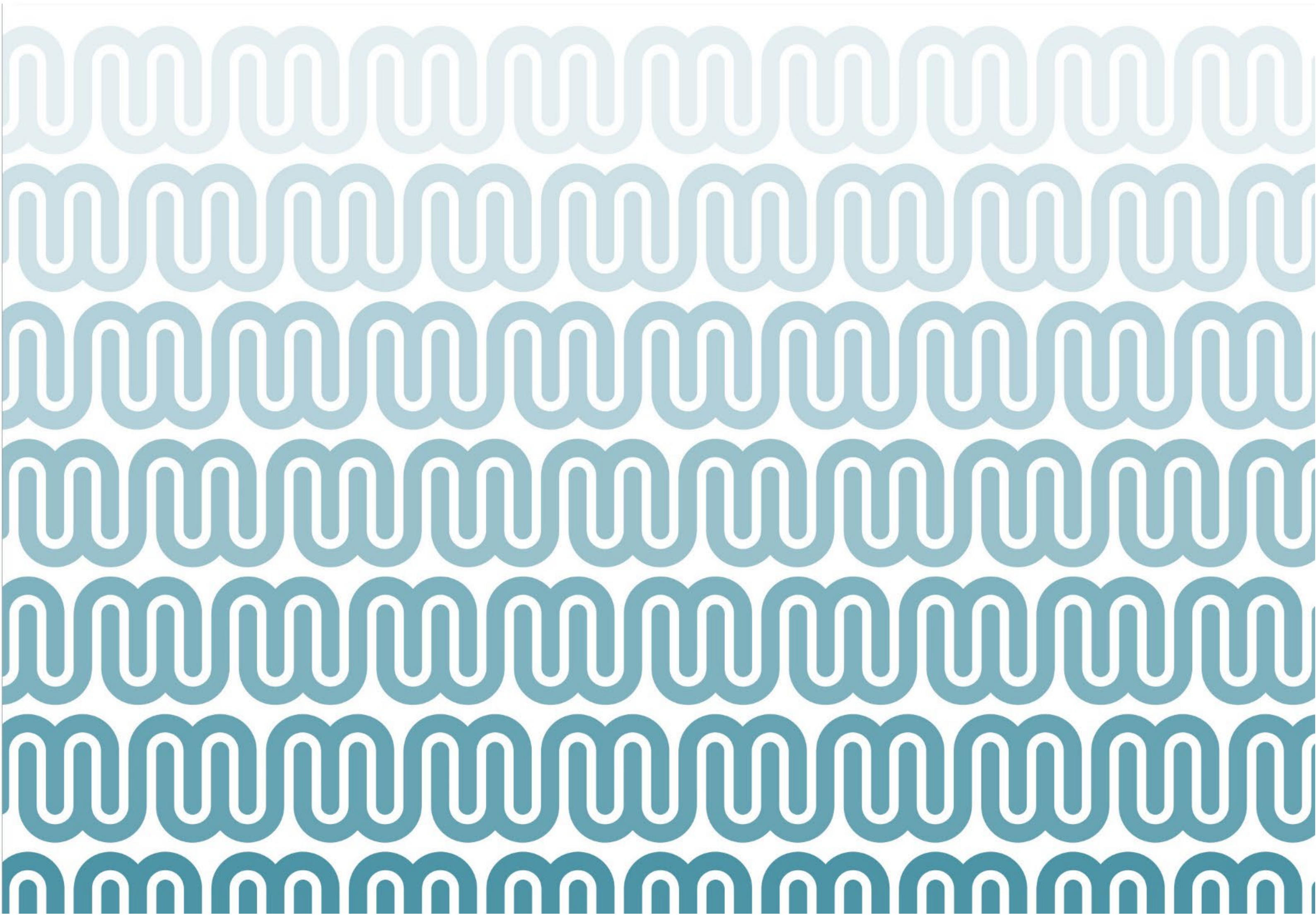
mental welfare
commission for scotland

The right to advocacy

A review of how health and social care partnerships, local authorities and NHS health boards are discharging their responsibilities under the Mental Health (Care and Treatment) (Scotland) Act 2003

Corporate report

January 2026



Our mission and purpose

Our Mission

To be a leading and independent voice in promoting a society where people with mental illness, learning disabilities, dementia and related conditions are treated fairly, have their rights respected, and have appropriate support to live the life of their choice.

Our Purpose

We protect and promote the human rights of people with mental illness, learning disabilities, dementia and related conditions.

Our Priorities

To achieve our mission and purpose over the next three years we have identified four strategic priorities.

- To challenge and to promote change
- Focus on the most vulnerable
- Increase our impact (in the work that we do)
- Improve our efficiency and effectiveness

Our Activity

- Influencing and empowering
- Visiting individuals
- Monitoring the law
- Investigations and casework
- Information and advice

Contents

1. Executive Summary

The Mental Health (Care and Treatment) (Scotland) Act 2003 imposed a duty on local authorities and health boards to collaborate to ensure the availability of independent advocacy services in their area. The Act gave everyone with mental illness, learning disability, dementia and related conditions the right to access independent advocacy support (not only those detained under the Act).

The Mental Health (Scotland) Act 2015 builds on the right in the 2003 Act to independent advocacy support, by requiring health boards and local authorities to tell the Mental Welfare Commission how they have ensured access to services up to now, and how they plan to do so in the future.

This report is based on information the Commission collected from health and social care partnerships (HSCPs), health boards and local authorities in 2025. We asked about the provision of advocacy services available in each area, planning for future provision and what was being done to improve access to advocacy services.

We also asked local authorities to tell us if their integrated children's services plans covered the provision of independent advocacy services for children and young people with mental illness, learning disability or related conditions.

We received 31 responses covering all 31 HSCP areas within timescales suggested.

We are once again grateful to the Scottish Independent Advocacy Alliance for their support with this work.

Key Findings:

Advocacy provision for adults

- Planning and commissioning of advocacy services: the majority of respondents confirmed that this is carried out at HSCP level or jointly with health boards and local authorities.
- Strategic advocacy plans: 65% (n=20) of respondents reported that they have a plan in place and six confirmed that plans are in the process of being developed.

Advocacy provision for children and young people

- Integrated children's services plan: 97% (n=30) of respondents reported that they have a plan in place, and 23 contain a reference to the provision of advocacy.

Independent advocacy services commissioned for adults, children and young people

- 55% (n=17) of respondents have confirmed that their budget for mental health, learning disability or dementia independent advocacy has not changed over the last two years.
- 51% (n=44) out of 86 advocacy organisations are allocated funding for a term of one year only.

