

Scottish Government Consultation on Social Security Advocacy Standards - See Me response

See Me is Scotland's national programme to end mental health stigma and discrimination. Our vision is to enable people who experience mental health problems to live fulfilled lives.

We are working to change negative behaviours towards mental health, by creating a movement for change, bringing people together all over Scotland who are all passionate about tackling stigma, to work as one. Currently we have nearly 10,000 people signed up, including supporters, volunteers and champions, who are leading the way in making real changes in communities across the country.

We want to change the culture around mental health so people feel confident enough to speak about how they are feeling and can ask for help if they need it, without the fear that they will be stigmatised and discriminated against. To do this we are targeting key settings where people face stigma and discrimination; in work, education, health and social care, and in their local communities.

Definition of Advocacy

Q1 Do you agree with this definition of advocacy?

See Me agrees with some elements of the definition of advocacy. However, we are concerned that access to advocacy is dependent on self-defining as having a disability. Evidence suggests that people with mental health conditions and learning disabilities often do not think of themselves as being disabled. For example, evidence from a DWP study in 2013 showed that only 25.9% of people who fit the DWP's definition of disability described themselves as 'disabled' with a further 11.4% describing themselves as 'sometimes disabled'.¹ From See Me's consultations we know that not everyone with a mental health problem considers themselves disabled.

This presents a significant barrier to engaging with independent advocacy and effectively prevents people from getting the support they need and the benefits to which they are entitled. The Scottish Government has set out an ambition to maximise take-up of benefits alongside a goal of ensuring that the Social Security system effectively reduces poverty in Scotland. These ambitions are also set out in Social Security Scotland's Charter. We would welcome a change in the definition in the draft standards to include the term condition.

Furthermore, See Me fully endorses SIAA's position that the terms 'independent advocacy' and 'independent advocacy workers' be consistently used rather than 'advocacy' and 'advocacy workers'. The concept of independence is extremely

¹ DWP [Ad Hoc Analysis \(table 10\)](#) 2013

important to people using independent advocacy and the use of the word 'independent' positively shapes their perceptions of and engagement with independent advocacy services.

As such, See Me also endorses SIAA's recommendation that the current opening paragraphs be amended to read: "You are entitled to the support of *an independent* advocacy worker if you have a disability or condition and, because of your disability *or condition*, you need help with the Scottish social security system".

Q2 Is anything missing from this definition and, if so, what?

See Me fully endorses SIAA's position that independent advocacy enables people to stay engaged with services that are struggling to meet their needs. We believe the definition of advocacy in the draft standards would be strengthened by the inclusion of a statement recognising this, such as, "Your advocacy worker will help you to stay engaged with Social Security Scotland, even if it is struggling to meet your needs". This would explicitly recognise and promote the valuable role that independent advocacy can play in supporting the Scottish Government to:

- maximise benefit take-up, ensuring the social security system provides financial support to all who need it
- realise its ambitions for a human-rights based approach to social security, by ensuring that the most vulnerable and marginalised do not 'fall out' of the system.

See Me is especially concerned that the definition of advocacy in the draft standards does not make reference to situations that require non-instructed advocacy. Non-instructed advocacy is a form of one-to-one advocacy which takes place when there are issues with a person's capacity. In such situations, a non-instructed advocate will aim to uphold the person's rights and ensure that decisions are taken with full consideration of their unique preferences, rights and perspectives. The standards as drafted do not address situations when a person requires independent advocacy, but does not have the ability to instruct an independent advocate. This is a serious omission that could result in marginalised and vulnerable people not being able to access independent advocacy to support their interactions with the Scottish social security system.

Principle - Independence

Q3 Do you agree with the principle of 'independence'?

See Me endorses SIAA's position that it supports the principle of independence, but like SIAA does not agree with the definition of independence contained in the draft standards.

“Our position on this is unequivocal – the delivery of other services increases the likelihood of conflicts of interest thus compromising an advocate’s ability to act independently. Our members highlight how critical a concept independence is for people seeking independent advocacy. If they feel the advocacy is related to or attached in any way to another system or service they also use – and perhaps want support from an advocate in challenging or complaining about – this can erode the ability to build trust with them.”²

Q4 Do you agree with the standards?

No. See Me is concerned that the principle of independence as currently drafted conflicts with definitions of independent advocacy used elsewhere by the Scottish Government. For example, the Mental Health (Care and Treatment) (Scotland) Act 2003 sets out that advocacy services can only be considered independent if the person providing them is not also, for instance, delivering medical treatment to the person receiving advocacy and is not a member of the local authority or health board in the area in which they live. This definition of independence goes significantly further than the definition included in the draft Social Security Advocacy Standards.

