

About Advocacy

The Scottish Independent Advocacy Alliance Magazine

Spring 2014



A Fond Farewell
to Dr Donald Lyons
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A New Centre for Mental
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Editorial

In this edition we welcome the Law Society publication of three new guides designed to support Scottish solicitors to meet the needs of vulnerable clients.

Find out more about the Life Changes Trust, set up in 2013 to look at transitions for young care leavers and people affected by dementia. One possible transition is a move to residential care, Ian Hood from the Learning Disability Alliance Scotland writes about decisions to move people with learning disabilities into residential care.

Edinburgh Napier University has launched a *Centre for Mental Health and Incapacity Law, Rights and Policy*. The Director, Dr Jill Stavert, writes about the Centre.

Finally, we are sad to report that Dr Donny Lyons, Chief Executive of the Mental Welfare Commission for Scotland, is about to retire. Read his article on his 10 years with the MWC. We wish him a long and happy retirement.

Muriel Mowat, Editor

Next issue:

Please contact enquiry@siaa.org.uk if you have content for a future edition.

Thank you:

The SIAA would like to thank all the individuals who have contributed to this magazine.

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Disclaimer:

The views expressed in this magazine are those of the individual authors and should not be taken to represent those of the Scottish Independent Advocacy Alliance.

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SIAA News

Advocacy and Self-directed Support Project

In the last edition of the magazine we brought you up to date on the new projects underway. We are pleased to announce that Kellie King has moved from her position as Admin and Finance Officer to take on the role of SDS Project Manager, supporting the ongoing development of the Self-directed Support project. We are also delighted that Barbara Brown will be conducting research into the impact of advocacy in relation to Self-directed support.

TSIS Intern



Also on the topic of research into advocacy, we are pleased to introduce Hanna Carlsson who has joined us for the next few months through Third Sector Internships Scotland (TSIS). Hanna is in her final year of an

MA (Hons) in Human Geography at St Andrew's University. She will be working on research into the impact of advocacy on service users. Our experience of TSIS has been extremely positive and we hope to recruit a further intern through this scheme later in the year.

Quality Assurance

This project is moving forward. Nine sessional evaluators have been recruited and trained. The reference group is established and the evaluation is currently being planned. Watch this space for updates.



We have moved

We are delighted to report that we have now settled in to our new office. The new address is **London House, 20–22 East London Street, Edinburgh, EH7 4BQ**. The move went fairly smoothly however we did experience a gap of a week in our internet and email access. Hopefully we caught up with all who had tried to contact us during that period but if you are still wondering at a lack of response to any email it could have disappeared into the ether so do please get back in touch.

New website

By the time you read this our newly designed website will be up and running. We are delighted with the new look and hope that readers will find the information straightforward and easy to find. The address remains **www.siaa.org.uk**.

Focus Groups

Over the past few weeks we have been very grateful for the help of member organisations in the ongoing development of two pieces of guidance; one on advocacy for families at risk and the other on advocacy for people instructing a solicitor. Both guides are now in the final stages so look out for these in the coming months.



Advocacy around the world

Muriel Mowat

On Thursday, 9th January 2014 we were delighted to welcome Mark Grierson (CEO) and Sonia Powazuk (Senior Advocate) of Disability Advocacy New South Wales, Australia. We have been in touch with Mark over many years and when we learned that he and his family were planning to visit the UK we were keen to take the opportunity to meet.

As a result the SIAA hosted an event inviting Mark and Sonia along to meet with representatives from Scottish independent advocacy organisations, NHS Lothian and SIAA staff. We were also pleased to welcome Sandra Falconer from the Scottish Government Patient Support and Public Involvement Team and Martin Coyle, former CEO of Action for Advocacy in England.

Mark and Sonia spoke about their organisation and about advocacy commissioning, funding and practice in New South Wales. Martin Coyle gave an overview of advocacy in England and Wales followed by a brief presentation on the Scottish advocacy context and questions and comments.

It was a valuable opportunity to share experiences and it was interesting to hear about the similarities in experience and practice of independent advocacy in different parts of the world.

