

Telling Concerns

Report of the Children's Commissioner for Wales' Review of the operation of Complaints and Representations and Whistleblowing procedures and arrangements for the provision of Children's Advocacy Services

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The cover illustration was produced by James, aged 16, during the consultation with children and young people.

Foreword

Peter Clarke – Children’s Commissioner for Wales

I am pleased to present the report of the first review completed by the Children’s Commissioner for Wales Office. As Children’s Commissioner, I have a responsibility to review how far systems for complaints, whistleblowing and advocacy are effective in safeguarding and promoting the rights and welfare of children in Wales. A major task, but we have to start somewhere however, and for reasons set out in Chapter 1 we have chosen to concentrate first on Social Services.

Children often tell us that they do not experience their lives in a way that is divided by what agency happens to provide which service. Children or young people who feel that their rights have not been respected may well have a series of interlinked concerns that cover Health, Social Services and Education, and we have borne this in mind.

This review gives an overview of the systems and procedures currently in place in the areas of complaints, whistleblowing and advocacy in local authority social services. It is the first stage of a bigger process to review such systems in all services impacting on children’s lives

Our findings have led us to some important conclusions, and some significant recommendations. As is appropriate, this process has been influenced by what the children and young people directly involved have told us, and from liaison with other relevant agencies and individuals.

This piece of work will be followed by reviews of other agencies and organisations, and we will thereby build a thorough and coherent knowledge of complaints, whistleblowing and advocacy in all areas of service that affect children’s lives. Children and young people will be directly involved in this process and will make sure that we make linked recommendations in all areas so that systems are as simple to understand and use as possible *from a young person’s perspective*. This primary aim will inform and guide all our work.

The review was conducted with local authority social services in Wales, and my thanks are due to the twenty two Directors of Social Services, and their personnel, for working so productively, and cooperatively with the review teams.

My thanks are also due to the children and young people who were invited to contribute to the review process. They gave up their leisure time in order to assist by providing insights about the child or young person’s perspective of local authority social services complaints procedures, advocacy arrangements, and whistleblowing policies.

At the outset we expected to be able to identify examples of good practice, and I’m pleased to say this has been the case. We intend to publish a good practice pack in early summer this year.



A handwritten signature in blue ink, which appears to be 'Peter Clarke'. The signature is stylized and written in a cursive-like font.

Peter Clarke
February 2003

Overview and Executive Summary

The Children's Commissioner for Wales' first Review under section 73 of the Care Standards Act 2000 looked at the operation of and arrangements for dealing with complaints, whistleblowing and advocacy in local authority social services in the 22 local authorities in Wales.

Conducted during the period April to November 2002, the review had three elements:

- Initial information gathering was by a series of three detailed **questionnaires** to each local authority Social Services department during the summer of 2002.
- **Interviews** were conducted in October 2002 with relevant personnel within each local authority to clarify any responses to the questionnaire and fill in any gaps in information and ensure accuracy of interpretation.
- During October and November 2002 **workshops** were held with six different groups of children and young people to establish their understanding and views on the issues under review – namely complaints, whistleblowing and advocacy – and ensure that they had a voice in the review process.

This work produced a significant body of information – mainly quantitative, but some qualitative - which was then analysed and collated into the report **Telling Concerns**. The conclusions and recommendations of the review were informed by all three elements of the review process, along with background knowledge gained through the Children's Commissioner's Office's regular contact with key stakeholders and involvement in work on behalf of groups and individual children and young people.

Key Recommendations

There are a total of 65 recommendations arising from the review which are made in response to information reported by local authorities in relation to specific questions. Many of these are key to the effective implementation of policies, procedures and arrangements.

The recommendations are primarily for directors of local authority social services. However, four recommendations are for the consideration of the Welsh Assembly Government, nine recommendations are for the consideration of local authority chief executives and eight recommendations are for the consideration of advocacy providers – in some cases jointly with local authority social services.

The following emerged as being of the greatest strategic significance:

Complaints and Representations

The Children's Commissioner for Wales recommends that:

- A thorough and genuinely participative study is undertaken with children and young people by the Welsh Assembly Government into making local authority complaints procedures more child centred. Any significant work by local authorities in developing complaints procedures in response to the publication *Listening to People*, should be deferred until this study is completed.
Recommendations 3.2 and 3.3
- A one-stop-shop approach to dealing with children's complaints should be adopted by local authorities, in a similar way to the approach outlined below in relation to the development of advocacy.
Recommendation 3.15

- Local authorities should ensure that children and young people who are looked after have access to the complaints procedures – particularly if they are in placements a long way from their home authority. The review found that most local authorities had not considered how a child or young person would make contact during holiday periods, weekends or out of hours in order to raise a complaint.

Recommendations 3.9; 3.10 and 3.20

- All local authorities should appoint a Children’s Complaints Officer in line with the third recommendation of the Waterhouse Report, *Lost in Care*.

Recommendation 3.13

Whistleblowing

The Children’s Commissioner for Wales recommends that:

- Whistleblowing Policies should explicitly state the range of concerns that may be raised, with a more direct link to child protection procedures. Local authorities should ensure that their policies are developed in line with the recommendations of the Waterhouse Report, *Lost in Care*, and the failure to report malpractice should be made a disciplinary offence and included in the disciplinary policies of local authorities.

Recommendations 4.3; 4.4 and 4.8

- Children and young people should be provided with accessible information about the concept of whistleblowing so that they are reassured that those raising concerns on their behalf are protected from victimisation, and that the local authority takes such concerns seriously.

Recommendation 4.11

Advocacy

The Children’s Commissioner for Wales recommends that:

- The Welsh Assembly Government establishes a unit to coordinate the provision of Advocacy services across Wales. A Task and Finish Group should make further detailed recommendations on the terms of reference and remit of the unit.

Recommendations 5.7 and 5.8

- Children and young people who are looked after should be given access to an advocacy service as a priority by the local authority. Extending these services to the Children Act category of Children in Need should be the next stage of development and making them available to all children and young people in Wales should be the ultimate aim.

Recommendation 5.3

- Local authorities should develop their advocacy provision to allow children and young people to use the service to make representation about any corporate issue rather than solely those relating to social services – a one-stop-shop approach. The needs of the child should not be unnaturally divided according to the artificial boundaries of governance or service delivery, and the development of relationships with health organisations must be a priority.

Recommendations 5.20 and 5.21

Chapter 1 INTRODUCTION

Background and Rationale

The appointment of a Children's Commissioner for Wales was the first recommendation of the Waterhouse Report, *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* (2000), which reported on the inquiry into abuse in children's homes in North Wales. Sir Ronald Waterhouse also recommended that the Commissioner's duties should include ensuring that children's rights and welfare were safeguarded through monitoring the operation of children's complaints and local authority social services whistleblowing procedures, and the arrangements for children's advocacy. These recommendations were incorporated into the Care Standards Act 2000, and the Children's Commissioner for Wales Act 2000. The legislation extended the principle of the review and monitoring of these provisions to all regulated services to children and young people in Wales.

The terminology is significant, *review* and *monitor* suggest a different activity to that of *inspect* or *audit*; the activities implied by the word *review* are surveying, reconsidering and reflecting upon how services are provided, alongside and with the service provider. The process therefore involves a retrospective evaluation of service provision. In relation to the services and arrangements that agencies and organisations say that they provide to children and young people, the word *monitor* implies activities such as advising, checking, watching, and supervising. The two sets of activities mesh to provide a national opportunity to promulgate good practice, provide comment upon the current service and procedural arrangements, and present recommendations for change.

The decision to focus initially on local authority social services arises from the following considerations: The first and primary consideration is the statutory role that social services have in safeguarding and promoting the welfare of children in need. Social services not only represent a critical means of intervention into the lives of the most vulnerable children and young people, but also a crucial framework of educational and social opportunities that have a tremendous potential to expand the life chances of children. The statutory duties placed upon social services by the Children Act 1989 and their relatively early introduction of whistleblowing policies means that they will have built a wealth of experience in operating complaints and representations and whistleblowing procedures.

Given this powerful potential to affect children's and young people's lives, the involvement of children and young people in helping to shape these services is crucial. Consequently, during the course of the review, the Commissioner's Office expected to identify examples of best practice likely to be of value to other local authority departments, organisations and agencies

Similarly, social services have a long experience of both providing internally and commissioning the provision of advocacy services for children and young people. However, the term advocacy is commonly used to encompass a wide range of related services. One of the most important purposes of this first Review is to establish what definitions of advocacy are currently in use, and to identify the diverse providers across local authority social services in Wales.

Another consideration was the need for a coherent national picture of advocacy arrangements, complaints and whistleblowing procedures to be made available. While similar exercises have been undertaken in the past, new guidance, new legislation, the emergence of new agencies, and new funding arrangements should all have had a significant impact upon service delivery. Furthermore, previous studies have often been restricted either by region, or by sector. No previous study had attempted to look holistically and independently at how these three service areas are provided in the light of the Waterhouse recommendations.

Methodology

The Communications Team, and the Policy and Service Evaluation Team (PSE Team) of the Children's Commissioner for Wales' Office met in May and June 2002, to plan the involvement of children and young people within the process of the review.

Each director of social services was contacted in the first week of July 2002 and provided with details of the process of the review in order to aid advance planning.

The information was to be collated by means of three questionnaires:

- Review of children's Representations and Complaints arrangements.
- Review of Whistleblowing arrangements.
- Review of children's Advocacy arrangements.

The questionnaire dealing with Complaints and Representations was compiled with direct reference to the Children Act 1989, and accompanying Guidance and Regulations. The questionnaire dealing with whistleblowing was compiled with direct reference to the Public Interest Disclosure Act 1999, and the Waterhouse Report. In order to compile the advocacy questionnaire, a template service level agreement was constructed with reference to national research, advocacy standards, and government guidance. Questions were then compiled using the template as the backdrop.

The questionnaires were circulated during the last week of July 2002, and were distributed in both hard copy and electronic format, on three discs. It was requested that the completed questionnaires were returned by the first week of September 2002. Information about the review was also released and distributed to voluntary organisations and agencies involved in providing advocacy services to children and young people in Wales at the same time.

Every local authority was visited between September 16th and October 5th 2002. A draft agenda for the meetings was circulated during August 2002. The purpose of the meeting was to allow clarification and explanation of responses, and to provide opportunity for feedback from the local authorities about the process thus far. We suggested that where local authorities had indicated that services were commissioned and provided externally, they invite a representative of the service providers to be present at the meetings.

While the PSE Team were visiting the local authority areas, the Communications Team were working with children and young people, learning about their views and knowledge of the three service areas. Detailed information about the involvement of children and young people is provided in Chapter 2, and we have aimed to ensure that their voices are heard in each subsequent chapter.

A period of analysis followed, when the 2,600 responses arising from the three questionnaires completed by the twenty-two local authority social services were collated and interpreted, and the views of children and young people were integrated and compiled into report format. Chapters 3, 4 and 5 follow the format of the questionnaires on a question-by-question basis. Statistical data about the responses is provided along with analysis, comment and recommendations for change and improvement of service provision.

Original questions from the questionnaire are quoted in boxes such as this.

Comments on the Methodology

Comment and feedback was invited from local authorities, and their partner agencies commissioned to provide services, about the process employed in undertaking the review.

A few local authorities commented that the timing of the review (i.e. the completion of the questionnaires during the summer period 18th of July to September 6th) was not helpful due to the numbers of key personnel wishing to take annual leave. Despite efforts to provide advance notice to aid workforce planning, there were clearly still difficulties.

During the summer period we were also contacted by those allocated the work of completing the questionnaires, but without the accompanying letter of explanation. If this methodology is employed in the future, it will be necessary to ensure that staff responsible for participating in the process have access to written guidance provided by this Office.

The electronic format was generally welcomed as it allowed for easy distribution and sharing of information by email. There were some associated minor difficulties; for example, we had not anticipated the need for spaces for comment on questions to which we had expected yes/no answers nor had we realised that, by protecting the forms, we were disabling spell checking. These faults will be corrected in future reviews. The advantages to the Commissioner's Office were great as it allowed export of the responses to a database for collation and analysis and made information available simultaneously in both our North and South Wales offices. This has enabled this report to be compiled more quickly.

Most local authorities reported that they had found the process of completing the questionnaires a helpful experience. It enabled them to reflect upon their current service arrangements and practice. Several local authorities commented that they had realised that there was a need to revise policy and procedure, particularly in respect of the involvement of children and young people in evaluating the services provided for them.

It was interesting to note that only one local authority had sought to involve directly a partner organisation commissioned to provide services, in the completion of the questionnaire. The general pattern seemed to be that when partner organisations were invited to attend the meetings, they had first sight of the completed questionnaire at the meeting. Whilst this was clearly a review of local authority social services arrangements, it seemed odd that partner providers were not more directly involved in the process, particularly as the organisations involved were fully aware that the review was taking place.

Practice Guides

It was anticipated that we would be able to identify examples of good practice and that expectation has been fulfilled. Consequently it has been decided to promulgate those examples by producing practice guides. Work in compiling the guides has already begun and they will be completed and available for circulation by early summer 2003.

Next Steps

As our Annual Report 2001-2002 reveals, (page 12, table *What were the issues?*), education, and special educational needs, combine to be the issues about which we are most frequently contacted for advice, support, and guidance. Commonly, we are asked for information about how to make, or progress, a complaint concerning a child or young person's educational provision. As far as we are aware, most local education authorities have adopted local authority complaints procedures. This is a general procedure, constructed for application to a wide variety of situations and circumstances, and is not sector specific. Perhaps most importantly, no child friendly version would seem to be available - at least, as far as we are aware.

We are also not familiar with the arrangements that local education authorities have made for assisting and supporting children and young people to make a representation or complaint, for example, whether advocacy services are provided. Therefore, it would seem a priority to turn our attention next to the arrangements that local education authorities have made for enabling children and young people, and

their families to make representations or complaints, their whistleblowing policies and procedures, and how children and young people are supported to make a representation or complaint.

It is our intention to start work in this area by early summer 2003, in consultation with local education authorities.

What Children and Young People say about Complaints, Whistleblowing and Advocacy

Providing the children's voice within the Review was crucial and the Children's Commissioner's Communications team worked with children and young people with the aim of gathering factual information around their knowledge of the arrangements for Complaints, Whistleblowing, and Advocacy. While children may superficially display a good factual knowledge base, in that they can recall information they have been given, we were keen to examine this further by exploring their deeper level of understanding and their experiences of being on the receiving end of those arrangements. We also wanted to open up discussions around the three aspects so that they had the opportunity to voice their feelings and opinions about the arrangements.

Professionals are more inclined to compartmentalise information and remain focused within certain terms of reference. Many children and young people have yet to develop these skills, and do not experience their lives in terms of which agency is responsible for each service. This meant that the activities planned concentrated on the three areas under review, but with an awareness that sometimes the sessions would include qualitative information outside those areas. Each and every comment has been valued and as many as possible have been included either directly in the report or in informing summaries and recommendations.

Fourteen organisations working directly with children and young people who are, or have been, looked after in different local authority areas were contacted. We worked with groups in six local authority areas involving a total of twenty four children and young people. Their ages ranged from eleven to twenty-five with the majority being between the ages of fifteen and nineteen.

Basic information only was gathered about the children and young people. This included the local authority area in which they lived, their age and gender. Many participants wanted to be anonymous and asked for reassurance that the information gathered would not be linked directly to any individual. We undertook to respect their wishes.

Sessions were divided into the three distinct themes. In each one a variety of methods was used to gauge the children and young people's knowledge, understanding, thoughts and feelings around issues such as sources of information, accessibility of services or procedures, their level of participation in their design or delivery and their experience of their effectiveness. Detailed knowledge about Whistleblowing was not expected, therefore the aim was to explore their level of knowledge, raise their awareness and invite comments on whether they would like to know more.

Methods

Quizzes, role plays, peer interviewing, closed and open questioning to prompt discussion were used. Sessions aimed to be as interactive as possible and lasted between two and three hours including necessary breaks. Evaluations were gathered from each individual following each session.

The quotes in speech bubbles throughout this report are from the children and young people. The summaries at the end of chapters 3, 4 and 5 are based not only on the formal components of the Review, but also on information children and young people gave us and comments made.

We are extremely grateful to each and every child and young person who gave their time, energy and commitment to this part of the review process. The contribution made by the many professionals who helped us in arranging the meetings and supporting the children and young people in attending is also warmly acknowledged.

Becoming Child Centered

Issues emerging from the children and young people's responses

Inevitably the more qualitative approach used in this element of the review gave us an insight into children and young people's experience and perceptions. While this was not the principal objective of involving them in the Review, the following areas for further work by this Office and other agencies and organisations emerged.

A qualitative research study needs to be undertaken with children and young people in order to obtain a clearer understanding of their experiences of using advocacy services and complaints policies and procedures. This should be conducted across the whole of Wales including children and young people with a variety of needs, different linguistic backgrounds, and in different situations.

As users of these services, children and young people are well placed to provide informed comment and feedback - not only on the effectiveness, and responsiveness of service provision, but also on whether the processes are child friendly, child-centered and accessible.

Children's Rights

Children and young people expressed concerns about issues such as privacy, consultation, participation, being enabled to express their views and on feeling confident that their views were heard and considered seriously. This suggested that many current systems and working methods need to be assessed in relation to the rights of children. Some young people said that they often felt that their views were undermined, or ignored, or that it was very difficult to express a view in the middle of formal meetings or when there was an adult audience. Articles 3, 12, 16, 19 20, 23, 25, 31, 36, 39 of the United Nations Convention on the Rights of the Child provide a useful template against which local authorities and other agencies and organisations may objectively measure the extent to which their service provision takes account of the rights of the child.

Corporate Parenting

At present there seems to be a significant difference between how a parent is able to respond to a child or young person raising concerns, and how the corporate parent responds to children who are looked after. A reasonable parent would be able to give an immediate response and explanation of what will happen or how the issue will be resolved so that the child or young person knows that they have been heard. The experience is very different for a child who is looked after. The current process can be extremely bureaucratic and remote with certain decisions only able to be made by the Director of Social Services, or even by full council.

A simple but effective exercise is to imagine that a child or young person about whom one cares deeply has for some reason become looked after. Reflecting upon the processes that may be available for this particular child or young person to raise a concern or make a complaint about any aspect of their care or welfare is valuable and may give an additional insight.

Children and young people are again best placed to tell us their views about the most effective, but least intrusive, ways of assisting them to raise concerns, or make complaints or representations.

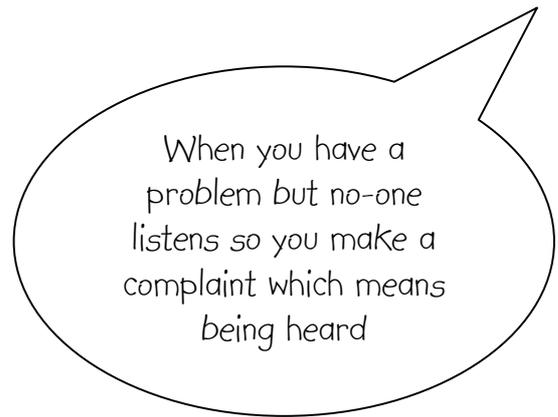
Chapter 3 COMPLAINTS AND REPRESENTATIONS

Review of procedures for considering any representations (including any complaints) in Local Authority Social Services in Wales

Background and Introduction

Local authorities have 11 years experience of establishing a complaints and representation procedure for children, young people and their representatives.

The Children Act 1989 placed a statutory duty on local authorities to establish a procedure for considering complaints and representations by (or concerning) a child or young person who is being 'looked after' or 'in need' as referred to in Part 3 of the Children Act. The procedure was compiled within a context of a series of inquiries into the abuse of children and young people in care. The complaints procedure was seen as a way of ensuring that children and young people could raise issues or matters of concern to them with confidence, and that they would be heard. It is important to remember that the Children Act was written with the intention that it would dovetail with the articles of the United Nations Convention on the Rights of the Child. Article 12 of the convention is reiterated in the Children Act at section 1 (3a):



(3) In the circumstances mentioned in subsection (4), a court shall have regard in particular to-

(a) the ascertainable wishes and feelings of the child concerned (considered in the light of his age and understanding);

The challenge given to local authorities was:

to develop a procedure which is understood and accepted by all involved: children, parents and their representatives, as well as the responsible authority's staff and the local authority's elected members'.

The Children Act 1989, Guidance and Regulations, Volume 3.
Family Placements, Chapter 10 para. 10.4

Since 1991, various Government reports have emphasised the importance of having a complaints process that children and young people are comfortable with and in which they may have faith. Perhaps one of the most significant is Sir William Utting's Report, **People like us: Report of the Review of the Safeguards for children living away from home** (1997). The Utting Review highlighted the effort that local authorities had put into establishing complaints procedures:

'Successive reports by English Social Services Inspectorate demonstrate steadily growing confidence and competence on the part of local authorities in implementing representations and complaints procedures.'

Utting Report para 18:13

However, Utting raised serious doubts about children's faith in the complaints process, based on comments from children and his committee's observations. He commented on the '*tiny proportion of complaints that emanate from children*' and that children's confidence in the complaints process is low, adding:

'It is difficult to access privately from residential care and much more so from foster care. How can it be confidential? . . . How can it be impartial if it's run by the social services department? ...and it all takes too long.'

Utting Report para 7:7

The issue of impartiality is expanded upon in this chapter when the receipt of children's complaints and the roles of the Investigating Officer and Independent Person are discussed.

In recent years inspections and research studies into children's complaints and representations procedure have been undertaken, although they have tended to concentrate on the mechanics of the procedure, rather than on children and young people's experiences and views. The Children's Society's study ***Cause for Complaint: The Complaints Procedure for Young People in Care*** (Wallis and Frost, 1998) focuses on children's views and how the process can be made more responsive to their needs. It's recommendations to practitioners and policy makers are thought-provoking, stating '*a whole series of reforms are required*', such as a thoroughly resourced advocacy service and a more direct link between children and young people's experiences and views, and policy and practice development. The fact that the effectiveness of a complaints procedure is dependent on a proactive, listening culture where participation is as important as protection and provision, is discussed later in this chapter.

The Waterhouse Inquiry investigated a period of child care practice which largely predated the introduction of the complaints procedures. Nevertheless his report gave a sobering account of how many children and young people tried and tried again to voice their complaints and be heard. The failure of those organisations at the time to be responsive is clear, but the challenge of the Waterhouse Report for local authorities in Wales in 2003 is to ensure that the current procedures are meaningful and accessible to children and young people.

The Welsh Assembly Government (as the National Assembly of Wales) commenced a consultation process in 2001 and distributed the document, ***Listening to People: A Consultation on Improving Social Services Complaints Procedures***. It sought views on a range of issues including the possibility of aligning the Children Act 1989 and the NHS and Community Care Act procedures, and the role of the Care Standards Inspectorate for Wales in dealing with complaints. It lays out proposals for the provision of advocacy for children and young people in complaints procedures and the role of the Independent Person. The document stated the intention of seeking '*to improve the present framework for dealing with representations and complaints, rather than start afresh with proposals for a new system*'. However, this Review recommends that further consideration be given to starting afresh after ascertaining the views of children and young people.

Local authorities face a challenge in enabling children and young people to make a complaint or a representation. The analysis of the local authorities' responses and the comments from children and young people included in this chapter will hopefully assist local authority social services to revise current policies and procedures.

Questions and Findings

Section 1 Complaints and Representation Procedures – General

1 Please provide a copy of social services' internal policy and procedures that concern Complaints and Representations made by children and young people.

A copy of the social services' internal policy and procedures concerning complaints and representations made by children and young people was received from all authorities.

Information was provided about the status/date of the procedures by 17 of the local authorities:

- 2 local authorities have procedures dated from 1996.
- 2 local authorities have procedures dated from 1997.
- 1 from 1998.
- 6 from 2000.
- 2 from 2001.
- 3 from 2002.

The Waterhouse Report has significant implications for the children's complaints procedure with some specific recommendations. From the information available to us, it appears that eleven local authorities have amended or revised their procedures since its publication.

One local authority reported that they plan to review their procedure with emphasis on how it relates to children and young people.

2 Please provide a copy of the social services Complaints and Representations Annual Report for the financial year 2001 – 2002.

Children Act Guidance (Volume 3 Family Placements para.10.54) states that local authorities are expected to compile an Annual Report as part of their monitoring of the complaints process:

'The report should include a summary of the statistical and other information which may have been supplied at more frequent intervals to the Committee'

A copy of the social services Complaints and Representations Annual Report 2001–2002 was provided by 16 of the 22 local authorities. Several of the local authorities had not been able to compile an Annual Report with reasons varying from pressures of work, impending or current Joint Review, to failure of statistical systems.

There is considerable variation in the structure and depth of information and analysis provided within the reports. Some local authorities' reports are very brief and limited in analysis with no clear action plans. This raises doubts about whether those Annual Reports are completed because it is a task required by legislation, rather than as an important tool in the process of learning lessons from complaints made by children and acting upon them.

In contrast, there are examples of Annual Reports which are detailed in content and analysis and which provide clear action plans for improving practice within children's services. The production of the reports in themselves are no guarantee of improved practice for children and young people, but their quality is an indicator of the commitment given to learning actual lessons from the complaints process.

Finally, a common factor that emerges is the low incidence of complaints initiated by children and young people themselves. Mindful of the Children Act Guidance, *'the responsible authority should aim to develop a procedure which is understood and accepted by all involved: children, parents and their*

representatives, we question whether the process which has been in place for 10 years, has been understood, accepted and trusted by children and young people.

