ANNEX A

Service	Independent Advocacy Service – Generic, IMCA & IMHA
Commissioner Lead	LEIGH HOLTON
Provider Lead	Tbc
Period	1st October 2021 – 30 September 2024
Date of Review	Annually

1. Population Needs

1.1 National/local context and evidence base

North East Lincolnshire Clinical Commissioning Group (NELCCG or the CCG), undertake the commissioning responsibilities for Adult Social Care of a Local Authority (LA) as per the responsibilities delegated to it from North East Lincolnshire Council (NELC). This includes the duty to provide sufficient Independent Advocacy for the population of North East Lincolnshire who would need it. Where documents around Independent Advocacy, including this one, refer to the LA it should be interpreted as the CCG.

Advocacy services for the vulnerable population are required to be provided by LA or Health Services by statute:

Generic Advocacy

- Care Act 2014, Sections 67 and 68
- The Care and Support (Independent Advocacy) Regulations 2014

Independent Mental Capacity Advocacy (IMCA)

- Mental Capacity Act 2005

Independent Mental Health Advocacy (IMHA)

- Mental Health Act 1983
- Mental Health Act 2007

Through this specification the CCG seeks to rationalise the statutory Adult Advocacy provision within North East Lincolnshire under a single provider, enabling a more efficient use of resource and primarily a smoother experience for the service user based on continuity and easier interactions between advocacy duties where required.

Whilst the specification refers to the 3 services (Generic Advocacy, IMCA, & IMHA) the overriding principle is that the individual using the service experiences consistency of Advocate throughout their need for the service, avoiding the need to tell their story more than once.

The service will therefore cover the Advocacy needs of people across a diverse range of needs - through from experiencing substantial difficulty, people without Mental Capacity, and people with defined Mental Health needs. It is the ambition that the appropriate advocacy will be available to those who need it in NEL.

Generic Advocacy

This tier of service is to meet the requirements stipulated in legislation and guidance related to:

- Care Act 2014, Sections 67 and 68
- The Care and Support (Independent Advocacy) Regulations 2014

The CCG discharges its duty towards Adult Social Care Case Management through a commissioned service. At the time of this specification the organisation with this responsibility is Focus Independent Social Work (focus). However, where Adult Social Care Case management is required for Mental Health needs, this responsibility is discharged through NAViGO. Where NHS Continuing Health Care (CHC) Case Management is required, this is a service of NELCCG. The Term 'Case Management' or 'Case Manager' is used in this document to relate to any of these functions – each of which comprises of Assessment, Care and Support Planning, and Review.

The role of the independent advocate is to support and represent the person and to facilitate their involvement in the key processes and interactions with the local authority and other organisations as required for the safeguarding enquiry or Safeguarding Adults Review (SAR). Whilst statute does not require, under the remit of this service this would also include NHS Continuing Health Care.

Generic Independent Advocacy is required to assist a portion of the population to be able to fully participate in their assessment, preparation of their care & support plan, in the review of their care plan, and in Safeguarding enquiries and Safeguarding Adults reviews.

This may include supporting people to understand information pertinent to their situation, or identifying more appropriately accessible information. The Equality Act 2010 requires that reasonable adjustments should be made to ensure that disabled people have equal access to information and advice services. Provision of such adjustments, information in different formats for example, may reduce or remove a substantial difficulty a person may have in being involved. The ultimate aim is for people's wishes, feelings and needs to be at the heart of the assessment, care planning and review processes. This needs to be just as true for those who are the subject of a safeguarding enquiry or safeguarding adult review (SAR).

This part of the service also covers the role of Appropriate Person in respect of supporting people with substantial difficulty who may be detained in police custody or otherwise engaged in the Criminal Justice System to understand and engage with those processes.

Independent Mental Capacity Advocacy (IMCA)

The legislation governing the requirement and appointment of an Independent Mental Capacity Advocate (IMCA) is the Mental Capacity Act 2005 (the MCA). The main purpose of the MCA is to protect the rights of those people who do not have capacity to make decisions in their own best interests. It does this by making statutory provision giving some people who lack capacity a right to receive support from an IMCA.

NELCCG wish to ensure that IMCA services are made available for the qualifying people (as updated in the appropriate guidance and case law) including as follows:
Any person who lacks capacity who is the subject of a decision regarding:

- Serious Medical Treatment or
- A long term move to accommodation arranged by health or social services or
- A care review and
- Do not have family or friends who are willing and able to be consulted about the decision and who are considered appropriate to consult

Referrals can be made via the Safeguarding Adult service, Care Management service, Continuing Health Care service, Older People's mental health service, adult mental health service, Learning Disability or Physical Disability service.

At the time of procurement guidance is outstanding for implementation of Liberty Protection Safeguards (LPS). The service will ensure compliance with the new systems and requirements in agreement with NELCCG (or subsequent identified commissioning body) at that time.

Independent Mental Health Advocacy (IMHA)

The legislation governing the compulsory treatment of certain people who have a mental disorder is the Mental Health Act 1983 (the 1983 Act). The main purpose of the Mental Health Act 2007 (the 2007 Act) is to amend the 1983 Act. It places a statutory duty on the appropriate authority to make arrangements for help to be provided by independent mental health advocates (IMHAs).
NELCCG wish to ensure that independent mental health advocacy services are made available for the qualifying patients as follows:

- detained under the Mental Health Act 1983 (excluding people detained under certain short term sections (4, 5, 135, and 136)
- conditionally discharged restricted patients
- subject to guardianship
- subject to CTOs.
- informal patients who are being considered for treatments requiring consent and/or a second opinion also qualify for IMHA. This includes people aged under 18 years who are being considered for electroconvulsive therapy (ECT).

At the time of procurement, a review of the Mental Health Act is at White Paper stage. The service will ensure compliance with the new systems and requirements in agreement with NELCCG (or subsequent identified commissioning body) through joint planning and implementation at the appropriate time.