2. Recommendations

In our 2023 report we made six recommendations, table 1 below outlines the comparison from our 2023 report to our current report:

Recommendations	2023 report	2025-26 report
Recommendation 1: All health and social care partnerships (HSCPs), health boards and local authorities should work collaboratively to ensure that a strategic advocacy plan has been developed and implemented for a three-year period based on information gathered from a needs assessment, scoping exercises and consultations for the provision of independent advocacy services in their area by 31 March 2024.	58% (18 areas)	65% (20 areas)
Recommendation 2: Equality impact assessments (EQIA) must be undertaken when developing and finalising strategic advocacy plans and signed off by senior management from all key partners, e.g. health and social care partnerships, health boards and local authorities.	39% (7/18 areas who had an advocacy plan)	80% (16/20 areas who had an advocacy plan)
Recommendation 3: All health and social care partnerships (HSCPs), health boards and local authorities should ensure that advocates and advocacy organisations commissioned to provide advocacy services in their area comply with the principles and standards set out in Appendix 1 of the Scottish Government Guidance: *Independent advocacy - a guide for commissioners* (2013).	New	97% (30 areas)
Recommendation 4: All health and social care partnerships (HSCPs), health boards and local authorities should promote advocacy services among health, social care and social work staff through training/awareness sessions and ensure information is available through a wide range of methods to members of the public.	74% (23 areas)	94% (29 areas)
Recommendation 5: All children's integrated service plans should include reference to the provision of independent advocacy services by 31 March 2024.	46% (14 areas)	74% (23 areas)
Recommendation 6: All health and social care partnerships (HSCPs), health boards and local authorities to consider the term of funding in response to the feedback from the advocacy organisations about how this can make it challenging regarding long term planning and sustainability of independent advocacy organisations.	30/90 (33%) organisations one year term funding	44/86 (51%) organisations one year term funding

We welcome the improvements noted above following our 2023 report however some gaps remain. We also note that the number of funded advocacy organisations across Scotland has reduced from 90 to 86 and the percentage of those funded annually has in fact increased to 51% rather than have longer term funding and planning arrangements in place. We therefore make four of the same recommendations in this report and we will follow up again in 2027-28. In the areas where there are gaps we will seek interim updates.

Recommendation 1: All health and social care partnerships (HSCPs), health boards and local authorities should work collaboratively to ensure that a strategic advocacy plan has been developed and implemented for a three-year period based on information gathered from a needs assessment, scoping exercises and consultations for the provision of independent advocacy services in their area by 31 March 2027.

Recommendation 2: Equality impact assessment (EQIA) must be undertaken when developing and finalising strategic advocacy plans and signed off by senior management from all key partners, e.g. health and social care partnerships (HSCPs), health boards and local authorities.

Recommendation 3: All children's integrated service plans should include reference to the provision of independent advocacy services by 31 March 2027.

Recommendation 4: All health and social care partnerships (HSCPs), health boards and local authorities to consider the term of funding as it can make it challenging regards long term planning and sustainability of independent advocacy organisations.

3. Background to this report

The Mental Health (Care and Treatment) (Scotland) Act 2003 states that any person with mental illness, learning disability, dementia and related conditions (“mental disorder”) has a right to access to independent advocacy, in whatever form. It places a duty on NHS Boards and Local Authorities to work together to make sure that independent advocacy services are available in their areas, and to take appropriate steps to ensure that those people have the opportunity of making use of these services.

The Mental Health (Scotland) Act 2015 builds on the rights of individuals to access advocacy and adds a requirement that health boards and local authorities provide the Mental Welfare Commission with information about mental health, learning disability or dementia advocacy services, about how services have been provided over the previous two years, and about plans in place to provide services over the next two years.

In our last report published in April 2023 we made six recommendations, two of which we set a deadline for 31 March 2024.

Recommendation 1: All health and social care partnerships (HSCPs), health boards and local authorities should work collaboratively to ensure that a strategic advocacy plan has been developed and implemented for a three-year period based on information gathered from a needs assessment, scoping exercises and consultations for the provision of independent advocacy services in their area by 31 March 2024.

Recommendation 5: All children’s integrated service plans should include reference to the provision of independent advocacy services by 31 March 2024.

We carried out a follow up interim review of these two recommendations and received a progress report from all relevant areas. Whilst we noted actions being taken, gaps still remain in 2025 as stated in table 1 above.

4. Independent advocacy

In each biennial report we provide the same information regarding the value of independent individual and collective advocacy. It is important to repeat this to ensure awareness and education of the critical role advocacy provides.

4.1 Why is it important

The Mental Health (Care and Treatment) (Scotland) Act 2003 imposed a duty on local authorities and health boards to collaborate to ensure the availability of independent advocacy services in their area. The Act gave everyone with mental illness, learning disability, dementia and related conditions the right to access independent advocacy support.

The code of practice for the Act, volume 1, chapter 6 para 140 (5.3) confirms the right of access to **ALL** types of independent advocacy.

The Mental Health (Scotland) Act 2015 builds on the right in the 2003 Act by requiring health boards and local authorities to tell the Mental Welfare Commission how they have ensured access to advocacy services, and how they plan to do so in the future.

The Scottish Government Guidance, Independent Advocacy: Guide for Commissioners (2013)[1] talks about how "*people can be treated unfairly as a result of institutional and systemic barriers as well as prejudice and individual, social, and environmental circumstances that make them vulnerable…*" The guidance also states clearly that independent advocacy is a "*crucial element in achieving social justice. It is a way to ensure that everyone matters and everyone is heard.*"

4.2 Models of advocacy

The Scottish Government's guidance outlines the aim of all models of advocacy is to "*help individuals gain increased confidence and assertiveness so that, where possible, they feel able to self-advocate when the need arises.*" The different models are:

- **One to one or individual advocacy**

  This includes professional or issue-based advocacy. It can be provided by both paid and unpaid advocates. An advocate supports an individual to represent their own interests or represent the views of an individual if the person is unable to do this themselves. They provide support on specific issues and provide information but not advice. This support can be short or long term.

  Another model of one-to-one advocacy is **citizen advocacy**. Citizen advocacy happens when individuals are encouraged to become involved with a person who

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[1] The Scottish Government Guidance, Independent Advocacy: Guide for Commissioners (2013)

might need support in their communities. The citizen advocate is not paid and not motivated by personal gain. The relationship between the citizen advocate and their advocacy partner is on a one-to-one basis and is normally but not always on a long-term basis. It is based on trust between the partner and the advocate and is supported but not influenced by the advocacy organisation. The advocate supports their partner using their natural skills and talents rather than being trained in the role although they should have access to relevant training where appropriate.

Peer advocacy is also individual advocacy. Peer advocates share significant life experiences with the advocacy partner. The peer advocate and their advocacy partner may share age, gender, ethnicity, diagnosis or particular issues. Peer advocates use their own experiences to understand and have empathy with their advocacy partner. Peer advocacy works to increase self-awareness, confidence and assertiveness so that the individual can speak out for themselves, lessening the imbalance of power between the advocate and their advocacy partner.

- **Group or collective advocacy**

  Collective advocacy enables a peer group of people, as well as a wider community with shared interests, to represent their views, preferences and experiences. A collective voice can help reduce an individual's sense of isolation when raising a difficult issue. A collective voice can be stronger than that of individuals when campaigning and can help policy makers, strategic planners and service providers know what is working well, where gaps are and how best to target resources. Groups can benefit from the support of resources and skilled help from an independent advocacy organisation.

- **Non-instructed advocacy**

  Most one-to-one advocacy is instructed however there are occasions when non instructed advocacy may be required. Non-instructed advocacy happens when a person who needs an independent advocate cannot tell the advocate what they want. This may be because the person has complex communication needs or has a long-term illness or disability that prevents them from forming or clearly stating their wishes/desires. This usually takes place with people who have dementia or profound and/or severe learning difficulties. The advocate will take time to get to know the person and relatives/friends and look for alternative methods of communication which will enable the person to express their views and wishes to ensure their rights are upheld. The advocate will challenge service providers to promote a person-centred independent approach.

4.3 Policy and legislative context

The Millan Committee was set up in 1999, to review mental health law in Scotland. The report, *New Directions, a Report on the Review of the Mental Health (Scotland) Act 1984*, was published in 2001. The report recommended there should be greater access to advocacy, and that "*all mental health service users should have a right to obtain access to an advocate… (and that) … it should be a joint duty of health services and local authorities to ensure those advocacy services are available and that service users are informed of the services.*"

The report also said explicitly that most people receive care and treatment on a voluntary basis, and that everyone receiving care and treatment, whether on a compulsory or voluntary basis, should have access to advocacy support, to make sure they are involved as fully as possible in decisions about their care. The report therefore recommended that a new mental health act "*should give a right to all mental health service users to obtain access to an advocate*."