There may be many reasons for the low incidence of complaints made by children. One local authority reporting on the reduction in the number of children directly initiating a complaint, states: *'this could be attributed to an improvement in service delivery to young people, but could also reflect the number of complaints dealt with directly at the point of service delivery and thus not recorded by the complaints officer'*.

The development of advocacy services may also have had an impact. Ensuring that a child or young person has been able to voice their opinions, or concerns at an early stage may mean that accessing the complaints process is not so necessary.



One young person described the ideal process:

"Complain about social services, (bullying in a children's home) – to complaints officer with children's advocate. They talk to you about what has happened . . . and what you want done next. I think they should let us know how to go about it and what they are going to do and how; and do we agree with what they are doing."

This was contrasted with her actual experience:

'Tell complaints officer, advocacy, staff or foster carers, children's organisations . . . nothing ever happens that I know of; people might try to sort it out.'

Recommendation 3.1

Local authority social services should produce a Complaints and Representations Annual Report that is accessible to children and young people and which is used as a basis for service review and strategic planning.

3 Does your Authority differentiate between the terms 'representations' and 'complaints'?

Sixteen of the 21 local authorities reported that they did differentiate between the term 'representations' and the term 'complaints' in their local authority policy and procedures. Out of those sixteen local authorities:

- 8 have clear statements within their procedures that attempt to unpick the difference between the two terms.
- 8 local authorities are much more ambiguous in their attempt to differentiate.

Three of these eight local authorities dealt with the issue by referring to a section of terminology in an appendix to the policy document.

Some local authorities at the interview stage were frank in admitting that their employees were confused about the terms. This confusion can be easily transferred to children and young people. Perhaps the ambiguity arises from a limited attempt to define 'representations'. It seems that defining the concept of a complaint is much more straightforward.

Representations from children and young people, positive or negative, are an important source of information for reviewing service provision. Generally we found that there was little attempt within the leaflets provided to children and young people about the Complaints process, to explain the terms *complaint* and *representation*.

Some local authorities have moved on to using a terminology of '*compliments, comments and complaints*'. This opens up the debate about the terminology used within the complaints process. One authority explains:

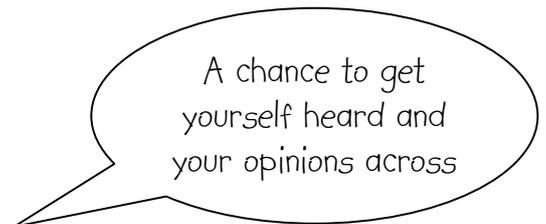
'We don't differentiate between representations and complaints. The Procedure is called 'Compliments, Comments and Complaints' and the intention is to encourage and accept representations and complaints on the service user's own terms'.



What do the words 'complaint' and 'representation' mean to children and young people? Are they the most enabling terms for young people to deal with? One local authority suggested that it would be better presented as '*discussing any problems that you may have*'.

Finally, one local authority's statement is worth further consideration: '*Children and young people do not always wish to make a complaint but want their views heard and to influence change for themselves and other young people*'.

This expands the debate outside the use of language to the whole notion of a formal complaints process and its relevance and appropriateness to children and young people. Have we merely transferred an adult (formal) process into a child and young person's context and expected it to work?



Recommendation 3.2

The Welsh Assembly Government should undertake comprehensive research with children and young people in Wales as soon as possible to identify what would best enable children and young people to express their views and raise concerns.

Recommendation 3.3

Local authority social services, local education authorities and health authorities should consider the outcomes of this qualitative study with children and young people before any amendments to present guidelines are made.

4 How are the staff in your authority made aware of the Complaints and Representations procedures?

Methods used to make staff aware	Instances referred to by authorities
Complaints Officer attending various Team Meetings	15
Induction Training	15
Literature, procedures, posters	14
General Training	11
Staff Manuals / Handbook	5
Specific seminars / re-launch	4
Supervision	3
Internal newsletter	3
Website / intranet	2
Prompt cards at telephone points	1

Children Act 1989 Guidance and Regulations (Volume 3 Family Placements Para 10.17) places considerable importance on publicising the complaints procedure generally:

'A representations procedure will be effective only if the responsible authority demonstrates commitment to it, ensuring . . . that their policy and detail of the procedure are known, understood and accepted by elected members, staff, independent persons and clients.'

There is some concern about the rigour of some local authorities' responses to this challenge. It is clear that this task needs to be a corporate approach and should not be dependent solely on the efforts of the Designated Complaints Officer. It is of concern that so many local authorities did not refer to Induction Training and General Training, (7 and 12 respectively) as methods of informing staff.

Only one local authority referred to the need to inform elected members as part of their corporate parent training programme. This same local authority also provided training to foster carers.

A recent study from the Children's Society, identifies the ambivalence that foster carers have about their involvement within a complaints process:

'Most carers are aware of the procedure but knowledge and understanding vary considerably. Carers voiced fears about possible repercussions should they raise complaints themselves or on behalf of young people they cared for.'

Solving Problems in Foster Care: Key Issues for Young People, Foster Carers and Social Services. (2002)

5 Does your authority have a designated budget within social services for implementing the Complaints and Representations procedures?

- 14 local authorities reported that they have a designated budget within social services for implementing the complaints and representations procedures.
- 8 local authorities reported that they have no such designated budget.

There is great variation in the sources of funding for these designated budgets.

Some local authorities have not identified the source of funding whilst others have reported that funding was from the following budget sources:

- Quality Assurance Budget.
- Legal Budget.
- Core Budget.
- Children First funding.

It is unclear how those local authorities without a designated budget for children's complaints and representations manage to operate an adequate or appropriate process.

6 Does your authority keep records of all Complaints and Representations made by children and young people? Please outline arrangements for recording and storage of this information.

All 22 local authorities reported that they keep records of complaints. Most refer to the role of the Designated Complaints Officer in this process.

Informal complaints

Some local authorities were more explicit than others about the difficulties around the recording and collating of *informal complaints* (stage 1). One local authority reported: '*Whilst record of all complaints should be recorded by the Teams, there is an issue regarding recording of all Stage 1 complaints. There is some confusion re: understanding what is a complaint, query and representation?*' This implies that not all complaints dealt with by front line staff are recorded and passed on to the Designated Complaints Officer.

This may be a missed opportunity for gathering important practice issues from matters resolved at the informal stage by practitioners.

One local authority reported that their stage one recording '*is poor*' and as a result resolutions from the front line are lost.

Recording of representations

There is more ambiguity around the recording and monitoring of representations – an important source of good practice information. One local authority reported that they do not monitor representations, '*Representations are entered on the data base but not with the same level of detail*'.

Recording Complaints

Most local authorities use dual systems (i.e. data is recorded electronically and in hard copy). One local authority reported that current records are not in electronic format. Four local authorities referred to specific complaints management software systems such as *Respond*, *Listening to People* and *Swift*. An older child or young person may wish to access information regarding a complaint or representation made while they were younger. Without appropriate recording in a child's personal file, it could be extremely difficult for them to do so.

Access and security

- 1 local authority reported that basic details are put onto their database and files are '*stored in a locked filing cabinet*'.
- 1 local authority reported that, '*Complaints Information is not stored on service users' files or maintained in any of the operational teams. Any documentation copied for staff information is returned by the named worker to the Complaints officer and destroyed*'.
- 1 local authority reported that correspondence about complaints is kept for six years.

Recommendation 3.4

Local authority social services should ensure that records of a child's complaint or a complaint made on behalf of a child are placed on a child's personal file.

Recommendation 3.5

Local authority social services should ensure that children's complaints are recorded in such a way that statistics may be produced to inform strategic planning.

7 Does your authority record incidences of children and young people withdrawing complaints or Representations, including the reasons for withdrawal?

Children and young people may withdraw a complaint for a variety of reasons including anxiety about the process, dissatisfaction with the process, a lack of understanding or because they feel overwhelmed. Alternatively, their complaint or representation may have been resolved.

Nonetheless, it is important that every effort is made to understand why a child or young person has withdrawn a complaint and whether the issue complained about still needs review.

- 21 of the 22 local authorities reported that they record (or would record) incidences of children and young people withdrawing complaints or representations, (including the reasons for withdrawal).
- A number of local authorities explained that in practice it is rare for complaints to be withdrawn.

One local authority reported that:

'The children's complaints officer records on file if the complainant does not wish to proceed, along with any reasons given. Each complainant is contacted by the complaints officer one month after the last contact to see if the complainant wishes to proceed or gives their consent to close the file.'

Most local authorities had a good understanding about the need for sensitivity of practice when children and young people withdraw a complaint. Most authorities report that they would continue to discuss the situation with the child outside the formal process and seek agreements etc.

Section 2 Provision of Information and Accessibility

This section examines how children and young people are informed about their statutory right to make a complaint or a representation. The questions were based on the expectations laid out in the Children Act Guidance (Volume 3. Family Placements 10.15 – 10.16).

8 Please provide copies of the public information social services provides to children and young people on the Complaints and Representations procedures. Are your procedures available in Welsh and English?

- 22 local authorities provided the public information they give to children and young people.
- 18 local authorities provide bilingual leaflets.
- 4 local authorities do not provide bilingual leaflets.

Most local authorities reported that they were actively reviewing the accessibility of their public information.

Recommendation 3.6

Local authority social services should ensure that all material provided for children and young people about complaints and representations is bilingual (i.e. in Welsh and English).

9 Has your authority consulted with children and young people about the format of the information and its accessibility?

- 19 local authorities reported that they had consulted with children and young people on the design and content of their leaflets and posters.
- 2 local authorities are in the process of producing new information in consultation with groups of children and young people (including one of those reported above).
- 1 authority made no comment on this.
- 1 local authority had consulted with children and young people on the design and content of their complaints form, as well as their public information about the complaints process.

Recommendation 3.7

Local authority social services should continue to involve children and young people in the review and future design of information material.

10 How has your authority ensured that children and young people from marginalised groups such as children and young people from ethnic minorities, children with disabilities and younger children, are able to access the Complaints and Representations procedures?

Few local authorities have to date made any special arrangements for marginalised groups, but almost all recognised the need and have aspirations to ensure that marginalised children and young people will be able to access the procedure.

The categories referred to in the question are not intended to be exhaustive and there are other groups of children who may be marginalised. One local authority suggested that children in women's refuges were at risk of becoming marginalised.

Ethnic Minority and Traveller children

- 1 local authority reported difficulties in procuring the services of translators and suggested that the National Assembly for Wales should set up a national pool of translators.
- 1 local authority reported having arrangements for traveller children in the form of an educational social worker assigned to the local traveller site.
- 1 local authority reported that they had special arrangements in place for inter-agency work with asylum seekers.

A typical response was:

'There are so few of them we are only a small authority.'

There appears to be little recognition of the extra difficulties experienced by families of very small minority ethnic groups. No local authority has produced public information in languages other than English and Welsh. None reported any particular efforts to engage with minority ethnic groups.

Local authorities reported difficulties in locating and engaging translation services. However, there was an extremely low incidence of requests for translation services. This may not be surprising. If minority ethnic groups do not receive initial information about the complaints procedure in a language which is accessible to them, how are they to know that they can complain or make representations?

Disabled Children

- 10 local authorities have no special arrangements currently in place for ensuring that disabled children are able to access the complaints procedures.
- 4 local authorities have information available in formats suitable for those with sensory impairment in the form of Braille, cassette tape and signed video.
- 2 local authorities reported that they were working on producing leaflets in Rebus sign language using software from www.widgit.com.
- 1 local authority could provide a specialist advocacy worker for disabled children.
- 2 local authorities reported that they worked closely with the disability social work team to improve access for children with disabilities to the complaints procedure.
- 1 local authority had arranged training for social services staff on how to work with children and young people with communication needs.
- 2 local authorities were using 'communications passports' to enable all workers to be aware of any communication problems which children might have. The personal passport is a highly personalised and practical booklet or document written in a simple and direct way, which reflects the individual's personal style as well as supplying information that can inform others about ways of ensuring comfortable and safe experiences for the child. (Further details: Call Centre, University of Edinburgh. Tel 0131 6671438)

Younger children

- 2 local authorities have introduced age differentiated information packs for younger children.
- 2 authorities are intending to introduce age differentiated information packs for younger children who are looked after.

Recommendation 3.8

Local authority social services should ensure that children and young people from marginalised groups have equitable access to the children's complaints and representations procedure.

11 *Has your authority considered other methods of publicising the Complaints and Representations procedures, other than via information leaflets? (Such as videos, peer education etc.)*

- 12 local authorities reported that they had not yet done so.
- 4 local authorities reported that the use of the Viewpoint software had improved communication.
- 2 local authorities reported they had produced videos.
- 3 local authorities reported they had produced cassette audio tapes.
- 1 local authority reported they maintained a website.
- 4 local authorities reported they planned to introduce peer education.
- 1 local authority reported they planned to produce a video.
- 1 local authority reported they planned to establish a website.
- 1 local authority reported that staff awareness of procedure was a key factor in ensuring ease of access for service users.

12 *Does your Authority provide information which includes written examples of the kinds of things about which children and young people can make Complaints or Representations?*

- 7 local authorities gave examples of what children and young people can make complaints about.
- 12 local authorities do not.
- 2 local authorities are redesigning their leaflets.

- 1 local authority does not have examples within their public information but report that they explain this in face-to-face meetings with children and young people.

Some young people have expressed concerns that a few of their peers have used the complaints processes frivolously and about matters that do not properly come within the remit. Examples of the type of things about which children and young people can legitimately complain could prevent this from happening.

Children and young people said that the things they would like to complain about include:

- Changing social workers all the time and social workers not letting you know what's happening?
- Breaking confidentiality.
- Always going on about the past.
- Not being listened to.
- Not having a shelter to have a fag in the rain.
- Housing problems.
- Not being told anything.
- About the bombing of the twin towers in America.
- Being hit or abused physically.

13 What arrangements has your authority made to ensure that children and young people who are 'looked after' e.g. in foster and residential placements and secure accommodation can easily access the Complaints and Representations procedures?

This question was asked in light of the Waterhouse Report and its emphasis on how difficult children and young people found it to make a complaint while being looked after. A child or young person who wants to make a complaint must be able to do so **immediately**, whatever the nature of the placement or circumstance.

- 22 local authorities reported that they provide children who are looked after with an information pack containing information on how to make a complaint.

These information packs also contain information on how to contact national helplines such as **ChildLine**, **NYAS**, **Voices from Care** and **Who Cares Trust**.



Most local authorities reported that a standard question asked at Looked After Children Statutory Reviews, is designed to check that children and young people understand that they are able to complain. Several local authorities reported that children and young people have said that they feel it is difficult to complain when in a residential or foster placement as *'this might only make the problems worse'* and that those providing their care *'have all the power'*.

Children who are looked after need further assurance that it is all right to complain as a way of improving the service to them and their peers. They need reassurance that making a complaint or representation can be a positive move that may result in improvement of the services to them and their peers.

One local authority had special arrangements other than the information packs. The local authority ensures that the Designated Complaints Officer meets with each child who is looked after and reassures them that they can make a complaint (this includes children who are looked after and placed out of county).

Several local authorities offer Phone Cards, freephone numbers, or pre-addressed pre-paid postcards so that children and young people can contact the social services departments in order to raise a concern. However, on closer scrutiny, it appears that not all these mechanisms ensure that children and young people get an immediate response to their concerns, especially out of office hours.

One local authority has a 24 hour helpline that handles all types of complaint to the authority.

14 What arrangements does your authority have to ensure that children and young people in foster and residential placements and secure accommodation outside your authority area can easily access the Complaints and Representations procedures?

Children and young people who are looked after have said that they find it difficult to make a complaint about where they are currently living, whether it is a foster or residential placement.

These difficulties are inevitably compounded when a child or young person who is looked after lives in a placement a great distance away from home and their placing authority. Numerous authorities raised concerns about the welfare and safeguards regarding this particular group of children and young people during the interview process. These concerns were about both children and young people the local authorities had placed outside their authority boundary as well as children and young people placed inside their authority boundary by another authority.

All local authorities reported that they provide information to children placed out of county in the same way as for those placed within the county. Local authorities reported that the placement providers have their own arrangements for complaints and that information about the home authority's complaints procedures is made available.

One local authority reported that the Customer Relations Officer visits specifically to discuss and provide information on the complaints procedures.

Recommendation 3.9

Local authority social services should ensure that children and young people who are looked after are enabled to make contact with the local authority both during and out of office hours.

Recommendation 3.10

Local authority social services should ensure that complaints or representations from children and young people who are looked after are acknowledged and acted upon within 24 hours.

Section 3 Designated Complaints Officer

Within the Children Act 1989 Guidance and Regulation (Volume 3 Family Placements Paras 10.31–10.32) this role is defined as:

'The officer which the authority is required to appoint to assist in the co-ordination of all aspects of the consideration of complaints.'

Although discretion is given to the authorities as to how to use this officer, it is recommended that a Designated Officer takes day-to-day responsibility for coordinating the procedure. Guidance goes on to suggest that, *'the post will need to be at a sufficiently senior level to reflect the importance of the task and the responsible authority's commitment to it'*. The tasks of the Designated Officer are to:

- receive and investigate, or oversee the receipt and investigation of complaints that cannot be resolved informally.
- give advice on the response of the responsible authority to individual complaints.
- ensure the smooth running of the panel arrangements, including the appointment and servicing of panels.

This suggests that an administrator might best combine the variety of tasks required, and that the post would need to be 'recognisably independent of professional line management' in order to demonstrate the 'separate' role of the designated officer. Objectivity is the key issue here.

15 Do social services have a Designated Complaints Officer for co-ordinating and responding to Complaints and Representations?

- 22 local authorities reported that they employed a Designated Complaints Officer. However, following analysis of the information provided, it would be more accurate to state that all 22 local authorities employ an officer whose role includes the tasks of Designated Complaints Officer.
- 14 of the local authorities provided the requested information about job descriptions and flowcharts describing the Designated Complaints Officer's position within the organisation.
- 6 of the 14 local authorities' job descriptions included investigation of the complaint.
- 10 of the 14 local authorities' job descriptions have attempted to achieve an element of independence for the post by ensuring that the Designated Complaints Officer is not line managed by the Children's Services Manager.

The range of responsibilities ascribed to the position and its status differ widely, reflecting the differing structures of local authorities in Wales. In some instances the post is placed within a policy/commissioning/quality assurance division.

In one local authority the Designated Complaints Officer is responsible for managing all complaints and also undertakes other central resource administrative roles. The post has a very low status within the department.

Some authorities have appointed a senior member of staff to the Designated Complaints Officer role; however, much of the work is delegated to a complaints officer at a lower grade in the organisation.

A number of local authorities have placed the post of Designated Complaints Officer within a wider brief of ensuring the active participation of service users.

Several local authorities provided job descriptions for the post that emphasised establishing *'a complaints and compliments procedure which is user friendly and accessible to children and young people'*.

Recommendation 3.11

Local authority social services should ensure that the Designated Complaints Officer's role is assigned to a senior officer within the local authority.

Recommendation 3.12

Local authority social services should ensure that the supervision of the Designated Complaints Officer is external to the management of children's services.

16 Is the Designated Complaints Officer responsible for managing all Complaints and Representations procedures within your organisation or only children and young people's Complaints and Representations procedures?

The third recommendation of the Waterhouse Report is that:

'Every social services authority should be required to appoint an appropriately qualified or experienced Children's Complaints Officer.'

The fourth recommendation goes on to list in some detail the duties of this Officer, including the need '*...to act in the best interests of the child...*', and, '*...to ensure that recourse to an independent advocacy service is available to any complainant or affected child who wishes to have it.*'

The National Assembly's response to this particular recommendation in their document, **Response to Lost in Care** (June 2000) was that they '*...agreed in principle...*'. The response went on to state: '*The Assembly recognises that the Children Act complaints procedure is not as effective as it could be the Assembly plans to consult on reforms to the current system.*' Chapter 7 page 26

- 14 local authorities reported that their Designated Complaints Officer is responsible for all complaints within the department.
- 7 local authorities have a Children's Complaints Officer.
- 1 local authority has a specific Customer Relations Officer for responding to children and young people.

Recommendation 3.13

Local authority social services should ensure that a Children's Complaints Officer is appointed, in line with the third recommendation of the Waterhouse Report.

17 Is the Designated Complaints Officer linked to planning and policy structures within Children's Services?

Thirteen local authorities reported that the Designated Complaints Officer was linked to planning and policy structures within Children's Services. Of these 13 local authorities:

- 7 reported that this link was achieved by the position of the post within the organisational structure.
- 4 reported that there was a process which enabled quarterly reports (in 1 case this was a monthly report) to be discussed at senior management level.

Of the 9 local authorities who answered 'no' to this question:

- 1 reported that they were planning to make structural changes which would enable this to happen.
- 1 local authority emphasized the close-knit 'family' atmosphere of their department which they believed enabled regular and open communication between all levels of staff.

18 Does the Designated Complaints Officer consult regularly with children and young people about the Complaints and Representations process?

- 5 local authorities responded that they do encourage their Children's Complaints Officer, Children's Rights Officer or Designated Complaints Officer to consult regularly with children.
- Of the 17 local authorities that do not, a further 4 are actively considering plans to put mechanisms for consultation in place.

19 What criteria does the Designated Complaints Officer use to determine what may be a child protection issue rather than a Complaints and Representations issue raised by a child or young person?

- 3 local authorities reported that their Designated Complaints Officer discussed every complaint from a child or young person with a senior manager of the Children's Services Management Team. In these local authorities the decision as to whether the complaint contained child protection concerns is made in consultation.
- 10 local authorities reported that the Designated Complaints Officer is able to consult with senior personnel around any concerns and that this arrangement was '*clear and formalised*'.
- 5 local authority responses were somewhat unclear, suggesting consultation with a senior officer without setting out criteria for when this should happen or whether such consultation was expected:

'Any doubts could be discussed with the child protection co-ordinator'.

'The Designated Complaints Officer does tend to consult regularly'.

'We have close working relationships; we don't need set criteria'.

- 2 local authorities reported that their Designated Complaints Officer lacked child protection training (although both said that their procedures surmounted this need).
- 1 local authority recognised this issue and reported: '*The Designated Complaints Officer needs to keep abreast of child protection training and regularly seek advice from peers.*'

20 Does the Designated Complaints Officer always interview the child or young person when a complaint or representation is made?

Nine local authorities reported that the Designated Complaints Officer always interviewed the child or young person when they have made a complaint or representation.

Out of the 13 local authorities that did not always interview the child, 9 explained their reasoning as follows:

- 1 local authority reported that it was the Children's Complaints Officer rather than the Designated Complaints Officer which clarified the complaint through interview with the child.
- 2 local authorities reported that they preferred the child's advocate to clarify the complaint.
- 4 local authorities reported that they relied on another member of staff such as a worker known to the child to clarify the complaint.
- 2 local authorities reported that they relied on the Investigating Officer to interview the child – although this leaves the clarification of the complaint to a comparatively late stage of the process.
- 3 local authorities reported that they were concerned that an interview at this stage introduced another possibly intimidating conversation with an adult for the child.

One young person described their ideal complaints process as follows:

'Tell advocacy worker who speaks to complaints officer: complaints officer comes and speaks to you; then speaks to head of looked after children; you get feedback; there is an outcome for the complaint; then happiness or sadness depending on the outcome.'

It is important that someone independent of children's services provision meets the child or young person, in order to clarify the nature of the complaint, without influencing the content in any way.

Section 4 Receipt of Complaints

This section deals with the receipt of complaints and representations made by children and young people. It covers a variety of issues about how children can present their complaints to the local authorities and is based mainly on what children themselves have identified as possible blocks to their making complaints.

21 What is social services' criteria for deciding if an adult has a 'sufficient interest' in the child's welfare to accept his/her complaint on a child or young person's behalf?

Despite the fact that the Children Act 1989 Guidance and Regulations, Volume 3 Family Placements. Para 10.7 states: '*The local authority should have a clear policy on this matter...*'. No local authority reported that they had a written policy, although most had a generous description of what would constitute 'sufficient interest'.

- 1 local authority reported that '*The act of making a complaint on behalf of a child or young person would be sufficient evidence in itself that the complainant had sufficient interest*'.
- 1 local authority reported that '*There must be very clear reasons for NOT following up a complaint*'.
- 1 local authority reported that they would only consider the primary carer to have sufficient interest.
- 7 local authorities reported that, having accepted the complaint, they would ascertain the child's views on pursuing the complaint and whether the child considered the complainant to have sufficient interest.

This is a difficult area and there will be circumstances where the complainant and the child have different agendas. It is not possible to be too prescriptive but ultimately reference should be made to the spirit of the Children Act and Guidance.

22 Can children and young people make complaints or representations on behalf of other children and young people?

This question was based on information from children and young people as well as research from peer led projects, which identified how often they confide in their friends and peer group.

22 local authorities reported that children and young people could make complaints or representations on behalf of their peers.

- 1 local authority reported:
'The Authority has a flexible approach and would consider a child or young person making a complaint or representation on behalf of another - the Children's Complaints Officer would sensitively explore the wishes and feelings of the young person whom the complaint was regarding, but accepts that a young person may chose whom they wish to act as advocate'.
- 12 local authorities reported that they would check whether the child on whose behalf the complaint had been made was in agreement that it should be pursued.
- Several local authorities reported that children and young people often made complaints on behalf of their friends.

One local authority reported that complaints made in this way might be '*pernicious*', simply a way for people to harass the local authority, and one local authority were concerned that the child may not have raised the matter themselves. Presumably the same might be said about any child's complaint and this argument should not be used as a reason to regard complaints made by children and young people on behalf of their friends or peers less seriously.

