

# MISSING VOICES, MISSING PROGRESS



**Comisiynydd  
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for Wales



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# MISSING VOICES, MISSING PROGRESS

**Report on the anniversary of the publication of “Missing Voices”, the Children’s Commissioner’s statutory review of the delivery of independent professional advocacy for looked after children and young people, care leavers and children in need.**

**Delivering independent professional advocacy services: A review of commissioning arrangements.**

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## INTRODUCTION

In March 2012 I published ‘Missing Voices’, a review of independent professional advocacy services for looked after children and young people, care leavers, and children in need in Wales. I wanted to see whether and to what extent arrangements for advocacy were effective in strengthening and promoting the rights and safeguarding the welfare of children and young people (Annex 1 Terms of Reference).

My review highlighted the shortcomings of provision that were in place twelve months ago. In concluding my review I made 29 recommendations to Welsh Government, local authorities and my own office. Under my powers and functions derived from the Care Standards Act and the Children’s Commissioner for Wales Regulations 2001, Welsh Government and local authorities were required to provide me with a written response to those recommendations outlining how they intended to implement them.

From their response it was evident there is a lot of goodwill from government, local authorities and advocacy providers to get things right, but that the current economic climate is making things extremely challenging. Welsh Government and local authorities indicated they were working hard to address the recommendations in “Missing Voices”. However I have been disappointed at the pace of change. Progress has been too slow and the implication is that children and young people continue to miss out on the benefits that good advocacy support can provide for them, delivering better interventions and outcomes.

To mark the first anniversary of “Missing Voices” I had intended to undertake a full review of progress towards the recommendations contained within “Missing Voices” but I took into consideration requirements that Welsh Government had recently placed upon local authorities to

provide them with information about statutory advocacy provision. Welsh Government had written to the Directors of Social Services in December 2012 asking them to provide information on how the local authority met its statutory requirement to provide independent advocacy services for looked after children and young people, care leavers, and children in need requiring them to respond by 18 January 2013. I therefore chose to undertake a more focused piece of work that would not place unreasonable demands upon local authorities. I intend to undertake a full review of the recommendations in “Missing Voices” by the second anniversary of the report in March 2014.

During my review, I found that different commissioning models were leading to a very inconsistent advocacy provision across Wales. This meant children and young people who were entitled to receive the services of an independent professional advocate were not able to do so. Indeed my advice and support service are still coming into contact with children and young people who are eligible for independent professional advocacy and could benefit from advocacy support but have not been offered their statutory entitlement.

Local authority responses to ‘Missing Voices’ had referred to development plans in 16 of the 22 local authority areas, indicating independent professional advocacy would be delivered across local authority areas with longer term and more stable contracts, as advocated by Welsh Government.

Twelve months on from the publication of “Missing Voices” I wanted to identify whether those development plans were being implemented and to determine whether independent professional advocacy is currently being provided across local authority areas on longer term contracts ensuring more equitable provision for these vulnerable groups of children and young people.

## METHODOLOGY

This report is informed by contact with all 22 local authorities in Wales, the three main advocacy providers and ongoing discussion and contact with Welsh Government. The report provides a snapshot of the current situation in relation to the commissioning of independent professional advocacy services in March 2013. It highlights the issues that both local authorities and advocacy providers are facing in a particularly challenging financial climate to ensure the delivery of advocacy to children and young people.

All 22 local authorities were sent a questionnaire seeking information about their commissioning arrangements (Annex 2).

Visits were made to the following local authorities for a more detailed discussion about the issues raised in the questionnaire:

- a) **Bridgend** – The lead local authority for a regional advocacy commissioning project across five local authorities and two local health boards in South Wales.
- b) **Denbighshire** – A North Wales local authority with experience of jointly commissioning a service across three local authority areas with NYAS advocacy service.
- c) **Carmarthenshire** – A local authority commissioning a stand alone contract with Action for Children.
- d) **Newport** – A local authority commissioning a stand alone contract with Tros Gynnal.

Separate structured interviews were also held with the three advocacy providers who are currently contracted by the 22 local authorities.

The report also acknowledges views expressed by the National Independent Advocacy Board in its legacy report to Welsh Government (December 2012)<sup>1</sup>. The National Independent Advocacy Board was established by Welsh Government in 2009 to provide an independent strategic overview of the development and delivery of advocacy services to children and young people. The Board which was disbanded in 2012 produced a legacy report for Welsh Government that included observations about current commissioning arrangements. I wish to record my appreciation to the Board members for their commitment and in taking forward the recommendations in "Missing Voices".

<sup>1</sup> National Independent Advocacy Board Legacy Report 2012  
<http://new.wales.gov.uk/topics/childrenyoungpeople/publications/legacy/?lang=en>

## BACKGROUND

In March 2007, the Welsh Assembly Government launched a consultation on a "New Service Model for Delivering Advocacy Services for Children and Young People". The consultation presented a model for delivering advocacy services based upon a principle of regional commissioning through Children and Young People's Framework Partnerships. Following the consultation "A Guide to the Model for Delivering Advocacy Services for Children and Young People" was published in June 2009 providing a blueprint for local authorities and advocacy providers to follow.

The 2009 document set out the purpose of the Welsh Assembly Government model and what would be required in preparation for new measures, regulations and directions that were to be put in place in 2010, which would reinforce the legal framework for the model. Statutory guidance would be produced at this time to support partners in implementing the model which would include guidance on commissioning. Stakeholders were encouraged to consider laying the foundations for these changes well in advance.

