

Level 4 Independent Advocacy

April 2022 Version 1.3

Qualification Handbook

Version and date	Change detail	Section
1.1 April 2020	Roles updated	Assessment
1.2 July 2021	Registration and Certification section updated	Centre Requirements
1.3 April 2022	Who is this qualification for	Introduction - Who is this qualification for
	Addition of broader information on independent advocacy and its role in the Health and Social Care sector	About independent advocacy
	Candidate entry requirements	Centre Requirements

Qualification at a glance

Subject area	Health and Social Care
City & Guilds number	8040
Age group approved	18+
Entry requirements	None
Assessment	Combination of internal and external assessment
Approvals	Centre and qualification approval are required
Support materials	Qualification handbook Assessment pack
Registration and certification	Consult the Consortium website for details

Title and level	Reference number	Accreditation number
Level 4 Independent Advocacy	8040-12	C00/4016/5

Contents

Level 4 Independent Advocacy	1
Qualification at a glance	3
Contents	4
1 Introduction	6
About Independent Advocacy	7
Subject aims and objectives	7
Structure	8
Guided learning hours (GLH) and Total qualification time (TQT)	9
2 Centre requirements	10
Qualification approval	10
Registration and certification	10
Centre staffing	11
Candidate entry requirements	12
Age restrictions	12
3 Delivering the qualification	13
Initial assessment and induction	13
Support materials	13
External associates/appointees	13
Moderation of internal assessment arrangements	15
Internal appeal	15
Factors affecting individual candidates	15
Malpractice	15
Access arrangements and special consideration	16
4 Assessment	17
Summary of assessment methods	17
Simulation	17
Time constraints	17
Recognition of prior learning (RPL)	17
Re-sit opportunities	17
5 Units	19
Availability of units	19
Guidance for the delivery of unit content	20
Unit 428 Providing independent advocacy – principles and practice	22
Guidance for delivery	27
Related NOS	31
Related legislation and guidance	31
Resources	31

Unit 429	Understanding legislation in the context of independent advocacy	32
	Guidance for delivery	37
	Related NOS	42
	Related legislation and guidance	42
	Resources	43
Unit 430	Independent advocacy with adults	45
	Guidance for delivery	49
	Related legislation and guidance	49
	Resources	49
Unit 431	Independent advocacy with children and young people	50
	Guidance for delivery	54
	Related legislation and guidance	54
	Resources	54
Unit 432	Independent mental health advocacy	55
	Guidance for delivery	59
	Related legislation and guidance	59
	Resources	60
Unit 433	Independent mental capacity advocacy	61
	Guidance for delivery	66
	Related legislation and guidance	66
	Resources	67
Appendix 1	Relationships to other qualifications	68
	Links to other qualifications	68

1 Introduction

This document tells you what you need to do to deliver the qualifications:

Area	Description
Who is the qualification for?	<p>This qualification aims to develop the knowledge, understanding, behaviours and skills that underpin independent advocacy roles. It is for those individuals who work as independent advocates paid or unpaid in statutory and/or non-statutory roles.</p> <p>This qualification has been developed in close collaboration with key sector stakeholders, including Social Care Wales and Health Education and Improvement Wales (HEIW).</p> <p>This qualification is practice-based and assesses learners' knowledge and practice. It is designed for learners in work-based learning, further education and higher education.</p>
What does the qualification cover?	<p>This qualification will allow learners to develop the knowledge and skills required to undertake an independent advocacy role.</p>
What opportunities for progression are there?	<p>The qualification allows learners to progress within employment or further study at a higher level.</p> <p>For more information on requirements to work within the Health and Social Care sector, including specific job roles, refer to the 'Qualification framework for social care and regulated childcare in Wales' which can be accessed on the Social Care Wales' website. https://socialcare.wales/resources/qualification-framework-for-the-social-care-sector-in-wales</p>
Who did we develop the qualification with?	<p>The unit content of this qualification has been developed and is owned by Social Care Wales and Health, Education and Improvement Wales.</p> <p>The content has been developed in conjunction with the consortium, as well as stakeholders, tutors and workplace assessors from across the independent advocacy sector.</p>

About independent advocacy

Independent advocacy is separate from statutory organisations and is free from conflict. Therefore, independent advocates **cannot work for the organisations their advocacy partners may wish to challenge**, including:

- Local Authority – Including social services/youth services/care homes
- Local Health Board
- Private care homes/service settings wishing to provide advocacy for their residents

Independent Advocacy covers those workers in both statutory and non-statutory roles. These roles are defined as,

Statutory – those which individuals are entitled to by law, including Independent Mental Capacity Advocacy (IMCA), Independent Mental Health Advocacy (IMHA) and Independent Professional Advocacy (IPA).

Non-Statutory - issue based independent advocacy offered by third sector organisations. These are not an entitlement by law but offer a voice to those who feel they need it. It is also known as 'general' independent advocacy. This could include independent advocacy for older people living at home, unknown to social services who need an advocate. Organisations such as Age Cymru and Dewis Centre for Independent Living offer non statutory advocacy.

Subject aims and objectives

The Level 4 Independent Advocacy qualification will enable learners to develop and demonstrate their knowledge, understanding, behaviours, skills and practice within the context of their chosen pathway. In particular, learners will be able to demonstrate that they:

- develop and apply knowledge, understanding and skills within the chosen pathway;
- develop and apply knowledge and understanding of legislation, conventions and human rights instruments applicable to the chosen pathway;
- develop and apply knowledge and understanding to ensure that the views, wishes and preferences of children and young people/individuals and/or carers are represented
- develop as effective and independent learners, and as critical and reflective thinkers with enquiring minds in the context of the chosen pathway;
- use an enquiring, critical approach to ensure that practice is underpinned by the principles of advocacy
- develop self-awareness in order to improve practice in the chosen pathway;
- develop and apply knowledge and understanding of rights across a range of settings/contexts
- use literacy, numeracy and digital competency skills as appropriate within their role.

Structure

To achieve the **Level 4 Independent Advocacy** qualification, learners must achieve a minimum of 52 credits in total.

The minimum guided learning hour requirement for this qualification is 219.

To achieve the **Level 4 Independent Advocacy** qualification, learners must achieve:

- A minimum of 41 credits from the Mandatory group.
- A minimum of 11 credits from the Optional group.

Mandatory group			
Unit Number	Unit title	GLH	Credit
428	Providing independent advocacy – principles and practice	154	32
429	Understanding legislation in the context of independent advocacy	55	9
Optional group			
430	Independent advocacy with adults	10	11
431	Independent advocacy with children and young people	20	13
432	Independent mental health advocacy	35	13
433	Independent mental capacity advocacy	40	17

Guided learning hours (GLH) and Total qualification time (TQT)

Guided Learning Hours (GLH) give an indication to centres of the amount of *supervised* learning and assessment that is required to deliver a unit and can be used for planning purposes.

Total Qualification Time (TQT) is the total amount of time, in hours, expected to be spent by a learner to achieve a qualification. It includes both guided learning hours (which are listed separately) and hours spent in preparation, study and undertaking some formative assessment activities.

Credit is calculated using a formula that equates to the TQT value divided by 10.

The minimum required TQT for this qualification is specified below.

Qualification	TQT
Level 4 Independent Advocacy	520

2 Centre requirements

Qualification approval

This qualification will require centre and qualification approval. This will include desk-based assessment.

Centre approval is based upon an organisation's ability to meet the centre approval criteria. The approval for this qualification can be found detailed in the following documents:

- Administration Handbook (*Introduction to working with City & Guilds and WJEC*)
- Our Quality Assurance Requirements
- Quality Assurance Model

Prospective centres will be advised to seek centre and qualification approval, as appropriate, prior to starting to deliver the qualification.

The Consortium aims to provide centre and qualification approval decision within 30 working days of the submission of the completed application, with four possible outcomes:

- Centre approval and qualification approval granted
- Centre approval and qualification approval granted subject to action plan
- Centre approval and qualification approval withheld subject to action plan
- Centre approval and qualification approval denied.

Centre and qualification approval are deemed to have been granted when City & Guilds confirms the status in writing to the centre, and not before.

Centres will be required to apply for approval for this qualification and to meet the specific centre requirements outlined in this document related to delivery staff and assessor competence. These requirements will be checked and monitored as part of the qualification approval process and on-going monitoring of this qualification.

Registration and certification

Learners for this qualification are registered on the Pro Platform to support the external assessment element. The Pro Platform allows centres to submit registrations on a 'roll-on/roll-off' basis i.e. registrations can be submitted at any time and in any number throughout the calendar year.

Learners for this qualification must **not** be registered on Walled Garden.

Access to the Pro Platform is provided to centres on successful approval of this qualification. There are guides available in the 'Welsh Qualifications' tab in the Support Materials section of Pro to guide centres to make registrations, either by individual learner or in bulk.

Learners will be certificated through the Walled Garden.

Centre staffing

Assessor requirements

The internal assessor will be responsible for making the final assessment judgements for the internally assessed tasks within the qualification.

The Assessors of this qualification must:

- be occupationally competent within the specific pathway of the qualification that they are assessing - this means that each assessor must be able to carry out the full requirements within the competency units of the pathway that they are assessing. Occupational competence means that they are also occupationally knowledgeable
- maintain their occupational competence through clearly demonstrable continuing learning and professional development
- hold D32/D33 or A1 OR be working towards the A1 replacement qualifications eg the City & Guilds 6317 such as:
 - the 6317-31 Level 3 Award in Assessing Competence in the Work Environment or
 - the 6317-33 Level 3 Certificate in Assessing Vocational Achievement or
 - another suitable qualification equivalent/alternative in the assessment of work based performance. This must be agreed in advance with the centre's external quality assurer.

Where assessors have legacy assessor qualifications, they must demonstrate that they are assessing in line with current assessment standards or another suitable qualification equivalent/alternative in the assessment of work-based performance. This must be agreed in advance with the centre's External Quality Assurer.

City & Guilds also accepts additional nationally accredited assessor qualifications. A full list of these are available on the qualification webpage.

Where working towards assessor qualifications there must be a countersigning arrangement in place from a qualified assessor from the same or related occupational area.

Internal quality assurers

Those performing the internal quality assurance role must be occupationally knowledgeable and possess the skills necessary to make quality assurance decisions.

The qualification requirements for an IQA for competence-based qualifications are as follows, the IQA must:

- hold or be working towards the current Quality Assurance qualifications, e.g.
 - Level 4 Award in the Internal Quality Assurance of Assessment Processes and Practice or
 - Level 4 Certificate in Leading the Internal Quality Assurance of Assessment Processes and Practice or
 - Hold the D34 unit or V1 Verifiers Award.

Where working towards an IQA qualification there must be a countersigning arrangement in place from a qualified IQA from the same or related occupational area.

Welsh context

For individuals who have not previously conducted assessment activities in Wales, it is suggested that having an awareness of Welsh language and an understanding of Welsh culture, policy and context would be beneficial to support their roles.

Continuing professional development

Centres are expected to support their staff in ensuring that their knowledge and competence in the occupational area is current and of best practice in delivery, mentoring, training, assessment and quality assurance and that it takes account of any national or legislative developments.

Candidate entry requirements

City & Guilds does not set any additional entry requirements for this qualification. However, centres must ensure that candidates have the potential and opportunity to gain the qualifications successfully. This means that as simulation is not permitted for assessment purposes, candidates undertaking this qualification must have access to a work setting/placement as an independent advocate. This could be on a paid or voluntary basis.

Entries for the qualification can be made via the Walled Garden, see the Consortium website for further details.

Age restrictions

The Consortium cannot accept any registrations for candidates under 18 as this qualification is not approved for under 18s.

3 Delivering the qualification

Initial assessment and induction

An initial assessment of each learner should be made before the start of their programme to identify:

- if the learner has any specific training needs,
- support and guidance they may need when working towards their qualification,
- any learning they have already completed which is relevant to the qualification,
- the appropriate type and level of qualification.

It is recommended that centres provide an induction programme so the learner fully understands the requirements of the qualification, their responsibilities as a learner, and the responsibilities of the centre. This information can be recorded on a learning contract.

