



SIAA Consultation Response | July 2022

Scottish Mental Health Law Review: Additional Proposals

Introduction

The Scottish Independent Advocacy Alliance (SIAA) advocates for independent advocacy.

We are the national intermediary organisation for independent advocacy in Scotland. SIAA promote, support, and defend the principles and practice of independent advocacy. Our aim is to raise awareness about the [value and impact of independent advocacy](#), and influence decision makers ultimately with a view to widen access to independent advocacy for all who need it in Scotland. Read more about [how SIAA advocates for independent advocacy](#).

As the only national organisation with a remit to promote, support and defend independent advocacy we have been following the provision, quality, availability, and accessibility of independent advocacy for many years. Our response to the Phase 3 recommendations centres around the elements of the recommendations paper that focus on independent advocacy and how it could help enhance the rights of people under mental health legislation.

Independent advocacy happens either individually or collectively. To understand how independent advocacy, both individual and collective, works in practice please visit the '[Independent advocacy in practice](#)' page. Independent advocacy is an important mechanism to defend the human rights of people using mental health services and independent advocates and collective advocacy groups are often referred to as human rights defenders.

SIAA is a membership organisation that has members providing independent advocacy across Scotland. [SIAA members](#) are a diverse range of organisations and groups that provide independent advocacy to different groups and in a variety of settings including:

- individual independent advocacy in the communities, hospitals, and prison settings,
- organisations specialising in citizen advocacy,
- carers advocacy organisations,
- collective advocacy groups based in hospitals, care homes and the community, and
- organisations providing independent advocacy to remote and rural communities.

Each SIAA member works to the [Independent Advocacy Principles, Standards and Code of Best Practice](#), which is the foundational document for independent advocacy in Scotland.

Most SIAA members provide independent advocacy under the Mental Health (Care and Treatment) (Scotland) Act 2003 and have done so for many years meaning they have extensive expertise to contribute to the Independent Review and its recommendations consultation. This SIAA consultation response is informed by engaging and consulting with our members. SIAA members and the Secretariat team from the Scottish Mental Health Law Review team joined SIAA to discuss the recommendations made in the Additional Proposal Consultation Paper around independent advocacy at a roundtable in July 2022. SIAA also met with Citizen Advocacy groups and individual members to understand members response to the consultation. SIAA have been meeting with the membership throughout 2022, both individually and collectively, to understand their unique perspectives, what is working well and the challenges that independent advocacy groups are facing.

Definition of Independent Advocacy

Independent advocacy is about speaking up for, and standing alongside individuals or groups, and not being influenced by the views of others. Fundamentally it is about everyone having the right to a voice: addressing barriers and imbalances of power, and ensuring that an [individual's human rights](#) are recognised, respected, and secured.

Independent advocacy supports people to navigate systems and acts as a catalyst for change in a situation. Independent advocacy can have a preventative role and stop situations from escalating, and it can help individuals and groups being supported to develop the skills, confidence and understanding to advocate for themselves.

The principles of Independent Advocacy

Principle 1: Independent advocacy is loyal to the people it supports and stands by their views and wishes.

- Standard 1a: Independent advocacy follows the agenda of the people supported regardless of the views, interests, and agendas of others.
- Standard 1b: Independent advocacy must be able to evidence and demonstrate its structural, financial, and psychological independence from others.
- Standard 1c: Independent advocacy provides no other services, has no other interests, ties, or links other than the delivery, promotion, support, and defence of independent advocacy.

Principle 2: Independent advocacy ensures people's voices are listened to and their views are taken into account

- Standard 2a: Independent advocacy recognises and safeguards everyone's right to be heard.
- Standard 2b: Independent advocacy reduces the barriers people face in having their voice heard because of communication, or capacity, or the political, social, economic, and personal interests of others.

