Advocacy Service can help.

### This factsheet covers:

1. [How can an advocate help?](#)
2. [What kinds of advocacy are there?](#)
3. [How can I find an advocate?](#)
4. [How can I complain about an advocate?](#)

## 1. How can an advocate help?

Advocates can help you to deal with doctors and other professionals in the NHS or social services. They normally work for charities, so they are independent. They can help you to:

- get what you are entitled to,
- get your point of view across, and
- get the services that you need.

They might be able to go to appointments with you and help you to write letters. Advocates can sometimes speak on your behalf if you want them to.

You might find it helpful to have an advocate if you:

- find it difficult to get the treatment or services you want,
- feel intimidated by doctors or other professionals,
- feel that things are explained in a confusing way, or
- have problems with concentration.

### Your advocate should<sup>1</sup>

- ✓ Be clear about what they can and can't help you with
- ✓ Tell you about what they have done on your behalf
- ✓ Respect you and not judge you
- ✓ Listen to you and talk through your options
- ✓ Give you information to help you make decisions
- ✓ Not share your personal information with other people unless they have to
- ✓ Be free
- ✓ Encourage you to speak for yourself

### Your advocate should not<sup>2</sup>

- ✗ Offer you counselling
- ✗ Tell you what to do
- ✗ Force their views or opinions on you
- ✗ Do things on your behalf without asking you first

[Top](#)

## 2. What kinds of advocacy are there?

There are different types of advocacy services, which help people in different situations. They are usually run by charities or private organisations. Advocacy services are usually free of charge.

Some types of advocacy may not be available in your area. But there should always be the following advocacy services available locally.

- Independent Mental Health Advocacy.
- Independent Mental Capacity Advocacy.
- NHS Complaints Advocacy.
- Independent Advocacy for decisions about care and support.

These types of advocacy are known as statutory advocacy. We explain what these terms mean later in this section.

There is also sometimes general advocacy that falls outside of the statutory advocacy services. Please see towards the end of this section for information on general advocacy.

### **Independent Mental Health Advocates (IMHA)**

IMHA services help people who are detained under the Mental Health Act

#### Can I see an IMHA?

You can see an IMHA if:

- you are detained in hospital under the Mental Health Act 1983– this is sometimes known as being ‘sectioned’,
- under a Community Treatment Order (CTO), or
- if you are vulnerable and considering neurosurgery or electro-convulsive treatment (ECT).

You cannot have an IMHA if:

- you are taken to a place of safety under the Mental Health Act 1983 or
- if you are kept in hospital for a short while under emergency ‘holding powers’ under Section 5 of the Mental Health Act 1983.

If you are in hospital under the Mental Health Act and would like to speak to an IMHA, ask a nurse on the ward.

An IMHA will try to see you if they are asked to by your nearest relative or your doctor. You do not have to see an IMHA if you do not want to.<sup>3</sup>

#### What help will I get?

You can see the IMHA in private to talk about any concerns that you have about your stay in hospital. They can talk to staff on your behalf to help to understand the reasons for decisions, and to get across your concerns.

You can find more information about ‘**The Mental Health Act**’ at [www.rethink.org](http://www.rethink.org). Or call our General Enquiries team on 0121 522 7007 and ask them to send you a copy of our factsheet.

## **Independent Mental Capacity Advocates (IMCA)**

### Can I see an IMCA?

IMCAs can support you if you have been assessed as lacking mental capacity and:<sup>4</sup>

- you need to make a specific decision at a specific time,
- you need to make a decision about 'serious medical treatment' or living in residential care like a care or nursing home, and
- you do not have friends or family who are able to support you to make decisions that are in your best interest.

If you are finding it hard to make decisions about these things, talk to your doctor or social worker about the problem. They can help you to get an IMCA.

### What help will I get?

Your IMCA will:<sup>5</sup>

- support you to make decisions,
- represent you to other people so that your best interests are known
- try to identify all of the things that you would think about if you were making the decision for yourself,
- provide information to help work out what is in your best interest, and
- ask questions or challenge decisions that do not appear to be made in your best interest.

