**Background Research Paper, May 2019**

# Advocacy in Health and Social Care in Northern Ireland: Mapping current roles and responsibilities

# Contents

# 1 Introduction

The purpose of this background paper is to support the work of Workstream 7 in its consideration of the following IHRD recommendation:

> *"A fully funded Patient Advocacy Service should be established, independent of individual Trusts to assist families in the process. It should be allowed funded access to independent expert advice in complex cases."*

In order to aid the Workstream Group's understanding of advocacy, the first section of this paper explores the definition of advocacy, including key themes and principles, and identifies different types of advocacy. It also explores what advocacy is *not* and finally provides an overview of the benefits that health and social care organisations can derive from effective advocacy.

In consideration of the IHRD recommendation for a future Patient Advocacy Service, it is important for the Workstream Group to gain an understanding and overview of current advocacy structures in Northern Ireland including different organisational roles and responsibilities. The second half of this paper, therefore, provides a synopsis of the roles and responsibilities of various organisations that are either key to the delivery of effective advocacy and/or have a remit in investigating and supporting patients (and their families and carers) when rights have potentially become comprised. The roles and responsibilities of the following organisations are explored (although this list may not be definitive):

- The Department of Health
- Health and Social Care Board
- Health and Social Care Trusts
- Public Health Agency
- Regulation and Quality Improvement Authority
- Patient and Client Council
- Safeguarding Board for Northern Ireland
- Northern Ireland Guardian Ad Litem Agency
- Northern Ireland Public Services Ombudsman
- Northern Ireland Commissioner for Children and Young People
- Commissioner for Older People for Northern Ireland
- Northern Ireland Human Rights Commission
- Equality Commission for Northern Ireland

In addition to organisational responsible, individual health professionals are also responsible for advocacy and the protection of patient rights and wellbeing. This section also provides an overview of the various codes of conduct/standards of different professional health and social care bodies, highlighting some of the relevant sections relating to advocacy.

It is important to acknowledge that this introductory paper is not intended to be definitive. Whilst it provides an overview of roles and duties (including statutory duties), it would be advisable for the Workstream Group and/or Department to ask each of these organisations directly about their roles and responsibilities in relation to advocacy. It is also crucial to obtain their views about the current gaps in advocacy, including independent advocacy services, in Northern Ireland. To aid the Workstream Group/Department, this paper contains a series of suggestions as to how the Working Group/Department may wish to take this work forward.

# 2 What is advocacy and why is it important in health and social care?

## What is advocacy?

The current guide for commissioning advocacy services in health and social care in Northern Ireland, "Developing Advocacy Services: A Policy Guide for Commissioners" (published by the DHSSPS in May 2012) highlights that advocacy can mean different things to different people depending upon the context[1]. Whilst the guide does not identify its own definition of advocacy it does include a range of definitions from different reports and publications which it felt captures the essence of what advocacy is in a health and social care context. One of these definitions is derived from Bamford Review Report on Human Rights and Equality of Opportunity which stated that[2],

> *"Advocacy seeks to support individuals to express and have their views heard. It aims to redress any imbalance of power between the individual and professional. It is concerned with empowerment, autonomy and self-determination, the safeguarding of citizenship rights and the inclusion of otherwise marginalised people".*

Results of a search for other definitions of advocacy reveals that other organisations across the UK concur with many of the points made in the Bamford Review's definition of advocacy. For example, the Advocacy Charter[3], which is commonly adopted by advocacy organisations throughout England and Wales, states that:

> *"Advocacy is taking action to support people to say what they want, secure their rights, pursue their interests and obtain services they need…Advocates and advocacy providers work in partnership with the*

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[1] Department of Health, Social Services and Public Safety. Developing Advocacy Services: A Policy Guide for Commissioners. May 2012.

[2] The Bamford Review of Mental Health and Learning Disability. Human Rights and Equality of Opportunity. www.health-ni.gov.uk/publications/bamford-published-reports October 2006.

[3] The Advocacy Charter. 2018. https://advonet.org.uk/how-we-can-help-you/what-is-advocacy/

> *people they support and take their side. Advocacy promotes social inclusion, equality and social justice".*

Furthermore, the NHS Scotland 'Independent Advocacy Guide for Commissioners' states that[4],

> *"Advocacy plays an important role in supporting people to express their views and in providing a source of support which gives them the confidence to speak out. Advocacy is vital in nurturing trust and effectively supporting people to ensure their views are taken into account and that they are heard. It should also provide an environment in which they can confidently raise any concerns they may have with their advocate in the knowledge that there are no conflicts of interest.*

**Annexe 1** of this briefing paper provides further definitions of advocacy that the **Workstream Group may wish to consider** as part of its work on user experience and advocacy. What is evident from these definitions is that there are **many common themes** running through them which may provide an indication of what effective advocacy should provide. The table below provides an overview of some of these themes but is not exhaustive[5].

**Table 1: Common themes in advocacy**

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|---|---|
| **To enable individuals/groups to express themselves and have their views heard** | *"to support individuals to express and have their views heard"*<br>*"taking action to help people say what they want"*<br>*"help people have a strong voice"*<br>*"seeks to ensure that people, particularly those who are the most vulnerable in society are able to have their voice heard on issues that are important to them…to have their views and wishes genuinely considered when decisions are being made about their lives"*<br>*"Advocacy is about your voice being heard. Advocates support you to speak up, or they might speak up on your behalf if needed"*<br>*"Advocacy plays an important role in supporting people to express their views and in providing a source of support which gives them confidence to speak out"*<br>*"Listen to what you want and take action on your behalf at all times"* |
| **To help people make their own decisions about their own life as far as possible (but** | *"It is concerned with empowerment, autonomy and self-determination"*<br>*"Advocates and advocacy providers work in partnership with the people they support and take their side"* |

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[4] NHS Scotland. 2013. Independent Advocacy Guide for Commissioners. www.gov.scot/publications/independent-advocacy-guide-commissioners/

[5] Full quotation references are contained in Annexe 1 of this briefing paper.

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| **advocates do not make decisions on their behalf)** | *"Advocacy support involves…listening without judgment and respecting your views, providing information about your rights and options…exploring possible outcomes and consequences"*<br>*"An independent advocate will not make decisions on behalf of the person/group they are supporting…they will help the person/group to get the information they need to make real choices about their circumstances and support the person/group to put their choices across to others"*<br>*"[to] have their views and wishes genuinely considered when decisions are being made about their lives"*<br>*"Advocacy is vital in nurturing trust and effectively supporting people to ensure that their views are taken into account and that they are heard"*<br>*"Advocacy is a process of supporting and empowering people to…express their own views and concerns…."* |
| **To empower individuals and/or redress power imbalances** | *"it aims to redress any imbalance of power between the individual and professional"*<br>*"An advocate can help you…understand what your rights are"*<br>*"Advocacy can help people become more aware of their own rights, to exercise those rights and be involved in and influence decisions that are being made about their future"*<br>*"Advocacy support involves…help[ing] you to communicate with professionals"* |
| **To speak on behalf of those who cannot** | *"An independent advocate may speak on behalf of people who are unable to do so for themselves"*<br>*"In some situations an advocate may need to represent another person's interests. This is called non-instructed advocacy and is used when a person is unable to communicate their views"*<br>*"Promoting and protecting the rights and interests of people not able to give clear instructions or protect their own interests* |
| **To promote equality, social justice and social inclusion** | *"the safeguarding of citizenship rights and the inclusion of otherwise marginalised groups"*<br>*"Advocacy promotes social inclusion, equality and social justice"*<br>*"Advocacy…safeguards people who can be treated unfairly as a result of institutional and systematic barriers as well as prejudice and individual, social and environmental circumstances that make them vulnerable"* |
| **To help people make** | *"Advocacy can help assist you to fill in forms…go to meetings and* |

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| **complaints or raise issues** | *appointments with you….challenge professional decisions which are being made about you"*<br>*"The role of advocate will vary according to circumstances and needs but is likely to include…support in meetings and through formal processes…support to make representations and complaints…supporting people access professional advice and guidance.* |
| **To provide information on rights, processes and procedures and/or to signpost to other services** | *"An advocate can help you…look at information about how different processes work (e.g. legal, health or social services)…look at any local services or community opportunities that might be useful for you"*<br>*"Advocacy…empowers people to gain access to information, explore and understand their options, and to make their own wishes known"*<br>*"Offers to get information on your behalf to help you come to a decision"*<br>*"Advocacy can find out information to help you make an informed decision"* |

**The Workstream Group may wish to consider these themes, and supplement them with any additional themes they might identify, in order to determine a definition of advocacy and independent advocacy. Determining a definition of advocacy is likely to be an important element in determining the remit of a Patient Advocacy Service.**

## What is not advocacy?

In determining a definition of advocacy and what factors contribute to effective advocacy, it is equally important to identify what is not advocacy. The Department of Health's guide for commissioning advocacy services "Developing Advocacy Services: A Policy Guide for Commissioners" view on what does not constituency advocacy is as follows[6]:

> *"Advocacy does not, however, in any way involve taking decisions on behalf of people being supported. Nor is it a mediation, counselling, befriending, lobbying or complaints service, although some of these may be useful skills for an advocate to have and advocacy may be used to support people through for example a complaints process. Advocacy is also not an advice service in the sense that it is not an advocate's role to tell someone what they should and not should not do"*

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[6] Department of Health, Social Services and Public Safety. Developing Advocacy Services: A Policy Guide for Commissioners. May 2012.

A search of advocacy organisations across the UK and their determination of what does not constitute advocacy, concurs with many of the points made by the Department's commissioning guide. Further information is provided in **Annexe 2** of this briefing paper, however, to summarise some of the points made, it is argued that advocacy services do not/cannot:

- Provide mediation or counselling
- Provide support workers or personal care
- Provide a crisis service
- Investigate an organisation
- Provide emotional support or befriending
- Express their personal opinion
- Tell or advise someone what they think they should do

**The Workstream Group may wish to consider in further detail the types of services, activities and behaviours that do not constitute advocacy. Again, this is an important element in determining the remit of a Patient Advocacy Service.**

## Identifying different types of advocacy

Advocacy can be delivered in a variety of ways depending upon the needs of the person requiring support and other factors such as age, disability, and the issue that the needs to resolved. It is important to note that there are different types of advocacy and organisations that provide advocacy services can often provide more than one model of advocacy. Some of the main types of advocacy are identified in the table below:

**Table 2: Types of advocacy[7]**

| Model of Advocacy | Description |
|---|---|
| **Self-advocacy** | In simple terms, it means standing up for oneself. The goal of self-advocacy is for people to decide what they want and to carry out plans to help them get it. Self advocacy is the process by which people are empowered to develop the skills and confidence to represent their own views and interests. It involves making informed decisions and taking responsibility for those decisions. The core components of self-advocacy have been identified as:<br>• Being able to express thoughts and feelings with assertiveness if necessary;<br>• Being able to make choices and decisions; |

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[7] Information in this section is directly extracted from Mongan, D.; Long, J. & Farrragher, L. (2016) Models of Patient Advocacy: Evidence Brief. Health Board Research. https://health.gov.ie/wp-content/uploads/2016/12/Final-Version-Patient-Advocacy-Services.pdf

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| | - Have clear knowledge about rights; and<br>- Being able to make changes. |
| **Group/collective advocacy** | Group advocacy evolves from self-advocacy and it involves people with shared experiences, positions or values coming together in groups to talk and listen to each other and speak up collectively about issues that are important to them. These groups aim to influence public opinion, policy and service provision. A collective voice can be stronger than that of an individual, as groups are more difficult to ignore. Being part of a group can also help to reduce an individual's sense of isolation when raising a difficult issue. Groups can vary considerably in size, influence and motive. Similar to self-advocacy, group advocacy is seen as enabling people to have a voice, enhancing personal identity and raising self-esteem. It involves a process through which individuals acquire and develop the skills and confidence to represent their own needs, concerns and interests within a group setting. |
| **Peer advocacy** | Peer advocacy occurs when one person advocates for another person who shares a common experience, difficulty or discrimination. Peer advocates are experts by experience, and they use this experience to understand and empathise with their advocacy partner. Peer advocacy works to increase self-awareness, confidence and assertiveness so that the individual can speak out for themselves. Power dynamics are more equal in peer advocacy, because both parties have experienced and struggled through similar issues and experiences. Peer advocacy can be conducted on an individual or collective basis. It is also known as *support advocacy* and is often used by support groups. |
| **Citizen/Volunteer Advocacy** | Citizen advocacy is when ordinary citizens are encouraged to become involved with a person in their community who might need support. The citizen advocate is not paid and is not motivated by personal gain. The relationship between the citizen advocate and their advocacy partner is on a one-to-one, long-term basis. It is based on trust between the partner and the advocate. Citizen advocates are encouraged to represent the interests of the person as if they were their own. They should be independent of service providers, potential service providers and families, in order to avoid conflicts of interest. The advocate supports their partner using natural skills and talents, rather than being trained in the role. Citizen advocates attempt to foster respect for the rights and dignity of those whose interests they are representing. This may involve helping the person express his or her concerns and aspirations, and providing other practical or emotional support to him or her. |
| **Representative/independent advocacy** | Representative advocacy is an independent service where trained advocates are employed to deal with specific problems and to work with an individual until that problem is resolved. It usually involves |

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| | casework and complex issues that require specific knowledge and expertise. This tends to be a more formal type of advocacy, and trained advocates working to a code of practice are often paid to provide this service. The advocates are experts by training and not necessarily through direct experience. This form of advocacy can apply to formal advocacy enshrined in statute (for example, in New Zealand), where advocates are appointed by an Advocacy Commissioner). An advocate supports an individual to represent their own interests, or the advocate may represent the views of an individual if the person is unable to do this themselves. The advocate provides support, information and representation, with the aim of empowering their partner and enabling them to express their needs and choices. |
| **Legal advocacy** | Legal advocacy seeks to defend the rights and interests of people on a one-to-one basis through the legal system. Legal advocacy is undertaken by a lawyer or individual with appropriate legal knowledge. It involves members of the legal profession helping individuals to exercise their rights through the courts and legal system. Legal advocacy has a significant role to play in the areas of mental health, where people can be detained in hospital against their wishes. |

## Other types of advocacy

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| **Non-instructed advocacy**[8] | Most one to one advocacy is instructed. However, there are occasions when a non-instructed advocacy is required. Non-instructed advocacy happens when a person who needs an independent advocate cannot tell the advocate what they want. This may be because the person has complex communication needs or has a long term illness or disability that prevents them from forming or clearly stating their wishes/desires. This usually takes place with people who have dementia or profound and/or severe learning difficulties. The advocate will take time to get the know the person and relatives/friends and look for alternative methods of communication which will enable the person to express their views and wishes to ensure their rights are upheld. The advocate will change service providers in order to promote a person-centred independent approach. |

**The Workstream Group may wish to consider the different types of advocacy, which types of advocacy are currently provided in Northern Ireland and by whom, and what types of advocacy a potential future Patient Advocacy Service should provide.**

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[8] NHS Scotland. (2013) Independent Advocacy Guide for Commissioners.

## What benefits can health and social care organisations derive from advocacy?

Effective advocacy clearly plays an important role in helping to empower patients (and their families and carers) but it also has a wide range of benefits for health and social care organisations as identified by NHS Scotland's 'Independent Advocacy Guide for Commissioners'[9] (set out in detail in the table below):

**Table 3: What benefits do health and social care organisations get from Independent Advocacy?**[10]

| | |
|---|---|
| **Better outcomes for people** | Advocacy makes a difference to what happens to people. It leads to a better understanding between individuals and service providers and can lead to greater self-help and independence and better decisions about treatment and services. People feel better about themselves and their situation. People get out of places where they are unhappy, get included in places where they want to be. Advocacy can also have a preventative role, ensuring that the interests of vulnerable individuals are not forgotten so that problems and crises for that person do not arise. Group or collective advocacy can provide information to support commissioners and planners to make sure that support services are targeted, that planning leads to the most efficient use of available resources leading to better outcomes for groups and individuals. |
| **Intelligence and feedback** | Advocacy organisations can provide alternative source of constructive intelligence and feedback about how well services are meeting the needs of the most vulnerable groups and inform future needs and priorities while protecting the confidentiality of individuals. This can assist the systems of clinical governance within NHS Boards. As well as highlighting quality and problems in current service provision, independent advocacy can inform joint planning for the future. |
| **Added Value** | A relatively small investment in independent advocacy can yield significant results. Advocacy organisations engage the skills and commitment of ordinary members of the public. They empower people who are being ignored, giving people the support and information they need to make their own decisions and take more control of their own life. Advocacy organisations also have an interest in avoiding dependence on a single agency, so core funding from statutory sources may be extended through other grants and fundraising activity. |
| **Constructive challenge to service providers** | Advocacy organisations provide a constant challenge to service providers to improve what they do. This challenge may be at least as effective in achieving higher quality as the more formal processes of standard-setting, inspection and regulation. |
| **Keeping the focus on** | By concentrating on people who are most likely to fall through the net, |

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[9] NHS Scotland. (2013) Independent Advocacy Guide for Commissioners.

