

# Advocacy for mental health

## Making your voice heard

Advocacy can help if you are having issues with NHS or social services. This factsheet explains more about what advocates do, how they can help you and how you can find one. This information is for adults affected by mental illness in England and their carers and loved ones. It's also for anyone interested in the subject.

### Key Points.

- Advocates can help you understand your rights and deal with issues.
- They can talk to people on your behalf or help you to speak for yourself.
- Advocates are independent of the NHS and social services.
- Advocacy services are usually free of charge.
- There are different types of advocates depending on what help and support you need.
- You can get an independent mental health advocate (IMHA) if you are under the Mental Health Act.
- If you lack mental capacity to make decisions, an independent mental capacity advocate (IMCA) could help.
- A Care Act advocate could support you if you need help being involved in decisions about social care.
- An NHS complaints advocate make a complaint about the NHS.

### This factsheet covers:

1. [How can an advocate help?](#)
2. [What kinds of advocacy are there?](#)
3. [How can I get a mental health advocate for myself or a loved one?](#)
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## 1. How can an advocate help?

Advocates can help you to communicate with doctors and other professionals in the NHS or social services. They can help you understand your rights and deal with issues.

Advocacy services are usually charities, which means they are independent from the NHS and social services. Sometimes advocates can be based within a service or hospital but are still independent.

Advocacy services are usually free of charge.

An advocate can help you to:

- get what you are entitled to,
- understand your rights,
- get your point of view across, and
- get the services that you need.

They might be able to go to appointments with you and help you to write emails or letters. Advocates can sometimes speak on your behalf if you want them to.

You might find it helpful to have an advocate if you:

- find it difficult to get the treatment or services you want,
- are anxious about talking to doctors or other professionals,
- feel that things are explained in a confusing way, or
- have problems with concentration or organisation.

### Your advocate should<sup>1</sup>

- ✓ Be clear about what they can and can't help you with
- ✓ Tell you what they have done on your behalf
- ✓ Respect you and not judge you
- ✓ Listen to you and talk through your options
- ✓ Give you information to help you make decisions
- ✓ Not share your personal information with other people unless you agree, or they have to
- ✓ Be free of charge
- ✓ Encourage you to speak for yourself

### Your advocate should not<sup>2</sup>

- ✗ Offer you counselling
- ✗ Tell you what to do
- ✗ Force their views or opinions on you
- ✗ Do things on your behalf without asking you first

Some advocates can be trained in more than one area.

## **What is legal advocacy?**

You may hear the word 'advocate' being used in a legal setting. Sometimes you will hear lawyers being called 'advocates'.

In England, we tend to use the words 'solicitor' and 'barrister' to talk about lawyers who help us with legal problems.

This factsheet does not deal with help from lawyers.

You can find more information about '**Legal advice – How to get help from a solicitor**' at [www.rethink.org](http://www.rethink.org). Or call our General Enquiries team on 0121 522 7007 and ask them to send you a copy of our factsheet.

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## **2. What kinds of advocacy are there?**

### **What is statutory advocacy?**

Statutory advocacy means types of advocacy that has to be provided to certain people by law.

There are different types of advocacy services, which help people in different situations.

The following advocacy services are available in every area in England.

- Independent mental health advocacy.
- Independent mental capacity advocacy.
- NHS complaints advocacy.
- Care Act advocacy.

Read on to find out what these services do.

### **What is non-statutory advocacy?**

Non-statutory advocacy means types of advocacy that doesn't have to be provided by law. But some local authorities pay for organisations to provide these extra types of advocacy services.

These services can be known as things like general advocacy or community advocacy. Some advocacy services are specifically for people with mental health issues who live in the community.

Please see towards the end of this section for more information on [general advocacy](#).

### **What are independent mental health advocates (IMHA)?**

IMHA services help people who are detained under the Mental Health Act or on a community treatment order (CTO).

You have the right to see an IMHA if:

- you are detained in hospital under the Mental Health Act 1983 – this is sometimes known as being ‘sectioned’,<sup>3</sup>
- you are under a Community Treatment Order (CTO),<sup>4</sup> or
- you are vulnerable and considering neurosurgery or electro-convulsive treatment (ECT).<sup>5</sup>

You cannot have an IMHA if:<sup>6</sup>

- you are taken to a place of safety under sections 135 or 136 of the Mental Health Act, or
- you are kept in hospital for a short time under emergency holding powers under Section 5 of the Mental Health Act.

