

## Guidance Notes for Care Act Advocacy Referrals to Gaddum Advocacy

### Eligibility Criteria Check List

The Local Authority must arrange an independent advocate to facilitate the involvement of a person in their assessments, preparation and review of their care and support plans and through safeguarding adult enquires and reviews under the Care Act 2014 if they consider that

- the person would experience **substantial difficulty** in understanding the processes or in communicating their views, wishes or feelings and
- there is no **willing and able individual** to help them.

Gaddum Advocacy accepts referrals for individuals that are 18 years old and over, with the exception of individuals 15+ that are transitioning from Children's Services to Adult Services.

### The duty to refer to an independent advocate applies to the following:

#### 1. Assessments

- a Needs Assessment under section 9
- a Carer's Assessment under section 10
- a Child's Needs Assessment under section 60
- a Child's Carer's Assessment under section 62
- a Young Carer's Assessment under section 65

#### 2. Care and Support Planning

- the preparation of a Care and Support Plan under section 25

#### 3. Care and Support Plan Reviews

- a review of a Care and Support Plan under section 2

#### 4. Safeguarding Enquires and Review

- a safeguarding enquiry under section 42
- a safeguarding adult review under section 44

The duty applies in all settings including the community, care homes or prisons.

## Substantial Difficulty

The Care Act defines four areas where substantial difficulty might be found:

- Understanding relevant information
- Retaining that information
- Using or weighing that information as part of engaging
- Communicating their views, wishes and feelings

People can experience substantial difficulty without having a cognitive impairment.

## The 'Willing and Able' Individual

The Care Act states the following about who may be an appropriate individual:

- It cannot be someone who is already providing care or treatment in a paid capacity
- If they have capacity, the person being supported must agree to the individual supporting them
- If they lack capacity, the Local Authority must be satisfied that it is in the person's best interests to be supported by the person identified as the appropriate individual
- The appropriate individual identified must be willing to support the person
- The appropriate individual must be able to support the person's active involvement e.g. be geographically close enough, be able to understand the process themselves, be able to put the persons opinions before their own.

## Exceptions to 'Willing and Able' Individual guidelines

There are two exceptions where both a 'willing and able' individual **and** an advocate should be appointed, as follows:

- When a placement is being considered in an NHS-funded provision in either a hospital (for four weeks or more) or in a care home (for eight weeks or more) and the Local Authority believes that it would be in the best interests of the person to arrange an advocate
- Where there is a disagreement between the Local Authority and the appropriate individual and both think an independent advocate would be beneficial to the person.

If you have any queries about a Care Act Advocacy referral, please give us a ring on **0161 834 6069** or email [advocacy@gaddum.co.uk](mailto:advocacy@gaddum.co.uk)