

Independent Advocacy in Child Protection

Guidance for Policy Makers



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1. Introduction

This guidance aims to raise awareness among child protection policy makers of the current legislative framework for children's independent advocacy and messages from research and practice in England and Wales. It is written for policy makers working in England at the national and local level, though should be useful for children's rights advocates and child protection practitioners across Europe and internationally. Developments in Wales are signposted throughout the document given the similarity in legislation with England, the statutory monitoring undertaken by the Children's Commissioner for Wales¹ and the Welsh Assembly Government's strong commitment to independent advocacy for all children and young people who need it.

From April 2013, local authorities in England and Wales will be responsible for arranging the provision of independent advocacy for children making or intending to make a complaint about health services.² This increases considerably the number of children legally entitled to independent advocacy: for example, in England almost 2 million children aged 14 and under were admitted to hospital in 2011/12³ and over 4.5 million people aged 19 and under attended accident and emergency.⁴

Presently, there is no specific duty on local authorities to ensure children subject to child protection procedures have access to an independent advocate, though this has been promoted in statutory safeguarding guidance since 1999.⁵ Furthermore, children have rights – in domestic and international law – to have their views considered in child protection decision-making. And the extent to which children's wishes and feelings are ascertained and taken account of is now part of Ofsted's framework for inspecting the arrangements made by local authorities to protect children.⁶ Twelve local authorities in England have been inspected within this new framework to date: 11 inspection reports raised the importance of independent advocacy and 6 local authorities were told to either improve, or establish, access to independent advocates in child protection.⁷

The Royal Borough of Kensington and Chelsea (RBKC) seconded its participation officer to Barnardo's to deliver a pilot independent child protection advocacy service from September 2011. The service is delivered as part of a wider initiative, called *Involved by Right*, funded by the European Commission's Daphne III programme and including partners in Italy and Sweden. It fits within the local authority's adoption of the Family Partnership Model,⁸ whereby practitioners work respectfully and collaboratively with family members, and helps the local authority implement both national and London-wide safeguarding guidance.⁹ The National Children's Bureau Research Centre has evaluated the pilot service and this guidance draws on the lessons learned to date.

The Youth Advisory Board (YAB) for the *Involved by Right* project participated in a child protection workshop with the author of this guidance during a weekend residential meeting in September 2012. Four key messages came from this event which have informed, and underpin, the whole of this document:

- Children and young people are really good at judging whether adults respect them or not
- Children and young people have lots of ideas and views about how they are cared for, and what would make life better for them. They are willing to share these ideas and views but professionals have to be genuine about wanting to listen and learn
- Social services can make things much worse for children and young people when they do not support them to make and influence decisions about their own lives
- Many of the changes which children and young people want would not cost a lot of money: what's extremely important is that social workers and others have a good attitude and show they care about children and young people.

2. Definitions

'Independent advocacy'

Independent advocacy is a process of helping children to express themselves and make changes.¹⁰ It empowers children to ensure their rights are respected and their views and wishes are heard at all times¹¹ and is a means of achieving social justice because 'everyone matters and everyone is heard'.¹² A review in Wales reported that, for children, the results of independent advocacy spanned 'small victories to being lifesaving'.¹³ A 12 year-old girl told the NSPCC that having an independent advocate had 'helped change my life'.¹⁴

'Independent advocate'

An independent advocate is a person employed to provide children with information and advice, advocacy, representation and support to ensure their wishes and feelings are heard, understood and taken seriously by agencies making decisions about them.¹⁵ Independent advocates are focused solely on the child's views and they are able to take all necessary lawful action to assist the child, including supporting him or her to seek legal advice and representation. They must be seen to be acting exclusively for the child and to be free of any conflicts of interest.¹⁶ Statutory safeguarding guidance explains that independent advocates 'can play a vital role in ensuring children have appropriate information and support to communicate their views in formal settings, such as child protection conferences'.¹⁷

*An advocate is someone who listens to my views and helps me to put my point across.*¹⁸

*Sometime if I didn't want to speak, she would say it for me ... You know when you feel kind of worried to say something out loud?*¹⁹

*[A]s soon as I had an advocate social services started doing stuff ... my advocate just helped a lot, she got the ball rolling really.*²⁰



The terms 'independent child protection advocate' and 'independent child protection advocacy' are used in this document to refer to advocacy that is practised within the context of child protection processes and decision-making.

'Child'

This document uses the domestic and international law definition of a child – a person aged under 18 years. Young people often object to being described as children: references to 'children and young people' mean people aged under 18 years.

'Child protection'

Child protection describes the processes, decisions and actions taken by statutory agencies and others to safeguard and promote the welfare of a child who is suspected to be suffering, or is likely to be suffering, significant harm.²¹

From a human rights perspective, child protection is respecting the child's human dignity and upholding their right to mental and physical integrity. It is meeting legal obligations in domestic and international law requiring that all children are safe and able to thrive.²²

3. Child protection origins of children's advocacy services

Advocacy services for vulnerable children in England and Wales began in 1987 when Leicestershire County Council established the UK's first children's rights service to, among other things, give information and advice to children in care and investigate and report on their concerns and complaints.²³

The proliferation of children's rights and advocacy services followed widespread revelations of sexual, physical and emotional abuse in residential care and increasing sensitivity to the powerlessness of children living in institutions.²⁴ Many children who tried to complain about their treatment were ignored, disbelieved or punished. Between 1985 and 2000, 17 public inquiries were established into the abuse of children in residential care in the UK.²⁵ In 1996, the UK Government appointed Sir William Utting to lead a comprehensive review of safeguards for children living away from home. His report described children's rights services

as '*[o]ne of the most beneficial developments of the last decade*' and recommended they be offered to all looked after children, and that children wishing to make a complaint should be entitled to an advocate.²⁶ Sir Ronald Waterhouse also recommended independent advocacy services for child complainants following his inquiry into abuse in children's homes in Wales.²⁷ This provision was introduced into law in 2002 and, in that same year, the UK Government issued national standards on advocacy services for children. The Ministerial foreword stated confidently:

*Advocacy safeguards children and young people and protects them from abuse and poor practice.*²⁸

Two years later, statutory guidance affirmed that independent advocates are key to creating a listening culture and protecting children from poor practice.²⁹



4. Current legislative and policy landscape

Domestic law and policy governing the provision of independent advocacy in England and Wales has developed in an adhoc way – see Annex A. There are statutory duties to make arrangements for advocacy for children who wish to make a complaint about health or social care services and for children who wish to express a view about any aspect of social care provision.³⁰

Independent reviewing officers (IROs) have been given some advocacy functions in relation to looked after children. There are duties to ensure access to independent mental health advocates in some prescribed circumstances in England; in Wales this applies to all children receiving assistance under the Mental Health Act 1983. Sixteen and seventeen year-olds who lack capacity are entitled to an independent mental capacity advocate. Welsh local authorities must make arrangements for the provision of independent advocacy for children making (or considering) appeals to the Special Educational Needs Tribunal for Wales, as well as those participating in dispute resolution. Although the law in Wales does not give a general right to independent advocacy, the Welsh Assembly Government is funding a national telephone advice and advocacy service for all children and young people to supplement local provision for vulnerable groups.

In 2002, the United Nations Committee on the Rights of the Child urged the UK Government to ensure that every child deprived of his or her liberty has access to independent advocacy.³¹ Following a review of child protection and safeguarding, conducted by the Prison Service and the Youth Justice Board, independent advocates were introduced into child prisons in 2004. There is no legal framework for this type of independent advocacy³² though, of course, the duties outlined above apply to all children, including those who are deprived of their liberty.