If you are in hospital under the Mental Health Act and would like to speak to an IMHA, you can:

- ask a member of staff on the ward,
- look on the ward notice board for details,
- search online for contact details, or
- ask someone to help you.

Your nearest relative, your responsible clinician or an approved mental health professional (AMHP) can ask an IMHA to see you. But you do not have to see an IMHA if you choose not to.<sup>7</sup>

You have the right to:

- have access to a telephone on which you can contact the IMHA service and talk to them in private,<sup>8</sup> and
- see an IMHA in private unless professionals think it’s inappropriate and risky.<sup>9</sup>

Professionals should make sure IMHAs can:<sup>10</sup>

- access the wards or units where you are staying, and
- go to meetings with you and the professionals involved in your care, if you request this.

What help can I get from an IMHA?

An IMHA can help you understand:<sup>11</sup>

- your rights under the Mental Health Act (MHA), including your discharge rights,
- your rights and your conditions under your community treatment order (CTO), if applicable,
- the rights that other people have, such as your family, the parts of the MHA that affect you,
- any conditions or restrictions to which affect you, or

- any medical treatment you are receiving and the reasons for that treatment.

If you agree, the IMHA can do the following.<sup>12</sup>

- Meet with you in private.
- Look at your health records.
- Speak to the people treating you.
- Represent you. They can speak or write for you.
- Go with you to meetings about your treatment and care.
- Help you to appeal to a tribunal.

You can find more information about:

- Mental Health Act, and
- Community treatment orders (CTOs)

At [www.rethink.org](http://www.rethink.org). Or call our General Enquiries team on 0121 522 7007 and ask them to send you a copy of our factsheet.

### **What are Independent Mental Capacity Advocates (IMCA)?**

IMCAs can support you if you have been assessed as lacking mental capacity and:<sup>13</sup>

- you need to make a specific decision at a specific time,
- you need to make a decision about 'serious medical treatment' or living in a care or nursing home, and
- you do not have loved ones who can support you to make decisions in your best interests.

You might be finding it hard to make decisions about these things. You or a loved one can talk to your doctor or social worker about the problem. They can help you to get an IMCA.

### What help will I get?

Your IMCA will:<sup>14</sup>

- support you to make decisions,
- represent you to other people so that your best interests are known,
- try to find out all of the things that you would think about if you were making the decision for yourself,
- provide information to help work out what is in your best interests, and
- ask questions or challenge decisions that do not appear to be made in your best interest.

### What does my 'best interests' mean?

If you have an IMCA they must try and work out what your best interests are.

They will think about:<sup>15</sup>

- your past and present wishes, feelings, values, and beliefs,
- the views of your carers and family,
- all your circumstances, and
- the good things and bad things about a decision.

You can find more information about '**Mental capacity and mental illness**' at [www.rethink.org](http://www.rethink.org). Or call our General Enquiries team on 0121 522 7007 and ask them to send you a copy of our factsheet.

### **What is NHS complaints advocacy?**

You can contact an NHS complaints advocacy service if you need help or advice about making a complaint about the NHS.

#### Who will I speak to?

These services are normally run by specialist advocacy organisations like The Advocacy People, POhWER and Voiceability. They are separate from the NHS.

#### What help will I get?

You will get help making a complaint about the NHS.

An advocate can help you to:<sup>16</sup>

- work out what you want to complain about,
- decide on the outcome you're looking for,
- do as much as you can for yourself,
- write your complaint and send it to the right people, and
- understand the response you get and what to do next.

Advocates can sometimes attend meetings to support you if you find it difficult to say what you want.

You can find more information about '**Complaining about the NHS and social services**' at [www.rethink.org](http://www.rethink.org). Or call our General Enquiries team on 0121 522 7007 and ask them to send you a copy of our factsheet.

### **What is a Care Act advocate?**

You might need support from social services if:

- you have care and support needs because of an illness or disability, or
- you are a carer of somebody who lives with an illness or disability, and you need support.

