

Personal Injury Advocacy – Frequently Asked Questions

Q. How does your Advocacy differ from a Statutory Advocate that we can get for free?

Statutory advocacy is limited to an issue and timeframe, the role is restricted. An Independent Mental Capacity Advocate (IMCA) is provided when a Best Interest decision is made for someone assessed as lacking mental capacity to make own decisions, AND there are no 'appropriate' family or friends for the decision maker to consult for decisions on Serious Medical Treatment and Change Of Accommodation. A Relevant Person's Representative is provided when someone is under Deprivation of Liberty Safeguards with no 'appropriate' family and friends to help them object to placement via the Court of Protection.

As an Independent Advocate under a bespoke contract we can work on any agreed goals and can continue to advocate for the person for as long as is required. We can work with family and all those involved in the person's life to help achieve the best outcomes. We can form part of the Multi-Disciplinary Team to ensure that the person's goals and wishes are central to planning

Q. How do Advocates differ from Case Managers?

We differ from Case Managers and therapists. We are impartial in a way Case Managers cannot be, as they commission services. We can provide feedback and request changes to services in a way Case Managers may find difficult. We can provide witness statements for the litigation process. Case Managers tell us that rather than competing with or duplicating their work we actually assist the case management process and make their jobs easier. Case Managers tell us that advocacy works because it provides:

- An independent voice for the client
- Impartial evidence gathering
- Clarification on client's legal rights and someone to uphold their rights
- Liaising with family or social networks, with care and rehabilitation teams as well as general issues with decision-making (supported or substituted)
- Explaining complex information
- Ensuring person centred planning
- Safeguarding
- Focussing on Best Interest Decision making processes
- A Watching Brief process for those lacking decision-making capacity.

Q. How do Advocates differ from therapists?

We work alongside therapists and share the person's views and wishes on their goals. As Advocates we approach things from either the person's perspective OR from a rights-based approach. This means we will advocate for the person to have what they are entitled to. This often means ensuring that the professionals involved in the person's case are mindful of the Mental Capacity principles, avoid making assumptions about the person's abilities and limitations and take measured risks to ensure the person has a full and meaningful life. We try to balance the scales between Empowerment and Protection and allow the person to grow.

Q. Where does the Advocate role fit?

We get involved in all aspects of the person's care planning and life goals. With personal injury cases we have formed part of the Multi-Disciplinary Team. We work with the person to identify their short and long term rehabilitation goals. Being in the MDT allows us to speak to the therapists to plan how the person can work towards physical goals such as walking, using hands for hobbies, socialising and relationship goals. Advocates are experts in knowing how to link people in to local services and knowing what people have a right to expect so we can link them into community action, training, volunteering and employment as well as following up on their hobbies and interests. For example we helped a person with goals around a wedding and supported them to create their own vows despite being a non-verbal communicator.

Q. What kinds of things do your Advocates work on?

The role is so varied and we are led by the person's goals. As well as finding out what the person wants their life to look like after the accident, we also make sure the team is aware of what they are entitled to under the various legislation that underpins our work (Human Rights Act, Equality Act, Mental Capacity Act, Mental Health Act and Care Act). Some examples of the areas we have advocated around include: Contact with others, safeguarding, a wedding, training, new accommodation, education and training, skydiving, holidays, driving, a personal trainer, specialised nutrition advice, volunteering, planning for more independence and therapy goal-setting.

Q. Advocates don't normally work with family, how do you?

We are not limited by legislation or specific roles in our bespoke contracts. This means we can work with the full team around the person, including the family members. We have a successful track record of engaging well with family to help them come to terms with the changes in their loved one, after an accident. We can help to show family what they can expect and what their loved one is entitled to. Advocates are impartial and focus on the wishes of the person and by building up a strong picture of what was important to the person before and after the accident, they can work with families to provide person-centred decision making that respects the views of family whilst managing conflict of interest well.

Q. How can the person set advocacy goals if they are incapacitated?

We are driven by the needs of the person we are advocating for. We still have identified goals, but this time they are set by the person themselves, which is so refreshing. For those who cannot set their own goals, we work with the MDT to explore the physical goals to rehabilitation and plans for independence. We then take action using Best Interest Principles. We make sure everyone around the person adheres to the Mental Capacity Act and gets the balance right between Empowerment and Protection. We have seen that some professionals err towards protection and, for a person to grow, we encourage the team to take measured risks and give the person some choice and control in their lives.

Q. When is the best time to get an Advocate?

We are involved in a person's life after a traumatic life-changing accident. So it's important we tread sensitively with family and loved ones. There can be different expectations around recovery and rehab and as Advocates we want to focus on enabling the best life NOW for the person. We use advocacy skills to build a picture of the person, what was important to them before the accident, their values and beliefs. We can advocate for things that matter. Nothing is too small.