2. Outcomes

2.1 NHS Outcomes Framework Domains & Indicators

Domain 1	Preventing people from dying prematurely	
Domain 2	Enhancing quality of life for people with long-term conditions	✓
Domain 3	Helping people to recover from episodes of ill-health or following injury	
Domain 4	Ensuring people have a positive experience of care	✓
Domain 5	Treating and caring for people in safe environment and protecting them from avoidable harm	✓

2.1.1 Social Care outcome framework

Domain 1	Enhancing quality of life for people with care and support needs	✓
Domain 2	Delaying and reducing the need for care and support	
Domain 3	Ensuring that people have a positive experience of care and support	✓
Domain 4	Safeguarding people whose circumstances make them vulnerable and protecting from avoidable harm	✓

2.2 Local defined outcomes

N/A

3. Scope

3.1 Aims and objectives of service

3.1.1. Generic Advocacy

The Aim and Purpose of the Service is to provide a high quality Generic Independent Advocacy service across North East Lincolnshire

1. The Service Provider will enable or support the user to be involved in their assessment, preparation of their care & support plan, review of their care & support plan, and Safeguarding enquiries of Safeguarding Adults Reviews in accordance with Care Act 2014 and including wider scope, such as NHS Community Health Care.
2. To support eligible people to stand up for their rights through proper process, challenging discrimination as defined through Equality and Diversity policies aligned to the Equality Act 2010
3. The provision of Appropriate Adult
4. The promotion of self-empowerment, enabling people who meet eligibility for the service to engage in other ways to meet their advocacy needs eg. Self-advocate, identify other ways to access key information, access service user networks, etc
5. Support the individual through transition to adult services (Preparing for Adulthood)
6. To ensure timeliness of response/input

3.1.2. IMCA

The legislation governing the requirement and appointment of an Independent Mental Capacity Advocate (IMCA) is the Mental Capacity Act 2005 (the MCA). The main purpose of the MCA is to protect the rights of those people who do not have capacity to make decisions in their own best interests. It does this by making statutory provision giving some people who lack capacity a right to receive support from an IMCA.

The IMCA service must be driven by clinical need, be evidence based, and locally led.

The 5 distinct functions of the IMCA service are as follows (not exclusive):

1. Providing Independent Mental Capacity Advocates
2. IMCA information service
3. Awareness raising and training
4. Supporting the local integration of the MCA into policy and practice
5. Providing additional advocacy services

IMCAs may also support patients in a range of other ways to ensure they can participate in the decisions that are made about their care and treatment.

3.1.3. IMHA

IMHA services were introduced to safeguard the rights of people detained under the Mental Health Act (referred to as 'qualifying patients'). IMHA services aim to enable people to understand their rights and safeguards under the Mental Health Act, and to participate in decisions about their care and treatment.

An Independent Mental Health Advocate is a statutory role, with specific responsibilities.

These include:

- Supporting qualifying patients to access information and to better understand what is happening to them.
- Supporting qualifying patients to explore options and to engage with decision-making about their care and treatment.

- Supporting qualifying patients to articulate their own views.
- Speaking on the qualifying patient's behalf, as instructed by them, and representing them when requested.
- Accessing records relating to the qualifying patient's detention, treatment or after-care.

This will take account of:

1. Providing non-instructed advocacy to qualifying patients who cannot clearly instruct their advocate or lack capacity to make specific decisions. Independent mental health advocacy services provide an additional safeguard for patients who are subject to the Act. IMHAs are specialist advocates who are trained specifically to work within the framework of the Act to meet the needs of patients.
2. Independent mental health advocacy services do not replace any other advocacy and support services that are available to patients, but are intended to operate in conjunction with those services.
3. Patients are eligible for support from an IMHA if they are:
    a. detained under the Act (even if they are currently on leave of absence from hospital);
    b. conditionally discharged restricted patients;
    c. subject to guardianship
    d. Supervised community treatment (SCT) patients.
4. Other patients ("informal patients") are eligible if they are:
    a. being considered for a treatment to which section 57 applies ("a section 57 treatment");
    b. Under 18 and being considered for electro-convulsive therapy or any other treatment to which section 58A applies ("a section 58A treatment").

The service will deliver these forms of advocacy under a model of Advocacy hours, the totality of which is encompassed within the sum of the contract, as per section C Activity Planning Assumptions in this specification

3.2 Service description/care pathway

Generic Advocacy

3.2.1. **The role of the independent advocate** is to support and represent the person and to facilitate their involvement in the key processes and interactions with the local authority and other organisations as required for the safeguarding enquiry or Safeguarding Adults Reviews.

3.2.2. An Independent Advocate cannot be someone who is already providing the person with care or treatment in a professional capacity or on a paid basis (regardless of who employs or pays for them). That means it cannot be, for example, the person's GP, nurse, key worker or care and support worker.

3.2.3. The Independent Advocate is expected to meet the person in private. Where a person has capacity, the advocate should ask their consent to look at their records and to talk to their carer, family, friends, care or support worker and others who can provide information about their needs and wishes, their beliefs and values. Where a person does not have capacity to decide whether an advocate should look at their relevant records or talk to their family and friends, then the advocate should consult the records and the family and others as appropriate, but consulting the family and others only where the advocate considers this is in the person's best interests. The Care Act allows advocates to examine and take copies of relevant records in certain circumstances. This mirrors the powers of an Independent Mental Capacity Advocate.

3.2.4. Activities of an Independent Advocate include (not exclusively):

1. Assisting a person to understand the assessment (including support to enable the person participate in financial assessment pertinent to care), care and support

planning and review and safeguarding processes. This requires advocates to understand local authority policies, and other agencies roles, and processes, the available assessment tools, the planning options, and the options available at the review of a care or support plan and required and good practice in safeguarding enquiries and SARs. It may involve advocates spending considerable time with the individual, considering their communications needs, their wishes and feelings and their life story, and using all this to assist the person to be involved and where possible to make decisions.