Principle 3: Independent advocacy stands up to injustice, discrimination, and disempowerment

- Standard 3a: Independent advocacy recognises power imbalances or barriers people face and takes steps to address these.
- Standard 3b: Independent advocacy enables people to have more agency, greater control, and influence.
- Standard 3c: Independent advocacy challenges discrimination and promotes equality and human rights.

Find out more about independent advocacy and how it works in Scotland from the [Independent Advocacy Principles, Standards and Code of Best Practice](#).

Who provides Independent Advocacy?

An independent advocacy group only provides independent advocacy. All the activities it undertakes are about providing, promoting, supporting, and advocating for independent advocacy. Independence means that it does not provide any other services and is structurally, financially, and psychologically separate from other organisations and interests.

'Independent advocates' or 'advocacy workers' work or volunteer for independent advocacy groups. Independent advocates help people to get the information they need to make real choices about their circumstances and support the person or 'collective advocacy' group to put their choices across to others. An independent advocate may speak on behalf of people who are unable to do so for themselves.

Models of Independent Advocacy

Individual or one-to-one advocacy

This includes professional or issue-based advocacy. It can be provided by both paid and unpaid advocates. An advocate supports an individual to represent their own interests or represents the views of an individual if the person is unable to do so. Advocates provide

support on specific issues and provide information, but not advice. This support can be short or long term.

Another model of individual advocacy is citizen advocacy. Citizen advocacy occurs when an ordinary citizen is encouraged to become involved with a person who might need support in the community. The citizen advocate is not paid. 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 advocacy partner through natural skills and talents rather than being trained in the role.

Individual advocacy can also include peer advocacy. A peer advocate has life experiences they share with their advocacy partner. The peer advocate and their advocacy partner may share age, gender, ethnicity, diagnosis, or issues. Peer advocates use their own experiences to understand and have empathy with their advocacy partners. 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 their advocacy partner.

Collective advocacy

Collective advocacy creates spaces for people to get together, support each other to explore shared issues and find common ground. It supports people to speak up about their experiences, values, and expectations. It enables people to find a stronger voice, to campaign and influence the agendas and decisions that shape and affect their lives. Collective advocacy can help planners, commissioners, service providers and researchers to know what is working well, where gaps are in services and how best to target resources. It helps legislators and policy makers to create opportunities for people to challenge discrimination and inequality and helps people learn to become more active citizens. Collective advocacy groups benefit from skilled help from an independent advocacy organisation and with the support of resources.

To understand how independent advocacy, both individual and collective, works in practice please visit the [‘Independent advocacy in practice’](#) page.

Independent Advocacy Definition, Right of Access, Commissioning, and Funding

Recommendation: The Scottish Government should consolidate and align all the different pieces of legislation and policy to ensure consistency regarding the definition of independent advocacy, the right to access it and how it is commissioned and funded.

Definition of Independent Advocacy

The Scottish Independent Advocacy Alliance (SIAA) Principles, Standards and Codes of Best Practice sets out the definition of independent advocacy, which was created with and alongside the diverse [SIAA membership](#).

The Principles, Standards and Codes of Best Practice also highlight the three elements of 'Independence'.

Structurally

An independent advocacy group is a separate organisation in its own right. For example, it is registered as a charity or company and has its own Management Committee or Board of Directors. Everyone in the organisation recognises that it is separate and different from other organisations and services.

Financially

An independent advocacy group has its own source of funding that does not cause any conflicts of interest and that does not compromise the work it does.

Psychologically

It is important that independent advocacy groups actively consider the three elements of independence and put plans in place to mitigate any potential conflict of interest at a structural, financial, and psychological level.

SIAA membership consists of 39 independent advocacy groups which span across the width and breadth of Scotland providing both individual and collective advocacy. Most of the independent advocacy resources available across Scotland are provided by [SIAA membership groups](#).

The independent advocacy movement has grown and developed over the last 35 years. Many of the grassroots, community focused independent Advocacy groups continue to develop based on the specific needs of their community. The Principles, Standards and Codes of Best Practice highlights the importance that independent advocacy groups be embedded in the community or community of interest it serves. Independent advocacy groups are often led and influenced by people with lived expertise and the needs of the specific community of interest and locality.

