



Non-Instructed Advocacy Policy

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1.0 Aim of this policy

Your Voice Counts (YVC) believes that everyone has the right to make life choices. Some people, particularly those with specific challenges around communication, may need the support of an advocate to do this. Sometimes an individual can lack the capacity or capability to instruct and direct the advocate, and this lack of capacity or capability can mean that life choices are compromised.

The principles and standards for independent advocacy apply to non-instructed advocacy in the same way as they do to instructed advocacy.

This policy lays out guidelines for advocates to follow when working with someone who is unable to instruct their work.

2.0 Scope of this policy

This policy applies to all YVC advocates and volunteers.

3.0 Introduction

Non-instructed advocacy should be used as a final method of working with someone when no reliable form of communication has been found in order to represent the important issues from that person's point of view. Non-instructed advocates will not make decisions on a person's behalf, however information gathered by the advocate regarding the person will be used to ensure the person is kept at the centre of the decision-making process and their wishes, feelings, values and beliefs influence any decisions being made.

Non-instructed advocates will seek to uphold the person's rights; ensure fair and equal treatment and access to services; and ensure that decisions are taken with due consideration for the individual's unique preferences and perspectives. Following the guidelines in the Mental Capacity Act (2005) Code of Practice advocate will work creatively and resourcefully to enable any effective communication with the person they are advocating for, taking 'all practicable steps' to enable that person to make a decision or express their views and wishes.

4.0 Non-Instructed Advocates

When someone does not have the capacity to tell the advocate what they want them to do, the advocate uses other approaches to make sure the individual's life choices are not compromised. It could be that because of a brain injury, mental health issue, substance misuse or temporary unconsciousness, someone is not able to make a decision for themselves.

Working in a non-instructed capacity does not necessarily mean the person is not able to articulate their views, wishes, feelings and beliefs and your role as the advocate is to ensure the person's voice is at the heart of your work.

YVC advocates use recognised ways to work with someone who is not able to communicate what they want. They are trained to be aware that a person's capacity might fluctuate, and continuously look out for opportunities to use instructed advocacy.

Non-instructed advocates:

- Where the person cannot give clear instruction, take time to get to know the person and build a picture of their preferences and lifestyle including their cultural background.
- Seek appropriate alternative forms of communication which enable the person to express views and choice.
- Ensure the person's fundamental human rights are respected and upheld at all times.
- Challenge service providers and decision makers in order to promote a person-centred approach.
- Act as a 'witness' or observer in the settings in which the person spends time.

YVC advocates should ensure that they:

- Are directed by their client wherever possible.
- Work within the [Advocacy Code of Practice](#) the [Advocacy Charter](#) and the Mental Capacity Act (2005) Code of Practice.
- Work creatively and resourcefully to enable any effective communication with the person to take place (e.g. pictures, writing, facial expression, hand gestures, nodding or shaking of head, body language changes) and will be guided in communication with those who know the person well.
- Work with identified issues (i.e. safeguarding).
- Only share information that is relevant, for example previous wishes if known, likes, wants, views, values, preferences, feelings and beliefs with other professionals involved for the referred reason.
- Get to know the person and speak with others (i.e. carers/staff) to build a picture of their preferences and lifestyle including their cultural background.
- Constantly attempt to gain consent from the person where practical.
- Only access the person's records when it has been deemed in the person's best interests and is necessary to the issues faced, in strict adherence to the confidentiality policy and GDPR.
- Do not share information / records with any third party unless consent can be established, except in cases of safeguarding and whistleblowing issues.
- Treat each issue separately, it may be possible to obtain views and opinions on some issues but not others, advocates should always seek to be led by the views, opinions and communications of the person where possible.
- Check that a lack of communication is not a positive statement that they do not want to express a view.
- Explore the use of non-instructed advocacy tools.

