



The Scottish Independent Advocacy Alliance

# Guidelines for Advocates working in Prisons

A companion to the Code of Practice for Independent Advocacy



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# Introduction

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## Background

The Scottish Independent Advocacy Alliance (SIAA) believes that everyone who needs independent advocacy should have access to it. However we recognise that access does vary from area to area and will be dependent on local Contracts or Service Level Agreements. Priority is given, in all areas, to those with a statutory right of access as detailed in the *Mental Health (Care & Treatment) (Scotland) Act 2003*. The right of access is for anyone with a mental disorder (mental health problem, learning disability, dementia, acquired brain injury) and includes access to both one-to-one and to collective advocacy.

The 2008 HM Chief Inspector for Prisons in Scotland report *Out of Sight — Severe and Enduring Mental Health Problems in Scottish Prisons* detailed findings suggesting that over four in every hundred prisoners has a severe and enduring mental health problem and that, in addition, a very large proportion of prisoners, possibly as many as 70%, have some form of mental health problem.

The 2006 report by the Prison Reform Trust, *No One Knows*, stated that;

Assuming a prison population of 7,000 in Scotland, the research suggests that on any given day about 500 prisoners will have IQs in the range of a technical learning disability, while an additional 1,400–1,750 will require some additional support.

All of these prisoners therefore have a right of access to independent advocacy.

The SIAA has been aware of and has reported on very limited access to independent advocacy within many Scottish prisons. The transfer of responsibility for healthcare from the Scottish Prison Service in 2011 has led to NHS Boards looking at this gap in relation to their local advocacy planning and advocacy organisations increasingly have to consider how they can provide advocacy within a prison setting.

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## Purpose of the document

The guidelines provide advice on good practice for advocates. They also provide information for Prison staff and management about the role of an independent advocacy worker and advice on what will be expected from the advocacy organisation.

The following Principles represent the core beliefs about independent advocacy:

**Principle 1:** *Independent advocacy puts the people who use it first*

**Principle 2:** *Independent advocacy is accountable*

**Principle 3:** *Independent advocacy is as free as it can be from conflicts of interest*

**Principle 4:** *Independent advocacy is accessible*

These Principles have been widely accepted and are supported as relevant and appropriate in the provision of quality independent advocacy services, are outlined in the *SIAA Principles and Standards for Independent Advocacy* and have been adopted in the *Scottish Government Guide for Commissioners*<sup>1</sup> issued in December 2013. The Guidelines work alongside these documents and the associated *SIAA Code of Practice*. The guidelines have been written to apply to all models of advocacy. Throughout Scotland advocacy organisations share the same core Principles although they might do things in slightly different ways.

In thinking about independent advocacy provision in Scottish prisons it is important to remember that although there may be a difference in the setting there should not be any difference in practice. Independent advocacy workers should adhere to good practice as detailed in the *Code of Practice* while also keeping in mind issues around security. Advocacy organisations should ensure that all work is undertaken within the framework of the *Principles and Standards for Independent Advocacy* as set out in the *Guide for Commissioners*<sup>2</sup> and any Working Protocol agreed between the advocacy organisation and the Prison management.

<sup>1</sup> [www.scotland.gov.uk/Publications/2013/12/7000](http://www.scotland.gov.uk/Publications/2013/12/7000)

<sup>2</sup> [www.scotland.gov.uk/Publications/2013/12/7000/downloads](http://www.scotland.gov.uk/Publications/2013/12/7000/downloads)

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These guidelines will be relevant to independent advocacy for prisoners in private prisons as well as those within the Scottish Prison Service.

It is now usual in an NHS or Community care setting, particularly when planning for hospital discharge or care planning, where an individual has advocacy support, for the independent advocacy worker to have involvement with the multi-disciplinary team. This can help to ensure that the person concerned is as fully involved as possible in any planning and decision making.

In certain situations for people in prison, particularly around points of transition, access to independent advocacy may be particularly valuable and referrals should be made if the person concerned is not already in contact with the advocacy organisation. To help ensure effective advocacy in such circumstances it may be helpful, e.g. in planning prior to release, for similar involvement in multi-disciplinary team meetings.

