

Advocacy services for children and young people

A guide for commissioners





Introduction

'Advocacy is about representing the views, wishes and needs of children and young people to decision-makers, and helping them to navigate the system.'¹

While the role of advocacy is well established in the law, the range of legislation governing how and when it should be used is complex. There is also a growing body of evidence on the barriers to accessing advocacy services provided by independent professional advocates, who are able to support children without a professional or personal conflict of interest.

This guide is to help those responsible for children's services to plan and design independent, professional advocacy services so that they have the greatest positive impact on the lives of children and young people.



'I wanted to tell someone what happened in the past. If I didn't have one (the advocate), I wouldn't be here now.'

Young person

1. National Standards for the Provision of Children's Advocacy Services, Department of Health, 2002.

The benefits of a good advocacy service

For a local authority, a good advocacy service can result in wide-ranging improvements in services for young people including:

- **More child-centred services and improved care packages²**
- **Improved transition from children and adult services and post-transition support³**
- **Complaints getting resolved at earlier stages.⁴**

For children and young people a good advocacy service can result in:

- **Enhanced self-esteem, confidence and broader life skills⁵**
- **Better understanding of processes and making informed choices⁶**
- **Enabling them to speak about abuse and neglect.⁷**



2. Oliver, C., Knight, A. and Candappa, M. (2006) Advocacy for looked after children and children in need: achievements and challenges, Thomas Coram Research Unit.

3. Townsley, R., Marriott, A. and Ward, L. 2009, 'Access to Independent Advocacy: An Evidence Review', Office for Disability Issues.

4. Pithouse, A. and Crowley, A. (2007) 'National Standards in Children's Advocacy - What Do Children Say?' Child Care in Practice, 13:1, pp17-32.

5. Franklin, A. and Knight, A. (2011) Someone on our side: Advocacy for Disabled Children and Young People. See also Oliver, C., Knight, A. and Candappa, M. (2006) Advocacy for looked after children and children in need: achievements and challenges, Thomas Coram Research Unit. See also Townsley, R., Marriott, A. and Ward, L. (2009) Access to Independent Advocacy: An Evidence Review. Office for Disability Issues. Franklin.

6. Elsley, S. (2010), 'Advocacy makes you feel brave': Advocacy support for children and young people in Scotland, The Scottish Government p.12.

7. NSPCC Summits held May 2011. Safeguarding LAC through Advocacy, Fiona Becker, NSPCC Consultancy Service, July 2011. Advocacy was also introduced as a safeguarding measure following recommendations in the Utting Inquiry 1997.

Specifications for advocacy services

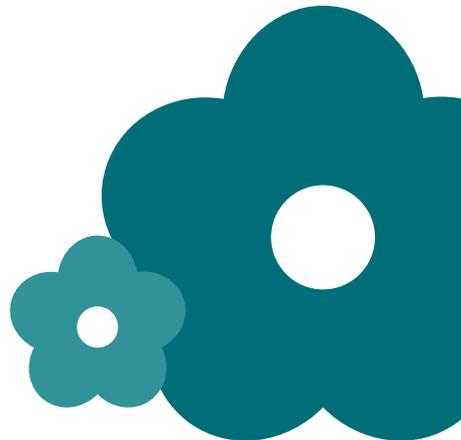
Specifications for advocacy services vary tremendously between local authorities, which impacts on access to services for vulnerable children.⁸ We know that disabled children, black and minority ethnic children, younger children and those in foster care or in out of area placements have the greatest difficulty in gaining access to advocacy.⁹

Currently, different services may provide advocacy for specific groups of young people. They usually have their own points of contact and referral routes. This can lead to confusion about how to access advocacy and can deter children and young people from using advocacy services.

To avoid this, local authorities should aim to:

- 1) Identify the children and young people who are eligible for advocacy**
- 2) Integrate the arrangements for commissioning services for them**
- 3) Provide one point of contact and referral route.**

This would make it easier for vulnerable children, young people and those referring them to know where to go when they need advocacy, and easier for local authorities to monitor the service they provide.



8. Brady, L. (2011) Where is my advocate? A scoping report on advocacy services for children and young people in England. Office of the Children's Commissioner.

9. Oliver, C., Knight, A. and Candappa, M. (2006) Advocacy for looked after children and children in need: achievements and challenges, Thomas Coram Research Unit.

