

## **OLDER PEOPLE'S ADVOCACY ALLIANCE (OPAAL) UK**

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### **OPAAL RESPONSE TO THE COMMISSIONING FRAMEWORK FOR HEALTH AND WELL BEING**

**May 2007**

#### **An introduction to OPAAL (UK)**

OPAAL is the Older People's Advocacy Alliance. We are the only national strategic organisation throughout the United Kingdom promoting independent advocacy with older people. We believe we are unique, the only umbrella organisation with a member base that focuses on independent advocacy services for older people across the UK. We have circa 200 members, our members are advocacy schemes, and national organisations with an interest in advocacy e.g. Help the Aged and Age Concern England and a small number of individuals, usually academics.

OPAAL's vision is, a United Kingdom where all older people have access to high quality independent advocacy services. Our mission is to give the strategic lead on the development of independent advocacy with older people

We want to better service older people, their advocates and carer's. We also want to influence the provision of independent advocacy for all older people, particularly those who are most vulnerable. We aim to do this by being the premier national organisation focussing on the provision of high quality independent advocacy for older people.

OPAAL believes that there are specific circumstances where all individuals must have a right to the support of an independent advocate to ensure that their own interests and preferences are acknowledged and addressed.

These services must be available to all older people who are:

- At the point of discharge from hospital
- Directly affected by a change in the management or running of their care service
- At the point of accessing continuing care and community care services
- At all reviews affecting care services in hospital and in the community

OPAAL's definition of advocacy is:

'A one-to-one partnership between a trained, independent advocate and an older person who needs support in order to secure or exercise their rights, choices and interests.'

## **What we think about Chapter 2 of the Framework: 'Putting people at the centre of commissioning'**

OPAAL welcomes the joint commissioning framework putting vulnerable people at the centre of commissioning and providing a framework for the commissioning of services based on individual need as well as on population analysis.

OPAAL supports the commitments to engage service-users in the development and delivery of services, but believes that users themselves need to be properly resourced to develop their role and influence.

We are concerned that there should be national standards to support the engagement of users and that these should not be susceptible to substantial regional variations as a result of the local alignments that develop between commissioners and community representatives.

### **What we think of the discussion of advocacy in the sub-section 'Person-centred care – how commissioning can get care right for individuals' (p18)**

**Question 1** Central government could ensure that older people have a statutory right to independent advocacy.

**Question 2** Special arrangements should be made to ensure that independent advocacy is better publicised and promoted: there is good evidence of independent advocates working effectively with people who often refuse services.

We support the proposal that commissioners should ensure that there are effective advocacy services and complaints procedures in place (2.4, p 20). We believe, first, that this should refer to independent advocacy services, and secondly, that the requirement should be accompanied with direct government investment, ring-fenced appropriately, to establish an adequate network. We would welcome discussion of who, at regional and local level, is best placed to implement the development of such a framework.

In the medium term OPAAL believes, with the Disability Rights Commission and Lord Ashley, that there should be a statutory right to independent advocacy and would like to see the Department of Health take the initiative by engaging other governmental partners, human rights and equalities bodies, in preparing the relevant legislation. We believe that this should also involve work of the kind identified by the OPAAL National Forum ( see Appendix One) to promote good practice and encourage provision of effective advocacy.

In the short term, we believe that the Department of Health should work with OPAAL, Action for Advocacy, and others through the newly established Advocacy Consortium UK (ACUK), to provide adequate guidance to improve the standard of advocacy commissioning. In particular, commissioners should be encouraged to require robust standards of independence from providers and local authorities should support independent advocacy providers to

develop their expertise in business development and, where absolutely necessary, tendering. OPAAL views with concern the recent growth of corporate third sector provision, and the encouragement being given to direct service providers to run advocacy alongside services where there are clear conflicts of interest. We believe this will undermine trust and public confidence in independent advocacy,

The government should recognise the concerns of commissioners and statutory bodies that the supply of volunteer advocates is inadequate and work with us to urgently improve the profile, promotion, and recognition of independent citizen advocacy as a demanding but rewarding contribution to the health of a democratic society.