## Terminology

The term advocacy partner is used in many advocacy organisations to refer to a person in receipt of advocacy, other organisations use terms such as client or service user. The term advocacy partner is used throughout this document to refer to prisoners in receipt of advocacy.

The title for staff in many advocacy organisations is advocate; some use the term advocacy worker. The term advocacy worker has been used in this document to avoid any potential for confusion with a legal advocate.

## Commissioning guidance

The most recently updated advocacy *Guide for Commissioners*<sup>3</sup> includes the four Principles detailed above. The standards within Principle 3 detailed in Section 6 and Appendix 1 of the *Guide for Commissioners* reflect Commissioners' statutory responsibilities under the *Mental Health (Care & Treatment) (Scotland) Act 2003* and its supporting *Code of Practice*. These standards, which vary from the SIAA standards, should be considered in commissioning advocacy for people in prisons.

<sup>3</sup> [www.scotland.gov.uk/Publications/2013/12/7000/downloads](http://www.scotland.gov.uk/Publications/2013/12/7000/downloads)

## Different models of advocacy

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### **One to one or individual advocacy**

This includes professional or issue based advocacy. It can be provided by both paid and unpaid advocacy worker. An advocacy worker supports an individual to represent his or her own interests or represents the views of an individual if the person is unable to do this themselves. They provide support on specific issues and provide information but not advice. This support can be short or long term.

Another model of one to one advocacy is citizen advocacy. Citizen advocacy happens when ordinary citizens are encouraged to become involved with a person who might need support in their communities. The citizen advocate is not paid and not motivated by personal gain. The relationship between the citizen advocate and the advocacy partner is on a one-to-one, long term basis. It is based on trust between the partner and the citizen advocate and is supported but not influenced by the advocacy organisation. The citizen advocate supports the partner using their natural skills and talents rather than being trained in the role.

Peer advocacy is also individual advocacy. Peer advocates share significant life experiences with the advocacy partner. The peer advocate and the advocacy partner may share age, gender, ethnicity, diagnosis or issues. Peer advocates use their own experiences to understand and have empathy with the advocacy partner. Peer advocacy works to increase self-awareness, confidence and assertiveness so that the individual can speak out for themselves, lessening the imbalance of power between the peer advocate and the advocacy partner.

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### **Group or Collective advocacy**

Collective Advocacy enables a peer group of people, as well as a wider community with shared interests, to represent their views, preferences and experiences. A collective voice can help reduce an individual's sense of isolation when raising a difficult issue. A collective voice can be stronger than that of individuals when campaigning and can help policy makers, strategic planners and service providers know what is working well, where gaps are and how best to target resources. Being part of a collective advocacy group can help to reduce an individual's sense of isolation when raising a difficult issue. Groups can benefit with the support of resources and skilled help from an independent advocacy organisation.

The aim of all models of advocacy is to help individuals gain increased confidence and assertiveness so that, where possible, they will feel able to self-advocate when the need arises.



## How to use this guide

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The first section gives details of what needs to be agreed and put into place by the advocacy organisation and the prison. It includes considerations for inclusion in a Service Level Agreement, specific policies and procedures that will be required and gives some information about training and security requirements.

The following four sections are divided into the four main Principles of independent advocacy:

**Principle 1:** *Independent advocacy puts the people who use it first*

**Principle 2:** *Independent advocacy is accountable*

**Principle 3:** *Independent advocacy is as free as it can be from conflicts of interest*

**Principle 4:** *Independent advocacy is accessible*

Principles are the core beliefs about independent advocacy. These are the ideas that guide everything that advocacy workers and advocacy organisations do.

The indicators are the evidence of how advocacy workers meet each Principle.

The sections for each Principle give a set of indicators for advocacy workers and for organisations. These indicators relate to the specific requirements within the prison setting and build on the indicators from the *Code of Practice for Independent Advocacy* which should also be considered.