The 2003 Act followed this recommendation, and states that anyone with a mental disorder, **whether or not they are subject to compulsory measures under the Act**, has a legal right of access to independent advocacy. The 2003 Act also confers a duty on each health board and local authority to work collaboratively to ensure that independent advocacy services are available, and that people are able to access them.

The 2015 Act builds on this duty, by requiring local authorities and health boards to give the Commission information about how they are arranging for the provision of independent advocacy services in their area.

The importance of independent advocacy services has also been recognised in other legislation and policies:

- *Better Health, Better Care: An Action Plan* (2007) which set out a new vision for the NHS in Scotland, recognised the need for advocacy support.
- The Patient Rights (Scotland) Act 2011, which aims to improve patients' experiences of using health services and to support people to become more involved in their health and health care, established a patient advice and support service. It says that this service, where appropriate, should make people aware of and direct them to advocacy services.
- The Children's Hearing (Scotland) Act (2011) introduced a requirement to ensure that children and young people going through the Children's Hearing System should be able to get advocacy support.
- *Getting it right for every child (Getting it right)* (2012) makes clear reference to why good quality advocacy support - which helps children and young people to be 'respected' and 'included' - is a significant part of the Getting it right approach.

- The Social Care (Self-directed Support) (Scotland) Act 2013 refers to the provision of information about advocacy services.
- National Carers (Scotland) Act 2016 outlined in Section 34(2)(d) that information and advice on advocacy services requires to be made available to carers. This covers provision of information and advice about available advocacy services.
- The *Keys to Life implementation framework and priorities 2019-2021* outlined the importance of partnership working to ensure that people with learning difficulties are able to gain greater choice and control over their lives through self-directed support and the associated funding of organisations offering advice, advocacy and support.
- Article 12 of the UN Convention on the Rights of the Child (UNCRC) describes the rights of all children to express their views in all matters that affect them and have their views "given due weight in accordance with their age and maturity." Accessibility and availability of independent advocacy services for children therefore is a key way in which this right can be respected and upheld.

Scottish Mental Health Law Review (SMHLR) [2]

Despite this policy and legislative context, the SMHLR's report published in September 2022, stated that only around 5% of people who have a right to independent advocacy access it and they highlighted several reasons for this:

- the lack of knowledge amongst people about what independent advocacy is, how it can benefit them, how to access it.
- the very limited levels of funding most independent advocacy organisations receive.
- the different 'levels' of access that each piece of legislation grants.
- the lack of awareness or understanding of independent advocacy among health and social work/social care staff.

The SMHLR report made several important recommendations in relation to the development of independent advocacy in 2022. The Scottish Government response is still awaited in 2025.

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[2] Scottish Mental Health Law Review Final Report (September 2022)

5. How we gathered information for this report

In our report published in April 2023 we made a commitment to work in partnership with the Scottish Independent Advocacy Alliance (SIAA) to develop our survey tools to ensure the information we receive can complement or strengthen the information we both report on.

The survey tools for 2025-26 were therefore refined to reflect this collaborative approach and also took account of the information we received last time.

Our survey document was in three parts:

Part one: adult survey

This information details responses on current planning, consultation and involvement, action planning, commissioned services, commissioned budgets, prison related information, monitoring and review arrangements and future plans.

Part two: children and young people survey

This information details responses on current planning, commissioning, monitoring and review arrangements and future plans.

Part three: independent advocacy services commissioned for adults, children and young people

This information details responses on how many organisations are commissioned, the specific groups they support, type of advocacy, budget information by category and terms of funding.

The survey was sent to all chief officers for health and social care partnerships (HSCPs) and copied to chief executives for health boards, local authorities and chief social work officers asking for information about advocacy services commissioned in each area for adults, children and young people. We emphasised that we expected only one joint response from each area.

We received 31 responses from all 31 HSCP areas and are very grateful for this engagement.

6. Advocacy provision for adults

6.1 Current planning

Arrangements for the planning and commissioning of advocacy services

We asked respondents to provide information on how the planning and commissioning for the provision of advocacy services is undertaken in their area.

Table 2: details arrangements for the planning and commissioning of advocacy in each area

The level at which advocacy is planned for	n	%
NHS board-wide	5	16%
HSCP	16	52%
Local Authority	1	3%
Jointly	9	29%
Total	**31**	100%

An example of an NHS board wide response was Clackmannan & Stirling and Falkirk reporting that planning for independent advocacy for adults is across the NHS Forth Valley board area.

The 'jointly' responses included two areas where advocacy planning is reportedly carried out with the HSCP and local authority, one reported with the HSCP and health board, three reported with HSCP, local authority and health board, one reported HSCP and children services, one reported that they have set up a steering group with key partners and another reported that the advocacy organisation, local authority and NHS work together on advocacy planning.

Strategic advocacy plan

The Scottish Government guide states that "a strategic advocacy plan should be developed based on the information gathered from a needs assessment, scoping exercise and consultations." From the information collated from this survey we can report that 65% (n=20) respondents confirmed that they have a strategic advocacy plan for their area.

Table 3: provides comparison to our 2023 report in relation to strategic advocacy plan in place

Current position	2023 report	2025 report
Current plan in place	18	20
No plan in place but in process of being developed	10	6
No plan in place and no plans to develop one	3	2
Included in other plans or arrangements		3
Total submissions received	31	31

The two areas which reported no plans in place to develop a strategic plan provided additional information as follows:

- Aberdeenshire report that given the current demands and pressures on the HSCP they are not in the process of developing a strategic advocacy plan.
- Moray reported that advocacy is embedded strongly within services and within commissioning therefore they see no priority for a strategic advocacy plan at this time.

Recommendation 1: All health and social care partnerships (HSCPs), health boards and local authorities should work collaboratively to ensure that a strategic advocacy plan has been developed and implemented for a three year period based on information gathered from a needs assessment, scoping exercises and consultations for the provision of independent advocacy services in their area by 31 March 2027.

6.2 Consultation and involvement

Involvement in the development of strategic advocacy plans

The areas which have a strategic advocacy plan in place detailed good examples of how and who they involved during their development:

- involved all key stakeholder advocacy organisations
- advocacy partners invited to attend meetings and help formulate the plan
- stakeholder survey, focus groups, drop-in sessions and online options
- people with lived experience were consulted through surveys, online and in person focus groups and individual interviews
- consultation and research were out carried via a comprehensive mapping exercise

Equality impact assessment

In line with Section 149 of the Equality Act 2010 which imposes a legal duty, known as the Public Sector (Equality Duty), on all public bodies, to consider the impact on equalities in all policy and decision making, 80% (n=16) reported that they had completed an Equality Impact Assessment when developing their strategic advocacy plan.

Recommendation 2: Equality impact assessment (EQIA) must be undertaken when developing and finalising strategic advocacy plans and signed off by senior management from all key partners, e.g. health and social care partnerships (HSCPs), health boards and local authorities.

6.3 Current commissioned services

Prioritising provision

74% (n=23) of respondents confirmed that they specify that advocacy organisations prioritise referrals for independent advocacy support, the majority of whom have asked that priority be given to people who are/or being considered for care and treatment under mental health and incapacity legislation.