OPAAL agrees that **advocacy** should be sensitive to the needs of more vulnerable members of the community, and we support creative and innovative work within the advocacy movement to ensure that is the case.

We encourage care managers and adult protection officers, for example, to make far more use of existing guidance in appointing advocates for such users, and note with concern the lack of general investment in independent advocacy, as demand outside the scope of the IMCAS in response to mental capacity legislation. However, we do not accept that the need for independent advocacy is exclusive to people previously judged to be 'more vulnerable' and believe it should be more widely available to older people and others, as set out, for example, in our Statement of Intent (Appendix 2).

We agree that having 'voiced' their needs service users should then be supported and enabled to secure the services required to meet their individual needs. We believe that where the service-user wishes it the advocate be directly involved in securing those services. We have been concerned that, in recent discussions of care brokerage and the like, no evidence appears to have been collected to explore the contribution of advocates to the effective implementation of care-plans and other individual service level agreements.

We note the reference to 'individual and community needs' (point 2.4, p 20). We believe the word 'community' here is unnecessary and ambiguous. In some contexts the term 'community' is used to mean 'cultural', whereas it is widely used by the NHS to distinguish people by residential status – living in the community as distinct from living in a nursing home. We believe it should be absolutely clear that independent advocacy would be available to everyone eligible, regardless of his or her background **or** residence.

### **What we think of the discussion of advocacy approaches in the sub-section 'Promoting health, well-being and independence for all' (p 21)**

**Question 1** We think the measures set out in this section will be stronger if greater attention is paid to the definition of advocacy and if commissioners are better supported to make appropriate use of advocacy approaches.

**Question 2** We think special arrangements for group advocacy will enable some of those not routinely using services to be better heard.

We agree that commissioners can ensure the involvement of local people by (page 22) by supporting advocacy approaches for groups who find it harder to express their views. Overall, we would welcome a decision by the government to retain the term advocacy to mean what we define as independent advocacy: (cf Page 1 above). We would recommend the use of the term engagement to discuss the appropriate blending of empowerment and consultation that is implied in this paragraph. However, if the term advocacy were to be retained we would strongly prefer that the statement be amended to read: 'supporting self and group advocacy approaches for people who find it harder to express their views'. This would help ensure that groups taking on representative roles would adopt a disciplined approach to ensure that they articulate what their members and users want rather than an organisational interest. We recognise, of course, and trust that the government will also, the role that independent advocacy itself can sometimes contribute to consultative and planning process.

### **The importance of a broad, balanced understanding of the role of independent advocacy**

Lastly, we hope that the government recognises that independent advocacy with older people has been woefully underdeveloped. Recent interest from commissioners is welcome. However, the emphasis on service access and encouraging choice, and on identifying the users' true wishes (as in this Framework, or in the Mental Capacity Act), needs to be widened to encompass more of the demand that advocates themselves report.

We hope the government will recognise the equal importance of redress (as in the Office of Fair Trading's Care Homes Market Study), and of rights – human rights in general, and those particular to independent living proposed in Lord Ashley's bill in the House of Lords. Much effective advocacy is actually engaged with challenging blatant exploitation or with trying to provide adult protection (eg. Jonathan Senker's Voice UK All Party Parliamentary Group 29/01/07 at [www.advocacypartners.org](http://www.advocacypartners.org)).

One of our member schemes – run by volunteers on funds of less than £10,000 a year - recently brought two cases to our attention. The first involves supporting a care-home resident challenge the unlawful, imposition of top-up fees. His wife on pension credit was paying £50 a week as a top-up for her husband's care. The advocate then discovered that the home was requiring payment of his residential allowance – not for 'extras' but to meet his core fees. In the second case, an older woman found herself in dispute with a violent neighbour who had assaulted her and who was abusing the planning regulations in running his garage business. Neither she, nor the advocacy service, was able to achieve any action from the relevant statutory bodies (i.e., police, and local authority). In both these cases the advocacy service has had to support the individuals affected in taking court action to seek justice.