Support materials

The following resources are available for this qualification:

Description	How to access
Assessment pack	Consortium website

External associates/appointees

Associates/Appointees are the terms adopted by the Consortium to refer to individuals appointed by City & Guilds or WJEC to undertake specific roles on their behalf, for example, external verifiers or external assessors.

There are criteria set by the Consortium to ensure that all associates/appointees have the right occupational knowledge, experience and skills to perform the specific role.

The Consortium will ensure that all associates/appointees undertaking a quality assurance role in centre approval, qualification approval and assessment decisions are trained, appropriately qualified and occupationally competent. Training and attendance at standardisation events are mandatory.

All associates/appointees are performance managed by staff within the Consortium. If concerns are identified with an individual, each Consortium partner will take corrective action which may include improvement actions and close monitoring or in some instances quality issues in performance may lead to the Awarding Body contract with the associate/appointee being terminated.

External assessors

For this qualification, a pool of external assessors will be recruited by City & Guilds who will conduct the external assessment and determine the assessment decision for all candidates who complete the external assessment element of this qualification. This pool of assessors must:

- be occupationally competent within the specific pathway of the qualification that they are assessing - this means that each assessor must be able to carry out the full requirements within the competency units of the pathway that they are assessing. Occupational competence means that they are also occupationally knowledgeable
- maintain their occupational competence through clearly demonstrable continuing learning and professional development.
- hold D32/D33 or A1 OR be working towards the A1 replacement qualifications eg the City & Guilds 6317 such as:
 - the 6317-31 Level 3 Award in Assessing Competence in the Work Environment or
 - the 6317-33 Level 3 Certificate in Assessing Vocational Achievement or
 - another suitable qualification equivalent/alternative in the assessment of work based to ensure they possess the correct skills and occupational competence to be able to provide valid assessment judgements, appropriate to the level of this qualification.

Where working towards assessor qualifications there must be a countersigning arrangement in place from a qualified assessor from the same or related occupational area.

All external assessors will go through initial training on the assessment approach. External assessors will be subject to standardisation and lead sampling. Annual training and standardisation events will be held with all assessors.

Lead assessors will support the recruitment and training of new assessors, utilising examples of best practice and providing support for assessment activities.

The Consortium will aim to ensure that sufficient bilingual associates/appointees are recruited to meet the needs of Welsh-medium centres and learners. The level of quality assurance activity will be consistent across provision in both English and Welsh mediums. Provision will be made for monitoring and standardisation to take place for both languages.

All associates/appointees who are considered to be engaging in regulated activity will be subject to a Disclosure and Barring Service (DBS) check and will receive a safeguarding briefing prior to visiting a centre.

External quality assurers

Those performing the external quality assurance role must be occupationally knowledgeable and possess the skills necessary to make quality assurance decisions.

The consortium requires Associates/appointees to hold an external quality assurance qualification, either:

- D35 - Externally Verify the Assessment Process (D35) or V2 - Level 4 Certificate in Conducting External Quality Assurance of the Assessment Process (V2)
- Level 4 External Quality Assurance of Assessment Processes and Practice.

Associates/appointees will be working towards or have achieved the current external quality assurance qualification (TAQA) or a legacy qualification such as V2/D35

Where working towards EQA requirements there must be a countersigning arrangement in place from another EQA from the same or related occupational area.

Moderation of internal assessment arrangements

External quality assurance processes are in place for checking the validity and reliability of internal assessment judgements and processes made and followed by centre staff, as appropriate to this qualification.

The internal assessment judgements and processes will be subject to risk-based monitoring and sampling by external quality assurers to ensure the consistency and validity of centre assessment judgements. Quality assurance activities will be undertaken by appropriately qualified and trained assessment associates. In all instances of sampling of the internal assessment judgements and processes for quality assurance, formal written feedback will be provided by City & Guilds.

Significant non-compliance or areas of concern identified during external monitoring will be subject to investigation by the Consortium. As a result of this activity appropriate improvement actions and/or sanctions may be put in place. In some instances, investigations may result in de-registration for the centre(s) in question.

For further information on the external monitoring process please refer to the Administration Handbook (Introduction to working with City & Guilds and WJEC) available on the Consortium website at www.healthandcarelearning.wales.

Internal appeal

Centres must have an internal process in place for learners to appeal the marking of internally marked assessments. The internal process must include learners being informed of the results the centre has given for internally assessed components, as they will need these to make the decision about whether or not to appeal.

Factors affecting individual candidates

If work is lost, City & Guilds should be notified immediately of the date of the loss, how it occurred, and who was responsible for the loss. Centres should use the JCQ form, JCQ/LCW, to inform City & Guilds Customer Services of the circumstances.

Candidates who move from one centre to another during the course may require individual attention. Possible courses of action depend on the stage at which the move takes place. Centres should contact City & Guilds at the earliest possible stage for advice about appropriate arrangements in individual cases.

Malpractice

Please refer to the City & Guilds guidance notes *Managing cases of suspected malpractice in examinations and assessments*. This document sets out the procedures to be followed in identifying and reporting malpractice by learners and/or centre staff and the actions which City & Guilds may subsequently take. The document includes examples of learner and centre

malpractice and explains the responsibilities of centre staff to report actual or suspected malpractice. Centres can access this document on the City & Guilds website.

Examples of learner malpractice are detailed below (please note that this is not an exhaustive list):

- falsification of assessment evidence or results documentation
- plagiarism of any nature
- collusion with others
- copying from another candidate (including the use of ICT to aid copying), or allowing work to be copied
- deliberate destruction of another's work
- false declaration of authenticity in relation to assessments
- impersonation.

These actions constitute malpractice, for which a penalty (e.g. disqualification from assessment) will be applied.

Please refer to the form in the document *Managing cases of suspected malpractice in examinations and assessments*.

Access arrangements and special consideration

Access arrangements are adjustments that allow candidates with disabilities, special educational needs and temporary injuries to access the assessment and demonstrate their skills and knowledge without changing the demands of the assessment. These arrangements must be made before assessment takes place.

It is the responsibility of the centre to ensure at the start of a programme of learning that candidates will be able to access the requirements of the qualification.

Please refer to the *JCQ access arrangements and reasonable adjustments and Access arrangements - when and how applications need to be made to City & Guilds* for more information. Both are available on the City & Guilds website: <http://www.cityandguilds.com/delivering-ourqualifications/centre-development/centre-document-library/policies-andprocedures/access-arrangements-reasonable-adjustments>

Special consideration

We can give special consideration to candidates who have had a temporary illness, injury or indisposition at the time of assessment. Where we do this, it is given after the assessment.

Applications for either access arrangements or special consideration should be submitted to City & Guilds by the Examinations Officer (or individual conducting an equivalent role) at the centre. For more information please consult the current version of the JCQ document, *A guide to the special consideration process*. This document is available on the City & Guilds website: <http://www.cityandguilds.com/delivering-ourqualifications/centre-development/centre-document-library/policies-andprocedures/access-arrangements-reasonable-adjustments>

4 Assessment

Summary of assessment methods

Candidates must successfully complete:

- a portfolio of evidence
- an account related to legislation
- direct observations of practice
- a reflective account of practice
- a professional discussion

The assessments have been designed for candidates to show their knowledge, understanding and skills of both the mandatory units and their chosen pathway content. The assessments cover a range of written elements to reflect knowledge and understanding, as well as practice elements that include the direct observation of learner practice to confirm their competence in the practical skills required for independent advocacy.

An assessment pack detailing the specific requirements of the assessment can be downloaded from the Consortium website.

Simulation

Simulation involves the creation of an artificial situation for purposes of assessment. The use of simulation should be restricted to obtaining evidence where it cannot be naturally generated through normal work activities (e.g. due to concerns related to health and safety).

For this qualification, simulation is **not** permitted.

Time constraints

The following must be applied to the assessment of this qualification:

- all units must be undertaken, and related requirements must be completed and assessed within the candidate's period of registration.

Recognition of prior learning (RPL)

Recognition of prior learning means using a person's previous experience, learning or qualifications which have already been achieved to contribute to a new qualification. RPL is **not** allowed for this qualification.

Re-sit opportunities

There is no restriction on the number of re-sits allowed for this qualification.

Please see the assessment pack for guidance on re-sit opportunities available for candidates completing the assessments, and for guidance on when a candidate is unsuccessful in completion of any element of the assessment.

Roles

The following roles will be involved in the assessment of this qualification.

Internal assessor¹ – a qualified assessor, provides support for the assessment delivery. The internal assessor will be responsible for making assessment judgements for the internally assessed tasks.

External Quality Assurer – responsible for confirming that the planning, delivery and assessment of the internally assessed tasks have been carried out in accordance with City & Guilds policies and procedures.

Internal Quality Assurer – ensures that all internally-submitted assessment evidence is of a consistent and appropriate quality.

Employer/Manager – understands the normal internal processes of the workplace/setting, documentation, communication systems etc and can assess whether the candidate is using them appropriately. Where appropriate can provide expert witness testimony for the portfolio in relation to day to day workplace practice.

Other Professional – an expert witness – for specialist procedures or for the coverage of units that require specific expertise, settings may provide additional expert witness testimony.

City & Guilds External assessor² – a qualified assessor, appointed by City & Guilds, and responsible for making the final assessment judgement of the candidate for the externally-assessed tasks.

City & Guilds Lead Assessor – will be responsible for sampling and standardising the assessment judgement determined by external assessors.

Tutor - provides the delivery of knowledge and understanding of the qualification content. The tutor may support access to assessment but is not responsible for making any decision on assessment outcomes.

Note

In circumstances where the candidate is working in a situation where there is no direct managerial relationship, it would be expected that the process elements that are stated here as requiring ownership by the manager role, would instead be fully undertaken through the role of the assessor.

¹ For confirmation of the internal assessment requirements for this qualification, please see the ‘**Centre requirements**’ section of this Qualification Handbook

² For confirmation of the external assessment requirements for this qualification, please see the ‘**Delivering this qualification**’ section of this Qualification Handbook

5 Units

Availability of units

All units are contained within this qualification handbook;

Unit Number	Unit title
428	Providing independent advocacy – principles and practice
429	Understanding legislation in the context of independent advocacy
430	Independent advocacy with adults
431	Independent advocacy with children and young people
432	Independent mental health advocacy
433	Independent mental capacity advocacy

Guidance for the delivery of unit content

The following summary provides guidance on the different elements that are found within the units and information on unit delivery.

Guided learning hour (GLH) value

This value indicates the amount of Guided Learning Hours the unit will require for delivery to a candidate on average. This includes contact with tutors, trainers or facilitators as part of the learning process, and includes formal learning including classes, training sessions, coaching, seminars and tutorials. This value also includes the time taken to prepare for, and complete, the assessment for the unit. Guided learning hours are rounded up to the nearest five hours.

Credit value

This value is based on the guided learning hours **plus** any additional learning time or additional activities that the learner will need to take to complete the unit. For example, this may include time for informal learning, private study, practice, reflection etc. The total number of hours is divided by ten to get the credit value. Credit values are rounded up to the nearest whole number.

Unit summary

This provides a short, high level summary of the unit content including what knowledge and practice is covered. The unit summary may also provide information on types of settings the unit relates to or is precluded from delivery in.

Learning outcomes

Learning outcomes group together chunks of related knowledge and are presented as the result of the learning process i.e. what learners must understand or be able to do following teaching and learning. All learning outcomes are supported by a number of assessment criteria.

Assessment criteria

Assessment criteria break down the learning outcome into smaller areas to be covered. Assessment criteria may be supported by range, indicated by words or phrases in **bold**.

Range

Some words or phrases within assessment criteria are presented in **bold**, this means a range has been provided and will be presented at the bottom of the learning outcome. The range contains information about the depth and amount of detail required for a specific assessment criterion. The range is not an exhaustive list, there may be other examples that could fit within that topic area, however those that are listed in the range are key for the delivery of the unit content – **all elements listed in the range must be covered as part of the delivery of the unit.**

Guidance for delivery

This guidance is aimed at tutors, trainers or facilitators when teaching the unit and provides specific considerations for delivery of the content of the unit where applicable. For example, links that can be made across units within the qualification or examples of how the content can be presented to learners.