Under the Care Act 2014, your local authority must assess your support needs if you ask them to. They must involve you in making any decisions

about your social care and support. They must provide advocacy to people if they need it to be involved in making decisions.

You or your carer might want to know more about getting help from social services. You can find more information in our factsheets on:

- Social care assessment – Under the Care Act 2014, and
- Carers assessment – Under the Care Act 2014.

At [www.rethink.org](http://www.rethink.org). Or you can call our General Enquiries team on 0121 522 7007 and ask them to send you a copy of our factsheets.

### Can I see a Care Act Advocate?

You have a right to be supported by a Care Act advocate if:<sup>17</sup>

- you have substantial difficulty in being involved in decisions about your social care and support, and
- you do not already have an ‘appropriate person’ to help you.

Your local authority (LA) will:

- think about the best way of involving you in the assessment,
- decide whether you will have ‘substantial difficulty’ in being involved with the planning of your care and support, and
- decide if you need to be supported by an advocate.

The LA will think about whether you will have difficulties in:<sup>18</sup>

- understanding relevant information,
- remembering information,
- weighing up information, or
- communicating your views, wishes or feelings.

### Who can be my appropriate person?

An appropriate person:<sup>19</sup>

- is someone who your LA thinks can represent and support you,
- may be an unpaid carer or loved one, but
- can’t be someone who is paid to give you care or treatment.

Your LA must give you a Care Act advocate if:<sup>20,21</sup>

- your appropriate person is not willing or able to support you,
- your appropriate person finds it difficult to support you,
- you don’t have anyone to act as an appropriate person or
- you don’t want your appropriate person to support you, and you have capacity to make the decision.

### What help will I get?

Your advocate can help you:

- when your needs are assessed by the local authority,
- understand your options, and
- saying what accommodation, care or treatment you want, and what you don't want.

An advocate can also check that the person responsible for your care is looking after you properly. This is known as safeguarding.<sup>22</sup>

The advocate should do the following things.<sup>23,24</sup>

- Decide the best way of supporting and representing you. This will always be done with regard for your wellbeing and interests.
- Try to meet with you in private.
- Ask for your consent to look at your records.
- Talk to your carer, family and anyone else who can provide information about your needs, wishes, beliefs and values.

Your IMHA is allowed to take copies of your records in some circumstances.<sup>25</sup>

If you already have an independent mental capacity advocate (IMCA) they may be able to help you instead. This means that you will not have to repeat your story to different advocates.<sup>26</sup>

### Can I see a Care Act Advocate for a different reason?

Your Local authority (LA) may get you a Care Act advocate if:<sup>27</sup>

- the LA and your 'appropriate person' disagree about something to do with your care or support,
- you go into an NHS hospital for longer than 4 weeks, or
- you go to a care home for longer than 8 weeks following your assessment or care planning.

In all the situations above, the LA must think that it is in your best interests to have a Care Act advocate.

### **What is general advocacy?**

These services may also be called:

- non-statutory advocacy,
- case work,
- community advocacy,
- generic advocacy, or
- short-term advocacy.

General advocacy may not always be available in your area.

### What help will I get?

The help you can get depends on what service offer. This can vary from service to service.

It could be things like, help with problems in the NHS or social services, housing or benefits issues.

Your advocate may be able to help you write emails or letters or go to meetings with you.

Below are types of general advocacy you might come across.

- **Mental health advocacy.** Some advocacy services are specifically for people with mental health issues who live in the community.
- **Citizen advocacy.** A volunteer will give you one-to-one support to speak up for yourself.
- **Peer advocacy.** The advocate will have been in contact with mental health services themselves and may have had similar problems to deal with. They can give information and help you deal with problems you are having.
- **Group advocacy.** You will meet a group of people who want to deal with similar problems. You will be able to share ideas about the best way to overcome them.
- **Self-advocacy.** This means speaking up for yourself to overcome problems. You might be able to get help with this. Some advocacy services might offer resources or run groups where you can talk through ways of dealing with problems.

### Who will I speak to?

Depending on the service, your advocate will either be a volunteer or a paid member of staff.

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## **3. How can I get a mental health advocate for myself or a loved one?**

There isn't a single website showing all of the advocacy services in England.

