**The Scottish Independent Advocacy Alliance**

The Scottish Independent Advocacy Alliance (SIAA) is a membership organisation that has the overall aim of ensuring that independent advocacy is available to any vulnerable person in Scotland. Independent advocacy safeguards people who are marginalised and discriminated against or whom services find difficult to serve, empowering people who need a stronger voice by enabling them to express their own needs, understand their rights and make their own decisions.

This response draws on the experiences of our members and their expertise in supporting vulnerable people – both adults and children - to have their voices heard in a range of situations, including all elements of making social security claims. In addition to harnessing ongoing feedback from members, SIAA hosted a dedicated focus group in August 2019 exploring the questions in the Social Security Advocacy Service Standards Consultation. This was attended by representatives from our member organisations. This provides a reliable evidence-base of what independent advocacy professionals think must be contained in the standards, in order that they support delivery of a Scottish Social Security System based on dignity, fairness and respect.

**Definition of Advocacy**

**Q1 Do you agree with this definition of advocacy?**

SIAA and our members support some elements of this definition of advocacy. However, we note an overarching concern that the definition describes ‘advocacy’ and ‘advocacy workers’ rather than ‘independent advocacy’ and ‘independent advocacy workers’. Given that ‘independence’ is one of the underlying principles of the draft standards, it would be beneficial if this were embedded in the definition and description of services throughout the standards. We note that the term ‘independent advocacy’ is used in the Social Security Scotland Charter and in places in the Social Security (Scotland) Act 2018. We would welcome consistent use of this term, rather than ‘advocacy’ being used instead of or interchangeably with ‘independent advocacy’. This goes far beyond semantics - SIAA knows from our members how important the concept of independence is to people using their services and how critical the use of the word ‘independent’ is in shaping positively their perceptions of and engagement with independent advocacy services.

We also note ongoing concerns with access to independent advocacy being dependent on people self-defining as having a disability. Evidence shows that it is quite common for people with mental health conditions, learning disabilities or sensory impairments, amongst others, do not think of or define themselves as disabled. This could present a significant barrier to engagement with independent advocacy, effectively stopping people getting the support they need and the benefits to which they are entitled. In order to support the Scottish Government’s clear goal of maximising take-up and ensuring that the Scottish Social Security system contributes effectively to reducing poverty in Scotland, as explicitly stated in Social Security Scotland’s Charter, we would welcome a change to the definition to include the term ‘condition’.

Taking into account the above two points, SIAA would welcome amendments to the current opening paragraph of the definition section of the draft standards, to read: “You are entitled to the support of an independent advocacy worker if you have a disability or condition and, because of your disability or condition, you need help with the Scottish social security system”.

SIAA welcomes the explicit statement in the definition that advocacy workers will not provide advice, which echoes and amplifies the assertion in the document’s introduction that “advocacy is not the provision of advice” (p6). It is a fundamental tenet of independent advocacy that people accessing it are “protected from undue pressure, advice or others’ agendas” (SIAA Principles, 2019). Furthermore, we welcome the recognition that independent advocacy and advice are mutually supportive, but distinct, avenues of assistance. Independent advocacy and advice are not interchangeable - they fulfil different functions and provide different levels of support.

We also welcome the statement in the draft standards that, “Your advocacy worker will help you express your views and wishes and represent your own interests”. Independent advocates do not have the legal duty that many other professionals have to make decisions in the best interests of an individual. Indeed, it is a fundamental principle of independent advocacy that it will support people “to explore, understand and express something that is not in their own best interests but is nonetheless what they want” (SIAA Principles, 2019). To do this effectively, however, independent advocates need to work in organisations that are structurally, financially and psychologically separate from other organisations and services, in orders that they can be as free as possible from conflicts of interest. Consequently, while we welcome the stated intention that advocacy workers will help people to represent their *own* interests rather than their *best* interests, we do not believe that the draft standards will create advocacy services that are sufficiently independent to deliver this in practice. We discuss the question of independence in more detail in our answer to Qu. 3.

**Q2 Is anything missing from this definition and, if so, what?**

Independent advocacy enables people to stay engaged with services that are struggling to meet their needs. SIAA believes the definition of advocacy in the draft standards would be strengthened by the inclusion of a statement recognising this, such as, “Your advocacy worker will help you to stay engaged with Social Security Scotland, even if it is struggling to meet your needs”. This would explicitly recognise and promote the valuable role that independent advocacy can play in supporting the Scottish Government to:

* maximise benefit take-up, ensuring the social security system provides financial support to all who need it
* realise its ambitions for a human-rights based approach to social security, by ensuring that the most vulnerable and marginalised do not ‘fall out’ of the system.