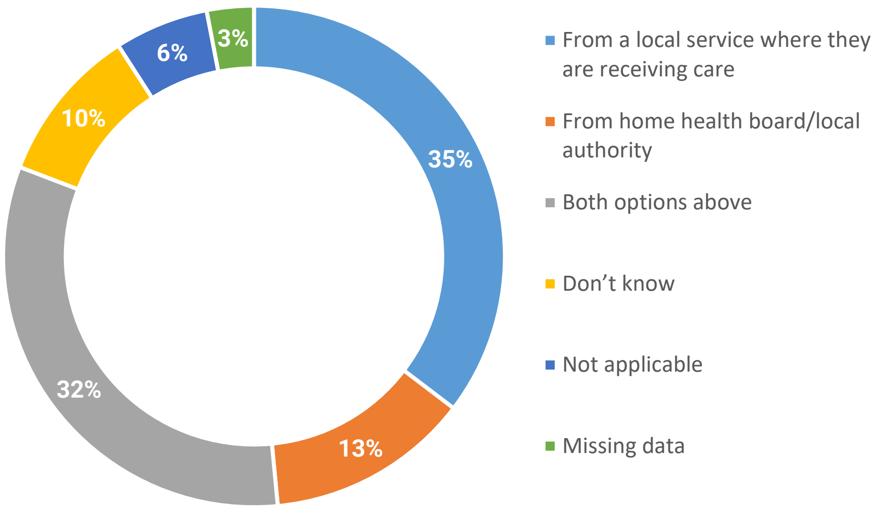
Other responses:

- East Ayrshire reported that one of the services provided by East Ayrshire Advocacy Services, namely the Adult and Older People's services, is available where people have mental health issues, learning disabilities or dementia but are not subject to compulsory measures under the Mental Health Act.
- Moray reported that the service is advertised as providing free support in Moray to those accessing community care services. This includes people with a mental health condition or a learning disability, autistic people, people with dementia, and physical and sensory disabilities. The support is also available for unpaid carers.
- Midlothian reported people are still provided access to individual independent advocacy by the same organisation for non-detention issues but services are asked to prioritise those with compulsory related measures and implications.

100% (n=31) of respondents confirm that they do not specify that organisations apply a limit to the amount of advocacy support per person.

Advocacy services for NHS patients placed in private healthcare facilities out with home health board area

Chart 1: details how NHS patients, who have been placed in private healthcare facilities out with their home health board area receive advocacy support



Additional information provided included:

- Inverclyde advised that mental health advocacy provision would come from the geographical area in which the private healthcare setting is located. It was further explained that if patients are boarded out to Glasgow, for example, an advocacy referral needs to be made to the local Glasgow area and not the person's originating home area.

Advocacy services for people in prison

13 responses were received confirming prisons in their HSCP areas, 85% (n=11) reported that they commission advocacy services for people who are in prison. Examples of how services are commissioned:

- East Dunbartonshire reported that the Scottish Prison Service (SPS) fund advocacy provision for the prison in their area.
- Clackmannan & Stirling reported that anyone currently within prisons who are subject to statutory support under the Mental Health Act are referred by mental health officers within prisons to the main contracted advocacy organisation. At HMP Stirling any women who are not subject to statutory support under the Mental Health Act but may have additional vulnerability due to mental illness, learning disabilities or difficulties may be referred to appropriate advocacy services by the local authority in which they would normally reside.

- Aberdeenshire reported, as the commissioned provider, Advocacy North East provides independent advocacy within the prison estate to all those who have a right to access independent advocacy under the terms of the Mental Health Act.

- Inverclyde reported HMP Gateside Greenock prisoners in receipt of prison health care are able to access the independent advocacy service commissioned by Inverclyde Council.

- West Lothian reported that their current mental health and addictions advocacy provider deliver services to Addiewell prison. This was originally on an appointment basis but is now a drop-in service as this was found to be more effective.

- Dundee reported that there is not a formal commissioned service, but several referrals have been made to Dundee Independent Advocacy Service (DIAS) the local independent advocacy service for adults. This has been via telephone contact.

It was reported that prisoners are informed about independent advocacy services through several different ways including posters, leaflets, advice and guidance from operational prison staff and mental health officers, some examples of other ways:

- East Ayrshire reported that they are holding awareness sessions and have attended HMP Kilmarnock Health & Wellbeing Day.

- Dumfries & Galloway reported that during the development of their strategic advocacy plan the prison was visited and a number of prisoners spoken to about independent advocacy.

6.4 Monitoring and review arrangements

Outcomes and monitoring

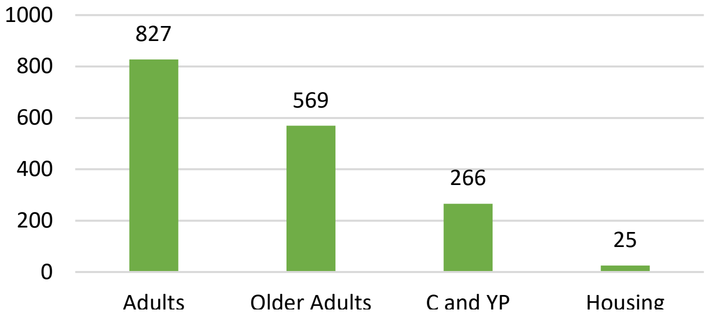
All responses received provided detailed information on the outcomes they require advocacy organisations to report on. Aims and objectives are set by the health board, HSCP or local authority which each advocacy organisation needs to evidence through various key performance indicators; these can be a mix of quantitative and qualitative measures, for example number of referrals received, referral management, demographic information, individual feedback, stakeholder feedback and complaints information.

They also confirmed that the arrangements for monitoring of advocacy provision are through their formal contract monitoring processes either in the health board, HSCP or local authority. The advocacy organisation is required to submit a monitoring report for review quarterly, six monthly, and annually.

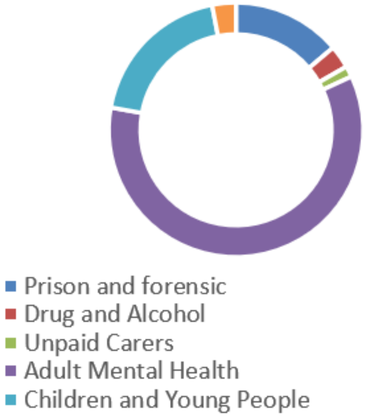
100% (n=31) of respondents confirmed that they receive information from each organisation on the number of people accessing advocacy support through their reporting structures.