In January 2011, the Welsh Assembly Government published the statutory guidance consultation document "Delivering Advocacy Services for Children and Young People 0-25 in Wales".

The aim of the proposed statutory guidance was to support partners in implementing the Welsh Assembly Government's model, including the commissioning of integrated specialist advocacy services through Children and Young People's Partnerships.

The consultation document included specific guidance on commissioning to support Children and Young People's Partnerships. The closing date for the consultation was April 2011. During our evidence gathering phase for "Missing Voices" in the autumn of 2011, all local authorities and the advocacy providers we met with were waiting for the final statutory guidance to be published, to assist in the development of their advocacy provision in line with Welsh Government's recommended model. Prior to re-commissioning their existing services a number of local authorities were extending their contracts with advocacy providers on a twelve month basis until the statutory guidance was published.

To date Welsh Government has not published final statutory guidance and has indicated that they now do not intend to do so. Instead, in December 2012, following the publication of "Missing Voices", Welsh Government's Director of Social Services and Children wrote to all local authorities reminding them that they should be working in accordance with the Advocacy Services and Representations Procedure (Children) (Wales) Regulations 2004. Whilst this reminded local authorities of their statutory responsibilities, the regulations do not provide guidance about the implementation of Welsh Government's preferred model of service delivery. Heads of Children's Social Services have told my office that they would welcome clear guidance from Welsh Government on the implementation of the preferred model of advocacy service delivery.

During the six years since the publication of the original consultation document about a preferred model of delivering advocacy services in Wales there has been much discussion and debate about the proposed model and about the most appropriate commissioning arrangements. The National Assembly for Wales Children and Young People's Committee has undertaken its own inquiry into advocacy services for children and young people in Wales (2008), scrutiny of developments into the provision of advocacy services to children and young people in Wales (2009) and a further review of developments in the provision of advocacy services (2010) and has made a number of recommendations to Welsh Government in relation to the model and the provision of advocacy services to children and young people in Wales.

The debate continues and during recent visits that my officers made to local authorities and advocacy providers for this report we were still being asked about the publication date for the statutory guidance, particularly as the draft guidance provided some very clear messages and expectations in respect of the development of an advocacy service.

## WELSH GOVERNMENT PERSPECTIVE

During the course of the evidence gathering for "Missing Voices" and during the fieldwork for this report, local authorities and advocacy providers referred to the two guidance documents produced by Welsh Government in relation to delivering advocacy services for children and young people.

The advisory guidance, "A Guide to the Model for Delivering Advocacy Services for Children and Young People" (June 2009) and the consultation document on statutory guidance, "Delivering Advocacy Services for Children and Young People 0-25 in Wales" (January 2011) both outlined a clear model for delivering advocacy services to children and young people in Wales and described the purpose of the model and what was required to embed measures, regulations and directions which would reinforce the legal framework for the model. Local authorities and advocacy providers have consistently stated to my officers the importance they attach to these documents, particularly the consultation document on statutory guidance.

Whilst some local authorities have begun to develop services in line with the model suggested in the draft guidance, others have been more cautious in reconfiguring services.

I remain frustrated and disappointed that Welsh Government has failed to communicate to local authorities and advocacy providers what has happened with the 2011 consultation document and what plans they have for publishing revised statutory guidance.

In Welsh Government's initial written response to "Missing Voices" - Recommendation 11:

**"Welsh Government should issue clear and definitive guidance on commissioning independent advocacy to local authorities"**, Gwenda Thomas, the then Deputy Minister for Social Services and Children responded for Welsh Government stating:

"I issued draft commissioning guidance for consultation in January 2011 and it was very well received. However since this time, the partnership landscape has changed considerably and this has had an impact on the commissioning model I was proposing. There is no longer a Children and Young People's Partnership in every local authority area and therefore I can no longer place the expectation of commissioning integrated services on them.

As you know we are currently reviewing the strategic approach to commissioning for social services and for children as part of the consultation on the Social Services Bill. We will reflect on the guidance published in 2011 as part of this review.

In the interim I will shortly be issuing a letter to local authorities to remind them of their duty in relation to providing independent professional advocacy to this vulnerable group of children and young people. The letter will remind them of the extant guidance, the legislation that underpins this and the commissioning expectations that were in the advisory guidance in 2009 and subsequently in the draft statutory guidance in 2011 (June 2012)."

In the letter that was sent to the Directors of Social Services in December 2012 by Welsh Government there was no mention of the 2009 guidance or the 2011 draft statutory guidance, and the Social Services and Wellbeing (Wales) Bill does not, in my opinion, provide the clarity for local authorities in relation to the commissioning of independent professional advocacy services.

"Missing Voices" highlighted the considerable improvements that were needed in supporting access to advocacy for children and young people. Advocacy plays a critical role in enabling children and young people to safeguard themselves by exercising their rights as outlined in the United

Nations Convention on the Rights of the Child and specifically in relation to having their voices heard in line with Article 12.

Section 159 of the Social Services and Wellbeing (Wales) Bill replicates the provision in section 26A of the Children Act 1989 in relation to assistance for persons making representations but does not refer to independent professional advocacy services specifically. As I identified in my consultation response, the Bill as it is currently drafted does not deliver on the intention to provide a stronger voice and real control for children in need of care or support.