You can read about the roots of independent advocacy in Scotland in the SIAA [Towards the Future](#) publication. SIAA strongly supports grassroots, community based independent advocacy groups who have developed their expertise, knowledge, and practice of independent advocacy over many years. All these groups continue to hold the SIAA Principles, Standards and Codes of Best Practice central to their work to ensure local people and groups can have their voices heard and taken into account.

SIAA believe it is important that people and groups meaningfully participate in their everyday decision making, influencing private, public and political life but also instigate fundamental change to ensure human rights are central. Supporting grassroots and community based independent advocacy in Scotland nurtures a strong human rights culture to grow and flourish. Independent advocacy in all its diverse forms, not only supports participation in private, public, and political life but holds those in power to account.

The SIAA Principles and Standards are intrinsically linked to the principles of [Participation, Accountability, Non-discrimination and equality, Empowerment and Legality \(PANEL\)](#). Independent advocacy groups have a human rights-based approach that support individuals and groups consider how human rights laws may apply to their specific circumstances (Advocating for Human Rights, 2017).

Independent advocacy groups are human rights defenders and support the right to participation both at an individual level in everyday decisions in a person's life such as care, employment and cultural activities and wider participation in political and public life. The Human Rights Consortium Scotland highlights that 'independent advocacy at its very heart enables people to participate. Without independent advocacy support, many, many people would simply be unable to participate in decisions that impact their lives' (Human Rights Consortium Scotland, 2021).

One of the guiding principles of the [UNCRC](#) is the "Respect for [the] inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons". Independent advocacy can support people to understand and make their own choices and develop their own personal autonomy independent from others who may have undue influence or conflicts of interest.

It is important the definition of independent advocacy incorporates a human rights-based approach. SIAA and members would want to be involved in the development of a universal definition of independent advocacy, clearly defining both individual and collective independent advocacy. SIAA want to safeguard the high-quality grassroots, and community based independent advocacy by SIAA Members who uphold and work within the SIAA Principles, Standards and Codes of Best Practice.

This would ensure a consistency across all legislation and policy areas. A consistent approach would enable a clear understanding of what independent advocacy is and how it can benefit people.

The SIAA Principles, Standards and Codes of Best Practice sets out what independent advocacy is, the underpinning principles of independent advocacy and the high-quality standards that members agree to work within. Regardless of the model of independent advocacy or the legislation or policy environment, this is a universal definition accepted and used by all SIAA members when working with individuals and groups.

Often the term ‘advocacy’ is used interchangeably with the term ‘independent advocacy’. SIAA recommends that the term ‘independent advocacy’ is always used when describing independent advocacy. This will support clarity and a clear distinction between the specific function of independent advocacy from other forms of advocacy, which can be provided by others such as service providers when supporting people to speak up within the function of their role, where there could be a conflict of interest and the advocacy is not independent financially, structurally, and psychologically.

With the development of the new Human Rights Bill for Scotland and the National Care Service Bill, SIAA and members agree that independent advocacy should be a ‘*right for all*’. The recently published 1st stage National Care Service Bill highlights that independent advocacy should be made available to all people using National Care Services. The Human Rights Consortium Scotland also supports the inclusion of independent advocacy as a “Right for All” within the Scottish Human Rights Bill.

