

Determining need for advocacy

The decision making process for professionals exercising functions under the Social Services and Well-being (Wales) Act 2014.

All references are to the Part 10 Code of Practice (Advocacy).

1. As part of the initial conversation, and throughout the assessment, care and support planning, review and safeguarding processes, professionals must ascertain whether the person has any barriers which prevent their full participation in determining and securing their well-being outcomes. Barriers include understanding, retaining, using or weighing relevant information, and difficulties in communicating their views, wishes and feelings (paras 55-60, 63).
 - 2A. If a person is assessed as experiencing one or more of these barriers, and this is because of an impairment of, or disturbance in, the functioning of the mind or brain, the person may lack capacity to make a decision and an assessment of their capacity under the Mental Capacity Act 2005 should be made. This may affect the type of advocacy which it is appropriate to provide for the person (para 60). If a person lacks capacity but falls outside the IMCA criteria, other forms of advocacy, including Independent Professional Advocacy, should still be considered.
 - 2B. If a person is assessed as experiencing one or more of these barriers, and this is *not* because of mental capacity issues, the professional must consider whether they can be better supported to overcome these barriers through reasonable adjustments under the Equality Act 2010. If so, the reasonable adjustments should be made and the support provided.
 3. If one or more barriers are still identified, and there is a possible conflict of interest in the professional providing formal advocacy, the professional must - in partnership with the person - determine whether there is an appropriate individual who can support them (para 32, 61, 62).
 4. In determining whether it is appropriate for an individual to support, represent and facilitate a person's full participation in determining and securing their well-being outcomes, professionals must consider whether the individual:
 - a) understands local authority processes,
 - b) is likely to be able to adequately support the person,
 - c) is likely to be available to adequately support the person,
 - d) is implicated in an enquiry into abuse or neglect, and whether their actions have influenced a local authority decision to consider adult protection and support order actions,and whether the person wants that individual to support them (paras 61, 63).
- If someone fails to meet one or more of the above criteria they should not be considered an appropriate individual.
5. If an appropriate individual is not available, the professional should consider the role of other forms of advocacy and signpost the person to appropriate advocacy services (paras 32, 79).
 6. If the required support cannot be provided by an appropriate individual, through formal advocacy or through other forms of advocacy, the professional must refer the person to the Independent Professional Advocacy service.