

This paper relates to  
Agenda Item 9



**Title/Subject:** Joint Commissioning of Independent Advocacy Services  
**Meeting:** Integration Joint Board  
**Date:** 7 October 2016  
**Submitted By:** Head of Social Work Adult Services  
**Action:** For Decision

## **1. INTRODUCTION**

- 1.1 The purpose of this report is to seek approval from the Integration Joint Board to commission independent advocacy services for the Falkirk Health and Social Care Partnership. It is proposed that these services will be jointly commissioned by Stirling Council, Clackmannanshire Council, Falkirk Council and NHS Forth Valley. This is in line with longstanding arrangement to jointly commission these services across Forth Valley.
- 1.2 Independent advocacy services are in scope services within the Falkirk Health and Social Partnership.

## **2. RECOMMENDATION**

The Integration Joint Board is asked to:

- 2.1. note the proposed methodology for commissioning the services and the associated timescales.
- 2.2. approve the tendering process, subject to this being progressed within the identified financial resources as set out in section 4.

## **3. BACKGROUND**

- 3.1. Independent advocacy has a role in safeguarding the rights of individuals who may be at risk, and in speaking up for those who may have difficulty making themselves heard. Independent advocacy services help people to access information and appropriate services and supports, promote their rights and responsibilities, explore choices and options and to speak out about what matters to them. By doing this, independent advocacy plays a critical role in addressing inequalities and supporting social justice.
- 3.2. Organisations delivering independent advocacy should be independent of statutory and non-statutory organisations that provide services and supports. This helps to ensure the objectivity of advocacy. This is particularly important

in situations where statutory organisations are involved in interventions that impact on the rights and responsibilities of the individual or where the individual is seeking advocacy to address matters relating to service provision.

- 3.3. The Scottish Government Guidance for Commissioners of Independent Advocacy Services sets out a set of Principles and Standards for the delivery of Independent Advocacy:
- Independent advocacy puts the people who use it first
  - Independent advocacy is accountable
  - Independent advocacy is as free as it can be from conflicts of interest
  - Independent advocacy is accessible

Those commissioning services have a responsibility to ensure that organisations delivering independent advocacy meet these principles and standards.

- 3.4. Local Authorities and NHS Boards have a statutory duty under the Mental Health Care and Treatment (Scotland) Act 2003 to ensure that Independent Advocacy Services are available for people with a mental disorder. The Adult Support and Protection (Scotland) Act places a duty on Local Authorities to consider the need for the provision of independent advocacy for an adult where inquiries are made under this legislation.

## **4. ADVOCACY SERVICES**

- 4.1. Independent advocacy services in Forth Valley are currently available to:

- People over 16 years of age, who
    - have a learning disability; and/or
    - have a mental health issue; and/or
    - have an acquired brain injury; and/or
    - have dementia; and/or
    - are vulnerable adults deemed at risk of harm
- and
- have a specific issue/s affecting their life and circumstances requiring health, social care or legal interventions in relation to health and social care
  - whose professional independent advocacy needs come within the scope of the relevant legislation.

Independent advocacy services are also provided for people under the age of 16 years if they are subject to the Mental Health (Care & Treatment) (Scotland) Act 2003. The above criteria are based on statutory requirements and it is proposed that these criteria will apply to the new contract.

- 4.2. The existing contract was awarded based on an annual cost of £424,007.00 across Forth Valley. Costs were based on an hourly rate and have varied accordingly to the level of services supplied throughout the lifespan of the contract. Efficiencies have been secured through effective contract

management and collaboration with the current provider. The total cost for 2015/16 across Forth Valley was £370,720.