We trust that the government will grasp this opportunity to invest in independent advocacy and recognise that its importance goes beyond assisting the more efficient delivery of preventive and care services. As we write independent advocacy with older people is in the front line of a battle against discrimination, prejudice, neglect, and injustice.

## **APPENDIX 1. OPAAL's National Forum on Advocacy for Older People**

Notes from the inaugural meeting held on Friday 30<sup>th</sup> March 2007

### Key Future Activities

#### **Resources**

Key issues: -

- sustainability
- growing demand
- patchy availability
- competition (national/local)
- poor/patchy evidence base

Focus on "Back to basics" approach including:

- Analysis and mapping what resources are invested in and spent on independent advocacy with/for older people and where, by whom and what outcomes achieved.
- Spotting emerging funding opportunities and using the forum to make this happen
- Need for a common agreement around the agenda that the Forum works on:-
- Audit Forum members for skills and experiences that can be marketed to local Commissioners
- Respond to DH commissioning framework consultation

#### **A Shared Understanding**

Key issues:-

- Shared more easily understood definition of independent advocacy
- Agreeing what's missing/needed:- simplicity, consistency, what is good advocacy?
- Range of issues and advocacy support (general – specialist)
- Need for collaboration over competition
- Partnership with older people

What the Forum can do? And how can we achieve it?

- Clear information and guidance
- 'sign posting' at a national level
- sharing our strong value base
- educating stakeholders
- sharing good practice

Activities:-

- Plan a day – collect definitions, 150 participants - sole object : simple definition of good independent advocacy
- Engage advocacy schemes, region networks, etc.
- Out of this, publish a simple definition and explanation/description of what makes good advocacy
- Plan event for November 07
- Seek to work with other National Advocacy Organisations

## **Influencing Policy and Practice**

### Key Issues:-

- Emphasis on principles
- Developing common/strong voice
- Human rights (CEHR)
- Demonstrating what works and what it costs
- Advocacy spanning general support and more specialist needs
- Sharing power and control
- Linking policy to practice and vice versa
- Capture what's going on
- Identifying challenges eg. IMCA and how to overcome them (don't just react)
- Positioning advocacy with/for older people

### Activities:-

- Produce a statement of intent for the Forum
- Undertake a national Policy audit – covering existing and emerging policy and legislative developments re. equality and age, with a view to identifying where advocacy can be used to achieve government's objectives in relation to older people. Allocate tasks to different forum members as agreed, or 2. commission this piece of work

### Implications of these for what the Forum does and how it does it:-

- Decisions about how often we meet
- What other mechanisms exist for developing and delivering the Forum's work
- Broader point about need for Forum to make decisions/strike right balance between works performed internally and externally.

## **Quality of Advocacy Services**

### Key issues:-

- Including evaluation/monitoring
- Training
- Evidence base
- Involving older people in service and policy development
- Guidance available to support advocacy

### Activities:-

- Advocacy qualification (?)
- Big debate...who for? Who funds it? Timeframe
- Commissioners/funders of advocacy orgs. Need to fund advocacy. Appropriately
- How – quarterly (possibly)
- Informing/influencing reps from this group on the qualification steering group.
- Share information on this group as well as with our own networks
- Use a website so that info can be shared easily

## APPENDIX 2

### **THE STATEMENT OF INTENT (OPAAL, 2001)**

We believe that there are specific circumstances where all individuals must have a right to the support of an independent advocate to ensure that their own interests and preferences are acknowledged and addressed.

Such advocacy services must be defined in terms of their scope and purpose and be based upon appropriately trained and supported personnel, whether voluntary or paid.

As an essential first step, these advocacy services must be available to all older people who are:-

- At the point of discharge from hospital
- Directly affected by a change in the management of running of their care service
- At the point of accessing continuing care and community care services
- At the point of being assessed for continuing care and community care services, and
- At all reviews affecting care services in hospital and in the community.

A series of clauses in legislation and the accompanying guidance notes provide the framework, however limited, for effective intervention. We call upon Government to clarify these opportunities and provide the appropriate resources to ensure that these services are made available and that they are free of charge to the individual.