[10] This section has been extracted verbatim from NHS Scotland. (2013) Independent Advocacy Guide for Commissioners.

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| **people who are most at risk** | independent advocacy helps the formal service system to improve the quality of what is provided for people who are hardest to serve. This is the acid test for any service system, and independent advocacy helps keep this on the agenda. |
| **Designing person-centred services and supporting greater choice and control for users of services** | Advocacy supports the development of person-centred services because it involves people whose circumstances do not readily fit standard arrangements. By testing the limitations of current services, advocacy can help professionals to redesign and refine the system so that it works better for everyone. Advocacy helps to support greater choice and control for people who use services by providing a voice to individuals at all stages in their support. |
| **Enabling carers to be respected as equal partners** | Advocacy organisations can support carers to be heard as equal partners with other professionals in the delivery of care and, collectively, in the development of services and support that affect them or the person they care for. Whilst the views of the service user are central, the views of carers should be heard and their experience respected by professionals involved. They are a key part of providing support and the term equal partner recognises not only their critical role in sustaining and supporting individuals to remain in their own homes and communities but also their unique knowledge and experience. By supporting carers to be heard and to manage and understand the often complex systems surrounding health and social care, advocacy can help sustain the caring role, reduce crisis and deliver better outcomes. |

The benefits of advocacy, particularly independent advocacy, across all health and social care in Northern Ireland is succinctly summarised by the following extract from the Department's advocacy services commissioning policy guide[11]:

> *"…investing in advocacy services not only benefits the person needing support. It can also benefit commissioners and providers of health and social care services. For example, advocacy can help prevent crises arising in a person's life which otherwise may result in an intervention that has much greater resource implications.*
>
> *…by giving the most at risk a vehicle through which they can have their voice heard, advocacy can also help commissioners and service providers gain a better understanding of the needs of this important group. If engaged, they can act as a valuable channel for seeking ideas and views on how current health and social care services can be improved to better meet those needs and to inform planning for future needs and service redesign."*

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[11] Department of Health, Social Services and Public Safety. Developing Advocacy Services: A Policy Guide for Commissioners. May 2012.

**If it has not already done so the Workstream Group may wish to consider what principles should be enshrined in the development of a Patient Advocacy Service for Northern Ireland.** For illustrative purposes, **Annexe 3** of this paper provides an extract from the Advocacy Charter devised by the National Development Team for Inclusion[12] and adopted by many advocacy providers across England and Wales.  In short, these principles include:

- **Independence**: i.e. the advocacy provider is independent from statutory organisations and all other service delivery and is free from conflict of interest.
- **Confidentiality**: i.e. information held by the advocacy service about individuals will be kept confidential unless in exceptional circumstances.
- **Person-led:** i.e. the advocacy provider and advocates will put the people they advocate for first and shall be directed by their wishes and interests.
- **Empowerment:** i.e. the advocacy provider will support people to self-advocate as far as possible.  Advocates will support people to access information and to exercise choice and control in the style of advocacy services they want.  Where people lack capacity, the provider will ensure the advocacy remains person-led and enable those with an interest in the welfare of the person to be involved.
- **Equality and diversity:** i.e. the advocacy provider will have an up-to-date equality and diversity policy and advocates will make reasonable adjustments to ensure that people have an opportunity to engage and benefit from the service.
- **Accessibility:** i.e. advocacy will be provided free of charge to eligible people. Premises, policies, procedures and publicity materials will promote full access for the population it serves.
- **Accountability:** i.e. the advocacy provider is well managed, with appropriate governance arrangements.  People accessing the service will have a named advocate and a means of contacting them.
- **Safeguarding:** i.e. as part of supporting people to realise their human rights, the advocacy provider will have a thorough understanding of safeguarding responsibilities and processes as set out in law and best practice.
- **Supporting advocates:** i.e. the advocacy provider will ensure that advocates are suitability trained, supported and supervised in their role and provided with opportunities to develop their knowledge, skills and experience.

# 3 Which organisations are important to advocacy in a health and social care settings in Northern Ireland?

In order to fully explore the potential for a future Patient Advocacy Service, it is important to establish what current services are provided and by whom and to identify the current gaps in service provision.  It is important to gain an understanding of the

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[12] These standards have been extracted verbatim from National Development Team for Inclusion. The Advocacy Charter.  v4.  1 May 2018. https://qualityadvocacy.org.uk/resources/advocacy-charter/

roles and responsibilities, including statutory duties, of various organisations that are relevant to advocacy. This section of the paper provides an overview of those organisations. It is advisable that the Workstream Group/Department consults with these bodies, and any others it feels relevant, in relation to their role in advocacy and/or the investigation of complaints which are relevant to advocacy.

In addition to organisational responsibility, individual health professionals are also responsible for advocacy and the protection of patient rights and wellbeing. This section also provides an overview of codes of conduct/standards of various professional health and social care bodies, highlighting some of the relevant sections relating to advocacy.

It should be noted that this paper does not include information on two crucial aspects of advocacy, that is, the role of independent advocacy providers and the role of patients, service users, their carers and families. Independent advocacy providers, primarily third sector bodies, play a crucial role in the delivery of advocacy services for which they have agreed contracts in place either with the HSC Board or trusts. In 2016, RQIA in a review of advocacy services for children and adults in Northern Ireland found that there is *no regional information system in place to capture the full picture of the current profile of advocacy services in Northern Ireland*[13].

**The Department of Health have therefore requested that the HSC Board and trusts provide the Workstream Group with information on what advocacy services are commissioned, from whom they are commissioned, and which programme of care they relate to.** However, in order to identify gaps in current and future service provision, the Workstream Group may wish to consider the methodology for obtaining such views. RQIA, for example, in its review of advocacy services in 2016, used the following methodology:

- Discussions with HSC Board, HSC Trusts, independent advocates
- Self-assessment questionnaire completed and returned by HSC Board and Trusts
- Self-assessment questionnaire completed and returned by independent advocacy providers.
- Meetings and telephone discussions with independent advocacy providers.
- Regional summit event and group discussions involving all relevant stakeholders.

**The Workstream Group/Department may wish to consider using a similar methodology in order to obtain a comprehensive overview of the views of patients, service users, their carers and families, although notably the**

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[13] RQIA. Review of Advocacy Services for Children and Adults in Northern Ireland. January 2016. https://rqia.org.uk/RQIA/files/d7/d79ff542-b906-4118-b56d-ac405f10d9f2.pdf

**Workstream Group has an existing valuable source of knowledge amongst the membership of the Group.**

# An Overview of Organisational Roles and Responsibilities:

This section of the paper provides an overview of the roles and responsibilities of various organisations that are important to an advocacy infrastructure in Northern Ireland. An overview of the body is provided as well as a brief description of how the organisation is relevant to advocacy (although notably these organisations may have supplementary information in relation to their role). Where possible, some additional information is provided on the current thinking of that organisation in relation to advocacy. In considering this section, the Workstream Group/Department may wish to identify how the remit of a Patient Advocacy Service would interact with the remit of these various bodies.

## 1. The Department of Health

The Department of Health has a general duty under Section 2 of the Health and Social Care (Reform) Act (Northern Ireland) 2009[14] to promote an integrated system of health and social care that secures improvement in the physical, mental and social well-being of people in Northern Ireland.

The 2009 Act states that the Department of Health must:

- Develop policies to secure the improvement of the health and social well-being of, and to reduce health inequalities between, people in Northern Ireland.
- To determine priorities and objectives for the provision of health and social care in Northern Ireland.
- Allocate financial resources available for health and social care, having regard to the need to use such resources in the most economic, efficient and effective way.
- Set standards for the provision of health and social care.

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[14] Section 2. Health and Social Care (Reform) Act (Northern Ireland) 2009. www.legislation.gov.uk/nia/2009/1/section/2

- Prepare a framework document setting out the main priorities, objectives, and other matters for each health and social care body in connection with the carrying out of its functions.
- Secure the commissioning and development of programmes and initiatives conducive to the improvement of the health and social well-being of, and the reduction of health inequalities between, people in Northern Ireland.
- Monitor and hold to account the Regional HSC Board, the Regional Business Service Organisation, the Public Health Agency and HSC Trusts in the discharge of their functions;
- Make and maintain effective arrangements to secure the monitoring and holding to account of other health and social care bodies in the discharge of their functions.

Under Section 3 of the 2009 Act[15], the Department of Health also has a general power to *"provide, or secure the provision of, such health and social care as it considers appropriate"* or *"do anything else which is calculated to facilitate, or is conducive or incidental to"* discharging its duties under Section 2 and the functions outlined above.

- What are the Department's responsibilities in relation to advocacy and the provision of advocacy services?

The Department has a number of duties directly relating to advocacy or issues that are significantly aligned with advocacy including, for example:

- legislative equality duties and obligations;
- the formulation of strategic frameworks including measurable outputs and outcomes;
- formulating and issuing guidance on issues relevant to advocacy including the commissioning of advocacy services, Personal and Public Involvement (PPI), and co-production; and
- A monitoring role in relation to the activities of health and social care bodies such as the HSC Board, Trusts, and the Public Health Agency.

**This section looks briefly at each of these responsibilities. However, the Department way wish to expand upon this and provide the Workstream Group with additional information on its role and responsibilities. This section does not include financial arrangements for the funding of advocacy services and the Department wish to provide the Workstream Group with further details information on how advocacy services are financed.**

## Legislative equality duties and obligations

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[15] Section 3. Health and Social Care (Reform) Act (Northern Ireland) 2009. www.legislation.gov.uk/nia/2009/1/section/3

The Bamford Review maintained that one of the key facets of advocacy is the promotion of equality and the social inclusion of marginalised individuals and groups[16]. If one accepts this definition, then the Department of Health has a central and fundamental role in advocacy and that the basis of this role is contained within the Department's legislative obligations. The Department, along with all public authorities in Northern Ireland, has a **statutory duty** under **Section 75** of the Northern Ireland Act 1998 to have due regard to the need to promote equality of opportunity between the nine equality categories[17]. It also has further duty under **Section 2** of the Health and Social Care (Reform) Act 2009 to develop policies that reduce health inequalities in Northern Ireland.

## Strategic Service Frameworks

In addition to its equality duties, the Department is responsible for setting strategic priorities and devising **service frameworks** for health and social care in Northern Ireland. Several of these frameworks have recognised the importance of advocacy and included standards in relation to advocacy services. For example:

- **Standard 12** of the Service Framework for Mental Health and Wellbeing[18] and the consultation document on a revised Service Framework for Mental Health and Wellbeing 2018-2021 states that *"a person using specialist mental health services should have access to advocacy services in both community and hospital settings".*
- **Standard 2 (Generic)[19]** of the Service Framework for Respiratory Health and Wellbeing 2015-2018[20] **and Standard 9 (Generic)** of the Service Framework for Learning Disability[21] state that *"users of Health and Social Care Services and their carers should have access to independent advocacy as required"* and that *"independent advocacy should be available throughout the care pathway and, in particular, should be available early in the process as this may prevent a crisis developing".*
- **Standard 5** of the Service Framework for Older People[22] states that *"older people should have access to independent advocacy that provides information, advice and support to enable them to make informed choices and be fully involved in decisions*

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[16] The Bamford Review of Mental Health and Learning Disability. Human Rights and Equality of Opportunity. October 2006. www.health-ni.gov.uk/publications/bamford-published-reports

[17] Persons of different religious belief, political opinion, racial group, age, marital status, sexual orientation; between men and women generally; between persons with a disability and persons without; between persons with dependents and persons without. Section 75 also requires public authorities such as the Department of Health to promote good relations between persons of different religious belief, political opinion or racial group.

[18] Department of Health. Service Framework for Mental Health and Wellbeing. August 2012. www.health-ni.gov.uk/publications/mental-health-and-well-being-service-framework-documents

[19] All Service Frameworks were to incorporate a specific set of standards that are identified as generic. Independent advocacy was identified as a generic standard applicable to all the population, HSC professionals or all service users, regardless of their health condition or social grouping.

[20] Department of Health. Service Frameworks for Respiratory Health and Wellbeing 2015-2018. October 2015. www.health-ni.gov.uk/publications/respiratory-health-and-well-being-service-framework-documents

[21] Department of Health. Service Framework for Learning Disability. January 2015. www.health-ni.gov.uk/publications/learning-disability-service-framework-documents

[22] Department of Health. Service Framework for Older People. July 2014. www.health-ni.gov.uk/publications/older-people-service-framework-documents

*affecting them".* Furthermore, Standard 6 (Generic) states that *"users of health and social care services and their carers should have access to independent advocacy as required".*

- **Standard 3 (generic)** of the draft Service Framework for Children and Young People[23] similarly stated that *"users of Health and Social Care services and their carers should have access to independent advocacy as required".* But also identified via **Standard 30** the need for independent advocacy support for vulnerable children (e.g. any child who is outside his/her country of origin and is separated from parents or primary care givers; homeless 16/17 year olds etc.).

Whilst the Department of Health strategically determines the standards in frameworks, the frameworks identify a range of bodies that are responsible for the implementation of the standards including the HSC Board, HSC Trusts, Public Health Agency as well as other delivery parties such as third sector organisations.

**All service frameworks were required to have had measurable outputs and specific timeframes and expected outcomes. Given that independent advocacy was a generic standard applicable to all such service frameworks, the Workstream Group may wish to seek further information on latest position on each of the frameworks in terms of outputs and outcomes associated with independent advocacy services if available.**

## Guidance on commissioning independent advocacy services

The Health and Social Care (Reform) Act (Northern Ireland) 2009 requires the Department to set standards for the provision of health and social care and also to secure the commissioning of programmes and initiatives conducive to the improvement of health and wellbeing and the reduction of health inequalities. The Department should therefore play a pivotal role in **developing principles and standards for the commissioning and delivery of advocacy services** in a health and social care setting.

In light of the recommendations of the Bamford Review Report on Human Rights and Equality of Opportunity (2006)[24] which identified that *"advocacy services are unevenly and poorly developed in Northern Ireland"* and that there was a need for *"a range of independent advocacy support services delivered by a range of providers"* the Department published a "Developing Advocacy Services: A Policy Guide for Commissioners"[25] and an associated action plan[26] in May 2012.

**If it has not already done so, the Workstream Group may wish to:**

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[23] Department of Health. Service Framework for Children and Young People. Consultation document. www.health-ni.gov.uk/consultations/service-framework-children-and-young-people-consultation

[24] Bamford Review of Mental Health and Learning Disability (Northern Ireland). Human Rights and Equality of Opportunity. October 2006. www.health-ni.gov.uk/publications/bamford-published-reports

[25] DHSSPS. Developing Advocacy Services: A Guide for Commissioners. June 2012.

[26] DHSSPS Advocacy Action Plan 2012-13. www.health-ni.gov.uk/publications/advocacy-action-plan-2012-13

- **Consider the guidance;**
- **Consider speaking with, or requesting further information from, appropriate staff in the HSC Board, Trusts and independent advocacy providers to gain an understanding of how commissioning works in practice and assess whether improvements to the current arrangements are necessary;**
- **Assess whether the current guidance is still fit for purpose and whether any changes to the guidance are necessary in the immediate term to reflect the findings of the IHRD report.**

## Guidance on Personal and Public Involvement

The Department also plays an important role in issuing guidance on Personal and Public Involvement (PPI)[27]. The Health and Social Care (Reform) Act (Northern Ireland) places a legislative requirement on certain health and social care organisations to involve and consult patients, families, carers and local communities on the planning, deliver and evaluation of services. PPI is clearly closely aligned and interfaces with professional and independent advocacy given that, as the Public Health Agency highlights, effective PPI can[28]:

- ensure responsive and appropriate services;
- reduce perceived power imbalances;
- contributes to tackling health inequalities;
- reduce complaints;
- reduce adverse incidents;
- acknowledge rights;
- increase levels of accountability; and
- improve dignity and self-worth.

The Department of Health has issues several pieces of guidance to health and social care organisations on PPI which is available to download here[29].