23 How does your Authority enable children and young people to make a written Complaint or Representation?

It was encouraging to learn that most local authorities did not insist that complaints need to be written in the first instance. Verbal complaints were commonly accepted. A consistent message from the children and young people is the importance of 'telling' or having face-to-face contact with someone 'listening' to the story.

Several local authorities reported that they encouraged innovative methods for receiving complaints, which included the use of email and SMS text messaging. Should the complaint proceed to the investigation stage, it would be necessary for the complaint to be recorded so that the Investigating Officer is clear about the remit of the investigation.

- 22 local authorities offer staff and/or advocacy help with putting the complaint in writing and checking that the written version is a true reflection of the child or young person's views.
- 2 local authorities report that the use of a laptop computer and printer for this purpose speeds the process considerably as versions can be written and amended until the child or young person is satisfied with the document. The final version can be printed off so that the child or young person can have a copy to keep.



Tell complaints officer, advocacy staff or foster carers



Tell advocacy worker

24 Which procedure does your Authority use for dealing with a representation or complaint from a young carer? (i.e. LASS Act 1970 as amended by NHS and Community Care Act 1990 or Children Act 1989)

When children and young people make a complaint about the services they receive, this will be governed by the Children Act 1989. Where children and young people wish to complain about the services that the person they care for is receiving, this will involve other legislation. Children and young people who are young carers uniquely have to grapple with both processes.

- 6 local authorities did not answer this question.
- 9 local authorities reported that they would use Children Act procedure.
- 7 local authorities reported that it would depend on the circumstances and the nature of the complaint.
- 5 local authorities reported that they would pursue the complaint but would also refer the child or young person to a local Young Carers Project for extra help.

Several local authorities reported their preference for the Children Act complaints procedure as this was perceived to be more child centred and offering more safeguards, such as the appointment of an Independent Person.

Recommendation 3.14

Local authority social services should review their representations and complaints procedure as regards how best to respond to complaints made by young carers. This should be done in consultation with young carers' projects and children and young people who are carers.

25 What arrangements are in place for children and young people who wish to make a Complaint or Representation about child protection services and systems?

It is the responsibility of the Area Child Protection Committee to have put in place an appropriate policy and procedure and the responsibility of the local authority to be aware of such procedures and inform the public appropriately. The Children Act 1989 Guidance and Regulations Volume 3 Family Placements para.10:10 states:

'Representations or complaints about child care matters which fall outside Part III of the Act are not covered by this procedure but by the Complaints Procedure Directions. However, dissatisfaction about a local authority's management or handling of a child's case, even where related to a court order may be appropriate to the procedure. The inclusion of a child's name on a child protection register is an administrative action not carried out under any statutory provision (even where the decision is linked to recommendation to seek a court order) but it is part of an inter-agency process for which the local authority is in the lead but does not carry full responsibility. While the requirements of Section 26 are confined to the local authority's functions under the Act it would be good practice to provide, with the agreement of the Area Child Protection Committee (ACPC), an appropriate procedure to handle complaints about inter-agency case conferences and their recommendations.'

- 19 local authorities reported that they referred to the procedures of the ACPC.
- 3 local authorities reported that their own complaints procedure would still apply.
- 3 local authorities reported that they distributed a specific leaflet on how a child could complain in such circumstances.

26 Does your Authority have written policies and procedures in place in order to respond to Complaints or Representations, which involve other departments within your authority area or external agencies such as health services?

The Children Act 1989 Guidance (Volume 3. Family Placements. Chapter 10 para. 10.20) states:

'There will be a need for links with other procedures including those within health authorities and other agencies . . . who may be involved in child care services'.



I want to complain
about the bullying in
schools

It goes on to list local education authorities, housing authorities, voluntary and private childcare organisations, the probation service and the police, and further states: *'It is essential that arrangements cover both the separating out of representations or complaints appropriate to another procedure and cases where some joint action is appropriate'.*

- 11 local authorities reported that they do not have written policies and procedures, which involve other agencies or organisations.
- 11 local authorities reported that they had a local authority complaints procedure, which enables complaints to be followed up across different departments within the authority.
- 2 local authorities reported that they had developed agreements with the Health Trusts on how to follow up children's complaints, which involve both agencies.
- 2 local authorities reported that they were in the process of developing protocols with education and health services.

Several local authorities reported that, even when there were protocols in place, the joint progression of the complaint very much depended on the willingness of individuals concerned to work together.

One local authority reported their '*ideal*' would be a '*one-stop-complaints-shop*' to which children and young people might refer all their complaints.

Children and young people do not share an adult, compartmentalised way of thinking and may find it difficult to understand that social services staff are unable to resolve issues arising from health or education provision. Children and young people say that it would be most helpful for them if they were able to approach one agency that could deal with the complaint on their behalf.

Recommendation 3.15

Local authorities should work towards adopting a '*one-stop-shop*' approach to receiving complaints from children and young people about any service.

27 How does social services respond to complaints about bullying from looked after children and young people?

This question and question 28 were included because of children and young people's perceptions that complaints about bullying and discrimination are often not accorded the seriousness they deserve by local authorities.

- 5 local authorities reported that they have an anti-bullying policy.
- 2 local authorities reported that the protection of children from bullying was regarded as a distinct part of their corporate parenting role.
- 7 local authorities reported they would first consider the applicability of the child protection procedure.
- 5 local authorities reported that bullying was recognised as a legitimate topic for a complaint.
- 4 local authorities reported that bullying was a matter for the individual residential unit or school.
- 2 local authorities reported that they would follow different procedures depending on whether the perpetrator was an adult carer or a peer.
- 4 local authorities reported that they had no specific arrangements for complaints of bullying and had not considered the matter.

Two local authorities reported that a specific question is asked during Looked After Children Statutory Reviews that gives children and young people the opportunity to raise issues of bullying. They recognised that some children may find it difficult to disclose in this situation.

Most local authorities reported that complaints about bullying from children and young people were a common problem and a major issue for children who are looked after.

Several local authorities reported a dilemma about which process to pursue first, i.e. child protection procedures, or complaints procedures, whilst all local authorities agreed that the child or young person needed to be protected from further possible abuse.

In an incident of bullying a criminal act may have been perpetrated. An adult may report an incident to the police as *assault* whereas a child or young person may report exactly the same incident and it may be described as bullying. This trivialises the experience of the child or young person. Many local authorities showed awareness of this dilemma.

A booklet on dealing with bullying can be downloaded from: <http://www.ace-ed.org.uk/pdf/bullying.pdf>

28 How does social services respond to complaints about discrimination or harassment from looked after children and young people?

- 2 local authorities referred to their anti-bullying procedure.
- 2 local authorities reported they would first consider the applicability of the child protection procedure.
- 12 local authorities reported that they would recognise these matters as legitimate topics for complaint.
- 2 local authorities reported they would consider the applicability of staff disciplinary policies.
- 2 local authorities reported that they had no specific arrangements for complaints of this nature and had not considered the matter.
- 1 local authority reported that they would respond as a corporate parent.

One local authority commented:

'There is an Equal Opportunities policy and it would be expected that all services be delivered in a non-oppressive manner. Issues of harassment may be dealt with in the criminal arena, through child protection or through case management. The complaints policy would be initiated if requested by the child or young person.'

Five further local authorities referred to their Equal Opportunity policies; however, these Equal Opportunities policies were only applicable to discrimination against children by members of staff. Issues of children's behaviour towards other children were not considered in these policies.

Two local authorities referred to their anti-bullying procedure. Certainly bullying and harassment are areas of considerable overlap yet equal opportunity issues need to be explicitly covered in such policies.

Discrimination or harassment occurs because of a child's identity or because a young person is a member of a particular community. Dealing with discrimination or harassment requires special sensitivity. Staff will need training in recognising the issues involved and dealing with them appropriately if there is to be improvement in this area of service delivery.

Racial harassment was mentioned as a particular issue by two local authorities. One of these commented that members of ethnic minorities were more likely to suffer harassment in a rural environment.

One local authority commented: *'Young people are discriminated against just because they are in care.'*

29 What information is given to children and young people who have made a complaint or representation? Please provide copies of any documents used.

- 11 local authorities reported that they would send a copy of the complaints leaflet.
- 3 local authorities reported that they would send information about Children's Rights Services in addition to the complaints leaflet.
- 2 of these local authorities would also send information about the local advocacy service.
- 2 local authorities reported that copies of the actual procedures would be given to older children but did not define the age.
- 2 local authorities reported that they would send a personal letter to the child or young person.

One local authority reported:

'We have a booklet specifically for children and each letter sent explains, in simple and concise language, the next stage in the process. We always keep children and young people fully informed about appointment of Independent Investigating Officers and

Independent People, about their rights to representation and about progress of the complaint.'

Section 5 Informal or Problem Solving Processes

The Children Act 1989 Guidance and Regulations states that attempts should be made to resolve any issues before a complaint is made, (Volume 3 Family Placements para. 10.13 – 10.14) '*The aim should be to resolve dissatisfaction as near to the point at which it arose as possible*'. Significantly, it goes on to state, '*Attempts at problem-solving should not be used to divert an eligible person from lodging a complaint under the statutory procedure*'.

30 Does your Authority have any procedures to try to resolve issues of concern before a representation or complaint is made under the Children Act 1989?

The 22 local authorities reported that they try to resolve issues of concern at this initial problem solving stage. There is variation in how this initial stage is described by the authorities in their procedures, including *Informal Stage, Problem Solving Stage, Stage 1, Local Stage, Local Resolution Stage* and *Informal Problem Solving Stage*.

The *informal resolution stage* is the first stage of the three-tiered process for resolving complaints set out under the LASS Act. The NHS procedure refers to a *local resolution stage*, which is the same term that the Consultation Document **Listening to People** adopts.

A difficulty identified by the authorities is defining an issue of concern by the child or young person as opposed to what is a 'moan' or a general frustration or a clear-cut complaint. As one local authority reported:

'There are questions regarding what is a grumble which can be resolved within case management, and what is a complaint. There's an art in deciding'.



Usually stops when the complaints officer comes to speak to you and you feel gutted.

This in itself is a possible indicator of the general confusion that exists around this problem solving stage for children, young people and staff members.

Importantly, most local authorities stressed the right of the complainant to immediately register a complaint formally under Stage 2 of the guidance if they so wish.

31 Where these procedures exist, do they include any time limits for dealing with issues or problems?

Timescale	No set limit	2 days	5 days	7 days	10 days	14 days	21 days	28 days
Number of authorities	4	2	1	1	1	6	1	6

There is considerable variation in practice throughout Wales.

- 4 local authorities reported that they have no agreed timescales for the local resolution stage.
- 6 local authorities reported that it could take up to 28 days before a child / young person is given a response.

This situation is commented upon in the Welsh Assembly Government Consultation Paper *Listening to People*:

'Two key elements of the Children Act procedures, namely a tight timescale and independent oversight are thus widely disregarded in current practice. These factors are likely to bear most heavily on children/young people making complaints on their own behalf and may go some way to accounting for the low number of complaints received from them directly.'

The Consultation Paper goes on to recommend that 'an explicit first stage of resolution' is created 'which will be termed the 'local resolution stage'. The timescale suggested for dealing with complaints at this stage is 14 days.

Recommendation 3.16

Local authority social services should ensure that there is an explicit first stage to the complaints process allowing for local resolution and this first stage should have a time limit of ten working days.

32 Is there a procedure for recording the outcome of informal resolutions?

The differing systems reflect the general variation in practice surrounding this 'local resolution stage' with some authorities adopting more than one approach.

- 19 local authorities reported that they have agreed procedures for recording the outcome of informal resolutions.
- 3 local authorities reported that outcomes for informal resolutions are recorded in the child or young person's file.
- 2 local authorities reported that they used a separate complaints file with the outcome being recorded in the outcomes section of the file.
- 8 local authorities reported that the Complaints Officer is informed or advised in writing of the outcomes.
- 3 authorities reported that employees are requested to fill in a specific form and send it to the Complaints Officer, outlining details of outcomes.
- 3 authorities reported that outcomes are recorded on their relevant computer databases.
- 1 local authority reported that outcomes are not recorded in any formal way at all.

It was recognised by many authorities that the current collation of *informal complaints* and their outcomes are not gathered consistently or coherently.

Children and young people expressed the view that their issue of concern somehow gets lost and does not get beyond the first stage. It is important that there is complete transparency with regard to the decision making process at the informal resolution stage. There is also a danger that valuable information from children and young people, including the lessons learnt from successful resolutions, is lost.

Recommendation 3.17

Local authority social services should ensure that information about the 'informal resolution' stage and its outcomes is always recorded on the child and young person's file as well as within other relevant administrative systems.

33 What arrangements does your Authority have for supporting children and young people in residential and foster placements and secure accommodation during this process?

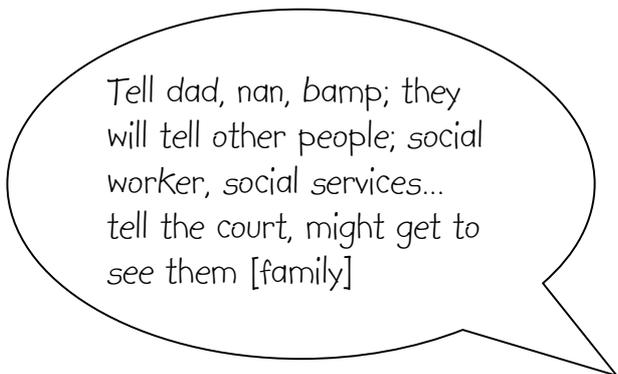
Type of Support	Instances referred to by local authorities
Advocacy	22
Social work	10
Complaints Officer	6
Independent Visitors	4
Children's Rights Officer	3
Foster carers / residential workers	3
Family / friends	3
Buy in support where child / young person is placed	2
Befriender	1

The most commonly referred to sources of support for children and young people at this problem solving stage, are advocates and social workers. Although the incidences referred to are low overall, the reference by three local authorities to family and friends is an interesting one.

Two local authorities reported:

'Support would be from key workers, advocates, independent persons or others as identified by the young person.'

'The Children's Rights Service will act, in the main, as advocates for the child or young person - although sometimes the young person may choose another individual who they will feel more comfortable with.'



Research from the Family Group Conferencing Process demonstrates the possibility and benefits of identifying 'supporters' or 'advocates' from within the child's family or community network. There will be times when a child will not choose to have a known person/relative as an advocate but there is a possibility that this option of support is not explored as effectively as it could be. This point is reiterated in the recent study by the Children's Society, referred to previously, with one of its recommendations being the need to concentrate on seeking out 'natural allies' for the child, such as family members and friends, as well as making independent advocacy services more available.

Recommendation 3.18
Local authority social services should enable individuals from the child or young person's family or community networks to act as advocates if a child or young person so wishes.

Recommendation 3.19
Local authority social services should ensure that advocacy services should be made available to every child or young person who wishes to make a complaint.

Whilst all 22 authorities referred to the importance of the advocacy arrangements, some of them expressed their concern that it might not be possible for their advocacy arrangements to provide a service to those children and young people who are looked after and placed out of county, for example:

'We couldn't guarantee advocacy for placements out of county. This is a problem.'

'We would not be able to get to see all children and young people who requested to see us'.

Generally, it appeared that complaints or representations made by children and young people living within local authority residential units were more likely to be monitored and pursued. It was reported that local authority residential units had robust recording systems that were subject to regular and routine inspection. It was noticeable that few advocacy providers made regular and frequent visits to children and young people living in foster placements, or other independent residential units located outside of the local authority area.

This is a matter of great concern for this Office.

Recommendation 3.20

Local authority social services, as a matter of urgency, should revise their advocacy arrangements to ensure that children and young people who are looked after and placed out of county are actively offered an advocacy service to assist them in making a complaint.

Section 6 Representation and Complaints Procedures Children Act 1989 General Questions

This section deals with a number of generic issues raised by the children's complaints process.

34 Are decisions regarding provision of services postponed until the Complaints and Representations process is completed?

Listening to People gives separate consideration to this issue under the heading: *Freezing decisions*. It refers to *'widespread concerns that decisions affecting children . . . are often implemented whilst a complaint is under investigation, thus pre-empting its outcome'*. The example referred to by the above document is *'changing the long term placement of a child at short notice, for reasons that do not appear to be based on any reassessment of need.'*

The Children's Society's response to the above document emphasises this point:

'The Children's Society has experience to suggest that too often decisions are implemented whilst a complaint is being dealt with . . . when it would have been beneficial to all concerned to look at the circumstances and consider the complaint before action was instigated'.

There was some confusion around interpretation of this question, with most local authorities focusing on the postponement of service provision rather than decisions generally. During the interview process this was clarified and sixteen local authorities reported that they would 'freeze' decisions until the complaints process had taken its course and one local authority reported that there might be other factors that 'force' the authority's hand, and gave as an example the following explanation:

'Many of our foster carers have gone over to private agencies. We have had to move children, despite their complaints'.

Generally, local authorities reported that in some instances they might have to move a young person from a placement because of child protection issues, even though this might be against the young person's expressed wishes.

There seems to be some ambiguity surrounding this difficult issue with the potential for tensions between young people and their placing authority. Wishes and feelings, welfare issues, and resources, have to be balanced; but the decision making process must be transparent if children and young people are to have faith in the complaints process.

Recommendation 3.21

Local authority social services should freeze decisions which have a significant impact on the life of a child or young person, pending the outcome of any complaint registered, unless good reason can be shown to do otherwise.

35 Does your Authority provide written guidance for the Independent Person which covers role, responsibilities and report writing?

The Children Act 1989 Guidance and Regulations (Volume 3 Family Placements para. 10.35) places considerable emphasis on the role of the independent person within the investigation of the complaint: *'The basis of the representations procedure is that an independent person should be actively involved in considering the complaint'*. The guidance goes on to state: *'The responsible authority will need to make clear to prospective independent persons the nature of the task'*, as well as to make clear *'the working arrangements involved in the consideration of complaints'*.

Sixteen local authorities reported that they provide written guidance for the Independent Person. The standard of guidance given by local authorities varies considerably. A number of the sixteen local authorities provide a brief reference to the role within the general complaints procedures. Others provide a brief checklist of tasks or a Code of Practice. In marked contrast, a number of the sixteen local authorities provide comprehensive guidance which provides a blueprint for individuals to carry out this important role.

36 Does your Authority provide written guidance for the Investigating Officer which covers role, responsibilities and report writing?

The Children Act 1989 Guidance and Regulations makes sparse reference to the role of the Investigating Officer although there are regulations relating to the role of the Designated Officer.

Sixteen local authorities reported that they provide written guidance for the Investigating Officer.

Several local authorities provided detailed written guidance about the content and structure of the Investigating Officers Report.

37 Does the child or young person receive a copy of the Independent Person's report?

The Children Act 1989 Guidance and Regulations (Volume 3 Family Placements Para 10.42) states that one of the minimum requirements that the local authority should meet is to:

'... address their response to the person from whom the complaint was received; and also where different, to the person on whose behalf the complaint was made and to any other person who appears to have a sufficient interest or is otherwise involved or affected.'

Although the Guidance does not specify whether the child or young person should receive a copy of the Independent Person's Report, it is implied that the Independent Person's report is incorporated within the Investigating Officer's Report.

- 15 local authorities reported that they do provide the child or young person (or their representative) with a copy of the Independent Person's Report.
- 7 local authorities reported that they do not provide a copy of the Independent Person's Report.

Of these seven local authorities, three explained their decision in various ways, an example of which is:

'The Independent Person's Report is very sensitive. Adults don't get a copy. Instead they receive information about the decision, the Department's response and the accepted recommendations.'

These three local authorities also reported that the eventual response from the authority would include comments from the Independent Person's Report.

The reference to the Independent Person's Report being sensitive is not a sufficient reason to deny access to the child or young person. Indeed in complex, contentious situations, where the situation could be deemed as sensitive, it could be argued that the child or young person should have full access to all the information.

38 Does the child or young person receive a copy of the Investigating Officer's report?

The Children Act 1989 Guidance and Regulations (Volume 3 Family Placements Para.10.42) states:

'The responsible authority should notify the complainant, the child (if he is of sufficient understanding), the independent person and any other person whom the local authority consider has a sufficient interest in the child of the proposed result of their consideration.'

The Guidance also refers to a letter which: *'should be clear and simple and give reasons, whether or not it changes an earlier decision which gave rise to the complaint, and proposed action.'*

- 17 local authorities reported that they did provide a copy of the Investigating Officer's Report to the child or young person.
- 1 local authority reported that they do not provide a copy of the Investigating Officer's Report and gave the following explanation as to their process of informing the child or young person of the outcome:

'Response to the complainant is given in the form of a letter from the Director which usually includes excerpts from the Investigating Officer's Report and the Independent Person's Report. This letter is delivered and explained in a personal meeting if that is felt necessary, depending on the age and understanding of the child.'

39 Please describe the circumstances when your Authority would not follow the recommendations of the Investigating Officer.

Most local authorities reported that it would be highly unusual not to follow the recommendations of the Investigating Officer. One local authority reported: *'A situation where the Authority did not adhere to the recommendations of the Investigating Officer would be highly unusual. A decision to do this would only be taken by the Director'*. Another local authority reiterated this sentiment, reporting that *'this would only happen in exceptional circumstances . . . following legal advice and agreed by the Assistant Director Children and Families'*.

Four local authorities reported that this situation had not arisen.

Most local authorities reported that they 'reserve the right not to action all recommendations if there are valid legal / professional reasons'. The reasons referred to were as follows:

Reason not to follow the recommendations of the Investigating Officer	No. of Local Authorities
If the recommendation conflicts with Departmental Policy	6
If the recommendation conflicts with Court Decisions	4
If the recommendation is not in the child's interest	6
Child protection concerns arising out of recommendations	1
Possibility of Investigating Officer exaggerating the situation	1
Possibility of recommendations of Investigating Officer 'clashing with the philosophical basis of the Department'	1
Matters outside the control of the Authority	1
Matters of cost	1

One local authority reported that if any difficulties were perceived when the local authority received the Draft report, 'a meeting would be convened with the Investigating Officer to discuss and attempt to resolve differences'. This practice may be seen as impinging upon the independence of the Investigating Officer.

40 What proportion of Complaints and Representations are processed by your Authority within the statutory timeframe?

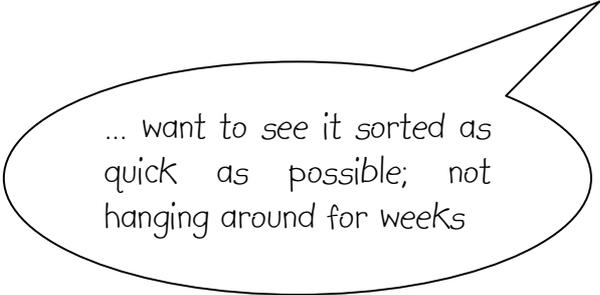
The statutory timeframe for processing complaints and representations is within 28 days of receipt of the complaint.

Nine local authorities were unable to provide data for a variety of reasons including:

- the process not been in operation for long enough
- no specific figures for children's services
- Designated Complaints Officer on sick leave
- work pressures
- poor monitoring information.

There was considerable variation in the proportion of complaints processed within statutory timeframes by local authorities.

- 2 local authorities reported their percentage as 100%.
- 1 local authority reported their percentage as 7%.
- 9 local authorities reported their percentage in an even range between 35% and 66%.
- 1 local authority reported that none of their 4 formal complaints (by parents, not children) were completed within the timeframe but that all parties had agreed time extensions.



It is of concern that such a significant number of local authorities have no access to performance data, which inevitably raises questions about the quality of monitoring processes.

41 If there is a delay, how are children and young people informed of the reasons?

Letter	Contact with DCO	Advocate/ Children's Rights	Investigating Officer	Social Worker	Parents/ Carers	Has not occurred
13	9	7	2	2	1	1

Recommendation 3.22

Local authority social services should regularly notify a child and a young person of reasons for delay, by means of a letter followed by direct contact from whichever individual is most appropriate to the child's particular situation.

Section 7 Investigating Officer

An Investigating Officer is the person appointed by the Local Authority, to look into, or investigate the complaint or representation made by the child or young person. Complaints about social services are generally investigated by people who work for social services departments. However, the Investigating Officer should not be involved in the service, which is the subject of the complaint. If a representation or complaint cannot be resolved by means of problem solving, then an Investigating Officer should be appointed. The Investigating Officer will always work alongside an Independent Person (see section 8).

The primary task of the Investigating Officer is to establish the facts and find out what can be done to resolve the complaint. At the end of the investigation the Investigating Officer writes a report, which details the complaint, the method of investigation, the findings, and makes recommendations.

42 What are your Authority's arrangements for the appointment of an Investigating Officer?

- 3 local authorities reported that the Children's Complaints Officer would investigate the complaint.
- 11 local authorities reported that the Investigating Officers were recruited or appointed from within the Social Services Department. All 11 made the point that the appointee would not be from the service area that directly related to the complaint.
- 8 local authorities reported that Investigating Officers were drawn from an existing cadre of previously recruited independent professionals.
- 1 local authority referred to a list of 'Independent Persons' drawn up by the All Wales Complaints Officers Group, saying that they appointed from that list.
- Several local authorities referred to a working party from the All Wales Complaints Officers Group that was currently devising policy, procedure and a standard job description for Investigating Officers of children's complaints (we are informed this was to be available by Christmas 2002).

Several local authorities were intent to discuss the problematic nature of the role, and the need to ensure that the process was as transparent as possible.