We learned about the Australian National Disability Insurance Service (NDIS) which is being rolled out in different areas as a new way of providing individualised support for eligible people with permanent and significant disability, their families and carers. It is based on the understanding that everyone has different needs, preferences and aspirations and aims to ensure that everyone who is eligible has an individualised plan. The plan will be based on individual goals and aspirations, covering functional support needs for daily living and participation, the support needed to pursue goals, and how individuals want to manage their plan over time.

The details of NDIS appear to be very similar to the rollout of Self-Directed Support in Scotland

focussing as it does on needs, goals, choices and outcomes. There is however a difference in relation to the role of advocacy. The Social Care (Self-Directed Support) (Scotland) Act 2013 places a duty on local authorities to offer information on the provision of independent advocacy to service users who they assess would benefit from advocacy. In Australia, the role of advocacy is included in the general principles of the NDIS ACT 2013 as follows:

“(13)The role of advocacy in representing the interests of people with disability is to be acknowledged and respected, recognising that advocacy supports people with disability by:

- a) promoting their independence and social and economic participation; and*
- b) promoting choice and control in the pursuit of their goals and the planning and delivery of their supports; and*
- c) maximising independent lifestyles of people with disability and their full inclusion in the mainstream community.”¹*

Another issue common to Australia and different parts of the UK is that of quality assurance of advocacy.

Disability Advocacy New South Wales (DANSW), as an agency funded under the Australian National Disability Advocacy Program, are required to undergo a Quality Assurance audit each year to show that they are providing the best possible advocacy support and meeting the Disability Advocacy Standards. The audit involves a self-assessment and then a visit from an audit team where advocates, other agency staff and a range of people receiving advocacy support provide input. Mark and Sonia explained that DANSW is also required to undergo other quality assurance audits. In addition, they continually gather feedback from those who use and have used their service by means of annual client consultation and Exit Surveys. Information from the annual surveys is fed back into their planning and improvement process.



We were struck by the similarities between the Australian Quality Assurance Audit and the Scottish Advocacy Quality Assurance Pilot currently underway. The plan for the QA Pilot will be to evaluate the quality of advocacy provision within an organisation and to ensure that organisations are meeting Scottish advocacy standards. This too will involve a self-assessment followed by a visit from a team of evaluators who will interview a range of stakeholders so getting a better picture of the quality of advocacy provision.

A similar process has been running in England for some time. The Quality Performance Mark (QPM), developed by Action for Advocacy, also involves self-assessment followed by a visit from an independent evaluator and measures advocacy provision against the English Advocacy Charter and associated Code of Practice.

It is encouraging to hear about this international drive to maintain and improve the quality of advocacy provided to those who need it. We look forward to keeping up this contact in the future and continuing to exchange experiences, knowledge and learning. Perhaps in the future we might see an international advocacy conference.

¹ www.comlaw.gov.au/Details/C2013C00388



Maddy Halliday, Chief Executive, Life Changes Trust

The Life Changes Trust

Deborah Cowan, Communications and PR Manager, Life Changes Trust

In April 2013, a new independent charity was established in Glasgow with a ten year, £50 million endowment from the BIG Lottery Fund (BIG) Scotland. The Life Changes Trust was set up to support transformational improvements in the quality of life, well-being and inclusion of two key groups in Scotland: young care leavers and people affected by dementia.

Why these two groups?

These two groups represent some of the most vulnerable people in Scotland yet are part of every community across the country, in villages, towns and cities. Both groups are more at risk of having a poorer quality of life and poorer outcomes than their peers and both commonly face social isolation.

Young Care Leavers

There are looked after children and young care leavers in almost every community in Scotland, yet typically, they do not have access to the same opportunities and advantages as their peers. As a result, their quality of life is greatly reduced.

A key point of stress for looked after young people is the transition into adult life. The average age of a young person leaving care in Scotland is

between sixteen and eighteen. This is significantly out of step with the average age for young people leaving home who are not looked after which is around twenty-five.

Transition typically happens much earlier and more abruptly for young people leaving care. This can be very traumatic as they may have received insufficient support or training in life skills and may be left isolated, vulnerable and unsupported from an early age.

