

## Your duty to refer to independent advocacy

Professionals have a **duty to refer** eligible people to independent advocacy under the Care Act, the Mental Capacity Act and the Mental Health Act.

Independent advocacy is a **statutory right** for individuals who, without independent support, are unable to be involved in making important decisions about their lives. Eligibility criteria for advocacy prioritises those most in need.

### Advocacy is there to ensure:

- people are involved in decision-making about their health and care as much as possible or are represented where required
- their views and wishes are sought and listened to
- their rights are respected.

## What does an independent advocate do?

- Seek the person's views, wishes and preferences.
- Help the person to know their rights and communicate what they want.
- Support the person to understand information, processes and decisions.
- Support the person to challenge decisions they are unhappy with, or do so on their behalf if required.
- Work with professionals to keep the person and their well-being at the centre of the care process.
- The advocate has the right to access the person's records if they lack capacity or the person wishes them to.
- An advocate may write a report outlining their findings that must be taken into account by professionals.

### Contact us....



0300 222 5947



**General enquiries:**  
CWAdvocacy@voiceability.org

(do not use this email address for referrals unless following the secure referral instructions on our website)



voiceability.org/Coventry&Warks



@VoiceAbilityCW

# Care and Support Statutory Advocacy

A guide for professionals



Independent

Free

See at a glance who is eligible for statutory advocacy and when you must make a referral

Confidential



	Independent Care Act Advocacy	Independent Mental Capacity Advocacy (IMCA)
Entitlement	<p>To support the person to understand their rights under the Care Act and to be fully involved in:</p> <ul style="list-style-type: none"> <li>• needs or carers' assessments, including self-assessment and child's needs assessments for children in transition</li> <li>• care and support planning</li> <li>• care reviews</li> <li>• safeguarding enquiries and adult reviews.</li> </ul>	<p>To represent someone if a best-interest decision is being made about a:</p> <ul style="list-style-type: none"> <li>• serious medical treatment</li> </ul> <p>OR</p> <ul style="list-style-type: none"> <li>• long term accommodation.</li> </ul> <p>And if the person may be deprived of liberty under DoLS, to provide support:</p> <ul style="list-style-type: none"> <li>• during an assessment under DoLS</li> <li>• between the appointment of Relevant Person Representatives (RPR) when an authorisation is in place (39C)</li> <li>• to the person, RPR or both when the authorisation is in place (39D).</li> </ul>
Eligibility	<p>Without support, the person will find it very hard to:</p> <ul style="list-style-type: none"> <li>• understand information necessary to fully engage with care and support processes</li> <li>• retain information for long enough to be fully involved</li> <li>• weigh up information to make their own decisions</li> <li>• communicate their wishes and views</li> </ul> <p>AND they do not have any appropriate, able and willing family or friends to support the person's active involvement.</p>	<p>When the person is assessed to 'lack capacity' to make the specific decision. This means:</p> <ul style="list-style-type: none"> <li>• the person has an impairment or disturbance of the mind (e.g. a brain injury, dementia, autism, learning disabilities, mental health problems) AND</li> <li>• they are unable to understand or retain information for long enough to make the decision, weigh up information to make the decision or communicate their decision AND</li> <li>• there are no family or friends considered appropriate to consult about the decision.</li> </ul>

**If in doubt about eligibility, call us for advice on 0300 222 5947. You can also make a referral by phone using the same number.**

Alternatively, see our website for details of other ways to refer securely using a form: [voiceability.org/Coventry&Warks](http://voiceability.org/Coventry&Warks).

As well as the Care and Support Advocacy described in this leaflet, we also offer Health Advocacy (IMHA, NHS Complaints Advocacy and General Health Advocacy). For more information on this, contact us or visit our website.