43 Do you apply a Person Specification when selecting Investigating Officers for appointment?

- 17 local authorities reported that they did not apply a person specification when selecting Investigating Officers.
- 5 local authorities reported that they did apply a person specification. Four of these 5 authorities made specific mention of the skills required when communicating with children and young people.
- 1 local authority had comprehensive briefing material in place to assist the Investigating Officer with the task and the role, but there was no mention within the material, of the different skills and knowledge base required when conducting an investigation into a complaint raised by a child or young person.

44 Please describe the training and on-going support you provide for Investigating Officers.

- 11 local authorities reported they did not provide training to Investigating Officers.
- 5 local authorities reported that they did provide training.
- 3 local authorities responded that training had been provided in the past (i.e. over 18 months ago).

- 2 local authorities reported that they convened meetings for the Investigating Officers; they agreed that these meetings were not training events *per se*, but did provide support.
- 1 local authority reported that they were planning a training event.

Those local authorities that employed independent Investigating Officers commented that it was their expectation that these people would already be sufficiently trained and therefore competent. It is, however, interesting to cross-reference this response with the response to the previous questions (42 and 43), which ask about the process of appointment and whether a person specification is used. The point of using a person specification would be to check whether the potential appointee possesses the requisite skills to undertake the investigation.

We suggest that there is a deficit or gap in the policies and procedures of some authorities that neither employ the use of a person specification to appoint Investigating Officers for children's complaints, nor provide training to ensure that the complaint is investigated competently.

45 Does your Authority always appoint an Investigating Officer when investigating a complaint under the Children Act 1989?

All 22 local authorities reported that an Investigating Officer was always appointed at the 'formal stage', sometimes referred to as Stage 2. All 22 local authorities made use of a local, problem solving stage, and if the complaint was unable to be resolved, or, if the child or young person particularly requested an immediate move to Stage 2, then it was at this point that an Investigating Officer was appointed.

- 1 local authority reported that a Children's Rights Officer was always involved at the local problem solving stage.
- 3 local authorities reported that it was the Children's Complaints Officer who investigated all children's complaints.

46 Please give your rationale for the cases in which you do not appoint an Investigating Officer.

All 22 local authorities reported that they always appointed an Investigating Officer at the Formal Stage/Stage 2.

Local authorities were keen to draw the distinction between the problem solving stage and the formal stage. Several local authorities were frank in admitting that there had been, and in some cases continued to be, problems with the information flow between fieldwork teams and the Designated Complaints Officer, in relation to the raising of representations or complaints by children and young people. It was therefore difficult to monitor the extent of complaints that were said to have been resolved at the problem solving stage, or indeed the outcomes, or whether an advocate had been appointed to support the child at that stage. Consequently, it would also be difficult to assess the child's satisfaction or otherwise with the process or the outcome.

Section 8 Independent Person

The Children Act 1989 Guidance and Regulations (Volume 3 Family Placements Para 10.5) states that an Independent Person should be appointed to bring '*...an independent element that will inspire confidence in the procedure...*', and, '*...to provide an objective element in the authority's considerations...*'

The Independent Person must not be a local Councillor; neither should they be an employee of the local authority, an advocate or an investigator. The Independent Person is responsible for helping the Investigating Officer carry out a full, fair and effective investigation, ensuring that the investigation proceeds in an unbiased way and that the complainant is able to participate in the process without duress. At the conclusion of the investigation, the Independent Person writes a report about the conduct of the investigation.

47 What are your Authority's arrangements for the appointment of the Independent Person?

- 18 local authorities reported that they appointed Independent Persons from a pre-prepared list or pool of candidates.
- 3 local authorities reported that they appointed Independent Persons using the same list as appointments for the role of Investigating Officer.
- 1 local authority reported that they would consult with other local authorities in order to identify a likely candidate.
- 1 local authority reported that they were in the process of reaching decisions as to the process for recruiting and appointing Independent Persons.
- 1 local authority reported that the Designated Complaints Officer made the appointment.
- 1 local authority reported that it was their policy not to appoint an Independent Person.

48 Do you apply a Person Specification when selecting the Independent Person for appointment?

- 6 local authorities reported that they applied a person specification when selecting the Independent Person for appointment.
- 16 local authorities reported that they do not apply a person specification.

It is remarkable that the majority of local authorities do not apply a person specification when appointing to this role, particularly when it appears that most local authorities pay a fee for undertaking the role.

(See responses to question 50)

49 Do you consult with the wider community (e.g. community groups, service users, voluntary and other organisations with an interest) about the recruitment of the Independent Person?

Consultation with the wider community is a suggestion included within the Children Act 1989 Guidance and Regulations (Volume 3 Family Placements Para 10.33), 'The Independent Element of the Procedure'.

- 18 local authorities reported that they did not consult with the wider community.
- 4 local authorities reported that they did consult, and had recruited from the wider community.
- 1 local authority described a process whereby information evenings in the locality areas had been held, and, arising from those evenings, it had been possible to recruit, select, and train a cadre of Independent Persons, who were truly representative of communities within the local authority area. Further, independence could be said to be totally upheld, in that no fee was paid (only reimbursement of travelling and personal expenses). Several local authorities expressed an interest in pursuing this as a course of action in the future.

50 Please describe the training and on-going support you provide for the Independent Person.

- 6 local authorities reported that they did not provide training for Independent Persons.
- 8 local authorities reported that they did provide training for Independent Persons.
- 1 local authority had provided training several years back, and commented that they would need to review the situation forthwith.
- 8 local authorities enabled their Independent Persons to attend meetings, and /or discuss specific issues.
- 1 local authority reported that they provided supervision sessions for their Independent Persons.

It is interesting to correlate the answers to this question with the answers to question 48, which asks about the application of a person specification when appointing an Independent Person. Given that the

role is complex, and substantially different to the role of the Investigating Officer, there is a low level of investment in ensuring that the Independent Person is appropriately equipped and skilled to fulfill the role.

51 Does your Authority always appoint an Independent Person when investigating a complaint under the Children Act 1989?

- 11 local authorities reported that they always appointed an Independent Person.
- 11 local authorities reported that they did not always appoint an Independent Person.

Of those eleven authorities who reported that they did appoint an Independent Person, the criteria used to define independence does not always match that set out in the Children Act 1989 Guidance and Regulations, (Regulation 2(3)). Independence was defined as not having line management responsibilities for the service complained about.

The eleven local authorities that did not always appoint an Independent Person usually made the point that the appointment of an Independent Investigating Officer, (that is, a professional paid a fee to undertake the investigation, but not ordinarily employed by the local authority), provided sufficient independence to the process. However, the original intention enshrined within the Children Act 1989 - that the two roles are completely separate and fulfill different functions, with the Independent Person acting as a scrutiniser to the process - are lost within these eleven authorities.

52 Please give your rationale for the cases in which your Authority does not appoint an Independent Person.

- 8 local authorities reported that they always appointed an Independent Person, once the complaint had progressed to the formal stage, or stage 2.
- 3 local authorities reported that they would not appoint an Independent Person if a child advocate was already involved with the child.
- 6 local authorities reported that they would not appoint an Independent Person if an Independent (i.e. external to the local authority) Investigating Officer had been appointed.
- 1 local authority made the point that if the young person objected to the role of the Independent Person, they would consider not appointing to that role.
- 1 local authority reported that they would certainly appoint an Independent Person if the young person requested that this was done.
- 1 local authority reported that the appointment of an Independent Person, as yet another person in a child's life may prove to be '*counter productive, overwhelming, and not in the best interests of the child*'.
- 1 local authority reported that the issue had not yet arisen.

Section 9 Panel Review

A child or young person has a right to have their complaint considered by a panel, if they are dissatisfied with the local authority's response to their formal complaint. The Children Act 1989 Guidance and Regulations (Volume 3 Family Placements paras 10.43 to 10.51) gives detailed proposals as to how the Panel Review should be convened and conducted.

53 At what stage does your Authority inform children and young people of their right to request a Panel Review?

- 19 local authorities reported that children and young people were informed of their right to a Panel Review at all stages of the complaints process. Leaflets explaining the whole of the process were given to children and young people from the outset. All these local authorities reported that they also

reminded children and young people of this right when they were informed of the local authority's response to the complaint.

- 3 local authorities reported that children and young people would be informed of their right to Panel Review when the outcome of the formal stage / stage 2 was conveyed to them.

54 What are your Authority's arrangements for the selection and appointment of Panel Review members?

The composition of the Panel varied from authority to authority although all reported that they appointed Independent chairpersons.

Independent Chair	Elected Member	Senior Officer	9
Independent Chair	Elected Member	Elected Member	6
Independent Chair	Elected Member	Independent person	1
Independent Chair	Independent person	Independent person	2

Four local authorities reported that they are currently reviewing their arrangements.

A Panel Review is a major event in the life of a child or young person. It is crucial that the Review is held, and seen to be held, in accordance with the fundamental principles of fairness and independence. This can only be achieved with fully independent membership.

Recommendation 3.23

Local authority social services should appoint Panel Review members who are independent of social services in order to demonstrate the independence of the Panel in a way that is credible to children and young people and their representatives.

55 How is the child or young person facilitated to submit oral or written representation to the Panel Review?

Almost all local authorities reported that the number of Panel reviews involving children and young people were very small.

- 3 local authorities reported that they had had none.
- 21 local authorities reported that the advocacy service would be involved should the children and young people wish.
- 7 local authorities reported that the children and young people could have a friend or representative with them at Panel Review. Only in 4 of these cases was there room for interpretation that this representative could be another young person.
- 1 local authority reported that the choice of venue would be agreed with the young person and recognised that this, in itself, might be a factor which affected the young person's contribution.
- 1 local authority reported that sensitivity to children and young people's language needs was a factor, which required consideration.

One local authority explained:

'The child or young person would be supported by Advocacy Service (or an Advocate of their choice) to submit their oral or written representation to the Panel Review. The Panel would be open to exploring creative methods for children and young people to do this. There is flexibility in this area to meet the person's needs, both in Panel membership and of who attends with the child/young person. Such flexibility would

include the venue, and of course whether interpreters were required and the cultural diversity of the child/young person making the complaint.'

56 What arrangements do your Authority make to ensure that children and young people can actively participate in the Panel Review discussions, whatever their ability, age or choice of language?

- 22 local authorities reported that they would be sensitive to the individual's needs and would make arrangements accordingly.
- 1 local authority reported that they gave consideration to the gender make up of the panel.
- 2 local authorities reported that they would make the hearing as informal as possible, given that a Panel Review considers serious issues.
- 1 local authority reported that they would carefully consider the venue, that it should be non-threatening and may well take place in the young person's home.

57 How does your Authority notify the child or young person of the outcome of the Panel Review?

- 4 local authorities reported that they would inform the children and young people in writing only.
- 2 local authorities made no report on the grounds that this had never happened in their authority.
- 1 local authority reported that the child or young person would receive a copy of the Panel's report.
- 14 local authorities reported that they would inform the child or young person verbally and in writing. In many cases the children and young people's advocate would also be present.

It was of concern that local authorities felt the need to inform the child or young person of the Panel's decision/recommendations before their consideration by the Director of Social Services, who may decide not to follow the recommendations. The Children Act 1989 Guidance and Regulations (Volume 3 Family Placements Para 10.49) suggests that it is the response of the local authority that should be communicated to the young person.

The issues of whether a child or young person should receive an original copy of the Investigating Officer's Report, the Independent Person's Report and the Panel Review Report needs further debate and exploration.

58 In what circumstances would your Authority decide not to follow the recommendations of the Panel Review?

- 3 local authorities reported that they could envisage no circumstances when the recommendations of the Panel Review would not be followed.
- 4 local authorities reported that they would decide not to follow the recommendations at the discretion of the Director of Social Services.
- 15 local authorities reported that they would decide not to follow the recommendations only in exceptional circumstances which they further defined as heavy financial implications, against the best interests of the child, or counter to policy or legislative requirements.

59 What proportion of Complaints and Representations are processed by social services within the statutory timeframes for the Panel Review stage?

- 12 local authorities reported that there had been no complaints or representations that had proceeded to Panel Review during the last year.
- 6 local authorities reported that all the Panel Reviews held had been processed within the statutory timeframe.
- 2 local authorities reported that they had no available data.

- 1 local authority reported that out of two Panel Reviews held during the last year, one was processed within the statutory timeframe and the other within a three month period.
- 1 local authority did not provide figures, preferring instead to state that the statutory timeframes were impossible to work within.

Section 10 Culture

This section deals with the wider cultural ethos of the local authority as an organisation, and how the organisation views the issue of complaints and representations. Whilst the Children Act 1989 Guidance and Regulations about complaints does not make specific reference to the cultural ethos of the local authority, there are suggestions which imply the desirability of an ethos of openness and transparency, for example:

'A representation procedure will be effective only if the responsible authority demonstrates commitment to it An unequivocal policy statement on the scope and benefits of the procedure . . . will help to reassure staff Responsible authorities and their staff are more likely to operate the procedure fairly if it is viewed as an aspect of service provision to promote partnership.'

(Volume 3 Family Placements Para. 10.17)

The Guidance recommends that consultation with community groups should take place at the stages of implementation and monitoring:

'The responsible authority should consider inviting comment from those consulted during the setting up of the procedure (community groups, service users etc) on the effectiveness of the procedure and ask for suggestions for improvement. Regular consultation with such groups and sharing information on the outcome of the monitoring process will help to build confidence in the operation of the procedure.'

(Volume 3 Family Placements Para. 10.56)

Local authorities should ensure that the process of policy and practice development is dynamic. Staff should be encouraged to view the complaints and representations process as a learning opportunity rather than an exercise in blame.

60 How does your Authority ensure that its culture is open and enquiring and actively encourages learning from mistakes?

This question posed a considerable challenge and twelve local authorities did not provide a detailed response. Several local authorities provided statements of intent but gave no real detail of how the culture of their authority is encouraged to be open and constructive in its approach to the complaints process.

Generally, local authorities talked about their commitment and investment in advocacy provision. As one local authority reported, *'There is an active advocacy service and well developed user participation which creates a more open culture within the organisation.'*

Two local authorities reported that they had located the post of Complaints Officer within their department's quality division, as one local authority explained, *'This is a guarantee to ensure challenge to operational colleagues, the department and the authority.'*

Several local authorities reported that they saw training events as important in ensuring that staff members felt ownership of the process, understood the implications and did not approach what is often a challenging situation in a defensive manner.

One local authority reported that, ‘...after all complaints investigations are completed, all staff involved in the complaint are brought together for de-briefing. From this de-briefing an action plan is drawn up with nominated staff to complete actions within timescales.’

One local authority’s vision of ensuring a responsive, open culture with the complaints procedure being seen as integral to promoting children and young people’s rights was described as follows:

‘Involving children and young people in participation projects that raise their awareness of their rights will continue as part of the developing service. It is proposed that these issues will form the foundation for ensuring that the complaints procedure becomes integrated into the whole service and is not a “bolt on” administrative mechanism, likely to create adversarial, conflictual relationships.’

61 How do you ensure that social care staff (including foster carers) are supported to positively engage in the Complaints and Representations procedures?

Methods used	Number of authorities that use the methods
Publicise information	10
Support by social workers, other workers	6
Training Sessions	9
Supervision	4
Induction	4
Carers Forum	3
Independent support i.e. National Foster Care Association	3
Reviews	3
Staff Counselling	1
Staff manual	1
Membership of Advisory Group	1
End of placement meetings	1

62 Who has responsibility for analysing the information gathered in the Complaints and Representations Annual Report?

- 12 local authorities reported that this task is the responsibility of the Designated Complaints Officer.
- 4 local authorities reported that the analysis is completed jointly by the Complaints Officer and the manager of complaints / quality unit / customer services.
- 5 local authorities reported that the task is carried out by the Manager of the Customer Services Unit (or Assistant Directors of Commissioning and Operational Services).
- 1 local authority reported that the information is analysed jointly by the Directorate Management Team and the Select Committee within the Council.

One local authority who reported that it is the role of the Designated Complaints Officer to analyse the information, expressed their dissatisfaction with this approach as ‘a more robust’ approach is required.

63 How do the issues arising from the Complaints and Representations process for children and young people influence the development of practice, policy and planning?

The principal aim of the complaints and representations procedure is to ensure the rights of individual service-users are protected and their quality of service enhanced. The complaints procedure is also a

useful mechanism for obtaining feedback from service users. As an aid to policy-making and planning, the information derived from an analysis of complaints outcomes is invaluable.

- 4 local authorities reported that issues are identified from the Annual Report, and recommendations were passed to Children's Services Managers.
- 12 local authorities reported that they facilitate discussions about the findings in the Annual Report between colleagues in operational and planning mechanisms in Children's Services, i.e. Children's Services Planning Group, Children's Services Management Team.
- 2 local authorities reported that they had located the Complaints Officer within the planning and commissioning unit.

One local authority that had located its Complaints Officer within the planning and commissioning unit commented: *'This was a deliberate move in order to ensure that the information and results of this process are clearly linked with the procedure of developing practice, policies and planning.'*

A number of the local authorities were not very explicit about this process of feedback and influence on practice although they were adamant that lessons from the complaints process had led to direct changes in policies / practice. One local authority reported:

'...through Annual Reports to Committee, and through the departmental planning process. A quarterly report on the outcomes of complaints is provided to the Departmental Management Group at which Planning Officers are part of the membership. Individual Action Plans from individual complaints are drawn up with clearly identified actions. Any necessary procedural changes are made and/or included in teams' Service and Operational Plans. The Designated Child Care Complaints Officer is part of a Working Group updating and amending Child Care Policy and Procedures for Looked After Children, Adoption and Foster Care.'

For this process to be truly effective it needs to be dynamic and transparent and not dependent on one medium, that is, the production of an annual report. Organisations should seek to promote an active learning culture that seeks to improve service provision by attending to the comments and representations of service users.

Recommendation 3.24

Local authority social services should ensure that the Designated Complaints Officer and the Children's Complaints Officer are required to provide regular information (from their monitoring and analysis of complaints) to the Children and Young People's Framework Partnership.

64 How does your Authority ensure that children and young people (and other interested groups) access the information provided in the Annual Report and are able to respond to it?

- 18 local authorities reported that the Complaints and Representations Annual Report becomes a public document once it has been submitted to Council.
- 2 local authorities reported that children and young people access and respond to the information by means of consultation sessions with the Designated Complaints Officer and advocacy provider.

One local authority reported that:

'Children and young people do not have access at present. It would be a good idea to have Annual Reports in a "young people friendly format" so that we get the messages across better to children and young people and staff. We need better ways of ensuring a feedback loop.'

A number of local authorities reported that it was their intention to include the Report on the local authority website. Most of these authorities also acknowledged that this process in itself does not ensure that the information is made accessible to children and young people, or ensures that they can respond to it.

Recommendation 3.25

Local authority social services should ensure that children and young people are enabled to access and respond to the information contained in the Annual Report about Complaints and Representations.

Summary

One of the major questions emerging from the Review was whether the current children's complaints process is one that enables children and young people to have their complaint heard and dealt with in a way that makes sense to them. The evidence from the children and young people's comments (as well as other sources) suggests that we need to re-evaluate the process from children and young people's perspective through comprehensive research.

To the children and young people with whom we spoke, making a complaint or representation predominantly meant **telling** about things that were a problem or that made them unhappy. The significance of being listened to and heard was clear according to their definitions. The types of things they said they might want to complain about included a broad variety of issues in the personal realm, or even a more global level. Many issues were specific to their situations as children in need or looked after by local authority, but others echoed concerns expressed by young people in general.

The majority used the word **tell** specifically as their starting point in complaining. They said that they would tell various adults in professional roles, and significant others including friends and relations. The fact that so many children and young people said that they felt confident to tell, rather than not tell, is very reassuring to us as professionals. Work over a considerable period of time to encourage children and young people to speak out about things that concern them has clearly made an impact. Campaigns by organisations such as Childline, NSPCC, Drugs Education programmes and anti-bullying initiatives may be a factor in this positive change over the years. Nevertheless, there is strong evidence that there is a long way to go before all children feel able to tell and confident of the response.

Children and young people understand clearly the point of sharing their concerns with appropriate others and apparently have the confidence to take that step. We should consider whether a confusing, lengthy process which draws in a variety of different adults in different roles serves the needs of the service providers much more than children and young people. Do children and young people really need to speak to so many professionals about their complaints?

All local authorities have attempted to meet the statutory requirements of the Children Act Guidance as regards the complaints process. But there is significant variation in local authorities' interpretations of those requirements.

Minimal arrangements have been made by local authorities to ensure that marginalised groups of children and young people can easily access the complaints process. There is particular concern about how children and young people looked after and who have been placed away from their local communities are supported through the complaints process.

Bullying is clearly a major concern for children and young people, yet some local authorities seemed uncertain as to the rights of children and young people to have their complaints regarding bullying considered within the formal complaints procedure.

Despite the current context of multi-agency and partnership planning for children's services, it remains difficult for children and young people to make a complaint about other departments, as well as social services. There is much value in local authorities working towards adopting a 'one-stop-shop' approach to receiving complaints about any service they offer to children and young people.

There is considerable work to do creatively with children and young people, to ensure that the children's complaints process is one meaningful element of a listening culture within local authorities - a culture that is willing to view complaints as a real opportunity to learn and act on children's experiences.

Review of Whistleblowing arrangements in Local Authority Social Services in Wales

Background and introduction

The term 'whistleblowing' has, within a relatively short time, become part of our modern vocabulary. This is partly due to some cases which have been given a great deal of media coverage. Today we all know what whistleblowing means – or at least we think we do. In fact, whistleblowing and the legislation regarding it is far more complex than most people think.

There seem to be two distinct definitions of whistleblowing – in one the whistle is only held to have been blown if the malpractice is made known in a public forum or put on public record. That is not the definition used in this report - we also include the raising of concerns in confidence and internally.

Who made up the term?

Some people think the term whistleblowing came from a New Jersey statute that encouraged people to report any failure of a railroad to blow a warning whistle before coming to a crossing. The railroad company was fined and half the fine given to the person who reported the malpractice.

The need to encourage and enable workers to raise concerns about malpractice in the workplace became apparent following the findings of several public inquiries into some of the major disasters of the previous decade including:

- the Clapham rail crash (where the Hidden Inquiry heard that an inspector had seen the loose wiring but had said nothing because he did not want to rock the boat),
- the Piper Alpha disaster (where the Cullen Inquiry concluded that 'workers did not want to put their continued employment in jeopardy through raising a safety issue which might embarrass management').

The Waterhouse Report, ***Lost in Care***, added further impetus to the enactment of the law, finding numerous instances where workers had been reluctant to raise concerns about the treatment and welfare of children who are looked after.

11.03 The most usual way in which potential complaints were suppressed was by an interview with the complainant ..., in which the complainant would be asked if he wished to pursue an official complaint and told of the likely adverse consequences for himself and the relevant member of staff if he did so. This was generally sufficient to persuade the complainant to withdraw.

11.06 Without open and genuine complaints and 'whistleblowing' procedures accompanied by continuous monitoring and reappraisal of the community home's organisation and regime, it was always unlikely that such an institution would achieve the objectives that Parliament had in mind when it enacted the Children and Young Persons Act 1969.

Frightened of getting yourself in the brickhouse!

The Public Interest Disclosure Act 1998 came into force in July 1999. This gave legal protection to workers who felt that they had information about malpractice in the workplace but were worried about the possible consequences to themselves if they were to speak out.

The areas qualifying for protection under the Public Interest Disclosure Act 1998 are information which the employee reasonably believes tends to show one or more of the following matters is either happening now, took place in the past, or is likely to happen in the future:

- a criminal offence
- the breach of a legal obligation
- a miscarriage of justice
- a danger to the health or safety of an individual
- damage to the environment
- deliberate covering up of information tending to show any of the above five matters.

The Act is part of employment legislation but there are no qualifying periods or age limits that restrict the application of its protection. But the Act only applies to employees – not to members of the public with concerns.

The report on Standards in Public Life, Standards of Conduct in local Government in England, Scotland and Wales (Nolan Report) recognised the important contribution which whistleblowing could make in countering inappropriate behaviour and ensuring high standards of probity. The report recommended that every local authority should introduce a procedure for whistleblowing. That view was accepted by the Government and it is proposed that the employees' code, which all local authorities in Wales will be required to introduce, should include whistleblowing provisions.

The Health and Social Services Committee of the National Assembly for Wales, meeting in June 2000, prepared a response to the Waterhouse report which stated:

4.10 'Lost in Care' contains numerous examples, not only of failure to listen to children, but also of failure to listen to employees or to act on concerns raised, either through inertia or through closing of ranks. One of the prime defences against child abuse and other inappropriate hidden practices is enabling employees to voice their suspicions. Employees in the organisation are often the first to see the signs of inappropriate behaviour or that things are not as they should be. It is important that procedures are in place to ensure that employees who bring these concerns to the attention of management are treated properly - that their anonymity is preserved, they are kept informed of progress in investigating their allegations and that all serious matters they have brought to management's attention are fully, quickly and independently investigated. Management has to take the concerns of staff working in sensitive areas seriously.

The Committee accepted and reinforced Sir Ronald Waterhouse's original recommendations:

'Every local authority should establish and implement conscientiously clear whistleblowing procedures enabling members of staff to make complaints and raise matters of concern affecting the treatment or welfare of looked after children without threats or fears of reprisals in any form.'

Lost in Care, Recommendation 8

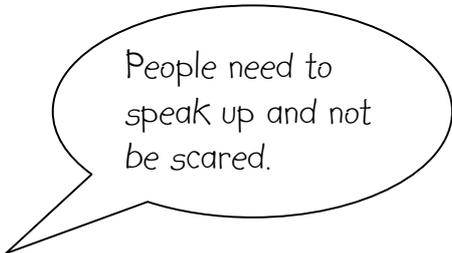
And:

'Consideration should be given to requiring failure by a member of staff to report actual or suspected physical or sexual abuse of a child by another member of staff or other person having contact with the child to be made an explicit disciplinary offence.'

