

Independent professional advocacy for adults under the Social Services and Well-being (Wales) Act 2014

Supporting people to be informed, heard and involved



Introduction

The Part 10 Code of Practice (Advocacy)¹ (“the Code”) issued under the Social Services and Well-being (Wales) Act 2014² (“the Act”) placed a requirement on local authorities to arrange provision of an Independent Professional Advocate (IPA) to facilitate the involvement of individuals in certain circumstances³. The aim is to help them overcome barriers to participating fully in the assessment, care and support planning, review and safeguarding processes⁴.

The “certain circumstances” are when individuals have one or more barriers to understanding, retaining, using or weighing information, or to communicating their views, wishes and feelings⁵, and a judgement is reached in partnership with the person that there is no appropriate individual or other suitable form of advocacy available (such as peer, citizen, volunteer or formal advocacy).

This booklet explains these key terms to assist in determining when it is appropriate to refer someone to an independent professional advocacy service.

In addition to the Code, the Act has specific regard to advocacy provision in Part 2 (general functions), Part 3 (assessing the needs of individuals), Part 4 (meeting needs), Part 5 (charging and financial assessment) and Part 11 (miscellaneous and general), as well as in statutory guidance issued under Part 7 (safeguarding) and Part 9 (co-operation and partnership)⁶.

The Act, the Code, and the Regulation and Inspection of Social Care (Wales) Act 2016⁷ should be consulted for further details.

Advocacy

The Code adopts two widely accepted definitions of advocacy:

27. Advocacy is one of several forms of support available for people who need assistance in working through life issues.

"Advocacy supports and enables people who have difficulty representing their interests to exercise their rights, express their views, explore and make informed choices."

"Independent Advocacy supports the person regardless of the demands and concerns of others. It challenges the causes and effects of injustice, oppression and abuse and upholds human rights." (OPAAL National Forum, 2008)⁸.

"Advocacy is taking action to help people say what they want, secure their rights, represent their interests and obtain services they need. Advocates and advocacy schemes work in partnership with the people they support and take their side. Advocacy promotes social inclusion, equality and social justice." (Action for Advocacy, 2002)⁹.



Advocacy services

The Code confirms that:

26. Section 181(2) of the Act defines “advocacy services” as: services which provide assistance (by way of representation or otherwise) to persons for purposes relating to their care and support.

Similarly, advocacy is one of the examples specified in section 34(2)(e) of what may be provided or arranged to meet individuals’ care and support needs under sections 35 to 45 of the Act.

Schedule 1, paragraph 7 of the Regulation and Inspection of Social Care (Wales) Act 2016 also defines an advocacy service as:

...a service which is carried on (whether or not for profit) for the purpose of representing the views of individuals, or assisting individuals to represent those views, in respect of matters relating to those individuals’ needs for care and support (including matters relating to assessing whether those needs exist).

Independent professional advocacy

Chapter 8 of the Code describes several different forms of advocacy, including:

Independent professional advocacy - involves a professional, trained advocate working in a one-to-one partnership with an individual to ensure that their views are accurately conveyed and their rights upheld. This might be for a single issue or multiple issues.

Further information about the roles of the independent professional advocate and of the local authority in supporting them is provided in Annexes 1 and 2 of the Code.

Requirement to arrange provision of independent professional advocacy

The Code requires local authorities to consider whether an individual may have a need for independent professional advocacy at every step of their journey through the social services system, including at their first point of contact. The Code states:

47. Local authorities **must** arrange for the provision of an IPA when a person can only overcome the barrier(s) to **participate fully in the assessment, care and support planning, review and safeguarding processes** with assistance from an appropriate individual, but there is no appropriate individual available.



Participating fully

The Code explains what “participate fully” means:

48. Participating fully enables the individual to express or have represented and taken into account their views, wishes and feelings; that they understand their rights and entitlements; the decision making process; what matters to them; the personal well-being outcomes that they wish to achieve; the barriers to achieving those outcomes, and the options and choices available to them.

Barriers

In Chapter 12 the Code also explains “What constitutes the barriers which can impact on an individual’s ability to engage and fully participate”:

57. Local authorities **must** in partnership with each individual consider whether that individual is likely to experience barriers to participate fully in determining their well-being outcomes and reach a conclusion on their needs for advocacy support. Key barriers will include issues and situations that will impair individuals’ ability to:

- understand relevant information
- retain information
- use or weigh information
- communicate their views, wishes and feelings.

Paragraph 58 provides some examples of when individuals may experience barriers as a result of or in addition to these key barriers.



Appropriate individual

The role of the “appropriate individual” is key to understanding what type of advocacy is required in individual cases. An appropriate individual is someone who can facilitate a person’s involvement in the assessment, care and support planning, review and safeguarding processes, but cannot be someone who:

- the person does not want to support them
- is unlikely to be able to, or available to, adequately support them, or
- is implicated in a safeguarding enquiry.

The appropriate individual may be a family member, friend, carer, or anyone providing a non-professional form of independent advocacy, as long as they meet the above criteria.

Crucially, they must have sufficient understanding of local authority processes to be able to support the person’s participation in determining their well-being outcomes and obtaining the care and support they need.

