

Adult Social Care

Independent Advocacy in Adult Social Care Policy

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Independent Advocacy in Adult Social Care Policy

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1. Introduction

1.1 Gloucestershire County Council Adult Social Care (the Council) commissions the following types of independent advocacy to meet its statutory duties :

- Independent Care Act Advocacy
- Independent Mental Capacity Advocacy
- Relevant Persons Representatives (DoLS)
- Independent Mental Health Advocacy
- Independent Health Complaints Advocacy

1.2 The Council is committed to supporting people to be active partners in social care decisions that affect them. From the first point of contact with Adult Social Care, the Council will support people to:

- understand how the social care system works
- express their wishes and feelings
- weigh up their options
- make their own decisions

2. Purpose

2.1 The purpose of this policy is to set out:

- how the Council will involve people in Adult Social Care decisions and processes that affect them, and
- when duties to arrange an independent advocate under the Care Act, the Mental Capacity Act 2005 (MCA) and the Mental Health Act 1983 (MHA) apply within Adult Social Care

3. Scope

3.1 This policy applies from the first point of contact with the Council to:

- people using Adult Social Care services. This includes carers and people involved in transition assessments.
- all Adult Social Care staff
- Adult Safeguarding teams
- Commissioning teams

3.2 This policy also applies to:

- individuals and organisations that the Council has authorised to carry out Adult Social Care assessment, planning and / or review processes on its behalf
- organisations commissioned by the Council to provide independent advocacy services

4. Legislation

4.1 This policy derives from requirements of the following legislation and guidance:

Advocacy:

- [The Care Act 2014](#)
- [The Care and Support \(Independent Advocacy Support\) \(no 2\) Regulations 2014](#) (the Regulations)
- [The Care and Support Statutory Guidance issued under the Care Act 2014 by the Department of Health in 2014](#) (as amended)
- [The Mental Capacity Act 2005](#)
- The Mental Capacity Act 2005 (Independent Mental Capacity Advocates) (General) Regulations 2006
- [The Mental Health Act 1983](#)
- The Mental Health Act 1983 (Independent Mental Health Advocates) (England) Regulations 2008
- [Special Educational Needs and Disability Code of Practice: 0 – 25 years issued by the Department for Education and the Department of Health \(2015\)](#)

Reasonable adjustments to support communication needs and involvement:

- [The Equality Act 2010 s149 Public Sector Equality Duty](#)
- [The NHS Accessible Information Standard 2016](#)

5. Associated policies

5.1 These Council policies and procedures are associated with this policy:

- Adult Social Care for people with care and support needs
- Adult Social care for Carers
- Safeguarding Adults Multi Agency policy and procedures
- Gloucestershire Mental Capacity Act 2005 Multi-Agency policy
- Deprivation of Liberty Safeguards policy
- Adult Social Care Accessible Information policy

6. Definitions

6.1 Definitions of terms used in this policy are listed in the Appendix.

7. Care Act duty to involve people in decisions that affect them

7.1 The Council has a duty under sections 9, 10, 25, 27, 59, 61, 64 of the Care Act to involve people as actively as is possible in decisions that affect them.

7.2 From the point of first contact with Adult Social Care, staff will consider whether the person needs any form of support for involvement.

7.3 Staff will make all reasonable adjustments to support communication needs and / or overcome other barriers to involvement.

7.4 People who need to have information in a particular format and / or support to communicate because of a disability or sensory loss, will receive:

- information in a form they can access and understand
- any support needed to communicate with staff

Please refer to the Adult Social Care Accessible Information policy for more information.

7.5 An interpreter, translator or other specialist assistance will be arranged if this is necessary to support communication.

7.6 The Council will arrange an Independent Care Act Advocate for anyone who:

- is likely to have substantial difficulty (see section 8) in being involved in certain Adult Social Care (see section 9) or Safeguarding (see section 10) processes and
- has no appropriate informal representative (see section 11) to support their active involvement

7.7 The Council's duty to provide an Independent Care Act Advocate applies regardless of whether or not the person has or lacks relevant capacity.