**If it has not already done so, the Workstream Group may wish to explore in further detail the interface between PPI and advocacy.**

## The Department's monitoring role

The Department must, under the Health and Social Care (Reform) Act (Northern Ireland) 2009, monitor and hold to account various health and social care bodies in the

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[27] Further information on Personal and Public Involvement (PPI) is available at www.health-ni.gov.uk/topics/safety-and-quality-standards/personal-and-public-involvement-ppi and www.publichealth.hscni.net/directorate-nursing-and-allied-health-professions/allied-health-professions-and-personal-and-publi-5

[28] Public Health Agency. Personal and Public Involvement (PPI). www.publichealth.hscni.net/directorate-nursing-and-allied-health-professions/allied-health-professions-and-personal-and-publi-5

[29] Department of Health. Personal and Public Involvement (PPI). DoH Guidance to HSC. www.health-ni.gov.uk/publications/personal-and-public-involvement-ppi-dhssps-guidance-hsc

discharge of their functions. This includes the Health and Social Care Board and Health and Social Care Trusts. The Department has, for example, discharged this monitoring role by commissioning the Regulation and Quality Improvement Authority (RQIA) to undertake a review of the commissioning arrangements for the provision of advocacy services for children and adults in Northern Ireland. RQIA's report 'Review of Advocacy Services for Children and Adults in Northern Ireland[30]' was published in January 2016. This review examined the commissioning systems and processes to *"gain assurance as to the effectiveness of the existing commissioning processes undertaken by the HSC Board and Trusts"*[31].

RQIA stated that there were a number a factors driving the need for this review, i.e.:

- There was need for greater parity and consistency in relation to the commissioning and delivery of advocacy services in a HSC setting in Northern Ireland.
- In terms of what was being commissioned by the statutory sector, existing provision was "patchy" with some HSC Trusts having more established arrangements in place than others.
- Significant importance was placed on advocacy as a means of empowering and safeguarding some of the most vulnerable and at risk individuals.

As part of the review process, RQIA:

- Met with commissioners of advocacy services for children and adults to obtain their views and experiences of the commissioning arrangements;
- Met with independent advocacy providers to get their views and experiences in relation to the commissioning arrangements;
- Considered information provided by commissioners which included the HSC Board and HSC Trusts through the completion of self-assessment questionnaires;
- Met with staff and managers from the HSC Board, HSC Trusts, and independent advocacy providers;
- Held a regional summit event which involved all relevant stakeholders to further underpin the final report.

**The Department may wish to consider the merits of conducting a similar consultative exercise in order to further assess the current provision of advocacy services and to identify gaps in service provision.**

**The RQIA report drew a number of important conclusions which it would be pertinent for the Workstream Group to consider.** For example:

- That there is **no regional information system in place to capture the full picture of the current profile of advocacy services in Northern Ireland**. Due to the lack of

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[30] RQIA. Review of Advocacy Services for Children and Adults in Northern Ireland. January 2016. https://rqia.org.uk/RQIA/files/d7/d79ff542-b906-4118-b56d-ac405f10d9f2.pdf

[31] RQIA. Review of Advocacy Services for Children and Adults in Northern Ireland. January 2016. https://rqia.org.uk/RQIA/files/d7/d79ff542-b906-4118-b56d-ac405f10d9f2.pdf

regional information the review team recommended a needs assessment to determine future requirements and to assist in the development plans for future demands on advocacy services.

- **Workforce and workload varied across each independent advocacy organisation** and that this is **heavily influenced by funding, type of contract and by programme of care**.
- The number of service users and complexity of cases **varied considerably across providers and HSC Trusts**.
- Cases varied from those that could be resolved quickly via telephone or by a single visit from an advocate to **cases that were lengthy and complex** and which could take more than six months to resolve.
- Independent advocacy providers advised that some complex cases could require advocates to **link with other sectors** (e.g. housing and education) but that there was no clear framework for this to occur.
- There was **no regular forum through which learning about advocacy services is shared across the commissioners** and providers of advocacy services (although the Advocacy Network NI did facilitate meetings and discussions amongst its member organisation).

The report made the following **eight recommendations which the Workstream Group** may wish to consider in further detail:

- HSC Trusts/commissioners should carry out a needs assessment to determine future capacity requirements, and improve access to advocacy in keeping with the overall direction of services in Northern Ireland and the new mental capacity legislation. **The Workstream Group may wish to ascertain whether HSC Trusts/commissioners have conducted the recommended needs requirement.**
- HSC Board in partnership with relevant organisations should review and clarify arrangements for advocates to link with other sectors, including housing and education, when this is required in seeking to resolve cross-agency issues for their clients. **The Workstream Group may wish to ascertain what progress the Board has made on this issue.**
- HSC Board should work in partnership with HSC Trusts and independent advocacy providers to consider shared learning events or newsletters in order to share learning and experiences across organisations. **The Workstream Group may wish to ascertain what progress has been made in relation to this recommendation, whether any shared learning events have taken place and the outcome of these activities.**
- The resource and training implications for advocacy services should be included in the assessment of requirements to take forward the implementation of the mental capacity legislation. **The Workstream Group may wish to explore this issue further with the Board, Trusts and independent advocacy providers.**

- HSC organisations should work with independent advocacy providers to develop outcome measures in service agreements to enhance the evaluation of advocacy services and to inform future commissioning. **The Workstream Group may wish to explore the progress made on this issue particularly in relation to the development of outcome measures.**
- HSC Trusts should review service agreements with independent advocacy providers to ensure clarity as to the arrangements for the provision of services for clients across Trust organisational boundaries. **The Workstream Group may wish to explore what progress each Trust has made on this issue.**
- HSC commissioning organisations should review their arrangements to ensure that there is a clear point of contact for service providers to provide advice and clarification in relation to service agreements. **The Workstream Group may wish to explore what progress the HSC Board and Trusts have made in relation to this issue.**
- The Department should review potential new options for the introduction of regulation for advocacy services to determine if a regulatory framework should be established for organisations providing advocacy or for individual advocates. **The Workstream Group may wish to consider requesting an update on progress on this issue.**

## 2. Health and Social Care Board

HSC Health and Social Care Board

The Health and Social Care Board[32] (HSCB) is a statutory regional body established under Section 7 of the Health and Social Care (Reform) Act (Northern Ireland) 2009[33]. The role of the Health and Social Care Board is broadly contained in three functions[34]:

- To **arrange or commission** a full range of health and social services for the population of Northern Ireland.
- **Performance management of Health and Social Care Trusts**. This includes **supporting service improvements** to ensure optimal **quality and value for money**, in line with relevant **government targets**.
- **Deploying and managing annual funding** to ensure that this is targeted according to need and reflects the aspirations of local communities and their representatives.

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[32] Health and Social Care Board. www.hscboard.hscni.net/

[33] Section 7. Health and Social Care (Reform) Act (Northern Ireland) 2009. www.legislation.gov.uk/nia/2009/1/section/7

[34] Information extracted from the HSCB website - www.hscboard.hscni.net/our-work

**What are the Board's responsibilities in relation to advocacy and the provision of advocacy services?**

RQIA's report 'Review of Advocacy Services for Children and Adults in Northern Ireland[35]',published in January 2016, explored the role of key HSC bodies in relation to advocacy. The report described the role of the Health and Social Care Board in relation to the provision of independent advocacy services as follows:

*"The HSC Board advised RQIA that its main role is to identify the needs of the Northern Ireland population and to commission HSC services to meet those needs, within the strategic priorities identified by the DHSSPS and the funding made available. Where independent advocacy is the most appropriate service to meet an identified need or strategic objective, and funds are available, the HSC Board will commission that type of service.*

*The HSC Board currently has a number of regional contracts to deliver independent advocacy across different programmes of care including, children services, people with hearing impairment, and children with disabilities. The HSC Board also commissions advocacy in relation to resettlement of learning disability patients from hospital.*

*In September 2012, the HSC Board established an Advocacy Commissioning Group which involved representatives from the five local commissioning groups (LCGs) and five HSC Trusts. This group agreed terms of reference and operated until December 2013, when it was deemed that the major objectives of the group had been achieved.*

*The HSC Board also established an internal advocacy group, and currently employs four social care commissioning leads, responsible for taking forward the action plan associated with the DHSSPS policy guide. The role and remit of the group is to support the service improvements identified in the action plans as they apply to independent advocacy services for people with serious mental illness, learning disability, children's services, older people and physical disability"*

**The Workstream Group may wish to request information from the HSC Board in order to enhance its understanding of the current role of the Board in the provision of advocacy services:**

- **Does the HSC Board still concur with the RQIA report regarding its role in the provision of advocacy services (see quote above);**
- **Does the HSC Board have any further comments to add in relation to its role in the**

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[35] RQIA. Review of Advocacy Services for Children and Adults in Northern Ireland. January 2016. https://rqia.org.uk/RQIA/files/d7/d79ff542-b906-4118-b56d-ac405f10d9f2.pdf

**commissioning of advocacy services?**

- **Can the HSC Board provide further details as to how advocacy services are currently evaluated?**

- **Does the HSC Board perceive there to be any gaps in the current provision of advocacy services?**

- **The HSCB established an Advocacy Commissioning Group in 2012 which operated until December 2013. Does the HSC Board feel there is any merit in forming a similar group to reflect the need for independent advocacy identified by the IHRD report?**

- **Does the 'internal advocacy group' (referred to in the quotation from the RQIA report) still exist? If not, why is this the case? If it does exist, could the HSC Board provide an update on its key activities.**

### HSC Board's statutory responsibility to provide certain advocacy support and services

It is important to note that the HSCB is required by law to provide certain advocacy services. For example, Section 21 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015[36] states that the Board must make arrangements to enable a person (referred to as an 'independent guardian') to be appoint to assist, represent and support a child where that child is a victim, or a potential victim, of human trafficking, or who is determined to be a separated child. The Act states that the independent guardian will only be appointed where there is no-one available to effectively exercise parental responsibility for the child[37].

**The Workstream Group may wish to consider requesting further information from the HSC Board in order to gain an understanding of the appointment, role and responsibilities of independent guardians.**

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[36] Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015. www.legislation.gov.uk/nia/2015/2/section/21/enacted

[37] Explanatory Memorandum. www.legislation.gov.uk/nia/2015/2/notes/division/4/21

# 3. Health and Social Care Trusts

There are six Health and Social Care Trusts in Northern Ireland. Five of these trusts provide integrated health and social care services across Northern Ireland[38]. The five HSC Trusts are the main providers of health and social care services commissioned by the Health and Social Care Board[39]. They are also responsible for exercising certain statutory functions which are delegated to them by virtue of authorisations made under the Health and Personal Social Services (Northern Ireland) Order 1994. Each HSC Trust has a statutory obligation to put in place arrangements for monitoring and improving the quality of health and social care under the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003. Each HSC Trust has a duty to exercise its functions with the aim of improving the health and social wellbeing, and reducing health inequalities between, those from whom it provides, or may provide, health and social care[40].

Monitoring Trust performance against agreed objectives and targets is the responsibility of the HSCB. In addition to performance monitoring, the HSCB and the Public Health Agency (PHA) will work in co-operation to support Trusts in improving performance. Separately to the lines of responsibility between Trusts and the HSCB, Trust Chairs and Chief Executives are accountable to the Minister and the Department of Health (reflecting the accountability arrangements between a parent department and its arm's length bodies). The division of responsibility is said to require that the HSCB, the PHA, Trusts and the Department to work closely to ensure services which are commissioned can be delivered within the resources available[41].

### What is the role of Health and Social Trusts in relation to advocacy and the provision of advocacy services?

The five Trusts have responsibility for commissioning advocacy services from independent advocacy providers. These are commissioned through a tendering processing which should adhere to the Department of Health's policy guide on the commissioning of advocacy services and to procurement legislation.

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[38] The sixth Trust is the NI Ambulance Service; this section of the paper refers only to the role and responsibilities of the five trusts.

[39] DHSSPS. Health and Social Care: Reform and Transformation. Getting the Structures Right.

[40] Information extracted from the Health and Social Care website http://online.hscni.net/hospitals/health-and-social-care-trusts/

[41] DHSSPS. Health and Social Care: Reform and Transformation. Getting the Structures Right

Advocacy services are commissioned across various programmes of care, primarily within family and childcare; children and adult learning disabilities; children and adult mental health; and adult physical disability.  HSC Trusts may also commission specific advocacy services for conditions such as dementia and autism on a short-term basis as and when required[42].

Part 4 of the Mental Capacity Act (Northern Ireland) 2016[43] places a statutory duty on each HSC Trust to make arrangements to ensure that independent mental capacity advocates (IMCAs) are available to be instructed as the Act requires.  In making these arrangements, Trusts must have regard to the principle that the advocacy should be independent.  An “appropriate healthcare professional” may request that a Trust instructs an independent advocate to represent and provide support to the individual.

In addition to the commissioning of services, it is worth bearing in mind that HSC Trusts also have statutory obligations with significant relevant to advocacy such as their statutory equality duties under Section 75 of the Northern Ireland Act 1998; quality duties under the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003; and Personal and Public Involvement (PPI) duties under the Health and Social Services (Reform) Northern Ireland Act 2009.

**If it has not already done so, the Workstream Group may wish to consider requesting a briefing on the advocacy aspects of the Mental Capacity (Northern Ireland) Act and an update on the latest developments.**

## 4. Public Health Agency

The Public Health Agency was established under Section 12 of the Health and Social Care (Reform) Act (Northern Ireland) 2009[44].  Section 13 of the Act sets out the functions of the Public Health Agency in relation to the areas of health improvement and health protection.

The **health improvement functions** of the Public Health Agency as provided for in Section 13 are:

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[42] RQIA.  Review of Advocacy Services for Children and Adults in Northern Ireland.  January 2016. https://rqia.org.uk/RQIA/files/d7/d79ff542-b906-4118-b56d-ac405f10d9f2.pdf

[43] Mental Capacity Act (Northern Ireland) 2016.

[44] Health and Social Care (Reform) Act (Northern Ireland) 2009.  www.legislation.gov.uk/nia/2009/1/contents

- Developing and providing, or securing the provision of, programmes and initiatives designed to secure the improvement of the health and social well-being of, and reduce inequalities between, people in Northern Ireland; and
- Health promotion, including in particular enabling people in Northern Ireland to increase control over and improve their health and social well-being.

The **health protection functions** of the Public Health Agency as provided for in Section 13 are to protect the community (or any part of the community) against:

- Communicable diseases, in particular by the prevention or control of such diseases; and
- Other dangers to health and social well-being including dangers arising on environmental or public health groups or arising out of emergencies.

In the exercise of its functions, the Public Health Agency may:

- Engage or commission research;
- Obtain and analyse data and other information;
- Provide laboratory and other technical and clinical services;
- Providing training in relation to matters in which it has functions;
- Make available to any other body such persons, materials and facilities as it thinks appropriate; and
- Provide information, advice and assistance.

The Act also provides that in exercising its functions, the Public Health Agency must co-operate with other bodies which exercise functions relating to health improvement or protection (e.g. local government). It must also provide the Department of Health, the Health and Social Care Board and Local Commissioning Groups with such information, advice and assistance as the may reasonably require in connection with the exercise of its functions.

### What is the role of the Public Health Agency in advocacy?

Advocacy in a health and social care setting is often required when there has been a breakdown in communication between health professionals and service users and their families; when service users and their families feel that they have not been listened to and/or kept informed; or where service users feel disempowered because they feel they have had little say in how services are shaped and delivered. Personal and Public Involvement (PPI) is a statutory requirement for Health and Social Care organisation which aims to embed meaningful and effective engagement of service users, carers and the public within the formulation of policy, the delivery of services and the culture and values of health and social care organisations.

The Public Health Agency (PHA) has a role to play in advocacy in that has responsibility for leading implementation of policy on PPI across HSC[45]. Whilst it may not act as an advocate per se, the PHA is responsible for leading on a policy (i.e. PPI) that should create the conditions in which key principles of advocacy such as equality and the acknowledgement of rights, empowerment and the redress of power imbalances, dignity, communication, and co-production of services should flourish in all health and social care organisations.

Many of the PHA's leadership functions relating to PPI are said to be delivered through the Regional HSC PPI Forum[46]. Working with and through the Forum, PHA is responsible for[47]:

- Establishing and leading the Regional HSC PPI Forum;
- Encouraging collaboration, consistency and coordination in approach to PPI across HSC;
- Raising awareness of PPI and communication;
- The provision of professional advice, guidance and information on PPI;
- Encouraging and facilitating PPI to be embedded into HSC culture and practice;
- The production of an Annual Report on PPI;
- Commissioning of PPI training for HSC;
- Design, development and implementation of monitoring mechanisms and arrangements for PPI in the HSC system;
- Ensuring that HSC Trusts meet their PPI statutory responsibilities;
- Providing of assurances to the Department of Health in respect of Trust compliance with the statutory duty to involve and consult; and
- Commissioning of research and the production of reports into the barriers to involvement and ways to overcome these.

The PHA website Engage provides further information on PPI including information on standards, research and PPI case studies[48].