The Human Rights Act 1998 makes it unlawful for any public authority to act in a way which is incompatible with a right in the European Convention on Human Rights (ECHR). When removal of a child from his or her family home,

or ending contact between children and their parents or siblings, is under consideration, Article 8 of the ECHR has been interpreted as parents having the right to information and involvement in decision-making (exercised in accordance with the facts of each individual case).

Strasbourg case law in connection with Article 8 focuses on parental rights vis-à-vis the state. But the UK's own courts have held that: Article 8, read alongside Article 12 of the Convention on the Rights of the Child (CRC), grants competent children the right to freedom of expression and participation in proceedings about their care and custody;³³ very young children can give reliable accounts of the abuse they have suffered;³⁴ and discovering the child's views (including very young children) is an important part of determining their best interests,³⁵ a point made strongly by the UN Committee on the Rights of the Child in its guidance on implementing Article 12 of the CRC: *'there can be no correct application of article 3 [the best interests of the child] if the components of article 12 are not respected'*.³⁶

Article 6 of the ECHR grants the right to a fair trial and access to justice. Here, the European Court of Human Rights has considered the particular needs of children and held that Article 6 requires adaptations to procedures to make effective participation possible.³⁷

Article 12 of the CRC requires that:

- Children who are able to form a view must be given the opportunity and assistance to express those views freely in all matters affecting them. Age limits in law or practice preventing younger children from freely expressing their views are not legitimate³⁸
- The views of the child must be given due weight in accordance with his or her age and maturity
- Children must be given the opportunity to be heard in any judicial or administrative proceeding affecting them. They can be heard directly or through a representative.

5. What makes an effective service?

There are three overarching features of an effective independent child protection advocacy service:

- Advocacy is child-led and child-controlled
- The independent advocate is able to take all necessary action to ensure the child's views are heard and their rights upheld
- The independent advocacy service makes a positive difference to children's lives.



Advocacy is child-led and child-controlled

Independent advocates are singularly focused on what children say they need and want. Their mandate comes from the child alone. Advocates must follow the child's instructions as to what will be communicated; the reasons for the communication; the form the communication will take; and who will receive it.³⁹ They must support the child for as long as it takes to resolve their concern or problem; and be ready to step aside even if resolution has not occurred but the child has stopped giving instructions.

Being child-led and child-controlled does not mean that independent advocacy services wait passively for children to find them. Children's lack of information and awareness of the purpose and value of independent advocacy is well documented.⁴⁰ They need independent advocates to be proactive in alerting them to their services; as well as statutory agencies to be routinely and positively disseminating information. Especially vulnerable children – those in residential care and custody and those living at home and subject to a child protection plan for example – need independent advocacy services to make direct contact with them. Managers must be ready to challenge parents and professionals who act as gatekeepers in trying to stop children accessing assistance. Children can always opt out of services. But if they do not know they exist, or cannot put a face to a name, or have no idea what an independent advocate does, children's lack of contact with a

service cannot be seen as a genuine decision to decline support.

The independent advocacy role is an active one, providing children with information and raising issues with the child that he or she may not have considered before. This could be anything from explaining to the child the legal obligations of the local authority to talking through the different ways children can express themselves in a child protection conference.

Independent advocates must never force their own views or agendas on children,⁴¹ but they should help children to carefully consider their choices and actions. To make informed decisions, and to be on a more equal footing with professionals, children need to know about their legal rights, the policies and obligations of the organisation in question, their options in a given situation, possible strategies for achieving their goals and how similar matters have been dealt with in the past. For example, a child who is unhappy with his or her social worker is likely to be reassured by being told the independent advocacy service has been able to successfully assist other children in comparable situations. Children may need an independent advocate to find out information for them, including why social workers are concerned about them (children in the RBKC pilot often did not know why a social worker was visiting them).

The independent advocate is able to take all necessary action to ensure the child's views are heard and their rights upheld

There must be no restriction on the lawful actions which independent advocates can take to support the child. This involves being able to assist the child in seeking legal advice and representation when necessary. This is perhaps the ultimate test in whether or not an advocate is truly independent from the organisation being challenged. The Scottish Executive has described the ideal advocacy provision as having *'independence of mind, independence of place and independence of funding, so they can stand beside someone in a loyal and persistent manner'*.⁴²

The law requires that independent advocates providing assistance to children wishing to make a representation (including a complaint) about social care services must not: be the subject of that representation; manage anyone who is the subject of the representation; manage, or control resources of, any service for which a representation is being made; and have any present or future role in considering this representation from the child.⁴³

Legislation requires that independent advocates for children making complaints about health services should, so far as practicable, be independent of any person who is: the subject of the complaint; or involved in investigating or adjudicating on such a complaint.⁴⁴

Independent mental health advocates are required by legislation to be able to act independently of any person who is professionally concerned with the patient's medical treatment and any person who requests the advocate to visit or interview the patient.⁴⁵ Independent mental capacity advocates must be able to act independently of any person who instructs them.⁴⁶

There are other legal provisions relating to independence that are relevant to children's

advocacy. For example, independent visitors – who visit, advise and befriend looked after children – cannot be: an elected or co-opted member of the local authority looking after the child; a local authority employee carrying out education, health or social services functions; or the spouse or civil partner or other person living in the same household as an elected member or employee of the responsible authority.⁴⁷

Being able to act independently does not guarantee the effectiveness of an independent child protection advocate. This is a demanding, professional role that requires a high degree of skill, knowledge and expertise. Rigorous recruitment followed by training and support is essential.⁴⁸

The independent advocate will need ongoing access to managers, decision-making processes and information about the organisation's policies and procedures. A constructive and mutually respectful relationship between independent advocates and other professionals working with, and on behalf of, children increases the effectiveness of independent advocacy.

With support from an independent advocate, a child may request meetings about them be held at different times, in different venues and take a different form than usual. Children using the pilot service in RBKC communicated their views to their child protection conference through PowerPoint, drawings, Post-it notes as well as writing and speaking. The advocate facilitated this but its impact relied upon other professionals (and parents) in the meeting being adaptable and respectful of how children chose to express themselves. An organisation that invests in independent advocacy must anticipate and welcome these challenges, as they contribute to making services more child-centred.

The independent advocacy service makes a positive difference to children's lives

All services and interventions must scrupulously assess the extent to which children's lives and well-being are improved as a consequence of that service or intervention.

The Welsh Assembly Government gives the goal of independent advocacy as: *'to get something stopped, started or changed'*.⁴⁹ Independent advocacy is purposeful and usually short-term, though children can request assistance from the service at a later date.