To search for services, you can try the following.

- Search on the internet, using terms like 'NHS complaints advocacy Leicestershire' or 'Care Act advocacy Devon'. Search using your county, metropolitan borough, or London borough.
- Ask a support worker or key worker if you have one.
- Ask your local council.
- Ask your local NHS Patient Advice and Liaison Service (PALS). You can search for your local service here: [www.nhs.uk/Service-Search/Patient-advice-and-liaison-services-\(PALS\)/LocationSearch/363](http://www.nhs.uk/Service-Search/Patient-advice-and-liaison-services-(PALS)/LocationSearch/363).
- Get in touch with organisations that provide advocacy such as Rethink Mental Illness, The Advocacy People, Voiceability and

POhWER. You can find their details in the [Useful contacts](#) section at the end of this factsheet.

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#### 4. How can I complain about an advocate?

If you are not happy with your advocate, then you could:

- explain the issue, and see if you can sort it out, or
- ask to see a different advocate.

But the service might not be able to offer you a different advocate. It may depend on the size of the service and how many advocates they have working for them.

If you are not happy with the service you have had from an advocate, you can complain. You can ask for a copy of the service's complaints policy to start with. Every advocacy service should have a policy and it should explain how they will deal with your complaint.

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The main 3 advocacy organisations in England are:

##### **POhWER**

Provides advocacy services in different areas across England .

**Telephone:** 0300 456 2370

**Address:** PO Box 17943, Birmingham, B9 9PB

**Email:** [pohwer@pohwer.net](mailto:pohwer@pohwer.net)

**Text:** send the word 'pohwer' with your name and number to 81025

**Website:** [www.pohwer.net](http://www.pohwer.net)

##### **Voiceability**

Provides advocacy services in different areas across England.

**Telephone:** 0300 303 1660

**Address:** VoiceAbility, c/o Sayer Vincent, Invicta House 108-114 Golden Lane, London, EC1Y 0TL.

**Email:** [helpline@voiceability.org](mailto:helpline@voiceability.org)

**Website:** [www.voiceability.org](http://www.voiceability.org)

##### **The Advocacy People**

An independent charity providing free, confidential advocacy services.