It should be noted that:

69. It is not sufficient to know the person well.

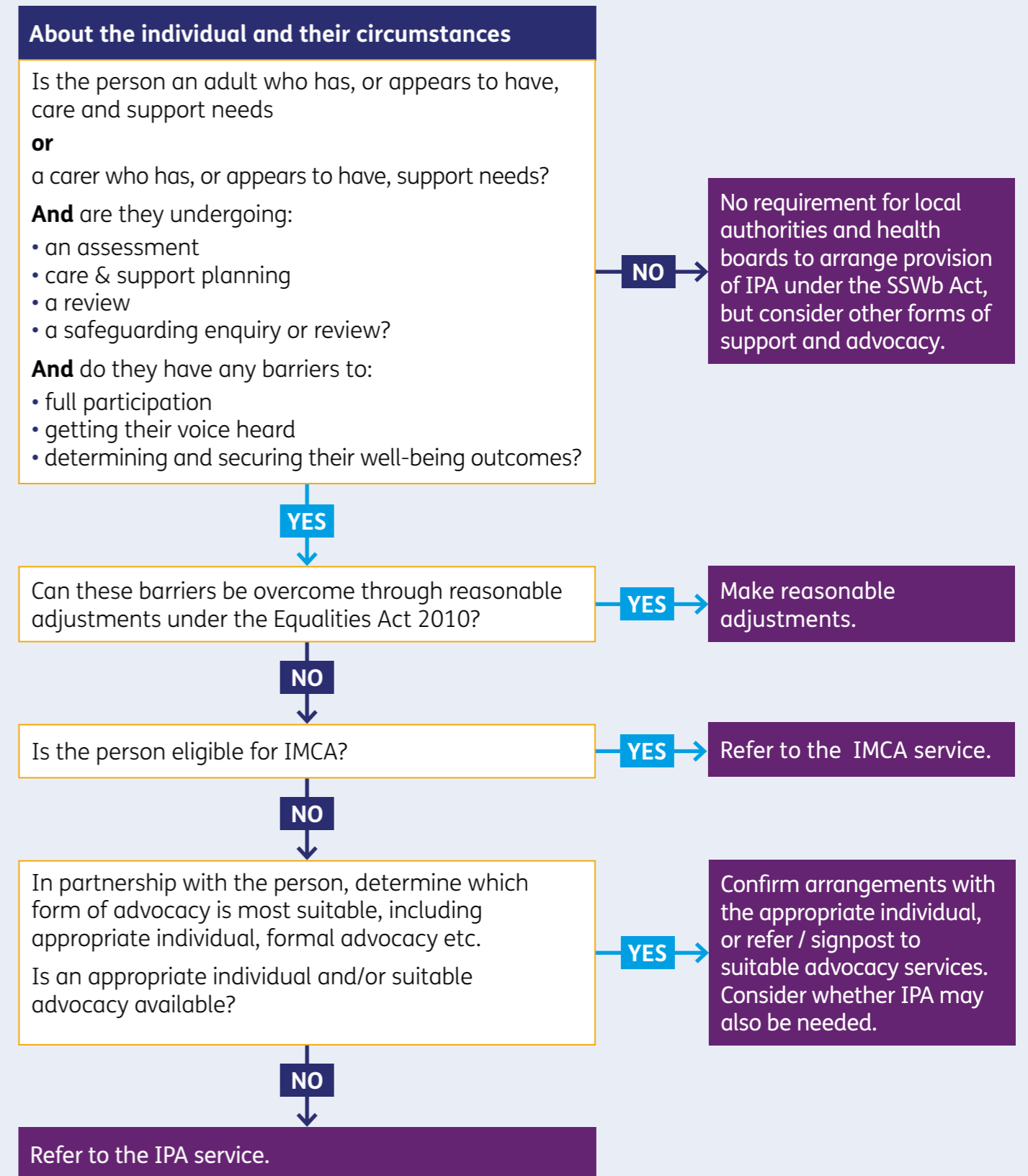
70. An individual’s wishes not to be supported by friends or family should be respected (and) where the individual has capacity to consent, their wishes must be followed. An individual may not wish to be supported by a relative, for example, because there is a conflict of interest in moving forward.

If an appropriate individual is available, the social care professional should confirm the arrangements with them. If neither an appropriate individual or other suitable advocacy is available, the person should then be referred to the service providing independent professional advocacy under the Act.

Age Cymru’s Golden Thread Advocacy Programme (GTAP)¹⁰ has produced a more detailed resource on the role, requirements and expectations of the appropriate individual¹¹.

Decision making process for determining need for independent professional advocacy for adults¹¹

under the Social Services and Well-being (Wales) Act 2014



Referral

A referral should be made when a judgement has been reached in partnership with the person that they have one or more barriers to full participation and there is no appropriate individual or other form of advocacy available to support or represent them. The right to an IPA applies in all settings regardless of whether the person lives in the community or a care home, or is in prison.

When considering individuals' possible need for independent professional advocacy, professionals should follow the decision making process produced by GTAP¹² (see graphic).

Additional resources

The Code provides additional guidance on the role of the IPA (Annex 1) and the local authority role in supporting the advocate (Annex 2).

Social Care Wales' Level B Introduction and General Functions Training Module¹³ includes an in depth case study and a set of questions to assist practitioners in judging whether someone might be experiencing barriers and whether advocacy might be needed.

Resources produced by the GTAP to support implementation of the Part 10 Code can be accessed at: <http://bit.ly/GTAPhome>.

References

- ¹ Part 10 Code of Practice (Advocacy)
- ² Social Services and Well-being (Wales) Act 2014
- ³ Part 10 Code, paragraph 7b
- ⁴ Part 10 Code, paragraph 47
- ⁵ Part 10 Code, paragraph 57
- ⁶ Codes of Practice and Statutory Guidance
- ⁷ Regulation and Inspection of Social Care (Wales) Act 2016
- ⁸ Older People's Advocacy Alliance
- ⁹ Action for Advocacy was an umbrella organisation for advocacy providers in England and Wales, which closed in 2013
- ¹⁰ <http://bit.ly/AppropriateIndividual>
- ¹¹ <http://bit.ly/IPAdeterminingneed>
- ¹² Introduction and General Functions Level B Training Module, pp79-80
- ¹³ Introduction and General Functions Level B Training Module pp78-79



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