A key early task for independent child protection advocates is to ask children what they want to achieve. The child's reason for instructing an independent child protection advocate could be measurable by the child and others – to regain contact with a family member, to stop a placement move or to secure funding for counselling for example. Conversely, only the child will be able to measure whether some goals have been achieved – to not feel alone in a meeting; to understand the purpose of a child protection plan; or to have help in considering whether to make a complaint about their carer for instance. Whatever the child's reasons for instructing an independent child protection advocate, it will be crucial for the service to routinely and systematically record the purpose and outcome of the advocacy intervention – *from the child's perspective*. Once anonymised, this will be key performance data for the advocacy service, the commissioning / funding organisation and other interested parties. The national advocacy standards for England

advise that: *'Where possible, the service promotes and publicises changes that have improved the lives of children and young people and urges decision-makers to make these changes for others'*.⁵⁰

The impact of independent child protection advocacy services should be publicised in annual reports and online to raise awareness of children's concerns and to report on the success (or otherwise) of independent advocates in bringing about change. Local authorities are required by law to keep a record of every independent advocate appointed to assist a child to use the social care representation (including complaints) procedure. As the representation procedure extends to the local authority's child protection functions, there will be occasions when independent child protection advocates are formally appointed.⁵¹ The Children and Families Bill, introduced into Parliament at the beginning of February 2013, gives the Children's Commissioner for England the power to investigate the availability and effectiveness of advocacy services for children.⁵² The Children's Commissioner for Wales has always had the power to review advocacy services for children in Wales, and has conducted two major reviews to date. His latest monitoring report recommends the regulation and inspection of provision in Wales *'to progress [children's] advocacy to a level where we can be confident of its quality and reach'*.⁵³



6. Why provide independent advocacy in child protection?

There are nine principal reasons for offering independent child protection advocacy to children. Independent advocacy:

- a) Empowers children who are going through very difficult times
- b) Safeguards children within child protection procedures and actions
- c) Ensures a fuller picture emerges of the child's life, wishes and concerns and therefore a more credible assessment of their best interests
- d) Increases the child's engagement in child protection processes and outcomes
- e) Provides the child with an additional trusted mechanism for raising concerns
- f) Ensures the child remains everyone's focus
- g) Increases parents' engagement in child protection processes and outcomes
- h) Brings about wider changes in policy and practice
- i) Helps local authorities demonstrate compliance with domestic and international law.

Empowering children who are going through very difficult times

Children are often embarrassed, frightened and reluctant to talk to statutory child protection agencies. They cannot be sure they will be believed or taken seriously. Talking to professionals can leave them feeling disloyal to their families⁵⁴ and fearful that they will be "taken away". Independent child protection advocacy is not a substitute for good social work practice and neither does it negate the crucial role social workers and others have in speaking up for children and protecting their rights. Recent research for the Children's Commissioner for England gives examples of children with experience of the child protection system having extremely positive relationships with social workers based on trust and honesty.⁵⁵

But no matter how skilled and committed child protection professionals are, children will always need someone who: is there just for them;

can validate, amplify and focus exclusively on their wishes and feelings; and can explain the jargon⁵⁶, the reasons for social workers being involved in their lives and how the child protection system works.⁵⁷ Social workers make decisions about the child's welfare that may or may not correspond with the child's wishes; they obtain information and discuss the child's private life with others; and they make judgments and write reports about the child and their family. Advocates do none of these things. A disabled young person explains it like this:

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...⁵⁸

A child in Swindon reported that the most helpful thing about having a child protection advocate was:

That she let me talk and then gave me her views.⁵⁹

An experienced social worker that became a child protection advocate observed the differences in the two roles:

There is a tremendous difference between working as a social worker and as an advocate. My focus has changed completely. Then [as a social worker] I had to have a general picture, whereas now [as an advocate] I am looking purely at the perspective of young people.⁶⁰

In an advocacy scoping study for the Scottish Government, Advocacy Western Isles highlighted the empowering nature of advocacy:

We have found young people have a feeling of being valued and being important ... The young people also have a sense of confidence and control with one commenting 'Advocacy makes you feel brave'.⁶¹

Safeguarding children within child protection procedures and actions

One hundred percent of children who completed evaluation forms after receiving independent advocacy in Swindon reported that their voice had been heard and they felt supported in their child protection conferences and reviews.⁶²

Without independent child protection advocacy, children can be left silenced, their wishes and feelings not properly understood and some, perhaps many, will continue to suffer rights violations. The actions of child protection professionals may actually cause harm to children, as this 12 year-old girl explains:

*I mean people like that are supposed to listen, they're not supposed to sit there and tell you what you're thinking or what you're feeling, because that's what she was doing just sitting there and telling me what's right.*⁶³

Not being heard or taken seriously is no small matter for any human being. It can be especially injurious for children, causing them to feel unworthy, unwanted, helpless and angry. Many children in contact with child protection agencies have already been gravely let down by adults they love and trust. Some will have had no experience of their needs and rights being honoured by adults who have power over them. A system that sets out to protect children must, at the very least, show children that they matter. Failing to have children's own perspective and wishes and feelings at the centre of decision-making risks compounding their suffering, as communicated by this child who attended a weekend consultation event about the child protection system:

*People think about what's best for the child physically, but not emotionally – children lose contact with their parents. People are not honest and children and young people are not given true reasons about why they've been taken away. In the end this hurts them more.*⁶⁴

Ensuring a fuller picture emerges of the child's life, wishes and concerns and therefore a more credible assessment of their best interests

The independent child protection advocacy service in the RBKC gave social workers and conference chairs information about the child that would otherwise have remained invisible. The evaluation report explains that children's '*own words could convey their strength of feeling about particular issues, and also present a more holistic view of their situation, or priorities, from their point of view*'.⁶⁵ There was case file evidence that the child's wishes and feelings were taken into account in 36 of 37 child protection conferences. Conversely, an analysis of 10 case files where an independent advocate was not involved (before and after the pilot was introduced) revealed limited evidence of children's views being taken into account.

A similar pilot project operated in West Devon, England, in 1993. Ninety percent of care managers reported that this had enhanced the child protection process. One care manager explained it had '*enabled decisions to be made with full knowledge of the child's wishes*'.⁶⁶

It is often said that parents are experts on their own children. The corollary of this must be that children are the experts on their own parents.⁶⁷ They are certainly the experts on their own lives and have information and insights about their family life that are fundamental to decisions about their protection.⁶⁸ Importantly, children can correct misunderstandings and inaccuracies in reports and assessments and therefore prevent poor decision-making (though this requires social workers making their reports accessible and available to children in plenty of time).⁶⁹ In the RBKC pilot, social workers said that children were more likely to share their wishes and feelings, and to be less guarded, with someone independent. On occasion, children appeared to give different accounts of their views to independent advocates and social workers. A conference chair noted that children's attendance at meetings allowed for these apparently conflicting views to be clarified.⁷⁰

Ofsted's thematic inspection of the effectiveness of services in protecting disabled children and young people found '*wide variation*' in the extent to which the child's wishes and feelings were elicited, recorded and taken account of. It found limited use of advocacy services despite identifying cases where this would have been useful. When disabled children and young people were listened to, this '*led to services and support [being] better tailored to meet their needs*'.⁷¹

Increasing the child's engagement in child protection processes and outcomes

Engaging children in assessing their own safety and well-being, and encouraging them to be active participants in planning their protection, increases their investment in decisions made and actions taken. Crucially, working in partnership with children also dignifies their own attempts to protect themselves.⁷² Researchers from the University of East Anglia interviewed 26 children who were subject to a child protection plan and found they had developed a variety of strategies to deal with their situation.⁷³

NCB's evaluation of the advocacy service operating in the RBKC found that children were satisfied with child protection conference decisions when they had received feedback, could see evidence of their views being taken seriously and changes had since occurred. Even when children '*had not got exactly what they asked for*', they appreciated decisions being made that partly reflected their expressed views.⁷⁴