The role of the PHA is also to **support service users** (and indeed their carers, families and advocates) in **expressing their views on the health and social services.** This PHA uses a range of mechanisms to obtain those view and facilitate a more patient and client-focused approach to services such as the 10,000 more voices initiative which provides people with an opportunity to tell the PHA about their experience of receiving health and social care, highlighting what is important to them and describing their health and social care journey. The 10,000 more voices website has a number of live surveys on people's experiences of adult safeguarding, children's audiology

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[45] [45] Information extracted from the Public Health Agency website - www.publichealth.hscni.net/directorate-nursing-and-allied-health-professions/allied-health-professions-and-personal-and-publi-5

[46] See http://engage.hscni.net/who-we-are/meeting-minutes/

[47] Ibid

[48] Engage http://engage.hscni.net/what-is-ppi/policy-and-legislation/

services, health and social care in Northern Ireland, mental health, and the Northern Ireland Ambulance Service[49].

**If has not already done so, the Workstream Group may wish to seek further information from the Public Health Agency on the interface of PPI and advocacy. It may also wish to gain understanding of how the voices of service-users and advocates/advocacy providers are heard through initiatives such as'10,000 voices' and whether any further action is required to capture user and advocacy service provider experience.**

## 5. The Regulation and Quality Improvement Authority

The Regulation and Quality Improvement Authority (RQIA) established under The Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003[50]. RQIA is an independent body responsible for monitoring and inspecting the availability and quality of health and social care services in Northern Ireland, and encouraging improvements in the quality of those services.

### What is the role of RQIA in advocacy?

Two of the functions of RQIA under the 2003 Order are to:

- "carry out investigations into, and making reports on, the management, provision or quality of health and personal social services for which statutory bodies have responsibility"; and
- "conducting review of, and making reports on, the management, provision or quality of, or access to or availability of, particularly types of health and personal social services for which statutory bodies or service providers have responsibility".

RQIA therefore play a central role in investigating and/or reviewing, and making reports, on advocacy services provided directly by HCS bodies or by independent advocacy services commissioned by HSC bodies. An important part of this work is to make recommendations to improve the quality of these services. RQIA has conducted a number of reviews in relation to advocacy:

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[49] 10,000 more voices https://10000morevoices.hscni.net/about-us/

[50] The Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003. www.legislation.gov.uk/nisi/2003/431/contents/made

- **Review of Advocacy Services for Children and Adults in Northern Ireland**, January 2016 www.rqia.org.uk/reviews/review-reports/2015-2016/
- **Safeguarding of Children and Vulnerable Adults in Mental Health and Learning Disability Hospitals in Northern Ireland: Overview Report**. February 2013 (this review commended that HSC Trust should ensure that patients and relatives on all wards have access to advocacy services. www.rqia.org.uk/reviews/review-reports/2012-2015/
- **Provision of Advocacy Services in Mental Health and Learning Disability Inpatient Facilities in Northern Ireland**, March 2012. www.rqia.org.uk/RQIA/files/6d/6d57b251-a508-45c5-bb55-4e37d1cf64b1.pdf

**In order to gain an understanding of the current provision of advocacy services across Northern Ireland, the Workstream Group may wish to consider requesting a briefing from RQIA on its reports into advocacy services, the recommendations made and identify actions taken by relevant health and social care organisations in response to those recommendations.**

Patient and Client Council
Your voice in health and social care

## 6. Patient and Client Council

The Patient and Client Council (PCC) was established under Section 16 and Schedule 4 of the Health and Social Care (Reform) Act (Northern Ireland) 2009[51]. The high level functions of the PCC in relation to the provision of health and social care are set out in Section 17 of the Health and Social Care (Reform) Act 2009 Act as follows[52]:

- **To represent the interests of the public.** The Patient and Client Council must consult the public about matters relating to health and social care and report the views of those consulted to the Department of Health (where it appears to the Council to be appropriate to do so) and to any other body to which this section of the Act applies who appears to have an interest in the subject matter of the consultation.
- **To promote the involvement of the public**. The Patient Client Council shall promote the involvement of the public in consultations or processes leading (or potentially leading) to decisions by a body to which this Section of the Act applies

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[51] Health and Social Care (Reform) Act (Northern Ireland) 2009. www.legislation.gov.uk/nia/2009/1/contents
[52] Article 17. Health and Social Care (Reform) Act (Northern Ireland) 2009 www.legislation.gov.uk/nia/2009/1/section/17

would or might affect (whether directly or not) the health and social well-being of the public.

- **To provide assistance (by way of representation or otherwise) to individuals making or intending to make a complaint relating to health and social care**. The Patient Client Council shall arrange, to such an extent as it considers necessary to meet all reasonable requirements, for the provision (by way of representation or otherwise) of assistance to individuals making or intending to make a complaint of a prescribed description.
- **To promote the provision of advice and information to the public about the design, commissioning and delivery of health and social care**.
- **"such other functions as may be prescribed"**.

The 2009 Act also provides that the Patient and Client Council shall carry out research into the best methods for consulting with the public about involving them in health and social care and to provide advice about these methods to certain health and social care bodies.

Definitions:
The **"public"** is defined in this section of the Act as *"individuals, a group or community of people and a section of the public, however selected".*

**A body is responsible for health and social care under this Section of the Act if it** (a) provides or will provide care to individuals; or (b) if another person provides, or will provide, that care to individuals at that body's direction, on its behalf, or in accordance with an agreement or arrangements made by that body with the other person. This also includes care that is provided jointly with another person.

*Duty to co-operate with the Patient and Client Council*

Section 18[53], of the 2009 Act requires certain health and social care bodies to co-operate with the Patient and Client Council in carrying out its functions. Furthermore, it requires health and social care bodies to have due regard to advice provided by the Patient and Client Council about the health and social care for which that particular body is responsible.

### What is the role of the Patient Client Council in relation to advocacy?

The Patient and Client Council (PCC) plays a pivotal role in advocating on behalf of users of health and social care services in Northern Ireland. It also has key responsibilities in respect of Personal and Public Involvement (PPI) including representing the public interest/promoting/supporting the involvement of the public, and

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[53] Section 18. Health and Social Care (Reform) Act (Northern Ireland) 2009. www.legislation.gov.uk/nia/2009/1/section/18

undertaking research into best practice for involving and consulting the public in regard to health and social care matters[54].

Whilst it is a statutory body, the core values of the PCC are to “speak independently” and “put people at the centre of all we do”[55]. Indeed, the PCC states that *“Being an advocate for patients and clients is an important part of our work”.* For illustrative purposes, this section provides a brief overview of three of the means by which the PCC acts as an advocate for patients and clients, i.e.:

- the role of the PCC in assisting with complaints;
- the role of the PCC in conducting thematic reviews; and
- the role of the PCC in providing advice and information.

## ***The role of the Patient Client Council in assisting with complaints***

One of the most important functions of the Patient Client Council in relation to advocacy is the provision of assistance to individuals making or intending to make a complaint relating health and social care. Information on the Patient Client Council’s complaints process is available in its publication ‘How can we help?: your guide to making a complaint about Health and Social Care Services[56]’ and accompanying video on the Complaint Support Service .

The Patient Client Council Complaints Support Service is a “confidential, independent and free service” that will[57]:

- Provide clients with information on the complaints procedure and advice on how to take a complaint forward;
- Discuss a complaint with a client and draft letters on their behalf;
- Make telephone calls for clients about their complaint on their behalf;
- Help clients prepare for, and accompany them to meetings about their complaint and ensure that their concerns are heard and responded to;
- Help and support clients to prepare a complaint for submission to the Ombudsman or other regulatory bodies;
- Refer to other agencies, for example, specialist advocacy services; and
- Help access medical and/or social services records.

The Patient Client Council also publishes an ‘Annual Complaints Report’ which provides an account of the number, type and nature of complaints received and dealt

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[54] Duffy, J. et al. Personal and Public Involvement (PPI) and its impact. Monitoring, measuring and evaluating the impact of PPI in Health and Social Care in Northern Ireland. January 2017. www.patientclientcouncil.hscni.net/publications/index/reports

[55] Patient and Client Council website www.patientclientcouncil.hscni.net/about-us

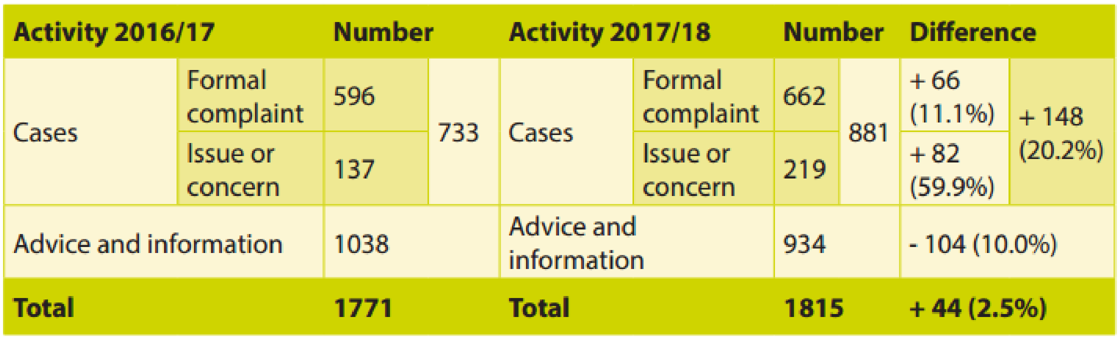
[56] Patient and Client Council. How can we help? Your guide to making a complaint about Health and Social Care services. www.patientclientcouncil.hscni.net/making-a-complaint

[57] Patient and Client Council. Annual Complaints Report 2017-18. www.patientclientcouncil.hscni.net/publications/index/reports

with by the PCC each year. The latest report is the '[Annual Complaints Report 2017-18][58]' (published in February 2019) and provides the follow service activity data:

- In 2017/18 the Patient Client Council Complaints Support Service provided specific help or advocacy in relation to **881 new cases**. These included **662 formal complaint cases** and **219 issues or concerns** (see definition in footnote)***[59]***. It is important to note that the Patient Client Council Complaints Service does not offer legal support to clients.
- The PCC Complaints Service also provided support to 934 requests for advice or information during 2017/18. These requests are dealt with through the PCC Helpline.
- Comparative figures for formal complaints and issues/concerns for 2016/2017 and 2017/18 are provided in Table 1. Please note activity data relates only to new cases and requests dealt with between 1 April 2017 and 31 March 2018. It does not include continuing work by PCC Complaints Support Officers and on cases opened before 1 April 2017.

**Table 1: Comparison of complaints activity in 2016/17 and 2018/19[60]**



| Activity 2016/17 | | Number | | Activity 2017/18 | | Number | | Difference | |
|---|---|---|---|---|---|---|---|---|---|
| Cases | Formal complaint | 596 | 733 | Cases | Formal complaint | 662 | 881 | + 66 (11.1%) | + 148 (20.2%) |
| | Issue or concern | 137 | | | Issue or concern | 219 | | + 82 (59.9%) | |
| Advice and information | | 1038 | | Advice and information | | 934 | | - 104 (10.0%) | |
| **Total** | | **1771** | | **Total** | | **1815** | | **+ 44 (2.5%)** | |

- Between 2015/16 and 2016/17, the Patient Client Council observed a reduction in the number of advice and information requests (a 16.4% decrease) and a further reduction in advice and information requests from 2016/17 to 2018/19. The Patient Client Council states that it is likely that this reduction is attributable to the availability of an online self-help pack and ongoing development of online signposting on the Patient Client Council website. Improve information provision on the NI Direct website may also be having a positive impact.

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[58] Patient Client Council. Annual Complaints Report 2017-18. www.patientclientcouncil.hscni.net/publications/index/reports

[59] Not all cases are formal complaints. Some people contact the service with an "issue or concern" that they wish to resolve but not through a formal complaint process. The Patient Client Council state that often Complaint Support Officers can work with these clients to have the concerns or issues resolved e.g. by putting clients in touch with, or advocating on their behalf with, local Health and Social Care teams.

[60] Table extracted directly from Patient Client Council. Annual Complaints Report 2017-18, p4.

- The Patient Client Council Annual Complaints report states that there is a continued shift in activity of the Complaints Support Service away from advice and information work to **case management**.
- The majority of clients of the Complaints Support Service are supported through the HSC complaints process (71.7%), 21.9% of clients are supported through an informal complaints process.
- The Complaints Support Service also support clients involved in other formal processes in operation within the HSC to investigate and resolve concerns raised by patients and the public. Table 2 below provides data on the range of other processes through which clients were supported during 2017/18.

The Patient Client Council states that it fully acknowledges that the number of complaints made by patients about services are *"small in comparison with the volume of patient interactions with HSC services throughout the year overall".* However, it believes that *"by studying complaints and reporting this information there is an opportunity to learn and to improve services"*. The Patient Client Council states that it is committed to promoting learning from complaints to the wider HSC system including through the publication of thematic reports. It reiterates that it is also committed to sharing recommendations with various HSC Trusts and key decision makers via ongoing engagement which is aimed at influencing service improvement[61].

## ***The role of the Patient and Client Council in conducting thematic reviews***

The aim of these reviews is to identify learning from complaints in order that it can be used to promote service change and improvement. These thematic reports are important to the statutory function of the Patient and Client Council in relation to representing the interests of the public and reporting back to relevant HSC bodies on the views of those consulted with a view to improving the way in which services are delivered. In 2017/18 the PCC undertook three in-depth pieces of work to review themes arising from the data of the Complaints Support Service;

- 'End of Life: Key issues arising from complaints about End of Life Care' (April 2017)[62]
- 'The experience of living in a nursing home: Literature review and summary of key issues raised with the Patient Client Council Complaints Service' (June 2018)[63]
- 'Relationships Matter: An analysis of complaints about social workers[64]' (December 2018)

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[61] Patient Client Council. Annual Complaints Report 2017-18, p30.

[62] Patient Client Council. End of Life: key issues arising from complaints about the end of life care experience – Year 2. April 2017. www.patientclientcouncil.hscni.net/uploads/research/End_of_Life_Care_27-9-17.pdf

[63] Patient Client Council. The experience of living in a nursing home: literature review and summary of key issues raised with the Patient Client Council Complaints Service. www.patientclientcouncil.hscni.net/uploads/research/1658_B4MXEc.pdf

Such thematic reviews are clearly important components of advocacy in that they are independent from statutory HSC bodies.  They should be free from conflict of interest so that they can represent the views of the person or persons for whom they advocate. Such reviews maintain a focus on those who are vulnerable and most at risk and provide a constructive challenge to service providers to achieve higher quality and user-led inclusive services.

### *The role of the Patient and Client Council in providing advice and information*

Empowering individuals and groups with advice and information and the tools in which they need to speak up for themselves is key to one of the ultimate principles of advocacy which is self-advocacy.  Self-advocacy is an important skill which can be used when service users (or their carers and families) seek to be listened to; when they are assessed or treated; when they are making a complaint; or in other circumstances such as developing or reviewing a care plan[65].  The Patient and Client Council should play an important part in helping people develop the skills for self-advocacy (where people can self-advocate) by providing information on their rights and advice on how they can complain and who they can complaint to[66].

**In order to gain an insight into the current status of advocacy and advocacy services in Northern Ireland, the Workstream Group may wish to request a briefing from the Patient and Client Council on its role in advocacy, including examples of its recent activities/reports.  The Workstream Group may also wish to ascertain whether any views have been feed into the PCC regarding the current provision independent advocacy Northern Ireland (e.g. user and independent provider experience, gaps in provision, future service needs etc.).**

## 7. Safeguarding Board for Northern Ireland

The Safeguarding Board for Northern Ireland (SBNI) was established under the Safeguarding Board Act (Northern Ireland) 2011[67].  The primary objective of the Safeguarding Board of Northern Ireland is to *"co-ordinate and ensure the effectiveness of what is done by each person or body represented on the Board for the purposes of safeguarding and promoting the welfare of children"*.  According to the SBNI website,

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[64] Patient Client Council & Queen's University Belfast.  Relationships Matter: an analysis of complaints about social workers to the Northern Ireland Social Care Council and the Patient Client Council.  December 2018. www.patientclientcouncil.hscni.net/uploads/research/1731_qt4CwA.pdf

[65] Disability Rights UK.  Self-advocacy.  www.disabilityrightsuk.org/self-advocacy

[66] Patient and Client Council.  Making a complaint.  www.patientclientcouncil.hscni.net/making-a-complaint

[67] Safeguarding Board Act (Northern Ireland) 2011.

the membership of the SBNI is made up of an independent chair, three non-executive directors and membership from the following bodies[68]:

- Health and Social Care Board
- Public Health Agency
- Health and Social Care Trusts
- Police Service of Northern Ireland
- Probation Board of Northern Ireland
- Youth Justice Agency
- Education Authority
- District councils
- National Society for the Prevention of Cruelty to Children
- A designated nurse
- Five representatives from the voluntary and community sectors
- A GP (who will be a member of the British Medical Association)

The SBNI is made up of a number of committees responsible for overseeing different areas of the Board's work, with membership representing the breadth of agencies working with children and young people[69]. The SBNI describes itself as *the key process for agreeing how children's agencies will co-operate to safeguard and promote the welfare of children in Northern Ireland and for ensuring the effectiveness of those agencies"*[70].