7.8 Where someone entitled to the support of an Independent Care Act Advocate is also entitled to advocacy under other legislation, wherever possible the Council will arrange an advocate who is able to fulfil both roles.

8. What substantial difficulty means

8.1 The Council will consider whether the person would have substantial difficulty in engaging with the local authority care and support processes. The Care Act defines 4 areas in which people may experience a substantial difficulty The four areas are:

1. understanding relevant information
2. retaining that information
3. using or weighing up the information as part of the process of being involved
4. communicating their views, wishes or feelings whether by talking, using sign language or any other means

8.2 When considering whether the person would experience substantial difficulty, the Council will take into account:

- any health condition, learning difficulty or disability that the person has
- the complexity of their circumstances, whether or not these are related to their care and support
- whether the person is at risk of, or is experiencing, abuse or neglect, and

- where support is being considered for an assessment, whether the person has previously refused an assessment

9. Care Act Advocacy for Adult Social Care processes including complaints

9.1 The Council will arrange an Independent Care Act Advocate to support involvement in Adult Social Care processes where **both** conditions 1 and 2 below are met:

Condition 1

Without an independent advocate, the person would have substantial difficulty (see section 8) in being involved in any of the following:

- assessment of:
 - needs for care and support
 - a carer's needs for support
 - a young person's likely needs for care and support when they turn 18 (transition assessment)
 - the likely support needs of an adult caring for a young person when the young person turns 18 (transition assessment)
 - the likely support needs of a young carer (i.e. aged under 18) caring for an adult when the young carer turns 18 (transition assessment)

Please see also:

- paragraphs 9.5 and 9.6 (combined assessments)
- paragraphs 9.7 to 9.10 (joint assessments)
- planning their care and / or support
- revising their support plan
- certain safeguarding activities (see section 10)
- using the-Council's Adult Social Care complaints procedure

Condition 2

The person has no informal representative who is appropriate (see section 11) to support their involvement and represent them.

9.2 The Council may arrange an Independent Care Act Advocate in such other circumstances as it deems appropriate, for example at care home closure (see section 18).

9.3 Someone who lacks relevant capacity will also be entitled to an IMCA where certain decisions (see section 19) must be made. In these circumstances the-Council will wherever possible arrange a single advocate who is able to fulfil both roles.

- 9.4 Independent advocacy arrangements will be made as soon as it is identified that advocacy is required so that there are no unnecessary delays.

Combined assessments:

- 9.5 Where the needs of two people are to be assessed in a combined assessment and each person qualifies for an Independent Care Act Advocate, the same advocate may support and represent both individuals provided that the Council is satisfied that:
- both people consent to the arrangement, and
 - there is no conflict of interest between:
 - either of the two people, or
 - the independent advocate and either person
- 9.6 The Council will arrange for each person to be supported and represented by different advocates if requested by:
- either of the people concerned, or
 - an independent advocate already involved in supporting either person.

Joint assessments:

- 9.7 An Adult Social Care assessment may be combined with a different type of assessment, for example with a health assessment or an assessment carried out by the Council's Children's Services.
- 9.8 Where the conditions for an Independent Care Act Advocate (see paragraph 9.1) are met, the Council's Adult Social Care service will arrange an advocate to support Adult Social Care assessment processes (including transition assessments).
- 9.9 In the case of a combined Adult Social Care and an NHS Continuing Healthcare (CHC) assessment, responsibility for arranging an advocate to support:
- CHC processes will be the responsibility of the NHS
 - Adult Social Care processes will be the responsibility of Adult Social Care
- 9.10 Where someone entitled to the support of an Independent Care Act Advocate is also entitled to advocacy under other legislation, the Council will collaborate with other assessing bodies so that wherever possible a single advocate who is able to fulfil both roles is arranged.

Complaints

- 9.11 When someone wishes to complain, we will actively support people to be involved in the complaints process. We will make reasonable adjustments in line with our duties under the Equality Act 2010 and the Care Act 2014 to overcome barriers to involvement which includes advising people of their right to an advocate. If an advocate is requested at any point in the complaint's procedure, the person will be referred to an appropriate advocacy provider commissioned by the appropriate directorate.

