

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 14

Ymateb gan : Gwasanaeth Eiriolaeth Ieuenctid Cenedlaethol (NYAS Cymru)

Response from : National Youth Advocacy Service (NYAS Cymru)

NYAS is a UK charity providing information, advice, advocacy and legal representation to children, young people and vulnerable adults throughout Wales and England. We are the leading national advocacy provider.

Our Response

NYAS Cymru welcomes the opportunity to provide written evidence to the NAFW Children, Young People and Education Committee (*thereafter* 'Committee') inquiry into statutory advocacy provision.

This response compliments our recent submission to the Committee's previous request for key priorities to inform its forward work plan. In our response we expressed support for the Committee conducting an inquiry into advocacy provision for children and young people in Wales during the Fifth Assembly Term.

We have tailored our response to the focus of the inquiry, which is

- The latest position on the implementation of the National Approach to Statutory Advocacy for Children and Young People;
- Other issues relevant to the commissioning and funding of statutory advocacy provision;
- The impact of Part 10 of the Social Services and Well-being Act 2014; and
- Identifying other priority areas where progress is needed in respect of advocacy provision.

What are your views on the effectiveness of the Welsh Government's approach to the delivery of statutory advocacy provision? If this is a concern to you, how should this be addressed?

Statutory advocacy is fundamentally a provision to protect and safeguard the most vulnerable children and young people in Wales. We must not lose sight into the history of why advocacy is so critical in Wales which was a direct result of many children being abused whilst in the care of local authorities.

The recommendations from Sir Ronald Waterhouse report; “Lost in Care” is still as relevant today as it was in 2000. The recommendations the Waterhouse report provided for “independent advocacy” was fundamental to protecting children. Prior to advocacy becoming a statutory provision The Children Society voluntarily financed many of the services in parts of Wales to ensure the voice of children within decision making processes were heard and acted upon. The funding allocated at this time was more than many local authorities are now providing and we are 15 years on with more eligible children and young people able to access the services.

The term “Independent” is crucial to advocacy provision.

There has been a long history of discussions and debate over what constitutes “independence.” Many young people believe that whilst local authorities continue to commission advocacy services it will not be independent as it can result in providers feeling compromised and are aware that at times, the systems they challenge on behalf of young people are the ones that pay for the provision.

Welsh Government in partnership with Voices from Care held a consultation event with care experienced young people across Wales. The key priorities young people identified were:

“That there should be one organisation that commissions advocacy and one national service to ensure independence and consistency.”
Our Views, Our Stories report, 2014

The Children’s Commissioner for Wales published a report in (2003), “Telling Concerns” which included 25 recommendations; one of which called for a national review of local authority statutory advocacy arrangements for children and young people in Wales. Over the last 10 years there have been a number of independent studies, reports, enquiries and reviews which have identified areas of concern in respect of the availability, access, and independence of advocacy provision. In 2012-2014 The Children’s Commissioner for Wales undertook a review of statutory advocacy provision “Missing Voices”. Again, this report highlighted the need for those children and young people with statutory entitlement to have access and consistency for independent advocacy. “The situation cannot be allowed to continue and must be addressed as a matter of urgency” Missing Voices, (2012).

The Welsh Government has also undertaken their own publications and reports as well as establishing a number of Ministerial groups these include:

- A study of Advocacy Services for Children and Young People in Wales (2005)

- New Service Framework for the Future of Advocacy Services in Wales (2008)
- National Independent Advocacy Board (2009)
- Model for Delivering Advocacy Services for Children and Young People in Wales (2009)
- Responses to Commissioners Review (2012) and Progress update (2013)

In 2013, the former Minister stated her intention to establish a Ministerial Expert Group on Advocacy (MEGA) and a Young Person's Expert Group on Advocacy (YPMEGA)

The MEGA, chaired by Dr Mike Shooter, presented its first report to Welsh Ministers in January 2014. The report showed commissioning and provision of statutory advocacy services in Wales to be patchy and inconsistent. Whilst there were some examples of good practice there were also areas of serious concern.

Having considered five possible models of commissioning statutory advocacy services, the Expert Groups recommended a "hybrid" model as a first step, in which the commissioning of provision remains at a local or regional level while the Welsh Government assumes responsibility for a costing formula, collation and monitoring of statistics, setting standards and inspecting against them, training and registration of advocates, and promotion of advocacy.

MEGA also recommended that the Welsh Government consider a secondment opportunity for a senior and authoritative figure to facilitate any necessary changes, to promote consistent good practice in the delivery of these services and to ensure that practical outcomes are secured from high level engagement between MEGA, advocacy providers, commissioners and Ministers.

It was whilst appointing a secondee that Ministers announced a change in focus, a shift which included the Strategic Leadership Group (which included Mike Shooter) inviting local government to bring forward a model for securing a national approach to statutory independent professional advocacy for looked after children, children in need and other specified individuals (November 2014).

