



**TAYSIDE PARTNERSHIP FRAMEWORK
FOR EFFECTIVE ADVOCACY PROVISION**



June 2008

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TAYSIDE PARTNERSHIP FRAMEWORK FOR EFFECTIVE ADVOCACY ORGANISATIONS

Key Principles Underpinning Provision of Independent Advocacy in Tayside

1 Introduction

Key principles were developed by NHS Tayside, Tayside Health Council, Angus Council, Dundee City Council, Perth & Kinross Council, “Advocacy 2000”ⁱ and the Independent Advocacy organisations in Tayside. This framework was initially introduced in April 2003. The document has been updated in light of new legislation and consulted on with relevant agencies and partners. This document will continue to be relevant unless new legislation, regulations or guidance in relation to advocacy impacts on the content of the framework, requiring it to be reviewed and revised.

Staff and volunteers are constantly working to improve services for the population of Tayside. The purpose of this framework is to clarify and support the working relationship between public sector staff and the advocacy organisations, and acknowledge the importance of independent advocacyⁱⁱ. This document reflects the ethos of the “Guide to Good Practice”ⁱⁱⁱ.

The framework recognises that the Mental Health (Care & Treatment) (Scotland) Act 2003 gives every person with a mental disorder^{iv} a statutory right of access to independent advocacy and puts a duty on Health Boards and Local Authorities to ensure that independent advocacy services are available.

All parties will respect, recognise and promote the specific needs of all people including black and minority ethnic communities (including gypsy/travellers, refugees and asylum seekers), women and men, religious/faith groups, disabled people, older people, children and young people and the lesbian, gay, bisexual and transgender community.

2 Consent

This framework acknowledges that most people can give their consent. Where they cannot, we accept the need for the role of advocacy.

The person’s consent, where possible, must be sought for all involvement and contact with the advocacy organisations or advocate. If a person lacks the capacity to give consent, staff will act to safeguard the person’s interests in accordance with statutory duties including the Human Rights Act 1998, the Data Protection Act 1998 and the Adults with Incapacity (Scotland) Act 2000.

An adult may have granted a Power of Attorney to someone, such as a relative or friend, giving that person authority to make welfare and/or financial decisions on their behalf or a Guardian may have been appointed by a court. (A person appointed to make decisions on someone else’s behalf is sometimes referred to as a “proxy”) A Power of Attorney does not negate the need for an advocate.

All Powers of Attorney and Guardianship Orders made under the Adults with Incapacity Act must be registered with the Office of the Public Guardian before they can be operated. The Public Guardian’s office can be asked to check its registers to confirm if such an appointment is in place.

The advocates must agree to their contact details being included in the users’ records.

3 The Role of NHS and Local Authority Staff

The role of the NHS and Local Authority staff incorporates:

- Ensuring that staff are made aware of and understand the importance and contribution of independent advocacy.

ⁱ A national organisation that was disbanded in 2003

ⁱⁱ Independent Advocacy – A Guide for Commissioners. Scottish Executive. January 2001

ⁱⁱⁱ Advocacy – A Guide to Good Practice. Scottish Hospital Advisory Service/Scottish Executive. 1997.

^{iv} Defined as mental illness, personality disorder or learning disability

- Recognition that people with a mental disorder as defined by the Mental Health (Care & Treatment) (Scotland) Act 2003 have a statutory right of access to independent advocacy.
- Staff recognising the importance of the role of an independent advocate as described under **5** below.
- Staff being given the opportunity to discuss the role of the advocate with the relevant Advocacy Organisation.
- Staff proactively identifying the person's potential need for advocacy and being able to discuss this with the person.
- Staff enabling the person to contact the advocate or an advocacy organisation if required. Where the person is unable to contact an organisation, staff will contact the advocacy organisation on the person's behalf.
- Staff including details of the person's advocate in relevant records.
- Staff, once informed that the person has an advocate and with the person's consent, ensuring that the advocate is notified of any significant changes in service provision.
- Staff being made aware of the person's statutory right to have their advocate informed of, and attend, all formal/informal meetings where the person's circumstances are being discussed and decisions being made, and ensuring that any specific needs are taken into account to facilitate their full inclusion in meetings. Where the person's advocate is excluded from discussions, staff should give clear and justified reasons to the person and the advocate. These reasons should be recorded and communicated in an appropriate format to all parties.