The functions of the SBNI are as follows[71]:

- To promote awareness of the need to safeguard children and promote their welfare;
- To develop good communication between the Board and children and young people;
- To undertake case management reviews, in order to learn lessons in cases where children have died or have been seriously injured;
- To review information in relation to the sudden and unexpected deaths of children;
- To develop policies and procedures to help professionals and agencies work together more effectively;
- To arrange consultation and discussion, where appropriate, in relation to safeguarding matters; and
- To produce an annual report setting out the work of the SBNI.

**What is the role of the Safeguarding Board in relation to advocacy?**

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[68] Information extracted from the Safeguarding Board for Northern Ireland website. www.safeguardingni.org/meet-board

[69] Ibid.

[70] Information extracted from the Safeguarding Board for Northern Ireland website www.safeguardingni.org/

[71] Ibid.

Two of the key functions of SBNI is to “promote the welfare” of children and young people and to “develop good communication between the Board and children and young people”. The SBNI can also conduct, e.g. by Ministerial Direction, “thematic review” on issues pertinent to child safety and child welfare[72]. These functions sit closely with many of the principles of advocacy such as empowering and enabling the voices of children and young people to be heard and safeguarding the most vulnerable members of society.

**If it has not already done so, the Workstream Group may wish to consider requesting information from SBNI in regards to the operation of their functions and its impact on advocacy for children and young people. The membership of the SBNI is diverse and comprised of key organisations that have regular contact with children and young people, this may be a rich resource from which to gain information on the effectiveness of current health and social care advocacy arrangements for children and young people and to identify if further services are required.**

## 8. Northern Ireland Guardian Ad Litem Agency

NIGALA
NI Guardian Ad Litem Agency
a voice for children

The Northern Ireland Guardian Ad Litem Agency (NIGALA) was established under the Children (Northern Ireland) Order 1995 to safeguard and promote the interests of children by providing **independent social work investigation and advice** in specified proceedings under the Children (Northern Ireland) Order 1995 and the Adoption (Northern Ireland) Order 1987 (i.e. children involved in adoption or care proceedings). A key role of NIGALA is to provide effective representation of children’s views and interests to the court. A Guardian Ad Litem, is an independent officer of the court, who is required to represent the interests of the child in court and to report to the Court the wishes and feelings of the child regarding the child’s circumstances and preferred outcome to the proceedings[73]. The Guardian is required, for example, to[74]:

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[72] In September 2013, for example, SBNI received a Ministerial Direction to carry out a thematic review in relation to 22 cases of alleged child sexual exploitation in Northern Ireland. www.safeguardingni.org/thematic-review-child-sexual-exploitation

[73] Information extracted from the NI Guardian Ad Litem Agency. www.nigala.hscni.net/professionals.htm

[74] Information extracted from the NI Guardian Ad Litem Agency. www.nigala.hscni.net/professionals.htm

- Thoroughly investigate the child's circumstances and provide an independent recommendation to the Court;
- Appoint a solicitor to represent the child, unless a solicitor has already been appointed;
- Achieve the best possible outcome for the child;
- Assess the impact of the proceedings on the child and, if necessary, act promptly to protect the child from further stress or distress; and
- Evaluate the level, timing and the manner of state intervention in the life of the child.

**The Workstream Group may wish to consult with NIGALA to ascertain whether it perceives there to be any gaps in advocacy services for children and young people.**

Northern Ireland
Public Services
Ombudsman

## 9. Northern Ireland Public Service Ombudsman

The Northern Ireland Public Service Ombudsman's legal authority to investigate complaints (including complaints made against HSC bodies) and to make recommendations (as appropriate) is contained in the Public Services Ombudsman Act (Northern Ireland) 2016[75]. The Ombudsman is an independent role who is not subject to the direction or control of a Minister or Department; Secretary of State, nor the Northern Ireland Assembly. The Ombudsman has to the power either to investigate complaints made by a member of the public (or a Member of the Assembly acting on behalf of the complainant) or investigate a complaint on their "own initiative".

The Ombudsman has the power to investigate health and social care bodies under Sections 15, 16 and 17[76] of the 2016 Act where there:

- Is alleged maladministration through action taken in the exercise of administrative functions by the health and social care body; or
- The merits of a decision of that body to the extent that it was taken in consequence of the exercise of professional judgement.

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[75] Public Services Ombudsman Act (Northern Ireland) 2016 www.legislation.gov.uk/nia/2016/4/contents/enacted
[76] Section 15. Public Services Ombudsman Act (Northern Ireland) 2016 www.legislation.gov.uk/nia/2016/4/section/15/enacted

Some examples that the Ombudsman may regard as maladministration include (this list is not exhaustive)[77]:

- Avoidable delay;
- Faulty procedures or failing to follow correct procedure;
- Unfairness, bias or prejudice;
- Giving advice that is misleading or inadequate;
- Refusing to answer reasonable questions;
- Discourtesy and failing to apologise for errors; and
- Mistakes in handing complaints.

The Ombudsman does not usually accept a complaint if[78]:

- It is made to the Ombudsman more than six months after completing the organisation's complaints procedure (unless the Ombudsman decides there are special circumstances);
- The complainant could take their case to a tribunal;
- They could have gone to court or have already begun legal action;
- The Ombudsman believes the action or decision they are complaining about was reasonable;
- It is about government policy; or
- It is about private health care.

If the Ombudsman decides to conduct an investigation, the complaint will be passed to an Investigation Team to establish if the allegations made in the complaint can be substantiated and whether there has been maladministration by the organisation. When investigating complaints about health and social care the Ombudsman may seek the opinion of medically qualified Independent Professional Advisers.

Where the Ombudsman finds that there has been maladministration, she will, if appropriate, made recommendations about what the organisation should do to put things right. She does not award compensation or penalise individuals but may decide that the organisation should issue an apology or recommend changes in practice to bring about service improvements.

**The Workstream Group may wish to request further information from the Ombudsman on her role in relation to health and social care related complaints. The Workstream Group may also wish to obtain further information about the role of independent advocates in complaints. The Workstream Group may wish to explore whether there is sufficient awareness of the role of the Ombudsman amongst patients and independent advocacy organisations.**

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[77] Northern Ireland Public Service Ombudsman. Information leaflet for all authorities within the Ombudsman's jurisdiction.

[78] Ibid.

## 10. Northern Ireland Commissioner for Children and Young People

NICCY
PROMOTING THE RIGHTS OF
CHILDREN & YOUNG PEOPLE

The Northern Ireland Commissioner for Children and Young People was established under The Commissioner for Children and Young People (Northern Ireland) Order 2003[79]. The principle aim of the Commissioner under the legislation is to "safeguard and promote the rights and best interests of children and young persons". The duties of the Commissioner, under Article 7 of the Order, are as follows[80]:

- To promote an understanding of the rights of children and young persons, to promote an awareness of those rights; and to promote an awareness of matters relating to the best interests of children and young people;
- To keep under review, the adequacy and effectiveness of law and practice relating to the rights and welfare of children and young people;
- To keep under review, the adequacy and effectiveness of services provided for children and young persons by relevant authorities;
- To advise the Secretary of State and relevant authorities on matters concerning the rights or best interests of children and young persons.
- To take reasonable steps to ensure that children and young people and their parents are made aware of the role of the Commissioner;
- To ensure that children and young people are encouraged to communicate with the Commissioner and to seek the views of children and young people in the exercise of its functions.

The Commissioner has a number of general powers under Article 8 of the 2003 Order, i.e. the Commissioner may[81]:

- Undertake, commission or provide financial or other assistance, for research or educational activities concerning the rights or best interests of children and young people.
- After consultation with such bodies or persons as she feels appropriate, issue guidance on best practice in relation to any matter concerning the rights or best interests of children and young persons.

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[79] The Commissioner for Children and Young People Order (Northern Ireland) 2003. www.legislation.gov.uk/nisi/2003/439/contents/made

[80] Article 7. The Commissioner for Children and Young People Order (Northern Ireland) 2003. www.legislation.gov.uk/nisi/2003/439/article/7/made

[81] Article 8. The Commissioner for Children and Young People Order (Northern Ireland) 2003. www.legislation.gov.uk/nisi/2003/439/article/8/made

- Conduct such investigations as she considers necessary or expedient in relation to any of the functions of the Commissioner.
- Make representations or recommendations to any body or person about any matter concerning the rights or bests interests of children or young persons.

### What is the role of the Commissioner for Children and Young People in advocacy?

NICCY plays a central role in advocating for, and promoting and protecting the rights of, children and young people in a range of settings including health and social care. The Commissioner has a significant range of powers in relation to reviewing and monitoring the functions of a range of public bodies, assisting children and young people with complaints, and investigative powers. This section outlines in further detail the powers and functions of the Commissioner.

### ***Power to review and monitor advocacy and complaints arrangements made by health and social care bodies***

Article 9 of the 2003 Order[82] sets out the general reviewing and monitoring functions of the Commissioner in relation to the operation of advocacy, complaints, inspection and whistleblowing arrangements made by a relevant authority. The purpose of any such reviews or monitoring is to enable the Commissioner to determine whether, and what extent, the arrangements have been effective in promoting and safeguarding the rights and best interests of children and young people[83].

### ***Providing children and young people with assistance in making a complaint***

Under Article 11[84], the Commissioner **may provide assistance (including financial assistance) to a child or young person in making a complaint** to a relevant authority that (a) the rights of the child or young person have been infringed by that or another relevant authority) or (b) that the interests of the child or young person has been affected by such action. However, the Commissioner shall not provide any assistance to a child unless it appears to the Commissioner that there is no other person or body likely to provide such assistance.

The Commissioner may act (a) on behalf of a child or young person to make such a complaint to a relevant authority and (b) act on behalf of a child or young person in any investigation or other proceedings conducted by that authority pursuant to the complaint. However, the Commissioner shall not provide any assistance to a child or

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[82] Article 9. The Commissioner for Children and Young People Order (Northern Ireland) 2003. www.legislation.gov.uk/nisi/2003/439/article/9/made

[83] The Commissioner for Children and Young People Order (Northern Ireland) 2003. Explanatory Memorandum.

[84] Article 11. The Commissioner for Children and Young People Order (Northern Ireland) 2003. www.legislation.gov.uk/nisi/2003/439/article/11

young person unless it appears to the Commissioner that there is no other body likely to take such action.

The NICCY website states the following in relation to Article 11[85]:

> *"It has been our experience that many of the issues we would have dealt with in the past could be dealt with by other agencies so we have moved away from taking these complaints, signposting instead to a more appropriate person or body to assist the child or young person. This means that going forward we are unlikely to deal with many cases where we previously provided assistance to a child or young person making a complaint to a relevant authority. There will always be unusual cases where we do not believe anyone else provides assistance and we will continue to assist with these. However, we will now be provided more of our services under Article 12 of the Order instead".*

### ***Power to conduct an investigation into a complaint***

Article 12[86] of the 2003 Order provides the Commissioner with the **power to conduct an investigation into a complaint made by a child or young person** that (a) his/her rights have been infringed by any action taken by a relevant authority or (b) that his/her interests have been adversely affected by such action. To conduct an investigation, the Commissioner must be satisfied that the complaint raises a question of principle and the *complaint does not fall within an existing statutory complaints system*.

In relation to Article 12, the NICCY website states that[87]:

> *"For a complainant this means that we can deal with such complaints but they must have already complained to the authority and exhausted any complaint mechanism available to them before referring the matter to us. If we decide to investigation the complaint we will do so on a neutral basis, being neither an advocate for the child, nor an adversary of any authority complained about. Any investigation will be carried out on a neutral basis".*

### ***Power to conduct formal investigations***

Article 16[88] of the 2003 Order provides the Commissioner with the power to conduct formal investigations and to prepare a report on that investigation. The investigation may relate to the advocacy, complaint, inspection or whistleblowing arrangements of a

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[85] NICCY website www.niccy.org/professionals-practitioners-policymakers/legal-and-investigations/investigations/

[86] Article 12. The Commissioner for Children and Young People Order (Northern Ireland) 2003. www.legislation.gov.uk/nisi/2003/439/article/12

[87] NICCY website www.niccy.org/professionals-practitioners-policymakers/legal-and-investigations/investigations/

[88] Article 16. The Commissioner for Children and Young People Order (Northern Ireland) 2003. www.legislation.gov.uk/nisi/2003/439/article/16

relevant authority. The Commissioner cannot conduct a formal investigation into a matter in respect of which they have previously brought, intervened in, or provide assistance, with legal proceedings.

### What are some of NICCY's more recent comments of advocacy in a health and social care setting?

The NICCY response to the Department of Health on the Mental Capacity Act (Northern Ireland) 2016 Code of Practice provides an insight into NICCY's view on independent advocacy services for children and young people in relation to health and social care[89]:

*"One of the key safeguards of the Mental Capacity Act is the provision of independent mental capacity advocates for people who lack capacity as provided for by Chapter 5 of the Mental Capacity Act. NICCY has consistently called for the extension of the provision of independent advocacy services to children and young people with learning disabilities and/or mental ill health as and when required. In particular, we have called on the Government to provide independent advocacy services to children and young people when admission to hospital is being considered in the community to ensure that if possible, formal detention can be avoided and courses of action which cause least harm can be progressed. It is both surprising and confusing, given the centrality of the issue of independent advocacy services to the development of the Mental Capacity Act and the emphasis in the Act on the provision of all practical support to all people who lack capacity to make decisions, that there is no chapter in the Code of Practice on advocacy. Advocacy is mentioned only twice in the Code, one of these references relates to, 'non-statutory advocates'. NICCY would have expected the Code to refer at length to when health and social care professionals should employ the services of an independent advocate to assist people who lack capacity. The absence of any reference to the availability of independent advocates is extremely concerning.*

*Under Article 12 of the UNCRC, children and young people have a right to have their views heard and taken into account in matters which impact on their lives. In addition, Article 7 of the UNCPRD places an obligation on Government to take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children. State Parties must ensure that children with disabilities have the right to express their views freely on all matters affecting them and their views are to be given due weight in accordance with their age and maturity on an equal basis with other children. In ensuring that children and young people have these fundamental rights upheld it would be vitally important to provide them with the support of*

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[89] Northern Ireland Commissioner for Children and Young People. Response to Department of Health on the Mental Capacity Act (Northern Ireland) 2016 Code of Practice. February 2019. www.niccy.org/publications/2019/february/22/mental-capacity-act/

*independent advocacy services. Independent advocates will be even more important for 16 and 17 years olds who, under the current, flawed version of the Code of Practice, now face additional barriers to accessing the safeguards of the Mental Capacity Act. Independent advocates will also be vitally important to this group in ensuring that the core focus of the Act for them remains as supported, as opposed to substitute, decision making. The provision of independent advocacy services to all children and young people who require this service, regardless of their age, is essential for the realisation of their right to meaningful participation without discrimination as provided for by both the UNCRC and the UNCRPD.*

*NICCY is aware that the Department intends to commence the Act in stages, with provisions relating to advocacy coming later in the commencement process….The effect of this would be that legislation would commence without the provision of the advocacy safeguard. Given this and the almost complete lack of reference to advocacy in the current version of the Code NICCY has serious concerns about the intentions of the Department regarding the provision of and perceived role of the advocacy service. It is NICCY's view that such an approach raises serious questions around the compatibility of the Act with the ECHR and UNCRPD. The Department states in its letter of 26th February,*

*"During the Assembly process the Bill (and subsequently the Act) was determined as being compatible with all international obligations, such as the European Convention on Human Rights and the United Nations' Convention on the Rights of Persons with Disabilities. Without such compliance the Assembly would not have had the competence to legislate and the passage of the Bill would have been stopped, either through procedures in the Assembly itself or by the Supreme Court. As this did not happen competence was assured and the Bill received Royal Assent."*

*The commencement of the Act without the advocacy service was not something that was considered when the Act was being subjected to scrutiny with regard to ECHR compatibility. NICCY believes that the commencement and implementation of the Act without the advocacy safeguards now raises the question of ECHR compatibility. As outlined above, access to independent advocacy is fundamental in the realisation of children's rights under this Act.* ***NICCY therefore strongly advises that the advocacy provisions are commenced at the outset. NICCY will be seeking legal advice on the issue of the ECHR and UNCRPD compatibility of the Act if commenced without the advocacy provisions."***