- 4.3. The total cost is currently divided amongst Stirling Council, Clackmannanshire Council, Falkirk Council and NHS Forth Valley in accordance with the Pooled Budget Arrangement. The pooled budget is based on a cost sharing agreement linked to the actual use of independent advocacy services. Local Authorities and NHS Boards have a duty under the Mental Health Care and Treatment (Scotland) Act 2003 to ensure that Independent Advocacy Services are available. The provision of independent advocacy services is also required in line with the provisions and principles of the Adults with Incapacity (Scotland) Act 2000 and the Adult Support and Protection (Scotland) Act 2007.
- 4.4. Forth Valley Advocacy currently provides independent advocacy services across Forth Valley. The contract with Forth Valley Advocacy commenced on 1 April 2012. This contract technically ended on 31 March 2016. Stirling Council, Clackmannanshire Council, Falkirk Council and NHS Forth Valley continued to contract with the existing provider on a spot purchase basis to ensure continuity of service. This was with a view to enabling a full commissioning process to be carried out, as outlined in this report, including appropriate consultation as set out in Section 5.
- 4.5. Activity under the Adults with Incapacity Act has significantly increased in recent years. The Mental Welfare Commission's Monitoring Report on the use of the Adults with Incapacity Act notes an 84 % increase in guardianship applications across Scotland since 2009/10. This places additional demand for independent advocacy services to meet statutory requirements.
- 4.6. Stirling Council, Clackmannanshire Council, Falkirk Council and NHS Forth Valley intend to support the current pooled budget arrangement in its existing format.
- 4.7. Given the statutory obligations on Local Authorities and NHS Boards and policy guidelines on good practice, the Service Specification which sets out the requirements of those commissioning the service, focuses on the provision of professional, independent advocacy services in line with the:
  - Adults with Incapacity (Scotland) Act 2000
  - Mental Health (Care and Treatment) (Scotland) Act 2003
  - Adult Support and Protection (Scotland) Act 2007.
- 4.8. The scope of the tender focuses on the provision of independent professional advocacy, provided by both paid and unpaid advocates, aiming to:
  - support people to represent their own interests;
  - represent the views of individuals if they are unable to do this themselves;
  - provide support on specific issues;
  - provide information (not advice).
- 4.9. TUPE (Transfer of Undertakings Protection of Employment Regulations) will apply where the existing provider is not the successful bidder.

- 4.10. It is proposed that Stirling Council will conduct an open procurement exercise (with no pre-selection stage) to secure a provider for a period of three years, with two single year options to extend the contract.
- 4.11. Should the provider change following this procurement exercise, arrangements will be put in place to ensure safe, sensitive and effective transfer of any individuals in current receipt and ongoing need of a service to the new provider, as required. The arrangements for this will be addressed as part of the tender process.
- 4.12. Independent advocacy plays a vital role in enabling people to be involved in the decisions that affect their lives by safeguarding their rights and helping them to speak out about what matters to them.

## **5. CONSULTATION**

- 5.1 Three open consultation meetings were advertised and held in Stirling, Alloa and Falkirk. Service users, third sector organisations, independent advocacy providers and Council Officers attended these sessions. These events were attended by approximately 75 people.
- 5.2 A Survey Monkey questionnaire was circulated to a wide range of stakeholders, and those stakeholders were encouraged to distribute this to throughout their network of contacts to ensure as comprehensive coverage as possible. 109 electronic and 14 paper responses were received (123 responses in total).
- 5.3 Further face-to-face meetings were carried out with service user forums and across the Partnership area. Many of the individuals consulted in these groups had direct experience of the advocacy provision in Forth Valley and were able to relate their experiences and preferences for future provision.
- 5.4 A summary of the feedback received from the consultation events and the Survey Monkey questionnaire is attached at Appendix 1. This feedback has been used to inform development of the Service Specification which will set out the basis on which the successful provider will provide advocacy services for the duration of the contract.
- 5.5 The Chief Officer for the Falkirk Integration Joint Board and Falkirk Council colleagues have been consulted in the on-going contract monitoring and development of this report are in agreement with the proposals contained in this report.

## **6. CONCLUSIONS**

- 6.1. It is proposed that Stirling Council, Clackmannanshire Council, Falkirk Council and NHS Forth Valley progress a jointly tender for Independent Advocacy Services to cover the Forth Valley area. This is in line with current

arrangements. A similar report has been presented to the Clackmannanshire and Stirling Integration Joint Board on 21 September 2016 for decision.