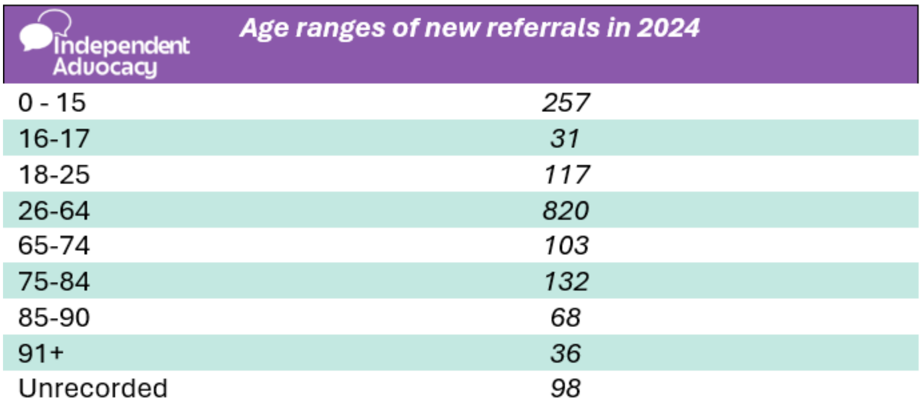
Respondents helpfully included information they receive; below are some examples:

- **North Lanarkshire** new referrals from 1 April 2024 to 31 March 2025



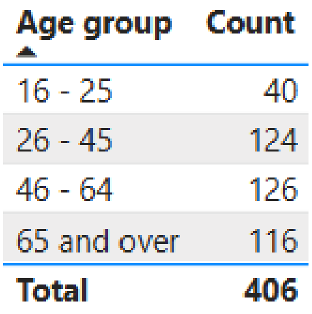
- **Perth & Kinross** independent advocacy 2024



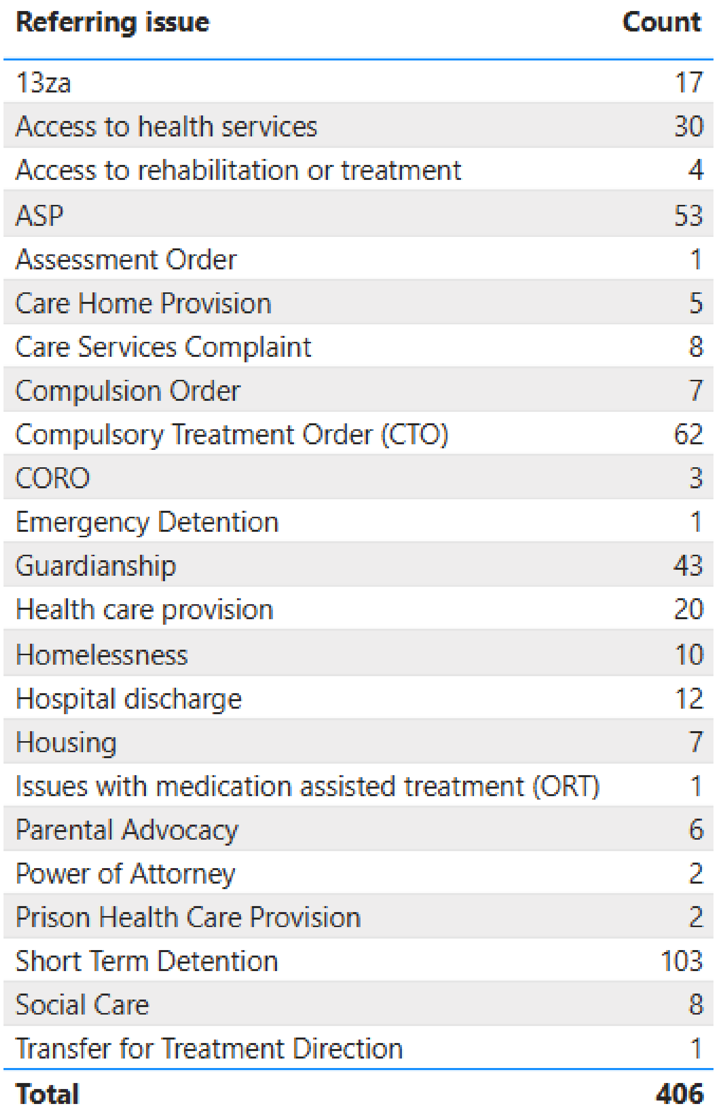


	Age ranges of new referrals in 2024
0 - 15	*257*
16-17	*31*
18-25	*117*
26-64	*820*
65-74	*103*
75-84	*132*
85-90	*68*
91+	*36*
Unrecorded	*98*

- **Advocacy Project Glasgow Integrated Service** from 1 January to 31 March 2025



Age group	Count
16 - 25	40
26 - 45	124
46 - 64	126
65 and over	116
Total	**406**



Referring issue	Count
13za	17
Access to health services	30
Access to rehabilitation or treatment	4
ASP	53
Assessment Order	1
Care Home Provision	5
Care Services Complaint	8
Compulsion Order	7
Compulsory Treatment Order (CTO)	62
CORO	3
Emergency Detention	1
Guardianship	43
Health care provision	20
Homelessness	10
Hospital discharge	12
Housing	7
Issues with medication assisted treatment (ORT)	1
Parental Advocacy	6
Power of Attorney	2
Prison Health Care Provision	2
Short Term Detention	103
Social Care	8
Transfer for Treatment Direction	1
Total	**406**

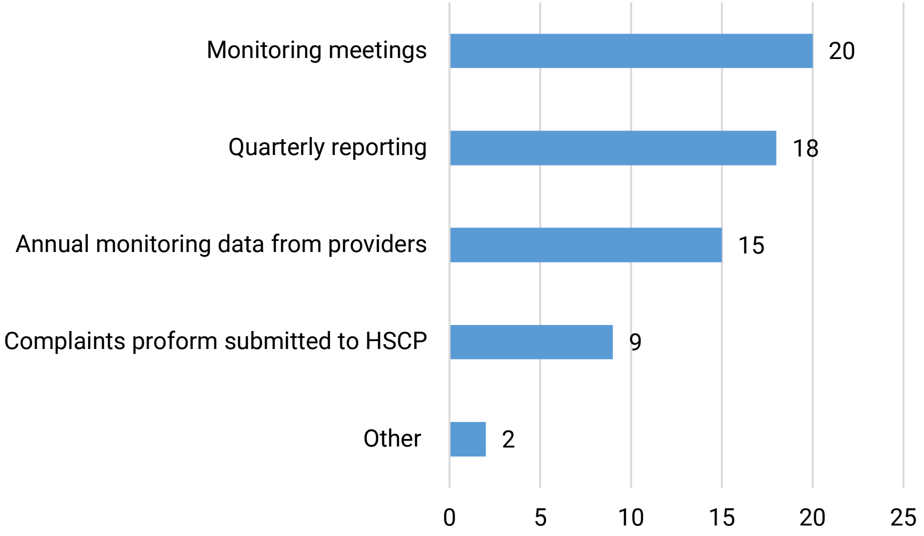
Feedback from people accessing advocacy services

The majority of respondents reported that they request advocacy organisations undertake a form of engagement/feedback with people who access their service. Examples of how this is undertaken included use of surveys, courtesy telephone calls, comments cards, evaluation and case work conversations.

- North Ayrshire reported that there are key performance indicators (KPIs) that the service reports on to the HSCP. They described outcomes measures under three themes; quality of life, rights and voice and control measured using questionnaires.
- Angus reported that satisfaction ratings are included in the monitoring reports. These are gathered by the adult contracted service via outcome tools, a feedback app, Hurrah Board, stories and database.

Complaints monitoring

Chart 2: details type of complaint monitoring currently in place (*more than one option selected*)



Other:

- Clackmannan & Stirling reported that in addition to the above routes for complaints, annual reviews include engagement with practitioners for additional feedback.
- Moray reported that in addition to the above, HSCP staff can raise any concerns they have with the service to the Senior Commissioning Officer who will then address any issues with the provider's service manager.

Raising awareness of advocacy services

The majority of respondents confirm that information to raise awareness of advocacy services is through a range of methods; websites, use of social media, promotion in local hospitals, on notice boards and having stands at events.

94% (n=29) of respondents reported that they have taken action to promote the use of advocacy among health and social care/social work staff through awareness sessions, team meetings and individual supervision.

