

Cynulliad Cenedlaethol Cymru | National Assembly for Wales
Y Pwyllgor Plant, Pobl Ifanc ac Addysg | Children, Young People and
Education Committee
Ymchwiliad i Eiriolaeth Statudol | Inquiry into Statutory Advocacy Provision

SAP 04

Ymateb gan : Cymdeithas Cyfarwyddwyr Gwasanaethau Cymdeithasol
Cymru / Cymdeithas Llywodraeth Leol Cymru
Response from : Association of Directors of Social Services Cymru / Welsh
Local Government Association

The Welsh Local Government Association (WLGA) represents the 22 local authorities in Wales; the three national park authorities and three fire and rescue authorities are associate members. It seeks to provide representation to local authorities within an emerging policy framework that satisfies the key priorities of our members and delivers a broad range of services that add value to Welsh Local Government and the communities they serve.

The Association of Directors of Social Services Cymru (ADSS Cymru) is the professional and strategic leadership organisation for social services in Wales. It comprises statutory Directors of Social Services and the Heads of Service who support them in delivering social services responsibilities and accountabilities, a group of more than 80 social services leaders across the 22 local authorities in Wales.

In compiling our response, we interpret statutory advocacy as a shared responsibility across public services which involves all staff in:

- speaking up for children and young people;
- empowering them to make sure that their rights are respected and their views, wishes and feelings are heard at all times
- representing their views, wishes and feelings to decision-makers; and
- helping them to navigate complex systems and processes.

Advocacy under Part 10 of the Social Services and Well-being (Wales) Act

The WLGA and ADSS Cymru have often expressed our broad support for the vision and the ambitious principles set out in the Social Services and Well-being (Wales) Act. One of the principles embedded in the Act is that people are at the heart of the new system and have an equal say in deciding the care and support they receive. It emphasises voice and control – putting the individual and their needs at the centre of their care and giving them a voice in, and control over reaching the outcomes that help them achieve well-being.

The child or young person's views, wishes and feelings, and (where appropriate) those of their parents, are crucial in determining what their personal outcomes are and how they can best be met. The extent to which a child or young person can contribute to, and participate in, defining and achieving those outcomes will depend upon their age and understanding, and they should be supported in this by a range of professionals and other people involved with them, including (as appropriate) their parents, family and friends, social workers, independent reviewing officers, independent visitors and advocates. In implementing the Act, local authorities have placed considerable emphasis on 'Better Conversations' and 'Inspirational Conversations' training. This is intended to increase levels of competence among staff across relevant organisations in delivering 'What matters?' conversations right from the point of initial discussions with the people who make contact because they may need care and support.

It is important then to be aware that advocacy can and should be undertaken by a wide range of people and professionals. Anybody exercising functions under the Act must have regard to the importance of providing appropriate support to enable the individual to participate in decisions which affect him or her, to the extent which is appropriate in the circumstances. Also, the National Outcomes Framework for Social Services sets out well-being outcomes for people who need care and support and carers who need support. The framework states that people must speak for themselves and contribute to the decisions affecting their lives, or have someone who can do it for them. The extent to which this is achieved must be measured.

As set out in the United Nations Convention on the Rights of the Child (UNCRC), children and young people have a right to be heard in matters affecting their futures. Wales has ratified the UNCRC as a basis for taking forward children's rights. Under the Rights of Children and Young Person's (Wales) Measure 2011, Welsh Ministers have a duty to pay due regard to the UNCRC in all of their functions. The Social Services and Well-being (Wales) Act requires any persons to have due regard to the UNCRC. Detail on exercising this duty has been provided in the Code of Practice in relation to Part 2 of the Act.

Throughout the Act and under Part 10 specifically, there is a clear and strong emphasis placed on the role of advocacy. It is vital that people are supported appropriately in order to ensure that an individual is enabled to represent their interests, exercise their rights, express their views, explore and make informed choices. A local authority's duty to provide advocacy services (or assistance by way of representation) in relation to its social services functions is re-stated under Sections 171-178 of the Act. Commissioners of advocacy service and advocacy service providers should be able to establish the quality as well as the quantity of their work, providing assurance that they are making a positive

difference to children and young people's lives. The Part 10 Code of Practice (Advocacy) applies.

Options include peer advocacy, informal advocacy, formal advocacy and independent professional advocacy. It is positive that Part 10 recognises that advocacy can take many forms and that it is not confined to arrangements of an independent advocate by a local authority. For example, the role of a trusted adult already known to a child can be vital. There is an important role for local authorities and also for third sector organisations and the NHS to support all types of advocacy and advocates.

Ultimately, resources will have an impact on what advocacy services are commissioned and the current financial climate means that we have to be realistic about the expectations being placed on local authorities, without additional funding being provided. This is especially the case given the intention to regulate advocacy services under the Regulation and Inspection of Social Care (Wales) Act.

At the heart of professional advocacy is the concept of independence. An independent professional advocacy service is designed to provide additional safeguards for children and young people. Consequently, it is imperative that the advocates are free to support them, without any conflicts of interest, and to appropriately challenge service providers on behalf of the children and young people. The subject of such challenge may include:

- decisions made about a child or young person's care
- upholding a child or young person's legal rights;
- the quality of care being provided.

The role of the advocate is to support a child or young person in making an informed decision, with their views and wishes as the sole focus. An advocate will help a child or young person to understand his or her rights and the choices available; ultimately, any decisions taken by the child or young person will be their own, subject to any legal constraints.

The National Approach to Statutory Advocacy for Children and Young People

On behalf of Welsh Government, Dr Mike Shooter undertook a strategic review of the evidence in relation to the provision of statutory independent professional advocacy services (SIPAS) for children and young people. Ministers were presented with the first report in January 2014. The Report showed that whilst there were examples of good practice commissioning and provision of statutory advocacy services in Wales was patchy and inconsistent.

