



**Consultation Response**

# **Social Security Advocacy Service Standards**

The Scottish Commission for  
Learning Disability  
October 2019



## Scottish Commission for Learning Disability Response

The Scottish Commission for Learning Disability (SCLD) welcomes the opportunity to respond to this important consultation. SCLD is an independent charitable organisation and strategic partner to the Scottish Government in the delivery of Scotland's learning disability strategy, *The Keys to life* (2013)<sup>1</sup>. The strategy defines a learning disability as a significant, lifelong, condition that started before adulthood, which affects development and means individuals need help to understand information, learn skills, and cope independently. SCLD is committed to finding new and better ways to improve the lives of people with learning disabilities and is focused on sharing innovation and good practice so that those providing services and interventions can learn from each other. SCLD also aims to be a knowledge hub and to build an evidence base, sharing how policy is being implemented and building on an understanding of what really works.

### Definition of Advocacy

The definition of advocacy given in the draft is a definition of advocacy but not of Independent Advocacy. SCLD believes that the definition given should be a definition of independent advocacy. Independent advocacy is more than advocacy that has independence as one of its qualities or principles. Advocacy is an activity that most people can undertake in many circumstances. By contrast, independent advocacy is a discrete activity undertaken by independent advocacy workers employed by independent advocacy organisations and working to standards of independent advocacy. The Social Security (Scotland) Act 2018 states that “Every individual to whom subsection (3) applies has a right of access to independent advocacy”<sup>2</sup>. The Scottish Government’s Charter for Social Security also states that

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<sup>1</sup> [The Keys to Life \(2013\)](#)

<sup>2</sup> [Social Security \(Scotland\) Act 2018](#)

“Social Security Scotland and the Scottish Government will: ensure that disabled people who need help with the application process can get independent advocacy”<sup>3</sup>.

Therefore, SCLD would welcome consistency throughout by providing a definition of independent advocacy at the start, and following this with a description of its principles and standards.

SCLD would support the definition in these standards being a definition of Independent Advocacy which adheres to the definition, principles and standards already established by The Scottish Independent Advocacy Alliance (SIAA). These have been referred to by providers, commissioners and people who receive advocacy since its publication<sup>4</sup>.

In addition SCLD has concerns around the statement “your advocacy worker will only speak for you when you instruct them to” as this seems to exclude people who are unable to give explicit instruction from receiving advocacy support. SIAA have guidelines on non-instructed advocacy<sup>5</sup> which are designed to ensure that people do not miss out on advocacy support simply because they are unable to give instruction. Excluding people who are unable to instruct would exclude some people with learning disabilities from being able to access advocacy and it cannot be assumed that everyone who is unable to instruct an advocate will have someone else in their life with the required skills or knowledge to advocate effectively on their behalf.

The definition of advocacy should also include a statement recognising the importance of the relationship between the advocate and the person accessing payments. For some disabled people, it will take time to develop effective communication and for the advocate to be confident that they are representing the person’s true will and preferences. This should be explicitly acknowledged under the definition of advocacy.

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<sup>3</sup> [Social Security Scotland: our charter](#)

<sup>4</sup> [Principles and standards for Independent Advocacy \(SIAA\) \(2008\)](#)

<sup>5</sup> [Non-Instructed Advocacy Guidelines \(SIAA\) \(2009\)](#)

## Principle: Independence

The reason for advocacy workers and organisations being independent is to minimise any real or potential conflicts of interest, and to maximise their opportunity to have a single loyalty: to the person they are advocating for.

Therefore SCLD would support strengthening the importance of independence in this document by close adherence to the definition of Independent Advocacy given by SIAA and discussed in the previous section.

The Social Security Scotland) Act 2018 defines advocacy services as independent “if they are provided by a person other than the Scottish Ministers”. This definition of independence is incomplete and risks benefits claimants’ being supported by advocates who are significantly compromised by other conflicts of interest.

We agree with the standard “Advocacy services will be as free from conflicts of interest as possible.” To meet this standard, these three indicators of independence should be used:

1. Advocacy services should be independent of the social security agency
2. Advocacy services should be independent of advice agencies
3. Advocacy should be provided by organisations that are deemed independent by the SIAA

This definition should include some statements about the organisation providing advocacy and that as employers of advocacy workers it is important that these organisations are independent from the Scottish Social Security Agency, The Scottish Government, or any organisation that may be providing advice relating to social security applications. This is in order to prevent any conflict of interest from occurring, for example if advice is provided by an employee from the same organisation and is poor the advocate may struggle to effectively support the person to challenge this advice.

SCLD would also caution against social security advocacy provision being provided by an organisation funded solely for this as it may mean that people miss out on the

full range of support that advocacy can provide. There will be people who are accessing advocacy initially for support with social security applications but who have other advocacy issues in addition. An advocacy organisation would ordinarily be able to continue to work with the person to resolve these issues where an organisation funded only for social security issues would not. SCLD's advocacy scoping report *A Stronger Voice*<sup>6</sup> heard from frontline workers and from people who had been supported by advocacy workers. Both cited that having time to build up a relationship was important and that the lack of time to be able to do this created a barrier to providing good quality advocacy. One participant commented;

*"[Interviewer: And did you trust her?] Yeah. [Interviewer: And did that take a long time? Or did you trust her instantly?] Ehh.. well .... It was like a relationship ... I was really like close friends with her."* (page 23)

Failure to conform to SIAA's principles does not ensure that the same standards of advocacy will be received by anyone who accesses advocacy or indeed by the same person accessing advocacy for a different issue. It is unfair to expect people to accept different standards of advocacy provision for different issues.