Whilst local authorities are aware of their obligations to provide advocacy for those who have a statutory entitlement, local authorities remain in a position of uncertainty surrounding what type of service they should commission, particularly in relation to the delivery of a universal service and the involvement of education and health as partners in a jointly commissioned service. This has led to, what has been described by one advocacy provider as: "a mishmash of advocacy services... with some local authorities moving towards universal provision, some not."

During the evidence gathering for the "Missing Voices", local authorities demonstrated a range of approaches to delivering advocacy services, ranging from universal provision with a strong participatory and children's rights focus, to a more traditional approach based upon statutory entitlements.

Joint commissioning across local authority children's social services areas appears to be proceeding in the majority of local authorities whilst engagement with health and education appears to be much more sporadic. "Missing Voices" focused upon statutory provision for looked after children, care leavers and children in need, although local authorities were asked about any jointly commissioned

service that they had with either health or education. In most local authority areas no such partnerships existed and it was unclear what services were provided by health and education to meet their statutory requirements to provide an advocacy service for vulnerable children and young people.

It is unclear to me with the changes to local authority partnerships that have taken place and the development of single integrated plans throughout Wales where responsibility for providing accountability and a strategic lead for a service like advocacy lies. In view of the importance that Welsh Government attach to children's rights and the commitment it has made to listening to the voice of the child it should be providing leadership and direction to local authorities through the publication of a clear statement about their intentions for the delivery of independent professional advocacy.

In fact Welsh Government acknowledged in its written response to "Missing Voices" that the commissioning guidance was well received and I am certain they could produce a revised version of the guidance taking into account the changing partnership landscape.

It is clear that updated guidance is necessary to assist local authorities with commissioning arrangements. I urge Welsh Government to publish the statutory guidance and its model for delivering advocacy services and provide the leadership that I sought when making the following recommendations in "Missing Voices".

**"Welsh Government should provide clear strategic direction to local authorities to ensure that all children who have statutory eligibility for independent professional advocacy wherever they live in Wales are able to access such a service through clear and consistent procedures and practice (Recommendation 15)" and**

**"Welsh Government should issue clear and definitive guidance on commissioning independent advocacy to local authorities (Recommendation 11)"**

The Welsh Government model for providing an advocacy service provided very clear guidance for those commissioning integrated specialist services, including:

- Enabling all advocacy services for vulnerable children and young people within a partnership area to be procured (purchased) through one lead agency in a coherent way;
- Commissioning agencies within each partnership to agree to pool budgets for advocacy services with partners;
- Children and Young People's Partnerships (or the new arrangements which have replaced them) to facilitate collaborative commissioning arrangements encompassing two or more partnerships;
- Children and Young People's Partnerships (or the new arrangements which have replaced them) to provide robust leadership, promote partnership participation and coherence both across their local area and regionally or sub regionally in order to facilitate the commissioning and delivery of integrated specialist advocacy services;
- Not assuming that the model will lead to a single provider of all advocacy services across a region or sub region but services will need to be effectively co-ordinated to ensure appropriate ease of access for children and young people, and a clear understanding by those referring to them. To best achieve this it is expected that there will be a single point of initial contact – a one stop shop approach;

- The Children and Young People's Partnership (or the new arrangements which have replaced them) will need to oversee the commissioning of the integrated specialist advocacy services from a third party independent sector provider, or a partnership or consortium of providers;
- A three year commissioning cycle is strongly recommended to allow stability and continuity for the children and young people accessing the service;
- The practice of "spot purchasing" is not considered suitable or good practice and is in contrast to the principles of the model although in exceptional circumstances this may be the only approach that can be adopted;
- Welsh Government will consider the viability and need for commissioning specialist targeted advocacy services on a national basis for specific groups of children and young people and/or those who have highly complex complaints/issues;
- It is expected that children and young people will participate in the planning and commissioning of services as well as the review of services.

Whilst acknowledging that the partnership landscape has and is significantly changing from that which was in existence in 2011, the principles outlined above are still very relevant and achievable and a redrafted version of the statutory guidance would clearly provide the framework for local authorities to plan services in the future.

**Recommendation 1: Welsh Government to issue guidance on their preferred model for delivering advocacy services through publication of updated statutory guidance.**

## LOCAL AUTHORITY INDEPENDENT ADVOCACY ARRANGEMENTS IN WALES

The analysis of local authority responses to "Missing Voices" in March 2012 indicated that 16 out of 22 local authorities were actively considering new commissioning arrangements for independent professional advocacy, and were planning to commission such services during the course of the coming year. Local authority responses indicated that other recommendations in "Missing Voices" were due to be implemented as part of the new commissioning arrangements.

At the time of gathering evidence for "Missing Voices" 16 out of the 22 local authorities had contracts of twelve months or less with their advocacy provider and only 8 of the 22 authorities were operating a regionally commissioned service. This over reliance on short term contracts undermines stability of provision and the development of robust services which consequently impacted upon the quality of service that was delivered to children and young people.

During the twelve months since the publication of "Missing Voices" only one new jointly commissioned contract involving three local authorities has come to fruition although there are currently ongoing negotiations involving 13 other authorities.

The position within Wales as at March 2013 is: Within the 22 local authorities in Wales there are three main advocacy providers, Action for Children, National Youth Advisory Service (NYAS) and Tros Gynnal who provide independent professional advocacy services for looked after children, care leavers and children in need.

