Their support was really reassuring.

Advocacy: A guide for professionals in Sunderland
What is an advocate?

Advocates are independent professionals who work with people to help them understand their options, know their rights and say what they want.

This helps to make sure that people are involved as much as possible in decisions about their health and care.

Your duty to refer

Advocacy is a statutory right for eligible people. The Mental Capacity Act and Care Act state that you must refer eligible people for advocacy. The Mental Health Act states that you must make eligible people aware of how to access advocacy.

Who is eligible?

Use the grid in this leaflet to find out who you must refer.

If you are unsure about eligibility, or have questions about advocacy types, contact us.
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When to refer

Make a referral whenever a person is in any of the following situations:

- detained under the Mental Health Act
- a conditionally discharged patient
- subject to a Community Treatment Order (CTO)
- subject to guardianship
- being considered for S59A treatment (including informal patients and people under 18)
- being considered for S67 treatment (including informal patients)

"Substantial difficulty" means that, without support, the person will find it very hard to do one or more of these:

- understand relevant information
- retain that information
- use or weigh up that information
- communicate their wishes and views

"Lack capacity" means the person:

- has an impairment or disturbance that affects the way their mind or brain works (e.g. a brain injury, dementia, autism, learning disabilities, mental health problems)
- AND
- the impairment or disturbance means that they are unable to make a specific decision at the time it needs to be made

You must also make a referral:

- for a person being assessed under DoLS, when there is no one appropriate to consult
- if a person has an unpaid RPR and the person or the RPR asks for an advocate or the Supervisory Body recommends it

When to refer

Make a referral when both conditions apply:

1. the person is assessed to lack capacity in relation to a decision about:
   - serious medical treatment
   - long-term accommodation
2. there are no family or friends considered appropriate to consult about the decision

As far as possible, to:

- make sure that the person’s wishes and views are taken into account in the best interests decision
- support the person to be involved in the decision, or to represent them if necessary
- uphold the person’s rights in relation to that decision

NHS complaints advocates support people to complain about the treatment or care that they or a friend or family member have received from an NHS service. This support is available at every stage of the complaints process.

We can also provide paid Relevant Person’s Representatives (RPRs) and Rule 1.2A Representatives.
What do advocates do?

An advocate can support someone to:

- communicate their views and wishes
- understand their rights
- understand any processes and decisions they are subject to
- understand the options they have
- make their own choices
- challenge a decision

Even when someone can’t tell their advocate what they want, our advocates will use a range of approaches to establish their views and wishes as far as possible and secure their rights.

In some circumstances, an advocate has the right to access medical or care records on behalf of the person they are supporting. An advocate may write a report that must be taken into consideration by professionals.

An advocate does not:

- offer counselling or befriending
- offer legal advice
- tell people they support what decisions to make
- tell health or social care professionals what decisions to make
How to make a referral

Go online to find services near you and make a referral
voiceability.org/make-a-referral

You can also request a referral form by emailing
helpline@voiceability.org

If you have questions about eligibility or advocacy types, contact us.

Freephone:

0300 303 1660

Email: helpline@voiceability.org
Website: voiceability.org

About VoiceAbility

We’ve been supporting people to have their say in decisions about their health, care and wellbeing for almost 40 years. We’re an independent charity and one of the UK’s largest providers of advocacy and involvement services.