### What does my 'best interests' mean?

If you have an IMCA it is their responsibility to try and work out what your best interests are.

They will think about:<sup>6</sup>

- your past and present wishes, feelings, values and beliefs,
- the views of your carers and family,
- all of your circumstances, and
- the good things and bad things about a decision.

You can find more information about '**Mental Capacity and Mental Illness**' at [www.rethink.org](http://www.rethink.org). Or call our General Enquiries team on 0121 522 7007 and ask them to send you a copy of our factsheet.

## **NHS Complaints Advocacy**

You can use NHS complaints advocacy if you are making a complaint about an NHS service. Before April 2013 these were known as 'Independent Complaints Advocacy Services' (ICAS) so you might still hear them being called this.

### Who will I speak to?

These services are normally run by specialist advocacy organisations like SEAP, POHWER and Voiceability. They are separate from the NHS.

### What help will I get?

You will get help making a complaint about the NHS. This normally involves help with setting out your concerns in a letter.

You can find more information about '**Complaints - NHS or Social Services**' at [www.rethink.org](http://www.rethink.org). Or call our General Enquiries team on 0121 522 7007 and ask them to send you a copy of our factsheet.

### **Independent Advocate**

Under the Care Act 2014, local authorities must involve you in making any decisions about your social care and support. This includes providing independent advocacy to help you to be involved with making decisions.

You or your carer might want to know more about getting help from social services. You can find more information in our factsheets on:

- Social care – assessment and eligibility, and
- Care assessment and support planning.

at [www.rethink.org](http://www.rethink.org). Or you can call our General Enquiries team on 0121 522 7007 and ask them to send you a copy of our factsheets.

### Can I see an Independent Advocate?

You or someone else can ask for an assessment of your care or support needs by the local authority (LA). This includes carers who have asked for a 'needs assessment' for their caring roles. You may be entitled to an independent advocate.

Your LA will:

- think about the best way of involving you in the assessment,
- decide whether you will have 'substantial difficulty' in being involved with the planning of your care and support, and
- decide if you need an advocate.

The LA will think about whether you will have difficulties in:<sup>7</sup>

- understanding relevant information,
- remembering this information,
- weighing up this information, or
- communicating your views, wishes or feelings.

You might have substantial difficulty in being involved with decisions about your care and support. If you do your LA must get you an advocate if you do not already have an 'appropriate person' to help you<sup>8</sup>.

### Who can be my appropriate person?

An appropriate person:<sup>9</sup>

- is someone who your LA thinks can represent and support you,
- may be an unpaid carer, family member or friend, but
- can't be someone who is being paid to give you care or treatment.

Your LA must give you an independent advocate if:<sup>10,11</sup>

- your appropriate person is not willing or able to support you,
- your appropriate person finds it difficult to support you, or
- you don't want your appropriate person to support you and you have capacity to make the decision.

### What help will I get?

Your advocate can help you to be involved with:

- assessments,
- preparing your care and support plan, and
- reviewing your care and support plan.

An advocate can also check that the person responsible for your care is looking after you properly. This is known as safeguarding.<sup>12</sup>

The advocate should do the following things.<sup>13,14</sup>

- They will decide the best way of supporting and representing you. This will always be done with regard for your wellbeing and interests.
- They will usually meet with you in private.
- They should ask for your consent to look at your records.
- They should talk to your carer, family and anyone else who can provide information about your needs, wishes, beliefs and values.
- They are allowed to take copies of your records in some circumstances.

If you already have an Independent Mental Capacity Advocate (IMCA) they may be able to support and help you to engage with the LA. This means that you will not have to repeat your story to different advocates.<sup>15</sup>

### Can I see an Independent Advocate for a different reason?

Your LA may get you an independent advocate if:<sup>16</sup>

- the local authority and your 'appropriate person' disagree about something to do with your care or support,
- you have to go into an NHS hospital that lasts longer than 4 weeks, or
- you go to a care home that lasts 8 or more weeks following your assessment or care planning.