Related NOS

These are presented as a guide for tutors, trainers or facilitators delivering the content and give an indication of where the unit content may link to associated NOS. These are not presented as an exhaustive list and are for guidance only. There is no requirement for NOS to be presented as part of unit learning delivery. NB – although every attempt will be made to keep those listed up to date, updated or reviewed versions of NOS may supersede those listed.

Related legislation and guidance

These are provided as a reference and context for the unit and may be used to support the delivery of the content and provide wider context. These are not presented as an exhaustive list and are for guidance only. All legislation, guidance, websites, documentation etc. listed should be checked for currency and relevance before delivery of the unit content.

Unit 428

Providing independent advocacy – principles and practice

Level:	4
GLH:	154
Credit:	32
Unit Summary:	<p>This unit aims to support learners to develop the knowledge, understanding and skills of workers who work as independent advocates, ensuring coverage of the key principles and practices of independent advocates.</p> <p>In the context of this unit, the term 'individual' would include any person accessing independent advocacy: Children and young people and adults, including carers.</p>

Learning outcome:

1. Understand independent advocacy

Assessment criteria

You understand:

- 1.1 The purpose of independent advocacy
- 1.2 **Principles** of independent advocacy and why these are important
- 1.3 **Models** of independent advocacy and how these can be used to support individuals and carers
- 1.4 The difference between independent advocacy and advocacy within other roles
- 1.5 The roles and responsibilities of an independent advocate
- 1.6 Actions to take where there are potential **conflicts of interest**
- 1.7 What is meant by the term 'non-instructed advocacy'
- 1.8 How non-instructed advocacy can be used to promote, protect the views and rights of individuals and carers
- 1.9 The development of independent advocacy
- 1.10 The wider policy context of independent advocacy
- 1.11 Standards which apply to independent advocacy
- 1.12 Statutory entitlements to independent advocacy
- 1.13 The inter-relationship between different types of independent advocacy and circumstances when this may take place
- 1.14 The impact on individuals and carers of accessing support from different types of independent advocacy
- 1.15 Opportunities that can be used to influence the development of independent advocacy

Range

Principles: Confidentiality, independence, person led, equality

Models: Instructed advocacy, non-instructed advocacy, self-advocacy, informal advocacy, collective advocacy, peer advocacy, citizen advocacy, independent volunteer advocacy, formal advocacy, independent professional advocacy

Conflicts of interest: when advocating for members of the same family, working with people previously known, organisational conflicts of interest

Learning outcome:

2. Apply principles of independent advocacy in practice

Assessment criteria

You are able to work in ways that:

- 2.1 Promote and uphold key **principles** of advocacy
- 2.2 Ensure the individual receiving advocacy leads the advocacy process

Range

Principles - Confidentiality, independence, person led, equality

Learning outcome:

3. Support individuals to access independent advocacy services

Assessment criteria

You understand:

- 3.1 Why some individuals and carers may require independent advocacy
- 3.2 Potential challenges that may lead to individuals and carers accessing independent advocacy
- 3.3 Who is eligible to access your advocacy service
- 3.4 Potential barriers to individuals and carers accessing independent advocacy, and how they can be overcome
- 3.5 The range of communication methods that individuals and carers may use and how to access additional advice and support for the use of these
- 3.6 How the setting may impact upon individuals and carers being able to access independent advocacy
- 3.7 Potential benefits individuals and carers may gain from accessing independent advocacy
- 3.8 The importance of independent advocacy being embedded within communities
- 3.9 **Issues** that may impact on the advocacy relationship

You are able to work in ways that:

- 3.10 Ensure that independent advocacy is accessible to individuals and/or carers
 - 3.11 Take action to remove barriers to ensure equality of access
 - 3.12 Provide individuals and/or carers with information about advocacy support
 - 3.13 Support individuals and/or carers to understand how independent advocacy may help
-

- 3.14 Support individuals and/or carers to understand the range of **boundaries** within the advocacy relationship
- 3.15 Establish independent advocacy requirements with individuals and/or carers
- 3.16 Use a range of methods to meet the specific communication requirements of individuals and/or carers
- 3.17 Develop relationships that promote independent advocacy with other professionals, services and communities
- 3.18 Support **others** to understand the role of independent advocacy
- 3.19 Signpost individuals and/or carers to other services where their requirements cannot be met by independent advocacy services

Range

Issues, positive and negative elements which can impact on the advocacy relationship e.g. risks, expectations, timescales, methods, cultural issues

Boundaries - including confidentiality, information sharing, professional boundaries, individual's or carers' expectations of the advocacy relationship, establishing length and end of the relationship

Others – family/carers, friends, other professionals

Learning outcome:

4. Support individuals and/or carers to express their views, wishes and feelings through advocacy

Assessment criteria

You understand:

- 4.1 The importance of ensuring that individuals and carers are equal partners in
 - the advocacy relationship
 - relationships with professionals
- 4.2 The ways that individuals and carers may express their views, wishes and feelings
- 4.3 How individuals and carers' views, wishes and feeling may change over time

You are able to work in ways that:

- 4.4 Establish individuals' and/or carers' views, wishes and feelings
 - 4.5 Enable the flexible use of self-advocacy and representational advocacy to support individuals and/or carers to express their views, wishes and feelings
 - 4.6 Support individuals and/or carers to self-advocate
 - 4.7 Offer representation to individuals and/or carers
 - 4.8 Ensure the views, wishes and feelings of individuals and/or carers are central to decisions
 - 4.9 Distinguish between the independent advocate's view and the choice made by the individual and/or carer
-

Learning outcome:

5. Support individuals and/or carers to make decisions
-

Assessment criteria

You understand:

- 5.1 Factors that influence decision making
- 5.2 What is meant by:
 - supported decision making
 - substituted decision making
- 5.3 When it is **permissible** for the state to substitute a decision on behalf of an individual

You are able to work in ways that:

- 5.4 Enable individuals and/or carers to explore and consider
 - options available
 - possible consequences of options
- 5.5 Establish if further advocacy support or assistance from other sources is needed
- 5.6 Evaluate the outcomes of the advocacy process with the individual and/or carer

Range

Permissible: Reasons include mental capacity, age, use of Mental Health Act

Learning outcome:

6. Continually develop own practice as an independent advocate

Assessment criteria

You understand:

- 6.1 The importance of being aware of how own personal experiences, values and attitudes may influence practice as an independent advocate
- 6.2 How unconscious bias can influence behaviour
- 6.3 What is meant by the term 'psychological independence'
- 6.4 Potential practice **challenges** faced by independent advocates
- 6.5 Support available to the independent advocate for practice challenges
- 6.6 The purpose and function of **supervision**

You are able to work in ways that:

- 6.7 Use supervision and support to
 - reflect on practice
 - explore emotional and practice **challenges**
 - develop strategies to improve practice and reduce any unconscious bias
 - manage own workload and support personal well-being
- 6.8 Use strategies to resolve a range of practice challenges
- 6.9 Utilise local or national networks to develop practice

Range

Challenges: ethical dilemmas, breaching confidentiality, risk taking, information sharing, maintaining independence/psychological independence, managing conflict of interest and promoting risky choices, power dynamics, professional boundaries

Supervision: formal supervision (with a manager), and informal supervision which may include peer support, group supervision, external supervision, support networks.

Learning outcome:

7. Challenge decisions through independent advocacy

Assessment criteria

You understand:

- 7.1 Common issues where challenge is required
- 7.2 How to support individuals or carers' understanding of their right to challenge a decision
- 7.3 How to establish the support individuals or carers may need to challenge decisions
- 7.4 Circumstances where the independent advocate should challenge decisions
- 7.5 Routes that can be accessed to challenge a decision or raise a concern
- 7.6 How to establish the most suitable route to challenge a decision

You are able to work in ways that:

- 7.7 Use a range of strategies to:
 - raise concerns early in the decision-making process
 - support individuals and/or carers to resolve conflict and challenge decisions
 - resolve conflict and challenge decisions on behalf of individuals and/or carers
-

Learning outcome:

8. Use advocacy to influence social change, equality and inclusion

Assessment criteria

You understand:

- 8.1 How equality characteristics, social and cultural backgrounds and environments may:
 - impact on individuals or carers
 - influence how individuals or carers access independent advocacy
 - influence how individuals or carers use independent advocacy
- 8.2 The key components of social isolation, social exclusion and discrimination
- 8.3 The potential impact of social isolation, social exclusion and discrimination on
 - individuals
 - carers
 - communities
- 8.4 Strategies an independent advocate can use to prevent, reduce and challenge social isolation, discrimination
- 8.5 Strategies that can be used to increase social inclusion
- 8.6 What is meant by the term 'systemic advocacy' and how this can be used to affect change

You are able to work in ways that:

- 8.7 Reduce the impact of social exclusion on individuals and/or carers
 - 8.8 Use advocacy to achieve change for communities
 - 8.9 Meet the diverse needs of individuals and/or carers
 - 8.10 Promote practice and respect that meet the diverse needs of individuals and/or carers
-

Learning outcome:

9. Understand approaches to safeguarding

Assessment criteria

You understand:

- 9.1 What is meant by the term 'safeguarding'
- 9.2 How individuals can be supported to retain control throughout different parts of the safeguarding process
- 9.3 The main categories of abuse and neglect
- 9.4 Common signs and symptoms associated with harm, abuse and neglect
- 9.5 Policies and procedures that relate to the safeguarding of individuals
- 9.6 Reasons why some individuals could be more at risk from harm, abuse or neglect
- 9.7 Reasons why abuse may not be disclosed by individuals and/or carers
- 9.8 Features of perpetrator behaviour and grooming
- 9.9 How to respond, record and report concerns, disclosures or allegations related to safeguarding
- 9.10 Actions to avoid if harm, abuse or neglect is suspected, disclosed or alleged, taking account of any future investigations that may take place
- 9.11 Boundaries of confidentiality in relation to safeguarding and information that must be shared
- 9.12 Actions to be taken where there are ongoing concerns about harm, abuse or neglect or where concerns have not been addressed after reporting
- 9.13 The differences between fact, opinion and judgement and why understanding this is important when recording and reporting information

Unit 428 Providing independent advocacy – principles and practice

Supporting Information

Guidance for delivery

Circumstances where the individual advocate should challenge decisions: may include, disagreement over care and treatment, competing interests, power imbalances, lack of resources, decisions over care and support, funding availability, methods of meeting need, accommodation options (housing), relationships (issues with professionals), refusal of services, discharge from hospital, contact with family, family time for children who are looked after

Communication for example language of choice, non-verbal, BSL, pictorial, PECS, Makaton, total communication, talking mats, face to face or electronically

Development of independent advocacy would include the history/development of advocacy in the UK, within the context of development in Europe and America and the intention of making advocacy widely available

How individuals can be supported to retain control throughout different parts of the safeguarding process would include, choosing who attends meeting, who to disclose to, how information should be shared, expressing the outcome that they want the safeguarding process

Independent advocate's view could include where:

- the choice is considered too risky
- there are safeguarding concerns
- there are health concerns
- there is a minimal chance of success

Models of advocacy:

- Self-advocacy - when individuals represent and speak up for themselves.
- Informal advocacy - when family, friends or neighbours support an individual in having their views wishes and feelings heard, this may include speaking on their behalf.
- Collective advocacy - involves groups of individuals with common experiences, being empowered to have a voice and influence change and promote social justice.
- Peer advocacy - one individual acting as an advocate for another who shares a common experience or background.
- Citizen advocacy - involves a one-to-one long-term partnership between a trained or supported volunteer citizen advocate and an individual.
- Independent volunteer advocacy - involves an independent and unpaid advocate who works on a short term, or issue led basis, with one or more individual.
- Formal advocacy - may refer to the advocacy role of workers in health, social care and other settings where professionals are required as part of their role to consider the wishes and feelings of the individual and to help ensure that they are addressed properly.
- Independent professional advocacy – involves a professional, trained advocate working in a one-to-one partnership with an individual to ensure that their views are accurately conveyed, and their rights upheld. This might be for a single issue or multiple issues.