Principles to guide the commissioning, delivery and evaluation of advocacy services

National standards¹⁰ require that advocacy is accessible, independent, committed to children's rights and led by the views and wishes of children. Key among these is Standard 6, on the importance of independence and Standard 8, which

requires the involvement of children and young people in the development and review of advocacy services. While the standards do not have the full force of statute, they should be complied with unless exceptional local circumstances justify variation.

Laura's story

Having suffered severe emotional and physical abuse as a child, Laura was taken into care. At 16, she became pregnant and social services were unsure of her ability to care for her baby. Desperate to avoid a repetition of her own experience, Laura called The Children's Society's Participation, Advocacy and Rights (PAR) programme and asked for help.

We explained Laura's rights to her and helped her find a solicitor. Regular meetings allowed her to articulate her views for court statements. After several court appearances, the judge agreed that Laura could take her child to a mother and baby assessment unit to prove that she was able to care for her child and to learn the mothering skills she had never experienced.

Laura became more confident. She began speaking up at meetings and believing in herself. At the final hearing the judge said how impressed he was with Laura's commitment and she was allowed to keep her child.

10. National Standards for the Provision of Children's Advocacy Services, 2002, Department of Health.

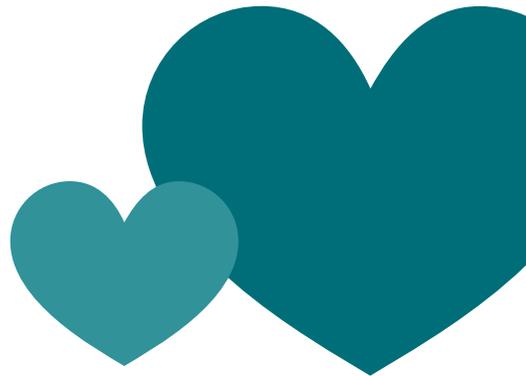
Under what circumstances should advocacy be provided?¹¹

The last two decades have seen a number of different laws, regulations, guidance and policy initiatives emphasising the importance of advocates in the lives of a wide range of children and young people. Sections 1–3 below outline the legal framework for the provision of advocacy to children and young people.

1 Advocacy to support children in need and looked after children when decisions are made about their lives

Section 22 (4) of **The Children Act 1989**, consistent with article 12 of the United Nations Convention on the Rights of the Child, provides that before making any decision with respect to a child who the local authority is looking after or proposing to look after, the authority must ascertain the wishes and feelings of the child. Section 22 (5) says that local authorities should give due consideration to those wishes and feelings.

The Children Act 1989 Guidance and Regulations Volume 2: The Care Planning, Placement and Case review (England) 2010 make clear that where children have difficulty in expressing their wishes and feelings about any decisions made about them, consideration must be given to securing the support of an advocate.



11. Legislation and guidance for England only.

The IRO Handbook: Statutory guidance for Independent Reviewing Officers and local authorities on their functions in relation to case management and review for looked after children 2010

makes clear that every looked after child has a right to be supported by an advocate whenever they want such support. It states that local authorities must have a system in place to provide written, age appropriate information to each looked after child about the function and availability of an advocate and how to request one. Where a child has additional communication needs that cannot be met within the IRO team, a presumption should be made that a child will be supported by an independent advocate who has the appropriate expertise to understand the child's means of communication.

The Children's Homes: National Minimum Standards 2011 and the Fostering Services: National Minimum Standards 2011

include standards that emphasise the importance of children's knowledge about their right to independent advocacy and how to access an advocate.

The statutory guidance The Roles and Responsibilities of the Lead Member for Children's Services and the Director of Children's Services¹²

makes it clear that systems must be in place to enable the voices of children and young people to be heard and to help inform the council's strategy for corporate parenting, in particular those who are disabled and living in placements a distance away.

'It's absolutely brilliant, brilliant'

One young man's verdict on what it feels like to have an advocate

¹² DCSF, 2009.