2. Assisting a person to communicate their views, wishes and feelings to the staff who are carrying out an assessment or developing a care or support plan or reviewing an existing plan or to communicate their views, wishes and feelings to the staff who are carrying out safeguarding enquiries or reviews.
3. Assisting a person to understand how their needs can be met by the local authority or otherwise – understanding for example how a care and support and support plan can be personalised, how it can be tailored to meet specific needs, how it can be creative, inclusive, and how it can be used to promote a person's rights to liberty and to family life.
4. Assisting the person to make decisions about their care and support arrangements – assisting them to weigh up various care and support options and to choose the ones that best meet the person's needs and wishes.
5. Assisting the person to understand their rights under the Care Act – for an assessment which considers their wishes and feelings and which considers the views of other people; their right to have their eligible needs met, and to have a care or support plan that reflects their needs and their preferences, and in relation to safeguarding, understanding their right to have their concerns. Also assisting the person to understand their wider rights, including their rights to liberty and family life. A person's rights are complemented by the local authority's duties, for example to involve the person, to meet needs in a way that is least restrictive of a person's rights.
6. Assisting a person to challenge a decision or process made by the local authority; and where a person cannot challenge the decision even with assistance, then to challenge it on their behalf.

3.2.5. Advocacy should be seamless for people who qualify, so that they can benefit from the support of one advocate for their whole experience of care or safeguarding work. It rarely makes sense to have one advocate for assessment and another for care and support planning; the two are interrelated, and people who have substantial difficulty in engaging should not be expected to have to tell their story repeatedly to different advocates.

3.2.6. **Eligibility** for Independent Advocacy is defined in 3.4, and is also considered below. For those not eligible for a service the Service Provider will be required to provide a signposting service advising people where they can access information and support.

3.2.7. Independent Advocacy will be available in all settings including for those people living in the community, in care homes, and other care settings

3.2.8. **Referrals** Case Management has the responsibility to involve individuals in their process (assessment, Care & Support Planning, Review), and to form a judgment about whether a person has 'substantial difficulty' in being involved in the Case Management process. Once substantial difficulty has been established, they will consider the eligibility criteria for Independent Advocacy (3.4) and make referral.

3.2.9. Self-referrals will also be possible, subject to identification of Substantial Difficulty and the eligibility criteria. Self-referrals may occur for the following reasons (not exclusively):

- Assessments of need for Health and Social Care, including Carers – under contemporaneous legislature.
- Advocacy support of individual through civil systems

- Appeals against the outcome of assessments or reviews
- Reviews of care packages provided through Health and Social Care systems, including through Personal Budgets.
- Where provision of established services is at risk (e.g. where the person's residential home is threatened with closure, or their domiciliary care provider is no longer able to provide)
- As part of the complaints processes
- During investigations under Safeguarding procedures
- During Mental Health tribunals and Managers appeals, where IMHA is not chosen by the individual.
- During Interviews with Police

3.2.10. '**Substantial Difficulty**' will be defined under one or more of the following 4 areas

Understanding Relevant Information Many people can be supported to understand relevant information, if it is presented appropriately and if time is taken to explain it. Some people, however, will not be able to understand relevant information, for example if they have mid-stage or advanced dementia.	**Retaining Information** If a person is unable to retain information long enough to be able to weigh up options and make decisions, then they are likely to have substantial difficulty in engaging and being involved in the process.
Using Or Weighing The Information As Part Of The Process Of Being Involved A person must be able to weigh up information, in order to participate fully and express preferences for or choose between options. For example, they need to be able to weigh up the advantages and disadvantages of moving into a care home or terminating an undermining relationship. If they are unable to do this, they will have substantial difficulty in engaging and being involved in the process	**Communicating Their Views, Wishes And Feelings** A person must be able to communicate their views, wishes and feelings whether by talking, writing, signing or any other means, to aid the decision process and to make priorities clear. If they are unable to do this, they will have substantial difficulty in engaging and being involved in the process.

3.2.11 Eligibility for Independent Advocacy under the Care Act 2014 encompasses many of the people eligible for advocacy under the Mental Capacity Act 2005. It is envisaged that the provider receiving the referral will continue with the required advocacy under the terms of their specification. The aim is that a person should not have to tell their story more than once. If duplicity of advocate occurs the providers are first charged to agree which agency will continue provision, primarily taking the views of the service user into account, and considering the likely trajectory of the person's circumstance. Where agreement cannot be met the Case Manager may be consulted. If the matter requires escalation through Best Interest route, or is likely to require any form or restriction, the person is best served under the IMCA contract. In this case the Generic Independent Advocacy provider will share all it's information around the case with the IMCA provider.

3.2.12 Under the Mental Health Act 1983 (MHA) certain people, known as 'qualifying patients', are entitled to the help and support from an Independent Mental Health Advocate (IMHA). Section 117 of the MHA places a duty on the NHS and local authorities to provide aftercare and this will usually involve a joint assessment (often under the Care Programme Approach) including an assessment of the person's care and support needs, a care and support or support plan and subsequent review (which may reach a decision that a person is no longer in need of aftercare).People under Section 117 MHA who do not retain a right to an IMHA, whose care and support needs are being assessed, planned or reviewed should be considered for an advocate under the Care Act 2014, if they have substantial difficulty in being involved and if there is no appropriate person to support their involvement

3.2.13 When referred by Case Manager the advocate must support and represent the person in the assessment, in the care and support planning, and the review. This applies to the following:

- a needs assessment under section 9 of the Care Act;
- a carer's assessment under section 10;
- the preparation of a care and support plan or support plan under section 25;
- a review of care and support plan or support plan under section 27;
- a child's needs assessment under section 58 (responsibilities in Transition)
- a child's carer's assessment under section 60 (therefore some people below 16 years age);
- a young carer's assessment under section 63;
- safeguarding under section 68.