Non-instructed advocacy: may be needed when matters of communication and capacity mean that instruction and the expression of choices and concerns are not forthcoming. It has been described as:

Taking affirmative action with or on behalf of a person who is unable to give a clear indication of their views and wishes in a specific situation. The non-instructed advocate seeks to uphold the person's rights; ensure fair and equal treatment and access to services; and make certain that decisions are taken with due consideration for their unique preferences and perspectives (Henderson 2006)

Non-instructed advocates may adopt different approaches to representing the person based on human rights, being person-centred, maintaining oversight or acting as a witness and observer.

Opportunities that can be used to influence the development of independent advocacy: can include contributing to local or national networks, contributing to consultations, influencing the development of legislation, policy guidance and standards

Policy context could include new legislation, changes to work practices within other professions, regulations, registration, white papers, new policy initiatives

Potential barriers: examples may include, not having this actively offered, lack of understanding of individual/workers/families/carers of role of advocacy, not knowing what their rights are, not having the right information/lack of accessible information, lack of confidence, fear, anxiety, lack of capacity, language barriers, communication difficulties, coercive control by another person/people, stereotypical assumptions, judgement and expectations of others because of the life journey or circumstances of the individual, equalities, funding, geography, culture; power, discrimination and society, social exclusion.

Principles: As outlined within the Advocacy Charter and Code of Practice.

Range of strategies: informal meetings, discussion, clarification, self-advocacy, initially using the lowest level of challenge if appropriate and building up to more formal routes to challenge

Reasons why some individuals could be more at risk from harm, abuse or neglect

could include:

- Asylum seeking
- Criminalisation
- Different types of bullying
- Domestic abuse
- Female Genital Mutilation
- Forced marriages
- Hate crime
- Homelessness
- Human trafficking / modern slavery
- Learning disability
- Mental ill-health
- Radicalisation
- Self-neglect
- Sexual exploitation
- Substance misuse

Routes that can be accessed to challenge a decision or raise a concern: informal resolution, e.g. meetings, emails; complaints, ombudsman, Court of Protection, CAF/CASS, judicial review, regulators, parliamentary officials

Settings: this should include a range of settings, for example care homes, foster placements, supported living, residential care, hospitals, prisons.

Standards could include local, regional and national; National Standards for the Provision of Children's Advocacy, Advocacy Code of Practice

Statutory entitlements to advocacy as set out within the Social Services and Well-Being (Wales) Act, Mental Capacity Act, Mental Health Act and the Mental Health Measure, children's leg

Systemic advocacy – Seeks to use data and intelligence to influence and change a 'system' such as legislation, policy or the design and delivery of services

The impact on individuals of accessing support from different types of independent advocacy for example the positive impact of having correct statutory advocacy for the individual's situation or the confusion that may result from having more than one advocate or having to change from one to another

The roles and responsibilities of an independent advocate would include the boundaries of responsibilities

Unconscious bias examples include, halos and horns effect, contrast bias, confirmation bias, affinity bias, gender bias, race bias

Related NOS

- SDCHSC 0410 Advocate with and on behalf of individuals
- SCDHSC 0046 Advocate with and on behalf of children and young people

Related legislation and guidance

- Advocacy charter
- National standards and outcomes framework for children and young people
- Regulation and Inspection of Social Care (Wales) Act 2016 and associated regulations and statutory guidance
- Social Services and Well-Being (Wales) Act 2014
- Mental Health Act (1983) amended 2007
- Mental Health Act Code of Practice for Wales (2016)
- Mental Health (Wales) Measure (2010)
- Mental Capacity Act 2005 and associated Code of Practice
- Liberty Protection Safeguards (LiPS)
- Children Act 1989 and 2004
- Additional Learning Needs and Education Tribunal (Wales) Act 2018
- The Right Way: A children's Rights Approach (Children's Commissioner for Wales 2017)
- The Human Rights Act 1998
- United Nations Convention on the Rights of the Child 1989
- United Nations Principles for Older Persons 1991
- United Nations Convention on the Rights of Persons with Disabilities 2006
- General Data Protection Regulation (GDPR) 2018
- Equality Act 2010
- Wales Safeguarding Procedures 2019
http://www.myguideapps.com/projects/wales_safeguarding_procedures/default/index.html

Resources

- Social Care wales website <https://socialcare.wales/hub/hub-resource-sub-categories/advocacy>
- Social Services and Well-being (Wales) Act 2014 - Information and Learning Hub <http://www.ccwales.org.uk/the-act/Advocacy>
- Advocacy Support Cymru <https://www.ascymru.org.uk/>
- Advocacy Matters Wales <http://www.advocacymatterswales.co.uk/>
- National Youth Advocacy Services <https://www.nyas.net/services/our-services-in-wales/>
- TGPCymru.org.uk
- Mind <https://www.mind.org.uk/information-support/guides-to-support-and-services/advocacy/types-of-advocacy/#.W1WkINJKiUk>

Unit 429

Understanding legislation in the context of independent advocacy

Level:	4
GLH:	55
Credit:	9
Unit Summary:	This unit aims to support learners to develop the knowledge and understanding of the range of legislations that are applicable in the context of independent advocacy.

The understanding of legislation referred to in this unit is within the context of independent advocacy.

Learning outcome:

1. Understand the importance of developing knowledge of legislation in the context of advocacy

Assessment criteria

You understand:

- 1.1 Why it is important for independent advocates to have knowledge and understanding of legislation and how this relates to their role
- 1.2 The importance of understanding the inter-relationship between different pieces of legislation and how this may impact on:
 - The role of independent advocates
 - Individuals and carers

Learning outcome:

2. Understand the Human Rights Act

Assessment criteria

You understand:

- 2.1 The aim, purpose and **application** of the Human Rights Act 1998
- 2.2 How human rights law has been incorporated into other legislation, national policy and guidance
- 2.3 The articles of the Human Rights Act
- 2.4 The absolute and restricted rights of the Human Rights Act
- 2.5 **Routes** under which the Human Rights Act can be used to enforce an individual's human rights
- 2.6 Case law brought under the Human Rights Act which can be used to promote an individuals' human rights
- 2.7 Responsible bodies under the Human Rights Act

2.8 UN Conventions and Human Rights Instruments and how these relate to the Human Rights Act

Range

Application: where it applies and responsibilities, role of public bodies/authorities

Routes: informal, formal

Learning outcome:

3. Understand the Equality Act

Assessment criteria

You understand:

- 3.1 The aim, purpose and application of the Equality Act 2010
 - 3.2 Protected characteristics and how these are defined
 - 3.3 How the Equality Act has been used to further the development of equality and anti-discriminatory practice in the UK
 - 3.4 Types of prohibited behaviour and how these are defined
 - 3.5 Reasonable adjustments and how these should be used to ensure that disabled individuals are not disadvantaged
 - 3.6 Routes under which the Equality Act can be used to enforce equality and anti-discriminatory practice
 - 3.7 Specific duties under the Equality Act for public sector bodies in Wales
 - 3.8 Case law brought under the Equality Act which can be used to promote equality and anti-discriminatory practice
-

Learning outcome:

4. Understand the Mental Capacity Act

You understand:

- 4.1 The aim and purpose of the Mental Capacity Act (2005)
- 4.2 The main **provisions** introduced with the Mental Capacity Act
- 4.3 The key principles of mental capacity legislation
- 4.4 The two stages of a capacity assessment, who can undertake these
- 4.5 How advocates can use the Mental Capacity Act to protect an individual's human rights
- 4.6 Liberty Protection Safeguards and how these should be applied
- 4.7 How to raise concerns about restrictions or deprivations of liberty
- 4.8 When and how an advocate should access the Court of Protection
- 4.9 The inter-relationship between the Mental Capacity Act and Mental Health Act
- 4.10 When there is a duty and a power to refer to an Independent Mental Capacity Advocate
- 4.11 The function of regulatory bodies
- 4.12 How independent advocates can use regulatory bodies to support their work
- 4.13 Case law brought under the Mental Capacity Act which can be used to promote an individual's human rights

Range

Provisions: lasting powers of attorney, court deputy, advance decisions, official solicitor, litigation friend

Learning outcome:

5. Understand the Mental Health Act

You understand:

- 5.1 The aim and purpose of the Mental Health Act 1983, as amended by the Mental Health Act 2007, Mental Health (Wales) Measure 2010
- 5.2 The difference between formal and informal patients under the Mental Health Act
- 5.3 What is meant by the term 'compulsion'
- 5.4 The **routes** and criteria for being detained under the Mental Health Act
- 5.5 How the key principles of current mental health legislation impact upon the Independent Mental Health Advocacy role
- 5.6 When there is a duty to inform an individual to their right for support from an Independent Mental Health Advocate
- 5.7 Where there is a duty to consider a referral to Independent Mental Health Advocate for non-instructed advocacy
- 5.8 **Powers** within current mental health legislation and who may exercise these
- 5.9 A range of **safeguards** within the current mental health legislation.
- 5.10 Case law brought under the Mental Health Act which can be used to promote an individual's human rights

Range

Routes: for individual patients who are admitted to hospital by force under civil and forensic sections, made subject to guardianship, made subject to the Supervised Community Treatment Order

Powers: detaining powers, treatment powers, holding powers, police powers

Safeguards: First Tier Tribunal, Hospital Managers' Hearing, Nearest Relative, Independent Mental Health Advocate, right to request a Second Opinion Appointed Doctor, right to complain

Learning outcome:

6. Understand legislation that relates to children and young people

You understand:

- 6.1 The main **provisions** of the Children Act 1989 and 2004 that apply in Wales
 - 6.2 The main **provisions** of the Children and Family Act 2014 that apply in Wales
 - 6.3 Part 6 of the Social Services and Well-Being (Wales) Act 2014 and associated statutory guidance
 - 6.4 The Rights of Children and Young Persons (Wales) Measure 2011
 - 6.5 The United Nations Convention on the Rights of the Child
 - 6.6 When a child or young person has a right to access an independent advocate
 - 6.7 Case law brought under children's legislation which can be used to promote a child or young person's human rights
 - 6.8 Other legislation, national policy and guidance that promotes the rights of children and young people
-

Range

Provisions: To include protections - rights to complain, be visited by professionals, participation rights

Learning outcome:

7. Understand the Social Services and Well-being (Wales) Act 2014

You understand:

- 7.1 The aim, purpose and principles of the Social Services and Well-Being (Wales) Act
 - 7.2 Part 10 of the Social Services and Well-Being (Wales) Act and associated Code of Practice in the context of independent advocacy, complaints and representation
 - 7.3 Part 2 of the Social Services and Well-Being (Wales) Act and associated Code of Practice in the context of independent advocacy
 - 7.4 The definition of well-being and the role of preventative services
 - 7.5 The definition and role of Information, Advice and Assistance
 - 7.6 The National Outcome Statements and how these relate to the principles of the Act
 - 7.7 The assessment process - including eligible and ineligible needs
 - 7.8 Direct payments, how these are defined and how they can be used
 - 7.9 The care and/or support planning process and the review process
 - 7.10 The different forms of advocacy defined in the Act and the Code of Practice
 - 7.11 When independent professional advocacy is triggered under the Act
 - 7.12 Safeguarding, including the Part 7 Code of Practice, duties and how they relate to independent advocacy for both adults and children
-

Learning outcome:

8. Understand the Regulation and Inspection of Social Care (Wales) Act 2016

You understand:

- 8.1 The aim and purpose of the Regulation and Inspection of Social Care (Wales) Act
 - 8.2 How the Regulation and Inspection of Social Care (Wales) Act applies to independent advocacy services
 - 8.3 The Regulated Advocacy Services (Service Providers and Responsible Individuals) (Wales) Regulations
-

Learning outcome:

9. Understand legislation related to Welsh language

You understand:

- 9.1 Legislation related to Welsh Language and how this relates to the provision of advocacy
- 9.2 The key principles and provisions of the Welsh Language Act (1993) and Welsh Language Wales Measure (2011)
- 9.3 Requirements set by Welsh Language legislation for **public bodies**
- 9.4 How to raise concerns around the application of Welsh Language legislation

Range

Public bodies: including independent advocacy services

Supporting Information

Guidance for delivery

Case law brought under children's legislation which can be used to promote a child or young person's human rights: this needs to focus on case law that has had an impact on the rights of children and young people e.g. Gillick and Fraiser

Direct payments:

The Act sees direct payments as enhancing an individual's ability to have real choice and control as to how to meet their personal outcomes: it encourages their use. Where eligible care and support needs, or support needs in the case of a carer, have been identified and that individual, or their representative, expresses a wish to receive one, direct payments must be made available in all cases where they enable personal outcomes to be achieved.