Following this review, Ministers invited local government, via ADSS Cymru, in 2014 to bring forward a model for securing a national *approach* to SIPAS for looked after children and specified groups of children in need.

An advocacy Task and Finish Group (T&FG) was established to take this work forward, chaired by ADSS Cymru. The T&FG took responsibility for developing the key components of a National Approach to advocacy, aligned to a Standards and Outcomes Framework. The group was asked to explore:

- the recommendation from ‘Missing Voices: Right to be Heard’ (the report by the Children’s Commissioner on independent advocacy services for children and young people in the care system) in respect of an ‘active offer’; and
- how to deliver the National Approach model at a regional level through lead authorities within the existing Social Services Regional Improvement Collaboratives (since replaced by Regional Partnership Boards).

The work of the T&FG led to the development of a business case produced towards the end of 2015. It set out the following key components of a national approach:

- A National Standards and Outcomes framework
- A Regional Service Specification
- A Range and Level Mechanism
- A local/regional performance reporting template.

The work of the T&FG identified that the additional cost of implementing a national approach with all of these elements for local authorities would be in the region of £1m.

Through the ADSS Cymru Executive Council and WLGA’s Social Services Policy Group (made up of Elected Members with a responsibility for Social Services) the implications of adopting a national approach as set out in the business case were considered. It was agreed that, in principle, both were content to examine further how local authorities could take forward a national approach. However, in recognition of the additional costs identified, it was accepted that individual local authorities and regions would need to receive further information on the national approach and, in particular, the potential financial implications for their individual authorities. This would enable them to come to an informed view and to engage with other authorities in their region.

Having received this information earlier in the year, local authorities have indicated broad support for developing a national approach, with agreement on the overall principles that have been adopted. Some authorities identified that the draft National Approach Specification has already been used to influence current contracting arrangements. However, there were concerns raised about

some of the implications, especially about how to meet the additional costs identified at a time when budgets are being reduced. Concerns included:

- Some of the additional costs are a result of new requirements placed on local authorities in an already challenging financial climate; this is especially the case in delivering the ‘active offer’.
- The Business Case uses historical information from 2013/14 as its baseline. For a number of authorities, spend on advocacy has changed since this information was provided; for example, costs in the North Wales region have decreased as a result of regional commissioning. It is likely that the actual costs to some local authorities will be higher than those cited in the business case.
- A number of local authorities were concerned about the need to protect the rights of children and young people to opt for other forms of advocacy at the outset, as opposed to a narrow choice regarding a uniform ‘active offer’ from one provider.

Since this time, Welsh Government has confirmed its commitment to providing new funding to contribute to and support the provision of independent professional advocacy, including the costs of the active offer in full (as this is a new responsibility) and a contribution towards the resources required to meet a quality service as set out using the range and level tool. This will help local authorities to meet some of the additional costs that will accrue over time.

On this basis, it was agreed that a local government technical group would be set up by ADSS Cymru and the WLGA to look at how best to take the work forward and support local authorities. The group met at the start of September to scope out the current position and to plan the actions required to take forward the national approach. Representatives from each of the Regional Partnership Board areas were part of the group.

The group has recognised that the financial implications identified for local authorities in the business case used information from 2014 and so the true costs of implementing a national approach may now be different for a number of them. For example, some authorities have seen significant increases in their looked after and child protection figures. If funding were to be provided on the basis of information currently held, some authorities may not be adequately supported to meet the new requirements. Therefore one of the key actions required is to update this information to ensure that there is an up-to-date and accurate picture of the financial implications on authorities. This is work that will be undertaken through the technical group.

Each local authority already has contract arrangements in place to provide statutory advocacy to children and young people. Some areas have already moved to regional approaches to commission this service, specifically Mid and West Wales and North Wales. Caerphilly, Torfaen and Blaenau Gwent also have joint

arrangements in place and will be looking at the potential for creating a Gwent-wide service when existing contracts expire, with the active offer to be included in these discussions. Similarly, Cardiff and the Vale have agreed that they will be looking to commission advocacy services on a regional basis when existing arrangements come to an end early in the next financial year. Western Bay local authorities are looking at the potential for developing a joint tender next year and Cwm Taf have indicated a willingness to put in place regional arrangements. On this basis, it is anticipated that regional approaches could be in place across Wales early in the new financial year once local authorities commit to this change. The national approach will need to be supported by the partnership framework that is underpinned by the Social Services and Wellbeing Act 2014, namely Regional Partnership Boards. Each of the regions will look to appoint a lead authority for commissioning purposes.

The draft specification developed as part of the National Approach has already been included as part of the tendering process recently undertaken in Mid and West Wales. The other regions have indicated support for jointly using the specification to re-commission their services.

The commissioning approach taken by Mid and West Wales included a separate lot for the provision of the 'active offer'. Subject to a number of conditions being met (full funding being made available from Welsh Government, the current provider having capacity and agreement from the local authorities), this part of the contract is ready to be instigated and the active offer can be rolled out across Mid and West Wales in this financial year. The other regions can learn from the Mid and West Wales tendering approach, how they have included the active offer element and how this could be built into future regional commissioning arrangements.

The Executive Council of ADSS Cymru has received an update on the work of the Local Government Technical Group. Directors have resolved that:

- the Executive Council would ask Directors of Social Services to agree that they will adopt the national approach;
- each Regional Partnership Board area would undertake to provide a date by which it will have used the national approach to commission an advocacy service.

ADSS and WLGA are working with regional leads to develop an implementation plan identifying how each region has, or how they intend to use the key components of the National Approach to commission a service for the region, once they have access to Welsh Government funding for the active offer.