

## **Advocacy – I have been refused as an appropriate person**

Where a person has substantial difficulty being involved in the assessment or care planning process, local authorities must consider whether there is an appropriate individual (or individuals) who can facilitate a person's involvement in the assessment, planning or review processes of care and support. If there is no appropriate person then the local authority must appoint an independent advocate.

To establish whether an individual is an appropriate person, there are 3 specific considerations.

### **The appropriate person cannot be:**

1. Already providing care, support or treatment to the individual in a professional capacity or on a paid basis. This means that paid carers, GPs or support workers cannot be an appropriate person.
2. Someone that the person does not want to support them. A local authority cannot force an individual to accept somebody as an appropriate person if the individual does not agree with that.

This may include situations where the individual wishes for their care and support to provide them with more independence from their family, and for this reason they do not want a family member to support them throughout the process.

3. Someone who is unlikely to be able to adequately facilitate the individual's involvement in the care and support processes.

This includes situations such as relatives who live a long distance away from the individual, somebody who would not be able to provide the necessary amount of time to support the individual or somebody who does not understand the processes involved in care and support planning.

It also includes situations in which the suggested appropriate person may actually have very differing views to the individual so there would be a conflict of interests.

For obvious reasons, someone implicated in an enquiry into abuse or neglect or who has been judged by a safeguarding adult review to have failed to prevent abuse or neglect also cannot be an appropriate person.

## **I don't fall within any of the three criteria above and I have still been refused. What should I do?**

You should ask for clarification, in writing, from the local authority as to why you have been refused as an appropriate person. They have to explain their reasons for refusing you. If they refuse to explain their reasons, you could consider following the formal complaints process. The details of the complaints process will be available from your local authority .

If an appropriate person is not agreed, it is also important to ask the local authority whether they do accept that the person in need of care and support has substantial difficulty being involved in the process. If they do agree that the person has substantial difficulty, you should also ask when an Independent Advocate will be appointed.

Mencap have produced a separate factsheet on advocacy, including in the care planning process, and what 'substantial difficulty means'. If you have been refused as an appropriate person and believe that the local authority should be appointing an advocate, please see the Advocacy factsheet for further details on local authority obligations.

Mencap can send you a precedent letter which you can send to your local authority requesting them to clarify the issue in writing.

Please contact the [Learning Disability Helpline](#) for advice or, if you are a member of the Legal Network, arrange to speak to a caseworker.

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We hope that you have found this factsheet useful. Whilst you are here, we have a small favour to ask. More people are using our service than ever before. We can't keep up with demand. We don't want to turn people away, and we want to keep on developing more information resources like this factsheet, but we don't have enough money to expand. So you can see why we need to ask for your help. We know that our information and advice can make a real difference to the quality of life of the people we support. If people using our service could help to support us, our future would be much more secure. Click here to make a small donation: [www.donate.mencap.org.uk/phone](http://www.donate.mencap.org.uk/phone)