

**National advocacy service consultation  
January 2018**

This response is submitted on behalf of the Centre for Youth and Criminal Justice. Please contact us to discuss any of the points raised, and to further develop the forthcoming national advocacy service.

**Survey responses**

Advocates work for the child or young person, putting the child or young person in control.

- Strongly agree

Advocates will listen to children and young people to understand what matters to them, help them explore their options and have their voice heard.

- Strongly agree

Advocates will know all about children's rights and entitlements.

- Strongly Agree

Advocates will understand the law and procedures that apply to the Children's Hearings System. They will be able to help children and young people understand what is happening and explore their options.

- Strongly Agree

Advocates can speak to others on behalf of the child or young person with their permission, to help them get answers to any questions or concerns they have.

- Strongly agree

Advocates will only work on behalf of children and young people. They will only share information with other people with permission from the child or young person, unless someone is at risk of harm.

- Strongly agree

Advocates will not give their own views or opinion or take anyone else's side, they will always be on the child or young person's side.

- Strongly agree

Advocates won't be influenced by anyone or anything else while they are supporting the child or young person.

- Strongly Agree

Advocates will be available to work with all children and young people. Advocacy organisations will ensure adequate provision for children and young people with additional needs.

- Strongly agree

Advocates will work with carers and other professionals already working with children and young people to ensure that they are sensitive to the individual child or young person's needs.

- Strongly agree

Advocates will respect the culture and preferences of all children and young people and treat them fairly and equally.

- Strongly agree

Not every child attending a hearing will want or need an advocate and services may take time to develop. If initial prioritisation is needed, which of the following children/circumstances do you think should be prioritised for an offer of advocacy? Please rank up to four.

- No response on principle of disputing the premise of the statement. This statement makes an assumption that a demand led prioritisation or 'rationing' approach is legitimate, likely to be necessary and may even be organisationally determined e.g. if a small advocacy service found that it received a high number of referrals and was not resourced to respond.

An ongoing challenge in the sector is how to let young people know about advocacy services available to them, what do you think would be the most effective way(s) to let children and young people know about the availability of advocacy services?

Please select up to three.

- Information sent with Hearing papers
- Introductory visit from an advocate to explain advocacy offer access to advocacy
- Through their social worker

**Full response:**

Various elements of this framework are commendable, appearing to meet the requirements of the nature, ethos and aims of a national advocacy service that will best support children to participate and express themselves within the fora of children's hearings.

The desired qualities of practitioners who undertake this task have been outlined within the questionnaire and appear to reflect the child centred, informed approach that those performing these duties must adopt. Looking forward, it is important that organisations who currently perform this role are supported to develop the skills of abilities of their pool of advocates.

Clarification is required regarding who would make the referral to the advocacy service. In CYCJ's opinion it is too late to make such a decision at the point of the young person appearing at a Children's Hearing. The young person – at this point of stress and anxiety – may not be in a position to fully appreciate and comprehend the ramifications of such a service. Rather, CYCJ are of the view that consideration must be given to making a referral to the advocacy service at the point at which a hearing has been scheduled by the relevant reporter. That would afford the advocate and the young person a greater length of time during which to develop a relationship and prepare for a forthcoming hearing.

Of greatest concern is that at this early stage of developing a national advocacy service measures are being promoted that serve to reduce the scale and scope of the support that will be provided. This suggests an assumption that a demand led prioritisation or 'rationing' approach is legally and ethically acceptable, legitimate, likely to be necessary and may even be organisationally determined. For example if a small advocacy service found that it received a high number of referrals and was not resourced to respond.

CYCJ are of the view that all children are deserving of advocacy support throughout the process should they want this, regardless of age, cognitive ability, reason for their referral or any other arbitrary categorisation that results in some children being viewed as more worthy than others. CYCJ does not consider it appropriate to rank which children require – or deserve - advocacy over others, as is implied in Q16. We would have concerns about that ability of a system founded upon such skewed and discriminatory views can deliver a just and equitable service. Advocacy is based on principles of equality, participation and amplifying the views of those who may otherwise be marginalised. Prioritising one group of children over others seems to conflict with the very ethos of advocacy itself, not to mention the underlying principle of viewing children not merely in terms of their deeds but their needs.