Improving Access to Independent Advocacy

Recommendations: If there is to be an opt out system the SMHLR team thinks the following things need to happen:

- **The Scottish Government needs to set out in law what the role of an independent advocate is, and the duties required to effectively commission and fund independent advocacy organisations (IAOs).**
- **IAOs need to be resourced to explain what they do and how they can help people help themselves.**
- **Training needs to help practitioners across health and social care to understand what IAOs can do and how IA can help improve communication, relationships with patients and unpaid carers and can help secure better outcomes for patients.**
- **There should be a public awareness raising about independent advocacy.**
- **A wider right to independent advocacy in law.**
- **Strong right to access independent advocacy in human rights legislation.**

Right to Access Independent Advocacy

At present, only some people have the right to access independent advocacy dependent on the specific legislation. The Mental Health (Care and Treatment) (Scotland) Act 2003 gave people the most significant right to independent advocacy. However, as highlighted by the Mental Welfare Commission in [The Right to Advocacy](#) 2018 report, the way the funding has been distributed in Scotland often means people subject to statutory processes under this legislation are prioritised in their access to independent advocacy. Meaning people not subject to compulsory treatment may have to wait or may not even have access to

independent advocacy. This was reinforced in the Independent Review of Learning Disabilities and Autism in the Mental Health Act (Dec 2019) which highlighted that although autistic people and those with an intellectual disability have the right to access independent advocacy under the Mental Health (Care and Treatment) (Scotland) Act 2003, the reality is that people do not have equal access to independent advocacy. SIAA research for [The Advocacy Map](#) shows there are significant gaps in the provision of independent advocacy across Scotland, including:

- children and young people
- people with dementia
- people with intellectual disabilities
- autistic people
- people within the prison system
- unpaid carers.

SIAA's aim is to raise awareness about the value and impact of independent advocacy and influence decision makers, ultimately, with a view to widening access to independent advocacy for all who need it in Scotland.

To increase people's right to access independent advocacy, SIAA supports both the 'opt out' proposals and the development of independent advocacy as a 'Right for All'. Independent advocacy should be integral to a human rights framework within the proposed Scottish Human Rights Bill that aims to incorporate the UNCRPD into Scots law.

One member highlighted that 'Any one of us at any point may have heightened vulnerability and may need someone to stand beside us who does not have a conflict of interest. People should not need a label to access independent advocacy, and the right should be there for all'.

The consultation states that only 5% of people who have the right to access independent advocacy currently access it. The consultation explains several reasons for this. However, from a membership perspective, they highlight that they are already working to capacity or beyond capacity. Although the membership strongly agrees for the need to widen access to independent advocacy, there is a significant resource implication. If independent advocacy is to be available to those who have a current right to access and this right is also widened, there needs to be a significant increase in resources available to increase provision of independent advocacy across Scotland. To meet these suggested recommendations, there should be a significant increase in funding.

Some members were concerned that the 'opt out' system could be tokenistic if there are not the resources available or clear processes in place within legislation for accessing independent advocacy.

Furthermore, some members explained that the 'opt out' system should consider all the models of independent advocacy as not one specific model will suit everyone.

Another point raised by members is that independent advocacy is best explained by independent advocates themselves. This enables those potentially accessing independent advocacy to have a clearer understanding of what it is and the potential benefits to the person. The Rome Review highlighted that when people had a clearer understanding, there was an uptake of people accessing independent advocacy.

SIAA would support public awareness raising about people's right to access independent advocacy for both the public and professionals, however there would also need to be resources in place so people could then access independent advocacy.

SIAA would support the proposed changes around specifically training practitioners across health and social care to understand what independent advocacy can do to build on participation, communication with patients and unpaid carers to improve outcomes for patients. SIAA would like to work with members and those with lived and living expertise to develop learning and awareness raising about independent advocacy.

Evaluation and quality assurance of independent advocacy organisations

- **The SMHLR team thinks that an independent body should be created by the Scottish Government with a specific remit to evaluate independent advocacy organisations, or responsibility be given to an existing organisation to do this.**
- **Resource should be given to independent advocacy organisations to collect data in a uniform way across Scotland, so issues can be tracked at structural and strategic level.**

SIAA and the membership strongly agree that there should be a quality assurance framework in place. Members have highlighted that gaining a 'quality mark' would demonstrate to people wishing to access independent advocacy the quality of the independent advocacy against the SIAA Principles, Standards and Codes of Best Practice.