NICCY in its response to the Patient Client Council Draft Corporate Plan for 2017-2021 recognised the role of the PCC in relation to advocacy[90]:

*"We wish to highlight the specific role of the PCC in being a key statutory advocate for children and young people using health and social care services. We recognise the commitment outlined by the PCC in its draft corporate plan "to ensure the most*

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[90] Northern Ireland Commission for Children and Young People. NICCY response to the Patient Client Council on Draft Corporate Plan for 2017-2021. January 2017. www.niccy.org/publications/2017/january/10/patient-client-council-draft-corporate-plan/

*vulnerable in our society, including children and adults at risk of harm, are looked after effectively across all health and social care services". Children and young people have an innate vulnerability because of their age and evolving capacity. In the context of the work of the PCC this means that specific measures need to be considered in order to ensure that children and young people are facilitated in having their statutory rights met. Children and young people are one of the groups most vulnerable to being discriminated against with regard to access to health care services and likely to have most difficulty in using complaints systems. In both cases this is often because services and systems are devolved by adults, for adults. It is well understood that services are more effective when they are shaped by people using them."*

However, it made a number of recommendations particularly in relation to the development of a child friendly complaints system for health and social care:

*"One of the four statutory functions of the PCC is to provide assistance to individuals making or intending to make a complaint relating to HSC services.*

*…Alongside domestic legislation, the UNCRC is very clear that child friendly complaints systems are an important way for children and young people to have their rights realised. More specifically, good complaints processes help ensure their rights to non-discrimination (Article 2), that their best interests are a primary consideration in actions concerning them (Article 3) and to have their voice heard and taken seriously (Article 12). As a consequence, the realisation of these rights ensures that service providers are developing practice in partnership with health service users that is responsive to need.*

*The UNCRC general comments provide additional information on the rights of children to access an appropriate complaints system. General comment 5 sets out a range of general measures to ensure the full implementation of children's rights. This includes the importance of effective remedies for redressing rights violations that include independent complaint procedures. Furthermore, it highlights the need for child sensitive procedures for children and their representatives due to their special and dependent status which creates difficulties for them in pursing remedies for breaches of their rights.*

*…General comment 12 also highlights the importance of ensuring any complaints system is accessible, flexible and age appropriate:*

*"(…) Children need access to information in formats appropriate to their age and capacities on all issues of concern to them. This applies to information, for example, relating to their rights, any proceedings affecting them, national legislation, regulations and policies, local services, and appeals and complaints procedures."*

*In view of the fact that the PCC receive no complaints from or on behalf of children and young people, we would welcome any further information on any assessment the PCC have made on why this is the case, including plans you have to rectify this issue,* *including reaching out to children and young people and their parents/guardians to promote your services and ensure they are set up in a way that is approachable and young person friendly."*

**The Workstream Group may wish to consider requesting a briefing for NICCY on its role in advocacy in a health and social care setting and for its assessment of the current advocacy services for children and young people in a health and social care setting including any gaps in service provision.**

## 11. Commissioner for Older People for Northern Ireland

COPNI Commissioner for Older People for Northern Ireland

The role of Commissioner for Older People was established under the Commissioner for Older People Act (Northern Ireland) 2011[91]. A commitment to establish a Commissioner for Older People was included in the Programme for Government 2008-11 in reaction to the increasing aging population of Northern Ireland; a greater awareness of issues relating to older people; and a recognition by the Northern Ireland Executive that there was a need to provide a 'strong independent voice' for older people. The intended outcome of the Act was to[92]:

- Create a society in which older people's voices are heard and respected and their interests and rights are safeguarded and promoted;
- To promote positive attitudes towards older people and their participation in public life;
- To establish a co-ordinated approach to matters affecting the lives of older people across all government departments and other public bodies (known in the Act as "relevant authorities";
- To promote the active participation of older people on matters affecting their interests; and
- To ensure that there are more effective ways for older people to obtain help if their interests have been adversely affected.

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[91] Commissioner for Older People Act (Northern Ireland) 2011. www.legislation.gov.uk/nia/2011/1/contents
[92] Commissioner for Older People Act. Explanatory Memorandum.

The principle aim of the Commissioner, as set out in Section 2 of the Act, is to *"safeguard and promote the interests of older persons"*[93]. In considering what the interests of older people are and in the course of carrying out his or her work as Commissioner, the Commission is required under the Act to take account of the United Nations Principles for Older Persons[94].

### What is the role of the Commissioner in advocacy?

The Commissioner plays a central role in advocating for, and promoting and protecting the rights of, older people in a range of settings including health and social care. The Commissioner has a significant range of duties in relation to older people that are highly relevant to advocacy and complaints in a health and social care setting. The duties of the Commissioner are set out in Section 3 of the 2011 Act (duties most relevant to advocacy and complaints are highlighted in bold)[95]:

- Promote an awareness of matters relating to the interest of older people and of the need to safeguard those interests;
- **Keep under review the adequacy and effectiveness of the law and practice** relating to older people;
- **Keep under review the adequacy and effectiveness of the services provided to older people by relevant authorities**;
- Promote the provision of opportunities for, and the elimination of discrimination against, older people;
- **Encourage best practice in the treatment of older people**;
- Promote positive attitudes towards older people and encourage participation by older people in public life;
- Advise the Assembly, the Secretary of State and a **relevant authority on matters concerning the interests of older people**;
- Take reasonable steps to make older people aware of the existence and function of the Commissioner and his/her functions;
- Take reasonable steps to encourage older people to communicate with the Commissioner and his or her staff and to seek the views of older people; and
- Make themselves or their staff available, as far as is practicable, at a place convenient for older people.

The Commissioner also has a wide range of powers set out in legislation that are also of relevance to advocacy and/or complaints in health and social care. Section 4(6) specifically provides for the **advocacy powers** and role of the Commissioner, i.e. *"The Commissioner may make representations or recommendations to any body or person about any matter concerning the interests of older persons".*

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[93] Section 2. Commissioner for Older People Act (Northern Ireland) 2011. www.legislation.gov.uk/nia/2011/1/section/2

[94] United Nations Principles for Older Persons. www.ohchr.org/EN/ProfessionalInterest/Pages/OlderPersons.aspx

[95] Section 3. Commissioner for Older People Act (Northern Ireland) 2011. www.legislation.gov.uk/nia/2011/1/section/3

The general powers of the Commissioner are set out in Section 4 of the 2011 Act[96]. The general powers include:

- Undertaking, commissioning or providing assistance for research or educational activities concerning the interests of older people;
- Issuing guidance on best practice in relation to any matter concerning the interests of older people;
- Conducting investigations into any matter; and
- Compiling, providing and publishing information on matters concerning the interests of older people.

***Power to review advocacy and complaints arrangements***

Section 5 set out the Commissioner's **powers in relation to the "review of advocacy, complaint, inspection and whistleblowing arrangements of relevant authorities**", these include health and social care bodies and organisations[97]. The Commissioner's powers under this section enable him/her to review a range of activities carried out by "relevant authorities". According to the Explanatory Memorandum of the Act the purpose of such reviews is to enable the Commissioner to discover whether the procedures that these organisations have in place have been effective in promoting and protecting the interests of older people[98]. Before, the Commission is able to use his powers under this section, he/she must first confirm[99]:

- That he/she has good reason to believe that the organisation's procedures are not working properly or are not working at all; and
- In the case of inspection arrangements, that there is no other organisation or person that is likely to review the inspection arrangements. This is to avoid the Commissioner reviewing inspection arrangements when there is already an organisation that has the legal power to undertake this and has done so or is planning to do so.

In the case where an organisation does not have appropriate procedures in place at all, the Commissioner can carry out a review to see what the effect of this is on older people.

Section 6 of the Act is similar to Section 5. Whilst section 5 enables the Commissioner to carry out general reviews of an organisations procedures, Section 6 gives the Commissioner the power to carry out such reviews whilst specifically looking at the

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[96] Section 4. Commissioner for Older People Act (Northern Ireland) 2011. www.legislation.gov.uk/nia/2011/1/section/4

[97] Section 4. Commissioner for Older People Act (Northern Ireland) 2011. www.legislation.gov.uk/nia/2011/1/section/5

[98] Commissioner for Older People Act (Northern Ireland) 2011. Explanatory Memorandum. www.legislation.gov.uk/nia/2011/1/notes/division/5/5

[99] Information extracted from Commissioner for Older People Act (Northern Ireland) 2011. Explanatory Memorandum. www.legislation.gov.uk/nia/2011/1/notes/division/5/5

effect of those procedures on a particular person or at a particular location. However, the Commission must confirm the two points listed above before he/she can act[100].

## ***Power to provide assistance to enable an older person to bring a complaint***

The Commissioner has the power, under Section 7 of the Act, to provide assistance (including financial assistance) to enable an older person to bring a complaint to an organisation or organisations involved. According to the Act's Explanatory Memorandum this *"includes acting on behalf of an older person both in making the complaint and in any investigation or other proceedings by the organisation or authority following the complaint".* This section enables the Commissioner to help an older person bring a complaint to the Northern Ireland Office, NI Commissioner for Complaints, the Assembly Ombudsman for Northern Ireland, the Information Commissioner and the Pensions Ombudsman. However, in deciding whether to provide assistance to an older person, the Commissioner may take account of whether there is another organisation or person likely to support the older person taking a complaint.

## ***Powers in relation to the investigation of complaints***

Section 8 of the Act provides the Commissioner with powers in relation to the **investigation of complaints** against "relevant authorities"[101]. The Act's Explanatory Memorandum explains the power of the Commissioner under this section as thus:

> *"Sometimes complains do not get sorted to the satisfaction of the older person making them. This Section gives the Commissioner the power to investigate a complaint made by an older person against one of the organisations known as "relevant authorities".*

To make sure that only the most serious cases come to the Commissioner, the Commissioner must be satisfied that the case raises a question of principle. The Commissioner must also check that the complaint is not covered with an existing statutory complaints system. The Explanatory Memorandum further states that:

> *"In addition in relation to the public bodies referred to in the Act as relevant authorities, if the Commissioner believed that such a body did not take action or did not, in a timely manner, adequately investigate a complaint coming under its responsibility, the Commissioner may challenge that organisation by making representations or recommendations…..(or) formally review the complaint procedures of that organisation"*[102]*.*

The Commissioner cannot carry out an investigation in a[103]:

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[100] Section 6. Commissioner for Older People Act (Northern Ireland) 2011. www.legislation.gov.uk/nia/2011/1/section/6
[101] Section 8. Commissioner for Older People Act (Northern Ireland) 2011. www.legislation.gov.uk/nia/2011/1/section/8
[102] Commissioner for Older People Act (Northern Ireland) 2011. Explanatory Memorandum. www.legislation.gov.uk/nia/2011/1/notes/division/5/8
[103] Ibid

- case where the older person involved has a right of appeal, complaint or review to a tribunal set up by law or to a court. However, the Commissioner can act if he/she believes that it is not reasonable to expect the older person to have used the right to appeal or complaint or review or to take the case to court.
- case involving criminal proceedings or civil proceedings by any person other than a relevant authority.
- case that a local or public inquiry is investigating or any case where there has been unreasonable delay in making the complaint.

### ***Power to bring civil proceedings or assist in legal proceedings***

The Commission has power, under Section 10 of the 2011 Act, to **bring civil proceedings** relating to the law or practice relating to the interests of older persons, and to **assist in any legal proceedings** which relate to the interests of older people[104]. However, the Commissioner must consider whether the case involves a question of principle and whether there are special circumstances involved. This section also provides the Commissioner with the power in any court case (except for criminal cases) to act as a "friend of the court" by giving information to the court on matters affecting older people e.g. as an expert witness[105].

### ***Power to conduct formal investigations***

Section 13 of the Act gives the Commissioner the power to conduct formal investigations into the actions of "relevant authorities"[106]. According to the Act's Explanatory Memorandum the Commissioner would have the power to carry out a formal investigation of the following actions of "relevant authorities":

- Their advocacy arrangements;
- Their complaints procedures;
- The inspection procedures to examine how they manage and treat older people; and
- Their whistleblowing arrangements.

The Commissioner also has the power to carry out a formal investigation of a complaint made by an older person against a relevant authority.

The Commissioner has previously relied upon more informal powers of advocacy and alternative dispute resolution when dealing with cases brought before the Commissioner. However, more recently the Commissioner decided to exercise his discretion to commence a statutory investigation in specific matters affecting older people in Dunmurry Manor Care. This resulted in the publication of the report "Home Truths: A Report on the Commissioner's Investigation into Dunmurry Manor Care

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[104] Section 10. Commissioner for Older People Act (Northern Ireland) 2011. www.legislation.gov.uk/nia/2011/1/section/10

[105] Commissioner for Older People Act (Northern Ireland) 2011. Explanatory Memorandum. www.legislation.gov.uk/nia/2011/1/notes/division/5/10

[106] Section 13. Commissioner for Older People Act (Northern Ireland) 2011. www.legislation.gov.uk/nia/2011/1/notes/division/5/13

Home”[107]. This report makes a number of points relation to advocacy and the complaints process:

- The integrated health care system in Northern Ireland is extremely complex to navigate for the general public and many older people seek the advocacy support of the Commissioner for Older People to make and resolve complaints. The previous Commissioner make a recommendation in the 2014 Changing the Culture of Care report that complaints processes should be more accessible and visible for service users, relatives and staff.
- Through legal and advocacy casework, the Commissioner’s office has had extensive experience of the importance of effective complaints processes in care homes. Poorly handled complaints processes can lead to resentment between parties and feelings of helplessness if older people or their families feel that their complaints are not being listened to, or they do not receive adequate feedback. The evidence provided to the Commissioner shows that some families who had made serious complaints about the care given to their relatives in Dunmurry Manor, were not taken seriously, found it difficult to get their complaints addressed and were frustrated by the process. On occasions, complaints were clearly not handled in a way that met the requirements of the minimum standards.

**The Workstream Group may wish to consider requesting a briefing from the Commissioner on his role in advocacy in a health and social care setting including an assessment of the current advocacy arrangements for older people.**

## 12. Northern Ireland Human Rights Commission

NORTHERN IRELAND
HUMAN RIGHTS
COMMISSION

The Northern Ireland Human Rights Commission was established under the Northern Ireland Act 1998[108]. One of the Commission’s key functions, as set out in Section 69 of the Act, is to keep under review the adequacy and effectiveness in Northern Ireland of

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[107] Commissioner for Older People for Northern Ireland. Home Truths: A Report on the Commissioner’s Investigation into Dunmurry Manor Care Home. June 2018. www.copni.org/publications

[108] Northern Ireland Act 1998. www.legislation.gov.uk/ukpga/1998/47/section/68

law and practice relating to the protection of human rights. Its other statutory functions are to[109]:

- Advise the Westminster government, the Northern Ireland Executive, the Northern Ireland Assembly, and key agencies on legislation and compliance with human rights frameworks;
- To promote awareness of human rights through education, training and research;
- International treaty monitoring work; and
- Legal advice work including taking strategic legal cases.

In addition, the Commission has powers to[110]:

- Give assistance to individuals who apply to it for help in relation to proceedings involving law or practice concerning the protection of human rights;
- Bring proceedings involving law or practice concerning the protection of human rights;
- Conduct investigations;
- Require a person to provide information and documents in their possession, and to give oral evidence, in respect of an investigation;
- Enter a specific place of detention in Northern Ireland, in respect of an investigation; and
- Publish its advice and the outcomes of its research and investigations.

- ### What is the role of the Commission in relation to advocacy in a health and social care setting?

The Commission plays a vital role in promoting awareness of human rights, monitoring that those rights are upheld and advising government on compliance with human rights and associated international treaties. A key component of a human rights based approach is empowering people to know and claim their rights, and to increase the capacity and accountability of individuals and institutions responsible for respecting, protecting and fulfilling rights. Independent advocacy providers play an essential role in helping clients know and understand their rights, particularly during legal processes such as detention in hospital or the appointment of a guardian to make decisions on their behalf[111]. Therefore, there is a very important interface between advocacy and human rights particularly in relation to mental health advocacy (as the caption below demonstrates) and advocacy in a care home setting[112]:

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[109] Information extracted from the NIHRC website. www.nihrc.org/about-us/what-we-do

[110] Northern Ireland Human Rights Commission. 2017 Annual Statement: Human Rights in Northern Ireland. www.nihrc.org/publication/category/Annual-statements

[111] Scottish Human Rights Commission & Scottish Independent Advocacy Alliance. Advocating for Human Rights.

[112] Extracted from British Institute of Human Rights. Mental Health Advocacy and Human Rights: Your Guide.