# Special considerations for providing advocacy to people in prison

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## Before setting up a service in a prison

A robust Service Level Agreement should be agreed, between the advocacy organisation, the SPS and the prison and the funder, to include agreed procedures for the following considerations:

- Security
- PVG Scheme membership for independent advocacy workers
- Access to prisoners
- Risk assessment — possible safety issues for independent advocacy workers
- Getting around the prison
- Protection of mail to and from the advocacy service
- Telephone access to the advocacy service
- Storage of advocacy records/documents
- Confidentiality
- Prison security in relation to Advocacy Agreements
- Information provided within the advocacy relationship

The SLA should also include a clear definition of what advocacy is and what will be expected within an advocacy role.

## SPS Third Sector Partnership Pack

The Scottish Prison Service has developed a Partnership Framework Agreement designed to bring together service providers within the criminal justice community to ensure a shared understanding of service needs, resources and access to confirm that all parties agree the shape of service delivery for delivery in prisons or in the community. The Third Sector Partnership Pack provides guidance to assist third sector organisations to work in partnership with public organisations providing Criminal Justice services. The pack can be found at [www.sps.gov.uk/AboutUs/PartnershipWorking.aspx](http://www.sps.gov.uk/AboutUs/PartnershipWorking.aspx).

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## **Policies and Procedures**

The independent advocacy organisation should develop clear relevant policies, in addition to existing policies and procedures, specifically for this area of work. These may not need to vary from existing policies and procedures but these should be considered in light of the special circumstances of the environment. These may include policies on:

- **Confidentiality**—very clear guidance to be in place around any need for sharing of information, possible breaching of the advocacy partner’s confidentiality and how this should be approached.
- **Boundaries**—clear guidance on the maintenance of boundaries between independent advocacy workers and advocacy partners needed in this specific situation.

A working protocol should be developed and agreed between the advocacy organisation and the prison. The protocol should include referral pathways and tracking of referrals. This may also include regular meetings between the advocacy organisation and designated prison staff for discussion and resolution of problems, issues etc. This would allow for feedback on any emerging themes or issues. The protocol could detail mechanisms for communication between independent advocacy workers, prison staff and other relevant professionals where needed.

Clear Complaints Procedures for both prisoners or the Prison about the advocacy organisation and for the advocacy organisation about the prison should be developed and agreed.

## **Monitoring**

The independent advocacy organisation should agree and implement a sound monitoring system for work in a Prison setting. This can be useful for the Prison Service if it allows for identification of common issues which may need to be addressed. The advocacy organisation should provide reports to the prison management on a regular basis.

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## **Awareness raising**

To help in establishing advocacy within the prison setting the advocacy organisation should work to raise awareness about independent advocacy, including the difference it can and has made to individuals:

- for prisoners
- for prison staff
- for others e.g. relevant voluntary organisations, lawyers.

Awareness raising should be conducted on an ongoing basis to ensure that recently admitted prisoners, new prison staff and relevant others are kept aware of the existence of independent advocacy, what it can do and what to expect from advocacy organisations. Consideration should be given to developing literature which informs the prisoners of what they can expect from advocacy workers and organisations within the prison.

## **Training for independent advocacy workers**

The Scottish Prison Service has a programme of mandatory training that must be completed by all third sector staff working in a prison. This includes personal protection training, security brief, health and safety and conditioning and manipulation.

The advocacy organisation is responsible for ensuring that all independent advocacy workers working within the prison are available for all relevant training. Independent advocacy workers should be clear about their role and that they are there only to provide independent advocacy. The advocacy organisation should ensure that all concerned have clarity about boundaries as they would apply in this situation.

## **Relationships**

To ensure that all who have a right to and who need it have access to independent advocacy the organisation should work to raise awareness of independent advocacy amongst prisoners. This should include building relationships and ensuring a clear understanding of what independent advocacy is and what can be expected from the organisation and from the independent advocacy workers.

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The organisation should build relationships and trust with prisoners while bearing in mind boundaries and security arrangements within the prison situation.

The organisation should build relationships with the senior management of the prison. They should also work at building appropriate relationships with staff within the prison bearing in mind issues around possible conflicts of interest and around the perception prisoners may have of the relationships between the prison staff and the organisation and independent advocacy workers.

The prison should designate a senior manager and an operational manager who are responsible for ensuring the delivery of independent advocacy services within the establishment. This provides a link person for the advocacy organisation for communications, reports and complaints.