Members mentioned that more extensive work around evaluation and quality assurance should also be reflected in an increase of funding to do so and that the collected data should be accessible to all advocacy partners and independent advocacy organisations.

It was also said that if the Scottish Government seeks a full picture of advocacy delivered across the country, there should be consent from the various funders of independently funded advocacy projects, as organisations are not currently required to include this information.

SIAA believes that independent advocacy should be delivered consistently and is of the highest possible standard. For this reason, the SIAA Principles, Standards and Codes of Best Practice were created by SIAA's membership to safeguard quality assurance across Scotland.

SIAA is keen to continue this line of work by engaging with the membership to develop a quality assurance framework which is linked to SIAA membership, that is regularly reviewed. It is important SIAA, people with lived expertise and independent advocacy groups work together to develop an appropriate evaluation framework that demonstrates good practice and areas for improvements, in turn supporting high quality independent advocacy practice. There has already been significant past work in the development of the [SIAA Evaluation Framework](#) with SIAA membership. SIAA are planning to continue developing this work with members to create a quality assurance framework.

SIAA and members also want to demonstrate the difference independent advocacy is making to the people and groups accessing independent advocacy. SIAA and the membership developed the [Impact Measurement toolkit](#). This publication highlighted the three national outcomes that independent advocacy groups work towards.

Independent Advocacy National Outcome 1

Independent advocacy enables people to be better informed about their rights, as well as understanding their needs and wishes and the choices they have. It increases their agency and power to choose their own actions freely, as much as possible.

Independent Advocacy National Outcome 2

Independent advocacy supports people to recognise, understand and challenge power imbalances that influence their lives. It enables them to challenge these imbalances, in order to try and realise their rights, needs and wishes. When someone is unable to take personal action, their advocacy worker will ensure that their rights are upheld.

Independent Advocacy National Outcome 3

Independent advocacy supports people to know that their voices have been heard and their needs and wishes understood

At present independent advocacy groups report back their monitoring and outcomes requirements as set by their specific funders. Monitoring and outcomes reporting varies across Scotland, meaning there is no consistent way to measure impact or report on outcomes. This makes it hard to evidence the collective difference that independent advocacy is making for people and communities across Scotland. Bringing monitoring and outcomes reporting in line with the SIAA independent advocacy National Outcomes would enable the consistent reporting of independent advocacy across Scotland.

SIAA would like to continue this piece of work and support the membership to develop a way to evidence the collective difference independent advocacy makes across Scotland.

Regarding the creation of an independent body to evaluate independent advocacy, some members thought that the SIAA could take on that role.

SIAA are keen to ensure those independent advocacy groups *registered* as members can demonstrate high quality Independent Advocacy. This would give confidence to those

accessing independent advocacy and other key stakeholders that independent advocacy is delivered consistently and is of the highest possible standard.

Who can be an independent advocate?

Recommendations:

- **Introduce a Scotland wide qualification for paid and voluntary Independent Advocacy Workers**
- **Create a national register for Independent Advocacy Workers**

In Scotland there is a rich and diverse independent advocacy landscape with various forms of Individual Advocacy and Collective Advocacy. SIAA supports this diverse, and community based independent advocacy environment, often grown, and nourished from within the community itself.

One of the core functions of independent advocacy is to stand independently from Scottish Government, Public, Private and Third Sector bodies. Independent advocacy groups also stand independently from any others who may have undue influence or conflicts of interest with the people or groups they are advocating for.

Managing conflicts of interest is key in advocating that people and groups have their voices heard and considered in private, public, and political life. The SIAA Principles, Standards and Codes of Best Practice set out clearly how independent advocacy groups function and practice to manage these conflicts of interest.