**RIGHTS IN THE HUMAN RIGHTS ACT PARTICULARLY RELEVANT TO MENTAL HEALTH**

**Right to life.** Example issue: placing a Do Not Resuscitate notice on your file, without your consent

**Right to be free from inhuman and degrading treatment.** Example issue: malnutrition and dehydration in hospital

**Right to liberty.** Example issue: restraining you for long periods and for no good reason

**Right to respect for private and family life.** Example issue: not giving you information about your treatment or care

**Right to be free from discrimination.** Example issue: refusing to treat a patient because of their mental health

The Workstream Group may wish to note that the Northern Ireland Human Rights Commission's latest Annual Statement for 2018 provides some indication of its current thinking in relation to human rights in a health and social care setting. Under the section on "freedom from torture, inhuman and degrading treatment" the Statement makes reference to the findings and recommendations of Commissioner for Older People NI report on its investigation into Dunmurry Manor care home. The Northern Ireland Human Rights Commission noted that this report highlighted a range of human rights issues and recommended changes in the criminal law framework to ensure that sufficient robust protection of individuals reliant on others for their health and social care needs. The Commission further recommended that the Department for Justice should prioritise the introduction of a free standing offence where an individual, who has the care of another individual by virtue of being a care worker, ill-treats or wilfully neglects that person[113].

**The Workstream Group may wish to consider requesting a briefing from Commission to ascertain its opinion on whether current advocacy provision meets human rights obligations and whether it has proposals to address any gaps identified.**

## 13. **Equality Commission for Northern Ireland**

Equality Commission
FOR NORTHERN IRELAND

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[113] Northern Ireland Human Rights Commission. 2018 Annual Statement: Human Rights in Northern Ireland. www.nihrc.org/publication/category/Annual-statements

The Equality Commission was established under Section 73 of the Northern Ireland Act 1998[114]. The Equality Commission has a statutory remit which involves[115]:

- Promoting equality of opportunity and affirmative action;
- Working towards the elimination of unlawful discrimination;
- Keeping relevant legislation under review;
- Promoting good relations between persons of different racial groups and good disability practice; and
- Oversee the effectiveness of statutory equality duties on public authorities (e.g. section 75).

The Commission's role in Section 75 includes:

- Keeping under review the effectiveness of the duties imposed by Section 75;
- Offer advice to public authorities and others in connection with those duties;
- Carry out other functions conferred on it including approval of equality schemes;
- Preparation of guidelines; and
- Investigating complaints of failure to comply with an approved scheme.

Significantly under Schedule 9, paragraph 10 of the Northern Ireland 1998, the Commission can consider complaints against public authorities alleging they have failed to comply with their approved equality scheme and it may also investigate such complaints. Under paragraph 11, the Equality Commission can also investigate public authority compliance on its own volition[116].

The Equality Commission acts as an advocate in terms of promoting and protecting the rights to equality of access and equality of opportunities in a range of settings including health and social care. The Commission can also provide legal support and advice for people who feel they have been discriminated against. Whilst many people in these cases resolve their complaint informally, the Commission can provide assistance to pursue a legal case in the county court or Industrial Tribunal. These can include cases involving alleged discrimination in relation to goods and services such as health and social care services. Further information on the Equality Commission's legal work is available to view here[117].

**The Workstream Group may wish to consider requesting a briefing from the Equality Commission on (a) its legal work and how this fits in with legal advocacy; (b) its legal duties, including its power of investigation, and how this fits with/interfaces with advocacy in a health and social care setting.**

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[114] Northern Ireland Act 1998. www.legislation.gov.uk/ukpga/1998/47/section/73

[115] Equality Commission for Northern Ireland. Welcome to the Equality Commission. www.equalityni.org/AboutUs

[116] Equality Commission for Northern Ireland. Annual Report and Accounts 2017-18.

[117] Equality Commission. Our legal work. www.equalityni.org/Delivering-Equality/Legal

## 14. Health and social care: professional codes of conduct

Advocacy, or behaviours and policies relevant to the principles of advocacy, are enshrined in many of the professional codes that govern the conduct of health and social care professionals. One of the most explicit in this regard is the Nursing & Midwifery Council's 'Professional standards of practice and behaviour for nurses, midwives and nursing associates'[118] that states clearly in Standard 3.4. that registered nurses, midwives and nursing associates must,

> *"act as an advocate for the vulnerable, challenging poor practice and discriminatory attitudes and behaviour relating to their care"*

Whilst it does not specifically include the word "advocate" or "advocacy", the Northern Ireland Social Care Council's "Standards of Conduct and Practice for Social Workers"[119] equally contains very unambiguous standards in relation to advocacy. For example:

- **Standard 1.3:** Social workers should empower service users and carers to communicate their views, needs and preferences.
- **Standard 1.4:** Social workers should, respect, and where appropriate, represent the individual views and wishes of both service users and carers.
- **Standard 1.5:** Social workers should, support service users' rights to control their lives and make informed choices about the services they receive.

**Annexe 4** of this briefing paper contains extracts of some of the relevant sections of codes from the General Medical Council, the Nursing & Midwifery Council; the Pharmaceutical Society of Northern Ireland; the Northern Ireland Social Care Council; the General Dental Council; the General Chiropractic Council; the General Optical Council and the General Osteopathic Council. Whilst this is not intended to be in any way definitive, there are relevant themes across all codes that either relate directly to advocacy or are relevant to the principles of advocacy such as the protection of rights and safeguarding the welfare of the patient. For example, the codes:

- Reinforce the importance of putting the interests of the patient first;
- State that prompt action must be taken if the patient's safety or dignity has been, or may be compromised.
- This includes raising a concern or reporting an issue to an appropriate member of staff or professional body if health or social care professional becomes aware of a colleague or other health or social care professional's actions, omissions or working practices is, or may, comprise patient safety.

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[118] Nursing & Midwifery Council. The Code: Professional standards of practice and behaviour for nurses, midwives and nursing associates. www.nmc.org.uk/standards/code/

[119] Northern Ireland Social Care Council. Standards of Conduct and Practice for Social Workers. November 2015. https://niscc.info/registration-standards/standards-of-conduct-and-practice

- All codes/standards state that a professional must take appropriate action if they have concerns about the possible abuse of children and vulnerable adults in order to safeguard their welfare.
- All codes/standards state that there must be an appropriate complaints procedure in place, and reinforce the need for professionals to listen to patients concerns and to be polite and considerate of those concerns.

**The Workstream Group may wish to take note of the relevant extracts from the various codes/standards documents in Annexe 4 and may wish to consider the extent to which advocacy or the principles of advocacy are included, or need to be enhanced, in professional standards.**

## Annexe 1

### What is advocacy?

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| **Bamford Review Report on Human Rights and Equality of Opportunity**[120] | *"Advocacy seeks to support individuals to express and have their views heard. It aims to redress any imbalance of power between the individual and professional. It is concerned with empowerment, autonomy and self-determination, the safeguarding of citizenship rights and the inclusion of otherwise marginalised groups'* |
| **Advocacy Charter Code of Practice (2018)**[121] | *"Advocacy is taking action to help people say what they want, secure their rights, represent their interests and obtain services they need. Advocates and advocacy providers work in partnership with the people they support and take their side. Advocacy promotes social inclusion, equality and social justice."*<br>*See Advocacy Charter and Easy Read Advocacy Charter - https://advonet.org.uk/how-we-can-help-you/what-is-advocacy/* |
| **Scottish Independent Advocacy Alliance**[122] | *"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 support 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".* |
| **SEAP (Support Empower Advocate Promote)**[123] | *"Advocacy in all its forms seeks to ensure that people, particularly those who are most vulnerable in society are able to have their voice heard on issues that are important to them; defend and safeguard their rights; and have their views and wishes genuinely considered when decisions are being made about their lives.*<br>*Advocacy is a process of supporting and enabling people to express their views and concerns; access information and services; defend and promote their rights and responsibilities; and explore choices and options."* |
| **VoiceAbility**[124] | *"Advocacy is about your voice being heard. Advocates support you to speak up, or they might speak up on your behalf if needed.*<br>*An advocate can help you:* |

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[120] The Bamford Review of Mental Health and Learning Disability. Human Rights and Equality of Opportunity. October 2006. www.health-ni.gov.uk/publications/bamford-published-reports

[121] Advocacy QPM. Code of Practice. Revised Edition 2014.

[122] Scottish Independent Advocacy Alliance. www.siaa.org.uk/us/independent-advocacy/

[123] SEAP is an independent charity that specialises in the provision of advocacy and related services. www.seap.org.uk/im-looking-for-help-or-support/what-is-advocacy.html

[124] VoiceAbility www.voiceability.org/about-advocacy/

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| | • *Understand what your rights are.*<br>• *Look at information about how different processes work e.g. legal, health or social services.*<br>• *Look at any local services or community opportunities that might be useful for you.*<br>• *Understand what choices you have and help you to make your own decision.* |
| **NHS Scotland Independent Advocacy Guide for Commissioners**[125] | *"Advocacy plays an important role in supporting people to express their views and in providing a source of support which gives them confidence to speak out. Advocacy is vital in nurturing trust and effectively supporting people to ensure their views are taken into account and that they are heard. It should also provide an environment in which they can confidently raise any concerns they may have with their advocate in the knowledge that there are no conflicts of interest.*<br>*Advocacy:*<br>• *Safeguards people who can be treated unfairly as a result of institutional and systemic barriers as well as prejudice and individual, social and environmental circumstances that make them vulnerable.*<br>• *Empowers people who need a stronger voice by enabling them to express their own needs and make their own decisions.*<br>• *Enables people to gain access to information, explore and understand their options, and to make their views and wishes known.*<br>• *Speak up on behalf of people who are unable to do so for themselves."* |
| **National Autistic Society**[126] | *"Advocacy is a process of supporting and enabling people to express their views, to use information and services, to find out about options and make decisions, and to make sure their rights are respected"* |
| **Advocacy Centre North**[127] | *"Independent advocacy is taking action to help you say what you want, secure your rights, represent your interests and obtain services you need. Advocates work in partnership with the people you support and take your side"* |
| **Office of the Public Guardian**[128] | *"Advocacy is taking action to help people:*<br>• *express their views and wishes;*<br>• *secure their rights;*<br>• *have their interests represented;*<br>• *access information and services; and*<br>• *explore choices and options.*<br>*Advocacy promotes equality, social justice and social inclusion.* |

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[125] NHS Scotland. (2013) Independent Advocacy Guide for Commissioners.
[126] National Autistic Society www.autism.org.uk/advocacyandautism
[127] Advocacy Centre North www.advocacycentrenorth.org.uk/what-is-advocacy
[128] Office of the Public Guardian. Making decisions: the independent Mental Capacity Advocate Service.

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| | *It can empower people to speak up for themselves.*<br>*Advocacy can help people become more aware of their own rights, to exercise those rights and be involved in and influence decisions that are being made about their future.*<br>*In some situations an advocate may need to represent another person's interests. This is called non-instructed advocacy and is used when a person is unable to communicate their views."* |
| **Advocacy Centre North (Newcastle)**[129] | *"An advocate:*<br>• *Offers to get information on your behalf to help you come to a decision*<br>• *Helps you explore the pros and cons of a situation*<br>• *Helps you way up weigh up your options*<br>• *Supports you to speak up for yourself to say what you want*<br>• *Makes you sure you are always at the centre of decisions about you*<br>• *Help you to feel in control*<br>• *Is independent from service providers, your family or carers so is free to help you work out what is best for you*<br>• *Keeps your confidence (unless there is a risk to you or someone else)"* |
| **York Advocacy Hub**[130] | *"A person may need advocacy because:*<br>• *They feel no-one is listening to them;*<br>• *They have an important decision to make;*<br>• *They can't get the help they need;*<br>• *They don't agree with decisions that are being made about them*<br><br>*Advocacy can help:*<br>• *Challenge professional decisions which are being made about you*<br>• *Speak out on your behalf or support you to speak out*<br>• *Tell you about your rights*<br>• *Find out information to help you make an informed decision*<br>• *Go to meetings and appointments with you*<br>• *Assist you to fill in forms*<br>• *Enable you to access specialist advice and support"* |
| **Advonet**[131] | *"Advocacy is working with you to:*<br>• *Listen to what you want and act on your behalf at all times*<br>• *Think about what choices you have*<br>• *Put forward your views so that they are heard*<br>• *Stand up for your rights and interests*<br>*Advocacy is free, independent and confidential."*<br>*See Advonet video on "What is Advocacy" - https://advonet.org.uk/how-* |

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[129] Advocacy Centre North www.advocacycentrenorth.org.uk/what-is-advocacy
[130] York Advocacy Hub www.yorkadvocacy.org.uk/
[131] Advonet. https://advonet.org.uk/how-we-can-help-you/what-is-advocacy/

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| | *we-can-help-you/what-is-advocacy/* |
| **n-compass northwest**[132] | *"Advocacy seeks to ensure that everyone in society is able to:*<br>• *Have their voice heard on issues that are important to them*<br>• *Defend and safeguard their rights*<br>• *Have their views and wishes genuinely considered when decisions are being made about their lives*<br><br>*Advocacy is a process of supporting and empowering people to:*<br>• *Express their views and concerns*<br>• *Access information and services*<br>• *Defend and promote their rights and responsibilities*<br>• *Explore choices and options*<br>• *Self advocate*<br><br>*Advocacy support involves:*<br>• *Listening without judgement and respecting your views*<br>• *Support you to understand your situation*<br>• *Provide information about your rights and options*<br>• *Explore possible outcomes and consequences*<br>• *Supporting you to prepare to and put your views and wishes forward*<br>• *Help you to communicate with professionals"* |
| **Onside Advocacy**[133] | *"the role of advocate will vary according to circumstances and needs and within the different services but is likely to include the following:*<br>• *Obtaining information, advice and guidance and ensuring it is accessible and understandable*<br>• *Helping people to identify and understand options and supporting them to make decisions*<br>• *Support in meetings and through other formal processes*<br>• *Support to make representations and complaints*<br>• *Supporting people to access professional advice and guidance*<br>• *Supporting the person to express their views and wishes or representing them where they are not able to do so*<br>• *Promoting and protecting the rights and interests of people not able to give clear instructions or protect their own interests"* |

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[132] N-compass northwest www.ncompassnorthwest.co.uk/services/advocacy-service/what-advocacy

[133] Onside Advocacy www.onside-advocacy.org.uk/advocacy

## Annexe 2:

### What is NOT advocacy?

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| **People with Disabilities Western Australia (PWDWA)**[134] | *We are not able to:*<br>• *Give legal advice, financial advice or assessments*<br>• *Manage or co-ordinate services (such as applying for a service or benefit)*<br>• *Provide people with personal care or support workers*<br>• *Provide mediation or counselling*<br>• *Make decisions for them*<br>• *Investigate an organisation and take action* |
| **Advocacy Centre North (Newcastle)**[135] | *An advocate does not:*<br>• *Give you advice about what to do*<br>• *Tell you what they think you should do*<br>• *Express their opinion*<br>• *Try to convince you to do something*<br>• *Have a hidden agenda* |
| **York Advocacy Hub**[136] | *Advocacy is not:*<br>• *Crisis support*<br>• *Counselling*<br>• *Emotional support*<br>• *Befriending*<br>• *Giving advice* |
| **Advocacy Orkney**[137] | *"Advocates and not mediators, advisors, campaigners, befrienders, support workers or counsellors. Advocacy cannot ensure you get the result you want or decisions you do not like reversed. Our role is to ensure your voice is heard, duly considered and your rights upheld.*<br>*Advocates cannot advise you or tell you what you should do, instead they help you understand the options you may have and what the consequences of these options might be to help you decide what you want to do.*<br>*…Advocates cannot support any illegal practice or activity, accept payment beyond donations or fail to follow up on information that constitutes disclosure, where they believe their client or someone else involved in the case is at risk."* |
| **Scottish Independent Advocacy Alliance**[138] | *Independent advocacy is not:* |

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[134] People with Disabilities Western Australia. www.pwdwa.org/advocacy.html

[135] Advocacy Centre North www.advocacycentrenorth.org.uk/what-is-advocacy

[136] York Advocacy Hub www.yorkadvocacy.org.uk/about-advocacy/

[137] Advocacy Orkney www.orkneycommunities.co.uk/advocacyorkney/index.asp?pageid=591624

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| | • *Making decisions for someone*<br>• *Mediation*<br>• *Counselling*<br>• *Befriending*<br>• *Care and support work*<br>• *Consultation*<br>• *Telling or advising someone what you think they should do*<br>• *Solving all someone's problems for them*<br>• *Speaking for people when they are able to express a view*<br>• *Acting in a way which benefits other people more than the person you are advocating for.*<br>• *Agreeing with everything a person says and doing anything a person asks you to do."* |