Direct payments are designed to be used flexibly and innovatively, and there should be no unreasonable restriction placed on their use as long as it is being used to meet an eligible need for care and support. The Act removes some current exclusions of certain classes of payments (with appropriate safeguards).

A key change is that direct payments are able to be provided for any identified need for support a local authority is to meet including, unlike previously, in long term residential settings.

An adult, child / their family or carer will be able to use their direct payments to purchase their care and support directly from their local authority if they wish (previously prohibited).

The previous direct payment regulations allowed the employment of close relatives living in the same household so long as the local authority agreed that this was necessary for the individual's requirements. This is now viewed and expressed more positively so long as the local authority has no doubts as to the individual's wish for such an arrangement and are assured that the individual's personal outcomes will be met by this arrangement.

Many people use the direct payment to become an employer e.g. by employing a personal assistant (PA). If so, the local authority should give people clear advice as to their responsibilities when managing direct payments.

In general, people should be given assistance to maintain their ability to receive a direct payment where they are unable or unwilling to manage one.

Eligibility for care and support:

The individual has an eligible need for care and support if an assessment establishes that they can only overcome barriers to achieving their personal outcomes by the local authority working

with them in jointly preparing a care and support plan, or support plan for a carer, and ensuring that the plan is delivered.

If the provision of care and support cannot help the person achieve their personal outcomes the question of eligibility does not arise. It is not the purpose of the eligibility criteria to draw local authority care and support services into challenges they cannot address (such as provision of health care, employment, or education).

If the individual's personal outcomes cannot be met, or cannot be sufficiently met, solely through care and support co-ordinated by themselves, their family or carers, the individual has an eligible need.

The eligibility decision flows naturally from the assessment process. All five elements must be taken into account in the assessment, and from this a judgement reached about whether the person has eligible needs. There are no longer any thresholds in relation to eligibility. Determining eligibility is not about giving a right to any one service; it is about access to care and support to meet personal outcomes.

Note that the National Minimum Core Data Set (NMDS) must be completed as part of the initial assessment.

The regulations specifically identify needs which meet the eligibility criteria for children. Identifying whether there would be an adverse effect on the development of the child if the need goes unmet is crucial. Assessing children's needs must be about ensuring their best interests are met and their welfare safeguarded.

A key part of assessment must be to establish whether there is reasonable cause to suspect that an adult or child is experiencing or at risk of abuse, neglect or other harm.

Key elements of an assessment of need:

The Act required local authorities to make significant changes in how they respond to individuals with needs for care and support and in the services that they commission. The implementation of the Act required a change to assessment practice, with a move away from 'identifying what services an individual needs' to an emphasis on what care and support the individual requires to achieve the personal outcomes 'that matter to them' – outcomes identified through a respectful conversation about how the individual and / or their family wants to exercise control over decisions about their care and support.

The process of assessment should be based on the principles of co-production so that practitioners and individuals share the power to plan together. This might mean a shift in relationship between professionals and people who use services. For professionals it will be important not to be too risk averse, and to enable and empower individuals.

Developing a strengths-based approach is seen as a key aspect of working collaboratively between the individual supported and the professional(s) supporting them, working together to determine outcomes that draw on the individual's strengths and assets.

The primary focus is not on problems or deficits, but building on people's resources and assets, including people's strengths, abilities and families or communities. Practitioners may like to use the following list to consider their own practice:

- Outcome-orientated: the central element of a strengths-based approach is the extent to which people themselves identify the outcomes they would like to achieve in their lives (for those with parental responsibility for under 16s, the outcomes they would like for their child) and practitioners then work with them to achieve desired outcomes.
- Ability to understand and develop community responses to the need for care and support of individuals, rather than assessment for services.
- Reduce reliance on formalised prescriptive approaches and further emphasise the use of professional judgement. Professionals should move towards empowerment while keeping the individual's welfare and / or well-being in mind at all times.
- Undertake assessments proportionate to the severity of the need for care and support and the complexity of the situation.

National assessment and eligibility tool

Assessments must, as a minimum, record information in line with the national assessment and eligibility tool, which comprises the national minimum core data set and an analysis structured around the 5 elements of assessment:

- assess and have regard to the person's circumstances;
- have regard to their personal outcomes;
- assess and have regard to any barriers to achieving those outcomes;
- assess and have regard to any risks to the person if the outcomes are not achieved; and
- assess and have regard to the person's strengths and capabilities.

The process of assessment requires that practitioners must have discussions with people to identify what matters to them and the personal outcomes they wish to achieve (and in the case of children, the outcomes which any person(s) with parental responsibility wishes to achieve for the child), and what contribution the individual and their family or the wider community can make to achieving those outcomes.

Effective assessments should be valuable experiences in themselves. They should build a better understanding of someone's situation, identify the most appropriate approach, and establish a plan for how they will achieve their personal outcomes.

How human rights law has been incorporated into other legislation, national policy and guidance: for example; The Social Services and Well-Being (Wales) Act 2014, The Children's Rights Measure 2011, the Independent Living Framework

Key principles of the Welsh Language Act 1993: this relates to the desirable outcomes of the Welsh Language Act 1993

Legislation related to Welsh Language: to include Welsh Language (Wales) Measure 2011

Legislative requirements for safeguarding:

- Wales Interim Policy and Procedures for the Protection of Vulnerable Adults from Abuse 2010
- United Nations Convention on the Rights of the Child 1989
- Children Act (1989 and 2004)
- All-Wales Child Protection Policy and Procedures 2008
- Working Together under the Children Act 2004
- Data Protection Act 1998

- General Data Protection Regulation (GDPR) 2018
- Human Rights Act 1998
- Mental Health Act (1983) amended 2007
- Mental Health Act Code of Practice for Wales (2016)
- Mental Health (Wales) Measure (2010)
- Mental Capacity Act 2005 and associated Code of Practice
- Liberty Protection Safeguards (LiPS)
- Equality Act 2010
- Safeguarding of Vulnerable Groups Act 2006
- Social Services and Well-being (Wales) Act 2014
- Violence against Women, Domestic Abuse and Sexual Violence (Wales) 2015 Act
- Protection of Freedoms Act 2012
<https://www.gov.uk/government/publications/protection-of-freedoms-bill>
- Wales Safeguarding Procedures 2019
http://www.myguideapps.com/projects/wales_safeguarding_procedures/default/index.html

Mental Capacity Act: The Act has 5 guiding principles:

Principle 1: A presumption of capacity – a person has a right to make their own decisions and must be assumed to have capacity to do so unless it is proved otherwise. This means that you cannot assume that a person cannot make a decision for themselves just because they have a particular medical condition or disability, e.g. dementia.

Principle 2: People must be supported to make their own decisions – a person must be given all practicable help before anyone treats them as not being able to make their own decisions. This means you should make every effort to encourage and support people to make the decision for themselves. If lack of capacity is established, it is still important that you involve the person as far as possible in making decisions.

Principle 3: Unwise decisions – people have the right to make decisions that others might regard as unwise or eccentric. You cannot treat a person as lacking capacity for this reason. Everyone has their own values, beliefs and preferences which may not be the same as those of other people.

Principle 4: Best interests – anything done for or on behalf of a person who lacks mental capacity must be done in their best interests – and not in order to protect the agency or the interests of others at the expense of the person.

Principle 5: Less restrictive option – someone making a decision or acting on behalf of a person who lacks capacity must consider whether it is possible to decide or act in a way that would interfere less with the person's rights and freedoms of action, or whether there is a need to decide or act at all. Any intervention should be weighed up in the particular circumstances of the case.

<https://www.legislation.gov.uk/ukpga/2005/9/contents>

If an individual has been assessed as lacking capacity to make decisions in relation to a specific area then any decisions made on their behalf must be made in their best interests:

<https://www.mind.org.uk/information-support/legal-rights/mental-capacity-act-2005/overview/#.XOODdsHQZPw>

In certain circumstances an individual may need to be deprived of their liberty so that they can remain safe and be given the care and treatment they need:

<https://1f2ca7mxjow42e65q49871m1-wpengine.netdna-ssl.com/wp-content/uploads/2019/04/Mental-Capacity-Guidance-Note-Best-Interests-April-2019.pdf>

Mental Health Act: The guiding principles that should always be considered when making decisions under the Mental Health Act are laid out in the Code of Practice for Wales:

- Dignity and respect
- Least restrictive option and maximising independence
- Fairness, equality and equity
- Empowerment and involvement
- Keeping people safe
- Effectiveness and efficiency

Mental Health Measure: The guiding principles which underpin the Mental Health (Wales) Measure 2011 are set out in the Code of Practice for Parts 2 and 3:

[http://www.assembly.wales/Laid%20Documents/GEN-LD8880%20-%20Code%20of%20Practice%20to%20Parts%202%20and%203%20of%20the%20Mental%20Health%20\(Wales\)%20Measure%202010-23042012-232786/gen-ld8880-e-English.pdf](http://www.assembly.wales/Laid%20Documents/GEN-LD8880%20-%20Code%20of%20Practice%20to%20Parts%202%20and%203%20of%20the%20Mental%20Health%20(Wales)%20Measure%202010-23042012-232786/gen-ld8880-e-English.pdf)

The Measure is made up of 6 parts but there are 4 main parts which relate to the direct provision of services for individuals:

<http://www.mentalhealthwales.net/mental-health-measure/>

Mental Health Review Tribunal: The Code of Practice (for Wales, 2016) for the Mental Health Act explains the role of the Mental Health Review Tribunal for Wales who provide a significant safeguard to people under restriction of the Mental Health Act.

<https://gweddiill.gov.wales/docs/dhss/publications/160920mentalacten.pdf>

Other legislation and national policy and guidance that promotes the rights of children and young people: e.g. Additional Learning and Education Tribunal (Wales) Act, youth offending, age assessment, exclusion from education, bullying, working with asylum children, reducing restrictive practices, children in the secure estate

Part 6 of the Social Services and Well-Being (Wales) Act 2014 and associated statutory guidance: care planning and review, contact, placement, visits and rights to an Independent visitor, leaving care, making a compliant, participation rights

Regulatory bodies Social Care Wales, Care Inspectorate Wales, Healthcare Inspectorate Wales, Health Professionals Council, General Medical Council, Welsh Audit Office

UN Conventions and Human Rights Instruments: UN Convention on the Rights of Persons with Disabilities (UNCRPD), UN Principles for Older People, UN Convention on the Elimination of all forms Discrimination Against Women (CEDAW), UN Convention on the Rights of the Child (UNCRC)

Related NOS

- SDCHSC 0410 Advocate with and on behalf of individuals
- SCDHSC 0046 Advocate with and on behalf of children and young people

