

**Stutton Support Network AGM 2018:  
Notes from talk by Emma Woollard on advocacy**

Many of us find ourselves 'advocating' on behalf of someone/supporting someone at various stages of our lives. We may need such help ourselves at different points. We may come across situations where there are questions raised about someone's 'capacity' to make decisions, whether they should be 'allowed' to take a particular decisions. We may even have our own 'capacity' or judgement questioned at times!

What does advocacy mean? In common language it means support for, arguing for, calling for, pushing for, pressing for, promoting, championing.

It's important to understand both the legal definition of capacity, when someone can be deemed not have capacity, and what should happen if this is the case.

Mental capacity: Key principles laid down in legislation and guidance

1. A person must be assumed to have capacity unless it is established that s/he doesn't.
2. A person is not to be treated as unable to make a decision unless all practicable steps have been taken to help him/her to do so have been taken without success.
3. A person is not to be treated as unable to make a decision merely because s/he makes an unwise decision.
4. A person can lack capacity to make some decisions but still have the capacity to make other decisions.
5. An act done or a decision made for or on behalf of a person must be done in his/her best interests.
6. An act done or a decision made for or on behalf of a person must be the least restrictive of their rights and freedoms.

If you find yourself in a situation where you are helping someone make a decision and/or supporting them to get something they need, there are some basic principles that are helpful to bear in mind.

To help someone to make a decision, it's useful to ask yourself:

- do they have all the relevant information they need to make this particular decision?
- if they have a choice, do they know all the alternatives?
- is information presented in a way it can be understood? have all ways of communication been explored?
- have you done everything to help them feel at ease in order to make the decision - think about how they feel about the location, time of day, the people around them?

How can someone be helped?

Take time.

Don't give too much detail if it confuses them.

Ensure they know about the risks and benefits.

Explain the effects of different options.

Seek independent professional advice if needed.

Use simple language.

Give information at the right speed and amount.

Break information down into component parts.

Be careful not to make decisions on someone's behalf - if someone is going to need more and ongoing assistance then they may need to grant a Lasting Power of Attorney to enable someone to make decisions on their behalf.

#### What is a Lasting Power of Attorney?

A Lasting Power of Attorney ( LPA ) is a legal document that lets you (the 'Donor') appoint one or more people (known as 'attorneys') to help you make decisions or to make decisions on your behalf. There are two types of LPAs - a property and finance LPA, and a health and welfare LPA.

A property and finance LPA enables the attorney to help sign cheques, pay bills and correspond on behalf of the Donor. The Donor remains in control and will direct their Attorney to assist them. It will only be when the Donor has lost the mental capacity to do something that the Attorney can make the decision on the Donor's behalf. All decisions need to be made in the best interests of the Donor and be carried out in the same way as the Donor would have done if they were able to.

A health and welfare LPA covers decisions about what sort of care the Donor is to receive and where. It can also extend to consenting to operations and treatment and turning off life support. The LPA can only be used if the Donor has lost the ability to communicate their own thoughts and decisions.

An LPA is a legal document and there are strict formalities required to create it. It needs to be registered with the Office of the Public Guardian before it can be used. An LPA is invaluable in order for someone to advocate formally on someone else's behalf. It can be created online or through a Solicitor.

#### Formal advocacy services

These are provided by voluntary sector organisations seeking to promote social inclusion, equality and social justice. Someone who has lost mental capacity has a right to a formal advocate in certain circumstances. These formal advocates have no legal right to make decisions. They can only act as part of best interests decision-making. They cannot sign contracts, forms, deal with money, e.g. pay bills. Depending on the circumstances there are a number of charities that offer services e.g. Suffolk Age UK, Suffolk Family Carers and MIND. The formal agency who coordinate Advocacy in Suffolk is Total Voice.