6.5 Future plans

81% (n=25) of respondents confirmed that they ask services to provide information about unmet need. This information is usually contained within monitoring reports. Additional responses in relation to unmet need/assessing future need include:

- South Ayrshire confirmed that there is no waiting list, it is a requirement that anyone who seeks advocacy is provided with advocacy. They do ask about any barriers to understand the needs. With regards adults, the main barrier is reported to relate to the increasing numbers of individuals with increasingly complex needs e.g. anxiety, neurodiversity, and advocacy workers spending increased time supporting individuals to attend appointments. For children, there is an increasing number of pre-5 age subject to child protection procedures, therefore advocacy workers are undertaking additional training in this area.
- Edinburgh reported that Partners in Advocacy report referrals of people without a statutory element are recorded as unmet need. To address this, they have piloted a volunteer service which provides early intervention and understanding of this work will provide further insight into unmet need. Services generally report a rise in complexity of cases with multiple issues per person. The trends they reported were:

    - Mental Health Act referrals remain high
    - Rise in adult with Incapacity Act issues
    - Rise in adult support and protection cases
    - Rise in child protection referrals, whilst this remains small it will be monitored
    - Sharp rise in referrals from patients wishing to appeal their Compulsory Treatment Orders (CTOs)

    Providers have been working to keep waiting lists down and have developed volunteering packages to support people to engage with individual and collective advocacy services as appropriate.

7. Advocacy provision for children and young people

7.1 Current planning

While overall responsibility for children's services planning rests with a local authority and its relevant health board (i.e. the territorial health board in the area the local authority falls), it is expected that they will work collaboratively with other members of the Community Planning Partnership (CPP), as well as with children, young people and their families at various stages of the plan's development and review. 97% (n=30) of respondents confirmed that they have an integrated children's service plan.

Fife reported that they do not have an integrated children's service plan however they do have a children services plan 2023-2026. This plan has a strong reference to the importance of children rights which includes the provision of independent advocacy for children and young people.

The Children's Hearing (Scotland) Act (2011) introduced a requirement to ensure that children and young people going through the Children's Hearing System would, for the first time, be able to get advocacy support.

Getting it right for every child (Getting it right) (2012) makes clear reference to why good quality advocacy support - which helps children and young people to be 'respected' and 'included' – is a significant part of the Getting it right approach.

Article 12 of the UN Convention on the Rights of the Child (UNCRC) describes the rights of all children to express their views in all matters that affect them and have their views "given due weight in accordance with their age and maturity." Accessible and available independent advocacy services for children are a key way in which this right can be respected and upheld.

74% (n=23) of the respondents who have an integrated children's service plan or equivalent reported that their plans do contain a reference to the provision of independent advocacy services for children and young people.

- Clackmannan & Stirling reported that they have a strategic plan for the delivery of Children's Advocacy 2024-27. This is a partnership plan produced with key agencies involved with Stirling Community Planning Partnership's Strategic Planning Group for Children (SSPGfC). It sets out how children and young people in Stirling can access advocacy and presents clearly how the principles of advocacy should be embedded in all children's services.

Recommendation 3: All children's integrated service plans should include reference to the provision of independent advocacy services by 31 March 2027.

7.2 Current commissioned services

Prioritising provision

42% (n=13) of respondents confirm that they specify that advocacy organisations prioritise referrals for independent advocacy support, the majority of whom have asked that priority be given to people who are/or being considered for care and treatment under mental health legislation.

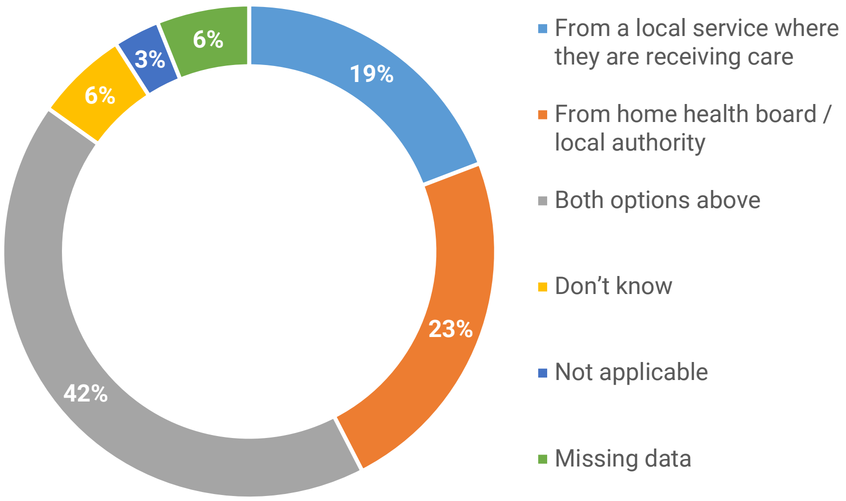
Other responses:

- Dumfries & Galloway responded that all staff are expected to raise awareness of advocacy services for all looked after children and those subject to mental health and child protection procedures. The consideration of whether a child has an advocate or not is subject to discussion at all key meetings in which key decisions are made for a child.
- Aberdeen City responded that they would actively support and encourage advocacy for all children and young people as well as actively encouraging that parents to seek this support.
- East Lothian responded that referrals are prioritised for care experienced children and young people out with the local authority.

90% (n=28) of respondents confirmed that they do not specify that organisations apply a limit to the amount of advocacy support per child or young person.

NHS patients placed in private healthcare facilities out with home health board area

Chart 3: details how children and young people with mental illness, learning disability or related condition in a placement out with their home local authority would receive advocacy support



Don't know response included:

- East Renfrewshire reported that the HSCP would not routinely be informed about a child or young person's admission to healthcare facilities out with the area unless the child had been already receiving HSCP services.

Argyll & Bute did not select any of the options (missing data) but reported that there are no formal advocacy arrangements in place for children and young people placed out with the area, there has however been an appointment of a participation officer who will focus on care experienced children and young people providing targeted advocacy.

7.3 Monitoring and review arrangements

Outcomes and monitoring

55% (n=17) of respondents confirmed that they do receive information from each organisation about the number of children and young people with mental illness, learning disability or related conditions who access advocacy support.

The others who reported that they do not receive information highlighted that they may report on the number of children and young people accessing advocacy support however this may not be broken down into the detail of whether a child or young person has a learning disability or mental illness.

The majority of respondents reported that the outcomes they wish to achieve for children and young people are:

- related to an outcomes approach based on Getting it right for every child (GIRFEC)
- to ensure children and young people are provided with the necessary information in respect of their rights so that they have their wishes taken into account within the decision-making process
- to ensure support is provided to children and young people at health service meetings, mental health tribunals and other legal proceedings

They also confirmed that the arrangements for monitoring of advocacy provision is through their formal contract monitoring processes. The advocacy organisation is required to submit a monitoring report for review quarterly, six monthly and annually on a number of key performance indicators, these can be a mix of quantitative and qualitative measures for example accessibility of service, number of referrals received, referral management, demographic information, individual feedback, stakeholder feedback and complaints information.

