



Integration Joint Board

31<sup>st</sup> May 2018

This Report relates to  
Item 6 on the Agenda

# The Right to Advocacy

*(Paper presented by Linda Owen)*

*For Approval*

<b>Approved for Submission by Author</b>	Vicky Freeman, Head of Strategic Planning Linda Owen, Strategic Planning and Commissioning Manager Glen Graham, Strategic Planning and Commissioning Manager
<b>List of Background Papers</b>	
<b>Appendices</b>	Appendix 1 – The Right to Advocacy Report – Mental Welfare Commission Appendix 2 – Proposed response from Dumfries and Galloway Appendix 3 - Direction

## SECTION 1: REPORT CONTENT

**Title/Subject:** The Right to Advocacy  
**Meeting:** Integration Joint Board  
**Date:** 31<sup>st</sup> May 2018  
**Submitted By:** Linda Owen, Strategic Planning and Commissioning Manager  
**Action:** For Approval

### 1. Introduction

- 1.1 The Mental Health (Care & Treatment) (Scotland) Act 2003 gives anyone with a mental disorder a right of access to independent advocacy. As well as this statutory duty, other legislation and guidance recommends the availability of advocacy such as the Carers (Scotland) Act 2016.
- 1.2 The Mental Health (Scotland) Act 2015 builds on the right in the 2003 Act to independent advocacy support, by requiring health boards and local authorities to tell the Mental Welfare Commission (MWC) how they have ensured access to services up to now, and how they plan to do so in the future. The MWC have produced their first report called 'The Right to Advocacy' in March 2018 (please see Appendix 1). The MWC will be producing a report every two years. This report contains six recommendations. The MWC has asked each Integration Joint Board (IJB) to discuss the report and submit a response to each of the recommendations by 30 June 2018.

### 2. Recommendations

- 2.1 **The Integration Joint Board is asked to:**
  - **Note the recommendations contained within 'Right to Advocacy' Report by the Mental Welfare Commission**
  - **Approve the proposed response addressing each of the six recommendations (Appendix 2)**
  - **Agree to issue a joint direction to the NHS and Local Authority to develop an advocacy plan (Appendix 3)**

### **3. Background**

- 3.1 Independent advocacy is a way to help people have a stronger voice and to have as much control as possible over their own lives. An independent advocate supports an individual to represent their own interests or represents the views of an individual if the person is unable to do this for themselves. They provide support on specific issues and provide information but not advice. Independent Advocacy organisations are separate from organisations that provide other types of services
- 3.2 Independent Advocacy is used by a variety of people in Dumfries and Galloway who need help to have their voice heard when using health and social care services. This type of service tends to support some of the most vulnerable members of society and can have an early intervention and prevention role by supporting people to resolve issues before they become a crisis.
- 3.3 The Dumfries and Galloway Health and Social Care Strategic Plan (2016 - 2019) contains a commitment that 'We will make sure that people have access to Independent Advocacy if they want or need help to express their views and preferences'.
- 3.4 While there are numerous individuals and organisations in Dumfries and Galloway who may 'advocate' on behalf of people who use their service, this is not Independent Advocacy.
- 3.5 Adult Independent Advocacy provision in Dumfries and Galloway was recently recommissioned and a new contract started on 1st April 2018. This contract includes the provision of both individual and collective advocacy (see glossary for definitions).
- 3.6 Independent Advocacy in this region is provided for adults by the 'Dumfries and Galloway Advocacy Service' and by 'Barnardo's' for children and young people.