Action for Children currently has two contracts providing an advocacy service in Carmarthenshire and Monmouthshire as separate contracts within each authority.

National Youth Advisory Service (NYAS) currently have four contracts providing a jointly commissioned service to Anglesey/ Gwynedd/ Conwy in North West Wales, to Flintshire/

Denbighshire/Wrexham in North East Wales and to Blaenau Gwent/Caerphilly/Torfaen in Gwent as well as providing a separate individual service to the Vale of Glamorgan.

Tros Gynnal currently has eight contracts providing a jointly commissioned contract to Pembrokeshire and Ceredigion and to Swansea and Neath Port Talbot. They also provide separate individual contracts to Newport, Cardiff, Bridgend, Rhondda Cynon Taff, Merthyr, and Powys.

Welsh Government guidance in 2009 and the consultation document of 2011 encouraged local authorities to look at jointly commissioning services and there is evidence that most local authorities have been exploring this option over the last two years.

In Gwent, three local authorities have agreed a two year contract with NYAS which runs until September 2014 with the possibility of a two year extension.

Pembrokeshire and Ceredigion already jointly commission a service with Tros Gynnal which runs to March 2014.

The six North Wales authorities are in the process of exploring a jointly commissioned contract across all six local authority areas and want to include education and health as partners in this contract. They are at an early stage of negotiation about this project and would not anticipate a service being jointly commissioned in the immediate future. The current contracts run until March 2014.

In South Wales, Bridgend local authority have led a project to explore jointly commissioning an advocacy service across five local authority areas (Cardiff, Vale of Glamorgan, Bridgend, Neath Port Talbot and Swansea) and two local health board areas. Protracted negotiations between partner agencies have delayed the original timescales for implementing the project although it is hoped that a service will be commissioned by April 2014.

Rhondda Cynon Taff and Merthyr Tydfil are looking at the possibility of jointly commissioning a service and have extended their existing advocacy contracts with their provider until March 2014 whilst these discussions take place.

The remaining four local authorities do not have any plans to jointly commission a service with other local authorities.

Discussions with the Heads of Service and Commissioning Managers in two of the authorities who have stand alone contracts (Newport and Carmarthenshire) indicated that joint commissioning across local authority areas had been considered, but had not progressed, as it was not seen to be in the best interests of local service provision.

One authority had wanted to develop an advocacy service that would very much be part of its participation and children's rights agenda, whilst neighbouring authorities had wanted to commission a more traditional style of advocacy service. The other authority wanted to retain its close relationship with its advocacy provider and thought that this might be compromised if they were part of a bigger partnership and the relationship between provider and local authority were managed from afar.

A consequence of the ongoing discussions about large regional contracts is that existing contracts which are coming to an end are being renewed for relatively short periods of time. This has led to anxiety amongst providers, although this is tempered by the fact that in a number of authorities the providers have been the contract provider for a number of years and this has not affected the service to children and young people in those areas.

It is clear from our interviews that commissioning a service across a number of local authority areas and local health boards can be a time consuming and, at times, frustrating process. Existing contracts

may be with different providers, funded in different ways, and local authorities may have varying service requirements which can lead to differences of opinion and to breakdowns in discussions. Furthermore, the differing cultures of potential partner agencies, including health and education, can lead to further difficulties in negotiations.

It is important in these circumstances that partners in any intended collaboration make a timely decision as to whether the project is viable, and if not, proceed to commission services individually or with others who are committed to joint commissioning. Prolonging futile discussions with reluctant partners and elongating the commissioning process will have an adverse impact on the current provider and the development of the local service.

It is clear that most local authorities are attempting to move towards the Welsh Government's aim for regional commissioning, in the hope that this will bring longer term contracts, resulting in stability and a greater consistency of provision. However not all local authorities are supportive of this model and in this respect I would support one of the recommendations the National Independent Advocacy Board made in their legacy report to Welsh Government:

"Primary research be conducted to discover the extent to which the new model actually delivers improved services and coverage, especially at a time of budget restrictions. The acid test will lie in the awareness of entitlement to advocacy support, levels of use and methods by which access to advocacy services can be secured".

**Recommendation 2: Welsh Government to commission primary research into the effectiveness of its model for delivering advocacy services to help determine if its model provides the best outcomes for children and young people.**

### **Funding of independent professional advocacy services**

One notable change since the publication of "Missing Voices" is that the funding sources local authorities use to fund statutory advocacy services have changed. At the time that we were collecting evidence for "Missing Voices" a large number of local authorities were using CYMORTH funding to purchase independent advocacy provision.

The majority of local authorities are now funding advocacy directly from Social Services core funding (15 of the 21 local authority responses), or Children's Directorate core funding, or using a mixture of Social Services Core funding and Families First grant funding.

Providers and local authorities do not feel that this has compromised the independence of the relationship that they have with each other, and local authorities were clear that it did not compromise the ability of providers to challenge the local authority about any shortcomings in practice or procedure. Heads of Service that were interviewed all welcomed the challenge that the advocacy providers made. They saw this as an important aspect of service evaluation, which could lead to improvements not only for the child the advocate was supporting, but for other children and young people in their authority.