The advocacy organisation should build relationships with other voluntary sector organisations that operate within or have links with the prison. These may include Samaritans, SACRO, Families Outside, the Patient Advice and Support Service (PASS) etc. The advocacy organisation should also ensure effective working relationships with other advocacy organisations where a prisoner may be required to be referred to another organisation if they are being liberated to different area of Scotland from where the prison is situated.

# Principles and Standards and Code of Practice

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The Principles and Standards for Independent Advocacy as reflected in the *Guide for Commissioners*<sup>4</sup> are the same while working within prisons as for any other advocacy situation. The Indicators as detailed in the *Code of Practice for Independent Advocacy* apply in this area of work. The *Code of Practice* can be found on the SIAA website at [www.siaa.org.uk](http://www.siaa.org.uk).

There are some additional factors to take into consideration. These are outlined here. It should be borne in mind that, as this is designed as a companion to the Code, the indicators for both advocacy workers and for independent advocacy organisations included here are in addition to or expand upon those detailed in the Code.

**Principle 1:** *Independent advocacy puts the people who use it first*

## **Independent advocacy workers must:**

- Act on the issues agreed by their advocacy partner, with reference to the Working Protocol, and at the pace appropriate to the advocacy partner's needs whilst acknowledging the pace restrictions due to security arrangements of the environment.
- Follow the agenda agreed with their advocacy partner, where possible and while bearing in mind the restrictions applying within the prison situation, and not be influenced by others.
- Not let their personal opinions, choices and values interfere with their advocacy partner's choices. Independent advocacy workers should be aware of their own prejudices.
- Help their advocacy partner to access accurate information from appropriate sources, while recognising the restrictions to prisoners to access online information, as agreed in discussion with the prison service.
- Be clear that any information is not shared with a third party unless by agreement with the advocacy partner, except in cases where the advocacy partner intends to harm themselves or others or where possible security issues arise—according to relevant laws. The sharing of information should be clearly laid out in the Service Level Agreement to ensure the advocacy worker and the advocacy partner are fully aware of what information must be shared with the prison.

<sup>4</sup> [www.scotland.gov.uk/Publications/2013/12/7000](http://www.scotland.gov.uk/Publications/2013/12/7000)

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- Participate in training on the different laws that apply to what they do.
  - Be aware of the rights of people in prison.
  - Not do anything their partner does not want them to do, except in certain circumstances laid out in the law and the organisation's policies with specific reference to the security requirements of the environment.

**Organisations must:**

- Have and implement policies, procedures and guidelines for working with people within prisons.
- Ensure training for independent advocacy workers on Equality and Diversity also including reflection on attitudes to offenders.
- Ensure independent advocacy workers receive regular support and supervision or guidance to make sure they are clear about their role and about issues specific to security and the working environment.
- Ensure independent advocacy workers receive training in their role, including issues specific to security and the working environment, how to review the relationship with the advocacy partner or group and how to record information.
- Ensure regular monitoring meetings, that may also include operational issues, between the advocacy organisation manager and the designated First Line Manager within the prison. Arrange an annual meeting between the advocacy organisation senior management and the prison senior management to assess the effectiveness of the current service and agree any changes or development to the service.
- Have agreed procedures for storage and security of advocacy records.
- Ensure that independent advocacy workers undertake training or preparation on laws and policies and procedures relevant to the Scottish Prison Service.
- Ensure that all independent advocacy workers are kept up to date with changes in legislation and policies and procedures relevant to the Scottish Prison Service.

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- Ensure that independent advocacy workers undertake preparation and ongoing training as required by the advocacy organisation's policies and procedures and the Service Level Agreement.
  - Ensure that independent advocacy workers undertake specific training relevant to the environment to include topics such as legal requirements, security, personal safety and prison protocols. Such training will be delivered by the Scottish Prison Service.

