Your duty to refer to independent advocacy

Professionals have a duty to refer eligible people to independent advocacy under the Care Act and the Mental Capacity 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 wellbeing 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: 020 8900 2221
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Advocacy Services in Newham

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<thead>
<tr>
<th>Advocate’s Role</th>
<th>Independent Care Act Advocacy</th>
<th>Independent Mental Health Advocacy (IMHA)</th>
<th>Independent Mental Capacity Advocacy (IMCA)</th>
<th>Community Advocacy</th>
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<tbody>
<tr>
<td>To support the person to understand their rights under the Care Act and to be fully involved in:</td>
<td>To support with issues specifically relating to a person’s care or treatment. This will likely mean that they could have a diagnosed mental illness, but they could also be going through an assessment.</td>
<td>To represent someone if a best-interest decision is being made about a: • Serious medical treatment OR • Long term accommodation. And if the person may be deprived of liberty under DoLS, to provide support: • During an assessment under DoLS. • Between the appointment of Relevant Person Representatives (RPR) when an authorisation is in place (39C). • To the person, RPR or both when the authorisation is in place (39D).</td>
<td>To support someone by: • Explaining their rights. • Finding out information for them. • Letting them know the choices they have. • Helping them make important decisions. • Helping them prepare for meetings. • Going to meetings with them or on their behalf. • Helping them to raise concerns or make a complaint.</td>
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<td>• Needs or carers’ assessments, including self-assessment and child’s needs assessments for children in transition. • Care and support planning. • Care reviews. • Safeguarding enquiries and adult reviews.</td>
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<td>Without support, the person will find it very hard to:</td>
<td>When a person is: • Detained under the Mental Health Act. • Subject to a Community Treatment Order or a Guardianship. • Being considered under the Mental Health Act section 57 or section 58.</td>
<td>When the person is assessed to ‘lack capacity’ to make the specific decision. This means: • The person has an impairment or disturbance of the mind (e.g. a brain injury, dementia, autism, learning disabilities, mental health problems) AND • 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 there are no family or friends considered appropriate to consult about the decision.</td>
<td>Anyone who lives in Newham who is not eligible for statutory advocacy but has an identified support need, including: • People with mental health issues. • People with learning disabilities. • People with physical and / or sensory impairments. • People who become infirm due to old age. • Carers.</td>
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<td>• Understand information well enough to fully engage with care and support processes. • Retain information for long enough to be fully involved. • Weigh up information to make their own decisions. • Communicate their wishes and views. AND they do not have any appropriate, able and willing family or friends to support the person’s active involvement.</td>
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<td>Eligibility</td>
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If in doubt about which service you need, just make a referral. We will work together to get the person the appropriate advocate.