A negative aspect of being reliant upon an individual service commissioning advocacy is that, in a challenging financial environment, cuts to funding are made by an individual head of service. One Head of Service commented:

*"The figure allocated to advocacy was based on an original needs assessment and annual review which also took into account other budget pressures and what the local authority can afford .... In previous years the budget funded arrangements exceeded the local authorities' statutory responsibilities."*

*In the current year, following a review of arrangements the budget has been reduced in order to release funding to meet other financial pressures whilst ensuring that our statutory requirements can be maintained at a level that reflects current need."*

Only two local authorities have an arrangement whereby Social Services, Health and Education jointly contribute to funding the advocacy provision. Two other authorities have indicated that education or health contribute a small amount of funding towards provision.

From discussions with local authorities and providers it would appear that the practice of routine spot purchasing services for looked after children, care leavers and children in need has stopped and that spot purchasing is only used in exceptional circumstances or to fund a specialist type of provision.

It is clear that Welsh Government's expectation that advocacy services for vulnerable children and young people across a range of service areas are provided with a single point of contact is not currently being met. Indeed, the advocacy providers and local authority staff that we spoke to suggest that, in many areas across Wales, advocacy for vulnerable children and young people in health and education settings is non-existent or very sparse at present.

With a changing partnership landscape, that includes the demise of Children and Young People's Partnerships, it is a major concern that advocacy provision is not being scrutinised in a strategic way. It is important that following the publication of the Single Integrated Plans in April 2013, local authorities ensure that their revised partnership arrangements are quickly established and ensure that children and young people's issues are of paramount importance. One local authority was concerned that with its move to an over-arching people's partnership, the focus on children and young

people would be lost. This is something that I feel the newly constituted Ministerial Expert Group on Advocacy should look at.

In a written statement issued in February 2013, Gwenda Thomas the then Deputy Minister for Social Services and Children outlined her intentions to publish an advocacy policy statement which will set out Welsh Government's priorities for advocacy and the actions that Welsh Government intend to take to secure improvements in advocacy. To support and inform the policy statement the Deputy Minister has established a Ministerial Expert Group on Advocacy for Children and Young People.

**Recommendation 3: The Ministerial Expert Group on Advocacy to monitor on an annual basis the commissioning and funding arrangements that are in place across the 22 local authority areas to ensure that appropriate independent professional advocacy services are available for children and young people who have a statutory entitlement to an advocacy service.**

### **How are budgets for independent professional advocacy services determined?**

One particular concern about funding that became very apparent during the fieldwork for this report was the approach that some local authorities took to determining the level of funding that they were providing for their advocacy services. Over half the local authorities admitted that they based their advocacy budgets on an historical figure that in some cases went back a number of years. During interviews we conducted for this review it was unclear how the historical figure had been arrived at. A number of authorities also mentioned that financial pressures and other priorities also helped to determine the size of the budget. Surprisingly few based their budget upon an assessment of need, though we were told that this was

due to difficulties in making that assessment, through lack of any assessment tools.

Whilst it is understandable that difficult choices have to be made about the allocation of budgets, it is important to have an understanding about how much an advocacy service should cost. It is not acceptable that service provision is based upon out of date and possibly inaccurate information. The project looking to jointly commission a service in South Wales has agreed a funding formula across the five local authorities who have been in discussions about a jointly commissioned service that attempts to address this issue.

The funding formula contains a series of evidenced based projections on intervention targets, costs and demand which enable partners to determine the cost of advocacy provision and to work out what they are able to afford to commission.

The South Wales project has evidenced that it is possible for local authorities and partners to agree a common tool for assessing need in relation to the provision of independent professional advocacy services and to determine funding of the service based upon an evidential assessment.

I would like to see the use of such a tool implemented across all local authority areas in Wales, as this would help address the concern that I expressed in "Missing Voices", that there appeared to be no consistent approach to determining how much a local authority spent on advocacy.

**Recommendation 4: Welsh Government and the Ministerial Expert Group on Advocacy to promote the use of a "funding formula" to determine how much local authorities should be spending on providing advocacy services, so that there is consistency in approach across Wales.**

## INVOLVEMENT OF CHILDREN AND YOUNG PEOPLE IN THE COMMISSIONING PROCESS

We cannot underestimate the value and benefits that advocacy can make to the lives of children and young people. The right of children and young people to be heard directly on matters that affect them is a key component of Welsh Government's approach to developing policy that is firmly grounded in the United Nations Convention on the Rights of the Child. Children and young people should be able to access and benefit from advocacy as individuals. Children and young people should also be consulted about planning and commissioning of advocacy services and we need to make sure that we listen and respond to the views and experiences of children and young people and that their voice is clearly seen to influence the development of services, policies and practice.

My advice and support service are still coming into contact with children and young people who are eligible for independent advocacy but have not been offered this opportunity, and it is important through listening to children and young people that services develop appropriate checks and balances to ensure that this does not happen.

One of the Welsh Government standards contained within the consultation document "Delivering Advocacy Services for Children and Young People 0-25 in Wales" states:

"2.3 It is expected that children and young people will participate in the planning and commissioning of advocacy services as well as the review process"

It was intended that all local authorities and advocacy providers involve children and young people in the commissioning process.