According to research, the consequences of this transition can be devastating. Many young care leavers experience poor physical and mental health and reduced life expectancy.

Only around 3% of care leavers gain any higher education qualification compared to 34% of all school leavers and only 1% go on to University compared to 37% of all young people.

There is also a high level of homelessness among young care leavers, and a disproportionately high number of young offenders have been looked after.

The Trust's funding programmes will be targeted at looked after young people from the age of

fourteen onwards, to support their transition out of care and throughout their early twenties. There will be significant focus on improving opportunities and quality of life for young care leavers, providing them with greater voice and influence, and on the vital role of advocacy in the transitional process. This will result in significant benefits for the young people, and for the wider communities in which they live and work.

People Affected by Dementia

In early 2013, there were an estimated 86,000 people with dementia in Scotland. Based on current prevalence rates, the number of people with dementia is set to double within the next 25 years. Dementia has a devastating impact on those who have the condition and the family members who care for them.

For the carer of a family member with dementia, the stress can be extreme and carers are at an increased risk of isolation and developing psychological problems themselves. However, carers are an invaluable resource and with appropriate help and support, they can often provide the best care for their relative who can go on living at home and enjoy a good quality of life for a longer time. This support can help to avoid premature admittance to long term care, which can result in an unnecessary and detrimental loss of independence.

Initiatives that help to build community connections, peer-to-peer support and advocacy and befriending networks can play a key role in supporting good quality, community life for people affected by dementia.

The Life Changes Trust plans to support initiatives which increase frontline awareness of dementia and know-how in environments and organisations such as banks, post offices, public transport and shops, as well as projects that focus on providing things to do, places to go and people to be with for those with dementia and their carers.

Trust Impact

By working closely with beneficiaries, policy makers, service providers, researchers and other stakeholders, the Life Changes Trust aims to facilitate and support meaningful improvements in the lives of their target groups.

Maddy Halliday, Chief Executive of the Life Changes Trust said:

"Our vision is that young people leaving care and those affected by dementia are supported and empowered in ways which will effect significant, long term and sustained improvements in their lives.

We will take a person-centred and 'whole life' approach to our work and funding, and will invest in organisations that support our beneficiaries to live as fully valued, equal members of their communities, able to live good quality lives and receiving the support that is right for them, whenever they need it."

www.lifechangestrust.org.uk

Twitter: @LifeChangesTrst

Facebook: www.facebook.com/LifeChangesTrust

Ten Years Gone

Dr Donald Lyons, Chief Executive, Mental Welfare Commission for Scotland



I've been at the helm of the Mental Welfare Commission for ten years. It has been an important period in the Commission's history. New mental health and incapacity law provided a big opportunity to shift professional practice, especially by using the principles of legislation. I had always thought the Commission should be an important part of this culture of rights and ethics when applied to the individual's care and treatment.

The Mental Health (Care and Treatment) (Scotland) Act 2003 gave us a huge opportunity to change, modernise and shift our focus. I thought our advice function was more important and we put much more of our time into this. We even set targets for accuracy. We got a freephone number (0800 389 6809) so that anyone could contact us for advice.

Above all, under the new Act, we had the duty to promote principle-based best practice. We had one guidance document; *Rights, Risks and Limits to Freedom*. Our stakeholders looked to us for help when individuals' rights and providers' responsibilities seemed to be in conflict. I came into post with ideas for how to help solve these dilemmas.

Let's take an example. Somebody with mental illness refuses treatment for a physical health problem. The doctor thinks the individual's mental illness makes him/her incapable of making a

decision. Is it right to allow the individual to refuse? Or is it right to intervene, using force or restraint if necessary? It's an area where the law is unclear. We collected case examples and invited a wide range of stakeholders to discuss them. These included health and social care practitioners, legal and human rights experts, service users, carers and independent advocates. We asked them how they thought each case should be managed and used their views to build up the guidance, which we decided to call *Right to Treat*.

With so many people from the mental health community providing input, our guidance feels "real life" and has wide respect. I feel that's an important point about the Commission. We can only change things for the better by using our influence. That means being approachable, communicating with a wide network and speaking clearly so that everyone can use our advice and guidance.