The power dynamic in Independent Advocacy Partnerships or Collective Advocacy Groups is closely observed to ensure there is no power imbalance in the relationship. Independent advocates work hard to ensure they do not become another 'professional' or 'service provider' in people or collective advocacy groups lives, their focus is to be led by the person or group to ensure that their voices are heard, taken into account, rights understood and realised, and personal autonomy and power developed. Special consideration would need to be given that a 'professional' qualification would not affect the power dynamic within the independent advocacy relationship.

However, Independent Advocates recognise that the knowledge, skills, attributes, and values required for good independent advocacy practice requires development by checking practice against the SIAA Principles, Standards and Codes of Best Practice.

Many independent advocacy groups have developed bespoke 'inhouse' induction and learning in the core independent advocacy practice. The Advocacy Project and Reach Advocacy have developed qualifications in independent advocacy. Some independent advocacy groups have accessed the City and Guilds independent advocacy qualification.

Having a clear understanding of a human rights-based approach and supported decision making is important to independent advocates. Supporting people and groups is to

understand and realise their rights, wishes, and needs regarding their specific situation is a core function of Independent Advocates.

Members broadly agree that vocational qualifications, CPD or City and Guilds would be favoured. However, this must be linked to the SIAA Principles, Standards and Codes of Best Practice and the Scottish landscape of policy, legislation, and our strong human rights culture. Evidencing learning specific to independent advocacy is now becoming a core requirement for funders. Some independent advocacy groups have said they are finding it challenging accessing funding without evidence of recognised and standardised core learning in independent advocacy.

Members also highlighted that learning must be accessible both in terms of financial resources and physical accessibility. Some independent advocacy groups operate in rural locations. Some members have said accessing current learning opportunities has been problematic. There would need to be a mixture of learning opportunities such as online learning as well as vocational learning.

The learning needs of specific independent advocacy models may differ from one another. However, the core learning around the SIAA Principles, Standards and Codes of Best Practice outlining good independent advocacy practice could be universal.

There could be an opportunity for specific learning/modules around topics such as Induction into independent advocacy, Non-Instructed Advocacy, Communication, Diversity, Equality and Inclusion, Human Rights, Supported Decision Making (SDM) and Children's Hearings. SIAA would be keen to support and develop this kind of consistent learning with the membership and people with lived and living expertise.

However, a caveat must be considered that many of the different models of independent advocacy such as Citizen Advocacy, Peer Advocacy and Collective Advocacy have natural, equal, and reciprocal relationships central to the specific model of independent advocacy. Having one person 'qualified' in that relationship or group could affect the power dynamics. These models also encourage social inclusion and human rights from within the local communities and are a good source of outreach and education, reaching people who may otherwise not be able to access independent advocacy. Having lived or living expertise would be essential for Collective and Peer advocacy.

SIAA would not want to exclude people from becoming Independent Advocates. Learning opportunities need to be inclusive and accessible to individuals, considering their specific learning needs and model of independent advocacy.

Resourcing and monitoring a Scotland wide qualification would require significant infrastructure to be put in place.

Members posed the question 'would there be a need for a national register of independent advocates if there is a clear Quality Assurance Framework and opportunity for consistent learning in core independent advocacy practice in place'. All independent advocates currently require membership of the PVG Scheme. Independent advocacy groups have

robust recruitment, induction, and training processes in place to ensure people with the correct attributes and values become Independent Advocates.

If a national register was to be developed and a scrutiny body appointed, members highlighted it would need to be a body that has a clear understanding of the breadth and scope of the human rights environment that Independent Advocates operate within. Members did not think SSSC would be an appropriate registered body and said a human rights type organisation would fit better.

A member thought that an alternative to creating a new organisation could be assigning the function to the Mental Welfare Commission, provided it was given appropriate powers.

Some members could see the benefit in a register for independent advocates. They thought that the register could give confidence to the people accessing independent advocacy as it would reflect that their independent advocate has the relevant knowledge, skills, and qualifications.