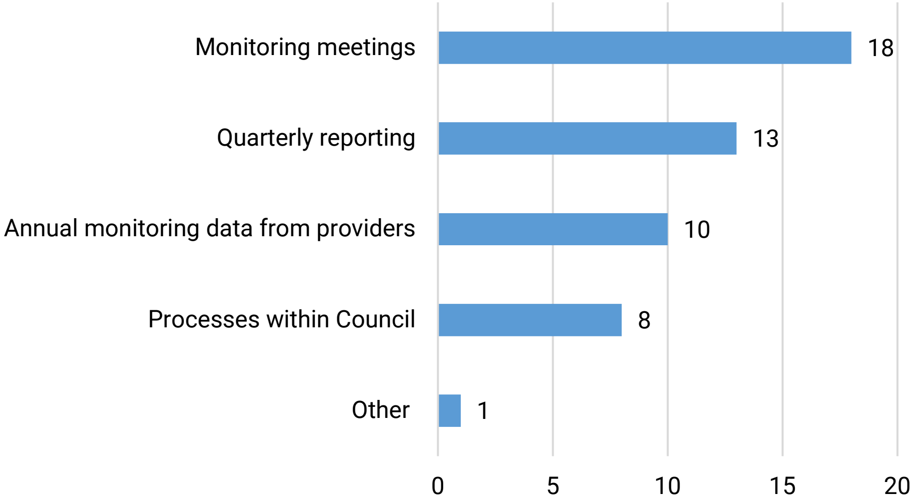
Feedback from children and young people accessing advocacy services

The majority of respondents request that advocacy organisations undertake a form of engagement/feedback with children and young people who access their service.

Perth & Kinross reported that during 2024 Independent Advocacy Perth & Kinross (IAPK) took part in an independent evaluation carried out on children’s advocacy. IAPK staff and families who have used the service fed into this work. The report was overwhelmingly positive.

Complaints monitoring

Chart 4: details type of complaint monitoring currently in place (*more than one option selected*)



Other:

- Falkirk reported that this is not formally reported on within monitoring data and aim to address this. However good relationships exist between managers with oversight of the contract within the local authority and Who Cares? Scotland and any issues in relation to delivery of advocacy to children and young people are raised and addressed openly either through monitoring meetings or out with as required.

Raising awareness of advocacy services for children and young people

81% (n=25) of respondents have taken action to promote the use of advocacy among staff through staff training, distribution of promotional material, meetings with social work staff and as part of induction processes for newly qualified staff.

- East Dunbartonshire reported that within both Specialist Children's Services and the HSCP there have been a number of advocacy drop-in sessions, specific communications to promote the service (staff meetings, emails, briefings) and details provided as to how to refer.
- East Lothian reported that the Children's Services department briefings are attended by commissioned providers to raise awareness and remind social workers that advocacy services are available and should be offered to all children and young people in receipt of a service. In addition to this, social workers will discuss advocacy at Looked After Children's Reviews and through case discussion.
- Orkney reported that there are regular meetings between operational teams and the advocacy provider to promote awareness, develop relationships and address issues/concerns as they arise.

8. Independent advocacy services commissioned for adults, children and young people

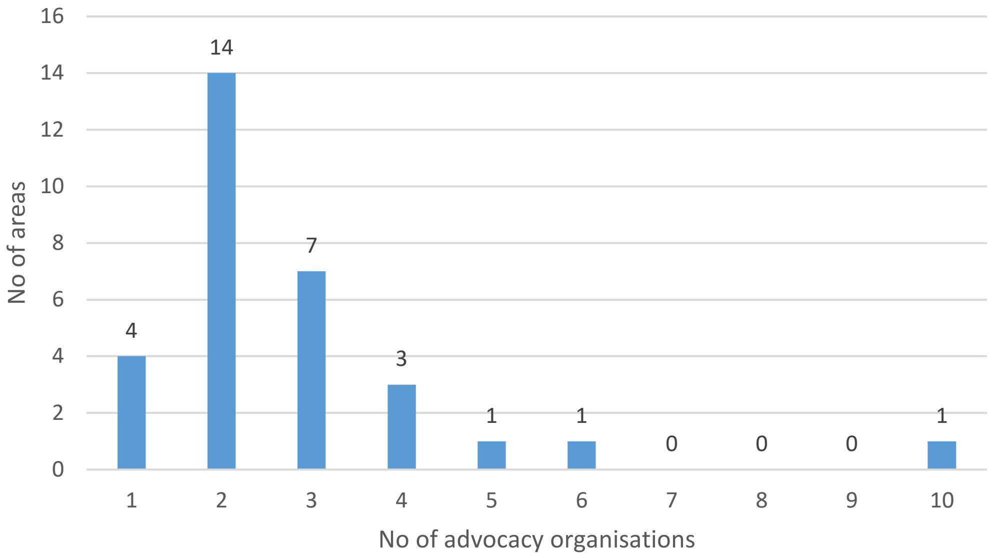
97% (n=30) respondents reported that they commission advocacy services in their area which comply with the principles and standards set out in Appendix 1 of the Scottish Government Guidance: Independent Advocacy – a guide for commissioners (2013).

8.1 Profile of organisations currently commissioned

We asked respondents to provide information about the number of actual independent advocacy organisations commissioned in their area, whether they were generic or did they support specific groups, what age groups they cover, and the type of advocacy support they provide.

From the information received we currently have 86 organisations which are commissioned to provide advocacy services across Scotland.

Chart 5: details the number of advocacy organisations commission by each area



The majority of HSCP areas reported commissioning 1-3 organisations. Fife is an outlier with the reported highest number of organisations they commission advocacy services from, a total of 10.

Service provision

We asked respondents to provide information about the type of service provided by the advocacy organisations they commission from in their area.

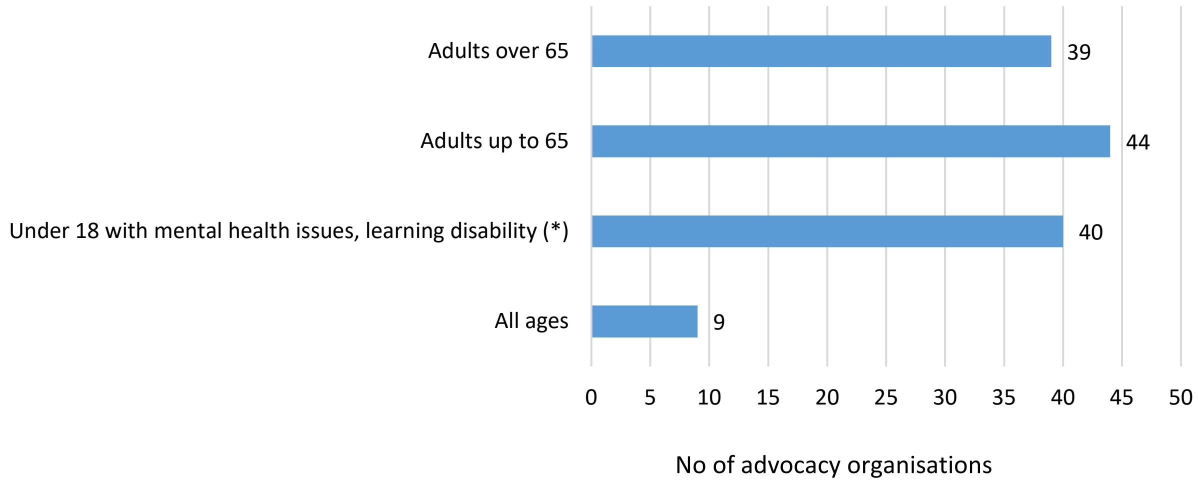
Table 4: details the service provided and the number of advocacy organisations who deliver this

Service provided	Number of organisations
Generic	21
People with mental health/illness related condition	30
People with learning disability	32
People with dementia	27
People with autistic spectrum disorder	28
Mentally disordered offenders	22
Homeless people with mental illness, learning disability, dementia	23
Carers of people with mental illness, learning disability, dementia	28
Children & young people with mental health problem	28
Children & young people with a learning disability	25
Children & young people with ASD or ADHD	25
Looked after children and young people including those who have mental illness, learning disability or related conditions	38
Looked after children and young people but NOT including those who have a mental illness, learning disability of related conditions	27

Age range

We asked respondents to provide information on the age range covered by each advocacy organisation they commission from in their area.