Related legislation and guidance

- Universal Declaration on Human Rights (this led to the European convention, which in turn led to the HRA)
- UN Convention on the Rights of Persons with Disabilities (UNCRPD)
- UN Principles for Older People
- UN Convention on the Elimination of all forms Discrimination Against Women (CEDAW)
- UN Convention on the Rights of the Child (UNCRC)
- International Covenant on Civil and Political Rights (binding on signatories)
- International Covenant on Economic, Social, and Cultural Rights (binding on signatories)
- Convention on the Elimination of all forms of Racial Discrimination
- Advocacy charter
- National standards and outcomes framework for children and young people
- Regulation and Inspection of Social Care (Wales) Act 2016 and associated regulations and statutory guidance
- Social Services and Well-Being (Wales) Act 2014 and associated statutory guidance and Codes of Practice
- Mental Health Act (1983) amended 2007
<https://www.legislation.gov.uk/ukpga/1983/20/contents>
- Mental Health Act Code of Practice for Wales (2016)
<https://gwedhill.gov.wales/topics/health/nhswales/mental-health-services/law/code-of-practice/?lang=en>
- Mental Health (Wales) Measure 2010
<https://www.legislation.gov.uk/mwa/2010/7/contents>
- Liberty Protection Safeguards (LiPS)
- Children Act 1989 and 2004
- Additional Learning Needs and Education Tribunal (Wales) Act 2018
- The Right Way: A children's Rights Approach (Children's Commissioner for Wales 2017)
- Human Rights Act (1998) <https://www.legislation.gov.uk/ukpga/1998/42/contents>
- United Nations Convention on the Rights of the Child 1989
- United Nations Principles for Older Persons 1991
- United Nations Convention on the Rights of Persons with Disabilities 2006
- Additional Learning Needs and Education Tribunal (Wales) 2018
<http://www.legislation.gov.uk/anaw/2018/2/contents/enacted>
- Ask and Act: Domestic Abuse, Sexual Violence and Violence against Women
<https://livefearfree.gov.wales/policies-and-guidance/ask-and-act?lang=en>
- Crisis Care Concordat: Improving care and support for people detained under s.135/136 Mental Health Act
<https://gwedhill.gov.wales/docs/dhss/publications/161109concordaten.pdf>
- Equality Act (2010)
<http://www.legislation.gov.uk/ukpga/2010/15/contents>
Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011
www.legislation.gov.uk/wsi/2011/1064/pdfs/wsi_20111064_mi.pdf

- General Data Protection Regulation
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/711097/guide-to-the-general-data-protection-regulation-gdpr-1-0.pdf
- Welsh Language Act (1993)
<https://www.legislation.gov.uk/ukpga/1993/38/contents>
- Welsh Language (Wales) Measure 2011
<http://www.legislation.gov.uk/mwa/2011/1/contents/enacted>
 - Wales Safeguarding Procedures 2019
http://www.myguideapps.com/projects/wales_safeguarding_procedures/default/index.html

Resources

- Social Care Wales website <https://socialcare.wales/hub/hub-resource-sub-categories/advocacy>
- <https://socialcare.wales/hub/hub-resource-sub-categories/looked-after-children>
- Advocacy Support Cymru <https://www.ascymru.org.uk/>
- Advocacy Matters Wales <http://www.advocacymatterswales.co.uk/>
- National Youth Advocacy Services <https://www.nyas.net/services/our-services-in-wales/>
- TGPCymru.org.uk
- Mind <https://www.mind.org.uk/information-support/guides-to-support-and-services/advocacy/types-of-advocacy/#.W1WkINJKiUk>
- Mental Health in Wales Fundamental Facts 2016
<https://www.mentalhealth.org.uk/sites/default/files/FF16%20Wales.pdf>

Safeguarding:

- Office of the Public Guardian – safeguarding
<https://www.gov.uk/government/publications/safeguarding-strategy-2019-to-2025-office-of-the-public-guardian>
- Charitable organisation safeguarding
<https://www.gov.uk/government/publications/strategy-for-dealing-with-safeguarding-issues-in-charities>
<https://www.gov.uk/guidance/charities-how-to-protect-vulnerable-groups-including-children>
- DBS checks <https://www.gov.uk/government/organisations/disclosure-and-barring-service>
- Eligibility <https://www.gov.uk/government/collections/dbs-eligibility-guidance>
- DBS referrals <https://www.gov.uk/guidance/making-barring-referrals-to-the-dbs>
- SSWBA part 7 safeguarding <https://socialcare.wales/hub/statutory-guidance>
- Live Fear Free <https://livefearfree.gov.wales/?lang=en> /
<https://livefearfree.gov.wales/?skip=1&lang=cy>
- Modern Slavery <https://www.north-wales.police.uk/advice-and-support/stay-safe/modern-slavery>
- National Independent Safeguarding Board - practice reviews
<http://safeguardingboard.wales/practice-reviews/>

- North Wales RSB (good example of RSB website)
<https://www.northwalessafeguardingboard.wales/>
- All Wales Basic Awareness Safeguarding Pack <https://socialcare.wales/learning-and-development/safeguarding>
- Prevent (Safeguarding people and communities from the threat of terrorism)
<https://www.ltai.info/what-is-prevent/>

Welsh language:

<http://www.comisiynyddygybraeg.cymru/English/Organisations/Pages/What-are-standards.aspx>

Case law: <https://rightsinfo.org/infographics/fifty-human-rights-cases/>

Unit 430

Independent advocacy with adults

Level:	4
GLH:	10
Credit:	11
Unit Summary:	<p>This unit aims to support learners to develop the knowledge understanding and skills of those workers who are responsible for providing independent advocacy with adults.</p> <p>In the context of this unit, the term 'independent advocacy' can relate to either Independent Professional Advocacy or non-statutory independent advocacy</p> <p>Independent Professional Advocacy provided under the Social Services and Well-being (Wales) Act 2014 with adults is statutory advocacy.</p>

Learning outcome:

1. Use legislation related to independent advocacy to inform practice

Assessment criteria

You understand:

- 1.1 The specific role and responsibilities of an Independent Professional Advocate under the Social Services and Well-being (Wales) Act 2014
- 1.2 The qualifying criteria for statutory advocacy support
- 1.3 The requirements on local authorities to ensure that individuals and carers are able to access independent advocacy
- 1.4 The care and support assessment and review processes and how these relate to the role of independent advocates
- 1.5 Financial and charging regulations and how decisions associated to charging for care and support relate to the role of independent advocates
- 1.6 Safeguarding processes and the role of independent advocates within these

You are able to work in ways that:

- 1.7 Use the Part 10 of the Code of Practice (advocacy) to guide practice
- 1.8 Establish when individuals and/or carers have a right to statutory advocacy

Learning outcome:

2. Support individuals and/or carers who are referred for independent advocacy

Assessment criteria

You understand:

- 2.1 How to identify and provide the most appropriate type of independent advocacy support for individuals and/or carers

You are able to work in ways that:

- 2.2 Support individuals and/or carers to understand their rights and the processes that should be followed for decisions and/or care and support options
- 2.3 Support individuals and/or carers to explore their wishes and preferences
- 2.4 Support individuals and/or carers to explore the potential impact (positive and negative) of decisions and/or care and support options
- 2.5 Use strategies to support individuals and/or carers to engage with **others** who are involved in decisions about their lives
- 2.6 Promote the wishes and preferences of the individual and/or carer during the decision-making process
- 2.7 Support the individual and/or carer to raise concerns where they do not feel that their views, wishes and preferences have been taken account of in the decision-making process

Range:

Others: professionals, family members

Learning outcome:

3. Support individuals and/or carers to present their views, wishes and preferences at decision making meetings

Assessment criteria

You are able to work in ways that:

- 3.1 Support individuals and/or carers to:
 - understand the process and the roles and responsibilities of those involved in meetings
 - identify the outcomes they want from the meeting
 - identify information that will help them to present their views, wishes and preferences
 - identify any specialist expertise or equipment needed to present their wishes and preferences
 - 3.2 Agree with individuals and/or carers own role and responsibilities in supporting them to plan, prepare for and present their views, wishes and preferences
 - 3.3 Carry out agreed role in supporting individuals and/or carers to plan, prepare for and present their views, wishes and preferences
 - 3.4 Support individuals and/or carers to review decisions and outcomes from the decision-making process
 - 3.5 Agree actions where the outcomes do not meet the views, wishes and preferences of individuals
 - 3.6 Work with individuals and/or carers to review their experience of representing themselves at meetings
-

Learning outcome

4. Present individual's and/or carer's views, wishes and preferences at meetings where they are not able to do so themselves

Assessment criteria

You are able to work in ways that:

- 4.1 Support individuals and/or carers to:
- understand the process and the roles and responsibilities of those involved in meetings
 - identify the outcomes they want from the meeting
 - identify the views, wishes and preferences they want you to present and how they would like you to represent these
- 4.2 Access information about the meeting at which you will be presenting the views, wishes and preferences of individuals and/or carers
- 4.3 Prepare a case that represents the views, wishes and preferences of individuals and/or carers
- 4.4 Support individuals and/or carers to understand the case that has been prepared to ensure that their views, wishes and preferences have been clearly represented
- 4.5 Carry out agreed role in representing the views, wishes and preferences of individuals and/or carers
- 4.6 **Provide information** about, and support individuals and/or carers to understand the outcomes from the meeting
- 4.7 Support individuals and/or carers to review decisions and outcomes from the decision-making process
- 4.8 Agree actions where the outcomes do not meet the views, wishes and preferences of individuals

Range:

Provide information: in preferred language and format

Learning outcome

5. Support individuals and/or carers to use informal and/or formal processes to challenge decisions

Assessment criteria

You understand:

- 5.1 Informal and formal processes that can be used to challenge decisions

You are able to work in ways that:

- 5.2 Support individuals and/or carers to explore the advantages and disadvantages of using informal and formal processes to challenge decisions
- 5.3 Support individuals and/or carers to use informal and/or formal processes to challenge decisions
- 5.4 Review outcome of course of action taken and if issue remains unresolved explore and agree any possible further action that can be taken

Unit 430 Independent advocacy with adults

Supporting Information

Guidance for delivery

Formal processes: complaints processes, legal redress through tribunals/hearings and court processes, Older People's Commissioner for Wales, Public Services Ombudsman Wales, Service regulators (Care Inspectorate Wales, Health Inspectorate Wales)

Informal processes: e.g. conversation/discussion, informal representation, supporting individuals and/or carers to write a letter or email

Meetings: may be informal or formal events where decisions are likely to be made about the individual/carer and their situation, they may include safeguarding meetings, appeal panels, court proceedings, care and support assessments and reviews, medical appointments, PIP reviews, family group meetings, hospital discharge meetings, housing support

Safeguarding processes and the role of independent advocates within these: would include both advocating for individuals and advocating for parents where their child is part of safeguarding processes

Related legislation and guidance

- Advocacy charter
- Regulation and Inspection of Social Care (Wales) Act 2016 and associated regulations and statutory guidance
- Social Services and Well-Being (Wales) Act 2014
- The Human Rights Act 1998
- United Nations Principles for Older Persons 1991
- United Nations Convention on the Rights of Persons with Disabilities 2006
- General Data Protection Regulation (GDPR) 2018
- Equality Act 2010
- Wales Safeguarding Procedures 2019
http://www.myguideapps.com/projects/wales_safeguarding_procedures/default/index.html

Resources

- Social Care Wales website <https://socialcare.wales/hub/hub-resource-sub-categories/advocacy>
- Advocacy Support Cymru <https://www.ascymru.org.uk/>
- Advocacy Matters Wales <http://www.advocacymatterswales.co.uk/>

Unit 431

Independent advocacy with children and young people

Level:	4
GLH:	20
Credit:	13
Unit Summary:	<p>This unit aims to support learners to develop the knowledge understanding and skills of those workers who are responsible for providing independent advocacy with children and young people.</p> <p>In the context of this unit, the term 'independent advocacy' can relate to either Independent Professional Advocacy or non-statutory independent advocacy</p> <p>Independent Professional Advocacy provided under the Social Services and Well-being (Wales) Act 2014 and the National Approach to Statutory Advocacy with children and young people is statutory advocacy.</p>

Learning outcome:

1. Use legislation related to independent advocacy to inform practice

Assessment criteria

You understand:

- 1.1 The specific role and responsibilities of a children's Independent Professional Advocate under:
 - The Social Services and Well-being (Wales) Act 2014
 - The National Approach to Statutory Advocacy
 - National Standards and Outcomes framework for Children and Young People in Wales
 - Additional Learning Needs and Education Tribunal (Wales) Act 2018
- 1.2 The qualifying criteria for statutory advocacy support
- 1.3 The requirements of local authorities to ensure that children and young people have access to advocacy services under the Social Services and Well-being (Wales) Act 2014
- 1.4 The meaning of the 'active offer' of independent professional advocacy as it applies to specified groups of children and young people in Wales
- 1.5 The care and support assessment and review processes and how these relate to the role of independent advocates
- 1.6 Safeguarding processes and the role of independent advocates within these
- 1.7 Processes related to Additional Learning Needs (ALN) and the role of advocates within these