Lost in Care, Recommendation 9

Whilst whistleblowing procedures are primarily intended to protect workers, it is also clear that they will also provide protection for organisations and employers.

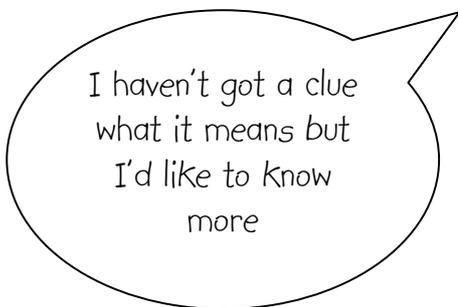
From time to time things will go wrong in any organisation and malpractice may well take place before managers become aware of it. Encouraging a culture of openness enables management to intervene at an early stage. The lack of a clear whistleblowing policy can place staff in a position where they feel they have no alternative but to approach the media to raise their concerns. This is unsatisfactory both for the employees themselves and the organisation for which they work.



People need to speak up and not be scared.

High profile disclosures to the media about any single social services department can seriously shake public confidence in all local authority social services. While the journalists' priority is to report hard-hitting news, the impact on the public interest is rarely considered.

While there is no legal obligation to do so, employers that do not have clear whistleblowing procedures in place are denying themselves the opportunity to have concerns raised and dealt with promptly and internally without the risk of potentially damaging wider disclosure. Research shows that whistleblowers make wider disclosures as a result of frustration that internal disclosure had failed to address the issue, or a perception that internal disclosure will be fruitless, coupled with their own judgement as to the consequences of not blowing the whistle.



I haven't got a clue what it means but I'd like to know more

There is a fine balance to be struck between a department encouraging a culture that is open to listening to concerns about the service it provides and a culture where everyone feels they are being watched and judged by their colleagues. This, however, is a manifestation of public accountability and without such accountability the most vulnerable in our society cannot be protected.

More than three quarters of the children and young people we spoke to as part of this review understandably had little knowledge of whistleblowing but were reassured that social services employees would be protected if they raised concerns about malpractice in children's services.

Although this review has concentrated on social services arrangements for whistleblowing, future reviews will extend to other areas of service provision for children and young people and will hopefully both extend the culture of openness and accountability as well as further reassure children and young people that whistleblowing is possible.



We need to know it's done properly!

Questions and Findings

Section 1 Documentation

1 Does your authority's social services implement a written whistleblowing policy and procedure?

All 22 local authorities responded 'yes' and provided a copy of their whistleblowing policy.

The names of the policies varied considerably:

Local authority Policies	Number
Whistleblowing Policy	10
Whistleblowing procedure	1
Whistleblowing reporting code	1
Whistleblowing Policy and the Public Interest Disclosure Act 1998	1
Addition to the code of conduct – Whistleblowing.	1
Disclosure of Malpractice 'whistleblowing'	1
Policy for confidential reporting ('Whistleblowing') and procedures for dealing with suspicions and allegations.	1
Confidential Reporting Code	1
Malpractice Policy	1
Anti Fraud, Corruption and Malpractice strategy, Employees' Code of Conduct.	1
Datgelu / 'Canu'r gloch' meaning 'Disclosure'/ 'Ringing the bell'	1
Social Services Policies	Number
Guidelines for Social Services staff on confidential reporting	1
Policies and Procedures Manual – Whistleblowing	1

The names of several of these policies could make it difficult for potential whistleblowers to recognise which policy they need to consult.

Recommendation 4.1

Local authorities should include the term 'whistleblowing' in the titles of all policies and procedures that detail how employees can raise concerns of malpractice.

The title, 'Anti Fraud, Corruption and Malpractice strategy, Employees' Code of Conduct' is perhaps the title that is least identifiable as the policy that social workers might use in order to raise their concerns about malpractice, suggesting as it does that the concerns should be about fraud and corruption.

The translation of the term whistleblowing into Welsh caused considerable debate. There does not seem to be a universally accepted term in Welsh – even amongst professional translators. Local authorities that include it in their policies have variously used 'Rhannu pryderon' and 'Canu'r gloch'. We eventually decided on the term 'datgelu camarfer' as we felt that it best reflects the meaning of revealing malpractice.

Legal protection for whistleblowers is offered by the Public Interest Disclosure Act 1998 and yet nine local authorities failed to mention this in their policies. This is a serious oversight if local authorities are sincere in their wish to encourage reporting of concerns and malpractice.

Recommendation 4.2

Local authorities should amend their policies as necessary to include mention of the Public Interest Disclosure Act 1998 and the legal protection offered by the Act to their employees.

Only two local authority social services had their own whistleblowing policy. All the rest used the local authority's policy. This, however, means that the precise answer to the question, 'Does your local authority's social services implement a written whistleblowing policy and procedure?' should, in most cases, be 'no' because it is the local authority that implements the policy and procedure and there seemed to be little understanding of the policies and procedures within social services. This was also evidenced in the interviews that we conducted in local authority social services where many departments had asked someone from outside social services (often from the internal audit department or personnel) to respond to the questions about whistleblowing.

In any case, these corporate policies don't take account of the special circumstances in local authority social services as envisaged in the Waterhouse report. They already have different complaints procedures for that very reason. If, for example, a whistleblower wished to raise concerns about the welfare of children and young people it is unlikely that a Designated Officer from the Internal Audit or Personnel sections would be well placed to initiate the necessary Child Protection procedures.

Recommendation 4.3

Local authorities' whistleblowing policies should be more explicit about the range of concerns that may be raised and, where concerns are raised about the welfare of children and young people, clear procedures should be set down so that child protection measures can be initiated without delay.

In our interviews with local authority social services it became clear that there was general confusion about the operation of the policy and procedures - particularly in questions that required comment on the way that policies and procedures dovetailed with each other and in procedures for recording information.

It is important that all policies are thoroughly considered in relation to each other as whistleblowing impinges on several other procedures and policies, particularly the disciplinary, supervision and grievance policies.

Recommendation 4.4

Local authority social services should develop their own whistleblowing policy in line with the recommendations of the Waterhouse report and ensure that it dovetails with other relevant policies.

Policies should also attempt to take account of potentially difficult situations that could arise. For example, when an employee who is already the subject of a disciplinary investigation makes allegations that would trigger the whistleblowing procedures. Managers too need to be aware that their actions could undermine employees' perception of the operation of whistleblowing procedures. For example, when they may consider investigating the expenses or other actions of an employee who may have blown the whistle on a completely unrelated matter. Although this would not technically be 'harassment', it would most likely be perceived to be so by employees.

Section 2 Employees, Foster Carers and other workers

This section looks at the level of awareness that employees within local authority social services have about whistleblowing policies and procedures. The section also looks at the way that the policies and procedures have been implemented and whether other relevant policies, such as disciplinary policy or policies about harassment at work, dovetail with the whistleblowing policy.

2 Are employees aware that they are able to raise concerns about malpractice without fear of victimisation, harassment or retribution?

All twenty two local authorities reported that employees are aware that they are able to raise concerns about malpractice without fear of victimisation, harassment or retribution.

A few local authorities also published guidance for social services employees on whistleblowing and confidential reporting.

3 Which of the following workers can you be sure are aware of this?

The figures in the far right column denote the number of local authorities that thought that there was a level of awareness amongst the identified staff groups:

Staff group	No. of Local Authorities
Social Care workers	21
Administrative staff	19
Agency workers	8
Workers from private or voluntary organisations with whom there is a service level agreement	0 See below
Trainees	12
Foster carers	12
Ancillary staff such as cooks, cleaners etc.	12
Suppliers	3

During the interviews some local authority representatives were frank in admitting that they could not be sure that all staff groups listed above were aware of the whistleblowing policy and procedure. This is evidenced by the figures below.

In relation to workers from private and voluntary organisations with whom there is a service level agreement, the comment most frequently heard was that there was reliance upon that agency or organisation to have a whistleblowing policy and procedure in place. However, no local authority had checked that that was the case. It was also interesting to note the difference in approach between the employment of agency staff, and other personnel working within the agency or on behalf of the agency but employed by another organisation.

Several local authorities reported that they had included advice about whistleblowing within written information packs that they gave to foster carers, or provided information sessions to foster carers about the matter.

There was less information available about how information was provided to trainees, and who was responsible for providing the information.

Similarly, it was interesting to note that many local authorities thought that administrative staff were aware of the policy, although there was little information about how exactly that was achieved.

Recommendation 4.5

Local authority social services should produce and widely distribute guidelines for their employees, foster carers, ancillary staff, trainees, and suppliers on reporting concerns of malpractice in children's services.

4 How is this awareness achieved?

- 21 local authorities reported that social care staff have access to policies and procedures.
- 13 local authorities reported that opportunities were made available during supervision sessions to discuss policies, and raise awareness (see also section 4 questions 15 to 17).
- 12 local authorities reported that the concept, policy and procedure was included within the Induction Pack produced for new members of staff within the social services department.
- 8 local authorities reported that whistleblowing policy and procedure was a subject area covered within in-service training programmes.
- 1 local authority had included information within the pay advice that was sent out to employees.
- 1 local authority drew a link between child protection policies, and corporate parenting and the whistleblowing policy but was not explicit about how or where the links were drawn. This same local authority talked about a need to clarify whether the policy was corporate, or related explicitly to social services.

During the interviews conducted within each local authority area, representatives from the local authorities said that they realised that there was a heavy dependence upon staff achieving self awareness about the policy by familiarising themselves with the contents of the policy. Comments included: *'I cannot guarantee that they are read or understood'*, and *'staff have access to policy and procedures but we cannot be sure that every member of staff is aware of the policy, let alone the foster carers'*.

5 Where services (e.g. catering, cleaning etc.) are contracted out, do you specify that the service provider must have whistleblowing arrangements in place?

- 6 local authorities reported that, as no children's services were contracted out, the question was not applicable.
- 13 local authorities reported that service level agreements for contracted out services did not specify that the service provider must have whistleblowing arrangements in place.
- 3 local authorities reported that all new contracts were to contain specific reference to the need for a whistleblowing policy.

Several local authorities wished to acknowledge the importance of this issue and said that it would be a future development.

Recommendation 4.6

Local authority social services should take steps to ensure that all those who provide services to children and young people on their behalf have effective whistleblowing procedures in place.

6 Does your authority make it clear to employees that it is their duty to disclose information about malpractice?

This question was intended to elicit whether local authorities had implemented the following recommendation in the Waterhouse report:

Consideration should be given to requiring failure by a member of staff to report actual or suspected physical or sexual abuse of a child by another member of staff or other person having contact with the child to be made an explicit disciplinary offence.

- 19 local authorities reported that it was made clear to employees that it is their duty to disclose information.
- 3 local authorities reported that it was not made clear to employees that it was their duty to disclose information.

The policies and procedures of the 19 local authorities that reported in the affirmative were scrutinised with surprising results. Several local authorities used words and phrases such as 'encouraged to report', 'expected to report', or 'enabled to report', which are very different in nuance and interpretation to 'duty to report'. However, it was interesting that the responses to the questionnaire had reflected that local authorities social services had an understanding that the word 'duty' was used.

Recommendation 4.7

Local authority social services' whistleblowing policies and employees' codes of conduct should be amended as necessary to make it clear that it is an employee's duty to report malpractice.

7 Does your authority consider failure by an employee to disclose information about malpractice a disciplinary offence?

- 12 local authorities reported that a failure to report was considered to be a disciplinary offence.
- 10 local authorities reported that failure to report was not a disciplinary offence.

There should be a close correlation between the answers to this question and the previous question; however, although 19 local authorities reported that it was made clear, or should be made clear to employees, that it is their duty to disclose information about malpractice, it was only considered to be a disciplinary offence not to disclose that information in just under half of the local authorities.

There may be a link here to the fact that the whistleblowing policy and procedure, even when originally developed by social services, was now subsumed within the corporate personnel policies and procedures and therefore not specific to children's services. There may be some merit in local authority social services revisiting the corporate policy and ensuring that there is sufficient account taken of the recommendations contained within the Waterhouse Report.

Recommendation 4.8

Local authority social services should amend their disciplinary policies as necessary to make failure to report malpractice a disciplinary offence.

8 Does your authority's Disciplinary Policy/Procedure make it clear that failure by an employee to disclose information about malpractice is a disciplinary offence and that harassing or victimising a whistleblower is a disciplinary offence?

- 11 local authorities reported that their Disciplinary Policy did make it clear that failure to report information about malpractice was a disciplinary offence. However, closer inspection of the policies revealed that this was often not as clear as was suggested.
- 11 local authorities reported that the policy did not.

In view of the findings in the preceding questions, these results are hardly surprising; there would appear to be a lack of clarity and ensuing lack of policy development in relation to whether an employee may be required to report malpractice as a duty.

- 16 local authorities reported that harassing or victimising a whistleblower is considered a disciplinary offence. Again, closer inspection of the policies showed that, in most cases, *harassment* in a more general sense was mentioned without it referring specifically to the harassment of whistleblowers.
- 6 local authorities reported that the policy did not.

One of the main aims of the Public Interest Disclosure Act 2000 is to provide protection from harassment or victimisation to employees who follow the policies laid down by the agency or organisation.

Recommendation 4.9

Local authority social services' disciplinary policies should be amended where necessary to reinforce the protection of whistleblowers by making their harassment a serious disciplinary offence

9 Does your local authority direct employees to independent sources of advice and support (e.g. Trade Unions, Public Concern at Work) about whistleblowing and voicing their concerns?

The purpose of this question was to elicit the help and support that was available to employees who had concerns about malpractice but who were unsure as to the correct way to report them. Such employees may also have worries that they could be victimised and would need advice on how to make a disclosure that would be a 'qualifying disclosure' under the Public Interest Disclosure Act 1998 and therefore ensure the protection of the Act.

- 20 local authorities reported that they did direct employees to independent sources of support.
- 2 local authorities reported that they did not.

10 Please identify these sources of independent advice and support.

The responses to this question (in common with those of question 23) showed that there was some confusion between the role of agencies that will give advice about the process of whistleblowing and the Public Interest Disclosure Act 1998 and the role of 'prescribed persons' to whom employees should be directed if they remain dissatisfied with the outcome of an internal investigation.

Seventeen local authorities reported that employees were directed to contact a trade union, or professional association, for independent sources of advice and support.

Agencies as reported by local authorities	No. of Local Authorities
Public Concern at Work	4
External Audit	1
Police	4
Whistleblower's own legal representation	2
Ombudsman	1
Citizens Advice Bureau	1
Independent Counselling and Peer Support provided by the local authority	3

Several local authorities reported that they would direct employees seeking independent advice or support to the Head of Personnel, elected members or District Audit.

Of those listed, several could not be regarded as *independent* nor are many of them best placed to provide appropriate advice. Furthermore, should employees discuss the content of their concerns with some of those listed here there is a strong possibility that their disclosure would not meet the conditions for being accepted under the Act as a protected disclosure.

Recommendation 4.10

Local authorities should identify appropriate agencies to whom to direct their employees for advice about the process of whistleblowing and identify them in their whistleblowing policies.

11 How does your local authority respond to requests to protect the identity of a whistleblower?

- 12 local authorities reported that they would attempt to protect the identity of a whistleblower if requested so to do, although most also pointed out that this may be difficult if there was Police involvement, and /or ensuing legal action.
- 5 local authorities directed us to their policy but only two of these policies referred to the action that would be taken to protect their identity. This was in line with the responses of the 12 local authorities quoted above.
- 4 local authorities reported that each request would be considered upon its merit.
- 1 local authority reported that they referred whistleblowers to their personnel manager.

Clearly whistleblowers are best protected by protecting their identity. However, should legal action be taken as a result of any investigation, this will not be possible as the whistleblower may be required to give evidence.

Many local authorities suggested that a whistleblower's concerns would be investigated following the same procedure as for investigating complaints. It is to be hoped that the investigation officer concerned would be aware of the necessity to protect the identity of the whistleblower as far as possible

Section 3 The General Public

This section was included because of the current debates about the definition or the identity of a whistleblower. We wished to ascertain local authorities policy development, particularly in relation to service users, and naturally children and young people who are service users.

The Public Interest Disclosure Act 1998 only applies to employees. This is because employers may have the power to discriminate against them. It is generally thought that the general public are not vulnerable to discrimination in this way. However, anyone who is receiving a service from an agency may also be discriminated against by alteration, withdrawal or interference with the service they receive. We would hope that local authority social services recognise this possibility and conduct whistleblowing investigations from the general public within the spirit of the act.

Similarly, the employment status of foster carers is somewhat different to that of employed staff and they may not fall within the Public Interest Disclosure Act 1998 either. However, being very close to the child or young person they would be perhaps best placed to raise concerns about their welfare and it is to be hoped that they would not be victimised in any way for doing so.

12 How would your authority respond to concerns about malpractice raised by a member of the general public who may also be a service user?

- 18 local authorities reported that in this sort of circumstance, the matter would be dealt with by the Designated Complaints Officer – and therefore treated as a complaint, certainly in the first instance.
- Out of those 18 local authorities, 5 reported that if the concerns raised referred to children or child protection issues, the matter would also invoke relevant child protection procedures.
- 2 local authorities reported that the matter would be dealt with under the Whistleblowing Policy and Procedure.
- 1 local authority reported that the matter would be investigated, but were not clear about which policy or procedure would be used.
- 1 local authority reported that appropriate departmental procedures would be used, without being able to specify what would happen.

- 1 local authority reported that the matter would be dealt with as part of the disciplinary policy and procedure.
- 1 local authority reported that each matter would be dealt with on an individual basis but cited the example of the difference between a service user raising an issue about a service provided directly to them, as opposed to a service user raising an issue about the quality or standard of service, or a concern about a service provided to others.

13 Are your authority's whistleblowing procedures available and accessible to children and young people?

Within the terms of this question, available and accessible meant that the procedures were produced in an easily understandable format, and efforts were made to provide and explain the procedures to children and young people.

- 19 local authorities reported their procedures were not accessible to children and young people.
- 1 local authority reported that the procedures were accessible to children and young people at least in the sense that the document was publicly available. However, the document had not been written in a child friendly way.
- 2 local authorities reported that the procedures were available upon request by the child or young person: neither had a child friendly version available though.

An explanation about the question was then provided to each local authority: the question does not imply that children and young people may be regarded as 'whistleblowers'; merely about the provision of information. We realise that some children and young people will have concerns about what happens to information that they may wish to disclose about malpractice.

Research informs us that children and young people often worry about the person to whom they have disclosed or to whom they wish to disclose. They may be uncertain as to what will happen next.

We believe that it is important to ensure that children and young people receiving a service from the local authority social services department know about and understand the policies and procedures put in place that contribute to safeguarding their welfare. This is a means of further promoting their rights.

It is worth noting therefore that after this explanation was given, nine local authorities immediately acknowledged the need to revise and review their whistleblowing literature and to ensure that it is made available and accessible to children and young people.

One local authority suggested that a statement included within the complaints leaflet may be the simplest solution. For example:

'If you ask someone to make a complaint on your behalf we will make sure that they will not be punished in any way.'

Recommendation 4.11

Local authority social services should consider ways of making it known to children and young people that any employee raising concerns of malpractice on their behalf will not be victimised or harassed in any way.

14 Under what circumstances would your authority consider investigating anonymous allegations under the whistleblowing procedures?

- 12 local authorities reported that they would always investigate anonymous allegations under whistleblowing procedures.
- 8 local authorities reported that, depending upon the detail and the nature of the information given, they might, at their discretion, investigate anonymous allegations under whistleblowing procedures.

Out of the twelve, four local authorities wished to particularly emphasise that if the allegations concerned children or a matter of child abuse, then other procedures would also be considered at the same time.

Anonymous allegations are also much more difficult to investigate as there is no possibility of seeking further clarification – some local authorities suggested that they would need to consider whether there was a likelihood that an investigation would be able to uncover the truth before embarking on it.

It is important that employees realise that, if they make anonymous allegations, they would probably not qualify for protection under the Public Interest Disclosure Act 1998 should their identity later come to light.

If employees genuinely believed that they would not be victimised for blowing the whistle there would be no need for anonymous allegations. Any local authority that does receive such allegations should be asking themselves whether they need to amend their procedures and improve their accessibility to employees.

Section 4 Supervision

This section was included as it has been suggested that the apposite time and place to offer employees the opportunity to share concerns they may have is during individual supervision sessions. Including a standard agenda item, or prompt question, also ensures that employees are aware of their responsibilities with regard to reporting malpractice.

15 Does your authority have a supervision policy and procedure for social services?

The 22 local authorities said that they had a supervision policy; one local authority said that their policy was currently under review and revision.

One local authority said that most of their personnel policies dovetailed - in particular their whistleblowing and supervision policies and the employees' code of conduct.

16 Is there a standard question during all supervision sessions that gives employees the opportunity to raise concerns of malpractice?

- 19 local authorities said that they did not include a standard question during supervision sessions.
- 3 local authorities said that they did include a standard question.

Out of the nineteen local authorities that did not, three wished to make the point that although there was no written expectation or policy, it was generally understood within the Department that it was an expectation that issues leading to whistleblowing could be raised during supervision.

Two out of the nineteen acknowledged the value of including a written expectation within a supervision policy, and said that they would amend their policies accordingly.

17 What procedures are in place to ensure that concerns about malpractice raised during supervision sessions are dealt with?

This question turned out to have been problematic – some local authorities answered in terms of feedback to the whistleblower during supervision, and some answered in terms of the more general procedure about what happens next if an issue is raised during supervision.

- 14 local authorities said that the issues raised about alleged malpractice would be dealt with by means of the local authority's whistleblowing policy and procedure.
- 4 local authorities said that the supervisor would be required to report the allegation to Senior Management who would deal with the matter, although this was not written policy.
- 1 local authority said that they did not have a procedure in place to deal with issues of malpractice raised during supervision, and acknowledged the need to develop a dovetailing set of policies.
- 1 local authority said that they were not aware of separate procedures.
- 2 local authorities said that they would provide feedback to the whistleblower during supervision sessions.

Responses in this section, however, did tend to show that policies had been developed independently of each other, and probably at different times. Few local authorities, therefore, had opportunity to review all policies in terms of consistency and overlap, to ensure congruence.

Recommendation 4.12

Local authority social services should amend their supervision policy and procedures to require supervisors to ask a standard question during supervision that will give supervisees the opportunity to raise any concerns they may have about malpractice. Supervisors should be directed to discuss any concerns arising from this standard question with the Designated Officer for whistleblowing. The supervisor and Designated Officer should decide who takes the responsibility for reporting back to the whistleblower.

Section 5 The Designated Officer

For employees to be able to raise their concerns, it is not sufficient that they are aware of the legal protection offered by the Public Interest Disclosure Act 1998. They need also to feel confident that the person who listens to their concerns is able to understand and is in a position to act on them. They also need to know that this person understands the issues in whistleblowing and is capable of protecting their identity.

It is probably best if there are several Designated Officers for whistleblowing. Employees could then choose the most appropriate depending on the nature of their concerns. Whilst, for example, the Internal Auditor may well be the best person with whom to raise concerns of malpractice of misappropriating funds, that same person will be less well equipped to follow up concerns of child abuse. These areas of particular responsibility should be clearly identified in the policy.

Designated Officers should be of sufficient seniority to ensure that concerns are followed up while protecting the identity of the whistleblower.

18 Is there a Designated Officer within social services who is the point of contact for concerns raised under the whistleblowing procedure?

The range of responses received from local authorities suggests that there is considerable confusion about the Designated Officer and the exercise of that role.

- 9 local authorities reported that that they had a Designated Officer and 13 that they did not.
- 1 local authority reported that they had a Designated Officer within Social Services who is clearly identified to receive concerns about Children's Services.
- 14 local authorities reported that managers would be the automatic point of contact for whistleblowers. However, it is difficult to understand how anything can be considered to be automatic in a procedure which, by its very nature, will be used so infrequently.

19 How are employees, foster carers and other workers informed of this person?

- 7 local authorities reported that the Designated Officer was named in the whistleblowing policy.
- Several local authorities responded to question 18 with the names of 'Designated Officers' who were, in fact, not named in their whistleblowing policy. This calls into question the understanding of the term *designated*. If employees cannot clearly and easily identify the person to whom they can take their concerns, there is little point in having a whistleblowing policy except as a statement of intent.
- 14 local authorities made no mention of foster carers in their response. One other stated that foster carers were not informed as to who was the Designated Officer.
- 1 local authority reported that foster carers were given copies of policies and procedures yet *'doubted if they read them'*.
- 2 local authorities reported that whistleblowing and information about the Designated Officer was part of their training.

Recommendation 4.13

Local authority social services should have a Designated Officer within each division of their service who can confidently implement the whistleblowing policy.

20 Have any of the Designated Officers received formal training in the Public Interest Disclosure Act 1998 and in working with whistleblowers?

- 3 local authorities responded 'yes' although two of these were unable to give any details of when the training took place or who attended it.
- 14 local authorities responded 'no'.
- 5 local authorities failed to answer the question.
- 1 local authority reported that there was no suitable training available.
- 1 of the local authorities who provided training was able to provide details and had provided a total of 6 days training, one of which was specifically for foster carers.

In general, although training is available, few local authorities had provided it for their Designated Officers.

Handling whistleblowers and being at the front line of implementing the Public Interest Disclosure Act 1998 is not something that any employee should be asked to do without training.