I am pleased to see that those authorities who have recently commissioned, or who are in the process of commissioning new services, have embraced this standard in a variety of ways

- Anglesey have involved young people through consultation workshops;
- The three Gwent authorities who recently jointly commissioned a service involved young people from each authority in an interview panel in which they had full voting rights;
- The regional advocacy commissioning project in South Wales engaged an external training provider to provide training to a group of 20-25 children from across the South Wales authorities in relation to the commissioning and tendering process;
- Ceredigion involved young people in the two interviews for the manager of the joint advocacy service with Pembrokeshire;
- Powys are intending to include children and young people at the service design stage as their views and experiences are important for informing how the service may look;

- Vale of Glamorgan initiated a young people's interview panel who were fully involved in the contracting process and agreed the provider who was awarded the contract;

- Wrexham acknowledged that the authority needed to do more in involving children and young people in the commissioning process for services designed for children and young people. They are currently reviewing their commissioning strategy for Prevention and Social Care to ensure that it includes information on children and young people's participation in commissioning.

There were a small number of authorities who had not involved children and young people in any part of the commissioning process but all stated that they were planning to do so in any future re-commissioning of services. I will be interested to see how these authorities ensure children and young people's participation in future developments of their services.

It is encouraging to note that Welsh Governments recently issued development of a National Standards and Outcome Framework for Children and Young Peoples Advocacy Services, includes a specific set of outcomes relating to children and young people participating in the design, planning, delivery and evaluation of advocacy services. I hope that following the consultation exercise the final standards and outcomes document will be quickly published to assist local authorities and providers to develop their services.



## ADVOCACY PROVIDERS PERSPECTIVE

The three advocacy providers we spoke to were fairly consistent with their views in relation to the current commissioning arrangements in Wales. Their major concerns were in relation to the ongoing funding of services, the impact that regionalisation might have upon services and the lack of any leadership or direction at a national level.

All three advocacy providers were clear that funding for most of the contracts they had for independent professional advocacy had decreased over the past few years, and they were expecting that trend to continue in the current economic climate.

One provider asserted that during the past ten years, funding of independent professional advocacy had reduced by more than 50%. Before the current providers started to provide services, the Children's Society and the NSPCC had provided advocacy services in Wales, and both organisations had provided additional funding from within their own resources for the services they provided.

The number of Looked After Children in Wales has risen from 2991 in 1998 to 5415 in 2011, placing an increased demand upon advocacy services. There was, and continues to be, a perception from providers that advocacy is seen by some local authorities as a periphery service which places it at greater risk of cuts in challenging times.

This can manifest itself in different ways. For example, we were informed that some authorities were part funding their advocacy provision from their Families First budget and concerns were expressed that funding from Families First, for part of a contact, could potentially affect advocacy provision for other statutory cases. Families First funding is ring-fenced and can only be used to provide advocacy to children and young people whose families satisfy the Families First criteria. Early experiences suggest that there are far fewer referrals from the Families First programme than from statutory entitlement.

One provider told us that they had experienced a reduction in funding as a result of authorities jointly commissioning a service. The local authorities assumed that there would be fewer management overheads for the provider, minimised local authority boundary issues and reduced administration costs for the provider. However, the provider did not feel that the advocacy contract that they had with local authorities adequately reflected the amount of management, administrative and staff training time that was necessary for them to provide an efficient and effective service.

There were shared concerns from providers that shrinking budgets and increased expectations from local authorities was reducing the amount of face to face contact time they had with children and young people. They also felt that increased expectations could have a negative impact upon service delivery due to increased waiting times and limited capacity.

All providers reported some restrictions in relation to the groups of children and young people who could access advocacy, particularly children in need. They were also of the view that there was a need for core statutory advocacy provision to be in place, before contemplating how to provide a universal advocacy service. There was a consensus between the providers that local authority expectations have shifted towards expecting universal access to services without any additional funding.

It was generally felt that long term contracts can provide additional benefits, including support for identifying alternative funding streams to provide complementary services; provision of specialist advocacy services; facilitating junior safeguarding boards; and representing various children's groups. However, some concerns were expressed about children and young people's perceptions of independence, when the advocacy provider became too much a part of the local participation and children's rights agenda.

As previously identified in this report, local authorities determine the size of their advocacy budget according to what they can pay, rather than what they need to pay to meet demand. There were mixed views from providers regarding the use of a 'funding formula' for advocacy services, although there was acknowledgment that it could provide an evidential base for determining provision.

Currently there is no oversight or holding to account of local authorities funding or commissioning of independent professional advocacy services. I have previously stated that I think that this would be an appropriate function for Welsh Government, the Deputy Minister for Social Services and the Ministerial Expert Group on Advocacy to undertake and to be informed about ongoing issues in relation to funding and commissioning.

Despite their concerns about future funding and resourcing of their services the advocacy providers that we spoke to all described positive working relationships with local authorities, some of whom they had worked with for a number of years.

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## CONCLUSION

It is clear to me that, since the publication of "Missing Voices" and "Missing Voices Best Practice Casebook", the collective commitment to deliver independent professional advocacy is as strong as ever among most stakeholders. However there remains huge frustrations and confusion with local authorities and partner agencies in relation to the commissioning of independent professional advocacy services for looked after children, care leavers and children in need. This is due, in part, to a lack of clear strategic direction from Welsh Government.

Collectively we are all responsible for ensuring that consistent, effective commissioning ensures that children and young people can access and benefit from the support of independent advocates. But Welsh Government have an important role to play in providing clear leadership and strategic direction. They have not been proactive enough in doing this and need to work in partnership with local authorities, advocacy providers, ADSS, WLGA and importantly children and young people.