**Principle 2:** *Independent advocacy is accountable*

**Independent advocacy workers must:**

- Act on the issues agreed by their advocacy partner, with reference to the Working Protocol, and at the pace appropriate to the advocacy partner's needs whilst acknowledging the pace restrictions due to security arrangements of the environment.
- Be aware of and act within the law, the prison rules and within the security requirements of the Prison Service at all times.
- Be aware that they might have to break the advocacy partner's confidentiality, if the law or the organisation's policies say so, if the advocacy partner intends to breach prison security or harm themselves or others, or if the advocate has information that the person's health and safety is in danger from the actions of others.
- Know what the organisation's policies and procedures are if they are aware of the advocacy partner being in danger of harm or intending to breach prison security or break the law.
- Act within the *Principles and Standards for Independent Advocacy* and *Code of Practice* and the policies and procedures of the organisation, in particular those policies relevant to the working environment.



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**Organisations must:**

- Have a rigorous recruitment or selection policy which will include the need for references and membership of the PVG Scheme in order to protect the safety of the people who use advocacy and the security of the environment.
- Have policies and procedures for the line management or support of independent advocacy workers, including support and supervision or guidance, training and personal development.
- Provide appropriate training on all relevant policies and procedures.
- Ensure a risk assessment is undertaken to ensure safety of independent advocacy workers, prisoners and the prison environment. The prison will be responsible for ensuring the environment that the advocacy organisation is working in is safe and has been risk assessed. Where the prison assess a prisoner as a high risk it may require prison staff to be present during a consultation with the advocacy worker or may require special measure being put in place to ensure the worker's safety.
- Have a policy and procedures for keeping files and records of the advocacy partnerships which comply with relevant legislation, including who the information belongs to and what happens to files and records when the advocacy partnerships end. This should include details of where and how records are stored. It should also include details of what and how much should be recorded in any notes.
- Ensure that any advocacy agreement complies with the law, the security requirements of the Prison Service and the *Principles and Standards for Independent Advocacy* and *Code of Practice*.

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**Principle 3:** *Independent advocacy is as free as it can be from conflicts of interest*

**Independent advocacy workers must:**

- Be clear about their role as an advocate and where their responsibilities lie, including the boundaries of relationships with people other than the advocacy partner.
- Only act within the boundaries of their role descriptions and those of the advocacy organisation.
- Be aware of the boundaries set by the organisation and the specific requirements of the working environment and what will happen if these boundaries are not upheld. The Prison Service will maintain the right to exclude any worker from the prison where there has been or there is a potential for a breach of security or agreed working practices as set out in the Service Level Agreement.

**Organisations must:**

- Ensure that any Service Level Agreement is made in accordance with the Principles and Standards within the *Guide for Commissioners* and the *Code of Practice*.
- Have clear policies and procedures in place about the things that independent advocacy workers do and what to do in situations where service providers may try to direct the work of the independent advocacy workers.
- Make sure that service providers are aware of what advocacy is and what the professional boundaries are.
- Ensure that all members of the organisation have clear job or role descriptions.
- Provide training, guidance and information to all its staff and volunteers about conflicts of interest and what they mean regarding the independence of the organisation in the context of *Guide for Commissioners* principles and standards for independent advocacy and *Code of Practice* and in the context of the prison environment.

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**Principle 4:** *Independent advocacy is accessible*

**Independent advocacy workers must:**

- Promote the advocacy organisation and independent advocacy in the course of their work.

**Organisations must:**

- Provide training for all relevant staff and agencies within the Prison Service to promote referral to independent advocacy.
- Have joint working protocols or relationships with other organisations that work within the prison environment and, where necessary, provide training and awareness-raising for staff.
- Engage with Prison Service management to consider what are the needs of prisoners in relation to accessing advocacy, what, if any, are the barriers to accessing advocacy and how to promote full access.
- Ensure that information about independent advocacy is made available to all prisoners.
- Develop referral pathways for prisoners being held in national facilities to ensure that on their release they are still able to access independent advocacy from organisations located in other parts of Scotland.

## Appendix 1 — Advocacy is, advocacy is not

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### **Advocacy is...**

- about standing alongside people who are in danger of being pushed to the margins of society
- about standing up for and sticking with a person or group and taking their side
- a process of working towards natural justice
- listening to someone and trying to understand their point of view
- finding out what makes them feel good and valued
- understanding their situation and what may be stopping them from getting what they want
- offering the person support to tell other people what they want or introducing them to others who may be able to help
- helping someone to know what choices they have and what the consequences of these choices might be
- enabling a person to have control over their life but taking up issues on their behalf if they want you to.