An evaluation of a national independent advocacy service found that young people can develop many new skills and strategies as a result of receiving advocacy support, from becoming more confident and assertive to being able to document and present their views, to having better control over their anger and frustration in meetings with professionals.⁷⁵

In two randomised controlled trials it was shown that children involved in managing their asthma complied more with treatment, had better health and took less time off from school.⁷⁶ A qualitative study of children and young people with cancer

showed that active engagement in childhood and adolescence helped individuals make better health decisions in adulthood.⁷⁷ Furthermore, children and young people told England's Children's Rights Director in 2012 that the best way of preventing them running away would be for staff to listen to children and communicate with them.⁷⁸ A qualitative study was undertaken in the RBKC in 2009 to establish the views and experiences of social workers and other professionals of children's participation in child protection conferences. Children were rarely engaged in the process though this was seen to be critical in implementing the child protection plan:

*...a child that is putting themselves at risk needs to be there to be working with the plan if you're going to have a positive outcome.*⁷⁹

Providing the child with an additional trusted mechanism for raising concerns

Children receiving independent advocacy assistance in the RBKC raised a number of concerns they had previously not shared with another professional. Advocacy also ensured the significance of the child's views was understood. For example, a child's request for contact with her family over Christmas was put forward in a child protection conference. The social worker reflected:

*You forget that kids at school are probably talking about it, and for me it's more clinical about how I'm going to sort out the taxi rather than the excitement and anticipation the child's having ... the chair put that as a big decision we had to immediately sort out. I remember it focused all of us ...*⁸⁰

The legacy of abuse in residential settings has constructed a role for advocates as being the ultimate safeguard. The Children's Commissioner for Wales sees advocacy as evidence of corporate parents putting in place '*checks and balances*' to ensure the protection of children they are responsible for.⁸¹ In a review of safeguarding in secure settings, independent advocates were frequently mentioned by young people as an

important source of support – alongside chaplains.⁸² An estimated 60 percent of child protection disclosures to independent advocates in one national charity come from children who are subject to a child protection plan and do not feel safe.⁸³ Clearly, children who have positive experiences of working with an independent advocate are likely to feel they have an ally and a place to turn to should things not work out for them in the future. A child who used a child protection advocacy service in Gwent put it this way:

*[Advocates] are there to help you whenever you need them. You can rely on them.*⁸⁴

A child who had been supported by an independent child protection advocate in Swindon explained:

*I could talk to my advocate about any problems and my concerns about things.*⁸⁵

Ensuring the child remains everyone's focus

The evaluation of the independent child protection advocacy service in the RBKC revealed a particularly interesting outcome: that consideration of the child's views in the child protection conference gave parents and professionals a shared point of reference. Having a child physically present, and giving serious consideration to their wishes and feelings, is a powerful mechanism for focusing professionals and parents on the child's needs and rights. An absent child is too often an ignored child.

The UK Government's response to the Munro Review of Child Protection noted that children and young people say *'that too often their voices and/or experiences go unnoticed'* and promised that *'children and young people's wishes, feelings and experiences [would be] placed at the centre'* of a reformed system.⁸⁶

Research for the Department for Education reported that 75 percent of 21 overview reports of serious case reviews concerning the death or serious abuse/injury of a young child (aged between 5 and 10 years) refer to the child's voice not being heard or taken account of.⁸⁷ An

analysis of serious case reviews between 2005 and 2007 noted *'The theme of children not being seen or heard is a feature of most studies of serious case reviews'* and concluded, *'The missing child was even more prominent in the current set of reviews than in our previous study...'*⁸⁸

The failure of statutory child protection agencies to seek the child's perspective was highlighted consistently in Ofsted's analyses of serious case review reports. Its 2008 report described the lack of consideration given to the child's views and experiences as *'possibly the single most significant practice failing'*⁸⁹; in 2009 it underlined *'the importance of listening and directly working with children to understand their perceptions of their experiences'*⁹⁰; then in 2010 it highlighted knowledge gaps in the child's views.⁹¹ This constant failing led the organisation to publish a dedicated report in 2011 concerning the views of the child and lessons learned.⁹²

Increasing parents' engagement in child protection processes and outcomes

The advocate in the RBKC pilot provided skilful help so children could communicate difficult messages about their parents in a sensitive way. One conference chair observed that she had never known a parent to respond negatively to views expressed by their child in a conference.⁹³ Where positive information from children about their family life was shared in the conference, the independent advocate believed that parents valued their strengths and achievements being recognised by professionals.⁹⁴ That decision-making processes became *'more transparent, more interactive, more positive and less formal'* was seen to benefit parents as well as children.⁹⁵ Research into advocacy for parents in child protection procedures has confirmed that it facilitates parental engagement, for example by helping parents to be calmer and more receptive in meetings and to be able to communicate in a positive way.⁹⁶

A child protection advocacy project was established in Wiltshire in 2002. An evaluation of the project after two years reported that *'Often parents don't recognise the effect of their behaviour on children'* and children's involvement could be both *'powerful and*

poignant'.⁹⁷ A father participating in the RBKC pilot considered the impact of his daughter communicating her views in a child protection conference: *'[Things] probably hit home more to me, with her saying it'*.⁹⁸

Bringing about wider changes in policy and practice

Trends and themes arising from individual casework by independent child protection advocacy services give vital information to statutory child protection agencies about areas for improvement. In addition, these services often have capacity to support children and young people to engage in wider development work.

In the 1990s, a children's advisory group for an independent child protection advocacy service in Gwent produced an information pack for children on social services and child protection and revised the standard letter sent from the local authority inviting children to attend their child protection conference. The group carried out makeovers on the rooms used by social services for conferences, to make them less formal and intimidating.⁹⁹ The Munro Review of Child Protection also refers to children's dislike of waiting in boring rooms. The Young People's Panel working with Worcestershire Safeguarding Children Board was given a budget to choose and purchase toys that could be used by children waiting to attend, or return to, their child protection conference.¹⁰⁰ The YAB for the RBKC pilot took part in mock child protection conferences and subsequently advised changes to the format of the meeting as well as the physical surroundings.

Local authorities demonstrating compliance with domestic and international law and being held to account

In March 2005, a legal duty came into force requiring social workers in England and Wales to ascertain and give due consideration to the child's wishes and feelings when undertaking child protection enquiries and children in need assessments.¹⁰¹ This sits alongside the child's right to be heard and taken seriously protected by the Human Rights Act¹⁰², the CRC¹⁰³, the

UN Convention on the Rights of Persons with Disabilities¹⁰⁴ and the Lisbon Treaty.¹⁰⁵

Before the implementation of the RBKC pilot, just 13 percent of children participated in their child protection conference;¹⁰⁶ of those, 3 percent attended the conference. During the pilot, 51 percent of children participated and 10 percent attended directly.

Statistics are not collected nationally on children's participation in child protection conferences but they are in relation to looked after children's statutory reviews. These show that 45 percent of children in England aged four and over physically attended their review and spoke for themselves in 2010/11; a further 17 percent attended and had an advocate speak for them; and only 3 percent of children neither attended nor had their views conveyed to the meeting.¹⁰⁷ Independent advocacy has been part of the landscape for looked after children for 25 years, so it is unsurprising that the rate of participation in review meetings is comparatively much higher.

A local authority that is not complying with domestic and international law is exposing itself to legal challenge.