The evidence gathered for "Missing Voices" and this anniversary report, consistently raises concerns regarding the lack of direction from Welsh Government. Again, I urge Welsh Government to provide direction regarding their preferred model for delivering advocacy services through publication of updated statutory guidance and reaffirming their expectation that health and education must work with social services to provide a collaborative provision for children and young people wishing to access advocacy.

I am concerned that health and education services, in the majority of local authority areas, do not appear to be fully engaging with the development of jointly commissioned advocacy services, and I am concerned that vulnerable children and young people who have a statutory right to advocacy support in these settings may not be getting their entitlement. If those children and young people are not accessing their entitlement, I am left wondering how all children and young people in those settings are having their voices heard in important decisions that affect them. I recommend that this is an area of work that the newly appointed Ministerial Expert Group on Advocacy should enquire into.

I am encouraged that several local authorities have identified the means to determine the cost of providing an advocacy service in their local authority area through an agreed funding formula. The use of a funding formula enables the service to be based upon an evidential assessment of need. The current situation where service provision is determined by an historical figure, which is not understood by current commissioners, is unacceptable and must change. I believe Welsh Government have a role in promoting the consistent use of such a tool as it will enable an evidential based discussion to take place regarding the true cost of providing an independent professional advocacy service.

If there is one change that I can make a major contribution towards during my time as Children's Commissioner for Wales, then it is making a positive difference to enabling access to independent professional advocacy for those children and young people who have a statutory entitlement to such a service. I see effective commissioning of independent professional advocacy services, ensuring that all those who are entitled to a service receive a service, as the cornerstone of any wider aspirations to provide access to advocacy for all children and young people. We must ensure that as a starting point for advocacy provision in Wales that all those children and young people who have this statutory entitlement to advocacy get this entitlement.

It is time for strong leadership, accountability and systematic delivery of services to ensure that the commitment to children's rights is translated into tangible and measurable outcomes. There are challenges for all who work for and with children and young people in Wales to ensure that we get it right for looked after children, care leavers and children in need. The priority must be to deliver on the rights to which children and young people are entitled and to make sure we safeguard them by giving them a voice.

I urgently want to see progress and key actions by Welsh Government and stakeholders to achieve change for children and young people. I wish to support the

establishment of the Ministerial Expert Group on Advocacy to deliver against its remit and support the role of the new Chair to deliver this work. I believe that the evidence and recommendations in "Missing Voices" as well as in this report highlights the need to focus and prioritise actions in the delivery of independent professional advocacy

I intend to continue to hold Welsh Government and local authorities to account for the provision of independent professional advocacy services and will be undertaking a further piece of work on the second anniversary of "Missing Voices", conducting a wider ranging review of progress with a focus on Welsh Government's and local authority delivery against the recommendations I set for them in "Missing Voices".

## RECOMMENDATIONS

The following recommendations are made in accordance with my powers and functions derived from the Care Standards Act 2000 and the Children's Commissioner for Wales Regulations 2001. The recommendations are supplementary to those made in "Missing Voices" and are directed to Welsh Government. I would expect actions in relation to these recommendations to feature in Welsh Government's action plan for developing independent professional advocacy services:

- 1 Welsh Government to issue guidance on their preferred model for delivering advocacy services through publication of updated statutory guidance.**
- 2 Welsh Government to commission primary research into the effectiveness of its model for delivering advocacy services to help determine if its model provides the best outcomes for children and young people.**
- 3 The Ministerial Expert Group on Advocacy to monitor on an annual basis the commissioning and funding arrangements that are in place across the 22 local authority areas to ensure that appropriate independent professional advocacy services are available for children and young people who have a statutory entitlement to an advocacy service.**
- 4 Welsh Government and the Ministerial Expert Group on Advocacy to promote the use of a "funding formula" to determine how much local authorities should be spending on providing advocacy services, so that there is consistency in approach across Wales.**

### **Annex 1** **Terms of Reference for** **Advocacy review**

#### **Children's Commissioner for Wales**

Review of independent professional advocacy for Looked-after Children, Care Leavers, and Children in Need (as defined by Section 17 of the Children Act 1989)

#### **Definitions**

Independent/professional advocacy: See Advocacy Jigsaw (Welsh Government) for definition <http://wales.gov.uk/docs/caecd/publications/090803guidedeliveringadvocacyservicesmodelen.doc>

Looked-after children: see Children Act 1989 for definition <http://www.legislation.gov.uk/ukpga/1989/41/contents>

Care leavers: see Children (Leaving Care) Act 2000 <http://www.legislation.gov.uk/ukpga/2000/35/contents>

Children in need: see Children Act 1989 for definition <http://www.legislation.gov.uk/ukpga/1989/41/contents>

#### **Rationale for a review**

The Commissioner and his staff have had it brought to their attention that not all Looked-after Children (LAC), Care Leavers and Children in Need (CIN) are able to exercise their statutory right to an independent advocacy service.

During the course of interviewing children for our report into the transition from care to independence (published in summer 2011), from casework that our advice and support service have been involved with, and from discussions and conversations that we have had with advocacy providers we know that provision of advocacy for LAC, Care Leavers

and CIN is inconsistent across Wales.

This review will focus upon the provision of independent professional advocacy for LAC, Care Leavers and CIN although it is likely that lessons learnt from this review may have wider significance for children in other settings.