Chart 6: details the number of advocacy organisations and the age range they provide support to



(*) *some advocacy organisations provide support to up to 26 years of age*

Models of advocacy

There are several different models of advocacy, as noted at the start of this report, and we asked respondents to tell us which model of advocacy provision was offered by the individual advocacy organisations they commission.

Chart 7: details the number of advocacy organisations and model of advocacy they provide

8.2 Budget information

In our survey we asked respondents to provide information on their current budget for advocacy provision. From the information received the total budget for advocacy provision in Scotland is approximately £15,517,000. This equates to an approximate increase of £2,317,000 since our last report published in 2023.

The total budget for each respondent ranged from £36,000 up to £1,375,000.

We also asked for information on how this funding was broken down into the various categories. Unfortunately, not all respondents were able to provide a breakdown by category but from the information received we can provide the following information.

Table 5: describes the breakdown of the budget by category provided by some areas

Service provided	Approximate funding allocated
Adult Services	£5,068,625
Children Services	£1,285,346
People with mental health/illness related condition	£1,318,333
People with learning disability	£405,476
People with dementia	£121,473
Mentally disordered offenders	£83,491
Carers of people with mental illness, learning disability, dementia	£224,564
Children & young people with mental health problem	£100,351
Looked after children and young people including those who have mental illness, learning disability or related conditions	£687,616
Substance misuse, drug and alcohol	£341,925

Advocacy provision for adult budget

55% (n=17) of respondents have confirmed that their budget for mental health, learning disability or dementia independent advocacy has not changed over the last two years.

Examples from those who reported a change:

- Aberdeen City reported that there has been an increase to incorporate adult support and protection and substance misuse services which incorporate the Medication Assisted Treatment Standards.
- Inverclyde reported that the budget has recently increased to accommodate the provision of advocacy for individuals referred by the Alcohol and Drug Recovery Service under MAT standard 8.
- South Lanarkshire reported that they have moved to one provider for all adult advocacy provision and added some Carers Act funding to facilitate carers advocacy as part of legislation.
- East Lothian reported that during the 2024-25 financial year as part of challenging financial recovery actions, the independent advocacy budget was reduced by 4.5%. In some cases referrals have been prioritised in order to ensure that statutory work has been completed timeously although this is not purely due to budget reductions.

Advocacy provision for children and young people budget

74% (n=23) of respondents have confirmed that the budget for children and young people's mental health/learning disability independent advocacy organisations has not changed over the last two years.

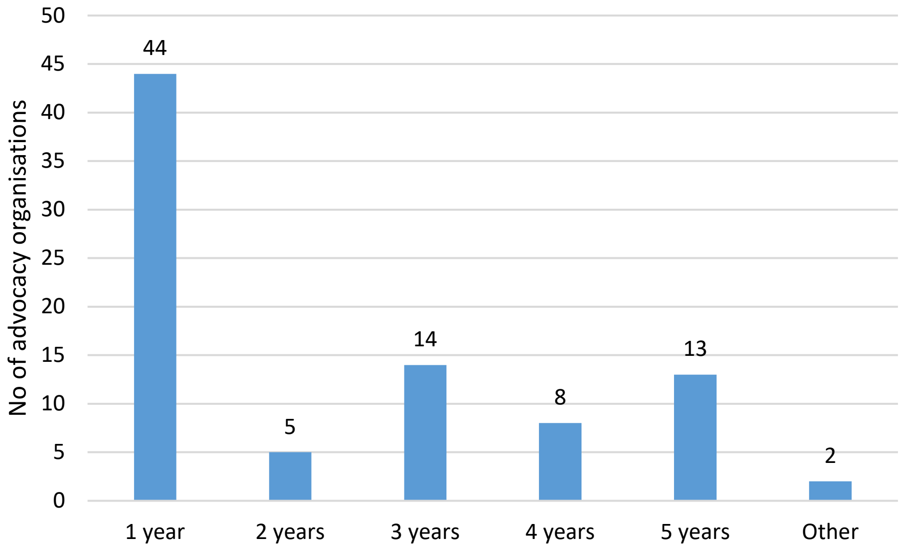
Examples from those who reported a change:

- Inverclyde reported that there had been an increase of £5,000 in 2024. The increase was to reflect that there had not been any increase since 2021.
- East Lothian reported that the allocation of spend for advocacy services has increased by 50% in order to offer independent advocacy to all children and young people using children's social work services. The budget increase / change is not specific to children and young people with a mental health disorder / learning disability.

Term of contract funding

All respondents provided detail of the term of contract for each organisation they commission advocacy services from.

Chart 8: details the term of contract for each organisation



Other:

- Dumfries & Galloway reported initial funding for a period of 6 months.
- South Lanarkshire is in the midst of a tendering process.

Recommendation 4: All health and social care partnerships (HSCPs), health boards and local authorities to consider the term of funding as it can make it challenging regards long term planning and sustainability of independent advocacy organisations.

8.3 Staffing within advocacy organisations

We asked respondents to outline how many advocacy officers are supported by the funding in their area. We can only provide an approximate number at this time as some respondents reported whole time equivalent (WTE) and others by actual number of advocacy workers. There are approximately 280 advocacy workers across Scotland (indicative), 22 of whom are supporting children and young people. Some areas also reported additional posts within the advocacy organisations, e.g. managers, supervisors and volunteers.

9. Conclusion

We very much welcome the efforts of HSCPs and their partners to deliver ongoing progress in relation to the six advocacy related recommendations we made in 2023-2024. There are now more joint advocacy strategic plans in place or currently being developed and the number of integrated children's services plans which contain a reference to the provision of advocacy has increased significantly.

Unfortunately, commissioning cycles have not been extended, with more advocacy organisations receiving annual allocations rather than longer term funds to support planning.

We know that gaps remain and we will follow up on the recommendations of this report.

We also know that these gaps extend to practice. In our *Hospital is not home* report we did not find evidence of significant attempts made to seek people's views through non-instructed advocacy. Our observation in our Mr D investigation report was that greater credence could have been given to the family's concerns and their right to advocacy as outlined in the Carers (Scotland) Act 201634 (the 2016 Act).

The value of access to the full range of independent individual and collective advocacy services cannot be overstated to ensure the voices of some of the most vulnerable people in our society are heard.

Whilst the fiscal environment is challenging and indeed a range of sources contacted the Commission in 2025 regarding decisions being made across Scotland to potentially reduce advocacy provision (which we raised with the Health, Social Care and Sport Committee and the Scottish Government directly in June 2025), detentions under the mental health act and orders under incapacity legislation continue to grow. Advocacy therefore needs to be grown to match the needs of Scotland's population.

None of us can honestly say, at this stage, that "everyone who needs mental health related advocacy in Scotland is able to get it". Page 120 Scottish Mental Health Law Review

10. References

The Mental Health (Care & Treatment) (Scotland) Act 2003 and 2015

Millan Report on the Review of the Mental Health (Scotland) Act 1984

Scottish Government Guidance, Independent Advocacy: Guide for Commissioners (2013)

Scottish Mental Health Law Review Final Report (September 2022)

The Children's Hearing (Scotland) Act 2011

Getting it right for every child (2012)

Equalities Act (2010)

UN Convention on the Rights of the Child (UNCRC)

11. Appendices

The appendices for this report are published separately on the Commission’s website.