- Inform others involved for the referred reason when using non-instructed advocacy.
- Ask questions which are relevant to the issue, in the context of the person's situation and the advocacy issue. Using background knowledge, observation and any previously expressed preferences to inform the questions to be asked.
- Work to keep the person at the centre of the advocacy process.
- Remain objective and non-judgement, avoiding making any assumptions about the person and their life.
- Focus on the rights and entitlements of the person, raising issues on their behalf where rights or entitlements are not being upheld.
- Are vigilant and proactive about the person's safety and freedom from all forms of neglect and abuse.
- Work within YVC advocacy service code of practice and related policies and procedures.
- Maintain accurate records in the client file to show that they have kept the issue of consent under review and that where views are expressed how these were obtained, updating the record as the case progresses and adding to /updating the Consent area.
- Are evidence based and record facts, not surmise or attribute meaning as fact.
- Undertake appropriate training and supervision.

5.0 Non-Instructed advocacy approaches

The individual abilities of people who cannot formally instruct an advocate will vary greatly. The advocate should respond to this diverse range of need by providing a flexible approach, tailored to each individual recognising remaining strengths and abilities.

There are currently four recognised approaches to non-instructed advocacy which are detailed below. It is acknowledged that a holistic and integrated approach is likely to be most effective in delivering non-instructed advocacy.

The methods used may depend on a number of factors, the time available to build the advocacy relationship, the issue/s, any timescales regarding a decision, how many other people an advocate can gain information from and so on. Advocates need to be able to use reflection, their own judgement and the support of managers as to where and when each of these approaches is most appropriate.

Advocates should inform referrers / service providers when they are acting in a non-instructed capacity rather than on an instructed basis.

6.0 Person centred approach

This approach requires a certain amount of time to get to know the individual and see life from their perspective. It is based on a long term, trusting and mutually respectful relationship between the individual and their advocate.

The advocate will spend time with the individual and will build a picture of their life history, lifestyle preferences and needs, wishes, views, values and beliefs by engaging with the individual and also observing them in their environment.

The advocate will seek to have some understanding of what life is like for the person:

- How they experience the world.
- What is important to them
- What their wishes, hopes and feelings may be.

The advocate will then be able to speak about the person's perspective with confidence and represent their views and wishes, ensuring that those who make decisions and deliver services do so in a person centred way.

7.0 Rights based approach

The role of the advocate in this approach is to ensure that the person who lacks capacity is seen to have the same rights as any citizen and user of services and that these rights are defended and upheld.

This includes civil rights, human rights, legal rights, entitlements and benefits, and also rights to ethical and professional good practice from those who have responsibilities and duties to the individual.

The advocate will need to consider whether the individual is being treated with fairness, respect, equality and dignity.

Where the advocate takes the view that the individual's fundamental rights are being violated, the advocate is empowered to intervene on behalf of the person in order to challenge such violations and to seek redress.

Where the advocate believes that an injustice being done to the individual may be illegal, they should seek appropriate legal representation for the individual.

8.0 Watching Brief (values based) approach

This approach has been developed by ASIST (Advocacy Services in Staffordshire)

The approach aims to help the advocate to establish a baseline set of values which are representative of the needs that are fundamental to any persons quality of life.

In using this approach, the advocate will review any proposal affecting the individual against the “eight domains to a quality life”. These have been defined as:

- Promoting independence
- Community presence
- Meaningful relationships
- Self-determination – making choices
- Individuality
- Having status and respect
- Community involvement
- Wellbeing

The advocate will test any proposal by asking relevant and intelligent questions of decision makers to ensure that the effect on the quality of life of the individual will be positive and in their best interests having taken into account any known aspects of the individual’s previous life history, preferences or wishes.

Where a non-instructed advocate is implementing the Watching Brief approach, it is critical that the advocate does not express their own view or opinion as to what an individual’s preferences may be.

9.0 Witness-Observer approach

This approach involves observation or witnessing of the person to establish how they live their life.

The advocate may see or hear things which are unacceptable or pose a threat to the individuals wellbeing, or conversely may pick up on the individual’s preferences and pleasures.

This approach does not require the advocate to make judgements or recommendations, but merely to report on the facts of their observations, to ensure that service providers and decision makers take into account all available information about the individual when they are planning services or making decisions.

10.0 In summary

Effective non-instructed advocates will work in an integrated way, combining approaches to best represent the perspective of the person for whom they are advocating, and raise issues on their behalf in a credible way ensuring that the individual is kept at the centre of all discussions relating to their life and care.