#### **Powers of the Children's Commissioner for Wales**

The Commissioner has the power to review and monitor arrangements for the provision of advocacy through powers and functions derived from Section 73 of the Care Standards Act 2000 (see Appendix 1).

The review must be for the purpose of ascertaining whether, and to what extent, the arrangements are effective in safeguarding and promoting the rights and welfare of children and young people.

#### **Information Gathering**

Under regulation 3 of the Children's Commissioner for Wales Regulations 2001 (see Appendix 2), the Commissioner can request from the organisations under review any information he considers necessary to:

- review and monitor arrangements in relation to advocacy, and
- assess the effect of the failure of any person to make such arrangements (see Appendix 2).

The Commissioner may request such information from a number of persons (see Appendix 2).

#### **Principal Aim**

The Review will cover the advocacy arrangements of the following:

- Welsh Ministers, and
- Local authorities in Wales.

### Terms of Reference

1. Gather and present the views and experiences of children and young people who are entitled to independent professional advocacy support, enabling them to contribute towards the recommendations of a formal report.
  2. Analyse the legislative and policy context for advocacy for LAC, Care Leavers and CIN in Wales.
  3. Review the commissioning and funding arrangements for independent professional advocacy provision for children across Wales' 22 local authorities
  4. Identify strengths and weaknesses in relation to the current provision of independent professional advocacy support for LAC, Care Leavers and CIN
  5. Provide an independent review of the national structures that have been set up to support and develop the provision of independent professional advocacy services for LAC, Care Leavers and CIN
  6. Produce a formal report reflecting the views and experiences of LAC, Care Leavers and CIN in relation to access to and provision of independent professional advocacy, setting out the Commissioner's findings, conclusions and recommendations for stakeholders involved in the review.
  7. Monitor the recommendations contained within the report.
2. Establish a reference group of young people to advise and input into the review including the recommendations for the formal report.
  3. Map out all legislation, policy and guidance relating to the provision of independent professional advocacy services for LAC, Care Leavers and CIN in Wales to include a comparator analysis with other UK countries.
  4. Map out existing independent professional advocacy provision for children and young people in the looked after systems across Wales' 22 local authorities including an historical review of spend on provision.
  5. Take evidence using a structured format with key staff from Welsh local authority areas focusing upon key components of Welsh Government's National Standards for Children's Advocacy, including:
    - i. Senior Social Services manager
    - ii. Social Workers for LAC, Care Leavers and CIN
    - iii. Advocates and Managers of independent advocacy providers
    - iv. Independent Reviewing Officers
    - v. Elected members with responsibility for children and young people
  6. Gather evidence from local authority social services departments through dissemination of structured questionnaire.
  7. Review the role, function, and performance of the Welsh Government's Advocacy Unit through an analysis of current and previous work plans, interviews with Advocacy Unit staff, and senior civil servants responsible for this function, and feedback from professionals who work with children.

### Methodology

A project team including the Commissioner and staff drawn from his team will undertake the review and will:

1. Meet with and obtain the views of LAC, Care Leavers and CIN who are statutorily entitled to independent professional advocacy support.

8. Review the role, function and performance of the National Independent Advocacy Board through an analysis of its terms of reference, annual work plan, minutes of meeting and structured interviews with board members.
  9. Conduct a sample of interviews using a structured format with independent professional advocacy providers.
  10. Conduct a series of structured interviews with elected members and national politicians who have a responsibility for / interest in the provision of independent professional advocacy services.
  11. Conduct a series of structured interviews in relation to independent professional advocacy with ADSS, WLGA and relevant non governmental organisations.
  12. Prepare a formal report setting out the findings, conclusions and recommendations of the Commissioner and send to the First Minister, the libraries of the National Assembly for Wales and the Houses of Parliament, and the organisations whose arrangements or failure to make arrangements have been reviewed.
  13. Prepare a draft report and share a copy with the bodies being reviewed. They will have an opportunity to respond by correcting any factual inaccuracies and to respond to recommendations. Responses may be taken into account in preparing the final report.
2. Please state your current advocacy provider and give details of the length of the current contract.
  3. Have you changed your advocacy provider within the past twelve months? Are you planning to tender for your advocacy service within the next twelve months?
  4. Please provide details of how independent professional advocacy is funded within your local authority. Please provide details of the funding source for this service e.g. social services core funding, shared funding with other services, grant funding, other.
  5. How do you arrive at the figure that you have allocated for independent professional advocacy? Is it based upon an annual assessment of need?; Based upon what the service can realistically afford in the current economic climate?; Based upon an historical figure?; Other?
  6. Does your service place any restrictions on which children and young people can access advocacy?
  7. What is your total expenditure on independent professional advocacy? Has this changed within the last twelve months?
  8. Do you envisage that your funding for independent professional advocacy will change over the next 24 months?
  9. Have you received any joint tenders from advocacy providers for any contracts you have advertised?
  10. How do you involve children and young people in the commissioning process?
  11. What would you describe as the main positives of your commissioning arrangements and what would you describe as the main challenges and/or difficulties?

### Annex 2 – Questionnaire sent to local authorities

1. How are independent professional advocacy services commissioned within your local authority? Please include details of any joint commissioning arrangements with other departments, organisations or local authorities or arrangements for "spot purchasing" a service.

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[www.childcomwales.org.uk](http://www.childcomwales.org.uk)