10. Care Act Advocacy for safeguarding processes

- 10.1 The Council will arrange an Independent Care Act Advocate to support adults who are subject to a safeguarding enquiry or safeguarding adults review where **both** conditions 1 and 2 below are met:

Condition 1

Without an independent advocate, the person would have substantial difficulty (see section 8) in being involved in the safeguarding enquiry or safeguarding adults review, **and**

Condition 2

The person has no informal representative who is appropriate (see section 11) to support their involvement and represent them.

- 10.2 Adults who lack relevant capacity will be entitled to an IMCA (see section 19) as well as an Independent Care Act Advocate. In these circumstances, the Council will wherever possible arrange a single advocate who is able to fulfil both roles.
- 10.3 Advocacy arrangements will be made as soon as it is identified that advocacy is required so that there are no unnecessary delays.
- 10.4 An urgent safeguarding enquiry or review may proceed before a Care Act Advocate is appointed but an advocate must be appointed as soon as possible.

11. Who is appropriate to act as an informal representative

- 11.1 The role of an informal representative is to facilitate the person's involvement, support the person to express their wishes and feelings, weigh up their options, make their own decisions and where necessary represent them.
- 11.2 The Council must agree that anyone who wishes to act as an informal representative is appropriate to do so. When reaching its decision, the Council will consider the matters in paragraphs 11.3 to 11.5 over page.

11.3 The Council must be satisfied that the informal representative consents to take on the role and:

- is willing, available, able and competent to take on the responsibility of the role
- knows the person and what is important to them well enough to be able to support and represent them
- is able to set aside their own views and interests
- has the ability to understand care and support or safeguarding processes when these are explained to them
- will challenge any decisions that do not promote the person's wellbeing

11.4 The Council will not agree to representation by anyone who:

- provides the person with care or treatment in a professional capacity or on a paid basis. This is prohibited by the Care Act. The person's GP, nurse, key worker, care and support worker or anyone (including family members) being paid through a direct payment to provide care and support are all examples of people who cannot act as the informal representative
- is implicated in any enquiry of abuse or neglect, or
- has been judged by a Safeguarding Adults Review to have failed to prevent an abuse or neglect

11.5 The Council will not agree to informal representation unless it is satisfied that:

- the conditions set out at paragraphs 11.3 and 11.4 are met and
- the person to be represented consents to the proposed arrangements, or if the person lacks capacity or is not competent to consent, arrangements are in their best interests.

12. When an Independent Care Act Advocate will be arranged even though there is an appropriate informal representative

12.1 Where there is an appropriate informal representative, the Council will still arrange an Independent Care Act Advocate in two circumstances:

1. The person being represented is likely to be placed in NHS funded accommodation either in a hospital for 28 days or more, or in a care home for 8 weeks or more, and the Council believes it would be in their best interests to arrange an independent advocate.
2. The Council and the informal representative:
 - cannot reach agreement about a material issue, and
 - both parties agree that independent advocacy would be in the best interests of the person being represented

13. Changes to representation

- 13.1 Where an informal representative is identified after the Council has arranged an Independent Care Act Advocate, the Council may consider changing the arrangements where it is satisfied that the change would be in the person's interests and the requirements of section 11 above are met.
- 13.2 The Council will arrange an Independent Care Act Advocate if the informal representative:
- does not wish to continue in the role, or
 - is having difficulties in supporting the person to engage and be involved in the process

14. Out of County Care Act advocacy arrangements

- 14.1. The Council will arrange an Independent Care Act Advocate to support and represent any person who:
- is ordinarily resident in Gloucestershire or in the case of a carer is caring for someone ordinarily resident in Gloucestershire, and
 - is entitled to an Independent Care Act Advocate, and
 - has been placed by the Council in another local authority's area
- 14.2 Arranging an Independent Care Act Advocate for someone placed in Gloucestershire by another local authority will be the responsibility of the placing authority.

15. The Independent Care Act Advocate's role

- 15.1 The Independent Care Act Advocate's role is to at all times promote the person's wellbeing, facilitate the person's involvement and to support them to express their wishes and feelings, weigh up their options and make their own decisions. Where necessary, the Independent Care Act Advocate will represent the person to ensure that their rights are secured.