We are concerned that the definition of advocacy in the draft standards does not make any reference to situations that will require non-instructed advocacy. Non-instructed advocacy is a form of one-to-one advocacy which takes place when there are issues with a person’s capacity - perhaps as a result of dementia, or limited communication due to a physical disability or a learning disability. In such situations, a non-instructed advocate seeks to uphold the person’s rights and ensure that decisions are taken with full consideration of their unique preferences, rights and perspectives. The draft standards do not recognise that there will be situations in which people will require independent advocacy, but not have the ability to instruct an independent advocate. This is a serious omission that could result in some very marginalised and vulnerable people not being able to access independent advocacy to support their interactions with the Scottish social security system.

**Principle - Independence**

**Q3 Do you agree with the principle of ‘independence’?**

SIAA strongly supports the principle of independence. We do not, however, agree with the definition of independence contained in the draft standards.

Independence is at the very heart of the work done by independent advocacy organisations across Scotland. This is reflected not only in the name, ‘independent advocacy’, but also in the day-to-day delivery of services that put the individual at the heart of the process, always representing their views and preferences, free from conflicts of interest. SIAA’s Code of Practice, to which all our member organisations work, has independence at its very core, and has been successfully implemented for over 10 years. A revised version of the Code of Practice, which has been developed with significant member engagement, is due for publication later this year.

Our commitment to the principle of independence – and our expertise regarding what this should look like in practice – cannot be overstated.

**Q4 Do you agree with the standards?**

No. We strongly disagree with the definition of ‘independence’ contained within the draft standards which proposes that, “advocacy services are independent if they are provided by a person other than the Scottish Ministers” (p6).

According to this definition, independent advocacy could be provided by organisations that deliver any number of other services, including employment, advice and healthcare. Our position on this is unequivocal – the delivery of other services increases the likelihood of conflicts of interest thus compromising an advocate’s ability to act independently. Our members highlight how critical a concept independence is for people seeking independent advocacy. If they feel the advocacy is related to or attached in any way to another system or service they also use – and perhaps want support form an advocate in challenging or complaining about – this can erode the ability to build trust with them.

As currently delineated, this principle does not conform with SIAA’s own ‘Principles, Standards and Code of Practice’ document, which defines an independent advocacy organisation as one that, “only provides independent advocacy. All the activities it undertakes are about providing, promoting, supporting and defending independent advocacy. Its independence means that it does not provide any other services and so it is structurally, financially and psychologically separate from other organisations and interests”.

We note that, as currently drafted, this principle also conflicts with definitions of independent advocacy used elsewhere by the Scottish Government. For instance, the Mental Health (Care and Treatment) (Scotland) Act 2003 clearly states that advocacy services can only be considered independent if the person providing them is not also, for example, delivering medical treatment to the person receiving advocacy and is not a member of the local authority or health board in the area in which they live. While this definition is not as stringent as the SIAA definition of independence, it goes significantly further than that included in the draft Social Security Advocacy Standards. It is not clear to us why people accessing advocacy through different legal routes – i.e. via legislation relating to social security or via legislation relating to mental disorders – should expect to receive a service that satisfies different levels of independence.

**Q5 Is anything missing from the standards and, if so, what?**

Yes, SIAA and our members would like to see a definition of independence that will ensure *meaningful* independence, rather than independence in name only. This requires a far more nuanced assessment of what makes a person or organisation independent than the current definition of, ‘a person other than the Scottish Ministers’.

**Principle – Person Centred**

**Q6 Do you agree with the principle of ‘person-centred’?**

Yes, SIAA and our members strongly support the principle of person-centred. However, we do not believe that the definition and description in the draft standards will ensure meaningfully person-centred services.

SIAA’s Code of Practice has a person-centred approach at its core, with our second principle stating, ‘Independent advocacy ensures people’s voices are listened to and their views are taken into account’.

**Q7 Do you agree with the standards?**

SIAA broadly agrees with the content of the person-centred standards. Members commented that they supported the sentiments behind the standards and it was therefore hard to say that they did not agree with them.

However, we do not believe that the person-centred standards are achievable in a context in which advocacy lacks true independence from other service provision. This is because advocacy workers will face conflicts of interest that might compromise their ability to put the people they are supporting at the heart of the process. Members highlighted some standards - such as, ‘Your advocacy worker is on your side, puts you first and is directed by your needs, views and wishes’, and ‘Your advocacy worker will base their actions on your desired outcomes’ - which they felt, while laudable, would be unachievable in a context in which advocacy was not structurally, financially and psychologically separate from other organisations and interests.