We now have around 40 publications on the good practice part of our website. Many have been a result of the same process as we used for Right to Treat. The guides get the most hits on our website. We get more than 5,000 visits to our website each month, with more than 3,000 downloads. All these people will be better informed about lawful and ethical treatment. I'm proud of that.

Despite the move towards advice and guidance, we still have to investigate when things go wrong. I wanted more published investigations so that all services across Scotland could learn and improve. Our website now has reports on 24 investigations (with more to be added before this article is published). All have important messages for mental health and learning disability services. It is no accident that most reports involve individuals with dementia or learning disability. These individuals may be more vulnerable and less able to speak up.

If I had to pick the most influential investigations, here's what I would choose.

Justice Denied focused on the care and treatment of Ms A. She reported many episodes of sexual abuse and rape, sometimes with apparent corroborative evidence, but nobody was ever prosecuted. What does this say about access to justice for individuals with learning disability?

Starved of Care highlighted what can happen in general hospitals if people with dementia are not given proper respect. It was a major factor in greater inspection of older people's care in hospital.

Powers of Attorney and their Safeguards highlighted gaps in understanding of incapacity legislation that led to a couple with learning disability suffering apparent abuse from their welfare and financial attorney. Among other improvements, this report led to new guidance issued to solicitors from the Law Society of Scotland.

We have also contributed to improvements through our visit programme. We meet individual service users to hear what they have to say about their care and treatment. We make sure they have access to independent advocacy if they want this, and we meet their advocates and carers where possible. Last year, we made almost 500 recommendations for improvement following our visits. Almost all have resulted in action to improve individuals' care and treatment.

"I leave with a sense of pride in the Commission's work. I am leaving behind a highly experienced and knowledgeable organisation. I will miss my colleagues in the Commission and across the entire field, not least my colleagues in SIAA whose views and support I have always valued. I also leave behind some unfinished work, safe in the knowledge that the Commission will continue to guide providers and empower individuals so that care and treatment is as effective, ethical and rights-based as possible."

Colin McKay will take up post as the new Chief Executive of the Mental Welfare Commission in April 2014.



SIAA SDS Project Team

Independent Advocacy and Self-directed Support

Karen Irvine

The Social Care (Self-directed Support) (Scotland) Act 2013

I'm sure everyone reading this article will know that the Scottish Government has introduced Self-directed Support (SDS) as the new way of planning for and delivering social care services to individuals across Scotland.

The Basics

The Social Care (Self-directed Support) (Scotland) Act 2013 gives people the right to choose how much control and responsibility they want over their own support arrangements. A range of four options should be offered for how their social care is delivered.

- Option 1** direct payment
- Option 2** the person directs the available support
- Option 3** the local authority arranges the support
- Option 4** a mix of the above.

The Act also allows local councils to give support to unpaid carers who have a carer's assessment. If the local council agrees that it will offer support, the carer can also access SDS and choose one of the four options.

The Principles

The Act places a duty on the authority to have regard to certain general principles. These principles underpin the Act, firmly placing the supported person as an individual, equal in rights, control and dignity to those assessing and delivering their services.

- 1. Involvement:** A person must have as much involvement as they wish in relation to:
 - the assessment of their needs for support and services.
 - the provision of their support or services
- 2. Informed Choice:** A person must be provided with any assistance that is reasonably required to enable the person:
 - to express any views they may have about the options for self-directed support
 - to make an informed choice when choosing an option for self-directed support.
- 3. Collaboration:** A local authority must collaborate with a person in:
 - the assessment of their needs for support and services
 - the provision of their support or services.

4. Rights:

- the right to dignity of the person is to be respected
- the person's right to participate in the life of the community they live in is to be respected.

Independent Advocacy and SDS

What does SDS mean for independent advocacy? Well probably more demand on advocacy organisations for a start. The advocacy grapevine is already humming with news of increasing referrals around care assessments, care plans and appeals to local assessment panels. Queries are also being raised around the advocacy role and its limits. There are also uncertainties around the implementation of this new legislation as it begins to effect decisions about real lives.