The standard of "Advocacy support will not be provided directly by Scottish Ministers but will be provided by other organisations" does not mean that it will be provided by an organisation that only provides advocacy or that there will be no conflicts of interest for example if the organisation is also providing advice on benefit applications. Both of these conditions are required to ensure that the advocacy provided is truly independent.

The standard of "Advocacy records will be kept separately from other records" does not relate to the principle of Independence, SCLD suggests a new principle of 'Confidentiality' under which this standard would sit along with others which are inaccurately positioned under later principles.

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<sup>6</sup> [A Stronger Voice \(SCLD\) \(2018\)](#)

## Principle: Person Centred

SCLD supports the principle of being person centred. The social security agency and any related support such as advocacy services should operate in a person centred way.

SCLD is concerned that the standard requiring formal agreement before acting on your behalf will leave some people vulnerable to not receiving advocacy support if they are unable to give formal consent. The standard fails to specify what is meant by 'formal' in this context but it could be difficult for a lot of people with learning disabilities to provide, for example, written instruction.

Therefore, for advocates representing some disabled people, being person-centred may mean *not* obtaining a formal agreement in advance. SCLD supports a process of supported decision-making to ascertain whether people's will and preference is to have support from an advocate.

This process of supported decision-making will follow the ['Good Practice Guidance for Supported Decision-making'](#) produced by the Mental Welfare Commission for Scotland<sup>7</sup>

## Principle: Accessible

SCLD supports the principle of accessible services. It is crucial that all service provision works to ensure it is accessible to people with learning disabilities. Any organisation providing social security independent advocacy should make sure that the following functions are accessible to people with learning disabilities as well as anybody else:

- How people become aware of the availability of the service

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<sup>7</sup> Good Practice Guidance for Supported Decision-making, Mental Welfare Commission for Scotland (2016)

- How people are given clear information about how they can access the service (self-referral, eligibility, opening hours, where and when they can meet etc.)
- Every aspect of accessibility of the advocacy office, including signage, flexibility of opening hours, physical access
- Communication skills of advocacy workers *and* all office staff
- All written information and communication

It should also be remembered that ‘learning disability’ is a broad term, and that people who share this label may have widely varying access requirements, all of which should be catered for.

SCLD would expect to see a commitment to ensuring that BSL, braille, Easy Read and other alternative formats and languages will be well resourced and funded.

Many of these standards do not relate to the principle of accessibility. SCLD would recommend that an additional principle of Confidentiality be created and that the following standards be included under that principle:

- Advocacy services and workers must be aware of and meet confidentiality requirements.
- If an organisation provides advocacy and other services, the advocacy service must not share information with those other services without your permission.
- If you tell your advocacy worker that you may be at risk of harm or that you want to harm yourself or someone else they will discuss this with you but may need to share this information with others without your consent.

SCLD also would like to see some changes made to these standards. The standard “If you tell your advocacy worker that you may be at risk of harm or that you want to harm yourself or someone else they will discuss this with you but may need to share this information with others without your consent” should include a statement

saying that the advocacy worker will always talk to you about it before they tell someone.

The standard “If an organisation provides advocacy and other services, the advocacy service must not share information with those other services without your permission” should not be applicable. By the definition ascribed by SIAA, an Independent Advocacy organisation can only provide advocacy, and independent advocacy can only be provided by an independent advocacy organisation.

The final standard “Your advocacy worker will work within the policies and procedures of their service, including but not limited to equality, staffing, data management” does not relate to accessibility and would be better placed under the principle of Quality Assurance.

## **Principle: Trained**

SCLD agrees with the principle that advocacy workers should be trained. We would, however, welcome some additions to the standards.

Advocacy workers should be trained so that they have a detailed knowledge of the Scottish social security system but they should also be trained in:

- The social model of disability so they can understand the barriers people with disabilities face.
- Advocacy so that they understand their role and the principles and standards that support it.
- Human Rights as this is an important facet of Advocacy and reflects the Scottish Governments’ assertion that access to social security is a human right.
- Communication methods and skills, as the effectiveness of advocacy goes much further than fact based knowledge.



SCLD thinks that a change should be made to reflect that it is the organisation who provides advocacy as well as the individual worker who should be responsible for meeting the person's communication needs.

### **Principle: Quality Assurance**

SCLD supports the principle of Quality Assurance but would welcome some amendments to the standards.

It is important that advocacy services are proactive about collecting feedback in addition to having a complaints mechanism in place. Being able to evidence how the service has used such feedback to make changes is also important.

While self- evaluation is very important on an ongoing basis it is also important that organisations involve their service users in monitoring and evaluation.

The standards need to include further information about what will happen if a complaint was made to the organisation and the complainer does not feel that it was satisfactorily handled.

### **Summary of Recommendations**

SCLD would support amending these service standards so that they are standards for Independent Advocacy. This would bring them in line with the Social Security (Scotland) Act 2018 and the Social Security Charter.

Reference to the principles and standards for Independent Advocacy published by the Scottish Independent Advocacy Alliance should be used to develop the principles and standards for the provision of Scottish Social Security Advocacy.

## Contact us

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For information on Scotland's Learning Disability Strategy *The Keys to life*, visit: [www.keystolife.info](http://www.keystolife.info)

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