Because of the nature of many referrals to YVC's statutory advocacy services in particular and the urgency with which decisions need to be made the service recognises that there may often be less time available than an advocate would like to develop a working relationship with the referred person; nevertheless, we will provide all advocacy in a manner that keeps the client central to decision making.

11.0 Roles and responsibilities

Advocates working in a non-instructed capacity must be provided with regular one-to-one supervision and be well supported by their line manager, to ensure that they remain objective and independent, not making assumptions about the person they are advocating for or imposing their own views or preferences.

Advocacy Service Managers are responsible for providing advocates with opportunities to increase their non-instructed advocacy skills and knowledge, for example through training, opportunities to shadow more experienced advocates in their work, and creating safe spaces where advocates can meet with colleagues to reflect on case work and receive peer support.

Advocates should be familiar with this policy and related policies such as confidentiality, engagement protocols, and safeguarding, in addition to the Advocacy Charter and other relevant guides and resources.

12.0 Raising awareness of advocacy need

Your Voice Counts is aware that not everyone who is entitled to, or may benefit from, independent advocacy is able to request it.

We are proactive about delivering awareness training and providing information about the services we provide, the benefits of independent advocacy, and the situations where there is statutory duty to instruct an advocate, in settings where we deem it most likely that there will be people who are unable to request advocacy.

All YVC advocates have a responsibility within their role to promote advocacy to staff and other stakeholders in these settings in the course of undertaking their duties. Advocates should be proactive about considering whether the people they engage with (whether they be existing clients or not) would benefit from an advocacy service or may be entitled to an advocacy service. Advocates should be proactive about ensuring that people themselves, and those closest to them, have the information they need to refer for an advocate, and should be prepared to support this process where necessary – for example, by considering if a client would be eligible for a different advocacy service when closing a referral.

YVC is proactive about identifying gaps in services and flagging these with funders and commissioners. Where appropriate YVC will seek funding to deliver a service where it fits with the organisations mission and purpose.

13.0 Equality, diversity and inclusion impact

Advocacy is about safeguarding people who are vulnerable disadvantaged. People who have difficulty communicating their views and wishes and who cannot give instructions and therefore may be more vulnerable and disadvantaged than others.

Advocates should be familiar with YVC Equality and Diversity policy and be able to explain it to others in straightforward language. Advocates should adhere to this policy at all times.

Advocates should be clear that YVC Advocacy Service provides advocacy support to people regardless of race, cultural background, disabilities, sexual orientation, age, gender or religious background. Where someone accessing advocacy services expresses a preference for advocates with particular skills, knowledge or attributes, this should be referred to the Advocacy Service Mangers.

14.0 Data protection statement

Situations described in this policy involve handling personal data. When you act as a non-instructed advocate you should consider our GDPR and Confidentiality policies, this is our promise to handle personal data correctly and balances everyone's rights to data privacy with the work we do.

There are situations where information can be shared legally without obtaining consent from the individual. In this instance, information exchanged under the safeguarding adults procedure will only be used for safeguarding adults purposes and where it meets these conditions:

- A criminal offence has taken place.

- It may prevent a crime.
- The alleged victim is at risk of harm.
- Staff, other services users, or the general public may be at risk of harm.
- For early intervention and identification of abuse.

15.0 Related Policies

This policy should be read in conjunction with the following policies and statements:

- Whistleblowing
- Complaints
- Grievance & Disciplinary
- Confidentiality
- Equality & Diversity
- GDPR

16.0 Monitoring and review

We will monitor the effectiveness of this policy and the impact on all other relevant policies and practice. This review will happen when necessary and as a minimum annually.

The Advocacy Manager Sharon de Jesús is the owner of this policy document and must ensure that it is periodically reviewed according to the review requirements contained herein.

The latest version of this policy document dated 27/05/2021 is available to all employees of Your Voice Counts on One Drive.

This policy document was approved by Your Voice Counts' Senior Management Team and is issued by the Chief Executive Officer ("CEO") on a version-controlled basis.

Name of CEO: David Woolley

Date: 16/12/2021

17.0 Further information

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1			
2			
3			