There is a natural affinity between the focus of SDS and Independent Advocacy. If enacted as it was envisioned, SDS has longer term potential to create the circumstances for all of us to live in a more equitable society. It should not be a challenge for advocates to use the principles of the Act as a key tool, whether this is in helping someone put together their own care plan or to challenge a non-instructed advocacy client's assessed support plan and allocated budget.

Despite lobbying and campaigning for inclusion, the Act does not give people the right to access independent advocacy. There is however a strong reference to the important role of advocacy (and other independent support organisations) in meeting the principles of the Act.

- Section (2)(d) requires the authority to, "provide the person with information about providers of independent advocacy services where they consider it is appropriate to do so"
- Subsection (3) requires the authority to, "provide the relevant information both in writing and, where appropriate, in alternative formats appropriate to the person's communication needs"

The SDS Advocacy Project

The SIAA has been granted funding from the Scottish Government's Self Directed Support Strategy Programme Fund. Charlotte Lee and Karen Irvine have been engaged as the SDS Advocacy Project Co-ordinators. The work on the Project is just starting. Information and requests for help from members will be a feature of the coming months. We need your help so that we make the best use of resources and build a picture of what kind of support and information you need.

The overall aims of the project are:

- To raise awareness and understanding of the role of Independent Advocacy throughout a person's care and support journey.
- To raise awareness and understanding of the role of self-directed support organisations in local areas and develop a shared understanding of the role of advice and advocacy in the supported person's journey
- To help build capacity primarily within the advocacy movement.
- To conduct research into the impact of advocacy in relation to SDS.

If you want to know more about the SDS Project or the work that is being planned throughout Scotland please get in touch with:

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Edinburgh Napier University — Centre for Mental Health and Incapacity Law, Rights and Policy

Dr Jill Stavert

Edinburgh Napier University launched its Centre for Mental Health and Incapacity Law, Rights and Policy on 4th November 2013¹. It was well supported demonstrating the need for such a centre and this need was echoed by our guest speakers Dr Joe Morrow (President, Mental Health Tribunal for Scotland), Dr Donny Lyons (Chief Executive, Mental Welfare Commission for Scotland) and Adrian Ward (partner, TC Young solicitors and founder of the Adrian Ward Centre).

Our mental health and incapacity legislation in Scotland has been internationally recognised as being an example of good practice from the perspective of care, treatment and human rights. However, it should still be kept under regular review in light of developments in international law and policy. This is particularly important given that the rights and interests of individuals with mental health and incapacity issues must be central to all actions taken or considered under the legislation.

The Centre's establishment has been timely given that there are currently several important developments taking place. For example, the

Scottish Government is consulting on the draft Mental Health Bill which will amend the Mental Health (Care and Treatment)(Scotland) Act 2003 covering things such as advance statements, independent advocacy, named persons, medical reports and suspension of detention. The Tribunals (Scotland) Bill is before the Scottish Parliament and has implications for the Mental Health Tribunal as do the proposals to administratively merge the tribunals and courts. We also await the Scottish Government's response to its recent consultation² regarding appeals against excessive security in hospitals other than the State Hospital³ as well as the Scottish Law Commission's report and recommendations in connection with the compatibility of the Adults with Incapacity (Scotland) Act 2000 with Article 5 of the European Convention on Human Rights (the right to liberty) in light of the European Court of Human Rights ruling in *HL v United Kingdom* ("*Bournewood*")⁴. Moreover, the full implications of Article 12 (equal recognition before the law) of the UN Convention on the Rights of Persons with Disabilities in the context of psychiatric care and treatment and supported or substituted decision-making are also yet to be determined⁵.

This right has been radically interpreted to mean that interventions relating to persons who are unable to give valid consent are unacceptable⁶ and has clear implications for mental health and incapacity laws.