Independent Care Act Advocates are expected to:

- meet the person being represented in private wherever possible
- with the person's consent, consult people who can provide relevant information including about the person's wishes, beliefs and values, for example the person's GP, nurse, care or other professionals, carers, family and friends. Where the person does not have capacity or is not competent to consent, advocates may still consult other people where they are satisfied that this is in the person's best interests.

- help the person they are representing to:
 - understand the Council process they are involved in
 - understand the Council's processes and duties
 - understand their own rights and responsibilities
 - understand their care and support options and make decisions about how they wish their needs to be met.
 - communicate their views, wishes and feelings
 - challenge Council decisions if the person wishes to do so.
- help someone involved in safeguarding processes to:
 - decide what outcomes / changes they want
 - understand when other people's behaviours may be abusive or neglectful
 - understand when their own actions may expose them to avoidable abuse or neglect

 - understand what actions they can take to protect themselves
 - understand what advice and help they can expect from others, including the criminal justice system
 - understand that parts of the process are completely or partially within their control
 - explain what help they want to avoid a recurrence and to recover from the experience.
- represent and advocate for people who cannot do this for themselves even with support. The advocate must communicate the person's views, wishes or feelings and take whatever actions are necessary to ensure that their rights are upheld. Advocates may have to challenge Council decisions (see paragraph 17.4) in some circumstances.

16. Independent Care Act Advocates' rights to access health and social care records

- 16.1 The Council has a duty to provide information to Independent Care Act Advocates so that the advocate can effectively represent the interests of the person they are representing.
- 16.2 Independent Care Act Advocates may examine and take copies of relevant health and social care records for the person they are representing provided that:
- the person provides their consent for the advocate to do so, or
 - if the person lacks capacity to provide consent, the advocate is satisfied that accessing the records is in the person's best interests.

17. The Council and Independent Care Act Advocates – working together

- 17.1 The Council and Independent Care Act Advocates need to work together to promote the wellbeing and interests of the person being represented.
- 17.2 The Council will take:
- all reasonable steps to assist Independent Care Act Advocates to support and represent people
 - into account any representations made by an Independent Care Act Advocate on behalf of the person they are representing.
- 17.3 The Council may make reasonable requests to an Independent Care Act Advocate for information and meetings about someone the Advocate is representing or about more general advocacy matters. The Regulations require Independent Care Act Advocates to comply with such requests.
- 17.4 The Regulations require any Independent Care Act Advocate concerned about the effect of a Council action, decision or proposed outcome on the person they are representing to outline their concerns in a written report to the Council.
- 17.5 On receipt of the Advocate's report, the Council will:
- consider the report
 - convene a meeting with the Advocate to discuss concerns and provide a written response to the Advocate following the meeting.
- 17.6 Independent Advocate's reports should be presented to and responded by the Council promptly so that the person's wellbeing is not compromised.

18. Care home closures / provider failure

- 18.1 The Council may arrange an Independent Care Act Advocate(s) or Independent Mental Capacity Advocate(s) (IMCA) to support:
- residents affected by a temporary or permanent closure of a care home
 - people affected by other types of provider failure or service interruption including as a result of deregistration by / change of registration with the Care Quality Commission.

19. Decisions that require an Independent Mental Capacity Advocate (IMCA)

See also:

- Gloucestershire Mental Capacity Act 2005 Multi-Agency policy
- Deprivation of Liberty Safeguards policy

19.1 The Mental Capacity Act 2005 requires an Independent Mental Capacity Advocate (IMCA) to be appointed to represent people assessed as lacking relevant capacity and who have no appropriate representation where certain circumstances exist or when the following decisions must be made:

- Long term accommodation
- Serious medical treatment
- Safeguarding
- Deprivation of Liberty Safeguards (DoLS)

19.2 The requirement to arrange an IMCA applies even when an Independent Care Act Advocate has been arranged.

19.3 Where someone is entitled to, or the Council has decided to arrange, an IMCA as well as an Independent Care Act Advocate, wherever possible the Council will arrange a single advocate who is able to fulfil both roles.