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[138] Scottish Independent Advocacy Alliance. www.siaa.org.uk/us/independent-advocacy/

# Annexe 3:

## Principles for Advocacy Services – The Advocacy Charter[139]

| Principle | Full Description | Easy Read Description |
|---|---|---|
| **Independence** | The advocacy provider is independent from statutory organisations and all other service delivery and is free from conflict of interest, both in design and operation of advocacy services. The advocacy provider's culture supports advocates to promote their independence with individuals, professionals and other stakeholders. Advocates will be free from influence and conflict of interest so that they can represent the person for whom they advocate. | We are separate from other services and will help you ask for things that are important to you. |
| **Confidentiality** | Information held by the advocacy service about individuals will be kept confidential to the advocacy service. The advocacy provider will have a Confidentiality Policy that reflects current legislation. It will be clear about how personal information held by the advocacy provider will be kept confidential, under what circumstances it may be shared, the organisation's approach to confidentiality in the delivery of Non-Instructed Advocacy and how the organisation responds if confidentiality is breached. Advocates will ensure that information concerning the people they advocate for is shared with these individuals unless there are exceptional circumstances, when a clear explanation will be recorded. Advocates must also be aware of situations that require making a child or adult safeguarding alert. | We will keep information about you private and safe. If we need to share information, to keep you or other people safe, we will try to talk to you first. |
| **Person Led** | The advocacy provider and advocates will put the people they advocate for first, ensuring that they are directed by their wishes and interests. Advocates will be non-judgmental and respectful of people's needs, culture and experiences. | We will ask you what you want to happen, and give you information to make choices. |
| **Empowerment** | The advocacy provider will support people to self-advocate as far as possible, creating and supporting opportunities for self-advocacy, empowerment and enablement. Advocates support people to access information to exercise choice and control in the style of advocacy support they want. Where people lack capacity to influence the service, the advocacy provider will ensure the advocacy remains person led and | We will help you to speak up for yourself. |

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[139] These standards have been extracted verbatim from National Development Team for Inclusion. The Advocacy Charterer v4. 1 May 2018. https://qualityadvocacy.org.uk/resources/advocacy-charter/

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|  | enable those with an interest in the welfare of the person to be involved. People receiving advocacy will be involved in the wider activities of the organisation up to and including the Board. |  |
| **Equality and Diversity** | The advocacy provider will have an up to date Equality and Diversity Policy that recognises the need to be pro-active in tackling all forms of inequality, discrimination and social exclusion so that all people are treated fairly. Advocates time will be allocated equitably. Advocates make reasonable adjustments to ensure people have appropriate opportunity to engage, direct and benefit from the advocacy activity. | We will treat all people fairly and with respect and make sure other people do too. We will make sure you get the support you need to have an advocate and will change things for you if you need us to. We will make sure other people treat you fairly and with respect. |
| **Accessibility** | Advocacy will be provided free of charge to eligible people. The advocacy provider will ensure that its premises (where appropriate), policies, procedures and publicity materials promote full access for the population it serves. Advocates will provide information and use language that is easy to understand and accessible to the person. | Our services are free. We will use words you can understand. We will make sure you can see your advocate in a place that is good for you. |
| **Accountability** | The advocacy provider is well managed, with appropriate governance arrangements in place, meeting its obligations as a legally constituted organisation. People accessing the service will have a named advocate and a means of contacting them. The advocacy provider will have systems in place for effective recording, monitoring and evaluation of its work, including identification of the impact of the advocacy service and outcomes for people supported. In addition, it will be accountable to people who use its services by obtaining and responding to feedback and complaints. The advocacy provider will address systemic issues in health and social care provision or other services. | We will check what we do for you, and ask you what you think. |
| **Safeguarding** | As part of supporting people to realise their Human Rights, the advocacy provider will have a thorough understanding of safeguarding responsibilities and processes as set out law and best practice guidance. The advocacy provider will have a clear, up to date policies and procedures in place to ensure safeguarding issues are identified and acted upon. Advocates support people to have their rights upheld and will be supported to understand and recognise different forms of abuse and neglect, issues relating to confidentiality and what to do it they suspect an individual is at risk. | We will make sure advocates know about your rights and how to help you stay safe. |

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| **Supporting Advocates** | The advocacy provider will ensure that advocates are suitably trained, supported and supervised in their role and provided with opportunities to develop their knowledge, skills and experience, including access to legal advice where necessary. It will create a supportive culture that enables advocates to undertake their role in line with this Charter. | We will help and support advocates to be good at their job. That way they can help you to speak out. |

## Annexe 4:

**Standards relevant to advocacy in professional codes of conduct and standards. This section touches on some of the relevant sections of the various codes, it is not intended to be fully comprehensive.**

| Body | Code/Guidance/Standards | Sections relevant advocacy |
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| **General Medical Council** | **"Good Medical Practice"**[140] | **Paragraph 23:** To help keep patients safe you must (23c) report adverse incidents involving medical devices that put or have the potential to put the safety of a patient, or another person at risk; and 23(d) report suspected adverse drug reactions.<br>**Paragraph 25:** You must take prompt action if you think that patient safety, dignity or comfort is or may be seriously compromised e.g. if a patient is not receiving basic care to meet their needs, you must immediately tell someone who is in a position to act straight way; or if you have concerns that a colleague may not be fit to practice and may be putting patients at risk, you must ask for advice from a colleague, your defence.<br>**Paragraph 27**: Whether or not you have vulnerable adults or children and young people as patients, you should consider their needs and welfare and offer them help if you think their rights have been abused or denied.<br>**Paragraph 34:** When you are on duty you must be readily accessible to patients and colleagues seeking information, advice or support. |
| **Nursing & Midwifery Council** | **"The Code: Professional standards of practice and behaviour for nurses, midwives and nursing associates"**[141] | **Prioritise people:** you put the interests of people using or needing nursing or midwifery services first. You make their care and safety your main concern and make sure that their dignity is preserved and their needs recognised, assessed and responded to. You make sure that those receiving care are treated with respect, that their rights are upheld and that any discriminatory attitudes and behaviours towards those receiving care are challenged.<br>**Standard 1:** Treat people as individuals and uphold their dignity.<br>**Standard 1.5:** Respect and uphold people's human rights.<br>**Standard 2.3:** Encourage and empower people to share in decisions about their treatment and care.<br>**Standard 2.4:** Respect the level to which people receiving care want to be involved in decisions about their own health, wellbeing and care.<br>Standard 3.3: Act in partnership with those receiving care, helping them to access relevant health and social care, information and support when they need it.<br>**Standard 3.4.:** Act as an advocate for the vulnerable, challenging poor practice and discriminatory attitudes and behaviour relating to their care. |

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[140] General Medical Council. www.gmc-uk.org/ethical-guidance/ethical-guidance-for-doctors/good-medical-practice

[141] Nursing & Midwifery Council. www.nmc.org.uk/standards/code/

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| | | **Standard 4:** Act in the best interests of people at all times.<br>**Standard 4..3:** Keep to relevant laws about mental capacity that apply in the country in which you are practising, and make sure that the rights and bests interests of those who lack capacity are still at the centre of the decision-making process.<br>**Standard 14.1:** Act immediately to put right the situation if someone has suffered actual harm for any reason or an incident has happened which had the potential for harm.<br>**Standard 16:** Act without delay if you believe that there is risk to patient safety or public protection.<br>**Standard 16.1:** Raise, and if necessary, escalate any concern you may have about patient or public safety, or the level of care people are receiving in your workplace or any other health and care setting and use the channels available to you in line with our guidance and your local working practices.<br>**Standard 16.4:** Acknowledge and act on all concerns raised to you, investigating, escalating or dealing with those concerns where it is appropriate for you to do so.<br>**Standard 17**: Raise concerns immediately if you believe a person is vulnerable or at risk and needs extra support and protection.<br>**Standard 17.1**: Take all reasonable steps to protect people who are vulnerable or at risk from harm, neglect or abuse.<br>**Standard 17.2**: Share information if you believe someone may be at risk of harm, in line with the laws relating to the disclosure of information.<br>**Standard 17.3**: Have knowledge of and keep to the relevant laws and policies about protecting and caring for vulnerable people. |
| **Pharmaceutical Society of Northern Ireland** | **"The Code for Pharmacists in Northern Ireland"**[142] | **Standard 1.1**: Always consider, and act in, the best interests of the patient or service user.<br>**Standard 1.2.2:** Ensure that an effective complains procedure is readily available for the patient or service user and follow that procedure at all times.<br>**Standard 1.2.7:** Raise a concern, at an appropriate level, if you become aware of a colleague or other healthcare professional whose actions, omissions, working practices, professional performance or mental or physical health may compromise patient safety.<br>**Standard 4.1.1:** Listen to patients and service users, respect the choices they make about their treatment and care and respond appropriately to their needs.<br>**Standard 4.2.3**: Encourage and seek to empower patients and service users to be knowledgeable about their medicines. |
| **Northern Ireland Social Care Council** | **"Standards of Conduct and Practice for Social Care Workers'**[143] | **Standard 1:** As a social worker, you must protect the rights and promote the interests and wellbeing of service users and carers.<br>**Standard 1.3:** Empowering service users and carers to communicate their views, needs and preferences.<br>**Standard 1.4:** Respecting and, where appropriate, representing the individual views and wishes of both service users and carers. |

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[142] Pharmaceutical Society of Northern Ireland. www.psni.org.uk/psni/about/code-of-ethics-and-standards/

[143] Northern Ireland Social Care Council. https://niscc.info/registration-standards/standards-of-conduct-and-practice

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| | | **Standard 1.5:** Supporting service users' rights to control their lives and make informed choices about the services they receive.<br>**Standard 3:** As a social worker, you must promote the autonomy of service users while safeguarding them as fare as possible from danger or harm.<br>**Standard 3.1:** Promoting service users' independence and empowering them to understand and exercise their rights.<br>**Standard 3.5:** Informing your employer or an appropriate authority, without delay, where the practice of colleagues or others may be unsafe or adversely affecting standards of care.<br>**Standard 6.9:** Helping service users and carers to make complaints where required, taking complaints seriously and responding to them or passing them to the appropriate person including your employer or NISCC. |
| **General Dental Council** | **"Standards for the Dental Team"**[144][145] | One of the nine core principles is "Put patients' interests first' and "raise concerns if patients are at risk'.<br>**Standard 1.1:** You must listen to your patients.<br>**Standard 1.7:** You must patients' interests before your own or those of any colleague, business or organisation.<br>**Standard 5.1.1**: It is part of your responsibility as a dental professional to deal with complaints properly and professionally in accordance with the complaints procedure.<br>Standard 8.1: You must always put patients' safety first. You must raise any concern that a patient might be at risk due to e.g. the behaviour or professional performance of a colleague, any aspect of the environment where treatment is provided, someone asking you to do something that you think conflicts with your duties to put patients' interests first and act to protect them.<br>**Standard 8.2:** You must act promptly if patients or colleagues are at risk and take measures to protect them.<br>**Standard 8.5**: You must take appropriate action if you have concerns about the possible abuse of children and vulnerable adults. |
| **General Chiropractic Council** | **"The Code: Standards of Performance, Conduct and Ethics"**[146] | One of the eight principles of the Code is "to put the health interests of patients first". Other relevant sections include:<br>**Standard A3:** You must take action if you have concerns about the safety of a patient.<br>**Standard A7:** You must safeguard the safety and welfare of children and vulnerable adults, you must fulfil your legal obligation if you suspect a child or vulnerable adult is at risk from abuse or neglect.<br>**Standard B1:** you must protect patients and colleagues from harm if your health, conduct or performance, or that of a regulated healthcare professional, puts patients at risk.<br>**Standard F5:** you must listen to, be polite and considerate at all |

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[144] General Dental Council. www.gdc-uk.org/professionals/standards

[145] Standards for the Dental Team applies to dentists, dental nurses, dental hygienists, dental therapists, orthodontic therapists, dental technicians and clinical dental technicians.

[146] General Chiropractic Council. www.gcc-uk.org/good-practice/

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| | | times with patients including any complaint that a patient may have. |
| **General Optical Council** | **“Standards for optometrists and dispensing opticians”**[147] | **Standard 1:** Optometrists and dispensing opticians should listen to patients and ensure that they are at the heart of the decisions made about their care. This includes assisting patients in exercising their rights and making informed decisions about their care (Standard 1.3) and encouraging patients to ask questions take an active part in the decisions made about their treatment and aftercare (Standard 1.7).<br>**Standard 2.6:** Optometrists and dispensing opticians should be sensitive and supportive when dealing with relatives or other people close to the patient.<br>**Standard 4.2:** Optometrists and dispensing opticians should respond with humanity and kindness to circumstances where, patients, their family or carers may experience pain, distress or anxiety.<br>**Standard 11.1 to 11.7:** Optometrists and dispensing opticians must be aware of and comply with their legal obligations in relation to safeguarding of children, young people and vulnerable adults including considering the needs and welfare of the patient; acting quickly in order to prevent further risk of harm, and reporting concerns to an appropriate organisation. |
| **General Osteopathic Council** | **“Osteopathic Practice Standards”**[148] | **Standard A2:** Listen to patients and respect their concerns and preferences. Effective communication is a two-way process which involves not just talking but also listening.<br>**Standard C9:** You should act quickly to help patients and keep them from harm. You should take steps to protect patients if you believe that a colleague’s or practitioner’s health, conduct or professional performance poses a risk to them. You should consider one of the following courses of action – discuss concerns with the colleague/practitioner; report your concern to other colleagues or principle of the practice; report the practitioner their regulatory body or voluntary council; report to social services or police where you have immediate or serious concerns. You must comply with the law to protect children and vulnerable adults.<br>**Standard D7:** Be open and honest when dealing with patients and colleagues and respond quickly to complaints. |
| **Health and Care Professions Council** | **“Standards for Conduct, Performance and Ethics”** [149] | **Standard 1.1** You must treat service users and carers as individuals, respecting their privacy and dignity.<br>**Standard 1.2** You must work in partnership with service users and carers, involving them, where appropriate, in decisions about the care, treatment or other services to be provided.<br>**Standard 1.3** You must encourage and help service users, where |

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[147] General Optical Council. www.optical.org/en/Standards/Standards_for_optometrists_dispensing_opticians.cfm

[148] General Osteopathic Council. www.osteopathy.org.uk/news-and-resources/document-library/osteopathic-practice-standards/osteopathic-practice-standards/

[149] Health and Care Professions Council. https://www.hcpc-uk.org/standards/standards-of-conduct-performance-and-ethics/

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| | | appropriate, to maintain their own health and well-being, and support them so they can make informed decisions.<br>**Standard 1.4** You must make sure that you have consent from service users or other appropriate authority before you provide care, treatment or other services.<br>**Standard 1.5** You must not discriminate against service users, carers or colleagues by allowing your personal views to affect your professional relationships or the care, treatment or other services that you provide.<br>**Standard 1.6** You must challenge colleagues if you think that they have discriminated against, or are discriminating against, service users, carers and colleagues.<br>**Standard 1.7** You must keep your relationships with service users and carers professional.<br>**Standard 2.2** You must listen to service users and carers and take account of their needs and wishes.<br>**Standard 2.3** You must give service users and carers the information they want or need, in a way they can understand.<br>**Standard 2.4** You must make sure that, where possible, arrangements are made to meet service users' and carers' language and communication needs.<br>**Standard 3.2** You must refer a service user to another practitioner if the care, treatment or other services they need are beyond your scope of practice.<br>**Standard 6.1** You must take all reasonable steps to reduce the risk of harm to service users, carers and colleagues as far as possible.<br>**Standard 6.2** You must not do anything, or allow someone else to do anything, which could put the health or safety of a service user, carer or colleague at unacceptable risk.<br>**Standard 7.1** You must report any concerns about the safety or well-being of service users promptly and appropriately.<br>**Standard 7.2** You must support and encourage others to report concerns and not prevent anyone from raising concerns.<br>**Standard 7.3** You must take appropriate action if you have concerns about the safety or well-being of children or vulnerable adults.<br>**Standard 7.4** You must make sure that the safety and well-being of service users always comes before any professional or other loyalties.<br>**Standard 8.1** You must be open and honest when something has gone wrong with the care, treatment or other services that you provide by:<br>– informing service users or, where appropriate, their carers, that something has gone wrong;<br>– apologising;<br>– taking action to put matters right if possible; and<br>– making sure that service users or, where appropriate, their carers, receive a full and prompt explanation of what has happened and any likely effects. |

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| | | **Standard 8.2** You must support service users and carers who want to raise concerns about the care, treatment or other services they have received.<br>**Standard 8.3** You must give a helpful and honest response to anyone who complains about the care, treatment or other services they have received. |