In all of the situations above, the local authority must think that it is in your best interests to have an independent advocate.

#### If I move home will I get help from an advocate?

If you move to a different area your new LA has to decide if you need an advocate.

If your care and support is being provided out of area the LA where you normally live has to get you an advocate.<sup>17</sup>

#### **General advocacy**

These services may also be called:

- case work,
- community advocacy,
- generic advocacy, or
- short-term advocacy.

General advocacy may not always be available in your area.

#### Who will I speak to?

Depending on the service, your advocate will either be a volunteer or a paid member of staff.

#### What help will I get?

General advocates can help you to deal with particular issues. Most will only help with problems in the NHS or social services. For example, problems with your medication or disagreements with social care staff.

A small number of services may also help with issues like housing and benefits. But this is less common and varies from area to area.

Your advocate may be able to help you write letters and go to meetings with you. They may only be able to help you with one particular problem at a time.

Below are other types of general advocacy you might come across.

- **Citizen advocacy** - a volunteer will give you one-to-one support to speak up for yourself. Your advocate may be able to help you for longer than a general advocacy service and may help you with more problems.
- **Peer advocacy** – the advocate will have been in contact with mental health services themselves and may have had similar problems to deal with. They can give information and help you deal with particular problems you are having.
- **Group advocacy** - you will meet a group of people who want to deal with similar problems. You will be able to share ideas about the best way to overcome problems.

- **Self advocacy** - this means speaking up for yourself to overcome problems. You might be able to get help with this. Some advocacy services might offer resources or run groups where you can talk through ways of dealing with problems.

### **Legal advocacy**

You may hear the word 'advocate' being used in a legal setting. Sometimes you will hear lawyers being called 'advocates'.

In England, we tend to use the words 'solicitor' and 'barrister' to talk about lawyers who help us with legal problems..

This factsheet does not deal with help from lawyers.

You can find more information about '**Legal advice – how to get help from a solicitor**' at [www.rethink.org](http://www.rethink.org). Or call our General Enquiries team on 0121 522 7007 and ask them to send you a copy of our factsheet.

[Top](#)

### **3. How can I find an advocate?**

There isn't a central list of all of the advocacy services in England. So it can sometimes be hard to find your local advocacy services.

The type of advocacy you are looking for might not be available in your area.

To search for services you can try the following.

- Use an internet search engine – use search terms like 'advocacy Leicestershire' or 'mental health advocacy Devon'.
- Ask a support worker or key worker, if you have one.
- Ask your local council whether they have a list.
- Ask your local NHS Patient Advice and Liaison Service (PALS) whether they have a list of local advocacy services.
- Look at local service directories. You can sometimes find useful directories of mental health services online.
- Get in touch with organisations that offer advocacy such as Rethink Mental Illness, Mind, SEAP, Voiceability and POhWER.

If you can't find a service in your local town or city, try searching for a service that covers your county.

[Top](#)

#### 4. How can I complain about an advocate?

If you are not happy with your advocate then you could ask to see a different one.

The service will not always be able to offer you a different advocate. It may depend on the size of the service and how many advocates they have working for them.

If you are not happy with the service you have had from an advocate, you can complain. You can ask for a copy of the advocacy service's complaints policy to start with. Every advocacy service should have a policy on complaints and a procedure on how to deal with them.

[Top](#)

The main 3 advocacy organisations in England are:

##### **Pohwer**

Provides advocacy services in over 50 different areas across the country.

**Telephone:** 0300 456 2370

**Address:** PO Box 14043, Birmingham, B6 9BL

**Email:** pohwer@pohwer.net

**Website:** [www.pohwer.net](http://www.pohwer.net)

##### **Voiceability**

Provides advocacy services in different areas across England.