CYCJ are concerned that should a system of 'deserving and undeserving' young people be introduced it is a perspective runs contrary to the very purpose and goal of advocacy, whilst appears to undermine the aims and ambitions of this provision. A universal, non-discriminatory service is the only way in which the voices of all children can be amplified and heard. Mental health advocacy services have been established for a considerable length of time, operating within the framework of mental health tribunals and associated fora. CYCJ hope that learning can be gained from colleagues in that fields with regards to successful provision and policy. There are obvious parallels that may go some way towards improving the proposed service, including addressing the issue of rationing, prioritisation and exclusion.

2018 marks the Year of Young People; a year that should be the springboard to the development of a care system that truly values, seeks out and listens to the voices of those whom we seek to support. Hindering the scale, efficacy and impact of such a service – which ultimately serves to enhance the muted voice of Scotland's most vulnerable children – would seem be at odds with the ambition of

making Scotland the best place to grow up and with the ambition of celebrating young people's role in society.

One step towards realising that ambition could be made through the absolute, unqualified fulfilment of Section 122 of the Children's Hearing (Scotland) Act of 2011 by way of creating and sustaining an advocacy service for young people involved in the Children's Hearing system. Having explicitly made provision for advocacy in that Act, watering down the resultant provision through rationing of the service would not only go against the spirit of the legislation, but fail to adhere to Section 199 of the Act itself which defines 'the child' as anyone under the age of 16 or who is progressing through various stages of the Children's Hearing System. Nothing within this legislation blurs this distinction. The Act does not define 'the child' as someone who encounters impaired communication skills. It does not define 'the child' as those of a lower age. It stipulates clearly and simply that an upper age limit of 16 - other than in noted circumstances - marks the threshold of childhood. We see no reason for the introduction of advocacy services to initiate the reshaping of who is or is not a child.

CYCJ are also concerned about the message that is conveyed to young people, their families and panel members through the rationing of the service. It suggests that those who are deemed to not require advocacy are automatically able to express their views clearly or to make rational, logical decisions. This is at odds with widely known research regarding child development and brain development which indicates that young people reach maturity at differing ages, but often not fully achieving this until their mid 20s.

CYCJ appreciate that financial constraints will continue to pose a difficulty in the context of continued austerity and acknowledge that the introduction of this service is a development that should be celebrated. CYCJ are of the view that a roll-out of this service could be piloted in order to gauge the required size and scale of a service that caters for all children. We note only 56% of children were referred to Barnardos advocacy service during a recent pilot, with 67% of these children ultimately receiving a service. It is not clear from the findings of the evaluation as to whether or not age was a significant factor in who did or did not receive such a service, with the average age of those supported being nine years old. We further note that uncertainty over the age at which a child could be referred to the advocacy service was suggested as a potential reason why the rate of referral was as low as it was. (56%) Avoiding further confusion could be achieved by making a clear statement that advocacy was a service available to all children within the children's hearing system. A further, broader pilot may be beneficial in assessing the expected take up of advocacy within this group of children and young people and therefore provide a clearer picture of the level of funding and resourcing that such provision will require. CYCJ query whether the position being adopted at this stage - of excluding some young people from the service - truly reflects the reality of the level of demand that the national advocacy service will face. Nevertheless, it is clear to CYCJ that advocacy services for children must be adequately funded. Refusing to do so would appear to be setting the system up to fail, with children being those who will suffer.

CYCJ look forward to supporting our partners in delivering a range of changes to the Children's Hearing System, building on the findings of the Better Hearings research undertaken by SCRA in 2016. The introduction of a universal advocacy service is an endeavour that we believe would assist Scotland's



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children to be respected and listened to, whilst going some way towards making this country the best place to grow up.

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