Long term accommodation:

19.4 The Council will arrange an IMCA where the person lacks relevant capacity and a decision must be made about accommodation in a care home, community based accommodation or in hospital where the person will stay:

- in hospital for more than 28 days, **or**
- in the care home or other community based accommodation for more than 8 weeks, **and**
- the person has no appropriate family member or friend who can be consulted.

19.5 Where a placement constitutes a deprivation of liberty, see also paragraphs 19.12 – 19.18.

19.6 An urgent placement may proceed before an IMCA is arranged but an IMCA must be instructed as soon as possible after the decision.

19.7 The Council **may** arrange an IMCA where the person lacks relevant capacity and:

- the Council is reviewing accommodation arrangements previously made by the Council as part of a review of the person's plan, and
- the person has no appropriate family member or friend who can be consulted.

Serious medical treatment

19.8 Relevant health professionals have a duty to arrange an IMCA for anyone who lacks capacity to make decisions about serious medical treatment where there is no appropriate person who can be consulted.

19.9 Where it appears that an IMCA has not been instructed, Council staff are expected to remind relevant health professionals that an IMCA is required.

Safeguarding

- 19.10 The Council will arrange an IMCA for someone involved in safeguarding procedures who lacks relevant capacity and is unrepresented.
- 19.11 The Council **may** arrange an IMCA where a person lacks relevant capacity and is either an alleged victim or an alleged perpetrator even where family, friends or others are involved.

Deprivation of Liberty (DoLS)

- 19.12 Circumstances which amount to a Deprivation of Liberty were defined by the Supreme Court in the case of “Cheshire West” *Cheshire West and Chester Council - and - P (by his litigation friend the Official Solicitor)*
- 19.13 A person is deprived of their liberty if:
- they are under continuous supervision and control, and
 - they are not free to leave.
- 19.14 The Council is the Supervisory Body for DoLS in Gloucestershire.
- 19.15 The Council will arrange an IMCA where:
- a capacity assessment has confirmed that the person lacks the relevant capacity relating to accommodation for care, and
 - there is no one to represent the person during the DoLS assessment process.
- 19.16 The Council will arrange a section 39A IMCA when no standard authorisation is in place where:
- a request is made for standard authorisation, or
 - a best interests assessor is appointed to assess whether the person is being unlawfully deprived of their liberty and whether that is in their best interests.
- 19.17 The Council will arrange for a paid Relevant Person’s Representative (RPR) where there is no family or friend to act in that role for the individual.
- 19.18 When a standard authorisation is in place, the Council will arrange:
- a section 39C IMCA to cover gaps between RPRs), for example if an RPR is unable to act as RPR and no other family member or friend can represent the person, or
 - a section 39D IMCA to support either the Relevant Person or an RPR if requested by the Relevant Person or the RPR, or
 - the Council has reason to believe that either the Relevant Person or the RPR would benefit from the support of an IMCA.

20. Independent Mental Health Advocates (IMHA)

20.1 People detained under most sections of the Mental Health Act 1983 (MHA), subject to Guardianship or on a community treatment order (CTO) have a statutory right to support from an Independent Mental Health Advocate (IMHA). In Gloucestershire this will be provided on an opt out basis.

20.2 In Gloucestershire, IMHA are also offered to:

- carers of people described at paragraph 20.1 above
- informal patients in mental health hospitals
- people using the services of a Mental Health Acute Response Service
- people receiving section 117 after care services

20.3 In most circumstances, IMHA are arranged by Mental Health professionals. However, where no IMHA is already involved, the Council will offer the support of an IMHA to anyone involved in Adult Social Care who is living in the community and is entitled to support from an IMHA.

21. Commissioning requirements for Independent advocacy

21.1 The Council will commission advocacy services which are independent of:

- the Council, and
- organisations to which the Council has delegated responsibility for carrying out assessment, planning and review functions on behalf of the Council.

