

Fact sheet

Advocacy

The key provisions for advocacy are set out in the Code of Practice as follows:

- In supporting children, young people and parents to participate in decisions, local authorities should consider whether young people may require support in expressing their views, including whether they may need support from an advocate (who could be a family member or a professional) – see paragraph 1.10 and 8.11.
- Some children and young people will require support from an advocate (this could be a family member or a professional) to ensure that their views are heard and acknowledged during the process of assessment and production of an EHC plan to ensure the child or young person is involved as far as possible. They may need support in expressing views about their education, their health, the future and how to prepare for it, including where they will live, relationships, control of their finances, how they will participate in the community and how they will achieve greater autonomy and independence. **Local authorities should ensure that children and young people who need it have access to this support** – see paragraph 9.25.
- On contracting an effective disagreement resolution service, local authorities should, where necessary, provide advocacy support to help parents and young people take part in disagreement resolution – see paragraph 11.11

Independent Advocacy for young people undergoing transition

Section 67 of the Care Act 2014 (in force from April 2015) provides that local authorities must provide independent advocacy for young people undergoing assessments, provided certain conditions are met.

The requirements to provide an independent advocate are that the local authority considers that, were an independent advocate not to be available, the individual would experience substantial difficulty in doing one or more of the following:

- understanding relevant information;
- retaining that information;
- using or weighing that information as part of the process of being involved;
- communicating the individual's views, wishes or feelings (whether by talking, using sign language or any other means).

However, this duty does not apply if the local authority considers that there is another appropriate person, such as a family member, to represent and support the individual for the purpose of facilitating the individual's involvement, and who is not engaged in providing professional paid care or treatment for the individual.

In deciding whether another person is appropriate, the local authority must first consider whether the individual has capacity to consent to be represented and if they do, that they have provided consent. If the individual lacks capacity to consent the local authority must be satisfied that it is in the best interests of the individual to be represented and supported by that person.

Where a local authority decided that the conditions above for the duty to provide an independent advocate are met, they must arrange for the independent advocate to be available to represent and support the individual whilst local authority is:

- carrying out needs assessments
- carrying out carers assessments
- preparing and reviewing care and support plans
- carrying out child's needs assessments
- carrying out carers assessments

Detailed guidance and regulations on independent advocates under the Care Act 2014 will be published in due course.