**Telephone:** 0330 440 9000

**Address:** PO Box 375 Hastings, East Sussex, TN34 9HU

**Email:** [info@theadvocacypeople.org.uk](mailto:info@theadvocacypeople.org.uk)

**Text:** 80800 Start message with the word 'PEOPLE'

**Website:** [www.theadvocacypeople.org.uk](http://www.theadvocacypeople.org.uk)



## References

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- <sup>2</sup> Advocacy QPM. *Code of Practice*. 2014 Edition. [www.qualityadvocacy.org.uk/wp-content/uploads/2014/03/Code-of-Practice.pdf](http://www.qualityadvocacy.org.uk/wp-content/uploads/2014/03/Code-of-Practice.pdf); <https://qualityadvocacy.org.uk/advocacy-code-of-practice> (Accessed 11<sup>th</sup> August 2022)
- <sup>3</sup> Department of Health. *Code of Practice Mental Health Act 1983*. London: TSO. 2015 (para 6.8)
- <sup>4</sup> Department of Health. *Code of Practice Mental Health Act 1983*. London: TSO. 2015 (para 6.8)
- <sup>5</sup> Department of Health. *Code of Practice Mental Health Act 1983*. London: TSO. 2015 (para 6.10)
- <sup>6</sup> Department of Health. *Code of Practice Mental Health Act 1983*. London: TSO. 2015 (para 6.9)
- <sup>7</sup> s130B(5) and (6), Mental Health Act 1983 c 20.
- <sup>8</sup> Department of Health. *Code of Practice Mental Health Act 1983*. London: TSO. 2015 (para 6.26)
- <sup>9</sup> Department of Health. *Code of Practice Mental Health Act 1983*. London: TSO. 2015 (para 6.27)
- <sup>10</sup> Department of Health. *Code of Practice Mental Health Act 1983*. London: TSO. 2015 (para 6.27)
- <sup>11</sup> Department of Health. *Code of Practice Mental Health Act 1983*. London: TSO. 2015 (para 6.12)
- <sup>12</sup> Department of Health. *Code of Practice Mental Health Act 1983*. London: TSO. 2015 (Paras 6.13 & 6.28 – 6.29)
- <sup>13</sup> Department of Constitutional Affairs. *Mental Capacity Act Code of Practice*. London: TSO;2013. para 10.1.
- <sup>14</sup> Department of Constitutional Affairs. *Mental Capacity Act Code of Practice*. London: TSO;2013. para 10.4.
- <sup>15</sup> s4 (6), Mental Capacity Act 2005 c9
- <sup>16</sup> Voiceability. *Take me seriously – NHS complaints*. <https://www.voiceability.org/about-advocacy/types-of-advocacy/nhs-complaints-advocacy> [https://www.voiceability.org/assets/download/VoiceAbility-NHS-Complaints-Advocacy-Service-leaflet\\_2022-08-03-140209\\_vcvq.pdf](https://www.voiceability.org/assets/download/VoiceAbility-NHS-Complaints-Advocacy-Service-leaflet_2022-08-03-140209_vcvq.pdf) (accessed 26 January 2023)
- <sup>17</sup> s67(5), Care Act 2014 c23.
- <sup>18</sup> s67(4), Care Act 2014 c23.
- <sup>19</sup> s67(5), Care Act 2014 c23. .
- <sup>20</sup> Department of Health. *Care and Support Statutory Guidance*. [www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance#Chapter7](http://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance#Chapter7); para 7.8 (Accessed 11<sup>th</sup> August, 2022.)
- <sup>21</sup> Department of Health. *Care and Support Statutory Guidance*. [www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance#Chapter7](http://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance#Chapter7) para 7.9. (Accessed 11<sup>th</sup> August, 2022.)
- <sup>22</sup> Department of Health. *Care and Support Statutory Guidance*. [www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance#Chapter7](http://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance#Chapter7) para 7.4 (Accessed 1<sup>th</sup> August, 2022.)
- <sup>23</sup> Department of Health. *Care and Support Statutory Guidance*. [www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance#Chapter7](http://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance#Chapter7) para 7.46 (Accessed 10<sup>th</sup> August, 2022.)
- <sup>24</sup> Department of Health. *Care and Support Statutory Guidance*. [www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance#Chapter7](http://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance#Chapter7) Para 7.47. (Accessed 10<sup>th</sup> August, 2022.)
- <sup>25</sup> Department of Health. *Care and Support Statutory Guidance*. [www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance#Chapter7](http://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance#Chapter7) Para 7.47. (Accessed 10<sup>th</sup> August, 2022.)
- <sup>26</sup> Department of Health. *Care and Support Statutory Guidance*.

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This factsheet is available in large print.

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### Rethink Mental Illness Advice Service

Phone 0808 801 0525  
Monday to Friday, 9:30am to 4pm  
(excluding bank holidays)

Email [advice@rethink.org](mailto:advice@rethink.org)

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#### Did this help?

We'd love to know if this Information helped you

Drop us a line at: [feedback@rethink.org](mailto:feedback@rethink.org)

or write to us at Rethink Mental Illness:

RAIS  
PO Box 18252  
Solihull  
B91 9BA

or call us on 0808 801 0525

We're open 9:30am to 4pm

Monday to Friday (excluding bank holidays)



**Equality, rights, fair treatment, and the maximum quality of life for all those severely affected by mental illness.**

For further information on Rethink Mental Illness Phone 0121 522 7007  
Email [info@rethink.org](mailto:info@rethink.org)



[rethink.org](https://rethink.org)



Patient Information Forum

#### Need more help?

Go to [rethink.org](https://rethink.org) for information on symptoms, treatments, money and benefits and your rights.

#### Don't have access to the web?

Call us on 0121 522 7007. We are open Monday to Friday, 9am to 5pm, and we will send you the information you need in the post.

#### Need to talk to an adviser?

If you need practical advice, call us on: 0808 801 0525 between 9:30am to 4pm, Monday to Friday. Our specialist advisers can help you with queries like how to apply for benefits, get access to care or make a complaint.

#### Can you help us to keep going?

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