21.2 The Council will commission independent advocacy services which can demonstrate that its advocates:

- are not employed by or otherwise working for the Council or anybody to which the Council has delegated its assessment and planning functions
- are not involved in providing care or treatment in a paid or professional capacity to the cared for person or their carer when representing either person
- have appropriate experience, for example in non-instructed advocacy or in working with people who have substantial difficulty in being involved in care and support / safeguarding processes
- have appropriate training – for example in non-instructed / instructed advocacy, dementia, working with people with learning disabilities.
- are competent to fulfil the responsibilities of the role– see section 15
- have integrity and are of good character. All independent advocates must have an enhanced DBS check with a check of the adults' and / or children's barred lists as appropriate to the advocate's role
- have arrangements to receive appropriate supervision

22. Dissatisfaction / Complaints

- 22.1 The Council requires independent advocacy services that it commissions to have a complaints process. Anyone who is dissatisfied with the services of an independent advocate should first raise their concern with the relevant advocacy service provider.
- 22.2 Where the complainant has exhausted all stages of the advocacy service provider's complaints process and is not satisfied with the outcome of the complaint, the complainant may make a complaint to the Council.
- 22.3. Any person who is dissatisfied with Council services, a County Council decision and / or feels that they have been treated unjustly has the right to make a complaint to the County Council and subsequently to the Local Government Ombudsman.
- 22.4 Any person who wishes to make a complaint to the Council will be provided with information about how to do so.

23. Implementation

- 23.1 The requirements of this policy will be communicated to:
- staff in Adult Social Care, Safeguarding and Commissioning teams
 - any person or organisation authorised to carry out assessment, support planning and / or review processes on behalf of the Council, and
 - any person or organisation commissioned by the Council to provide independent advocacy services on behalf of the Council
- 23.2 This policy will be published on the Council's external website.

24. Monitoring and review

- 24.1 This policy will be monitored through:
- manager / supervisor oversight of assessment, planning and safeguarding processes
 - internal audit of adult social care records
 - such processes as have been agreed with external persons or organisations authorised to carry out assessment, planning and review processes on behalf of the County Council
 - routine contract management and monitoring activities by commissioners.
- 24.2 This policy will be reviewed by January 2024

Appendix– Definitions

<p>Advocate</p>	<p>Advocates represent people’s wishes by supporting them to speak or by speaking up on their behalf. They are independent of the Council.</p> <p>Advocates help people to express their needs and make decisions about the options available to them.</p> <p>They make sure that the Council follows the correct procedures and can challenge decisions made by Councils and other organisations.</p> <p>The Council commissions four types of Independent advocacy:</p> <ul style="list-style-type: none"> • Care Act Advocacy • Mental Capacity Advocacy • Mental Health Advocacy • Health Complaints Advocacy?
<p>Appropriate person</p>	<p>In the context of this policy, an ‘appropriate person’ is someone who:</p> <ul style="list-style-type: none"> • is willing to act an informal representative for someone likely to have substantial difficulty in being involved in Adult Social Care processes and • the Council agrees is appropriate to do so. <p>The ‘appropriate person’ needs to be able to understand Adult Social Care processes when explained to them, know the person who needs support well and be able to set aside their own views.</p> <p>The Council has to agree that someone (usually a family member or friend) can act as the ‘appropriate person’.</p>
<p>Assessment</p>	<p>An assessment is how the Council works out what someone’s social care needs are. It is a conversation between the Council and the person (and sometimes other people who know them well or their representative).</p> <p>The assessment looks at how people manage everyday activities such as looking after themselves, household tasks and getting out and about.</p> <p>Unpaid carers can have a carer’s assessment of their own needs, separate from the needs of the person they care for. Carer assessments look at what might help the carer’s health or managing other aspects of their lives.</p>