You are able to work in ways that:

- 1.8 Use the National Standards and Outcomes Framework for Children and Young People in Wales
 - 1.9 Use Part 10 of the Code of Practice (advocacy) to guide practice
 - 1.10 Establish when children and young people have a right to:
 - an active offer of advocacy
 - issue based statutory advocacy.
 - 1.11 Support children and young people to understand and realise their rights and the processes that should be followed for decision making
-

Learning outcome:

2. Provide information about independent advocacy support for children and young people

Assessment criteria

You understand:

- 2.1 How to identify the most appropriate type of independent advocacy support and explain the service to children and young people in an accessible way

You are able to work in ways that:

- 2.2 Identify and **provide information** about the **types of independent advocacy** support that may be appropriate for children and young people, their circumstances and the specific situation for which advocacy is required
- 2.3 Support children and young people to understand the nature and parameters of the advocacy relationship
- 2.4 Support children and young people to identify the type of independent advocacy they wish to use
- 2.5 Support children and young people to understand the **role and responsibilities of independent advocacy**

Range:

Provide information: in preferred language and format

Types of independent advocacy: Independent Professional Advocacy, formal, informal, issue based, non-instructed, peer advocacy

Role and responsibilities of independent advocacy: representing the views, wishes and feelings of children and young people v their “best interests”, confidentiality and its limitations, young person led practice, providing information on rights to complain about the service, distinguishing from other professional roles

Learning outcome

3. Provide advocacy support and representation to children and young people who are referred for independent advocacy

Assessment criteria

You are able to work in ways that:

- 3.1 Support children and young people to understand their rights and the processes that should be followed for decisions and/or care and support options
 - 3.2 Support children and young people to explore their views, wishes and feelings
-

- 3.3 Support children and young people to explore the potential impact (positive and negative) of decisions and/or care and support options and help them to make informed choices
 - 3.4 Use a range of methods and tools to support children and young people to engage with others who are involved in decisions about their lives
 - 3.5 Promote the views, wishes and feelings and rights of children and young people during the decision-making process
 - 3.6 Promote respect for, and practice that meets the specific needs of children and young people
 - 3.7 Support children and young people to raise concerns and challenge where they do not feel that their wishes and preferences have been taken account of in the decision-making process
-

Learning outcome

4. Support children and young people to present their views, wishes and preferences at decision making meetings

Assessment criteria

You are able to work in ways that:

- 4.1 Support children and young people and/or carers to:
 - understand the process and the roles and responsibilities of those involved in decision making meetings
 - identify the outcomes they want from the meeting
 - identify and access information that will help them to present their views, wishes and feelings.
 - identify any specialist expertise or equipment needed to present their views, wishes and feelings
 - 4.2 Agree with children and young people own role and responsibilities in supporting them to plan, prepare for and present their views, wishes and feelings
 - 4.3 Carry out agreed role in supporting children and young people to plan, prepare for and present their views, wishes and feelings
 - 4.4 Support children and young people to constructively challenge within decision making forums and deal with any conflict appropriately
 - 4.5 Support children and young people to review any decisions and outcomes resulting from the decision-making process
 - 4.6 Provide and discuss options and agree actions where the outcomes do not meet the views, wishes and preferences of the child or young person
 - 4.7 Work with the child or young person to review their experience of representing themselves at decision-making events and where agreed, feed this back to decision makers
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Learning outcome

5. Present children and young people's views, wishes and feelings at decision-making meetings where they are not able or do not wish to do so themselves
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Assessment criteria

You are able to work in ways that:

5.1 Support children and young people to:

- understand the process and the roles and responsibilities of those involved in decision-making meetings
- identify the outcomes they want.
- identify the wishes and preferences they want you to present and how they would like you to represent these

5.2 Access information about or any information prepared for the decision-making forum at which you will be presenting the views, wishes and feelings of children and young people

5.3 Prepare a case that represents the views, wishes and preferences and involve the child or young person within this process

5.4 Support children and young people to understand the case that has been prepared to ensure that their wishes and preferences have been clearly represented

5.5 Carry out agreed role in representing the views, wishes and feelings of children and young people

5.6 **Provide information** about, and support children and young people to understand the outcomes from the decision-making meeting

5.7 Support children and young people to review decisions and outcomes from the decision-making process

5.8 Present options and discuss and agree actions where the outcomes do not meet the wishes and preferences of children and young people

Range:

Provide information: in preferred language and format

Learning outcome

6. Support children and young people to use informal and/or formal processes to challenge decisions

You understand:

6.1 Informal and formal processes that can be used to challenge decisions

You are able to work in ways that:

6.2 Support children and young people to explore the advantages and disadvantages of using informal and/or formal processes to challenge decisions

6.3 Support children and young people to use informal and/or formal processes to challenge decisions

6.4 Review outcome of course of action taken and if issue remains unresolved explore and agree any possible further action that can be taken

Unit 431 Independent advocacy with children and young people

Supporting Information

Guidance for delivery

Decision making meetings : may be informal or formal events where decisions are likely to be made about the child or young person and their situation, they may include child protection meetings, school/education meetings, looked after review meetings, care and support meetings, medical appointments, secure criteria reviews, YOS (Youth Offending Service) meetings, informal meetings with families/carers, age assessment meetings for unaccompanied asylum seeking children or young people .

Formal processes: complaints processes, legal redress through tribunals/hearings and court processes, Children's Commissioner for Wales, Public Services Ombudsman Wales, Service regulators (Estyn, Care Inspectorate Wales, Health Inspectorate Wales)

Related legislation and guidance

- Advocacy charter
- National standards and outcomes framework for children and young people
- Regulation and Inspection of Social Care (Wales) Act 2016 and associated regulations and statutory guidance
- Social Services and Well-Being (Wales) Act 2014
- Children Act 1989 and 2004
- Additional Learning Needs and Education Tribunal (Wales) Act 2018
- The Right Way: A children's Rights Approach (Children's Commissioner for Wales 2017)
- The Human Rights Act 1998
- United Nations Convention on the Rights of the Child 1989
- General Data Protection Regulation (GDPR) 2018
- Wales Safeguarding Procedures 2019
http://www.myguideapps.com/projects/wales_safeguarding_procedures/default/index.html

Resources

- Social Care wales website <https://socialcare.wales/hub/hub-resource-sub-categories/advocacy>
- Social Services and Well-being (Wales) Act 2014 - Information and Learning Hub <http://www.ccwales.org.uk/the-act/Advocacy>
- Advocacy Support Cymru <https://www.ascymru.org.uk/>
- Advocacy Matters Wales <http://www.advocacymatterswales.co.uk/>
- National Youth Advocacy Services <https://www.nyas.net/services/our-services-in-wales/>
- TGPCymru.org.uk
- Mind <https://www.mind.org.uk/information-support/guides-to-support-and-services/advocacy/types-of-advocacy/#.W1WkINJKiUk>

Unit 432

Independent mental health advocacy

Level:	4
GLH:	35
Credit:	13
Unit Summary:	This unit aims to support learners to develop the knowledge understanding and skills of those workers who are responsible for providing independent mental health advocacy.

Learning outcome:

1. Use Codes of Practice and legislation related to mental health to inform practice

Assessment criteria

You understand:

- 1.1 The **specific role and responsibilities** of an Independent Mental Health Advocate (IMHA) as outlined within the Mental Health Act Code of Practice
- 1.2 The relevant legislation, Codes of Practice and associated guidance and how these relate to the role of the Independent Mental Health Advocate
- 1.3 The rights that Independent Mental Health Advocates have under legislation on behalf of the individuals they are supporting
- 1.4 The qualifying criteria for support from an Independent Mental Health Advocate and who is responsible for providing information about these

You are able to work in ways that:

- 1.5 Use relevant legislation, Codes of Practice and associated guidance to inform Independent Mental Health Advocacy practice
- 1.6 Produce reports in line with organisational requirements
- 1.7 Establish when individuals have a right to support from an Independent Mental Health Advocate
- 1.8 Ensure individuals are informed of their **human rights** under the Mental Health Act

Range:

Specific role and responsibilities: set out under the Mental Health (Wales) Measure 2010 and The Mental Health Act Code of Practice for Wales 2016, Delivering the Independent Mental Health Advocacy Service in Wales: Guidance for Independent Mental Health Advocacy Providers and Local Health Board Advocacy Service Planners December 2011

Human rights: would include Section 132 of the Mental Health Act

Learning outcome:

2. Provide support to individuals using non-instructed advocacy

Assessment criteria

You understand:

- 2.1 The role of the Independent Mental Health Advocate where individuals are not able to instruct them
- 2.2 How to establish the views and wishes and preferences of individuals receiving independent mental health advocacy support

You are able to work in ways that:

- 2.3 Use agreed referral process for non-instructed advocacy
 - 2.4 Use a range of sources to identify the views, wishes and preferences of individuals receiving independent mental health advocacy support
 - 2.5 Represent individuals where they are unable to do so
 - 2.6 Use non-instructed advocacy with individuals where they are unable to instruct
-

Learning outcome

3. Support individuals who are referred for Independent Mental Health Advocacy

You understand:

- 3.1 Advocacy issues for which individuals may need the support of an Independent Mental Health Advocate
- 3.2 Powers of detention and how these can be applied
- 3.3 How to explore **the impact** related to **care and treatment options** on the individual
- 3.4 The potential impact of the **physical environment** on individuals
- 3.5 **Dilemmas** that the independent mental health advocate may face in practice

You are able to work in ways that:

- 3.6 Support individuals to understand:
 - their **rights and safeguards**
 - the powers of compulsion and how these may impact upon them
 - 3.7 Work with individuals to explore their views, wishes and preferences about their care and treatment options
 - 3.8 Use strategies to support individuals to engage with professionals involved in their care and treatment
 - 3.9 Promote the views, wishes and preferences of individuals during the decision-making process about their care and treatment
 - 3.10 Promote respect for and practice that meets the cultural needs of individuals
 - 3.11 Raise concerns where the views, wishes and preferences of individuals have not been taken account of in the decision-making process
 - 3.12 Support individuals to:
 - **Appeal** against their detention
 - Review or change their medication
 - Apply for **leave** or discharge from hospital
-

- Participate and influence discharge planning
- Access support following discharge

3.13 Attend and participate in meetings

Range

The impact: risks, benefits and ethical issues

Care and treatment options: therapies, medication, ECT

Physical environment: locked ward, general hospital environment, limited personal space, privacy

Dilemmas: information sharing, supporting individuals who may experience delusional belief, supporting individuals who are experiencing mental distress

Rights and safeguards: under the Mental Health Act 1983, Mental Health (Wales) Measure 2010

Appeal: applications to managers hearing, Ministry of justice and First Tier Tribunal

Leave: unsupervised, escorted or extended leave

Learning outcome

4. Support individuals who are referred for issues related to restrictions or deprivation of liberty

Assessment criteria

You understand:

- 4.1 The roles of the Independent Mental Capacity Advocate and the Independent Mental Health Advocate in relation to Liberty of Protection Safeguards (LiPS)
- 4.2 Routes that can be used for **challenging authorisations** and who would be responsible for undertaking these
- 4.3 Factors which may or may not make a deprivation of liberty the best interest for individuals

You are able to work in ways that:

- 4.4 Explore:
 - how restrictions or deprivation of liberty may impact on individuals
 - the views, wishes and preferences of individuals about the restrictions or deprivation of liberty and the outcomes that they want
 - the least restrictive options
- 4.5 Support individuals to access routes to appeal or challenge authorisations

Range:

Challenging authorisations: rights to request review, complaints, best interest meeting, referring to Court of Protection

Learning outcome

5. Ensure safety when providing independent mental advocacy support

Assessment criteria

You understand:

- 5.1 Potential **risks to safety** when working in mental health settings
- 5.2 Strategies that should be used to minimise risk

You are able to work in ways that:

- 5.3 Access information from the service setting about potential risks and strategies to ensure safety
- 5.4 Implement strategies to minimise risk and keep people safe

Range:

Risks to safety: to the individual, self and others

Unit 432 Independent mental health advocacy

Supporting Information

Guidance for delivery

Non-instructed advocacy: may be needed when matters of communication and capacity mean that instruction and the expression of choices and concerns are not forthcoming. It has been described as:

Taking affirmative action with or on behalf of a person who is unable to give a clear indication of their views and wishes in a specific situation. The non-instructed advocate seeks to uphold the person's rights; ensure fair and equal treatment and access to services; and make certain that decisions are taken with due consideration for their unique preferences and perspectives (Henderson 2006)

Non-instructed advocates may adopt different approaches to representing the person based on human rights, being person-centred, maintaining oversight or acting as a witness and observer.