4 The Role of Advocacy Organisations^v

The role of the advocacy organisation incorporates:

- Ensuring that all advocates have appropriate disclosure checks and screening procedures.
- Providing effective recruitment, training and orientation programmes.
- Supporting all their advocates offering induction, consultation, help, advice, ongoing training and regular support and supervision.
- Ensuring, where requested, that all staff are given the opportunity to discuss the role of an advocate and the advocacy organisation.
- Ensuring accessible information on advocacy organisations is widely available. This may include written information as well as translation into other languages and alternative formats, as required.
- Informing those services they are in contact with about procedures they have in place, e.g. complaints, etc.

5 The Role of the Advocate

The role of the advocate incorporates the following:

- An advocate is an individual who has undergone the recruitment process and training to allow them to support the interests of a person who, for whatever reason, is not fully able to represent their own interests.

^v Advocacy 2000 in consultation with many independent advocacy services, produced in January 2002 Principles and Standards in Independent Advocacy Organisations and Groups – this was updated in 2008 through further consultation by the Scottish Independent Advocacy Alliance - <http://www.siaa.org.uk/images/stories/siaaprinciples%26standardsforweb.pdf>.

The advocate will represent the person's views and support the person to express their wishes and, where needed, will represent the person's views as if they were their own.

- The advocate's primary responsibility is to the person using the service and not to the service provider(s) or to any other people in the person's lives, i.e. family, neighbours, etc.
 - The advocate may require to be an enabler, supporter, representative, spokesperson and safeguarder.
 - The advocate is entitled to raise with the relevant individuals, including service provider(s) or appropriate professionals, any issue that affects the person's needs, wishes and requirements.
 - Advocates are entitled to be informed of, and attend, any formal/informal meetings where their partner's circumstances are being discussed, and any specific needs should be taken into account to facilitate the inclusion of the advocate and partner in the meeting. There should be agreement wherever possible between the partner and the advocate about attendance at meetings. If professionals feel that it is inappropriate for an advocate or the partner to be involved, this should be fully discussed with the advocate and their partner in advance and justified reasons given. The outcome of this discussion should be put in writing by all parties and be recorded, in the event of disagreement, as part of the meeting, and communicated in an appropriate format to all parties.
 - Advocates will respect the rights and confidentiality of the person at all times, within agreed advocacy organisation boundaries and existing laws.
 - Advocates and staff discussing the person's needs, if this is appropriate and agreed to be a positive step forward for the person's well being. This should be done with the consent of the person wherever possible.
- 6 This document was impact assessed using the rapid impact checklist^{vi} on Friday, 16 December 2005, by the Tayside Advocacy Development Group and it was agreed that full impact assessment was not required.

The above needs to take cognisance of Caldicott principles

Arrangements can be made to provide a copy of this document in another language or format if requested. This can be obtained by contacting NHS Tayside Communications Department on Dundee 424138

^{vi} Equality and Diversity Impact Assessment Toolkit. Patient Focus and Public Involvement Fair for All. The Wider Challenge. Scottish Executive. Interim Version September 2004

SIGNATORIES

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NHS Tayside

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Angus Independent Advocacy

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Angus Council

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Dundee Independent Advocacy Support

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Dundee City Council

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Independent Advocacy Perth & Kinross

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Perth & Kinross Council

NB Caldicott Principles

The Caldicott principles encapsulate the essence of good practice as determined by the Caldicott Committee for the management of patient identifiable information and apply specifically to the Health Service. However, they also reflect good practice in dealing with any sensitive, person-identifiable information for any organisation. These principles are:

- Justify the purpose
- Don't use patient-identifiable information when it is not absolutely necessary
- Use the minimum necessary patient-identifiable information
- Restrict access on a need to know basis
- Everyone should be aware of their responsibilities
- Understand and comply with the law

With respect to the sixth principle, particular attention should be drawn to the Data Protection Act 1998, which applies strict conditions for the collection, storage, analysis or transmission of all person-identifiable data, whether held as electronic or manual records