SIAA also contends that having multiple sets of standards for independent advocacy – the SIAA standards, the Social Security standards and the Child Hearing standards – runs counter to a person-centred approach. People have complicated lives with overlapping issues that do not follow neat policy boundaries. It is very likely that someone who requires an independent advocate to support them with a social security claim will also require independent advocacy to support them in relation to a housing or medical issue. This could result in the person receiving independent advocacy from two separate organisations working to two separate sets of standards - this is confusing and opaque and lacks clarity for the individual. It does not place them at the heart of the process or reflect the realities of many people’s lives.

**Q8 Is anything missing from the standards and, if so, what?**

As noted previously, the draft standards need to be amended to include situations requiring non-instructed advocacy. The standard ‘Your advocacy worker will obtain your formal agreement before acting on your behalf’ is problematic in this context, as it assumes that all individuals receiving support from an independent advocate will be able to give consent.

We also consider that the standards would be significantly strengthened by the inclusion in the ‘person centred’ principle of explicit, specific references to rights-based social security and what this approach means in practice for people claiming Scottish social security benefits. This would reflect and reinforce the statement in Social Security Scotland’s Charter that, “Social security is itself a human right and essential to the realisation of other human rights”.

**Principle – Accessible**

**Q9 Do you agree with the principle of ‘accessible’**

SIAA strongly agrees with the principle of accessibility in relation to independent advocacy. Indeed, many of the draft standards echo the content of the SIAA Code of Practice document to which our members already work. For instance, amongst other things, it states that effective independent advocacy organisations must:

* Identify and challenge any attitudinal, structural or environmental barriers to accessing, using or taking part in independent advocacy.
* Make every effort to understand, monitor and overcome barriers faced by diverse, minority or marginalised groups to accessing, using or taking part in independent advocacy.
* Ensure that advocacy provision is accessible, including premises.

**Q10 Do you agree with the standards?**

SIAA agrees with the content of some of the draft standards designed to ensure the accessibility of independent advocacy services. However, we have significant concerns about how these will be financed and delivered, and the lack of detail in this area is very concerning.

Whilst many of the provisions are laudable – such as advocacy workers meeting people at a place which suits them and communicating through the methods and forms which people prefer – they are also resource- and labour-intensive and not deliverable without significant and sustained investment.

Evidence from members indicates that, for example, if a deaf person were currently to seek independent advocacy and require a sign language interpreter to help them access the service, the independent advocacy organisation frequently meets these additional costs itself (on other occasions, for instance, if the issue related to health, the advocacy organisation might ask the NHS to meet the costs). However, independent advocacy organisations do not receive additional funding for this and meet the costs out of other budgets. This is already an issue for third sector organisations struggling on reduced or standstill budgets and will become increasingly problematic if these costs rise significantly. SIAA therefore seeks clarification that Social Security Scotland will fund the additional costs of delivering these standards and ensuring the principle of accessibility is a meaningful one that can be realised in practice.

SIAA does not believe that the last four standards under this principle relate to accessibility and contends that they would be much better situated elsewhere in the document, within the definition of advocacy, within the section on the principle of independence and within the section on the principle of quality assurance.

We also have specific concerns about the principle that states, ‘If you tell your advocacy worker that you may be at risk of harm or that you want to harm yourself or someone else they will discuss this with you but may need to share this information with others without your consent’. This standard would be significantly improved by a) the addition of a sentence stating that the advocacy worker will always speak with you before breaching your confidentiality and b) explicit use of the word safeguarding to describe these situations. It is critical that both independent advocates and people using independent advocacy know and understand that confidentiality will only ever be breached within the context of safeguarding.

**Q11 Is anything missing from the standards and, if so, what?**

As noted before in relation to Q2, we have significant concerns regarding the lack of mention throughout the draft standards about non-instructed advocacy. This omission effectively removes the option of independent advocacy for anyone who does not have the ability to instruct an independent advocate. It is a discriminatory policy that undermines the principle of accessibility.

**Principle - Trained**

**Q12 Do you agree with the principle of “trained”?**

SIAA strongly supports the principle of independent advocates being trained professionals with specific and demonstrable skills and experience.