Range of sources could include: communication with the individual, case notes, advance directives, past expressed wishes, communication with those involved in the person's care and support

Related legislation and guidance

- Advocacy charter
- Social Services and Well-Being (Wales) Act 2014
- Mental Health Act (1983) amended 2007
<https://www.legislation.gov.uk/ukpga/1983/20/contents>
- Mental Health Act Code of Practice for Wales (2016)
<https://gweddi.gov.wales/topics/health/nhswales/mental-health-services/law/code-of-practice/?lang=en>
- Mental Health (Wales) Measure 2010
<https://www.legislation.gov.uk/mwa/2010/7/contents>
- Liberty Protection Safeguards (LIPS)
- The Human Rights Act 1998
- United Nations Principles for Older Persons 1991
- United Nations Convention on the Rights of Persons with Disabilities 2006
- General Data Protection Regulation (GDPR) 2018
- Equality Act 2010
- Wales Safeguarding Procedures 2019
http://www.myguideapps.com/projects/wales_safeguarding_procedures/default/index.html

Resources

- Social Care Wales website <https://socialcare.wales/hub/hub-resource-sub-categories/advocacy>
- Advocacy Support Cymru <https://www.ascymru.org.uk/>
- Advocacy Matters Wales <http://www.advocacymatterswales.co.uk/>
- Mind <https://www.mind.org.uk/information-support/guides-to-support-and-services/advocacy/types-of-advocacy/#.W1WkINJKiUk>

Unit 433

Independent mental capacity advocacy

Level:	4
GLH:	40
Credit:	17
Unit Summary:	This unit aims to support learners to develop the knowledge understanding and skills of those workers who are responsible for providing independent mental capacity advocacy.

Learning outcome:

1. Use Codes of Practice and legislation related to mental capacity to inform practice

Assessment criteria

You understand:

- 1.1 The specific role and responsibilities of an Independent Mental Capacity Advocate (IMCA) as outlined in the Mental Capacity Act
- 1.2 The Code of Practice for Independent Mental Capacity Advocacy
- 1.3 The powers that Independent Mental Capacity Advocates have under legislation
- 1.4 **Reports** that Independent Mental Capacity Advocates are required to produce

You are able to work in ways that:

- 1.5 Uphold the principles of the Mental Capacity Act
- 1.6 Use the Mental Capacity Act Code of Practice to inform Independent Mental Capacity Advocacy practice
- 1.7 Produce Independent Mental Capacity Advocacy reports in line with statutory and organisational requirements
- 1.8 Establish when individuals have a right to support from an Independent Mental Capacity Advocate
- 1.9 Use provisions and safeguards within the Mental Capacity Act and its Code of Practice to secure rights and entitlements for the individual
- 1.10 Evaluate the correctness of the assessment of capacity
- 1.11 Follow agreed processes for re-assessment of capacity

Range:

Reports: statutory requirements and organisational requirements

Learning outcome:

2. Provide support to individuals using non-instructed advocacy

Assessment criteria

You understand:

- 2.1 The role of the Independent Mental Capacity Advocate where the individual is not able to instruct them
- 2.2 How to support others understanding of the rights of individuals to have the support of an Independent Mental Capacity Advocate and the referral process that should be followed
- 2.3 How to establish the views, wishes and preferences of individuals receiving independent mental capacity advocacy support

You are able to work in ways that:

- 2.4 Ensure that agreed referral processes are used for non-instructed advocacy
 - 2.5 Use a **range of sources** to identify the views, wishes and preferences of individuals receiving independent mental capacity advocacy support
-

Learning outcome:

3. Understand the processes for decision-making

Assessment criteria

You understand:

- 3.1 Who can act as an authorised decision maker
- 3.2 How to work effectively with decision makes
- 3.3 The statutory contribution of Independent Mental Capacity Advocates to decision making
- 3.4 The decision-making process for each of the **four decisions** that an Independent Mental Capacity Advocate may be involved in

Range

Four decisions: Absolute (change of accommodation, serious medical treatment), discretionary (reviews of care and support, safeguarding)

Learning outcome:

4. Support individuals who are referred for decisions related to long term change of accommodation

Assessment criteria

You understand:

- 4.1 Accommodation decisions that require the instruction of an Independent Mental Capacity Advocate
- 4.2 Legislative frameworks that would apply for decisions about accommodation

You are able to work in ways that:

- 4.3 Ensure that the correct process has been followed for the assessment of capacity for decisions related to change of accommodation
- 4.4 Work with individuals and/or others to explore their views, wishes and preferences about where they would like to live
- 4.5 Consider a **range of accommodation options** that may be suitable for individuals
- 4.6 Work with individuals and/or others to evaluate the suitability of accommodation options identified by the decision maker
- 4.7 Work with individuals and/or others to assess the potential impact the decision about change of accommodation may have on an individual
- 4.8 Promote the views, wishes and preferences of the individual during the decision-making process
- 4.9 Raise concerns where the views, wishes and preferences of the individual have not been taken account of in the decision-making process and/or the accommodation is not suitable

Range

Range of accommodation options: including eligibility for funding (CHS, third party top ups)

Learning outcome:

5. Support individuals who are referred for decisions related to serious medical treatment

Assessment criteria:

You understand:

- 5.1 The criteria for serious medical treatment referrals
- 5.2 How to assess **the impact** related to **the decision** on the individual, of the proposed serious medical treatment
- 5.3 The importance of seeking a second medical opinion and when this may be appropriate
- 5.4 Ethical dilemmas related to serious medical treatments
- 5.5 When decisions about serious medical treatments should be taken to the Court of Protection
- 5.6 When a Do Not Attempt Resuscitation (DNAR) can lawfully be applied

You are able to work in ways that:

- 5.7 Ensure that the correct process has been followed for the assessment of capacity for decisions related to serious medical treatment
- 5.8 Establish the views, wishes and preferences of individuals about the proposed serious medical treatment

- 5.9 Work with the individual and others to assess the impact of the decision of the proposed serious medical treatment for the individual
- 5.10 Promote the views, wishes and preferences of the individual during the decision-making process
- 5.11 Raise concerns where the views, wishes and preferences of the individual have not been taken account of in the decision-making process

Range

The impact: risks, benefits and ethical issues related to serious medical treatments

The decision: end of life, do not attempt resuscitation, loss of limb, convalescence period

Learning outcome:

- 6. Support individuals who are referred for decisions related to reviews of their care and support

Assessment criteria:

You understand:

- 6.1 When Independent Mental Capacity Advocates can be instructed for accommodation reviews

You are able to work in ways that:

- 6.2 Ensure that the correct process has been followed for the assessment of capacity for decisions related to reviews of care and support
 - 6.3 Establish the views, wishes and preferences of individuals about the care and support that they would like and the outcomes that they want
 - 6.4 Ensure that the least restrictive option has been selected for care and support
 - 6.5 Ensure that the views, wishes and preferences of the individual have been taken account of during the decision-making process
 - 6.6 Raise concerns where the views, wishes and preferences of the individual have not been taken account of in the decision-making process
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Learning outcome:

- 7. Support individuals who are referred for decisions related to safeguarding concerns

Assessment criteria:

You understand:

- 7.1 Who is authorised to instruct an Independent Mental Capacity Advocate for safeguarding
 - 7.2 The stages at which an Independent Mental Capacity Advocate may be instructed where there are safeguarding concerns
 - 7.3 Factors that would influence the decision whether an Independent Mental Capacity Advocate should be instructed where other advocacy support is available
 - 7.4 Requirements for information sharing
 - 7.5 Potential issues relating to communication with families where there are safeguarding concerns
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7.6 How to establish the outcome that the individual wants from the safeguarding process

You are able to work in ways that:

- 7.7 Ensure that the correct process has been followed for the assessment of capacity for decisions related to safeguarding
- 7.8 Establish the views, wishes and preferences of individuals about the safeguarding process and the outcomes that they want
- 7.9 Evaluate the potential impact of the protection measures on the individual
- 7.10 Ensure that any protective measures proposed are the least restrictive option
- 7.11 Promote the views, wishes and preferences of the individual during the decision-making process
- 7.12 Raise concerns where the views, wishes and preferences of the individual have not been taken account of in the decision-making process

Learning outcome:

- 8. Support individuals who are referred for issues related to restrictions or deprivation of liberty

Assessment criteria:

You understand:

- 8.1 The role of the Independent Mental Capacity Advocate in relation to Liberty of Protection Safeguards (LPS)
- 8.2 Routes that can be used for challenging authorisations
- 8.3 Requirements to visit, support and represent
- 8.4 Factors which may or may not make a deprivation of liberty in the best interests for the individual

You are able to work in ways that:

- 8.5 Explore how restrictions or deprivation of liberty may impact on the individual
- 8.6 Establish the views, wishes and preferences of individuals about the restrictions or deprivation of liberty and the outcomes that they want
- 8.7 Identify the least restrictive options
- 8.8 Support and represent individuals through the assessment process
- 8.9 Support individuals to appeal or challenge authorisations
- 8.10 Support the 'appropriate person' through the process

Unit 433 Independent mental capacity advocacy

Supporting Information

Guidance for delivery

Challenging authorisations: could include rights to request review, complaints, best interest meeting, referring to Court of Protection

Non-instructed advocacy: may be needed when matters of communication and capacity mean that instruction and the expression of choices and concerns are not forthcoming. It has been described as:

Taking affirmative action with or on behalf of a person who is unable to give a clear indication of their views and wishes in a specific situation. The non-instructed advocate seeks to uphold the person's rights; ensure fair and equal treatment and access to services; and make certain that decisions are taken with due consideration for their unique preferences and perspectives (Henderson 2006)

Non-instructed advocates may adopt different approaches to representing the person based on human rights, being person-centred, maintaining oversight or acting as a witness and observer.

Range of accommodation options could include: care and support at home, supported accommodation, adult placement/shared lives, extra care, care home settings, hospital settings, hospices

Range of sources could include: communication with the individual and appropriate others who are involved in their lives, case notes, advance directives, past expressed wishes

The Code of Practice for Independent Mental Capacity Advocacy; would include section 10 of the Code of Practice

Related legislation and guidance

- Advocacy charter
- Social Services and Well-Being (Wales) Act 2014
- Mental Capacity Act 2005
- Liberty Protection Safeguards (LiPS)
- The Human Rights Act 1998
- United Nations Principles for Older Persons 1991
- United Nations Convention on the Rights of Persons with Disabilities 2006
- General Data Protection Regulation (GDPR) 2018
- Equality Act 2010
- Wales Safeguarding Procedures 2019

http://www.myguideapps.com/projects/wales_safeguarding_procedures/default/index.html

Resources

- Social Care wales website <https://socialcare.wales/hub/hub-resource-sub-categories/advocacy>
- Advocacy Support Cymru <https://www.ascymru.org.uk/>
- Advocacy Matters Wales <http://www.advocacymatterswales.co.uk/>
- Mind <https://www.mind.org.uk/information-support/guides-to-support-and-services/advocacy/types-of-advocacy/#.W1WkINJKiUk>

Appendix 1 Relationships to other qualifications

Links to other qualifications

This qualification has connections to the following qualifications:

- Level 1/2 Introduction to Health and Social Care and Childcare
- Level 2 Health and Social Care: Core
- Level 2 Health and Social Care: Practice (Adults)
- Level 3 Health and Social Care: Practice (Children and Young People)
- Level 4 Professional Practice in Health and Social Care
- Level 4 Preparing for Leadership and Management in Health and Social Care
- Level 5 Leadership and Management in Health and Social Care