The UK Government has indicated it will consider early ratification of the international communications procedure for the CRC, adopted by the UN in December 2011.¹⁰⁸ This procedure offers children a vital means of challenging the state's failure to uphold their rights in the Convention, in addition to existing remedies. However, this new strand of rights protection will only become a reality if children have practical advice and assistance at a local level. Article 17 of the Optional Protocol requires ratifying states to actively publicise the child's right to use the communications procedure as well as the decisions and recommendations of the Committee on the Rights of the Child. Dissemination needs to happen close to the child: independent child protection advocacy services would be ideally placed to assist with this.

7. Commissioning checklist

Involving children and young people from the start

1. Whether your organisation is reviewing an existing contract, or considering commissioning independent child protection advocacy for the first time, seek the views and expertise of children and young people with relevant experience. Ask their advice on what would most help children be heard and taken seriously within child protection processes and how they would judge the effectiveness of an independent child protection advocacy service. Within local authorities, it will be necessary to involve the Director of Children's Services and Lead Member in these discussions given their strategic role in implementing the child's right to be heard and taken seriously.¹⁰⁹
2. Invite a number of children and young people that participated in the wider discussions to join the professional team that is reviewing or commissioning the independent child protection advocacy service. Make sure they have meaningful roles and their skills and expertise are used fully. Ensure their time and contribution is recognised through, for example, vouchers or payment. Training and support should be offered to children and young people to ensure they can perform their roles well.
3. Be clear with the advocacy provider / prospective provider that you expect children and young people to be offered a wide range of meaningful opportunities to engage in the governance, delivery, monitoring and improvement of the service. Providers should demonstrate in their regular monitoring reports how they have achieved this.

Purpose and reach

1. Consider whether resources could be pooled across different statutory agencies within the local area so that the independent child protection advocacy service can operate within a wider independent advocacy service or organisation – for example, in a service or organisation that offers assistance to all children in need in the local area.
- Increased capacity to support children to engage in development work with statutory services (i.e. moving beyond individual casework to change general culture and practices).

Key benefits of locating child protection advocacy within a wider independent advocacy service or organisation

- Vulnerable children can seek advocacy support for a variety of concerns and issues: the service is genuinely child-led
- Potential for financial savings (by pooling resources across services and sectors)
- Potential for greater mix of skills and expertise within the advocacy service

Key benefits of a stand-alone independent child protection advocacy service

- Purpose and scope of the service is clear to those entitled to use it, and to child protection professionals
- Children in especially vulnerable (designated) situations are ensured support
- Can attract staff with relevant experience and expertise
- Clearly defined focus for wider influencing work.

2. Do you want independent child protection advocacy to only ensure the child's wishes and feelings are heard and understood in the child protection conference; or do you want the service to be more widely available to assist children with any concerns they have relating to their care and protection? Do you want independent child protection advocates to operate a visiting service to children in institutional settings, given the recognised safeguarding risks (see page 19)? Is your goal to meet or to exceed legal requirements?
3. Irrespective of whether the service is part of wider independent advocacy provision, ask the advocacy provider / prospective provider to demonstrate how the differing needs of children will be met within the service, including how they will ensure an equitable service for disabled children and for children from Black and minority ethnic communities. How will the service offer choice and diversity of advocates?¹¹⁰

Measuring impact

1. It is vital that independent child protection advocacy services monitor their impact on children's lives, and the responsiveness of organisations to children's concerns and issues. Ask the advocacy provider / prospective provider to demonstrate how it will facilitate the routine collection of information from children and young people before and after they have used independent child protection advocacy. The key question will be: *what has changed for the child as a consequence of using the independent child protection advocacy service?* Simply requiring independent child protection advocacy services to collect take-up statistics will not provide information about why children made use of the service and the results.
2. Specify how often you want to receive monitoring reports from the independent child protection advocacy service and how you will ensure lessons learned will be disseminated and discussed among senior managers and child protection teams. It would be good practice for you to schedule regular review meetings allowing dialogue between key managers within your organisation, children and young people who have used the independent child protection advocacy service and the service itself.
3. How will you support the independent child protection advocacy service to measure any changes it has helped to bring about in your organisation's policies and procedures; and how will you encourage it to identify the need for any further changes in policies and procedures in light of the concerns and issues raised by children and young people?
4. Will you make provision in the budget for independent evaluation, which can report before the contract period expires? The evaluation should focus on the service impact overall, which includes how your organisation has responded to children's concerns and issues. Whilst not wishing to interfere with the evaluation process, it will be necessary for you to specify that children and young people's views and experiences must be at the heart of judging the success or otherwise of the service and your organisation's responsiveness to it.

Accessibility

1. How will you ensure that children and young people know about and can contact the independent child protection advocacy service in a variety of ways – e.g. telephone, textphone, online? What opening hours will you expect the service to have, bearing in mind that most children and young people are in school or college during office hours. A genuinely child-led service must be available when children need it the most.
 2. Check that children are able to make decisions about where their independent advocate meets them, and that adequate arrangements have been made for children living away from their home local authority?¹¹¹ Consider what you want to happen when a child in custody, immigration detention or attending a residential school for example is the subject of a Section 47 enquiry.¹¹² Will they have a choice of which independent advocacy service to use – the one contracted to provide independent advocacy specifically in that institution; the one delivering independent advocacy in the local authority where the institution is located; or the one delivering independent advocacy in the child's home local authority?
 3. Who in your organisation monitors how well complaints officers and IROs are discharging their legal duties to inform children of their right to independent advocacy, and to assist them in accessing independent advocates?¹¹³ Make sure this person also has a strategic role in relation to the independent child protection advocacy service.
 4. Will the service offer “non-instructed advocacy” which can be necessary for very young children and some disabled children and young people? This is where children are unable to communicate instructions and the independent advocate, after getting to know the child and their situation, acts on what they believe the child would instruct were they in a position to do so. There is a legitimate debate about whether this is true advocacy or more akin to being a champion for the child's best interests. Nevertheless, the national advocacy standards suggest this as a form of independent advocacy¹¹⁴ and The Children's Society, which has a long track record of promoting and protecting the rights of disabled children, seeks to incorporate non-instructed advocacy in all of its independent advocacy services.¹¹⁵
 5. An “opt-out” independent child protection advocacy service is preferable to a reactive service. Children (and their parents) are notified of the service and its importance in ensuring children and young people are listened to and respected within child protection processes. The independence of the service is emphasised, as well as its loyalty to the child's wishes and feelings. Children can decide to opt out if they wish.
- Independent advocacy must be seen as an integral part of the child protection process. The RBKC pilot service initially sought parental permission before any child was offered the support of an independent advocate. The service then moved to an opt out arrangement and professionals told the evaluators that this made independent advocacy much more routine and normal.¹¹⁶ In the final quarter, take up of independent advocacy increased from an average of 46 percent to 59 percent of children and young people. A similar pilot advocacy project in West Devon in the 1990s sought consent from parents and children in an initial meeting with advocates, and this was reported to work well.¹¹⁷
6. You will need to be aware of your data protection and Human Rights Act obligations and ensure that only very limited information is passed to the independent child protection advocacy service about the child's private life and circumstances. However, it will be important to alert the service when a family member is known to have been violent to other professionals.

Children accessing independent child protection advocacy will often be living at home with their parents. Those under the age of 16 who are considered to be “Gillick competent” can consent themselves to receive advice, information and support. Gillick competence refers to the child’s understanding of the matter under consideration and the possible implications of their choices. The term derives from an unsuccessful legal challenge brought by a mother, Victoria Gillick, who did not want her daughters to be able to access contraceptive advice without her consent.¹¹⁸ Professionals often use the “Fraser guidelines” to determine whether a child is Gillick competent. Lord Fraser

was one of the judges who considered the case when it reached the House of Lords (since replaced by the Supreme Court) and his detailed guidance is included in the judgment.