<p>Best interests decision</p>	<p>If someone cannot make a particular decision for themselves (for example about their health or their finances), the Council will make a decision based on what is in the person’s best interests.</p> <p>The law does not define what ‘best interests’ are but sets out what has to be taken into account when deciding what is best for someone.</p> <p>This includes the person’s wishes and feelings, what is important to them, what close family members and friends think the person would want, and all the person’s circumstances.</p>
<p>Care Act Advocate</p>	<p>Local authorities have a duty under the Care Act 2014 to involve people in decisions about their care and support needs.</p> <p>There is a duty to arrange an independent Care Act Advocate for anyone who has no ‘appropriate person’ to act as their informal representative if they are likely to have ‘substantial difficulty’ in being involved in:</p> <ul style="list-style-type: none"> • their assessment • making or revising their plan • a safeguarding enquiry or a Safeguarding Adults Review <p>Independent Care Act Advocates support:</p> <ul style="list-style-type: none"> • adults who need care and support • carers • young people under 18 including young carers who are moving to Adult Social Care (often called transition).
<p>Carer / young carer</p>	<p>Carer: Somebody, of any age, who provides support or who looks after a family member, partner or friend who needs help because of frailty, physical or mental illness, or disability. This would not usually include someone paid or employed to carry out that role, or someone who is a volunteer.</p> <p>Young Carer: someone aged 18 or under who helps look after a relative with a disability, illness, mental health condition, or drug or alcohol problem. This includes a sibling with a disability or mental health condition.</p>
<p>Commissioning</p>	<p>Commissioning is how the County Council plans services for people who live in Gloucestershire. It doesn’t always mean paying for services but making sure that services people need are available in Gloucestershire.</p>
<p>Consent</p>	<p>Consent is a freely given and informed decision to agree to an act taking place. This is usually given by the person concerned but it may be given by another person:</p> <ul style="list-style-type: none"> • where they are authorised to provide consent for an adult who lacks capacity (such as LPA, Deputyship, Court Order).

	<ul style="list-style-type: none"> with parental responsibility for a child or young person, where the young person (over 16) lacks capacity for that decision.
Deprivation of liberty	<p>Deprivation of liberty is when someone in a care home or hospital who lacks capacity about their living arrangements is:</p> <ul style="list-style-type: none"> under continuous supervision and control, and not free to leave. <p>In Gloucestershire, deprivation of liberty must be authorised by the County Council (the Supervisory Body). A standard authorisation is only granted when all necessary procedures and assessments are complete so that people don't have their liberty taken away without good reason.</p>
Independent Health Complaints Advocate (IHCA)	<p>Health Complaints Advocacy Services are independent of the NHS and help people to use the NHS complaints process which covers all NHS funded treatment such as:</p> <ul style="list-style-type: none"> hospitals, GPs, ambulance services, district nurses and mental health services dentists (if treated as an NHS patient) pharmacists (if someone had an NHS prescription) opticians (if treated as an NHS patient) a private hospital (if the NHS paid for treatment) a care home (if the NHS pays all or part of someone's care home fees) <p>Health Complaints Advocacy Services:</p> <ul style="list-style-type: none"> provide information about how to make a complaint explain the NHS complaints process signpost people to other organisations that can help if the advocate can't provide information packs to help people make the complaint themselves provide an Advocate if the person needs more help.
Independent Mental Capacity advocate (IMCA)	<p>This is a person who supports and represents someone who lacks capacity to make a specific decision, where that person has no one else who can support them (exception for Safeguarding situations). They make sure that where significant decisions for a person who lacks capacity are made, that the person has independent representation.</p> <p>Local authorities have a duty to appoint an IMCA when decisions have to be made about:</p> <ul style="list-style-type: none"> Long term accommodation Serious medical treatment Safeguarding Deprivation of Liberty Safeguards (DoLS)
Independent Mental Health Advocate	<p>An IMHA is an advocate specially trained to help people know their rights under the Mental Health Act 1983 (MHA) and help</p>

