

Briefing on advocacy for children and young people

Barnardo's Scotland delivers a range of advocacy work across Scotland. Our services include: 'Take Note', our national advocacy Service for Additional Support Needs Tribunals, 'Hear for U' advocacy service for children and young people across Ayrshire; and the Fife Children's Rights Service.

We have also been active in lobbying for increased advocacy provision for children and young people in Scotland. Working closely with the other large children's charities and with Ken Macintosh MSP we secured a right to advocacy in the Children's Hearings (2011) Act.

Independence - a complex area

There has been a great deal of debate around the notion of independence in the provision of advocacy services to children and young people. The most recent Scottish Government research on the topic '[Advocacy makes you feel brave](#)': [Advocacy support for children and young people in Scotland](#) said "Independence in advocacy was regarded as a complex area. It related to who provided advocacy services as well as the funding and commissioning arrangements. There was a general commitment to independence which could be interpreted in different ways".

The legal position was set out in the [Mental Health \(Care & Treatment\) \(Scotland\) Act 2003 Code of Practice \(statutory guidance\)](#), published in September 2005, which states that:

109 The Act, therefore, makes specific provision that to be "independent", the advocacy services must be provided by persons other than a local authority or a Health Board responsible for providing services in the area where the patient is to receive care or treatment, or a member of those bodies or any other person involved in their care treatment or in providing services to them. Any independent advocacy organisation should have policies in place to identify and manage/minimise the risk of any conflict of interest.

110 Independent advocacy should be provided by an organisation whose sole role is independent advocacy or whose other tasks either complement, or do not conflict with, the provision of independent advocacy. If the independent advocacy service or advocate has a conflict of interest, they should inform all relevant parties of this, and should withdraw from acting for the patient.

Barnardo's Scotland has put in place safeguards that ensure that our provision of other services complements, or does not conflict with, our provision of independent advocacy services. However other organisations, such as the

Scottish independent Advocacy Alliance, take a different view of independence, which would limit independent advocacy to those organisations that only deliver advocacy services.

However, the SIAA definition of independent advocacy is not the same as the one used in Scottish Government guidance which explicitly recognises that if the correct safeguards are in place organisations can combine independent advocacy with other services (as long as the other services are not delivered to the same children).

The SIAA viewpoint that independent advocacy should only be delivered by organisations whose sole remit is the provision of advocacy would have a direct impact on children and young people's access to advocacy. This is particularly pressing given that there is a lack of existing advocacy services for children and young people and the difficult economic climate poses a risk to the future of existing advocacy services.

Seeking resolution – National Steering Group on Advocacy Support for Children & Young People

Given the debate and discussion over the nature of advocacy for children Barnardo's Scotland welcomed the establishment of the National Steering Group on Advocacy Support for Children & Young People. The group recognised that the advocacy needs of children and young people are different: *"the experiences, capabilities and vulnerabilities of children and young people require a particular approach to advocacy support, free from presumptions about the ability of children and young people to form views on decisions that affect them and to express those views"*. The draft principles and minimum standards therefore focus on the necessity of avoiding conflicts of interest, regardless of the constitutional status of the body.

Barnardo's Scotland welcomes this, as a more useful approach. Conflicts of interest may take many forms – for example a funding relationship – and we believe that all organisations that seek to deliver independent advocacy must have proper policies in place to tackle it. Just because an organisation only delivers advocacy services doesn't make it immune from potential conflicts of interest.

We therefore hope that, once agreed the new principles and standards will enable all those involved in working with children in Scotland to work together to ensure that children and young people receive the best possible advocacy support.

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