It is not clear why people accessing advocacy relating to social security or through mental health legislation should expect to receive different levels of independence. We are concerned that this creates needless difficulty for people accessing independent advocacy services, and would recommend that the two definitions be the same, and preferably that SIAA’s definition is used for both. SIAA’s ‘Principles, Standards and Code of Practice’ document, which defines an independent advocacy organisation as one that, “only provides independent advocacy. All the activities it undertakes are about providing, promoting, supporting and defending independent advocacy. Its independence means that it does not provide any other services and so it is structurally, financially and psychologically separate from other organisations and interests”.

Q5 Is anything missing from the standards and, if so, what?

Yes. See Me endorses SIAA’s position that would like to see a definition of independence that will ensure *meaningful* independence, rather than independence in name only. This requires a far more nuanced assessment of what makes a person or organisation independent than the current definition of, ‘a person other than the Scottish Ministers’.

Principle – Person Centred

Q6 Do you agree with the principle of ‘person-centred’?

Yes.

² SIAA response

Q7 Do you agree with the standards?

See Me broadly agrees with the standards laid out, but believes that it is counter to the principle of 'person centred' to have multiple sets of independent advocacy standards. People who use independent advocacy services are not well served by receiving advocacy on different issues - e.g. a medical issue, a housing issue, or a social security claim – that use different standards to one another. This could mean the person receives independent advocacy from two separate organisations working to two separate sets of standards - this is confusing and lacks clarity for the individual. It does not place them at the heart of the process or reflect the realities of many people's lives.

Q8 Is anything missing from the standards and, if so, what?

N/A

Principle – Accessible

Q9 Do you agree with the principle of 'accessible'?

N/A

Q10 Do you agree with the standards?

N/A

Q11 Is anything missing from the standards and, if so, what?

As previously highlighted, See Me is concerned regarding the lack of mention throughout the draft standards to non-instructed advocacy. This omission effectively removes the option of independent advocacy for anyone who does not have the ability to instruct an independent advocate. It is a discriminatory policy that undermines the principle of accessibility.

Principle - Trained

Q12 Do you agree with the principle of "trained"?

N/A

Q13 Do you agree with the standards?

N/A

Q14 Is anything missing from the standards and, if so, what?

N/A

Principle – quality assurance

Q15 Do you agree with the principle of ‘quality assurance’?

N/A

Q16 Do you agree with the standards?

N/A

Q17 Is anything missing from the standards and, if so, what?

N/A

Additional comments

See Me agrees with the additional comments made by SIAA namely that:

- “Overall, the draft standards do not adequately reflect the human-rights based approach which the Scottish Government has declared will underpin the Scottish Social Security system. In addition to the specific points made relating to human rights detailed earlier in this response, there is opportunity for embedding references to rights throughout the standards. For instance, when reference is made to people’s needs there is often scope for also mentioning their rights e.g. ‘Advocacy workers will understand your rights and needs and any barriers you face’, and ‘Your advocacy worker is on your side, puts you first and is directed by your rights, needs, views and wishes’.
- There should be an explicit recognition throughout the draft standards that they apply to children as well as adults. Children with parents/carers may require independent advocacy in some situations, as well as looked after children living in residential care.
- Standards which apply to independent advocacy workers and standards which apply to independent advocacy services are mixed together in a way which is confusing and lacks clarity. It does not support the principles of accessibility or taking a person-centred approach.”

Impact assessments

Q18 and Q19 Equality Impact Assessment

See Me fully endorses SIAA’s view on Equality Impact Assessments, namely that:

“SIAA is concerned that the protected equality groups will encounter the same barriers to accessing independent advocacy as they do with other services, unless independent advocacy organisations are properly funded to reach out to and engage these communities. It is also critical that issues around intersectionality – the manner in which the effects of different forms of discrimination and marginalisation overlap and are amplified – are considered and addressed.

We have additional concerns that those individuals in the greatest need and who face the most significant barriers will struggle to access independent advocacy – and ultimately be ‘left behind’ and further excluded – if service level agreements do not explicitly recognise that some people will require more support, time and input than others. A myopic focus on metrics and headcount will require independent advocacy organisations to cherry pick the easiest and most straightforward people to work with.”

Q20 and Q21 Child Rights and Wellbeing Impact Assessment

N/A

Q22 and Q23 Business and Regulatory Impact Assessment

N/A

Q24 and 25 Island Screening Assessment

N/A