### **4. Main Body of the Report**

- 4.1 The MWC have carried out their first biennial survey on advocacy planning and have published a report, the Right to Advocacy (Appendix 1). The main issues highlighted in the report relate to:
- Variable planning and provision of advocacy services across Scotland,
  - A lack of clarity in some areas on where responsibilities lie for the preparation of strategic advocacy plans
  - A lack of clarity on the provision of services for children and young people with mental illness or learning disability, other than those who are looked after.
- 4.2 The MWC report makes six recommendations:

- 4.2.1 **Recommendation 1** - Ensure that there is clarity about which organisation will be responsible for coordinating the preparation of strategic advocacy plans for their area
  - 4.2.2 **Recommendation 2** - Ensure that strategic advocacy plans are in place by the end of December 2018.
  - 4.2.3 **Recommendation 3** - Ensure that strategic plans are developed based on a local needs assessment, and information about unmet need and gaps in local provision. They should be developed in partnership with people who use or may use services, and with service providers. Barriers people may be experiencing accessing advocacy support, including barriers created by prioritisation and people being placed outwith their home areas, should be addressed in plans
  - 4.2.4 **Recommendation 4** - Ensure that advocacy planners carry out equalities impact assessments and develop approaches to monitoring and enabling access to advocacy which cover all the protected characteristics
  - 4.2.5 **Recommendation 5** - Ensure there is clarity about where the responsibility lies for planning and commissioning independent advocacy services which are accessible for all children and young people under 18 with a mental disorder. This includes children and young people receiving care and treatment on an informal basis, or in placements out with their home area.
  - 4.2.6 **Recommendation 6** - Ensure that arrangements for planning for the provision of independent advocacy services for children and young people include processes for assessing the projected need for these supports.
- 4.3 The MWC is expecting a response from each Health and Social Care Partnership and Local Authority on how they will address each of the recommendations. The MWC also has an expectation that Integration Joint Boards, with their responsibility for strategic planning, will discuss the response. The proposed response to each recommendation can be found in Appendix 2.
- 4.4 To meet Recommendation 2 a joint direction to the NHS and Local Authority to prepare and develop a strategic advocacy plan for Adults will be needed. A proposed draft direction is attached as Appendix 3.

## 5. Conclusions

- 5.1 The MWC report contains key recommendations for independent advocacy planning and provision in the future. These recommendations will inform independent advocacy planning in Dumfries and Galloway.
- 5.2 A joint direction from the IJB for the preparation of a new plan for independent advocacy in Dumfries and Galloway will be needed.

## SECTION 2: COMPLIANCE WITH GOVERNANCE STANDARDS

### 6. Resource Implications

6.1. There are no resource implications.

### 7. Impact on Integration Joint Board Outcomes, Priorities and Policy

7.1. This is in line with the IJB outcomes and priorities as outlined in the report.

### 8. Legal & Risk Implications

8.1. There is a legal requirement to provide independent advocacy as per the Mental Health (Care and Treatment) (Scotland) Act 2003.

### 9. Consultation

9.1. Engagement will be undertaken as part of the development of the plan

### 10. Equality and Human Rights Impact Assessment

10.1. An EQIA will be undertaken once the strategic advocacy plan has been prepared.

### 11. Glossary

**MWC** – Mental Welfare Commission

**Independent Advocacy** - Independent Advocacy is a way to help people have a stronger voice and to have as much control as possible over their own lives. Independent Advocacy organisations are separate from organisations that provide other types of services. An independent advocate will not make decisions on behalf of the person/group they are supporting. The independent advocate helps the person/group to get the information they need to make real choices about their circumstances and supports the person/group to put their choices across to others. An independent advocate may speak on behalf of people who are unable to do so for themselves

**Individual Advocacy** - This includes professional or issue based advocacy. It can be provided by both paid and unpaid advocates. An advocate supports an individual to represent their own interests or represents the views of an individual if the person is unable to do this themselves. They provide support on specific issues and provide information but not advice. This support can be short or long term.

**Collective Advocacy** enables a peer group of people, as well as a wider community with shared interests, to represent their views, preferences and experiences. Being part of a collective advocacy group can help to reduce an individual's sense of isolation when raising a difficult issue. Groups can benefit from the support of resources and skilled help from an advocacy organisation.

**EQIA** Equality and Human Rights Impact Assessment