- 6.2. As has been practice in recent years, it is proposed that Stirling Council undertakes the procurement of the service (on behalf of Stirling Council, Clackmannanshire Council, Falkirk Council, NHS Forth Valley, Clackmannanshire & Stirling Health and Social Care Partnership and Falkirk Health and Social Care Partnership) and the lead role for the ongoing management of the contract.
- 6.3. This report outlines the key considerations for the Integration Joint Board and seeks approval to advertise the contract. This proposal is in line with the vision and objectives as set out in Falkirk Health and Social Care Partnership Strategic Plan 2016 - 2019.

### **Resource Implications**

The overall spend on advocacy services varied between £354,989 and £395,932 per annum over the lifetime of the contract across Forth Valley. The tender will set a total maximum figure of £370,720 and bids will be expected to be within this financial envelope.

There are no Living Wage implications for this contract. This is because the staff are not engaged in the direct delivery of care services. In addition the current hourly rate of pay for advocacy workers exceeds the Scottish Living Wage.

The costs of the delivery will be allocated across Stirling Council, Clackmannanshire Council, Falkirk Council and NHS Forth Valley based on an agreed formula, supported by a pooled budget agreement. The formula enables alignment to the actual use of the service by each party.

The total cost for the Falkirk Partnership for these services in 2015/16 was £97,138 for Falkirk Council and £151,311 for NHS Forth Valley.

### **Impact on IJB Outcomes and Priorities**

The objectives of independent advocacy are aligned to the vision of the Falkirk Health and Social Care Partnership to enable people to lead full and positive lives within supportive communities. Independent advocacy services contribute to the achieving the health and wellbeing outcomes for individuals but also contribute more widely to building community capacity and addressing inequalities, by supporting those who may find it difficult to be heard to speak out.

### **Legal & Risk Implications**

Provision of this service is a statutory obligation on Local Authorities in terms of the following legislation:

- Adults with Incapacity (Scotland) Act 2000
- Mental Health (Care and Treatment) (Scotland) Act 2003
- Adult Support and Protection (Scotland) Act 2007.

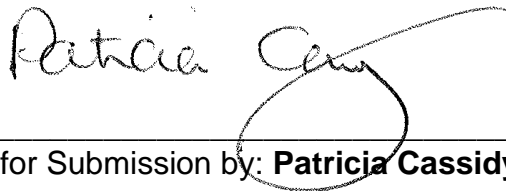
Failure to ensure availability of independent advocacy would place the Councils and the NHS Board at potential risk of legal challenge.

### **Equalities Assessment**

It is anticipated that there will be a positive impact on equality and human rights from the ongoing provision of independent advocacy services. An equality impact assessment is included in Appendix 2.

### **Exempt reports**

Not exempt.



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Approved for Submission by: **Patricia Cassidy, Chief Officer**

**Author:** Suzanne Thomson, Programme Manager Falkirk HSCP

**Date:** 14 September 2016

**List of Background Papers: The papers that may be referred to within the report or previous papers on the same or related subjects.**

- The Scottish Government, (2013), Independent Advocacy Guide for Commissioners
- Forth Valley Independent Advocacy Services: The Way Forward (2009 version)
- Adults with Incapacity (Scotland) Act 2000
- Mental Health (Care and Treatment)(Scotland) Act 2003
- Adult Support and Protection (Scotland) Act 2007
- Mental Welfare Commission (2015) Adults with Incapacity Act Monitoring Report 2014-2015