ADSS, Welsh Government, Local Authorities and Advocacy Providers in Wales made up the Task and Finish Group that developed a business case to the former Minister that included:

- Population needs assessment for eligible children/young people along with funding criteria to meet the recommended “active offer” of advocacy intervention
- A National Standards and Outcomes Framework for Advocacy
- A National reporting template
- Regional commissioning guidelines

This work is still yet to be implemented or agreed by ADSS, Local Authorities and Welsh Government which has resulted in current advocacy contracts being renewed on short term basis with inadequate funding, lack of accessibility and confusion amongst local authorities on what the current status is. Many commissioners ask NYAS as providers to tell them what is happening as they inform us they do not know.

NYAS have maintained an effective working relationship with the Welsh Government and have welcomed the inclusive approach adopted in bringing together a range of external stakeholders to seek lasting solutions. However, despite the shared vision for quality, accessible and sustainable advocacy structures for children and young people throughout Wales, progress in addressing some the issues raised in previous Committee enquiries and by children and young people as recipients of advocacy services have been painfully slow. Challenges around demand, budgetary cuts/stagnation and competitive commissioning arrangements remain prevalent and only serve to frustrate the progress Wales has made in helping children access their rights and entitlements under existing statutory legislation. The messages and recommendations coming from more recent independent and commissioned reports, as evidenced above, provide a timely reminder that more is needed to be done to ensure statutory advocacy is adequately funded and an active offer is provided face to face to all those eligible children and young people in Wales.

Although it is fair to say there has been a lot of energy and consideration by Welsh Government on the provision of statutory advocacy provision the services across Wales are still not consistent in terms of accessibility, funding levels, status of eligibility and therefore we are still not ensuring our most vulnerable children and young people can access advocacy when they need it most which leads to potential for children and young people to remain unsafe and unprotected.

We will address solutions in further responses.

What are your views on the latest position in relation to the implementation of the National Approach to Advocacy Services?

Following the completion of the business case developed by the Task and Finish Group of the National Approach to Statutory Advocacy for Children and Young People in November 2015, NYAS remain concerned that there has been a delay in its full implementation and from the proposed timescales.

We understand that further engagement with local authorities across Wales was required to help ensure that consent was secured, given that each local authority was responsible for ensuring compliance.

However, the Business Case report proposed a phased implementation, beginning with the North Wales region, following the launch of the National Approach in early 2016. The second region was due to commence in June 2016 with all regions adopting the new service model by March 2017 in line with their existing commissioning cycles. NYAS discussions with many local authorities confirm this is not taking place.

We understand that an implementation or delivery plan is currently being developed to realise the components which make up the National Approach. However, we have not had sight of this plan and we are unclear of the timescales for the plans publication or the revised timescales for its full implementation. Communication to external stakeholders, including local commissioners of advocacy services, and children/young people is therefore urgently required as a priority.

We would not wish to see any dilution from what was agreed and proposed, and continue to support all components of the National Approach being developed as set out in the Task and Finish Groups Business Case report. There is a need for a clear commitment to meet the funding obligations of the National Approach business plan in full.

The proposal to review progress at the end of the first year of full implementation, and to report on achievements and any adjustments needed based on performance data and latest population statistics, is essential. The Business Case did not set out how this would be achieved.

The delay in progressing the National Approach to Statutory Advocacy has meant that the revised **National Standards and Outcomes Framework**, developed as a key component of the National Approach and mapped to the Well-Being Statement, has yet to be made available and issued for public consultation. We understand that this is still the Welsh Government's intention which we would support. Following consideration of the responses of the consultation, we would also support the National Standards and

Outcomes Framework being issued as a statutory document once full consultation and considerations from responses has been achieved.

The role of the Welsh Government funded MEIC Helpline did not feature in the Business Case report. The potential role for this independent, bilingual, telephone/on-line service as part of a new commissioning framework has not yet been fully explored.

A uniform and coherent implementation and adoption of the National Approach to Statutory Advocacy retains support amongst Advocacy provider services and the will for it to succeed remains. However, if the model is not delivered as effectively as intended, NYAS would support the call for consideration being given to utilising the work already undertaken and applying it to implementing a National Commissioning Model for Statutory Advocacy Services across Wales. NYAS would like to remind that a key Recommendation from the Committees earlier inquiry was that ‘the Welsh Government should review if the consortia approach is realistic and achievable, or if a national model would be a better way forward. **It is NYAS’ view that a movement towards a full national advocacy service for Wales is a necessary requirement to ensure true independence.** This should be funded directly by Welsh Government.

What impact has Part 10 of the Social Services and Well-being Act 2014 had on advocacy provision?

NYAS had previously identified the need for the Social Services and Well-Being Act to be seen as a key vehicle for taking forward existing statutory duties on local authorities and their partners. We welcomed the opportunity to inform the development of the Code of Practice in relation to Advocacy under Part 10 through our involvement in the Welsh Government Technical Group

Part 10 provides an opportunity to further extend access to advocacy services for children and young people beyond those recognised ‘eligible’ groups of children and young people entitled under Children Act 1989.