Citizen Advocacy groups have highlighted that a 'register' of Citizen Advocates would go against the values and principles of the ordinary reciprocal independent advocacy Partnerships. Citizen advocates are not 'advocacy workers' either paid or voluntary.

Diversity, equality, and inclusion

Recommendations:

- **Those commissioning independent advocacy services to require collection and sharing of monitoring data.**
- **Resource provided for diversity and equality training for all independent advocacy workers.**
- **Support for independent advocacy organisations to have dedicated staff to work with specific groups they share a background with, and to work with groups facing particular barriers in Scottish society.**

Members strongly agreed with the proposed changes within the consultation to ensure and improve diversity, equality, and inclusion within independent advocacy both for those working and accessing independent advocacy. Members highlighted that having some dedicated workers with a shared background within the team could support people experiencing barriers in accessing independent advocacy and Scottish society. It was highlighted that where people may want to access more generic independent advocacy that this should be more accessible to enable this.

The 'opt out' model may reduce barriers in accessing independent advocacy by reaching more people who may otherwise be excluded.

Improving diversity, equality and inclusion is foundational to the field as independent advocacy's Principle 3 states that 'independent advocacy stands up to injustice, discrimination, and disempowerment'. The standards to this principle are:

- Standard 3a: Independent advocacy recognises power imbalances or barriers people face and takes steps to address these.
- Standard 3b: Independent advocacy enables people to have more agency, greater control, and influence.
- Standard 3c: Independent advocacy challenges discrimination and promotes equality and human rights.

Working towards increasing diversity, equality and inclusion is one of SIAA's main lines of work. This has been reflected on our current work plan that includes taking actions to 'Establish work to identify how independent advocacy practice can be improved around inclusion and equalities'.

SIAA consistently delivers anti-racism workshops to members, seeking to provide them with tools to work through an anti-racist perspective and towards a diverse, equal and inclusive independent advocacy. Since independent advocacy addresses barriers and imbalances of power, and ensures that an [individual's human rights](#) are recognised, respected, and secured; providing a service focused on diversity, equality and inclusion is crucial.

Furthermore, independent advocacy plays a key role when individuals or groups are not heard, are vulnerable or are discriminated against. This can happen where support networks are limited or if there are barriers to communication. Improving diversity, equality and inclusion should be prioritised to build on the engagement with these marginalised groups.

Independent advocacy helps individuals to speak up and stands alongside them. If the independent advocate shared the same background with the people they support, their relationship would be based on a mutual understanding of the context and challenges they both experience. Peer advocacy is a format that could help address marginalisation by having independent advocates who have life experiences they can share with their advocacy partner. For example, reaching out to marginalised groups through people who have lived similar experiences, would significantly improve inclusion in the independent advocacy landscape.

The peer advocate and their advocacy partner may share age, gender, ethnicity, diagnosis or issues. Peer advocates use their own experiences to understand and have empathy with their advocacy partners. 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 their advocacy partner.

Moreover, a member shared that "as independent advocacy is still essentially, a grass roots industry whose origins were from the desire to provide support for those marginalised in society, as society changes so must the industry and should be subject to the highest scrutiny."

Funding and commissioning of independent advocacy

Recommendations:

- **The SMHLR team suggests the following should be considered around funding and commissioning**
- **A national fund to be created for the provision of independent advocacy which would cover the different areas of work –e.g., mental health, children’s advocacy, social security and remove unequal levels of access across Scotland.**

Strategic independent advocacy Planning should happen at a local level. Health boards and local authorities have a duty to tell the Mental Welfare Commission how they have ensured access to independent advocacy, and how they plan to do so in the future.

At present independent advocacy groups are funded in various ways. From research and work undertaken by the Mental Welfare Commission since The Mental Health (Scotland) Act 2015 it highlighted there is not enough strategic planning being undertaken in local areas ([The Right to Advocacy, 2018](#)). Currently most independent advocacy groups are funded locally through NHS, IJB or LA with widely varying arrangements and the potential for conflicts of interest to arise. We know of member organisations who have used legitimate mechanisms to hold services to account and not had contracts renewed. A national fund could ensure equity of funding across Scotland and address some of the conflicts of interests that have arisen at a local level. Independent advocacy in Children’s Hearings is a good example of where this model has worked.