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**Advocacy is not...**

- making decisions for someone
- mediation
- counselling
- befriending
- care and support work
- consultation
- telling or advising someone what you think they should do
- solving all someone's problems for them
- speaking for people when they are able to express a view
- filling all the gaps in someone's life
- acting in a way which benefits other people more than the person you are advocating for
- agreeing with everything a person says and doing anything a person asks you to do.

## Appendix 2 — Glossary of terms

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### **Advocate**

An advocate helps people express their views and make informed decisions. An advocate helps people to find out information, explore options and decide for themselves what they want. Advocates can be a voice for the person and encourage them to speak out for themselves.

There are different kinds of advocacy, though they all share things in common. Advocates will never tell people what to do, or allow their own opinions to affect the support they provide. All advocacy tries to increase confidence and assertiveness so that people can start speaking out for themselves.

Independent Advocates are as free from conflicts of interest as possible.

### **Advocacy**

The process of standing alongside another, speaking on behalf of another and encouraging the person to speak up for themselves. Advocacy can help address the imbalance of power in society and stand up to injustice.

### **Advocacy agreement**

An Advocacy Agreement explains, for example, what the person can expect from their advocate, what issues they want the advocate to support them with, the contact details of the advocate, what happens at the end of the Advocacy Partnership and the advocacy organisation's complaints process.

### **Advocacy Partner**

The person who uses advocacy. Some advocacy organisations use the term 'client' or 'service user'.

### **Commissioner**

Usually representatives from the Local Authority or Health Board who fund advocacy.

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### **Conflict of interest**

Anything that could get in the way of an advocate being completely loyal to the Advocacy Partner. For example, it would not be appropriate for an advocate volunteering for a mental health advocacy organisation to also work in the local psychiatric hospital, because this would affect their ability to be on the side of the Advocacy Partner. It would also affect their relationships with hospital staff. Other conflicts of interest could include relationships as well as financial investments.

### **Named Person**

A person chosen by a service user to be involved in decisions about their mental health care and treatment.

### **Non-instructed advocacy**

Non-instructed advocacy happens when a person who needs an Independent Advocate cannot tell the advocate what they want. This may be because the person has complex communication needs or has a long term illness or disability that prevents them from forming or clearly stating their wishes/desires. This usually takes place with people who have dementia or profound and/or severe learning difficulties.

### **Safeguard**

Ensuring that people's rights are protected.

### **Service provider**

A person or organisation involved in giving support or care services to an individual.

### **Service User**

The person who uses advocacy. Some advocacy organisations use the term 'client' or 'Advocacy Partner'.

## Appendix 3 — Principles of the *Mental Health (Care & Treatment) (Scotland) Act 2003*

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The Principles require that any person, other than those who are exempt (which includes those providing independent advocacy services under section 259 of the 2003 Act), in considering a decision or course of action in relation to the Act, takes into account the following matters:

- the present and past wishes and feelings of the patient, where they are relevant to the exercise of the function and in so far as they can be ascertained by any means of communication appropriate to the patient. Where the decision relates to medical treatment and the patient has an Advance Statement then this should be given due consideration.
- the views of the patient's named person, carer, and any guardian or welfare attorney so far as it is practical and reasonable to do so.
- the importance of the patient participating as fully as possible in any decisions being made and the importance of providing information to help that participation (in the form that is most likely to be understood by the patient). Where the patient needs help to communicate (for example, translation services or signing) then these should be considered. Any unmet need should be recorded.
- the range of options available in the patient's case.
- the importance of providing the maximum benefit to the patient.
- the need to ensure that the patient is not treated any less favourably than the way in which a person who is not a patient would be treated in a comparable situation, unless that treatment can be shown to be justified by the circumstances.
- the patient's abilities, background and characteristics, including, without prejudice to that generality, the patient's age, sex, sexual orientation, religious persuasion, racial origin, cultural and linguistic background, and membership of any ethnic group.