3.2.14 **Safeguarding enquiries and safeguarding adult reviews (SARs)**. The need for an independent advocate will be identified by Case Manager to support and represent an adult who is the subject of a safeguarding enquiry or a safeguarding adult review. Where an independent advocate has already been arranged under S67 Care Act 2014 or under MCA 2005 (IMCA) then, unless inappropriate, the same advocate should be used

3.2.15 There is increasing case law on adult safeguarding from the Court of Protection of which advocates and practitioners should be aware.

3.2.16 **Continuity of Care and Ordinary Residence**. The local authority which is carrying out the assessment, planning or review of the plan is responsible for considering whether an advocate is required. In the case of a person who is receiving care and support from one local authority and decides to move and live in another authority, the responsibility will move with the care and support assessment. For a person whose care and support is being provided out of area it will be the authority in which the person is ordinarily resident that should provide Independent Advocacy. Therefore there may be a requirement for Independent Advocacy to take place in settings outside of North East Lincolnshire.

3.2.17Understanding of local communities may be an important consideration, so the advocacy/advocate should wherever possible be from the area where the person is resident at the time of the assessment, planning or review. Where this is required, the Independent Advocate should liaise with the Case Manager to agree, identify, and secure advocacy from the locality within the person's care package. The Independent Advocate will share all information pertaining to the case with any successor advocate.

3.2.18 Where people are placed out of area on a temporary basis it will generally be more beneficial to maintain the same advocate. The principle is that the same advocate should be involved wherever practicable.

3.2.19 **Care and Support Reviews**. Local authorities must consider whether an advocate is required to facilitate the person's involvement in the review of a care and support plan and, if appropriate, appoint an advocate. This applies regardless of whether an advocate was involved at an earlier stage.

3.2.20. Examples of when an advocate may be appointed at this stage despite not previously being involved include:

- The person's ability to be involved in the process without an advocate has changed.
- The circumstances have changed (e.g. the person's involvement was previously facilitated by a relative who is no longer able to perform that role).
- An advocate should have been involved at the care and support planning

stage and was not

- The requirement to involve an advocate at the care and support planning stage did not exist at that time.

3.2.21 **Representing**. There will be times when an advocate will have concerns about how the local authority has acted or what decision has been made or what outcome is proposed. The advocate must write a report outlining their concerns for the local authority. The local authority should convene a meeting with the advocate to consider the concerns and provide a written response to the advocate following the meeting. This process is instigated through sending report to NELCCG Customer Care Team

- Where the individual does not have capacity, or is not otherwise able, to challenge a decision, the advocate must challenge any decision where they believe the decision is inconsistent with the local authority's duty to promote the individual's wellbeing.
- Where a person has been assisted and supported and nevertheless remains unable to make their own representations or their own decisions, the independent advocate must use what information they have collected and found, and make the representations on behalf of the person. They must 'advocate' on their behalf, to put their case, to scrutinise the options, to question the plans if they do not appear to meet all eligible needs or do not meet them in a way that fits with the person's wishes and feelings, or are not the least restrictive of the person's life, and to challenge local authority decisions where necessary. The ultimate goal of this representation is to secure a person's rights, promote the individual's well-being and ensure that their wishes are taken fully into account.

3.2.22 The CCG may make reasonable requests of the advocate for information or for meetings both in relation to particular individuals and in relation to the advocate's work more generally, and the independent advocate should comply with these.

3.2.23 **Qualification of Advocates**. The provider will ensure Advocates have, as a minimum:

- *a suitable level of appropriate experience*: this may, for example, be in non-instructed advocacy or in working with those groups of people who may have substantial difficulty in engaging with assessments and care and support planning;
- *appropriate training:* this may, for example, initially be training in advocacy (non-instructed and instructed) or dementia, or working with people with learning disabilities. Once appointed, all independent advocates should be expected to work towards the National Qualification in Independent Advocacy (level 3) within a year of being appointed, and to achieve it in a reasonable amount of time;
- *competency in the task:* this will require the advocacy organisation assuring itself that the advocates who work for it are all competent and have regular training and assessments;
- *integrity and good character*: this might be assessed through: interview and selection processes; seeking and scrutinising references prior to employment and on-going DBS checks
- *the ability to work independently of the local authority or body carrying out assessments, planning or reviews on the local authority's behalf*: this would include the ability to make a judgement about what a person is communicating and what is in a person's best interests, as opposed to in a local authority's best interests, and to act accordingly to represent this;
- *arrangements for regular supervision:* this will require that the person meets regularly and sufficiently frequently with a person with a good understanding of independent advocacy who is able to guide their practice and develop their competence.

- *In addition* the independent advocate must not be working for the local authority, or for an organisation that is commissioned to carry out assessments, care and support plans or reviews for the local authority. In certain circumstances, in addition to their role under the Care Act, an advocate may assist an individual to develop their own care or support plan if requested to by the individual, but they cannot be the person to authorise the support plan or to approve care and support plans or reviews on behalf of the authority. Nor can an advocate be appointed if they are providing care or treatment to the individual in a professional or a paid capacity.

3.2.24 The provider organisation will operate to the Advocacy Quality Performance Mark (QPM), as published by National Development Team for Inclusion (NDTi). The QPM is a tool for providers of independent advocacy to show their commitment and ability to provide high quality advocacy services – essential for people to have their voices heard, to exercise choice and control and to live independently.

3.2.25 The service provider is required to ensure that people within North East Lincolnshire are aware of the service. Links should be made with other service providers, including Primary Care, supported housing, and nursing/residential establishments in addition to statutory sector acute and community services to ensure the scheme is publicised as widely as possible. The service will make available clear information about what it can offer. This information should be in a range of formats to enhance accessibility.

3.2.26 The Service Provider will be requested to act in the role of the appropriate adult as first point of contact for people with Learning Disability or other categories. This will be between Mon-Fri 9am-5pm

3.2.27 The Service provider will seek and apply for additional funding from both Government and any other available sources in order to develop and extend the service, in partnership with service users and, if possible, other service providers.