# ADVOCACY CONSULTATION FEEDBACK

2016

# CONSULTATION EVENTS

We held the following events:-

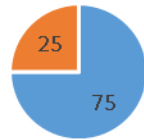
Date	Place	Attendee profile
1 <sup>st</sup> February 2016	Council Chambers, Old Viewforth, Stirling	Mixture of service users, carers, service providers, professionals and others.
3 <sup>rd</sup> February 2016	Council Chambers, Greenside Street, Alloa	Mixture of service users, carers, service providers, professionals and others.
4 <sup>th</sup> February 2016	Sensory Centre, Camelon, Falkirk	Mixture of service users, carers and professionals Professional
February 2016	Forth Valley Stronger Together Group, Learning Disability Alliance	Mixture of service users, carers, service providers, professionals and others.
29 <sup>th</sup> March 2016	Riverbank LD Service Users Forum, Riverbank Resource Centre, Stirling	Service Users (facilitated by professional)
30 <sup>th</sup> March 2016	Klacksun MH Service Users Forum, Marshall House, Alloa	Mixture of service users, carers and professionals
19 <sup>th</sup> April 2016	Kirk Hall, Callander	Professionals.

We also circulated a detailed electronic questionnaire to which we received 123 responses. In total we had 109 electronic responses and 15 paper responses from service users.



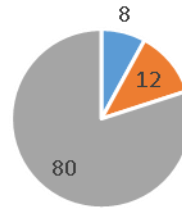
# QUESTIONNAIRE FEEDBACK - GENERAL

Have you used an advocacy service from Forth Valley Advocacy?



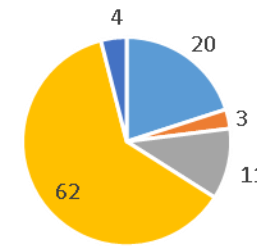
■ Yes ■ No

If you were not eligible to access an advocacy service from Forth Valley Advocacy did they signpost you to other services who may have been in a position to offer assistance to you?



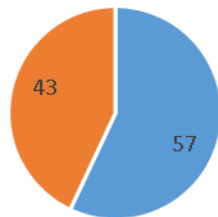
■ Yes ■ No ■ Not applicable

Are you a....?



■ Service User ■ Carer ■ Service Provider ■ Professional ■ Other

Did you access the service for.....?



■ A single issue ■ More than one issue

# ELIGIBILITY CRITERIA

We asked your opinion on whether there were groups of service user who were not included in the eligibility criteria for the current contract who should be included in future commissioning. You told us:-

People with physical disabilities	Children & Young People
Carers (including child carers)	People with substance misuse issues
Prisoners with a mental disorder	Older People
Young people going through transition from children's to adult services	People with a sensory impairment
Ethnic minorities / asylum seekers / travellers	Asperger's Syndrome/ Autism – where diagnosis does not include a learning disability
'Protected characteristics'	Those awaiting diagnosis

There are existing services in place for some of these groups. For those groups where there is no current advocacy provision in Forth Valley, we will consider how these groups could be incorporated, subject to prioritising those groups of service users who have a statutory right to advocacy.

# BARRIERS TO ACCESSING ADVOCACY

We asked you to tell us about the barriers to accessing an advocacy service which you have met...

You told us:-

Insufficient advocacy staff so some delay in accessing a service

The barriers did not come from advocacy – the barriers came from health professionals who told me I did not require an advocate, that I was able to speak for myself.

The [advocacy provider's] heavy involvement with statutory cases that have to take priority.

There are a lot of referrals so can be difficult to access the service if you need an advocate due to an emergency.

Due to large demand, the remit for advocacy becoming involved is quite restricted.

Adults with learning disability who are not verbal.

Service users who do not have a diagnosed leaning difficulty but have great difficulty with their learning.

Difficult to get in touch with the [advocacy provider] by phone.

ASP Cases – depends on service demand – especially those with a learning disability.

# BARRIERS TO ACCESSING ADVOCACY

## Our strategic aims are to ensure:-

- More people are aware of what advocacy is, how it can benefit them, what advocacy services are available across Forth Valley to support them and how to access these services;
- Advocacy is available to as wide a range of service users as possible, and services are appropriately targeted towards those who are most in need;
- The preventative effects of advocacy are fully recognised and support is available to individuals as part of a self-management strategy;
- Advocacy services across Forth Valley are supported to develop their services to achieve the outcomes of this strategy.