There is a wealth of knowledge and expertise in mental health and incapacity law and human rights throughout the public, private and voluntary sectors in Scotland. However, the fragmented nature of such expertise has often made it difficult for academia and practice to respond to each other as effectively as they might do, particularly when it comes to the needs of those individuals that the law and rights aim to support and protect. In seeking to address this the Centre will therefore provide an interface between academia, practice and policy. Its primary objective is to draw on the collective expertise of experts and interested parties (both within and outside Edinburgh Napier University) to create an interdisciplinary “hub” of excellence in mental health and incapacity law and rights and related areas. In this way relevant and useful research and training can be identified as a means of supporting that work which is already being undertaken. Moreover, to ensure the Centre’s activities are directly relevant to practice and policy, an expert advisory group has been appointed and met for the first time in January 2014.

It is important that laws affecting individuals with mental health and incapacity issues are formulated, interpreted and implemented in such a way that their rights and interests are paramount. Given the level of interest in and

support for the Centre so far it would appear to be well placed to assist in this process.

¹ Which although interdisciplinary operates from the Law provision within the School of Accounting, Financial Services and Law within the Edinburgh Napier University Business School.

² Following the UK Supreme Court ruling in *RM v The Scottish Ministers* [2012] UKSC 58.

³ Under s.268 Mental Health (Care and Treatment)(Scotland) Act 2003.

⁴ *HL v United Kingdom*, Application No. 45508/99 (2004) ECHR 471.

⁵ See UN Committee on the Rights of Persons with Disabilities, Draft General Comment on Article 12 of the Convention – Equal Recognition before the Law, Adopted by the Committee at its tenth session (2–13 September 2013) <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/DGCArticles12And9.aspx>

⁶ *Ibid.*

For more information on the Centre please visit its webpage www.napier.ac.uk/faculties/business/schools-centres/CMHILRP/Pages/Homepage.aspx

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What's going on with Section 13ZA?

Ian Hood, Learning Disability Alliance Scotland

Section 13ZA was an addition to the Social Work (Scotland) Act 1968, designed to prevent 'bed blocking' in the NHS. Many older patients with dementia no longer had capacity to consent or disagree with a decision to move into a care home in the community and as the guardianship process took so long to conclude, a large queue built up. 13ZA allowed social work and other interested professionals to act quickly in the person's best interests in line with the principle of least invasive intervention.

There has been some recent concern that Section 13ZA is being used to move vulnerable people from individual tenancies to cheaper care home placements. Many of these people have enjoyed over 20 years of life in the community since leaving institutions.

Legislative basis for Section 13ZA

The amendment included powers to provide services to adults who have been assessed as needing a service but who lack the capacity to consent to receiving that service.

If a local authority assesses an adult as in need of a community care service but that adult is also assessed as not being capable of making decisions about such a service they may take any steps which they consider necessary to help the adult benefit from that service.

Applying section 13ZA

In applying 13ZA, a care plan should be properly agreed before thinking about "legal authority" and the capacity of the adult must be assessed in relation to the decision in hand. In determining

the course of action to take the following key elements should be fully considered:

- Applying the principles of the Adults with Incapacity (2000) Act
- Assessment of needs and risks
- Whether there is an issue about deprivation of liberty
- Assessment of financial management arrangements.

Problems with the use of Section 13ZA

1. Sometimes decisions are taken without reference to the specific legislation or letting people know what is happening.
2. Decisions are taken by interested professionals e.g. social worker, nursing staff, occupational therapists. Local authorities may pay 'due regard' to views presented by an independent advocate but they, and by extension their advocacy partner, cannot be part of the decision making process itself.
3. The process of decision making does not require the active agreement of all interested professionals which forces all parties to be clear about their responsibility for the decision. In meetings the process can be a proposal and a general request for dissent. If no voices are raised then it is assumed this is agreed.

This is not simply a different process but one which can allow the unstated "conflict of

interest” between social worker as the purchaser of care services and as the arbiter of an individual’s care.

4. A fourth concern is that care plans are often not agreed in detail prior to a section 13ZA decision being agreed. The care plan can be as broad as a “moving to a care home” or moving “to the first available place out of a group of 4 care homes.”