3.2.28 The service provider is expected to respond to referrals received within 3 days of initial contact being made, and faster where priority is indicated.

IMCA

3.2.29 To further clarify 3.2.1 - The Mental Capacity Act 2005 makes it a legal requirement for people who lack mental capacity to have independent advocacy in certain circumstances when there are no known relatives or close friends to speak for them.

3.2.30 An IMCA must be instructed, and then consulted, for people lacking capacity who have no-one else to support them (other than paid staff) whenever:

- an NHS body is proposing to provide serious medical treatment, or
- an NHS body or local authority is proposing to arrange accommodation(or a change of accommodation) in hospital or a care home, and
- the person will stay in hospital longer than 28 days, or
- they will stay in the care home for more than eight weeks.

3.2.31 NELCCG expects the service to:

1. Establish and Maintain an IMCA service

2. Establish, recruit and fund sufficient staff to operate the service for North East Lincolnshire

3. Provide appropriate information transfer and communication functions at operational and strategic level

4. Follow all relevant guidance and best practice in relation to this Service that is issued by the Department of Health (DoH).

5. Develop and maintain service workforce to a standard of practice and qualification to comply with IMCA legislation and guidance

6. Facilitate the continuing professional development of the post holders through an education and training framework

7. Participate in regional and national networks to ensure good communication

8. Deliver and monitor high level outcomes as outlined in the service specification, and provide reports on these to commissioners

9. Ensure regular attendance at relevant local meetings and steering groups

10. Participate in regular contract monitoring meetings with appropriate partners

11. Advocacy will be delivered on an individual basis with qualifying patients

12. Provide monitoring information as required under the Service Level Agreement and participate in regular contract monitoring meetings.

13. As not all qualifying patients will be able to instruct IMCA services the IMCA service provider will have in place policies that address the delivery of non-instructed advocacy

14. Response for the IMCA support for qualifying patients will be dealt with within 3 working days. The IMCA service is not expected to provide a 24/7 response to requests or react to emergency calls

15. It is expected that the IMCA service provider will take account of the weekly routines of qualifying persons. Therefore an ability to work flexibly will be expected

16. Once instructed by an authorised person the IMCA service must be provided unless the instruction is withdrawn by the authorised person

17. Where the individual is not eligible for IMCA, the IMCA service provider will update and maintain a library resource of other known advocacy services to support signposting the individual to the most appropriate service for their needs.

18. All referrals or general enquiries can be made by telephone, email, or website to a central referring number. The service provider will necessarily remain independent of NEL systems and providers, but will be required to recognize and work with the NEL Single Point of Access (to receive enquiries and referrals, and support signposting & information sharing) and promote itself through Services4.me platform.

19. Referrals can be made via a general enquiry or using the IMCA referral form. The IMCA referral line administrator will distribute the appropriate paperwork to the referrer within 3 days

IMHA

3.2.32 The Mental Health Act 1983 (2007) requires IMHA to be made available to enable qualifying patients to

- Understand the provisions of the legislation under which s/he qualifies for

an IMHA;

- Any conditions or restrictions s/he is subject to;
- The medical and non-medical treatment being given, proposed or being discussed and the legal authority for this
- His/her rights under the Act and how those rights can be exercised.
- Explore options, making better-informed decisions and actively engaging with decisions that are being made;
- Articulate their own views;
- Use their advanced statement if applicable

3.2.33 To further clarify 3.1.1 Qualifying patients for IMHA are;

- Any patient who is detained in hospital under the Mental Health Act
- Any patient subject to a Guardianship Order under the Mental Health Act
- Any patient on Supervised Community Treatment (SCT)
- Any patient who is discussing with their doctor the possibility of psychosurgery (any surgical operation on the brain tissue)
- Any patient under 18 years old who is discussing with their doctor the possibility of ECT or psychosurgery
- Any patient who is conditionally discharged and subject to restrictions

3.2.34. NELCCG expects the service to:

1. Establish and maintain an independent Mental Health Advocacy (IMHA) Service

2. Establish, recruit and fund sufficient staff to operate the service for North East Lincolnshire

3. Develop an engagement protocol, or procedure, which confirms the three-way relationship between the IMHA service provider, the mental health service provider and the commissioner.

4. Develop and maintain service workforce to a standard of practice and qualification to comply with IMHA legislation and guidance issued by Department of Health (DH)

5. Provide appropriate senior managerial and Human Resources support functions as well as team management and peer support functions

6. Facilitate the continuing professional development of the post holders through an education and training framework. This will include successfully completing the IMHA module of the National Advocacy Qualification for all relevant staff.

7. In addition, all IMHAs will have adequate training in matters relating to mental health and the legal and social implications for someone with a mental health condition. The IMHA service Provider will be fully aware of current best practice in skills and competencies for mental health advocacy.

8. Participate in local, regional and national networks.

9. Deliver and monitor high level outcomes as outlined in the service specification, and provide reports on these to commissioners

10. Ensure regular attendance at relevant local meetings and Steering Groups.

11. Provide monitoring information as required under the Service Level Agreement and participate in regular contract monitoring meetings.

12. Advocacy will be delivered on an individual basis with qualifying patients. In general, the

IMHA service will support the patient in their chosen course of action, unless this course of action puts the patient, the IMHA or others at risk of danger, or the action is illegal.

13. As not all qualifying patients will be able to instruct IMHA services, the IMHA service provider will have in place policies that address the delivery of non-instructed advocacy.

14. Response to the referral for IMHA support for qualifying patients will be dealt with within three working days. The IMHA service provider is not expected to provide 24 hour and 7 day a week response to requests, or react to emergency calls. Neither will the IMHA service provide "expert witness" or be expected to function as "appropriate adults" (Police and Criminal Evidence Act, 1984).

15. It is expected that the IMHA service provider will take account of the weekly routines of qualifying patients. Therefore an ability to work flexibly will be expected.