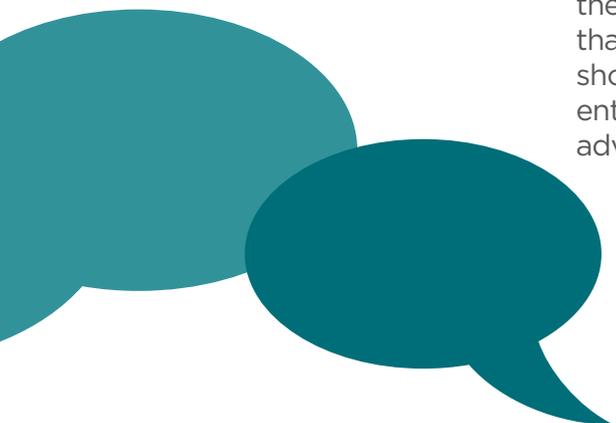


2 Advocacy for looked after children, children in need and care leavers in complaints and representation procedures, and provision of information to children and young people about their right to an advocate

The Adoption and Children Act 2002 placed a duty on local authorities to make arrangements for the provision of advocacy services for care leavers and other children using children's services who are making or intending to make a complaint under section 24D or section 26 of the Children Act 1989.

The Children (Leaving Care) Act 2000 requires responsible authorities to make sure young people have access to independent advocacy services to support them through complaints procedures.

The Children Act 1989 Representation Procedure (England) Regulations 2006 and the relevant statutory guidance **Getting the Best from Complaints: Social Care Complaints and Representation for Children, Young People and Others 2006** as well as **the Children Act 1989 Regulations and Guidance Volume 3: Planning Transition to Adulthood for Care Leavers and the Advocacy Services and Representations Procedure (Children) (Amendment) Regulations 2004** make it clear that these groups of children have an entitlement to independent advocacy when making a complaint and also for representations which are not complaints including those relating to improvements in the service they receive, and that children and young people should be made aware of their entitlement to independent advocacy and how to access it.





3 Other advocacy provision

The **Mental Capacity Act 2005** and the **Mental Health Act 2007** introduced the roles of Independent Mental Capacity Advocates and Independent Mental Health Advocates. Under the Mental Capacity Act 2005 an independent advocate should be provided to those over 16 who lack the capacity to make their own decision about medical treatment or changes in their care and have no friends or family to support them. The Mental Health Act 2007 included a duty to provide advocacy for people, including children and young people, subject to compulsory powers

under the Mental Health Act 1983. The **Mental Health Act 1989 (Independent Mental Health Advocates) (England) Regulations 2008** direct primary care trusts to make arrangements for the provision of Independent Mental Health Advocates.

The **Health and Social Care Act 2011** provided for patients making or intending to make a complaint, under a procedure operated by a health service body, to receive advocacy. This is currently provided by the Independent Complaints and Advocacy Service (ICAS).

Five top recommendations for local authorities to ensure effective advocacy provision for disabled children and young people

The Children's Society has produced a number of research reports about disabled children's advocacy.¹³ This research highlights the problems that disabled children and young people have in accessing advocacy. We recommend the following to ensure that all disabled children and young people can benefit from advocacy:

- 1) Local authorities should ensure that independent advocacy services can provide specialist skills in working with disabled children, including those with complex communication needs.
- 2) Local authorities should provide information about advocacy services in a range of accessible formats to disabled children and young people. This is particularly important when they enter the care system or move into long-term residential placements and before every review. Information on advocacy services for disabled children should also be provided to foster carers, residential care staff, IROs and parents/carers.
- 3) Local authorities should ensure that Section 1.10 of the Care Planning, Placement and Case Review statutory guidance is implemented in full and should monitor that all children who have difficulty expressing their wishes and feelings are secured the opportunity to have the support of an advocate.
- 4) Local authorities should incorporate in their commissioning arrangements a requirement for advocacy services to produce an annual report to be published alongside the local authority's annual complaints report.
- 5) Commissioners should ensure that independent advocacy services support disabled young people in their placements.

To view our latest reports on advocacy for disabled children, please visit the website at www.childrensociety.org.uk/research

13. Franklin, A. and Knight, A. (2011) Someone on our side: Advocacy for disabled children and young people, The Children's Society.
Mitchell, F. (2007) When will we be heard? Advocacy provision for disabled children and young people in England, The Children's Society.
Franklin, A. and Osborne, C. (2009) Independent reviewing officers' communicating with children with complex communication needs: An investigation for DCSF, The Children's Society.

Commission The Children's Society

The Children's Society delivers high quality independent advocacy services across England. For more information about what we can provide, please call **0121 415 3690** or email **bdu@childrenssociety.org.uk**. Or go online to see examples of some of the work we do at **www.childrenssociety.org.uk/what-we-do/commission-us**

'It's like other people we meet
and I'm just sat there and like
they're all talking about things
but he (the advocate) doesn't
talk about me, he talks to me.'

Peter, age 15