Children aged 16 and over are assumed in law to be competent to seek and give full consent to advice and information.¹¹⁹ However, even if the young person has approached the service, and still lives at home, it is good practice to have an initial discussion with parents, not least because information about the role and importance of independence advocacy could alert them to their own support needs.

Relationship with statutory services and functions

1. Consider which services in your organisation should be informed about the independent child protection advocacy service; and who will undertake this promotion. How will new staff be informed of the service during their induction and subsequent training?
2. Establish mechanisms to ensure the Local Safeguarding Children Board (LSCB) is routinely briefed about the role and effectiveness of independent child protection advocacy, and proactively engaged in reviewing the extent to which children’s wishes and feelings are informing individual planning and decision-making and wider service improvement. An independent child protection advocacy service was contracted in Wiltshire following an LCSB multi-agency audit that found that children were not sufficiently involved in the child protection process. The independent advocacy service subsequently attended the LSCB’s annual conference and explained how *‘individual children’s lives had been transformed as a result of this activity’*.¹²⁰
3. What safeguarding arrangements do you require of the independent child protection advocacy service and how flexible can you be in negotiating a confidentiality policy that both protects children and does not replicate their experiences (and fears) of statutory agencies? National advocacy standards require independent advocates to breach a request from the child not to share information if action is seen to be necessary to prevent significant harm.¹²¹ Yet there have been services in the past that have operated a higher threshold in order to encourage children to seek assistance. For example, the West Devon pilot had a policy of only acting against the child’s wishes in exceptional circumstances (where the situation was life-threatening for the child concerned, or other children). This was radically different from the policies of the local authority and the NSPCC (which chaired all child protection conferences) but was seen to be essential *‘to invest trust in the young people, and to allow them to make decisions concerning any disclosures they might wish to make’*. Young people invariably referred themselves to

social services or the NSPCC once they had obtained information and assistance from the independent child protection advocacy service.¹²²

4. National advocacy standards require that advocacy providers produce a statement of their confidentiality policy in child-friendly language.¹²³ This should be highlighted in all service marketing and communications. The statement should specify the various measures taken by the service to uphold the child's right to privacy, including not discussing a child's circumstances with other professionals without explicit permission from the child. Examples should be given

of the limited circumstances when a child's request for confidentiality will be overridden. Signposting to other services that may offer the child greater confidentiality, for example ChildLine, will also be necessary.

5. If you want the advocacy service to undertake monthly or even weekly or daily visits to children in residential care or custody, is this simply (and importantly) to raise awareness of the service or does it have a wider safeguarding function, for example to check that children know how to make a complaint and understand their legal rights in that particular setting?

Length and nature of contracts

1. How will you ensure contracts are of sufficient length to facilitate an effective service but give scope for review and development over time? Short-term contracts can destabilise services¹²⁴ and cause anxiety and uncertainty among children and young people. Contracts should be a minimum of three years, with in-built reviews.
2. A detailed contract or service level agreement indicates your organisation has given good consideration to the aims, operation and desired impact of the independent child

protection advocacy service. It should be informed by the views of children and young people with relevant experience and expertise – see above. Yet too much prescription can hinder the development of a responsive service. Commissioners will want to guard against encouraging a tick box approach to these innovative, child-led services. The uppermost question for every clause in a written agreement should be: *what do children and young people gain from this being specified?*

Conflicts of interest

1. It will be necessary for commissioners of independent child protection advocacy services to specify explicitly in written agreements the kinds of activities that are within scope, including supporting children to seek legal advice and representation. The written agreement should include a statement that your organisation expects to be challenged by the independent child protection advocacy service and that contractors will not be penalised for robust advocacy.

2. National standards for the provision of children's advocacy services require that '*advocates are trained to act, and to be seen to act, independently*' at all times.¹²⁵ It will be good practice for the independent advocacy service to have a published statement in child-friendly language that sets out the meaning of independence and gives a code of conduct for independent child protection advocates. This should be routinely disseminated to children by the service.

Branding and awareness-raising

1. How will you ensure your offices and other public buildings display information about the independent child protection advocacy service; and that the purpose and value of independent child protection advocacy is explained in each formal meeting with children (and their parents), at the point of every new contact with social workers and at regular intervals thereafter.
2. During the commissioning process (and all subsequent reviews), it will be necessary to set out clear expectations about how the independent child protection advocacy service's role, function and value will be disseminated to children, parents, carers and professionals. Given that face-to-face meetings with children, carers and professionals are often more successful than online or printed promotional materials, make sure you allocate time for this in the written agreement and budget. Your organisation's own responsibilities in promoting the service will also need to be considered. Local authorities, for example, are required by law to take reasonable steps to publish information about the services they provide to children in need (including those subject to child protection processes).¹²⁶ More specifically, they are required to publicise their arrangements for independent advocacy services for children who are making, or intending to make, a representation about social care services.¹²⁷

Ensuring a quality service

1. The recruitment of skilled and experienced advocates is vital. Legislation governing independent mental health advocates and independent mental capacity advocates requires the recruitment of people of good character and integrity.¹²⁸ National standards for children's advocacy services set out the minimum training necessary for independent advocates to do their jobs to a high standard.¹²⁹
2. Children consistently say they want and value advocates who are nice, friendly, caring and able to communicate well and get along with young people. Children and young people are best placed to judge the presence or absence of these qualities and must always be involved in the recruitment and selection of independent child protection advocates. The commissioning process should identify children and young people's role in recruitment and selection, as well as how they may contribute to performance review and staff development on an ongoing basis.
3. Independent advocacy services get things wrong like other services. The commissioning (and reviewing) process should set clear expectations that children's concerns and complaints about independent child protection advocacy will be dealt with quickly and fairly (including through independent review and investigation). The independent child protection advocacy service's own complaints procedure should be made accessible and easily available to children. The service should be required to keep a record of how concerns and complaints were resolved, whether this was to the satisfaction of the child concerned and what, if any, changes the advocacy service has made in its policies and procedures as a result of the concern or complaint.

8. Summary

This guidance considered the child protection origins of independent advocacy for children in England and Wales. Three overarching features of an effective service were discussed, followed by nine compelling reasons for providing independent child protection advocacy. Children's own accounts of what independent advocates do, and why they are so important, featured throughout the document. A commissioning checklist was provided for those embarking on establishing a new service or reviewing current provision.

Fundamentally, independent child protection advocacy is about respecting children, upholding their right to be heard and taken seriously and giving them the information and tools to bring about the changes they want

in their lives. Independent child protection advocacy makes children feel empowered, it creates space for them to work constructively with professionals to assess their needs and plan their future, and it gives them a fighting chance of being understood. But helping children to grow stronger and more skilful in communicating their wishes and feelings is only part of the story. Independent child protection advocacy stands or falls on the changes professionals are ready to make, as the child who was able to have contact with her family during the Christmas holiday testifies (see page 12):

*It really changed. Really well, in a good way, yeah.*¹³⁰



Acknowledgements

Carolyn Willow wrote this guidance. Carolyn started her career as a child protection social worker and was a children's rights officer and Chair of Children's Rights Officers and Advocates in the 1990s. She ran the Children's Rights Alliance for England between 2000 and 2012, during which she lobbied successfully for a legal duty on social workers to ascertain and give due consideration to the child's wishes and feelings when undertaking child protection enquiries and children in need assessments.