16. NELCCG are commissioning IMHA services to ensure that all qualifying patients covered by this service specification will have access to statutory advocacy support. This will not prevent individual patients from making their own arrangements for advocacy support outside of the Advocacy services commissioned by NELCCG or NELC.

17. Where the individual is not eligible for IMHA, the IMHA service provider will update and maintain a library resource of other known advocacy services to support signposting the individual to the most appropriate service for their needs.

3.2.35 **Paid Representative under Deprivation of Liberty Safeguards**

1. The Provider shall make available an advocate to act as Relevant Person's Representative (RPR) for a person deprived of liberty upon the request of the relevant Supervisory Body in situations where there is no one available to informally act as Representative.
2. Acting in the RPR capacity will include:
    a. providing the relevant person with independent representation
    b. maintaining contact with the relevant person, and
    c. representing and supporting the relevant person in all matters relating to DOLs including, if appropriate, triggering a review, using an organisation's complaints procedure on the person's behalf or making an application to the Court of Protection
3. The relevant person's representative will use the best interest's principle in the same way that it applies to other people acting or making decisions for people who lack capacity.

3.2.36 **Interdependence of Services**

1. Whilst the IMHA and IMCA services are defined individually, as they are individually legislated, the provision of service should not be restricted by this definition. The principle of 1 advocate for 1 person is preference where possible and the circumstances enable. Where not possible every effort will be made to ensure that the IMCA/IMHA minimizes the need to duplicate information requests from individuals/carers.

2. Similarly if the individual ceases to be eligible for IMCA or IMHA service and is eligible for Generic Advocacy or Care Act service, the service provider will facilitate a full hand-over to the Generic Advocacy provider, just as Generic Advocacy will facilitate full hand-over as people become eligible for IMCA/IMHA service – within the parameters of consent to transfer and consent to share information, and with regard to Data Protection legislation and Data sharing agreements & policies.

3. There may be people requiring IMCA or IMHA that NELCCG have a responsibility towards placed out of the NEL area. In such circumstances the provider will liaise with the lead professional to identify appropriate and suitable advocacy on a case by case basis. This

may include identifying appropriate advocacy services in the area the individual is placed that the Care-coordinator could approach.

3.2.37 **Equality & Diversity**

1. The IMHA & IMCA service provider will have an equal opportunities policy.
2. The IMHA & IMCA service provider shall not discriminate between patients on the grounds of gender, age, ethnicity, disability, religion, sexual orientation or any other non-medical characteristics.
3. The IMHA & IMCA service provider shall enable appropriate assistance for patients who do not speak, read or write English or who have communication difficulties (including, without limitation, hearing, oral and learning impairments). This may be enabled through Care-coordinator or other lead professional.
4. The IMHA & IMCA service provider shall provide to the Commissioners such as they may reasonably require:
    - To monitor the equality of access to the services; and
    - To fulfil their obligations under the law.

3.2.38 **User & Carer Involvement**

The IMHA & IMCA service will be required to show evidence of having taken account of qualifying patients' views about the service, particularly in respect of accessibility and impact. The IMHA & IMCA service provider will be expected to discuss with commissioners and Provider organisations the methods to be used to obtain this feedback. IMHA/IMCA service proposals will be required to set out their plans for ensuring this requirement is met.

3.2.39 **Carer's Advocacy** – Advocacy for carers is provided within the Carer's Service specification. This is to minimise the potential for difficulties and confusion where carer and cared for individual are in a state of disagreement, or where the needs of the carer and the needs of the cared for may be conflicting. It is key that this service forwards carers who require advocacy for themselves to the carers service. If this is not possible, for example if the carer does not wish to use the carers service, then this service will offer a different advocate to that of the cared for thus ensuring the advocacy need is met, and record the reasons why the carer used this service over the carers service (for inclusion in the quarterly report).

3.2.40 **Care of Staff** – The commissioners only commission services to act and care for staff ethically. Part of this requires that staff are adequately allowed and awarded reasonable expenses when required to travel, and that the provider does not employ below the minimum wage. Staff are expected to receive regular supervision, and be supported to undertake relevant training.

3.3 Population covered

This will include all patients who meet the criteria for an IMHA or IMCA service who:

are under the auspices of NHS North East Lincolnshire Clinical Commissioning Group, which is co-terminus with the North East Lincolnshire Council Boundary but includes people outside the boundary who are registered with a General Practitioner based within North East Lincolnshire.

3.4 Any acceptance and exclusion criteria and thresholds

3.4.1 **Generic Advocacy**

There are 2 primary conditions of eligibility for this service

1. if an independent advocate were not provided then the person would have substantial difficulty in being fully involved in the processes
    a. assessment
    b. developing care & support plan
    c. review of care & support plan
    d. Safeguarding enquiries or Safeguarding Adults Review
2. there is no appropriate individual available to support and represent the person's wishes

who is not paid or professionally engaged in providing care or treatment to the person or their care

Eligibility will usually be identified by Case Manager as the individual being identified as having "substantial difficulty to be involved", though the Advocate may need to apply the criteria to self-referrals.

3.4.2 **Exceptions**:

In general, a person who has substantial difficulty in being involved in their assessment, plan and review, will only become eligible for an advocate where there is no one appropriate to support their involvement. The exceptions are:

- where the exercising of the assessment or planning function might result in placement in NHS-funded provision in either a hospital for a period exceeding four weeks or in a care home for a period of eight weeks or more and the local authority believes that it would be in the best interests of the individual to arrange an advocate;
- where there is a disagreement, relating to the individual, between the local authority and the appropriate person whose role it would be to facilitate the individual's involvement, and the local authority and the appropriate person agree that the involvement of an independent advocate would be beneficial to the individual.