Recommendation 4.14

Local authority social services should ensure that all relevant employees receive appropriate training in whistleblowing and the Public Interest Disclosure Act 1998. Designated Officers should receive thorough training and support. Supervisors should also receive training to enable them to identify and act on disclosures of malpractice.

The Social Services Inspectorate for Wales, as part of its development programme for local authority social services in Wales, is planning workshop events in 2003 to promote awareness of professional responsibilities around whistleblowing.

Section 6 Reporting back to the whistleblower

21 Who is responsible for reporting the outcome of an investigation to the whistleblower?

Person reported by local authority social services	No. of Local Authorities
Investigating Officer	7
Investigating Officer or Assistant Director	1
Designated Officer	1
Line Manager	1
Person to whom concerns first reported.	1
The Responsible Manager	1
Senior Manager	1
Chief Social Services Officer	1
Head of Service	1
If staff – Line manager If public or other agency – Director of Social Services	1
Quality Assurance Manager/ Senior Officer	1
Departmental Complaints Officer	1
Monitoring Officer of the Council	1
'The Council' - unclear as to exactly who	1
No clear response	2

The range of responses here indicate a general confusion about the proper course of events in cases of whistleblowing and indicate the need for staff training and awareness raising about whistleblowing issues. It also provides further evidence that there is no clear distinction drawn between procedures used for whistleblowing and those used for complaints.

We would again recommend that each Social Services Department develops their own whistleblowing policy and names a designated officer for dealing with whistleblowing issues and procedures. (See recommendations 4.1 and 4.2)

22. Are there particular circumstances where the outcome of an investigation would not be reported to the whistleblower?

All local authorities recognised the importance of reporting back to the whistleblower and giving assurance that the original concerns had been properly addressed although many, quite rightly, qualified this as being 'subject to legal constraints and confidentiality issues'.

If the whistleblower is assured that the matter has been properly and fully addressed internally, the need to take the matter further is removed. Outcomes of whistleblowing investigations may well, for example, result in changes to the working practice which gave rise to the concerns. The whistleblower would then be able to see practical and positive results from their raising the concern.

One example of outcomes that would not be reported would be the details of any disciplinary action which had been taken against a staff member as a result of the investigation – this would be a confidential matter between employee and employer.

23 Are there any external agencies or prescribed regulators to which you would direct employees with whom they could raise their concerns if they felt that an internal investigation had not completely addressed them?

Most local authorities reported that they would direct employees to external agencies – some of whom are prescribed regulators and some are not.

Two local authorities responded ‘no’.

Several other local authorities directed employees to other departments within the county council. This can hardly be considered as ‘external’.

One of these reported that their whistleblowing procedure instructs employees not to disclose their concerns to the media or other external bodies without the permission of the county council. Such ‘gagging’ clauses have no force and are prohibited under the Public Interest Disclosure Act 1998:

43J. – (1) Any provision in an agreement to which this section applies is void in so far as it purports to preclude the worker from making a protected disclosure.

Two local authorities reported that they would only direct employees to Public Concern at Work. However, Public Concern at Work is an organisation that can advise about the processes of whistleblowing but they cannot pursue individual concerns. Whilst they may have been a useful contact for an employee at the point of considering whistleblowing, to contact them at this later stage would not be entirely helpful as they are not prescribed regulators. This could compromise the protection offered by the Public Interest Disclosure Act 1998.

Few employers would deny that they have a duty of care towards their employees and this would include giving them accurate advice. Training of Designated Officers in whistleblowing and the Public Interest Disclosure Act 1998 is strongly recommended. See recommendation 4.13.

A full list of prescribed persons and the matters in respect of which they are prescribed is available from the DTI website: <http://www.dti.gov.uk/er/individual/pidguide-pl502.htm#app1>

It is hoped that the Children's Commissioner for Wales will be added to the list of prescribed persons very soon.

24 What action would be taken by your authority against an employee who was found to have made malicious allegations?

All local authorities reported that disciplinary action would be considered.

This is right and proper. However, when the concerns are first raised, it may be possible to avoid such malicious allegations by discussing alternative channels with the employee who is raising concerns such as the grievance procedure. With appropriate training, the Designated Officer would be equipped to explore these alternatives.

It is important that all are aware of the distinction between issues that are primarily to do with dissatisfaction between employee and employer (which should be dealt with through the Grievance Procedures) and matters of concern about actual malpractice that should be dealt with through whistleblowing procedures. Similarly, concerns may be raised which require child protection measures to be instigated – which should be considered an absolute priority over any other procedures.

Section 7 Record Keeping

This section looks at the arrangements local authorities have put in place to record the instances of whistleblowing in their local authority.

25 What information does your local authority record in relation to whistleblowing, where is the information stored and for how long is it retained?

This question proved problematic. We soon realised that we were asking local authority social services to comment on procedures that, in most cases, were administered by another department of the local authority.

Furthermore, since most local authority social services had little experience of whistleblowing (see question 26), there had been little opportunity to become familiar with the processes.

- 5 local authorities reported that they maintained a record of the investigation on individual staff files.
- 5 local authorities reported that they maintained a record of the investigation in a central system within the local authority.
- 2 local authorities reported that they maintained a record of the investigation within the Directorate.
- 2 local authorities reported that the Chief Executive Officer maintained records.
- 4 local authorities reported that the records were maintained by: the Monitoring Officer; the Designated Complaints Officer; the Head of Scrutiny; and the Corporate Chief Officer Legal and Regulatory Services respectively.
- 1 local authority reported that as no instances had yet arisen, these matters were not resolved.
- 1 local authority reported that the outcome of the investigation would determine the location for maintaining a record.
- 2 local authorities reported that records were maintained indefinitely.
- 1 local authority reported that records were maintained for one year.
- 1 local authority reported that they maintained records for three years.
- 1 local authority reported that they maintained records for five years.
- 6 local authorities reported that they had not yet developed a policy and procedure for the retention and destruction of Whistleblowing Records.

On the whole, there was little uniformity of practice in this area. The answers that we received were not often reflected in the written policies and procedures that were provided, suggesting that this is an area in need of further attention.

Recommendation 4.15

Local authorities should maintain records centrally, under secure storage, and information relating to the investigation and the outcome should be held on individual staff files of both the whistleblower and the employee who was alleged to have perpetrated the malpractice. Should allegations prove to have been unfounded, this must be very clearly recorded in all files.

26 How many instances of whistleblowing have occurred in social services in the Financial Year 2001 - 2002?

- 14 local authorities reported that there had been no instance of whistleblowing from within the Social Services Department during this period.
- 1 local authority reported that there had been four instances during this period.
- 1 local authority reported that there had been two instances during this period.
- 3 local authorities reported that there had been one instance during this period.

- 3 local authorities reported that they were unable to provide information, as it was not collected centrally.

It is difficult to believe that in a year in all the local authority social services throughout Wales there have only been nine instances of employees raising concerns of malpractice. This would suggest that local authorities are using a definition of whistleblowing that only applies when the disclosure is made public.

Unless there is a change in the culture around whistleblowing which enables employees to raise their concerns in the normal course of their work and without fuss, the purpose of the recommendations of the Waterhouse Report will never be realised.

On the positive side, during the process of this Review, there was an openness and willingness to learn and improve in all local authorities. Many welcomed the questions raised by this Review and expressed their hopes that the findings here would be of some practical help in establishing whistleblowing procedures that will help in safeguarding children and young people and improving services to them. We hope that this proves to be so.

Summary

All local authorities in Wales have whistleblowing policies in line with the recommendations in the Waterhouse Report. However, the implementation and management of these policies and procedures are so far removed from the point of service delivery to children and young people that it virtually renders them ineffective. All but two local authority social services implement the local authority's policy.

Employees are generally not well informed as to either their duty or the process of reporting concerns of malpractice. Except in a few local authorities, contracted services are not required to have whistleblowing policies in place.

There is also a lack of clarity amongst managers about how to handle whistleblowers. This is largely due to the fact that relevant officers have, in most local authorities, received little or no training. This results in a poor level of support for employees wishing to raise concerns about malpractice. However, most local authorities commented that this review had helped clarify issues around whistleblowing and raised awareness of the need for improvement. The prospects for such improvement are good.

While the majority of children and young people we spoke to hadn't heard of the term whistleblowing, we were interested in finding out what children and young people thought of whistleblowing as an idea.

We used role play as a method to help young people explore, and gain an understanding of, the concept of whistleblowing. This was intended to help them to consider the feelings and dilemmas of professionals involved in a situation leading to whistleblowing. They showed a good understanding of what was acceptable or unacceptable professional conduct, and were very aware of the dilemmas facing a potential whistleblower. Children and young people's culture carries very clear messages which relate to snitching or grassing on someone. Many found it difficult to separate the professional's responsibility from the fear of being thought a 'snitch' or 'grass' as this has such negative connotations for them. It was clear from their thoughts around being a whistleblower that those views were transferred into the scenario presented to them.

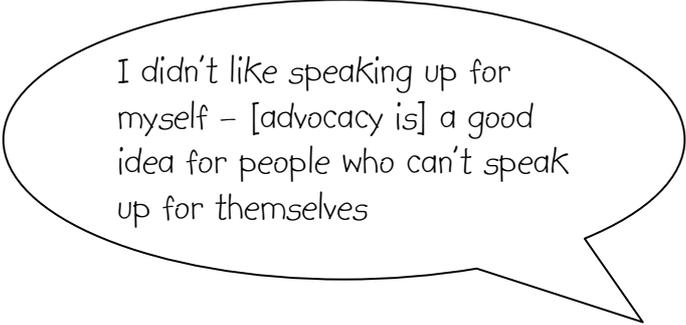
Significantly, however, they also reflected on the more positive aspects and feelings of it being the right thing to do, and its importance for their protection and wellbeing. They also showed an awareness of the need for confidentiality for that person and support in taking action. Informing them of a professional's duty to report colleagues or others gave them an added sense of security and may dispel fears of collusion within organisations.

CHAPTER 5 ADVOCACY

Review of Local Authority Social Services Advocacy Arrangements for children and young people in Wales

Background and introduction

The United Nations Convention on the Rights of the Child was ratified by the United Kingdom in 1991. Article 12 of the Convention reflects children's right to participation. The principle affirms that children are fully-fledged persons who have the right to express their views in all matters affecting them and requires that those views be heard and given due weight in accordance with the child's age and maturity. It recognises the potential of children to enrich decision-making processes, to share perspectives and to participate as citizens and actors of change.



I didn't like speaking up for myself – [advocacy is] a good idea for people who can't speak up for themselves



It helps other people – they listen to us ...

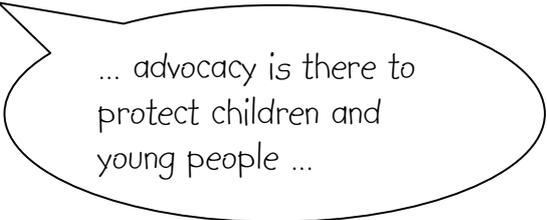
The corollary of Article 12 of the Convention is a changed relationship between parents, carers, teachers and all others interacting with the children and young people. These adults should be negotiators and advocates rather than simply providers or protectors. They are expected to promote processes and create opportunities to enable children and young people to have their views heard, to be consulted and to play their part in influencing decisions that affect them.

The past decade has seen tremendous developments in the field of children's rights with some local authorities moving towards the direct appointment of Children's Rights Officers. In this context the increased interest of government in the role of advocacy is unsurprising.

Advocacy is about enabling a child or young person to speak for her/himself, or speaking for a child or young person. The term **advocacy** is commonly used to refer to the practice of representing a child or young person, of providing them with advice and support, and of conveying their needs and wishes to the appropriate local authority. The majority of children and young people we spoke to understood advocacy to mean, or involve, speaking up for someone, understanding, talking and making other people listen and consider their views. It was frequently described as helping, and the words 'important' and 'powerful' were used often.



speaking up for someone



... advocacy is there to protect children and young people ...

Among professionals the term has also been used to encompass a wide range of related services, including befriending schemes, consultation processes, the production of public material on children and young people's rights and participation, family group conferencing or the establishment of public forums.

There are also differences in the theoretical understanding of advocacy as well as in the practice. A liberationist or rights based approach may emerge from, or conflict with, a protectionist approach concerned for the welfare of the child. A resolution based approach will differ again.

This chapter does not set out to define the ideal theoretical or procedural definition of advocacy. It presumes instead that confident discussion between all sectors and the refining process of experience itself constitutes the ideal way forward. This Review seeks to contribute to that process.



... making other people listen to you

Advocacy services help children to play as full a part as possible in making decisions about their own lives. The Children Act 1989 has encouraged the development of services and projects intended to aid children and young people's access to the decision-making procedures of local authority social services on the individual and collective matters that affect them. Furthermore, the Adoption and Children Act 2002 will, by amending the Children Act 1989, require local authorities to make arrangements for advocacy services for children being looked after or who have been looked after, for children in need and for any adults who are concerned for their welfare. Local authorities will be required to publicise the arrangements they have made and will be required by Regulations to monitor their compliance with these provisions.

Working Together to Safeguard Children was published by the Welsh Assembly Government (as National Assembly for Wales) in September 2000. The following quote is taken from a discussion of child protection conferencing and is one of many relating to advocacy:

'The child, subject to consideration about age and understanding, should be given the opportunity to attend if s/he wishes, and to bring an advocate, friend or supporter.' (Para 5.58)



... helping you understand your rights

Advocacy and the encouragement of children and young people's participation in decision-making in general have been given a high priority by the Welsh Assembly Government. **Children and Young People: A Framework for Partnership** was published in October 2002. This significant policy development will see local authorities across Wales developing partnerships that:

'enable young people to have a voice and influence in the youth work services provided for them and supports young people in influencing wider policy developments that impact upon them.'

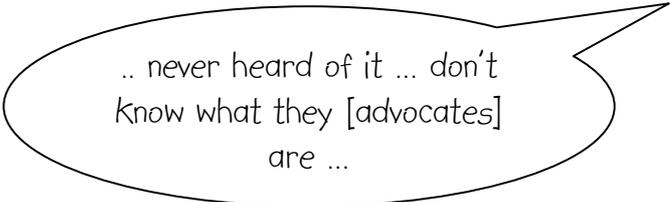
At the beginning of 2001 the future of advocacy services for children and young people in Wales appeared very positive. A surprising development was to follow in October 2001 when the Children's Society decided to cease operating in Wales. This unexpected decision left many advocacy and youth projects in a state of uncertainty. Ten of these projects in Wales have been continued by a new interim body.

The Welsh Affairs Committee of the House of Commons conducted the First Report of 2001-2002 (12th February) into the decision and concluded:

'It is important that charities and other organisations providing services in partnership with government at all levels understand the new political geography of the UK, post-devolution. We are concerned by the possibility that other organisations which faced financial or administrative difficulty might see withdrawing from Wales as a simple solution to their problems. This concern is shared by the Assembly's Voluntary Sector

Partnership Council, which consists of representatives of the Voluntary Sector in Wales and Members of the National Assembly. [Paragraph 33]

The means of ensuring the independence of the advocacy sector has always been a necessary point of debate, now it is also necessary for all those concerned with the provision of advocacy services to consider the sustainability of the various means through which advocacy services are currently funded and provided.



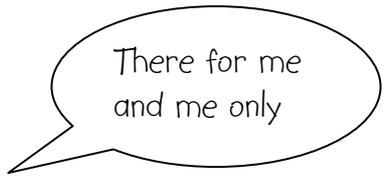
.. never heard of it ... don't know what they [advocates] are ...

The Welsh Assembly Government plans to publish the National Standards for the Provision of Children's Advocacy Services early in 2003. These standards represent a significant step forward in setting out the minimum levels of service that children and young people can expect from professionals providing advocacy services.

The Review of Advocacy Services for Children and Young People in Wales Task and Finish Group has been formed by the Welsh Assembly Government. This taskforce is seeking to develop a framework to plan, develop and review advocacy practices at all levels.

In May 1999 a Welsh Office commissioned study **Advocacy Services for Children and Young people in Wales** provided the first analysis of what was described as the 'patchy and inconsistent nature' of Welsh advocacy provision. In January 2002, **The Report to the Baring Foundation on Independent Advocacy in Wales** provided a valuable insight into the concerns and needs of the advocacy providers.

This chapter of the Review report provides a survey of advocacy provision for children and young people by local authority social services. It is the most comprehensive survey to date and it is intended to contribute to the process of developing advocacy services for children and young people in Wales.



There for me and me only

Questions and Findings

Section 1 Definitions

There are differing practices and theoretical concepts of advocacy. This section was intended to elicit information on local authorities' understandings of the term.

1 How does your Authority define the term 'advocacy'?

Local authorities were evenly split (11/11) between those who returned a specific definition focusing on the operational process and those who returned a general theoretical definition of the concept. The majority of the latter group were quoting from written material produced by their advocacy provider.

An example of the former would be:

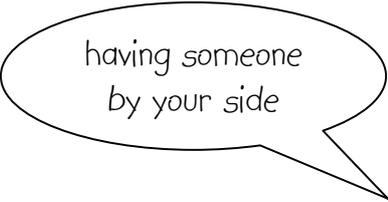
1. *Specific individual to help child to make a complaint to the Department and make their views known.*
2. *Assistance to enable a child to access services.*
3. *To specifically assist a young person in e.g. child protection case conferences or reviews.*
4. *Guardian ad litem and solicitor in legal proceedings.*
5. *Young people's organisations'.*

Examples of the latter are:

'It supports the UN Convention on the Rights of the Child principle of the "right to express their views freely" and that advice, support, and representation should be available. The advocate is seen as someone who can speak on behalf of young persons, or assist them to speak for themselves.'

'Advocacy' supports children and young people by helping them to express, their views, wishes and feelings. 'Advocacy' encourages children and young people, through consultation and participation, to influence decisions, policy and practice which affect their lives.'

The term advocacy has been used to refer to the practice of representing a child or young person, of providing them with advice and support, and of conveying their needs and wishes to the appropriate local authority. It has also been used to encompass a wide range of related services. These may include befriending schemes, consultation processes, the production of public material on children and young people's rights and participation, family group conferencing or the establishment of public forums.



having someone
by your side

The principle of helping the voice of children and young people to be heard may remain constant, yet the interpretation of this principle in practice, in the exercise of rights and in access to services, will always be open to discussion. One of the most important purposes of this Review is to establish what definitions of advocacy are currently in use.

Possessing unambiguous definitions of the operational processes of advocacy is clearly advantageous from a management perspective. However, by itself this operational understanding is not sufficient. The principles of advocacy must be understood or the needs of the local authority will begin to dominate the partnership and the independence of the advocacy provider. The following definitions of advocacy from two local authorities illustrate this danger:

'to enable the Local Authority to take account of the views of children and young people when determining relevant service planning and delivery'

'to ensure children understand and connect to the service process and its possible outcomes. To improve communication and problem solving between young people, carers and the Local Authority'

Recommendation 5.1

Local authority social services should define the term 'advocacy' in a way that shows an understanding of the principles involved as well as in terms of clear service objectives.

Section 2 – The Provision of Advocacy Services

This section was intended to elicit information on the type and range of the advocacy services provided.

2 Do children and young people in your local authority area have access to an advocacy service in making complaints and/or general representations to your department?

All local authorities were able to report a range of services that fell within the broad definitions of advocacy and every local authority but one had a specific advocacy service that could assist children and young people in pursuing a complaint to local authority social services.

The local authority that did not have a Service Level Agreement for the provision of an advocacy service reported that they had purchased advocacy provision on an individual case basis only once in the last three years.

I used them and found them very helpful but most of all they listened to what I had to say and they understood and helped me a lot

One local authority reported that, following the disruption of their advocacy services caused by the withdrawal of The Children’s Society, the number of representations from children and young people had decreased significantly. Representations from children and young people should play a vital role in the improvement of a department’s services. The availability of advocacy services can only assist in this.

Although there are many differing practices of advocacy it is possible to distinguish between three generic practices all of which are valuable in their own right:

They have helped me deal with complaints.

- i) Issue-based advocacy where an advocate assists a child or young person in making a particular complaint or representation.
- ii) Relationship-based advocacy where an advocate acts on a long-term basis on behalf of a child or young person; this is particularly suitable for vulnerable children and young people.
- iii) General-issue advocacy where advocates may lobby on behalf of groups or particular communities.

Recommendation 5.2

Local authority social services should determine what nature of advocacy practice the communities they serve may need and desire.

3 Which groups of children and young people have access to these services? (e.g. young carers, looked after children, children in need etc)

Groups of children and young people having access to advocacy services	Reported number of local authorities providing a service to these groups
All children and young people	2
Looked After Children aged 8+	20
Looked After Children aged 11+	21
Children on child protection register	10
Children with a disability	10
Children in Need	6
Children placed by the education department in a residential school	5
Young people leaving care	3
Young carers	2
Children and Young People in secure unit	1
None – No permanent service available	1

Children who are looked after were clearly seen as a priority for the provision of advocacy services and are offered a service in 21 local authorities throughout Wales. This is to be welcomed as this group of children and young people will be in sensitive and detailed contact with the local authority often over a prolonged period of time. One local authority reported that it only offered a service to children who are looked after over the age of 11 years. No rationale was provided for this distinction.

Children whose names are included on the Child Protection Register and children with a disability receive services in ten local authorities.

Children in Need only receive a service in six local authorities although many local authorities suggested that this group would benefit from the extension of the advocacy service.

Only in two local authorities do *all* children and young people have access to an advocacy service that can assist them in pursuing a matter with local authority social services.

Recommendation 5.3

Local authority social services should ensure that children and young people who are looked after should be given priority access to an advocacy service; extending advocacy services to all children in need should be the next stage of development.

The Welsh Assembly Government should, as a long term aim, ensure that advocacy services are available to all children and young people in Wales.

4 To what extent is access to an advocacy service for children and young people available in the medium of Welsh?

Welsh medium provision in advocacy services	Number of local authorities providing a Welsh medium service
Bilingual leaflets	13
Bilingual advocates.	13
Bilingual first contact	4
Possibility of bilingual first contact	6
Simultaneous translation	5
Translation services	11

Thirteen authorities reported that they had bilingual leaflets available. The eight remaining local authorities might wish to review their commitment to equal access as expressed in their own Welsh Language Schemes.

Thirteen local authorities reported that they had Welsh speaking advocates available to provide a service. Of these, only four local authorities can ensure that children and young people can make first contact with the service through the medium of Welsh – another six can do so sometimes, depending on the availability of the Welsh speaking advocate.

Eight local authorities reported that they could not offer a service through the medium of Welsh unless they used translation services - however, one of these reported they would employ a Welsh speaking advocate on a sessional basis if the situation required it.

The intimate nature of discussion with advocacy services would indicate that the use of a young person's preferred language is essential – especially for younger children. The first contact with a service is particularly important in establishing confidence that they can provide a service that meets their needs. The children and young people we involved in the review said very clearly that an advocate should use the language '*that you like using best*'. The use of translation services and simultaneous translation

introduces more adults into the children and young people's private affairs. Simultaneous translation is not a desirable option for advocacy and local authorities and advocacy providers must implement their Equal Opportunities policies to ensure that children have access to a bilingual advocate. While the provision of Welsh language services is a legal requirement, there are also implications for children whose first or preferred language is other than Welsh or English, and efforts must be made to meet all language and communication needs.

Recommendation 5.4

Local authority social services should ensure that all information is available bilingually, in Welsh and English and ensure that children and young people are able to access advocacy services through the medium of the Welsh language.

5 How have you made sure that children and young people from marginalised groups such as children and young people from ethnic minorities, children with disabilities and younger children, are able to access advocacy services?

- 12 of the 21 local authorities that had advocacy services had made no specific attempt to ensure that children and young people from marginalised groups were able to access advocacy services.
- 1 local authority reported that maintaining contact with groups representing marginalised children and young people was part of the role of their children's rights officer.
- 1 local authority reported that their advocacy provider employed a worker to contact groups of marginalised children and young people.
- 5 local authorities identified disabled children and young people as the priority group for development work.
- 2 local authorities had specifically designed publicity material for younger children.

Of particular concern in the twelve local authorities that had made no specific attempt to reach marginalised groups was the phrase common to most that *'our advocacy services are open to all'*. This is not enough. Children and young people are already marginalised by our society; those who have to contend with further pressures may have very specific or differing needs from others and these needs may not be apparent to a standardised service. The service itself must demonstrate an ability to respond to varied needs. For example, one local authority reported that they had formed a disability advisory group to promote advocacy for children with disabilities

Recommendation 5.5

Local authority social services should establish effective mechanisms to ensure that marginalised children and young people have access to advocacy services.

Recommendation 5.6

Local authority social services should work together to develop specialist advocacy provision on a regional basis.

6 Who provides advocacy services within your local authority area?

Advocacy providers	Number of local authorities
Tros Gynnal	12
NSPCC	6
NCH Cymru	1
NYAS	1
Independent Voluntary Organisation	1

Despite *Tros Gynnal* being the largest advocacy provider in Wales, it is somewhat worrying that responses to our questionnaires included five different spellings for *Tros Gynnal* and one local authority who still reported that The Children's Society provided their advocacy services. This would indicate that there is still much work to be done in raising the profile of *Tros Gynnal*.

NSPCC is the next largest advocacy provider providing a service that has been free for the first three years in three local authorities; it may not however remain a free service.

