

NORTH YORKSHIRE COUNTY COUNCIL**Care & Independence Overview & Scrutiny Committee****21 April 2016****Advocacy Post Care Act****Background**

1. The Care Act 2014 requires local authorities to involve people in assessment, care planning and reviews. The new legislation widens the eligibility for advocacy to include individuals who would experience substantial difficulty in being involved with care and support 'process' or safeguarding, or Safeguarding Adults Review (SAR); and does not have an appropriate individual to support them. Where someone is unable to fully participate in these conversations and has no one to help them, local authorities will arrange for an independent Advocate.
2. Advocates provide an independent support to people, who through vulnerability or lack of capacity need support to help them make a decision, or express what they want to say, or someone to act on their behalf and represent their best interests.
3. The Care Act sets out what is required of an independent advocate:
 - a. A suitable level of appropriate experience
 - b. Appropriate training and qualification, e.g. working towards the National Qualification in Independent Advocacy (level 3) within one year of being appointed and to achieve it in a reasonable amount of time
 - c. Competency in the task
 - d. Integrity and good character
 - e. Ability to work independently of the local authority or body carrying out the assessment, support planning or review on the local authority's behalf.
 - f. Arrangements for supervision
4. Other Statutes that place the duty of the provision of advocacy on Local Authorities are:
 - a. Mental Health Act 1983 (amended 2007)
 - b. Mental Capacity Act 2005 and;
 - c. Health & Social Care Act 2012
 - d. Equality Act 2010
5. There are specific requirements for advocates where someone may be deprived of their liberty, and where they do not have the capacity to make a particular decision

about their health and care, or living arrangements and have no close family or friend able to act on their behalf, through for example Lasting Power of Attorney.

6. This more specialist advocacy could include decisions on, for example, where someone should live, whether they should undergo a particular treatment, whether they need some restrictions placed on their day to day movements to ensure their safety.
7. The current Advocacy contracts expired at the end of March 2016. Two contracts covered separately: specialist mental capacity advocacy; and generic advocacy. They were both extended and increased in April 2015 for one year, to add capacity to meet the requirements of the Care Act, and to respond to an increase in activity as a result of the Cheshire West ruling in the High Court, regarding Deprivation of Liberty and Deprivation of Liberty Safeguards.(DoLS)
8. A new procurement exercise was undertaken and completed in February 2016 to select a new provider of advocacy services from April 2016

Impact of the Care Act

9. Nationally the Department of Health modelled that there was likely to be a 10% increase in the demand for advocacy as a result of the new Care Act responsibilities. To understand any changes during the first year of the Care Act's implementation NYCC put in place additional monitoring with the two service providers to inform of changes due to the Care Act and any other potential change in demand.
10. Monitoring of the Care Act Advocacy from April to September 2015 showed an additional 24 referrals in Quarter 1 and 68 referrals in Q2. End of year figures are still awaited, but the first two quarter would suggest a trajectory of up to 544 referrals in a year..
11. Breakdown of Care Act referrals

	Quarter 1 – Total 24	Quarter 2 – Total 68
Assessment	63%	62%
Review	33%	26%
Safeguarding	4%	12%

Impact of increasing mental capacity and DoLS activity

12. Specialist advocacy work as a result of mental capacity issues has increased steadily since 2012/13 with the referrals for the first 6 months of 2015/16 already being nearly three quarters of those for the whole of 2014/15.

13. This is in line with a doubling of DoLS assessments, with a need for both one off assessments and longer term advocacy support. Much of this increase has been caused by the Cheshire West judgement in the High Court in 2013, which clarified, and extended the circumstances under which a Deprivation of Liberty Safeguard should be considered to include those occasions where it has been assumed that someone is not objecting to the safeguards put in place.

Outcome of procurement for a new advocacy provider

14. The invitation to tender sought one county wide provider, with the ability for consortia to bid, or for a Lead Provider to sub-contract. This optimises value for money, by minimising management and overhead costs, and supports operational quality for people receiving the service. Provider staff will undergo the same training and development and work to the same policies and procedures and there is a flexibility in the response to both specialist and generic work.

15. Market engagement before the tender process indicated there would be an interest in this approach

16. Three bids were received, and as a result of robust evaluation Cloverleaf have been selected as the new provider. They have indicated in their bid submission that they may sub contract with York Mind and Advocacy Alliance to deliver some aspects of the contract.

17. This will mean a change as the previous provider of the generic advocacy (North Yorkshire Advocacy) is not part of the successful bid. Plans are in place to work with the outgoing provider to ensure a smooth transfer to the new contract arrangements.

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Background Documents Nil