3.4.3. **IMCA**

Eligibility is defined in paragraphs 3.1.2 and 3.2.4

This service is available to people of 16 years of age and upwards

The client groups include, but are not limited to

1. Learning disabilities
2. Dementia
3. Mental health needs
4. Acquired brain injury
5. Sensory deprivation
6. Incapacity resulting from a health condition or injury

3.4.5 IMCAs do not need to be instructed if:

1. A person who now lacks capacity previously named a person that should be consulted about decisions that affect them, and that person is available and willing to help
2. The person who lacks capacity has appointed an attorney through Lasting Power of Attorney, and the attorney continues to manage the person's affairs
3. The Court of Protection has appointed a deputy who continues to act on the person's behalf
4. Suitably qualified alternative provision is in place. This may be so for specialised placements such as
    - Forensic/Secure Mental Health services
    - Tier4 CAMHS
    - Specialist Services for Adult Eating Disorders
    - Perinatal Mental Health Services (Mother & Baby unit only)
    - Gender Dysphoria services

3.4.6 **IMHA**

Eligibility is defined within the Mental Health Act 1983 as amended. The definition in paragraph 3.1.3 should not be considered exclusive.

For these purposes, detention does not include being detained:

1. on the basis of an emergency application (section 4) until the second medical recommendation is received
2. under the holding powers in section 5;
3. in a place of safety under section 135 or 136

3.5 Interdependence with other services/providers

Whilst remaining independent, working links should be made with other service providers, including Navigo, Primary Care, Focus Independent Social Work, Carer's services, NHS Continuing Health Care, supported housing, and nursing/residential establishments in addition to statutory sector acute and community services. Good relationships with all Customer Services will be advantageous.

1. The Service will be expected to develop and maintain strong links, both formal and informal, with a range of provider organisations both local and national.
2. The Service will be expected to develop strong links, both formal and informal, with local communities, service users, carers and those representing them in order to ensure that they are consulted, involved and engaged in the service's work plan on a regular basis.
3. The service will be expected to field representation at appropriate meetings and steering groups.
4. The service will develop constructive partnerships and a collaborative approach to working with Commissioners.

4. Applicable Service Standards

4.1 Applicable national standards (eg NICE)

- The service will be compliant with the requirements of the Care Act 2014 and accompanying guidance
- The service will be compliant with the requirements of Mental Health Act 1983 including the Mental Health Act 2007 (the 2007 Act) and supporting guidance.
- The service will be compliant with the requirements of Mental Capacity Act 2005 including and supporting guidance.

4.2 Applicable standards set out in Guidance and/or issued by a competent body (eg Royal Colleges)

The service will work to QPM standards

4.3 Applicable local standards

NELCCG will monitor the contract and delivery to the specification through quarterly performance meetings. The Service Provider will support this with a quarterly performance report at least 2 weeks before the meeting. The contents of the report may change as agreed at the quarterly performance meeting, but will include

- Number and source of eligible and ineligible referrals by eligibility, including enquiries received
- Numbers of people eligible or ineligible for the service by each of the criteria for the definition of 'Substantial Difficulty'
- Figures detailing inequalities and diversity profile of service users by identified protected characteristic, particularly age, gender, ethnicity, and disability
- Number of referrals received per month, broken down by case type (eg. Older Person, Learning disability, Autism, Mental Health, Physical or Sensory Impairment, Transition)
- Time from receipt of referral to advocate meeting the person across all categories of referral. This should be within 3 working days routinely and faster based on priority, but where a person is in police custody this should be within 4 hours.
- Number of cases closed per month broken down by case type, and showing average number of hours spent, with summary of types of decisions made
- Number of cases remaining 'live' or 'open' at the end of each month
- Description of emerging patterns of referrals
- Record of time taken on individual cases
- Records of any complaints or compliments the service receives
- Staff turnover and records of training and supervision for staff (aggregated)
- Relevant financial data on cost and expenditure

- Records of any instances of disputes/representation about decisions made and whether NELCCG Customer Service Team were engaged
- The Service Provider will be expected to produce evidence of it's ability to communicate effectively with individuals who have learning disabilities, physical disabilities, and any other forms of communication limitations through it's quarterly report.
- It is expected that the Service Provider will provide statistical information in respect of the advocacy partnerships forged. This will be required on a quarterly basis (July, October, January, and April) in advance of formal monitoring meetings with the commissioners. The information should be as follows:
  - User Profile
    - Overall number of people using the service split by client group, gender, and age group
    - Source of referral
    - Response time of referral
    - Type of advocacy offered
    - Length of partnership
    - Hours of direct advocacy with service users
    - Number of 1:1 meetings with service users
    - Location of service
  - Service Profile
    - Hours the service was open for delivery
    - Number of staff employed and their qualifications
    - Percentage of staff checked by the CRB
    - Training undertaken by paid staff and volunteers
    - Links and time allocated to multi-agency working
    - Details of publicity and networking undertaken
    - Waiting lists and waiting times
  - Quality/Outcomes
    - Complaints/compliments (numbers, outcome, and proposed actions)
    - Analysis of progress to achieve agreed outcomes
    - Developments planned and implemented to improve the service
    - Evidence of service user and referral agency satisfaction from appropriate and agreed programme of quality assurance.
    - Where appropriate will use the Advocacy Outcomes tool

5. Applicable quality requirements and CQUIN goals

5.1 Applicable quality requirements

Not Applicable

5.2 Applicable CQUIN goals

Not Applicable

6. Location of Provider Premises

The Provider's Premises are located at:

7. Individual Service User Placement

Not Applicable

A. Indicative Activity Plan

Activity expectations

The change in legislative eligibility indicates an increase in the activity and quality of the Generic Advocacy service. The number of people who will become eligible for Independent Advocacy under the Care Act 2014 is only roughly calculable. The year 2015-16 will generate information on changes in activity to inform future commissioning of Independent Advocacy.