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The generosity of all those who gave their time and expertise shows the importance of independent child protection advocacy, and what is at stake in getting things right. Any errors or omissions are the responsibility of the author.



ANNEX A

Table 1: Legislative framework for provision of children’s independent advocacy, England and Wales

Category of children	Legislation	Public body
Children in receipt of health services who wish to make a complaint	Advocacy first given statutory basis through National Health Service Act 2006; ¹³¹ superseded by provisions in the Health and Social Care Act 2012 ¹³² (amended Local Government and Public Involvement in Health Act 2007) ¹³³	Secretary of State for Health has duty to make arrangements for advocacy provision; this duty transfers to local authorities in April 2013
Children in receipt of social care services who wish to make a representation (including a complaint)	Adoption and Children Act 2002; ¹³⁴ (amended Children Act 1989) ¹³⁵ and The Advocacy Services and Representations Procedure (Children) (Amendment) Regulations 2004	Local authority has duty to make arrangements for advocacy provision
Looked after children whose care and progress is being reviewed	Adoption and Children Act 2002; ¹³⁶ (amended Children Act) ¹³⁷ and The Care Planning, Placement and Case Review (England) Regulations 2010 ¹³⁸	The IRO must ensure looked after children have been informed of their right to bring proceedings under the Children Act 1989 (e.g. in relation to placements, contact with parents and siblings or discharge of a care order) and their right to make a representation (including a complaint). When a looked after child wishes to bring proceedings under the Children Act 1989, the IRO must support the child to obtain legal advice, or identify another appropriate adult to support the child
Children and young people in Wales making (or considering whether to make) appeals to the Special Educational Needs Tribunal for Wales, and those participating in dispute resolution	Education (Wales) Measure 2009 ¹³⁹ (amended Education Act 1996) ¹⁴⁰	Local authorities in Wales
Children and young people in Wales who are subject to any part of the Mental Health Act, including voluntary inpatients	Mental Health (Wales) Measure 2010 ¹⁴¹ (amended Mental Health Act 1983) ¹⁴² and The Mental Health (Independent Mental Health Advocates) (Wales) Regulations 2011	Health boards and local authorities in Wales
Children and young people in England who are detained under the Mental Health Act or are being considered for Electro Convulsive Therapy	Mental Health Act 2007 ¹⁴³ (amended Mental Health Act 1983) ¹⁴⁴	Secretary of State for Health has duty to make arrangements for provision of independent mental health advocates; this duty transfers to local authorities in April 2013
16 and 17 year-olds who lack mental capacity	Mental Capacity Act 2005; ¹⁴⁵ and The Mental Capacity Act 2005 (Independent Mental Capacity Advocates) (General) Regulations 2006	Secretary of State for Health has duty to make arrangements for provision of independent mental capacity advocates; this duty transfers to local authorities in April 2013

Notes and references

- ¹ Section 73 of the Care Standards Act 2000 (as amended by the Children's Commissioner for Wales Act 2001) empowers the Children's Commissioner for Wales to review and monitor the arrangements made by children's services to deal with complaints or representation for the purpose of ascertaining whether, and to what extent, the arrangements are effective in safeguarding and promoting the rights and welfare of children.
- ² This new duty also extends to adults.
- ³ Health and Social Care Information Centre (2012) Hospital episode statistics: admitted patient care 2011-12. Summary report. Page 7.
- ⁴ Health and Social Care Information Centre (2012) Accident and emergency attendances in England (experimental statistics), 2010-11. Table 6.
- ⁵ Department of Health, Home Office and Department for Education and Employment (1999) Working together to safeguard children. Pages 27, 37, 53, 54, 55, 64 and 79.
- ⁶ Ofsted (2012) Framework for the inspection of local authority arrangements to protect children. Page 7.
- ⁷ Information obtained through analysis of latest child protection inspection reports in the following local authorities: Birmingham, Blackpool, Bromley, Cambridgeshire, Cheshire West and Chester, Doncaster, Herefordshire, North Yorkshire, Redbridge, Rotherham, Salford and Surrey.
- ⁸ More information on the Family Partnership Model can be obtained here: <http://www.cpcs.org.uk/index.php?page=about-family-partnership-model>
- ⁹ HM Government (2010) Working together to safeguard children. A guide to inter-agency working to safeguard and promote the welfare of children; and London Safeguarding Children Board (2010) London child protection procedures.
- ¹⁰ Taken from Willow, C. (2002) Participation in practice. Children and young people as partners in change. The Children's Society. Page 69.
- ¹¹ Taken from Department of Health (2002) National standards for the provision of children's advocacy services. Department of Health. Page 1.
- ¹² The Scottish Independent Advocacy Alliance (2010) Independent advocacy. A guide for commissioners. Page 4.
- ¹³ Pithouse, A. et al (2005) A study of advocacy services for children and young people in Wales. Welsh Assembly Government. Page 7.
- ¹⁴ Moss, C., (2011) Safeguarding looked after children through advocacy. Looked after children's views on advocacy. NSPCC. Page 10.
- ¹⁵ See Department of Health (2002) National standards for the provision of children's advocacy services. Department of Health. Page 1.
- ¹⁶ Department of Health (2002) National standards for the provision of children's advocacy services. Department of Health. Page 10.
- ¹⁷ HM Government (2010) Working together to safeguard children. A guide to inter-agency working to safeguard and promote the welfare of children. The Stationery Office. Page 285.
- ¹⁸ Morgan, R. (2008) Children's views on advocacy. Ofsted. Page 9.
- ¹⁹ Jelacic, H., Gibb, J., La Valle, I with Payne, L. (2012) The voice of the child in child protection conferences. National Children's Bureau. Page 29.
- ²⁰ 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 for England. Page 57.
- ²¹ Section 47 of the Children Act 1989. Harm is defined in Section 31(9) of the Children Act 1989 as ill-treatment or impairment of the child's health or development, including, impairment suffered from seeing or hearing the ill-treatment of another. Health means the child's physical or mental health. Development means the child's physical, intellectual, emotional, social or behavioural development. Ill-treatment includes sexual abuse and forms of ill-treatment which are not physical.
- ²² The Munro Review of Child Protection affirms that 'The United Nations Convention on the Rights of the Child provides a child-centred framework within which services to children are located': Munro, E. (2011) The Munro review of child protection: final report. The Stationery Office. Page 16.
- ²³ Kirkwood, A. (1993) The Leicestershire Inquiry 1992. Leicestershire County Council. Page 304.
- ²⁴ There were prominent organisations championing the rights of looked after children at the time, not least the National Association of Young People in Care (NAYPIC), and an independent representation service for children in secure accommodation was established by Voice a year later. But the appointment of a children's rights officer in Leicestershire was the first example of a statutory agency seeking to strengthen the child's voice and influence within its own operations and decision-making. For history of activism by children and young people in care, see Stein, M. (2011) Care less lives. National care advisory Service; and Willow, C. (1996) Children's rights and participation in residential care. National Children's Bureau. Pages 23-24.
- ²⁵ Corby, B., Doig, A. and Roberts, V. (2001) Public inquiries into abuse of children in residential care. Jessica Kingsley Publishers. Pages 77-78.
- ²⁶ Utting, W. (1997) People like us. The report of the review of the safeguards for children living away from home. The Stationery Office. Page 111.
- ²⁷ Waterhouse, R. (2000) Lost in care. Report of the tribunal of inquiry into the abuse of children in care in the former county council areas of Gwynedd and Clwyd since 1974. Page 809.
- ²⁸ Department of Health (2002) National standards for the provision of children's advocacy services. Department of Health.
- ²⁹ Department for Education and Skills (2004) Providing effective advocacy services for children and young people making a complaint under the Children Act 1989. Page 9.
- ³⁰ This wide interpretation of the law is confirmed in statutory guidance on the role of independent reviewing officers: Department for Children, Schools and Families (2010) 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. Page 15.
- ³¹ Committee on the Rights of the Child (2002) Concluding observations of the Committee on the Rights of the Child: United Kingdom of Great Britain & Northern Ireland. United Nations. Paragraph 58(g).