<p>(IMHA)</p>	<p>them while they are detained or under a section of the MHA. IMHA listen to what people want and speak for them.</p> <p>People have a legal right to have an IMHA if they are:</p> <ul style="list-style-type: none"> • detained in hospital under a section of the MHA. In England, people cannot have an IMHA if they are under sections 4, 5, 135 and 136 of the MHA. • under MHA guardianship, conditional discharge and community treatment orders (CTOs) • discussing having certain treatments, such as electroconvulsive therapy. <p>In Gloucestershire, IMHA are also offered to:</p> <ul style="list-style-type: none"> • carers of the people listed above • informal patients in mental health hospitals • people using the services of a Mental Health Acute Response Service • people receiving section 117 after care services. <p>IMHA are usually arranged by Mental Health professionals but may occasionally be arranged by Adult Social Care staff for people living in the community who qualify for an IMHA.</p>
<p>Mental Capacity</p>	<p>A person's ability to make a specific decision at a specific time.</p> <p>A person may lack capacity because of a wide range of conditions including dementia, a learning disability, mental health problems, a brain injury or stroke. Just because a person has a diagnosis does not mean they lack capacity.</p> <p>A lack of capacity can be temporary, for example when someone has been in an accident and is unconscious.</p> <p>A legal definition is contained in Section 2 of the Mental Capacity Act 2005.</p>
<p>Plan</p>	<p>A written plan is agreed after the Council has made an eligibility decision and has agreed to meet needs. The plan shows how the person wants their needs to be met.</p> <p>The plan may be known as a care plan or a care and support plan.</p> <p>Plans are reviewed regularly in case needs have changed. If they have, needs will be re-assessed and the plan revised.</p>
<p>Relevant Person's Representative (RPR)</p>	<p>When there is a deprivation of liberty, people can be supported by an RPR (usually a family member). The person can choose their own RPR if they have the capacity to do so.</p> <p>An RPR must be:</p> <ul style="list-style-type: none"> • aged 18 or over • willing to be the RPR • able to keep in touch with the person • physically well enough to carry out their role

	<ul style="list-style-type: none"> an independent person. This means they cannot be a professional or paid carer.
Safeguarding	<p>Safeguarding adults is about keeping adults with care and support needs who may be at risk safe from abuse, neglect or being exploited, and ensuring that people deemed to be 'unsuitable' do not work with them.</p> <p>The County Council investigates if it receives information which suggests that someone is being abused, neglected or at risk. A protection plan is put in place if abuse is happening.</p> <p>The County Council works with other organisations to protect adults with care and support needs from abuse and neglect through the Gloucestershire Safeguarding Adults Board.</p>
Section 39A Independent Mental Capacity Advocate (IMCA)	<p>The 39A IMCA's role is to represent the person in the assessments which will be carried out in relation to deprivation of liberty.</p> <p>They may only be instructed when a standard authorisation is not in place. There are two possibilities:</p> <ul style="list-style-type: none"> A request has been made for a standard authorisation. A best interests assessor has been appointed by the supervisory body to check whether a person is being unlawfully deprived of their liberty. <p>In both cases the person should have no one appropriate to consult.</p>
Section 39C Independent Mental Capacity Advocate (IMCA)	<p>The 39C IMCA role can be understood as covering gaps in the appointments of relevant person's representatives. The role ends when another relevant person's representative is appointed.</p>
Section 39 D Independent Mental Capacity Advocate (IMCA)	<p>39D IMCAs are only available when a DoLS standard authorisation is in place and the person has an unpaid relevant person's representative.</p> <p>Where a person has an unpaid representative, a 39D IMCA must be instructed if:</p> <ul style="list-style-type: none"> The Relevant Person asks the supervisory body for the support of a 39D IMCA. Their representative asks the supervisory body for the support of a 39D IMCA. The supervisory body believes that the Relevant Person or their representative would benefit from the support of a 39D IMCA.
Standard Authorisation:	<p>This is the formal agreement to deprive a relevant person of their liberty in the relevant hospital or care home, given by the Supervisory Body, after completion of the statutory assessment process.</p>

<p>Substantial difficulty</p>	<p>By 'substantial difficulty', we mean when someone is likely to have problems with one or more of these:</p> <ul style="list-style-type: none"> • understanding information about social care decisions • remembering information • using the information to be involved in the decisions • being able to tell other people their views, wishes and feelings
<p>Supervisory Body</p>	<p>A local authority that is responsible for considering deprivation of liberty applications, commissioning the assessments, and where all the assessments agree, authorising deprivation of liberty.</p>
<p>Transition</p>	<p>Transition is when young people with health or social care needs move from children's services to adult services.</p> <p>Transition needs to be carefully planned so that there are no gaps in the care young people receive. Young people and their families should be fully involved in the process of planning what support a young person will need when they turn 18.</p> <p>Carers may need support too. Young carers caring for adults may become eligible for support under the Care Act when the young carer turns 18.</p>