Objective	Measure	Target	Initiative
Enable access to eligible service users	For Each service: •number of eligible referrals •Number of ineligible referrals •time from referral to first contact and first appointment •source of eligible referral •source of ineligible referral	All referrals acted on within 3 working days, or 4 hours in custody	
Understand who Generic Advocacy is useful for	• Numbers of people eligible for the service by each of the 4 criteria for the definition of 'Substantial Difficulty' ○Understanding Relevant Information ○Retaining Information ○Using Information ○Using Information ○Communicating views & feelings	All active referrals will be recorded to at least one of the criteria	
Demonstrate Advocacy is delivered for diverse population and diverse needs	•Figures detailing inequalities and diversity profile of service users by identified protected characteristic, particularly age, gender, ethnicity, and disability •Number of referrals received per month, broken down by case type (eg. Older Person, Learning disability, Autism, Mental Health, Physical or Sensory Impairment, Transition)	All referrals, whether offered a service or not, will be recorded on equality profile All referrals will be recorded by case type, by those offered service, and those not offered service	
Demonstrate productive involvement	• Number of cases closed per month broken down by case type, and showing average number of hours spent, with summary of		

	types of decisions made •Number of cases remaining 'live' or 'open' at the end of each month • Record of time taken on individual cases		
Pro-actively analyse and adapt service to smooth the user experience	•Description of emerging patterns of referrals •Records of any complaints or compliments the service receives		
Ensuring quality workforce	• description of Staff turnover • overview of records of training •overview of supervision and frequency of supervision for staff (aggregated)	•All staff will achieve National Qualification in Independent Advocacy (level 3) within a year of being appointed •All staff will receive regular supervision	
To perform within contract value	• Relevant financial data on cost and expenditure	Service performs within financial envelope	
Representing Role	• Records of any instances of disputes/representation about decisions made and whether NELCCG Customer Service Team were engaged		
Service is valued by the service users	• overview of Service user satisfaction questionnaire	Service User Satisfaction questionnaire is offered to every service user	

B. Activity Planning Assumptions

The service is funded by several funding streams, related to function. The total contract value is up to £702,033 over 3 years

Distributed as follows
Year 1: £234,011
Year 2: £234,011
Year 3: £234,011

It is intended that Advocacy hours are a single unit and can be pooled across all tiers of Advocacy provision. For example, if one year there is significant increase in IMCA activity above the number of indicated funding/hours the IMCA function can continue – ostensibly using 'pooled advocacy hours'.

Activity will be accounted for at a cost per Advocacy Hour, to a maximum value per year of the contract. If the annual activity appears to be on a trajectory to overshoot the maximum value the provider must highlight this immediately to the commissioner.

The Service Provider is able to secure other funding streams from ethically compatible sources to augment this service and enable the furtherment of other services/developments as complementary or in synergy with this service.

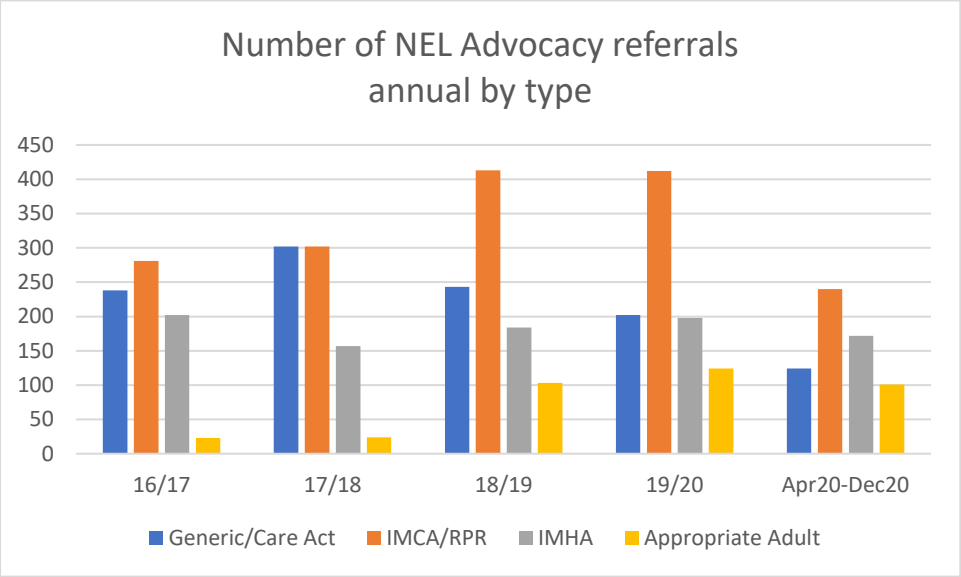
During the course of this contract there will be changes in statute that affect delivery of this service, notably the review of Mental Capacity Act & implementation of Liberty Protection Safeguards, and the upcoming amendments to the Mental Health Act. The impact of changes in legislation on delivery of advocacy delivered during the course of this contract will be addressed jointly and collaboratively between commissioner and provider as guidance and impact becomes clear.

Historical Activity

The historical pattern of referrals for advocacy are illustrated below.

	Total Number of Referrals by type by financial year				
	16/17	**17/18**	**18/19**	**19/20**	**Apr20-Dec20***
Generic/Care Act	238	302	243	202	124
IMCA/RPR**	281	302	413	412	240
IMHA	202	157	184	198	172
Appropriate Adult***	23	24	103	124	101

***this is 3 quarters activity and may be idiosyncratic due to covid-19 pandemic
**Increase in this type of advocacy in 18/19 and 19/20 due to extensive clearance of 'backlog' DOLS authorisations.
*** large rise in 18/19 due to Police consolidating cells in NEL and shift in interpretation of PACE requirements.



Future Need

During the course of this contract there will be changes in statute that affect delivery of this service, notably the review of Mental Capacity Act & implementation of Liberty Protection Safeguards, and the upcoming amendments to the Mental Health Act. The impact of changes in legislation on delivery of advocacy delivered during the course of this contract will be addressed jointly and collaboratively between commissioner and provider as guidance and impact becomes clear.