Our commitment to this principle is demonstrated throughout SIAA’s Code of Practice which states, in relation to training, that independent advocacy organisations must:

* Provide regular peer support opportunities for staff, volunteers, advocates and activists to discuss good practice, areas for improvement and advocacy dilemmas.
* Provide continuous development and learning opportunities, guidance and information to all staff, volunteers, activists and Board and Trustees on the Principles, Standards and Code of Best Practice for Independent Advocacy.
* Ensure that everyone in the organisation has training or preparation on equal opportunities, equalities duties, respect and dignity, discrimination and human rights.

However, while we support the principle of independent advocacy workers being trained, we have concerns with some of the draft standards and their ability to deliver this principle effectively in practice. We also feel that the name of the principle should reflect the competence, skills and experience required of professional independent advocates. The current use of the word ‘trained’ sets the bar too low in this regard and would be more accurate if amended to something like, for example, ‘Trained experts’ or ‘Professional expertise’.

**Q13 Do you agree with the standards?**

SIAA agrees with a number of the specific draft standards, which largely echo those in our Code of Practice and to which our members already work, including:

* Advocacy workers will understand your needs and any barriers you face
* Advocacy workers will be trained and continue to develop their knowledge, skills and experience
* Advocacy workers will get regular support and supervision
* Advocacy services and workers will be aware of and meet their duties and responsibilities under relevant human rights and equality legislation

However, we think that these draft standards would be strengthened by an overarching recognition that the skills required to be an effective independent advocate are different from those required to be, for instance, an effective advice-provider. An explicit recognition of this (for instance, by stating that the ‘knowledge, skills and experience’ that workers will be trained in will, amongst other things, be advocacy-specific) would be welcomed by SIAA.

We would also like the standards to mention other elements of training and expertise that we feel are critical to independent advocates doing their job effectively and to a high standard, such as the social model of disability, human rights and long-term conditions and disabilities.

SIAA also has concern about the standard relating to advocacy workers having a detailed knowledge of the Scottish social security system. Social security is a complicated and opaque are of policy and practice and, while we support the principle of independent advocates being trained in this area, we seek a recognition from the Scottish Government that this will require a significant investment. Furthermore, it will require sustained and ongoing investment, as workers will need regular refresher training to keep them abreast of changes in social security, both from the Scottish and Westminster systems. SIAA would like clarification regarding who will fund this significant training exercise and who will deliver it?

SIAA members felt strongly that, although training is important in relation to the standard, ‘Advocacy workers will understand your needs and any barriers you face’, training alone is not enough to ensure that this happens in practice. In order for independent advocates to have a deep and thorough understanding of a person’s needs and any barriers they face, they need to be able to take the time to invest in and develop a meaningful relationship. Evidence from members indicates that this is particularly critical with people who have learning disabilities and fluctuating mental health conditions, as well as in cases of non-instructed advocacy.

We would contend that the third standard in this section, ‘Advocacy workers will be able to meet your needs including any communication needs’ is actually a standard that should be delivered at a service rather than individual level. Related to this, we note that a service’s ability to deliver this standard will be largely dependent on funding and how much resource is made available for its workers to meet the full range of users’ needs.

**Q14 Is anything missing from the standards and, if so, what?**

As detailed above, the standards are missing a recognition that providing independent advocacy and advice are two separate support services, requiring different skills and therefore different training.

**Principle – quality assurance**

**Q15 Do you agree with the principle of ‘quality assurance’?**

Yes, SIAA supports the principle of quality assurance. We believe that robust quality assurance systems need to be in place to ensure consistent and reliable service delivery that can measure and report on the impacts it achieves. This is captured in SIAA’s Code of Practice document, which states that independent advocacy organisations must, ‘Have quality assurance systems that use evidence-based practice to measure the impact of independent advocacy’.

However, despite supporting the principle of quality assurance, we do not believe that the draft standards will ensure meaningful delivery of quality assurance in practice.

**Q16 Do you agree with the standards?**

SIAA broadly agrees with the standards and believes that these will help develop important first steps in terms of quality assurance. However, they adopt a very narrow and process-driven view of what makes a quality service, and do not go nearly far enough in stipulating what independent advocacy organisations must do to ensure the ongoing quality of their services.

There is scope to enhance some of the draft standards. For instance, the second standard that describes advocacy services as, ‘having systems for receiving, addressing and monitoring feedback’ could be strengthened by requiring independent advocacy services to be more proactive about requesting service user feedback, rather than just requiring them to have systems in place to receive feedback.

In addition, we would like the final standard describing evaluation processes to be improved. We do not believe that, used in isolation, self-evaluations will provide a robust or consistent enough method of evaluation to ensure quality assurance. At a minimum we would want to see user-led evaluations included in this standard, but to ensure gold-standard quality assurance mechanisms we would expect these to be supplemented by regular, cyclical external evaluations.

**Q17 Is anything missing from the standards and, if so, what?**

Yes, there are a number of things missing from the draft standards.

We would expect the standards to include guidance about the process for escalating a complaint beyond the internal service’s complaints process. SIAA calls for a clear and transparent escalation route, which service users can understand, access easily and feel is independent and impartial. Currently, complaints about independent advocacy organisations are escalated to the funder and then the Scottish Public Services Ombudsman. We would expect people accessing independent advocacy via the new social security legislation to have a similar route for redress. Indeed, creating accessible avenues for accountability when rights are violated is a fundamental element of making human rights and dignity the cornerstone of Scottish social security (Principle for Change, Scottish Campaign on Rights to Social Security, 2019).

In addition, the draft standards do not contain an explicit focus on capturing more intangible outcomes such as the impact of the work done by independent advocacy organisations. Measuring impact can be difficult, but it is a critical part of a good, robust quality-assurance mechanism.

SIAA is currently developing a toolkit that will help independent advocacy organisations (and commissioners of independent advocacy) to ask different and better questions, so that they can evidence the impact that advocacy has on the individuals they support. This is essential for monitoring and measuring quality and ensuring that independent advocacy is delivering on the outcomes that are important to the people using its services.

We contend that the Scottish Government should adopt an impact-based approach to quality-assurance that goes beyond the simple metrics contained in the current standards. This would allow the Scottish Government to measure the positive difference that the advocacy it funds is making to people’s lives, as well as providing a rich source of data that can be collated, analysed and fed back to Social Security Scotland to ensure continuous ongoing improvements of its policies, practices and culture.

**Additional comments**

SIAA has some additional comments that do not relate to specific consultation questions:

* Overall, the draft standards do not adequately reflect the human-rights based approach which the Scottish Government has declared will underpin the Scottish Social Security system. In addition to the specific points made relating to human rights detailed earlier in this response, there is opportunity for embedding references to rights throughout the standards. For instance, when reference is made to people’s needs there is often scope for also mentioning their rights e.g. ‘Advocacy workers will understand your rights and needs and any barriers you face’, and ‘Your advocacy worker is on your side, puts you first and is directed by your rights, needs, views and wishes’.
* There should be an explicit recognition throughout the draft standards that they apply to children as well as adults. Children with parents/carers may require independent advocacy in some situations, as well as looked after children living in residential care.
* Standards which apply to independent advocacy workers and standards which apply to independent advocacy services are mixed together in a way which is confusing and lacks clarity. It does not support the principles of accessibility or taking a person-centred approach.

**Impact assessments**

**Q18 and Q19 Equality Impact Assessment**

SIAA is concerned that the protected equality groups will encounter the same barriers to accessing independent advocacy as they do with other services, unless independent advocacy organisations are properly funded to reach out to and engage these communities. It is also critical that issues around intersectionality – the manner in which the effects of different forms of discrimination and marginalisation overlap and are amplified – are considered and addressed.

We have additional concerns that those individuals in the greatest need and who face the most significant barriers will struggle to access independent advocacy – and ultimately be ‘left behind’ and further excluded – if service level agreements do not explicitly recognise that some people will require more support, time and input than others. A myopic focus on metrics and headcount will require independent advocacy organisations to cherry pick the easiest and most straightforward people to work with.

**Q20 and Q21 Child Rights and Wellbeing Impact Assessment**

As noted previously, we are concerned that the draft standards do not clearly state that they apply to children and young people as well as adults.

**Q22 and Q23 Business and Regulatory Impact Assessment**

As noted elsewhere in our response, SIAA is concerned that the development and implementation of these standards means that independent advocacy organisations could find themselves working simultaneously to multiple sets of standards. This has implications for time and staff management within independent advocacy organisations as staff will clearly need to be familiar with and work to more than one set of standards. It will also require additional staff resource to adequately explain and clarify the situation to people using advocacy services, who may well be confused by the presence of multiple sets of standards.

**Q24 and 25 Island Screening Assessment**

Evidence from the three SIAA member advocacy organisations on the islands tells us that, in order to provide robust levels of support to people living in remote areas, they incur significant costs related to travel (in terms of both finance and time). In order to ensure that these communities are not adversely affected by the new standards, we would like to see a recognition that supporting island communities can be very resource-intensive and an explicit explanation of how this potential barrier will be addressed.