**Telephone:** 01223 555800

**Address:** Mount Pleasant House, Huntingdon Road, Cambridge, CB3 0RN

**Website:** [www.voiceability.org/](http://www.voiceability.org/);

##### **SEAP**

An independent charity providing free, confidential advocacy services.

**Telephone:** 0330 440 9000

**Address:** Upper Ground Floor, Aquila House, Breeds Place, Hastings, East Sussex, TN34 3UY

**Email:** info@seap.org.uk

**Website:** [www.seap.org.uk](http://www.seap.org.uk)

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<sup>1</sup> Advocacy QPM. *Code of Practice*. 2014 Edition. <http://www.qualityadvocacy.org.uk/wp-content/uploads/2014/03/Code-of-Practice.pdf>; (Accessed 17<sup>th</sup> March, 2017).

<sup>2</sup> As note 1.

<sup>3</sup> s130B(5) and (6), Mental Health Act 1983 c 20.

<sup>4</sup> Department of Constitutional Affairs. *Mental Capacity Act Code of Practice*. London: TSO;2013. para 10.1.



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CONTACTS



REFERENCES

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<sup>5</sup> As note 4. para 10.4.

<sup>6</sup> s4, *Mental Capacity Act 2005* c9

<sup>7</sup> s67(4), Care Act 2014 c23.

<sup>8</sup> As note 9 (CA 2014) s67(5).

<sup>9</sup> As note 9 (CA 2014) s67(5).

<sup>10</sup> Department of Health. *Care and Support Statutory Guidance*. para 7.35 available from <https://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance#Chapter7>; (Accessed 27 March, 2017.)

<sup>11</sup> As note 12, para 7.34. (Accessed 20<sup>th</sup> March, 2017.)

<sup>12</sup> As note 12, para 7.4 (Accessed 20<sup>th</sup> March, 2017.)

<sup>13</sup> As note 12, para 7.46 (Accessed 20<sup>th</sup> March, 2017.)

<sup>14</sup> As note 12, para 7.47. (Accessed 20<sup>th</sup> March, 2017.)

<sup>15</sup> As note 12, para 7.65. (Accessed 20<sup>th</sup> March, 2017.)

<sup>16</sup> As note 12, para 7.42. (Accessed 20<sup>th</sup> March, 2017.)

<sup>17</sup> As note 12, para 7.29. (Accessed 20<sup>th</sup> March, 2017.)

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in large print.



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## Rethink Mental Illness Advice Service

Phone 0300 5000 927

Monday to Friday, 9:30am to 4pm  
(excluding bank holidays)

Email [advice@rethink.org](mailto:advice@rethink.org)

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### Did this help?

We'd love to know if this information helped you.

Drop us a line at: [feedback@rethink.org](mailto:feedback@rethink.org)

or write to us at Rethink Mental Illness:

RAIS  
PO Box 17106  
Birmingham B9 9LL

or call us on 0300 5000 927.

We're open 9:30am to 4pm  
Monday to Friday (excluding bank holidays)



Leading the way to a better  
quality of life for everyone  
affected by severe mental illness.

For further information  
on Rethink Mental Illness  
Phone 0121 522 7007  
Email [info@rethink.org](mailto:info@rethink.org)



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[www.rethink.org](http://www.rethink.org)

### Need more help?

Go to [www.rethink.org](http://www.rethink.org) for information on symptoms, treatments, money and benefits and your rights.

### Don't have access to the web?

Call us on 0121 522 7007. We are open Monday to Friday, 9am to 5pm, and we will send you the information you need in the post.

### Need to talk to an adviser?

If you need practical advice, call us on 0300 5000 927 between 9:30am to 4pm, Monday to Friday. Our specialist advisers can help you with queries like how to apply for benefits, get access to care or make a complaint.

### Can you help us to keep going?

We can only help people because of donations from people like you. If you can donate please go to [www.rethink.org/donate](http://www.rethink.org/donate) or call 0121 522 7007 to make a gift. We are very grateful for all our donors' generous support.