## In order to achieve this we will:-

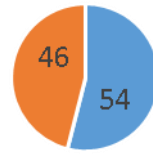
- Work with providers to build capacity (both paid and voluntary) to ensure that those who need advocacy get it;
- Work with professional partners to raise the profile of advocacy and confirm that professionals offer an advocacy referral, where appropriate;
- Ensure that providers are equipped to provide non-instructed advocacy to ensure that service users who are non-verbal can be accommodated;
- Ensure that providers have adequate IT & telephony systems to facilitate contact;
- Ensure that the service is prioritised appropriately to those most in need, including cases of emergency.

# COLLECTIVE ADVOCACY

We asked, if an advocacy partner was experiencing an issue which was common to a number of people, would you be prepared to engage with collective advocacy in a group setting?

You told us:-

Collective advocacy for common issues....?



■ Yes ■ No

We will:- when the current contract expires, ensure that the specification for the provision which replaces it contains a clause which will provide the flexibility for advocates and advocacy partners to take a collective approach to advocacy, if they so choose, in circumstances where:-

- the advocate and the advocacy partner agree that collective advocacy would be beneficial and appropriate;
- there is no conflict of interest.

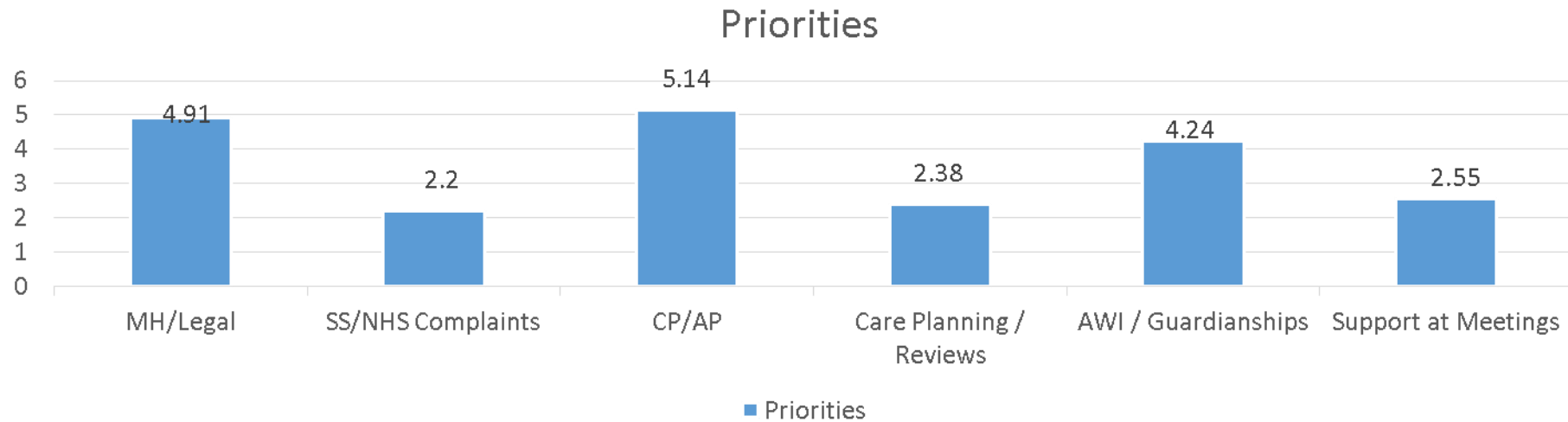
# PRIORITISATION OF SERVICES TO THOSE MOST IN NEED

## We asked:-

At present there is no waiting list for advocacy services in Forth Valley. However, we anticipate an increase in demand in the future and it may become necessary to operate a waiting list. Please rank the following areas of service in order of priority:-

- Mental Health / Legal Interventions
- Social Services / Health Service Complaints
- Child / Adult Protection
- Support Planning & Reviews
- Adults with Incapacity / Guardianship
- Support at Meetings / Talking to Professionals

## You told us:-



# OTHER THINGS YOU TOLD US...

Advocacy should be more widely advertised. People should know that they can access this service. Health professionals should promote it.