Wider concerns over Section 13ZA

The Mental Welfare Commission has expressed concerns that Section 13ZA may be used as authority to make decisions regarding self-directed support on behalf of an adult incapable of making decisions. They believe that some local authorities may use the Act to appoint an appropriate person to take over decision making on behalf of another person. A person may be able to be assisted to make an informed choice about self-directed support and direct payments, even though they lack the capacity to manage the subsequent process.

One main concern is the lack of sufficient safeguards and the creation of additional layers of local authority bureaucracy. It is clearly evident from Mental Welfare Commission research that local authorities are already falling well short of what is required of them by way of supervision of Welfare Guardianship under the Adults with Incapacity Act. At present, the use of 13ZA is not routinely monitored by any one organisation in Scotland.

They have suggested it is unwise to extend its use as authority for access to self-directed support,

especially direct payments, when it has never been properly monitored to begin with.

Some have argued that the use of Welfare and Financial Guardianship is unduly bureaucratic and expensive when used solely for the purpose of accessing direct payments or other forms of Self Directed Support for an adult lacking capacity. The Mental Welfare Commission think the Adults with Incapacity Act needs to be amended to allow for graded forms of Guardianship which could provide mechanisms for substitute decision making for adults lacking capacity which are more proportionate to the circumstances of individual cases.

The 2011 Learning Disability Alliance Scotland report “Stuck” looked at the experience of people with learning disabilities who had been placed in Care Homes for Older People. There were many problems—lack of training, communication difficulties and significant age gaps between residents.

As social workers are purchasers of care home placements as well as the operators of section 13ZA actions, there is a fear that unless basic safeguards are put into place then people may be unfairly moved and unable to do anything about it afterwards.

www.scotland.gov.uk/Topics/Health/Quality-Improvement-Performance/NHS-Performance-Targets/Delayed-Discharge/Good-Practice

Working with vulnerable clients

Neil Stevenson, Director of Representation and Professional Support,
The Law Society of Scotland



The Law Society of Scotland has published three new guides designed to support Scottish solicitors to meet the needs of clients. This is part of growing work by the sector to recognise vulnerable clients and those who may have additional support needs.

"Ensuring fairness and creating more accessible services", will assist solicitors to comply with the Equality Act 2010 when providing services for people with a disability. It acts as a supplement to the organisation's key guidance on equality for staff and clients, Ensuring Fairness, Creating Opportunity.

According to Law Society research, around a third of households in Scotland (34%) contain at least one person with a long-standing illness, health problem or disability. In recognition of this, the Law Society invited Capability Scotland to develop a guide to assist solicitors who work with clients who have a disability. The guide is full of useful cases studies based on real life experiences to remind solicitors, that in addition to the legal need for compliance and the rules of the Society, it is also important to consider the particular circumstances of every single client.

The Society has also updated its guidance on, *"Continuing and welfare powers of attorney"*, following recommendations from the Mental Welfare Commission for Scotland. In considering these recommendations, it became apparent that the issues identified were relevant to a much wider range of matters. Also, the Society has created entirely new, *"Vulnerable Clients Guidance"*, to help solicitors respond to clients who may be at risk of impaired capacity or possibly subject to undue influence.

"We are committed to supporting Scottish solicitors in meeting the needs of every single client and providing the best service possible. These new guides will equip solicitors with the necessary information to advise clients, whatever their personal circumstances may be."

Bruce Beveridge,
President of the Law Society of Scotland

More work is planned. Recent contact from The Convenor of Scotland's 'Adult Protection Committees' suggested that extra information around 'adults at risk of harm' be distributed to support solicitors. The *Adult Support & Protection Act (Scotland) 2007* has the principal aim of designing and offering support and protection to adults who are at particular risk of harm and requires staff in public sector organisations to refer adults at risk of harm to the local Council. It requires the Council to investigate the person's circumstances and, if a support package is deemed to be necessary, to design and offer it. The Act also makes provision for anyone—not just those working in the public sector—to refer adults at risk of harm. We want to raise the profile of this with solicitors and help them identify cases of concern.

We have also been contacted by the Scottish Independent Advocacy Alliance, with ideas for some new materials for solicitors to help up skill them in working with clients who have advocates and with those advocates.