Many independent advocacy groups have developed local relationships and independent advocacy has grown organically dependent on the needs of the community. Members highlighted that if there was to be a national fund, how would this integrate with local Strategic independent advocacy Planning as outlined in The Mental Health (Scotland) Act 2015? Members also raised the concern that this could adversely affect small grass root community-based groups in favour of national independent advocacy groups and the potential that independent advocacy would not respond to local need. There was also a concern that some independent advocacy models would be favoured over others. It is important that all the models of independent advocacy have equitable access to funding.

One member suggested that the national fund is allocated to localities and the Mental Welfare Commission still have a scrutiny role over Independent Advocacy Planning. SIAA would like to see the Mental Welfare Commission have more power to ensure Strategic Independent Advocacy Planning is in place as outlined in The Mental Health (Scotland) Act 2015.

The role of independent advocacy in supported decision making

Recommendations: The Scottish Government should -

- **commission a training programme on Human Rights and SDM to all independent advocacy organisations and:**
- **commission a training programme and awareness raising for the public and other relevant groups on SDM.**

Members supported the inclusion of independent advocacy within SDM and the opportunity for further training in understanding SDM and human rights. Members emphasised that independent advocacy supports people to understand their options and make their own decisions. Some independent advocacy groups have developed learning on Human Rights, delivered by people with lived and living experience. Additionally, it was emphasized that any training must be commissioned "with" and not "to" independent advocacy organisations.

Citizen advocacy groups highlighted that Citizen Advocates would be particularly well placed in supporting Advocacy Partners in SDM due to the often-long term and natural relationship of the advocacy partnership.

Scrutiny and accountability of independent advocacy organisations

Recommendations:

- **Scottish Government should appoint an agency to scrutinise independent advocacy organisations regularly. Such an agency might need to be overtly human rights based. For independent advocacy to promote and protect human rights effectively, the scrutinising agency would have to have a thorough understanding of human rights law and its application in practice.**

Please see *Who can be an Independent Advocate* and *Evaluation and Quality Assurance of Independent Advocacy Organisations* sections.

SIAA would like to see the Mental Welfare Commission have more powers in ensuring NHS Boards and IJBs have Strategic Independent Advocacy Plans in place.

As independent advocacy happens beyond the remit to the Mental Welfare Commission, consideration needs to be given of how to ensure that independent advocacy is provided to everyone who has a right and ensure appropriate local strategic planning and commissioning is in place.

Independent advocacy for carers

- **Independent advocacy organisations are resourced by the Scottish Government to recruit dedicated staff and volunteers specifically to support unpaid carers.**

SIAA and members agree that the proposals to increase independent advocacy for unpaid carers would be welcomed and is needed. Unpaid carers do not have consistent access to independent advocacy. Members highlighted that the Carers (Scotland) Act 2016 did not clarify the importance of independent advocacy for unpaid carers. This means that there is inconsistent independent advocacy available across Scotland for unpaid carers.

Unpaid carers usually advocate for the person they care about in many different situations. Independent advocacy can help unpaid carers by taking the pressure off them to represent the person they care for. A member agreed that “there will almost always be a conflict of interest between the best advice and views of carers and their loved ones and so advocacy for the unpaid carer is important.”

At times, the person receiving care will have a right of access to independent advocacy, but the unpaid carer will not. SIAA’s vision is that everybody who needs independent advocacy, should have access to it. Unpaid carers make an invaluable contribution to society and should receive the support they need, including independent advocacy as it would protect their right to a voice. Recruiting dedicated staff and volunteers to specifically work with unpaid carers, would greatly contribute to guaranteeing that unpaid carers can access independent advocacy.