Whilst we would accept that it is still early days in terms of full implementation, there are a number of points NYAS would wish to make at this stage.

Local authorities have yet to fully commission advocacy services for the extended entitlement under Part 10.

There is potential for some children to benefit from having access to an advocate at the assessment stage which determines their needs, and any eligibility for a Care and Support Plan. Some advocacy services have been

requested by some local authorities to provide advocacy at the assessment stage which is encouraging. Some advocacy services have also accepted those requests to provide advocacy at this stage. However, this has been through spot purchase arrangements. We do not consider this to be sustainable and not an appropriate means of delivering legislation in the long term.

The Code is clear in that “Local authorities **must** arrange for provision of an independent professional advocate when a person can only overcome any barrier(s) to **participate fully** in the **assessment, care and support planning, review and safeguarding processes** with assistance from an appropriate individual, but there is no appropriate individual available.”

There is a key role for advocacy as one of the preventative services available to local authorities, helping to prevent escalation, safeguarding concerns and additional costs being incurred. The MEIC helpline also has a role in this regard, yet its potential has yet to be fully explored. The launch of MEIC as, initially a 24hr advocacy helpline for all children and young people in Wales has, in part, delivered on the Welsh Governments commitment and intention for *‘advocacy to be more accessible to all children and young people, but especially those most vulnerable’*. But as Welsh Government has been keen to stress through formal correspondence, MEIC is in place to *compliment* rather than *replace* the need for face-to-face provision.

Section 20 of the Code of Practice for Part 10 considers ‘Advocacy for looked after children and other specified children’. This section is presently limited, due in part to the work undertaken under the National Approach having not been completed and agreed when the consultation on Part 10 was issued. We were informed that the outcome from the work of the Task Group ‘will inform the final version of the Code’ (3.2). The Code will need to be reviewed to ensure that new arrangements under the National Approach are incorporated and thus protected through statutory legislation.

**Which priority areas in relation to advocacy provision for children and young people do you believe the Welsh Government should address?
What do you think is needed to achieve that progress?**

- Full implementation of the national advocacy approach with strong strategic leadership to ensure all stakeholders are undertaking the actions required within the business case.
- For the national advocacy approach to be resourced and funded in line with the population needs assessment analysis. The current looked after children population needs to be reflected within any revised figures.

- Robust governance and accountability arrangements for the National Approach to be in place, both at a national and regional level.
- For the national advocacy approach to be monitored throughout and independently reviewed at the end of the first year implementation phase. This review should assess the effectiveness of the approach, seeking to identify/quantify improvements achieved in awareness/visibility and engagement/take-up at the various stages of implementation, and determine what changes, if any, need to be made. The review should also assess any service quality improvements and any capacity issues encountered, whether any adjustment and or recalculation using the Range and Level mechanism needed to be undertaken. (I.e. using latest population numbers, Performance Management Reports).
- Engagement with children and young people as to be achieved as part of the implementation phase.
- The re-establishment of a stakeholder advisory group to review progress. This group to include advocacy providers.
- Full public consultation of the National Standards and Outcomes Framework
- Clear integrated link between the National Approach and Part 10 of the SS&WB Act.
- Greater consideration given to the role and function of the MEIC helpline service, in terms of future commissioning arrangements, interface with independent face-to-face advocacy services, promotion and signposting to help ensure that all children and young people have entitlement to advocacy support.
- A further review to take place (after 2 years) with key stakeholders including ADSS, Welsh Government, Local Authorities, Children's Commissioner for Wales, Advocacy Providers and Children/Young People to evaluate the effectiveness of a National Advocacy Approach and if not meeting the desired outcomes of true independence commission a national advocacy service governed by the Welsh Assembly for Wales.

ADVOCACY POEM by young people
(Taken from Our Views, Our Story)

Advocacy is all about support and good communication,

We help with everything from money to education.
And frustration with inappropriate placements and,
Jargon in meetings so you understand the conversation.
Confidentiality is important so you know where you stand
So what you say doesn't get spread across the land.
NYAS won't talk about you around the water cooler,
With an advocate care could be a lot smoother.
Feedback helps to improve, dont be shy!
Give us your voice, give advocacy a try.
Need support applying for college,
To develop skills, confidence and knowledge.
Call us we're NYAS, Voices and MEIC,
Our customer service is friendly and polite.
We can help you shout out and give you a voice,
As long as you tell us. Its your choice!
Advocates are amazing,
They give you help and support,
To share your concerns,
And help you express your thoughts.
They're here to speak up for me,
And try to make things right.
Advocacy helps you to keep out of trouble,
Adults think they know everything,
They must be in a bubble.
Like kids don't know anything,
But actually we do!
When you speak to young people,

PLEASE NOTE: The NYAS Director for Wales is currently the Chair of the All Wales Advocacy Providers Group who has collectively also provided a response to this enquiry. NYAS have therefore have been instrumental in supplying the recommendations within that response.

What you get is truth.