With the exception of *Tros Gynnal*, advocacy provision in Wales is substantially provided by UK-wide charities such as *NYAS* or *NSPCC*. There are many advantages to such arrangements. These charities are likely to have extensive experience in providing advocacy services as well as access to wider expertise. They are also likely to bring with them the ability to partially fund the advocacy projects. This may mean that not only can a wider service be provided but that the relationship between advocacy provider and local authority becomes one of partnership rather than exclusively commissioner/service-provider. There is the potential for conflict however, should such an organisation be providing an advocacy service for children and young people alongside other services. A further possible disadvantage in such arrangements could be a lack of response to specific Welsh needs, and any UK charities operating in Wales need to have taken steps to reflect the realities of devolution within their own organisations.

The current system of locally commissioned advocacy provision has the disadvantage of at least appearing to compromise the independence of the advocacy service. This concern was pointed out by most of the advocacy providers contacted during this Review and indeed by many of the local authorities.

One way forward mooted by several parties is the concept of a national advocacy organisation funded directly by the Welsh Assembly Government. While this would certainly prevent a conflict of interest between the local authority and the advocacy provider, further conflicts of interests could clearly arise out of the Welsh Assembly Government's involvement in the regulation and development of social services. Furthermore, such a large organisation could reduce much needed diversity in the field. The role of the local authority in commissioning advocacy services is a valuable one. Provided there is regular dialogue with people and communities, it is the local authority that is often best placed to determine the needs of the community it serves.

The need for advocates who are experienced within a specialised field was a concern often raised during this Review. The provision of niche advocacy can be prohibitively expensive for locally commissioned services. One way forward is the development of regional links.

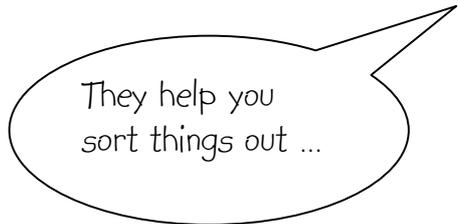
Several local authorities have already come together to jointly commission advocacy services but even without this type of arrangement regional associations can be developed. Reciprocal arrangements for the provision of bilingual or specialised advocacy could prove extremely useful and help share best practice. In particular, community-based provision of advocacy by smaller-scale charities is lacking in Wales and this may encourage its development.

This Review recommends the establishment by the Welsh Assembly Government of a Children's Advocacy Unit. This unit could either be established as a separate body at arm's length from the Welsh Assembly Government or as part of the Welsh Assembly Government. What is important, however, is the ability of such a unit to work in a cross-cutting way given the interlinking of children's advocacy to all policy fields.

Working in partnership with advocacy providers and local authorities, such a unit could promote the sharing of best practice in the field, develop guidance and provide training. Such a unit would certainly not focus exclusively on social services but on all areas of local authority service provision, related

government organisations (such as the Care Standards Inspectorate Wales) and the development of relationships with health institutions.

This unit could also serve as a source of practical advice for those involved in the commissioning of advocacy services. In particular it could seek to ensure the most suitable model of the three differing types of advocacy (discussed in response to the question two) is developed. It could also examine the nature of the standard commissioning process, assessing its suitability in ensuring a service for children and young people.



Such a unit could provide additional support in the monitoring and reviewing of Service Level Agreements. Such expertise would be intrinsically useful and would add a valuable independent perspective.

The Welsh Assembly Government has currently established a Task and Finish Group to review advocacy services for children and young people in Wales. Part of its remit is to advise on the implementation of the National Standards on Children's Advocacy in Wales. The proposed Children's Advocacy Unit could clearly help in the implementation of this work and could involve children and young people in the evolving understanding of advocacy practice.

The potential scope of such a unit is very wide. It may be useful for the currently established Task and Finish Group on children's advocacy to examine, consult and make further recommendations as to the nature of the proposed Children's Advocacy Unit. Such a group could include a representative group of children and young people, who, whilst having the provision to meet separately, would as full members of the Task and Finish Group mirror the discussions of the rest of the group and contribute equally to the recommendation process.

Recommendation 5.7
The Welsh Assembly Government should establish a Children's Advocacy Unit. It should seek to extend the range of advocacy services provided for children and young people in Wales and promote the development of excellence within the field.

Recommendation 5.8
The Welsh Assembly Government should establish a Task and Finish Group to consult and make recommendations on the scope of the Children's Advocacy Unit (Recommendation 5.6).

7 What is the total budget that your authority has set aside to finance advocacy services for children and young people and what is the source of that budget? (e.g. local authority funding, Children First funding, Child and Youth Access Initiative funding, partnership arrangements with other organisation etc.)

Just short of £1 million is spent on the provision of advocacy services throughout Wales.

The average cost to a local authority for the provision of an advocacy service is £40,000 but there is a considerable range. The smallest authority budget is £10,600 and the largest £137,500. Surprisingly, it is these two local authorities that offer a service to all children and young people in their area.



Although seven local authorities reported that they had their own dedicated advocacy service, all other fourteen local authorities have joint arrangements with advocacy providers to provide the service across two or three local authorities. This would seem to be an ideal arrangement – particularly for smaller local

authorities. Not only does it mean that the overheads can be shared but also that advocates with particular skills – e.g. Welsh speaking or experience of working with disabled children – can be contracted to work across several local authorities.

Whilst children who are looked after indisputably have a need for advocacy services, so too do many other groups. With the infrastructure already in place, extending services to these other groups could potentially prove cost-effective.

Uncertainty in the funding of advocacy provision aids no sector. Stability must be the primary goal of any funding package. Of particular importance therefore to local authorities has been the ability to rely on such programmes as the Framework for Partnership and Children First funding. The value of advocacy provision needs to be seen in the wider context of empowering children and young people to participate fully in society. Programmes to tackle social inclusion need to take account of this. One particular innovative example of this is a project which has used money from the European Objective One programme to fund its advocacy project.

Advocacy provision is gaining a statutory basis. It is therefore appropriate for all levels of governance to consider the extent to which they are responsible for the funding of this provision and the continuing nature of how that funding is directed.

The potential Advocacy Unit described in Recommendation 5.7 could have a significant role to play here in the monitoring and administration of funding to locally commissioned advocacy services. Although local authorities would still be best placed to determine the level and nature of the funding, the involvement of the Advocacy Unit could provide one potential solution to the problem of the financial independence (both real and perceived) of the advocacy provider.

Recommendation 5.9

The Children’s Advocacy Unit described in Recommendation 5.7 should examine the funding of advocacy provision for children in Wales paying particular attention to the importance of establishing an equitable and sustainable process that meets the need.

8 Please describe the advocacy services that are available in your local authority area

Types of advocacy	Number of local authorities
Youth focus/advisory group	6
Looked After Children issues group	9
Children’s Rights Officer	2
Children and young people’s newsletter	1
Family Group Conferencing	1

Two local authorities reported that they had instituted the post of Children’s Rights Officer.

Six local authorities reported that Independent Visiting was a type of advocacy and that their funded advocacy service provided the Independent Visiting service. This would suggest a confusion of the roles involved. An advocacy provider could also provide an Independent Visiting service but it is necessary that the two roles be managed separately.

Other organisations that were reported to provide services within the broader definition of advocacy were:

- Family Group Conferences Projects
- MENCAP family advisory service

- Shelter
- SNAP Cymru
- Voice for the Child in Care
- Voices from Care

Section 3 The Service Level Agreement

This section looks at the arrangements that social services have agreed with agencies about the advocacy services that will be provided to children and young people. The arrangements are usually set out in the form of a written contract, or agreement, that should detail the working practices, and describe exactly how the services will be provided, and to whom. The following questions sought to clarify the thinking and agreements that social services had made with other agencies about specific practice issues.

9 Please provide copies of all Service Level Agreements with external providers of advocacy services

- Out of the 22 local authorities, 21 reported that they had a service level agreement with their advocacy providers.
- 1 local authority did not have a specific or dedicated advocacy service.

We received copies of service level agreements from 14 local authorities.

- 7 local authorities reported that the service level agreement was in the process of review, and that they were about to advertise the opportunity to tender for the service provision.
- 10 local authorities reported that they had partnership arrangements with neighbouring local authorities, and therefore shared service level agreements.
- 11 local authorities reported that they were using 'agreements' devised by service providers.

The local authorities used different titles for the contracts: 'Service Agreements', 'Inter-Party Agreement', 'Service Contract' and 'Partnership Agreement'.

Service Level Agreements are currently underdeveloped in the field of advocacy provision. They are potentially a useful tool in the development of advocacy services.

The majority of the Agreements were entirely concerned with financial arrangements, and the processes for monitoring and review of the service, without adequately describing exactly what was to be delivered or the form of advocacy to be used. Several local authorities acknowledged that the current Agreement was out of date, (i.e. had not been amended to take account of the departure of the Children's Society from Wales, or changes of personnel in the local authority), and had never been designed as a dynamic document.

It was also commonly acknowledged that Children's Services Divisions were perhaps not as skilled, or as experienced as colleagues in Adult Services Divisions in compiling service level agreements, or commissioning services. Notably, one local authority described its previous experience of the annual renewal process as '*going through on the nod*'; this particular local authority had now undertaken a great deal of work to prepare a service specification that describes exactly what the local authority requires, in terms of how, when, where, what, and to whom the service is to be provided.

It was interesting to note the reticence of the service providers, when it became apparent that the Agreement was not updated, nor current. Some service providers expressed hesitancy about attempting to redraft the Agreement. This was expressed as a wish not to antagonise the local authority and therefore jeopardise the purchaser/provider relationship. However, the existence of a dynamic service

agreement, that contains measurable objectives and targets, is crucial in the provision of an acceptable and efficient service for service provider, commissioner and client base.

Recommendation 5.10

Local authority social services, in partnership with the advocacy provider, should ensure that the Service Level Agreement defines the service to be provided and make clear arrangements for the monitoring and review of that service. The nature of the service to be provided should be explicit and include a clear expectation of the advocate's role.

10 Within the Service Level Agreement is there an agreed protocol or policy on what information or personnel an advocate may have access to on behalf of their client?

- 1 local authority reported that it did not have a specific or dedicated advocacy service.
- 3 local authorities reported that there was an agreed protocol.
- 18 local authorities reported that they did not have an agreed protocol.

This question was included as we had become aware of difficulties that had arisen in relation to requests from advocates to access the child's personal file, or senior members of staff in the agency, or to conduct interviews with foster carers. With regard to the eighteen local authorities without an agreed protocol, it was necessary to provide hypothetical case scenarios for both local authority personnel and service providers before there was recognition that without forward planning, these issues could well become a problem.

Recommendation 5.11

Local authority social services, in partnership with the advocacy provider, should ensure that the service level agreement contains an agreed clause on access of the advocacy provider to information and personnel.

11 Does the Service Level Agreement specify whether it is the local authority, service provider or the child who determines the work of the advocate once appointed?

- 1 local authority does not have a specific or dedicated advocacy service.
- 9 local authorities did specify who was to determine the work of the advocate.
- 12 local authorities did not specify who was to determine the work of the advocate.

There was a general expectation that it would be the child or young person who would determine the work of the advocate, but a general lack of clarity as to how this process happened. For example, when advocates are appointed for children and young people who have not expressed particular or specific concerns, what is the role of the advocate? There is certainly a distinct role to ensure that the child or young person's wishes and views are considered seriously within decision making fora.

Children and young people may require different sorts and levels of advocacy: for example a child may wish an adult outside the local authority to

**Question to children and young people
Who tells an advocate how they can help you?**

The Queen - 2

You do - 17

There are rules written down for them - 7

The people in social services - 9

explain the basis of a decision that has been made about their life, or, they may wish to make a complaint about a service or a policy and procedure, or they may wish to have the support of an adult to help them to express their views. These functions require different skills and knowledge base.

12 Does the Service Level Agreement identify a member of staff in your Department who is responsible for the management of advocacy services?

- 1 local authority does not have a specific or dedicated advocacy service.
- 5 local authorities did not identify a member of staff with management responsibility for advocacy services.
- 16 local authorities did identify a member of staff with management responsibility for advocacy services.

Out of the sixteen local authorities that did identify a member of staff with management responsibility, there was a wide range of posts and status within the organisation, for example, Children's Complaints Officers, Principal Officers, Children Services Managers, Commissioning Officers, and Assistant Directors.

The five local authorities that did not identify a member of staff with management responsibility all reported an intention to rectify that situation.

The service providers readily acknowledged that communication, relationships, and therefore day to day practice was enhanced when there was a dedicated and specified manager for the service within local authorities, to whom they could relate.

13 Does the Service Level Agreement specify a minimum level of experience and/or training that you would expect advocates to possess?

- 1 local authority does not have a specific or dedicated advocacy service.
- 5 local authorities do specify a minimum level of experience that they would expect an advocate to possess.
- 16 local authorities did not specify a minimum level of experience that they would expect an advocate to possess.

Supplementary questions were put to the sixteen local authorities not specifying a minimum level of experience or training, about the correlation between their departmental recruitment and selection policies and procedures, and the recruitment and selection practices of the service provider. Most local authorities reported that they left the process of recruitment and selection of advocates to the discretion of the service providers, in accordance with those agencies' policies and procedures.

Several local authorities made the point that the selection criteria should be as broad as possible so as to encourage the widest applications from all parts of the community, not solely from those with a recognised social work qualification. The ability to build a quick rapport with a child to communicate effectively with, and on behalf of a child was as important as understanding the legal and procedural frameworks within which services were delivered. The view was expressed that a lack of knowledge of the legislative or regulatory framework could be compensated for within regular and structured supervision sessions. This, however, would only be acceptable and practicable if the supervisor had the underpinning theoretical and practice knowledge base.

The nature of the advocacy service provided across Wales differs from one local authority to another and from provider to provider. It would therefore be difficult and perhaps impractical to attempt to prepare a standard person specification template. However, it was notable that for the majority of local authorities there had not been a considered approach to the recruitment and selection of advocates and instead there had been a general reliance upon what was offered by the service provider.

14 Does the Service Level Agreement specify what level of confidentiality children and young people can expect from the advocacy services?

- 1 local authority does not have a specific or dedicated advocacy service.
- 8 local authorities did not specify the level of confidentiality that children and young people could expect from the advocacy service.
- 13 local authorities did specify the level of confidentiality that a child or young person could expect.

Of the local authorities that did include reference to 'confidentiality' in the service level agreement, or protocol, the approach taken was that the matter would be referred back to social services when:

- the advocate considered that the child or young person was at risk of serious harm (serious harm not defined)
- the advocate considered the child or young person to be at risk of significant harm (significant harm not defined)

**Question to children and young people
Who should an adult tell about what you say to them?**

No-one unless you tell them they can – 15
No-one unless someone might get hurt if they don't tell – 10
Anyone who will listen – 6
Any adult they think is important – 6

In other examples, there was reference to the expectation that the advocate would follow the policies and procedures of the employing agency (these were not defined), and the Area Child Protection Committee, along with the social services department's policies and procedures.

In one local authority that did not have a specific position statement within the Service Level Agreement about responses to disclosures made by children or young people alleging abuse it became clear during discussions that the service provider had a very different interpretation of expectation of practice to the local authority. It would be helpful therefore to explore these issues so that there is clarity of expectation for both parties.

They kept it private and they kept it between me and my worker, and if someone else needed to know they asked me first and they asked my permission before they passed it on -and if I said no they it wouldn't go any further unless it was something to do with ... harm to myself.

Local authorities and service providers pointed out that they were bound to abide by legislation, Welsh Assembly Government guidance, and the All Wales Area Child Protection Committee Policies and Procedures when dealing with disclosures about abuse made by children or young people.

One service provider said that it was their policy to explain the issues pertaining to confidentiality and their agency's responses to each child or young person at the first meeting. Several service providers mentioned that there was information about their agency's approaches to confidentiality within the information that they gave out to children and young people. Significantly the children and young people involved in the Review seemed to be clearer about the boundaries of confidentiality.

Recommendation 5.12

Local authority social services, in partnership with the advocacy provider, should ensure that an unambiguous clause on confidentiality is included in every Service Level Agreement and made available to all users and potential users of the advocacy service.

Section 4 The Operation of Advocacy Services

This section was intended to elicit information regarding the operational mechanisms of the advocacy services.

15 Do social services have a written policy and procedures on the provision of advocacy services for children and young people?

Eight of the twenty-one local authorities providing an advocacy service reported that they had a written set of policy and procedures regarding the provision of advocacy services for children and young people.

Having written policy and procedures does not automatically guarantee that the advocacy provision in that local authority is clear and known to all relevant personnel.

However, it is of concern that so many local authorities have not clearly set out the aims and parameters of their advocacy service in a written form. Local authorities appear to be relying on publicity material from the advocacy provider as a means of informing and training their staff in the service available, but clearly this material has been designed for a different purpose and audience.

16 How can children and young people access advocacy services?

Means of Access	No. of Local Authorities
Direct access by children and young people	15
freephone	7
e mail	1
Referral by social workers and other professionals	16
Parents/carers	7
Names automatically provided without consent	1
Encouraged by Reviewing Officers and Independent Chairs	4
Consultation Events/Drop ins	5
Information Shop/Newsletters	2
Via Schools	1

Recommendation 5.13

Local authority social services, in partnership with the advocacy provider, should ensure that children and young people have direct access to the service as well as by referral.

17 How are employees in social services made aware of the advocacy services available to children and young people?

Method of informing staff	Number of local authorities
Induction training	12
Access to policy and procedures	12
In-service training	6

Twelve local authorities reported that they inform their employees about their advocacy service through their induction training. If new employees are not explicitly informed of the role of the advocacy service, the effectiveness of the referral process is undermined.

Twelve local authorities reported that their employees have access to policy and procedures, in order to inform themselves about their local authority's advocacy provision. This in itself is a disappointing statistic; even more so in light of the fact only eight local authorities possess written policy and procedures (see Q15 responses). On further questioning, it emerged that many of these local authorities were referring to the availability of information leaflets for the public. While it is important that such material be available to employees it should not be seen as an effective substitute for a departmental statement of policy and of operational procedures.

Furthermore, while access to the written policy and procedures is important, induction and in-service training should also be provided. This is where clarification of roles and potential tensions can be constructively discussed and aired. Six local authorities reported that they currently provide in-service training for employees on their advocacy provision.

Many local authorities reported that they were utilising other processes to inform employees, which included the following:

- Supervision.
- Discussion in team meetings.
- Advocacy worker/project manager attending team meetings.
- Displaying information in prominent places.
- Briefings by Assistant Director.
- Children First Consultation event for staff.
- Involvement of staff in Advocacy Advisory/Management Group.
- Quarterly reports to staff on advocacy.
- Foster Care Forum and support group meetings.

Regrettably, there were no references to children and young people being involved in awareness training about the advocacy service to groups of staff.

Children and young people who are looked after are dependent on having informed and supportive adults around them, to safeguard their rights and promote their welfare. If adults, such as social workers and foster carers, are not themselves fully informed and comfortable with the role and mechanism of the advocacy service, it is questionable if they are able to fully encourage a child or young person to access the service if necessary.

Recommendation 5.14

Local authority social services should set out clear referral guidelines for advocacy provision for employees. Information on policy and procedures should be readily available along with any relevant publicity material.

Recommendation 5.15

Local authority social services should ensure that relevant staff are given regular training in the advocacy provision available and this training should be provided annually. The children and young people served by the advocacy provision should be involved in the training of local authority staff.

18 How are children and young people made aware of the advocacy services available to them?

All twenty-one of the local authorities that provided an advocacy service reported that they had made efforts to ensure that information about the advocacy provision was available to children and young people. The following list describes all reported methods:

- Specific information leaflets/pamphlets.
- Complaints leaflets with reference to Advocacy.
- Information included in Looked After Children's Information Packs.
- Reviewing Officers raise advocacy at the statutory review for Looked After Children and young people.
- Visits by the Advocates to residential units.
- Youth Forums and consultation events.
- Posters.
- Information Shop.

Question to children and young people How did you find out about advocacy?

Never heard of it - 4
Given a leaflet - 5
Saw a poster - 3
Got told about it - 13

One local authority reported placing leaflets on notice boards in schools, and this practice is to be commended. Another local authority reported that they recruited and trained as volunteers, young people previously looked after to help in visiting children currently looked after. This is a model that many other local authorities may wish to consider.

Raising awareness of its services and inspiring confidence in children and young people is an important task for the local authority and the advocacy provider.

Publicity should involve direct mailings, the production of general and targeted leaflets and the development of interactive web pages. This should be a collaborative effort between the local authority and the advocacy provider.

Recommendation 5.16

Local authority social services should take equal responsibility alongside the advocacy provider for publicising the advocacy service available.

19 If publicity material is produced, do children and young people assist or participate in its production?

Sixteen of the twenty-one local authorities that have an advocacy service report that children and young people have assisted or participated in the production of publicity material regarding advocacy provision.

Children and young people are best placed to decide how such information can be made accessible to them and their peers. Moreover, the process of designing such material can often act as a catalyst to the establishment of a community of interest, of benefit to both the children and young people and the local authority.

Recommendation 5.17

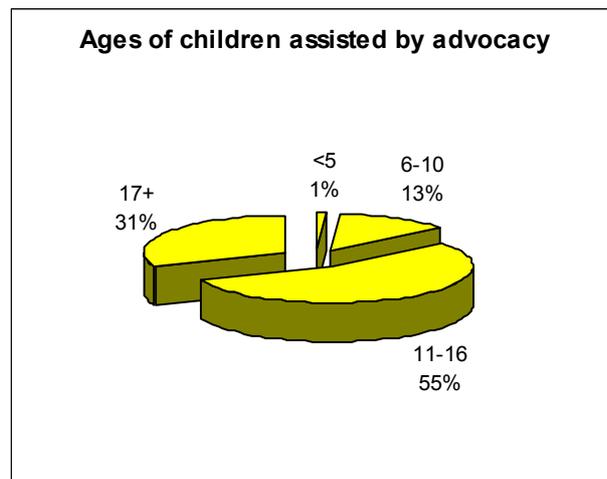
Local authority social services, in partnership with the advocacy provider, should continue to involve children and young people in the production of any publicity materials.

20 Do social services keep a record of the use of advocates?

Fourteen of the twenty-one local authorities that provide an advocacy service reported that they keep a record of how advocates/advocacy service is/are utilised.

N.B. figures provided were partial and clearly relate to the particular nature of the service offered.

It is clearly unsatisfactory that 8 of the 21 local authorities do not appear to have a monitoring system on the use of advocates. A monitoring system allows a local authority to ensure the service is performing well and to identify potential problems at an early stage.



21 What arrangements does your authority have for monitoring operation of and compliance with policy and procedures on the provision of advocacy services for children and young people?

- 10 local authorities referred to a quarterly report from the advocacy provider.
- 2 referred to a biannual report.
- 3 reported that 'regular meetings' were held.

A Management or Advisory Group is mostly used as the mechanism for monitoring the operation and compliance with policy and procedures as regards advocacy provision. One local authority reported: *'The Advisory Group is a quarterly meeting chaired by the Divisional Director and attended by a cross-section of operational and strategic staff that receives quarterly reports and an Annual Report.'*

There is, however, an issue of the seniority of staff involved in the monitoring arrangements. One local authority honestly reflected on their monitoring 'group' being 'too junior' in its composition.

A number of local authorities referred to the involvement of a Contracts Officer within their monitoring process.

For those local authorities who do not have statistics on the use of their advocacy provision, it is difficult to understand how they can accurately approach such monitoring arrangements.

Only one local authority reported involving children and young people (the service users) in the monitoring process. They explained that questionnaires were sent out to children and young people and they were developing plans to involve young people on their Management Group from October 2002.

Recommendation 5.18

Advocacy service providers should produce quarterly reports containing a qualitative and quantitative analysis of their work which should be discussed at a senior management level within social services departments.

Section 5 The Wider Context for Advocacy Services

This section was intended to ascertain information about the context that advocacy services operated in and to elicit views and opinions on the future development of advocacy services.

22 For how long have social services had arrangements for advocacy services for children and young people in place?

Of the 18 local authorities able to answer this question:

- 5 reported that arrangements had been in place for less than 2 years.
- 8 reported that arrangements had been in place for between 2 and 4 years.
- 5 reported that arrangements had been in place for 5 years or more.

23 How do social services review the arrangements for advocacy services?

- 6 local authorities referred us to their Service Level Agreement. However, upon checking, no specific review arrangements were detailed.
- 8 local authorities reported that they held specific quarterly review meetings.
- 1 local authority reported that they did so biannually.
- 3 local authorities reported that they did so annually.
- 3 local authorities were currently in the process of a major review and discussion of the nature of the advocacy services they provided.

Regular review of advocacy services is essential. The needs of children and young people and the focus of social services may change. Regular communication between the service provider and social services is important if a quality service is to be delivered.

Two local authorities reported that they involved children and young people in review arrangements, and a further two reported a desire to do so in future. The very purpose of advocacy is to enable the voices of children and young people to be heard. Involving children and young people in the review of their own service should be an immediate and obvious way to ensure that the service is performing the task for which it was designed.

Recommendation 5.19

Local authority social services should conduct an annual review of advocacy provision. This review should involve the children and young people served by the advocacy provision.

24 Can children and young people use the advocacy services provided by social services to make representations to other local authority services and agencies?

Eighteen out of the 21 local authorities operating an advocacy service reported that this happened or could happen.

Of these, seven reported that education was the most common sector for this to occur. It is positive to see widespread evidence that an advocacy service for children was not seen as an exclusively social service issue but a corporate one. It would be useful for the advocacy unit referred to in Recommendation 5.7 to consider whether there should be a statutory right for any child to receive an advocacy service in relation to any local authority matter.

One local authority emphasised the importance of a Corporate Parent Panel as an opportunity for raising and discussing cross-cutting matters affecting children and young people, commenting: *'It is held in*

venues comfortable to children and young people. There is also a specific fund for the involvement of children and young people within the Corporate Parent Panel, whose use they can determine.’