The profile of local advocacy services could be better advertised.

Advocacy Services remain very important in supporting service users, not only to ensure that the service user's views are upheld but also as an asset for multi-disciplinary practice.

Raise awareness of advocacy service, not only via leaflet drops, but through positive engagement with all groups.

The advocacy service to the care home has been invaluable. The advocates do what they can to ensure that the voices of Residents are heard. Advocacy is a must for all care home Residents to have the opportunity to access.

The service is crucial and my only consideration would be an increase in staff if workloads are too high to manage.

The service ticks all the boxes on access to information, equality, prevention of ill health and engenders wellbeing in the community.

The service provided should enable people to advocate on their own behalf and ensure that a dependency is not created.

Individual issues are important and a priority to people themselves depending where they are in their life journey...and things overlap...it is important that people have a voice and are listened to actively...and responses are effective.

People need to be encouraged to use advocacy...

Group advocacy for people with learning disabilities in residential and day care to ensure that they have a voice in the running of their services would benefit from independent support.

The service challenges professional boundaries and re-promotes "person-centred" care pathway planning.

Having more time would be beneficial.

I have not been involved with the advocacy service, but know of its valuable service.

# ACKNOWLEDGEMENTS & THANKS

We would like to take this opportunity to thank everyone who gave their valuable time to contribute to the advocacy consultation events and respond to the questionnaire. Your feedback has been very much appreciated and will be invaluable in shaping future advocacy services across Forth Valley. Our challenge now is to work together to make our aspirations a reality.



## Appendix 2

### Standard Impact Assessment Document (SIA)

Please complete electronically and answer all questions unless instructed otherwise.

#### Section A

**Q1: Name of EQIA being completed i.e. name of policy, function etc.**

Joint Commissioning of Independent Advocacy Services

**Q1 a; Function**  **Guidance**  **Policy**  **Project**  **Protocol**  **Service**  **Other, please detail**

**Q2: What is the scope of this SIA**

Service Specific  Discipline Specific  Other (Please Detail)

**Q3: Is this a new development? (see Q1)**

Yes

No

**Q4: If no to Q3 what is it replacing?**

Existing Contract for Provision of Independent Advocacy Services (Joint between Stirling Council, Clackmannanshire Council, Falkirk Council & NHS Forth Valley)

**Q5: Team responsible for carrying out the Standard Impact Assessment? (please list)**

Strategic Commissioning, Stirling Council

**Q6: Main person completing EQIA's contact details**

Name:

Jennifer Baird

Telephone Number:

01786 233763

Department:

Strategic Commissioning

Email:

bairdj@stirling.gov.uk

**Q7: Describe the main aims, objective and intended outcomes**

Independent advocacy plays a vital role in enabling people to be involved in the decisions that affect their lives. Local Authorities and NHS Boards have a duty under the Mental Health Care and Treatment (Scotland) Act 2003 to ensure that Independent Advocacy Services are available. The importance of the provision of independent advocacy services is also evident in the provisions and principles of the Adults with Incapacity (Scotland) Act 2000 and the Adult Support and Protection (Scotland) Act 2007.

The principal aims of the proposed contract are to ensure that those people who have a statutory right to this service receive an effective, efficient service timeously to support their ability to self-manage.

The objectives of independent advocacy are aligned to the vision of the Clackmannanshire and Stirling Health and Social Care Partnership to enable people to lead full and positive lives within supportive communities. Independent advocacy services contribute to the achieving the health and

wellbeing outcomes for individuals but also contribute more widely to building community capacity and addressing inequalities, by supporting those who may find it difficult to be heard to speak out.

**Q8:**

**(i) Who is intended to benefit from the function/service development/other (Q1) – is it staff, service users or both?**

Staff  Service Users  Other  Please identify \_\_\_Providers, third sector, independent sector

**(ii) Have they been involved in the development of the function/service development/other?**

Yes  No

**(iii) If yes, who was involved and how were they involved? If no, is there a reason for this action?**

Three open consultation meetings were advertised and held in February 2016 in Stirling, Alloa and Falkirk. Service users, third sector organisations, independent advocacy providers and Council Officers attended these sessions. These events were attended by approximately 75 people.