- ³² Although there is no duty on local authorities or providers to make arrangements for independent advocacy in child custody, Section 6(2) of the Prison Act 1952 requires Independent Monitoring Boards in young offender institutions; see also Part V of The Young Offender Institution Rules 2000. Rule 44 of The Secure Training Centre Rules 1998 provides for the appointment of independent persons by the Secretary of State to receive representations from children.
- ³³ *Mabon v Mabon and Others* [2005] EWCA Civ 634.
- ³⁴ *R. v Barker* [2010] EWCA Crim 4.
- ³⁵ *ZH (Tanzania) v SSHD* [2011] UKSC 4. [34].
- ³⁶ Committee on the Rights of the Child (2009) General comment no. 12. The right of the child to be heard. United Nations. Paragraph 74.
- ³⁷ *SC v United Kingdom* [2004] 40 EHRR 121; *T v United Kingdom* [2000] 30 EHRR 121 and *V v United Kingdom* [2000] 30 EHRR 121.
- ³⁸ Committee on the Rights of the Child (2009) General comment no. 12. The right of the child to be heard. United Nations. Paragraph 21.
- ³⁹ Children and young people consulted by Ofsted's Children's Rights Director in 2012 repeatedly stressed the importance of independent advocates having permission from the child for anything they say or do for the child: Morgan, R. (2012) Young people's views on complaints and advocacy. Ofsted. Page 25.
- ⁴⁰ Morgan, R. (2012) Children's care monitor 2011. Ofsted. Page 26; Morgan, R. (2008) Children's views on advocacy. Ofsted. Page 8.
- ⁴¹ Standard 1 of the national standards for the provision of children's advocacy.
- ⁴² Scottish Executive (2001) Independent advocacy. A guide for commissioners: supplement. Page 2.
- ⁴³ Regulation 3, The Advocacy Services and Representations Procedure (Children) (Amendment) Regulations 2004.
- ⁴⁴ Section 223A(5) of the Local Government and Public Involvement in Health Act 2007, as amended by Section 185 of the Health and Social Care Act 2012.
- ⁴⁵ Regulation 6 of The Mental Health Act 1983 (Independent Mental Health Advocates) (England) Regulations 2008.
- ⁴⁶ Regulation 5(2) of The Mental Capacity Act 2005 (Independent Mental Capacity Advocates) (General) Regulations 2006.
- ⁴⁷ Regulation 47 of The Care Planning, Placement and Case Review (England) Regulations 2010.
- ⁴⁸ Department of Health (2002) National standards for the provision of children's advocacy services. Page 15.
- ⁴⁹ Welsh Assembly Government (2009) A guide to the model for delivering advocacy services for children and young people. Page 3.
- ⁵⁰ Department of Health (2002) National standards for the provision of children's advocacy services. Page 5.
- ⁵¹ Regulation 5, The Advocacy Services and Representations Procedure (Children) (Amendment) Regulations 2004.
- ⁵² Clause 77.
- ⁵³ Children's Commissioner for Wales (2012) Missing voices. A review of independent professional advocacy services for looked after children and young people, care leavers and children in need in Wales. Page 63.
- ⁵⁴ Cossar, J., Brandon, M. and Jordan, P. (2011) Don't make assumptions. Children and young people's views of the child protection system and messages for change. Office of the Children's Commissioner for England. Page 31.
- ⁵⁵ Cossar, J., Brandon, M. and Jordan, P. (2011) Don't make assumptions. Children's and young people's views of the child protection system and messages for change. Office of Children's Commissioner for England. Pages 53-54.
- ⁵⁶ Willow, C. (2002) Participation in practice. Children and young people as partners in change. The Children's Society. Page 71.
- ⁵⁷ House of Commons Education Committee (2012) Children first: the child protection system in England. The Stationery Office. Paragraph 147.
- ⁵⁸ Franklin, A. and Knight, A. (2011) Someone on our side: advocacy for disabled children and young people. The Children's Society. Page 32.
- ⁵⁹ Child's quote relates to advocacy assistance in 2011/12 provided by Voice which runs Swindon's Children's Rights Service under contract with the local authority.
- ⁶⁰ Willow, C. (2002) Participation in practice. Children and young people as partners in change. The Children's Society. Page 79.
- ⁶¹ Elsley, S. (2010) 'Advocacy makes you feel brave': advocacy support for children and young people in Scotland. The Scottish Government. Page 37.
- ⁶² These statistics relate to 2011/12 and were provided by Voice which runs Swindon's Children's Rights Service under contract with the local authority.
- ⁶³ Mudaly, N. and Goddard, C. (2006) The truth is longer than a lie. Children's experiences of abuse and professional interventions. Jessica Kingsley Publishers. Page 104.
- ⁶⁴ Willow, C. (2003) Let them have their childhood again. Children's Rights Alliance for England. Page 18.
- ⁶⁵ Jelacic, H., Gibb, J., La Valle, I with Payne, L. (2012) The voice of the child in child protection conferences. National Children's Bureau. Page 34.
- ⁶⁶ Scutt, N. in Cloke, C. and Davies, M. (1995) Participation and empowerment in child protection. Pitman Publishing. Page 244.
- ⁶⁷ MacLeod, M. in Parton, N. and Wattam, C. (eds.) (1999) Child sexual abuse. Responding to the experiences of children. Wiley. Page 152.
- ⁶⁸ Schofield, G. and Thoburn, J. (1996) Child protection. The voice of the child in decision making. Institute for Public Policy Research.
- ⁶⁹ See Morgan, R. (2012) Children's experiences of child protection procedures. For the Munro Review progress report from interviews by the Office of the Children's Rights Director. Page 8.
- ⁷⁰ Jelacic, H., Gibb, J., La Valle, I with Payne, L. (2012) The voice of the child in child protection conferences. National Children's Bureau. Page 25.
- ⁷¹ Ofsted (2012) Protecting disabled children: thematic inspection. Page 22.
- ⁷² Willow, C. (2010) Children's right to be heard and effective child protection. Save the Children Sweden.
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- ¹¹³ Regulation 4 of The Advocacy Services and Representations Procedure (Children) (Amendment) Regulations 2004 requires local authorities to provide information about advocacy services to children and young people who make a complaint about social care services. It also requires the local authority to offer the child or young person help in obtaining an advocate. Regulation 45(2) of The Care Planning, Placement and Case Review (England) Regulations 2010 requires the IRO to assist a child or young person in seeking legal advice where the child or young person wishes to bring proceedings under the Children Act 1989.
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