The next ambitious but necessary step is for local authorities to enable their advocacy services to develop links with external agencies, perhaps the most immediate being health. Three local authorities reported their desire to further links with health organisations.

Recommendation 5.20

Local authorities should develop their advocacy provision to allow children and young people to use the service to make representations about any corporate issue rather than those that exclusively relate to social services matters.

Recommendation 5.21

Local authorities should make the development of protocols between themselves, their advocacy provider and health organisations a priority. The needs of the child should not be unnaturally divided according to the artificial boundaries of governance.

25 Do you allow children and young people to have an advocate of their own choice such as family, friends or peers?

Twenty one of the 22 local authorities reported that they allowed this to happen.

The one local authority that did not (which provided an advocacy service), emphasised, alongside their service-provider, the need to further ‘professionalise’ advocacy services. This is a legitimate concern.

With the publication of the National Standards for Advocacy and the increasing statutory emphasis on the provision of this service, practice will become more consistent and service delivery more standardised.

Advocacy is about enabling the voice of the child to be heard and, if children and young people choose to have a family member, friend or peer to represent their views, then surely it is the role of the advocate to facilitate this by giving professional support to this person.

**Question to children and young people
Who is an advocate?**

A professional person – 6
A friend or relative – 5
Anyone who helps you speak out about things – 16

Recommendation 5.22

Advocacy service providers should recognise and support family, friends or peers chosen by children and young people to represent their views.

26 Where advocacy services assist children and young people in pursuing specific matters of concern and/or complaints or representations, does a mechanism exist for feeding these specific concerns into policy formation and practice?

Nineteen of the 21 local authorities providing an advocacy service reported they had such a mechanism. In all cases this was expected to occur through regular senior management meetings.

Seven local authorities reported that they had a specific member of staff tasked with bringing such matters to the attention of the management team. In one local authority, direct access to the Director of

the Department had specifically been emphasized in the job description of the Children's Complaints Officer.

The process of learning from the issues that arise through advocacy is invaluable, thus the service can be improved for all children and young people and not only those individuals fortunate enough to be heard.

One local authority commented:

'All staff involved have a feedback session after complaints investigations are completed. An action plan is drawn up identifying work required within agreed timescales and identifying the person responsible. Outcomes inform Service and Operational Delivery plans and in turn the Children Service.'

This process is to be commended. Advocacy services may have a profound effect on the lives of the clients they serve and can also change the experiences of a far wider community group of children and young people.

Recommendation 5.23

Local authority social services should continue to ensure that there is a mechanism for feedback about issues received from the advocacy provider to assist the development of service planning and delivery.

27 Do advocacy services, within your local authority area, advocate generally on behalf of children and young people to influence service provision?

General issue advocacy was reported to occur in thirteen of the twenty two local authorities. Examples given of such involvement were Pathway Planning, Accommodation Service Best Value Group, the Complaints process and the Looked After Children Placement Strategy.

The provision of an issue-based advocacy service differs from one that exists to campaign and lobby on behalf of a particular community of interest. Both activities allow the voice of a vulnerable group to be heard and therefore fall within the broad definition of 'advocacy'. Both activities allow opinion and information on services to be communicated between the local authority and the children and young people it serves, and are of mutual benefit. It is not necessary, and indeed it may be counter-productive, for the same organisation to be engaged in providing both services.

The local authority must recognise that there will be some overlap. Just as single issues may be used to inform the development of general policy, a group involved in advocacy provision will necessarily gain expertise in areas of collective interest and form a valuable contact point with the community of children and young people they serve.

Recommendation 5.24

Local authorities should actively engage advocacy service providers in the process of establishing the Frameworks for Partnership.

28 Are the arrangements for the provision of advocacy services for children and young people clearly set out in your authority's Children's Services Plan?

Sixteen of the twenty-two local authorities reported that arrangements for the provision of advocacy services were clearly set out in the Children's Services Plan.

Of these, seven local authorities identified the development of advocacy as a particular priority of their plan. An example of how this can be achieved can be seen in a chapter of one local authority's Children's Services Plan entitled '*Children's Rights, Complaints and Advocacy.*'

Recommendation 5.25

Local authority social services should ensure the development of advocacy services is seen as a clear priority - warranting a significant entry in the Children's Services Plan

29 *Is advocacy provision for children and young people a priority service for your local authority?*

All twenty two local authorities agreed advocacy was a priority service.

Six local authorities reported that they had specific plans to extend the advocacy service. Groups prioritised by these authorities were care-leavers, children and young people with learning disabilities and children and young people affected by parental substance misuse. Extension of the service to work with education departments and health agencies were also reported as a priority.

Four local authorities were frank in discussing their financial limitations and a further two cited the continuing repercussions of withdrawal of the Children's Society from Wales as a disruption to their development plans. Their comments included:

'We would like to extend the service to children in need but realistically this will not happen anytime soon.'

'It is becoming more of a priority, financial restraints have prevented this in the past.'

'We plan to fully develop the service on an inter-agency basis with health and education.'

30 *Please describe social services' relationship with advocacy providers.*

Fourteen of the twenty-one local authorities that have advocacy arrangements described their relationship in very favourable terms with only 1 local authority giving the somewhat terse comment '*tense, but cooperative and improving.*'

Six local authorities specifically referred to the impact of the Childrens Society's withdrawal from Wales, commenting on the "uncertainty", "stress" and "tension" this complication engendered. However it was positive to note one local authority's comment on the relationship with their advocacy provider after the withdrawal of the Children's Society from Wales that: '*Since the link has been severed with the English arm of the establishment the relationship has become far more rewarding.*' (sic)

Two local authorities specifically mentioned the concerns of foster-carers about the nature of the advocacy service. It was felt that, initially at least, foster-carers were unclear about the role of the advocacy service, viewing it perhaps as a child protection focused agency intended to monitor the quality of the care they provided.

As one local authority commented '*Tensions can arise because of the very nature of the service. Conflict is inevitable but it is an open relationship based on honesty.*'

The answers to this question were clearly divided between those that were formally phrased and dismissed the possibility of tension and those that confidently discussed their solutions to the inevitable challenges.

31 Has your authority identified any tensions or conflicts of interest that exist in practice, or in the conception of role?

Seven local authorities answered this question in some depth.

Of these, four examined the potential conflict between considering the wishes of the child and the statutory need of the department to make decisions in the best interest of the child.

Comments included:

'It can sometimes make it more difficult to resolve situations where the advocate represents on behalf of a child something that is not thought desirable or possibly harmful to others and possibly by the advocate also. This is an accepted part of advocacy...'

'On one occasion the realism of the advocates became an issue in trying to help a young person sort out what was in their best interest.'

'The tension between the perception of advocates as too keen to escalate dispute and whether they are unwilling or unable to work with the young person and the authority to seek a resolution at the first, local resolution stage.'

'The role of the advocacy project or advocates is to listen to the wishes, views and feelings of the child/young person. However, social services have to make a decision about what is best for the welfare of the child.... The existence of advocacy and the children rights officer is to act as the conscience of the department; to keep on reminding the department that it is a legal requirement to focus on the needs and welfare of the child.'

This raises the problematic question of whether advocacy aids or hinders the resolution of complaints. Advocacy's primary aim is to represent the voice of the child; this *may* aid the resolution process but is not the primary goal.

Two local authorities discussed the need for operational staff to have a clear understanding of the advocate's role, highlighting the problems that could arise if staff felt undermined or attempted to "lobby" the advocate. One local authority remarked: *"It is important that advocates are not simply people who profoundly dislike social services departments and have found a means to express this through advocacy"*.

32 Is advocacy, in your local authority area, a crowded or sparse provision?

Unfortunately this question caused inadvertent confusion. The terms 'sparse' and 'crowded' were taken from the January 2002 **Report to the Baring Foundation on Independent Advocacy in Wales**, where the potential problems of 'sparse' provision included limiting client choice and the potential problems of 'crowded' provision included the resource-wasting duplication of services by competing providers.

- 8 out of the 21 local authorities that provide an advocacy service commented on these issues.
- Of these 8, 6 felt that provision was sparse and limited the range of services they could offer.

These issues are further discussed in the answers to the next question.

33 What benefits and/or difficulties does the diversity or uniformity of advocacy provision in your local authority area bring?

As with the last question, there was some confusion in interpretation. Of the twelve local authorities who felt able to answer this question an interesting split of opinion is evident.

Five local authorities said that reliance on a sole advocacy provider could restrict client choice. The need for specialist provision (e.g. for children and young people with learning disabilities) was discussed. The withdrawal of the Children's Society from Wales was also mentioned as a warning against relying too heavily on one provider.

Five local authorities said that a relationship with a single provider was preferable. Reasons cited included the ability to consistently define the service, the clarity for children and young people and the ease of management.

Two local authorities simply commented that they had little choice as they depended on the willingness of advocacy providers to operate within their borders.

34 Have you any comment or suggestion as to how social services' relationship with advocacy services will develop over the next five years?

This question was intended to elicit the broadest possible range of views from local authorities in order to gauge the concerns and aspirations of the current debate. A strong expectation of national development clearly emerges from the responses:

'... a view could be advanced that unless the advocacy service is a statutory requirement, funding in the department may not be prioritised to resource this service.'

'Where we are talking of skilled advocacy on behalf of individual children and young people there should be access to a provision that covers the principality rather than relying on individual local authorities to make arrangements.'

'If advocacy services have the support of the National Assembly to provide long-term funding to develop a secure and independent service that meets the standards, social services will recognise the valuable contribution of advocacy services to enable the department to fulfill their statutory responsibilities more appropriately.'

'Generally we would want to see a relationship develop with more than one scheme and with a number of organisations. We have to clarify some of the current protocols.'

'(a) Adoption of forthcoming NAFW National Standards for advocacy services.

(b) We would like to see an All-Wales network to monitor implementation of the above and share what works.

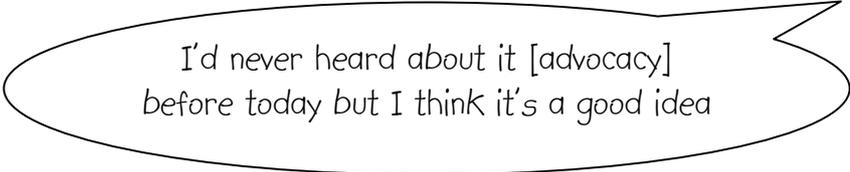
(c) This department will focus on improving understanding by its staff and carers.'

Summary

Twenty one of the 22 local authorities in Wales provide an advocacy service to assist children who are looked after in making a complaint or representation to local authority social services.

The five providers, commissioned by local authority social services to provide advocacy services are:

- Citizens' Advocacy Powys.
- NCH CYMRU.
- NSPCC.
- NYAS.
- Tros Gynnal.



I'd never heard about it [advocacy]
before today but I think it's a good idea

Service level agreements are currently underdeveloped in the field of advocacy provision. The majority of the agreements were entirely concerned with financial arrangements. They are potentially a most useful device in the development of advocacy services.

The monitoring of advocacy arrangements by local authorities is underdeveloped and in particular there is very little involvement of children and young people in reviewing and evaluating the service provided to them.

The local authority social services that provided advocacy have made concerted efforts to publicise their service, often involving children and young people in the design of innovative materials.

Just over half of the advocacy services advocated generally on behalf of groups of children and young people as well as on a single-issue basis. All involved with the provision of advocacy services are concerned with assuring the independence of the advocacy sector as well as guaranteeing its sustainability.

The development of advocacy services was a priority for all local authorities, with many in the process of extending the service corporately and considering the establishment of links with health agencies. All local authorities were anxious to see the National Assembly for Wales take a lead in the development of advocacy services.

The majority of children and young people understood advocacy to mean or involve - '*speaking up for someone*', '*understanding*', '*talking*', and '*making other people listen to you*'. The word '*helping*' was used many times to describe it as were '*important*' and '*powerful*'. Many chose pictures to symbolise their understanding and most of these were positive representations. Some young people had not heard of advocacy.

Most of the young people we spoke to identified an advocate as '*Anyone who helps you speak out about things*'. A few also thought it was a professional person and a similar number stated that a friend or relative could also be an advocate. Young people had found out about advocacy through being told by a social worker, staff in the home, key-workers, advocates themselves and some named specific projects that had informed them.

The majority of young people felt positive about advocacy and the way that it could help them with their problems. Their role in supporting children and young people to speak up for themselves, in meetings, in court proceedings etc, also featured very highly. Advocates were people they could talk to and who listened to them. Most young people understood and appreciated that an advocate respected their confidentiality and the fact that it would only be broken if they gave permission or if someone might get hurt. Children and young people wanted the advocate to use the language that the child or young person liked best. They also referred to advocates as being able to help with complaints and able to support them in taking action in other ways.

Children and young people made it clear that they found advocacy helpful and important, and consistently referred to it assisting individuals to speak out, be heard and be listened to. The value placed on the confidential nature of the relationship and their control over what and how the advocate helped is clearly of importance to them. Given the amount of contact the young people we worked with had with social services, it is of concern that some hadn't heard of advocacy before. This implies some inequality in the provision and accessibility of services. The acknowledgement by both the young people and some local authority respondents that others – such as family or friends – can also be advocates, suggests that further consideration should be given to supporting less rigid models of advocacy provision.

Effective advocacy provision ensures that local authorities can have confidence that all children and young people have the opportunity to fully participate in plans for their care and well being - as envisaged in the recommendations of the Waterhouse Report.

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Appendix One Recommendations

Complaints and Representations

Recommendation 3.1

Local authority social services should produce a Complaints and Representations Annual Report that is accessible to children and young people and which is used as a basis for service review and strategic planning.

Recommendation 3.2

The Welsh Assembly Government should undertake comprehensive research with children and young people in Wales as soon as possible to identify what would best enable children and young people to express their views and raise concerns.

Recommendation 3.3

Local authority social services, local education authorities and health authorities should consider the outcomes of this qualitative study with children and young people before any amendments to present guidelines are made.

Recommendation 3.4

Local authority social services should ensure that records of a child's complaint or a complaint made on behalf of a child are placed on a child's personal file.

Recommendation 3.5

Local authority social services should ensure that children's complaints are recorded in such a way that statistics may be produced to inform strategic planning.

Recommendation 3.6

Local authority social services should ensure that all material provided for children and young people about complaints and representations is bilingual (i.e. in Welsh and English).

Recommendation 3.7

Local authority social services should continue to involve children and young people in the review and future design of information material.

Recommendation 3.8

Local authority social services should ensure that children and young people from marginalised groups have equitable access to the children's complaints and representations procedure.

Recommendation 3.9

Local authority social services should ensure that children and young people who are looked after are enabled to make contact with the local authority both during and out of office hours.

Recommendation 3.10

Local authority social services should ensure that complaints or representations from children and young people who are looked after are acknowledged and acted upon within 24 hours.

Recommendation 3.11

Local authority social services should ensure that the Designated Complaints Officer's role is assigned to a senior officer within the local authority.

Recommendation 3.12

Local authority social services should ensure that the supervision of the Designated Complaints Officer is external to the management of children's services.

Recommendation 3.13

Local authority social services should ensure that a Children's Complaints Officer is appointed, in line with the third recommendation of the Waterhouse Report.

Recommendation 3.14

Local authority social services should review their representations and complaints procedure as regards how best to respond to complaints made by young carers. This should be done in consultation with young carers' projects and children and young people who are carers.

Recommendation 3.15

Local authorities should work towards adopting a 'one-stop-shop' approach to receiving complaints about any service, from children and young people.

Recommendation 3.16

Local authority social services should ensure that there is an explicit first stage to the complaints process allowing for local resolution and this first stage should have a time limit of ten working days.

Recommendation 3.17

Local authority social services should ensure that information about the 'informal resolution' stage and its outcomes is always recorded on the child and young person's file as well as within other relevant administrative systems.

Recommendation 3.18

Local authority social services should enable individuals from the child or young person's family or community networks to act as advocates if a child or young person so wishes.

Recommendation 3.19

Local authority social services should ensure that advocacy services should be made available to every child or young person who wishes to make a complaint.

Recommendation 3.20

Local authority social services, as a matter of urgency, should revise their advocacy arrangements, to ensure that children and young people who are looked after and placed out of county are actively offered an advocacy service to assist them in making a complaint.

Recommendation 3.21

Local authority social services should freeze decisions which have a significant impact on the life of a child or young person, pending the outcome of any complaint registered, unless good reason can be shown to do otherwise.

Recommendation 3.22

Local authority social services should regularly notify a child and a young person of reasons for delay, by means of a letter followed by direct contact from whichever individual is most appropriate to the child's particular situation.

Recommendation 3.23

Local authority social services should appoint Panel Review members who are independent of social services in order to demonstrate the independence of the Panel in a way that is credible to children and young people and their representatives.

Recommendation 3.24

Local authority social services should ensure that the Designated Complaints Officer and the Children's Complaints Officer are required to provide regular information (from their monitoring and analysis of complaints) to the Children and Young People's Framework Partnership.

Recommendation 3.25

Local authority social services should ensure that children and young people are enabled to access and respond to the information contained in the Annual Report about Complaints and Representations.

Whistleblowing**Recommendation 4.1**

Local authorities should include the term whistleblowing in the titles of all policies and procedures that detail how employees can raise concerns of malpractice.

Recommendation 4.2

Local authorities should amend their policies as necessary to include mention of the Public Interest Disclosure Act 1998 and the legal protection offered by the Act to their employees.

Recommendation 4.3

Local authorities' whistleblowing policies should be more explicit about the range of concerns that may be raised and, where concerns are raised about the welfare of children and young people, clear procedures should be set down so that child protection measures can be initiated without delay.

Recommendation 4.4

Local authority social services should develop their own whistleblowing policy in line with the recommendations of the Waterhouse report and ensure that it dovetails with other relevant policies.

Recommendation 4.5

Local authority social services should produce and widely distribute guidelines for their employees, foster carers, ancillary staff, trainees, and suppliers on reporting concerns of malpractice in children's services.

Recommendation 4.6

Local authority social services should take steps to ensure that all those who provide services to children and young people on their behalf have effective whistleblowing procedures in place.

Recommendation 4.7

Local authority social services' whistleblowing policies and employees' codes of conduct should be amended as necessary to make it clear that it is an employee's duty to report malpractice.

Recommendation 4.8

Local authority social services should amend their disciplinary policies as necessary to make failure to report malpractice a disciplinary offence.

Recommendation 4.9

Local authority social services' disciplinary policies should be amended where necessary to reinforce the protection of whistleblowers by making their harassment a serious disciplinary offence

Recommendation 4.10

Local authorities should identify appropriate agencies to whom to direct their employees for advice about the process of whistleblowing and identify them in their whistleblowing policies.

Recommendation 4.11

Local authority social services should consider ways of making it known to children and young people that any employee raising concerns of malpractice on their behalf will not be victimised or harassed in any way.

Recommendation 4.12

Local authority social services should amend their supervision policy and procedures to require supervisors to ask a standard question during supervision that will give supervisees the opportunity to raise any concerns they may have about malpractice. Supervisors should be directed to discuss any concerns arising from this standard question with the Designated Officer for whistleblowing. The supervisor and Designated Officer should decide who takes the responsibility for reporting back to the whistleblower.

Recommendation 4.13

Local authority social services should have a Designated Officer within each division of their service who can confidently implement the whistleblowing policy.

Recommendation 4.14

Local authority social services should ensure that all relevant employees receive appropriate training in whistleblowing and the Public Interest Disclosure Act 1998. Designated Officers should receive thorough training and support. Supervisors should also receive training to enable them to identify and act on disclosures of malpractice.

Recommendation 4.15

Local authorities should maintain records centrally under secure storage, and information relating to the investigation and the outcome should be held on individual staff files of both the whistleblower and the employee who was alleged to have perpetrated the malpractice. Should allegations prove to have been unfounded, this must be very clearly recorded in all files.

Advocacy**Recommendation 5.1**

Local authority social services should define the term 'advocacy' in a way that shows an understanding of the principles involved as well as in terms of clear service objectives.

Recommendation 5.2

Local authority social services should determine what nature of advocacy practice the communities they serve may need and desire.

Recommendation 5.3

Local authority social services should ensure that children and young people who are looked after should be given priority access to an advocacy service; extending advocacy services to all children in need should be the next stage of development.

The Welsh Assembly Government should, as a long term aim, ensure that advocacy services are available to all children and young people in Wales.

Recommendation 5.4

Local authority social services should ensure that all information is available bilingually, in Welsh and English and ensure that children and young people are able to access advocacy services through the medium of the Welsh language.

Recommendation 5.5

Local authority social services should establish effective mechanisms to ensure that marginalised children and young people have access to advocacy services.

Recommendation 5.6

Local authority social services should work together to develop specialist advocacy provision on a regional basis.

Recommendation 5.7

The Welsh Assembly Government should establish a Children's Advocacy Unit. It should seek to extend the range of advocacy services provided for children and young people in Wales and promote the development of excellence within the field.

Recommendation 5.8

The Welsh Assembly Government should establish a Task and Finish Group to consult and make recommendations on the scope of the Children's Advocacy Unit (Recommendation 5.6).

Recommendation 5.9

The Children's Advocacy Unit described in Recommendation 5.7 should examine the funding of advocacy provision for children in Wales paying particular attention to the importance of establishing an equitable and sustainable process that meets the need.

Recommendation 5.10

Local authority social services, in partnership with the advocacy provider, should ensure that the Service Level Agreement defines the service to be provided and make clear arrangements for the monitoring and review of that service. The nature of the service to be provided should be explicit and include a clear expectation of the advocate's role.

Recommendation 5.11

Local authority social services, in partnership with the advocacy provider, should ensure that the service level agreement contains an agreed clause on access of the advocacy provider to information and personnel.

Recommendation 5.12

Local authority social services, in partnership with the advocacy provider, should ensure that an unambiguous clause on confidentiality is included in every Service Level Agreement and made available to all users and potential users of the advocacy service.

Recommendation 5.13

Local authority social services, in partnership with the advocacy provider, should ensure that children and young people have direct access to the service as well as by referral.

Recommendation 5.14

Local authority social services should set out clear referral guidelines for advocacy provision for employees. Information on policy and procedures should be readily available along with any relevant publicity material.

Recommendation 5.15

Local authority social services should ensure that relevant staff are given regular training in the advocacy provision available and this training should be provided annually. The children and young people served by the advocacy provision should be involved in the training of local authority staff.

Recommendation 5.16

Local authority social services should take equal responsibility alongside the advocacy provider for publicising the advocacy service available.

Recommendation 5.17

Local authority social services, in partnership with the advocacy provider, should continue to involve children and young people in the production of any publicity materials.

Recommendation 5.18

Advocacy service providers should produce quarterly reports containing a qualitative and quantitative analysis of their work which should be discussed at a senior management level within social services departments.

Recommendation 5.19

Local authority social services should conduct an annual review of advocacy provision. This review should involve the children and young people served by the advocacy provision.

Recommendation 5.20

Local authorities should develop their advocacy provision to allow children and young people to use the service to make representations about any corporate issue rather than those that exclusively relate to social services matters.

Recommendation 5.21

Local authorities should make the development of protocols between themselves, their advocacy provider and health organisations a priority. The needs of the child should not be unnaturally divided according to the artificial boundaries of governance.

Recommendation 5.22

Advocacy service providers should recognise and support family, friends or peers chosen by children and young people to represent their views.

Recommendation 5.23

Local authority social services should continue to ensure that there is a mechanism for feedback about issues received from the advocacy provider to assist the development of service planning and delivery.

Recommendation 5.24

Local authorities should actively engage advocacy service providers in the process of establishing the Frameworks for Partnership.

Recommendation 5.25

Local authority social services should ensure the development of advocacy services is seen as a clear priority - warranting a significant entry in the Children's Services Plan

Appendix Two Advocacy Service Providers

Local Authority	Advocacy Service Provider (as at September 2002)
Blaenau Gwent County Borough Council	Tros Gynnal
Bridgend County Borough Council	Tros Gynnal
Caerphilly County Borough Council	Tros Gynnal
City and County of Cardiff	Tros Gynnal
Carmarthenshire County Council	NSPCC
Ceredigion County Council	NSPCC
Conwy County Borough Council	NCH Cymru
Denbighshire County Council	Tros Gynnal
Flintshire County Council	Tros Gynnal
Gwynedd County Council	Tros Gynnal
Merthyr Tydfil County Borough Council	None
Monmouthshire County Council	NSPCC
Neath Port Talbot County Borough Council	Tros Gynnal
Newport City Council	NYAS
Pembrokeshire County Council	NSPCC
Powys County Council	Citizen Advocacy Powys
Rhondda Cynnon Taf County Borough Council	NSPCC
City and County of Swansea	Tros Gynnal
Torfaen County Council	Tros Gynnal
Vale of Glamorgan County Council	Tros Gynnal
Wrexham County Borough Council	Tros Gynnal
Ynys Môn County Council	Tros Gynnal

Citizen Advocacy Powys

Children's Project
Unit 30 Dole Road
Llandrindod Wells
LD1 6DF
Tel: 01597 825989

NCH Cymru

St David's Court
68a Cowbridge Road East
Cardiff
CF11 9DN
Tel: 029 2022 2127

NSPCC Wales Division

Capital Towers
Greyfriars Road
Cardiff
CF10 3AG
Tel: 029 20267000

NYAS

99 - 105 Argyle Street
Birkenhead
Wirral
CH41 6AD
Tel: 0151 649 8700

Tros Gynnal

12 North Road
Cardiff
CF10 3DY
Tel: 029 20396974

Notes