A Survey Monkey questionnaire was circulated to a wide range of stakeholders, and those stakeholders were encouraged to distribute this to throughout their network of contacts to ensure as comprehensive coverage as possible. 109 electronic and 14 paper responses were received (123 responses in total).

Further face-to-face meetings were carried out with service user forums and across the Partnership area.

**(iv) Please include any evidence or relevant information that has influenced the decisions contained in this SIA; (this could include demographic profiles; audits; research; published evidence; health needs assessment; work based on national guidance or legislative requirements etc)**

Comments:  
Joint Strategic Needs Assessment

**Q9: When looking at the impact on the equality groups, you must consider the following points in accordance with General Duty of the Equality Act 2010 see below:**

In summary, those subject to the Equality Duty must have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation;
- advance equality of opportunity between different groups; and
- foster good relations between different groups

Has your assessment been able to demonstrate the following: Positive Impact, Negative / Adverse Impact or Neutral Impact?

What impact has your review had on the following 'protected characteristics':	Positive	Adverse/Negative	Neutral	Comments Provide any evidence that supports your conclusion/answer for evaluating the impact as being positive, negative or neutral (do not leave this area blank)
Age	x			It is anticipated that there will be a positive impact on this group given that the eligibility criteria for access to the service includes all age groups (subject to further eligibility criteria). In terms of

				the eligibility criteria no individual subject to any one or more of the protected characteristics would be excluded from access to this service.
<b>Disability (incl. physical/ sensory problems, learning difficulties, communication needs; cognitive impairment)</b>	x			It is anticipated that there will be a positive impact on this group given that the eligibility criteria for access to the service includes all age groups (subject to further eligibility criteria). In terms of the eligibility criteria no individual subject to any one or more of the protected characteristics would be excluded from access to this service.
<b>Gender Reassignment</b>			x	
<b>Marriage and Civil partnership</b>			x	
<b>Pregnancy and Maternity</b>			x	
<b>Race/Ethnicity</b>			x	
<b>Religion/Faith</b>			x	
<b>Sex/Gender (male/female)</b>			x	
<b>Sexual orientation</b>			x	
<b>Staff (This could include details of staff training completed or required in relation to service delivery)</b>			x	

<b>Cross cutting issues: Included are some areas for consideration. Please delete or add fields as appropriate. Further areas to consider in Appendix B</b>				
Mental Health Problems	x			It is anticipated that there will be a significant positive impact on this group Health Problems given the aims and objectives of the service set out above.
Armed Services Veterans, Reservists and former Members of the Reserve Forces	x			It is anticipated that there will be a significant positive impact on this group given the aims and objectives of the service set out above.

**Q10: If actions are required to address changes, please attach your action plan to this document. Action plan attached?**

Yes  No

**Q11: Is a detailed EQIA required?**

Yes  No

Please state your reason for choices made in Question 11.

There is no need for a detailed EQIA as the overall impact of the proposed commissioning is positive or neutral for all protected characteristic groups and is focused on achievement of the vision and ambitious outcomes for the partnership.

N.B. If the screening process has shown potential for a high negative impact you will be required to complete a detailed impact assessment.

**Date EQIA Completed**

06 / 09 / 2016

**Date of next EQIA Review**

06 / 09 / 2017

**Signature**

Print Name

**Department or Service**

Please keep a completed copy of this template for your own records and attach to any appropriate tools as a record of SIA or EQIA completed. Send copy to [CS.integration@nhs.net](mailto:CS.integration@nhs.net)

**B: Standard/Detailed Impact Assessment Action Plan**

**Name of document being EQIA'd:**

Joint Commissioning of Independent Advocacy Services

Date	Issue	Action Required	Lead (Name, title, and contact details)	Timescale	Resource Implications	Comments

Further Notes:

Signed:

Date: