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Understanding Independent Mental Health Advocacy (IMHA) for mental health staff

SCIE At a glance 67

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Key messages

- Mental health staff have a duty to ensure everyone eligible can access IMHA services.
- Staff should give information to qualifying patients about their right to an IMHA, and refer them to the local IMHA service.
- Staff on wards should provide somewhere private for the advocate and service user to meet.
- Staff should foster good working relationships with IMHAs to ensure users' views are heard.
- Advocacy can make a positive difference to the relationship between users and professionals.

Introduction

This At a Glance briefing is about IMHA. It is aimed at mental health service staff, including people who work in community settings and on hospital wards. Staff in mental health services have an important role to play in supporting people to access IMHA services.

This briefing describes the role of IMHA, who is eligible, and what mental health service staff can do to support people who use services to access IMHA support. This information will help you to ensure people's rights are respected when they are sectioned under the Mental Health Act.

What is advocacy?

“Advocacy is taking action to help people say what they want, secure their rights, represent their interests and obtain services they need. Advocates and advocacy schemes work in partnership with the people they support and take their side. Advocacy promotes social inclusion, equality and social justice.”

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Many people suggest that they can advocate on behalf of someone else. Nurses and social workers are taught that they should be 'the patient's advocate'. However, this is difficult when someone is sectioned and treated under the Mental Health Act. In many situations a professional is unable to act as a person's advocate if they have to act against the wishes of the service user or when promoting best interests. Professionals may also have very different viewpoints about issues such as detention and treatment without consent. Therefore users may want to access advocacy support which is independent of the mental health service.

What is an IMHA?

An Independent Mental Health Advocate (IMHA) is a specialist advocate. The right to an IMHA was introduced in 2007 under amendments to the 1983 Mental Health Act. This gave legal rights to IMHAs which are not available to other advocates. These rights mean that IMHAs may:

- meet qualifying patients in private
- consult with professionals concerned with the patient's care and treatment
- see any records relating to the patient's detention, treatment or after-care, for the purpose of providing help to the patient and where the patient consents
- request access to records where the patient lacks capacity to consent, if accessing the records is necessary to carry out the functions as an IMHA.

IMHA services are independent, confidential and free of charge. People do not have to accept help from an IMHA, and may change their mind at any time. IMHA does not replace other forms of advocacy or legal support, but can work with them.

IMHA is not the same as **Independent Mental Capacity Advocacy (IMCA)**. IMCA provision is a separate statutory duty to provide non-instructed advocacy for people who lack capacity to make certain decisions and who have no one able to support and represent them. It may be appropriate for someone to have both an IMHA and an IMCA. An IMHA can also work in a non-instructed way with people lacking capacity who are detained under the Mental Health Act.

Practice example

Lucas (not his real name) wanted the IMHA to come to his next meeting with the psychiatrist. These meetings often ran late. The staff made sure that the IMHA was involved in arranging the appointment to suit her diary. On the day, they made sure that the meeting went ahead on time so that she could still make her next appointment at another site.

“It is a totally independent service that hopefully would give the service user the confidence to raise issues that they might feel we would ignore or that they would be a little wary of raising with us, some people aren't very good at expressing themselves either verbally or written and it does give them, you know, that support.”

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. (Approved mental health practitioner)

“I knew that I had a right to have one but I didn't understand why I would need one. Somebody had said that I had a right to have one if I wanted one and I remember a lady coming in with a clip board saying she was for advocacy but I didn't understand who she was or why I would need one.”

(Service user)

Qualifying patients

IMHAs work with a specific group of qualifying patients. These people are all entitled to speak with an IMHA by law. The legislation requires mental health service staff to inform them of their right to an IMHA.

People who are eligible to use IMHA services in England are:

- people detained under the Mental Health Act 1983 amended in 2007 (even if on leave of absence from the hospital), but excluding people who are detained under certain short term sections (4, 5, 135, and 136)
- conditionally discharged restricted patients
- people subject to guardianship
- people subject to supervised community treatment orders (CTOs).

Other patients, who are informal, are eligible for IMHA services if they are being considered for section 57 or section 58A treatment (i.e. treatments requiring consent and a second opinion). This includes people under the age of 18 who are being considered for electroconvulsive therapy (ECT).

The role of IMHAs

IMHAs can help people who use services to understand:

- their legal rights under the Mental Health Act
- the legal rights which other people (e.g. nearest relative) have in relation to them
- the particular parts of the Mental Health Act which apply to them
- any conditions or restrictions to which they are subject
- any medical treatment that they are receiving or might be given, and the reasons for that treatment
- the legal authority for providing that treatment
- the safeguards and other requirements of the Act which would apply to that treatment.

IMHAs will also help people to exercise their rights, which can include supporting them to self-

advocate and/or representing them and speaking on their behalf.

IMHAs can support people in a range of other ways to ensure that they can participate in the decisions about their care and treatment.

Practice example

Adam's (not his real name) brain injury resulted in him being detained because of his newly aggressive behaviours. He didn't communicate reliably with the staff, but repeatedly told the IMHA that he wanted to go home. The IMHA made sure his request was written in his notes, but staff emphasised that home visits would not be possible because of his aggression. The IMHA continued to mention his request and they have now prioritised working towards more regular contact with his family.

How can staff ensure people access IMHA?

Mental health service staff have a legal duty to ensure that everyone who qualifies is aware of their right to speak to an IMHA. This includes hospital managers, nurses, psychiatrists, administrators, social workers, approved mental health practitioners (AMHPs), community psychiatric nurses (CPNs) and ward managers. This information should be provided verbally as well as in a written format, and consideration given to providing this information more than once.

Some groups of people are less likely to access advocacy. Individuals from these groups may need additional support to access the IMHA service.

These include:

- people from black, Asian and other minority ethnic groups
- people on CTOs
- people with learning difficulties
- people who are hearing impaired or deaf
- older people who lack capacity
- children and young people
- people who normally live in a different local authority (from the one they are being treated in).

IMHA and inspection

The Care Quality Commission (CQC) is the regulator for all health and social care services in England. CQC inspects access to advocacy as part of its emphasis on ensuring the rights of detained patients. When it conducts an inspection of a mental health service it will ask specific questions about access to IMHA and it will also speak to IMHA providers.

Benefits of IMHA for mental health service staff

IMHAs help staff by supporting people who use services to be involved in decisions about their own care. They are an independent person who can:

- ensure that users understand their care plans

- enable users to raise questions about their care and medication
- help users to prepare for ward rounds and other meetings.

How mental health staff can support access

Advertising the IMHA service

Typical promotion activities include making sure that up-to-date posters advertising a service are displayed within a ward and talking to users about the IMHA service. All staff can enable the IMHA to meet all eligible users, for example by holding ward meetings with the IMHA or notifying them of new admissions. Mental health service staff in community teams should ensure that people on CTOs know about IMHA. This might include telling people about advocacy and providing printed information such as leaflets.

Practice example

Sadia (not her real name) was discharged from the wards on a CTO and meets regularly with her care coordinator. Her parents believe the CTO is helping to keep her stable and encouraging her to take her medication, but Sadia feels that she is trapped and constantly watched. She wants to come off the CTO. Her care coordinator agrees with her parents, but suggests that Sadia speaks to the IMHA service who will help her get her views heard.

“I asked him if he'd come into the ward round with me, which he did, and just him being there in that ward round was enough to give me the confidence to give over what I wanted to say you know, it was just him being there.”

(IMHA partner, Acute ward)

Reminding users how and why they could use an IMHA

Staff should inform users that an IMHA can be invited to ward rounds and that they can see an IMHA privately. Staff should explain the specific duties and rights of an IMHA, including access to medical notes if the user wishes this. Staff should encourage users to speak to an IMHA directly and emphasise that IMHAs are independent, provide a free service and are there to support users. It may be helpful to mention this at key pivotal points in a detention, such as at admission and before ward rounds, medication reviews and tribunals.

Making sure that all users can access an IMHA

People may have specific communication needs such as language (including sign language), learning difficulties or a lack of capacity. Younger people may feel less confident to ask, or people on a high level of observation may not notice posters on a ward. It is staff's duty to ensure everyone who is eligible know they have the right to speak with an IMHA and to help

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“Well it’s to safeguard the person really and to ensure that they understand what’s happening to them, make sure they understand their rights, make sure they understand that they do have the right to appeal, make sure that they have the opportunity to get heard in the meetings, a bit of moral support.”

(IMHA manager)

Enabling physical access

IMHAs need to be able to speak confidentially with users. Staff can make sure there are private spaces on the wards for users to meet with the IMHA. Sometimes users may also need to phone the IMHA service. They may need support to access a phone and to speak confidentially, especially if the only accessible phone is situated in a public place.

Helping IMHAs to do their job

Staff can help IMHAs by responding promptly to requests for information. IMHAs may request access to medical notes, although staff should make sure that IMHAs cannot access information which is withheld from the service. Staff should also inform IMHAs of any issues of risk each time they come onto a ward.

Reacting to issues brought by IMHAs on behalf of users

Staff should take seriously any concerns that users raise through their IMHA and respond to them promptly. IMHA may also raise issues that they hear from more than one user.

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