

All Wales Children & Young People’s Advocacy Providers Group

INITIAL UNIFIED CALL IN RELATION TO THE STAGE 2 AMENDMENTS TO THE DRAFT SOCIAL SERVICES AND WELL-BEING BILL RELATING TO ADVOCACY

Following the release of the Stage 2 government amendments to the Draft Social Services and Wellbeing Bill, which were published on the Health and Social Care Committee section of the Assembly website¹, member organisations in attendance at the recent **All Wales Children & Young People’s Advocacy Providers Group** on 4th October have considered the proposed amendments relating to advocacy, which were specified as follows:

| Topic | Amendments made relate to: | Proposed Change/Purpose | Effect | Reason | Est. no of amendments | Tabling Tranch | Bill part |
|-------|----------------------------|---|---|--|-----------------------|----------------|-----------|
| 7 | Advocacy | <p>To extend provision for statutory advocacy and meet the Deputy Minister’s intention to provide:</p> <p>For Regulation making powers to place duties of Local authorities to make advocacy available in prescribed circumstances to prescribed persons</p> <p>A duty to require Local Authorities to promote and inform people of their right to advocacy</p> <p>A duty to require registered care home providers to inform people about the availability of advocacy services by the Local Authority; and</p> <p>A power to charge for those advocacy services</p> | <p>The intended effect is to give the Welsh Ministers power to require Local Authorities to arrange for advocacy services to be made available for certain persons with need for care and support, to ensure that those persons are aware of their right to those advocacy services and to enable Local Authorities to charge for those services.</p> | <p>These amendments are being pursued following significant feedback and evidence submitted from stakeholders and opposition parties during Stage 1 scrutiny. This will provide an enabling power to ensure that Local Authorities provide advocacy for some people who may have complex needs and do not have the capability or the wider support network to advocate on their behalf in decisions about their care. This will strength the ‘voice and control. Element of the Bill</p> | 5 | 1 | 10 |

In response the **All Wales Children and Young People's Advocacy Providers Group** have formulated the following **initial** joint position and unified call in relation to the amendments.

The group wholly welcomes the Deputy Minister's decision to bring forth an amendment in relation to advocacy to the face of the Bill. The group feel that this demonstrates that there is a political will to clearly establish statutory duties in relation to advocacy provision for vulnerable people. We also welcome the introduction of advocacy into the section of the Bill which not only relates to complaints, but also representation. We consider that this indicates an understanding of the value of advocacy in empowering and enabling vulnerable people to become active partners in their own care.

However, the primary unified call from the group is that the terminology used in relation to advocacy, throughout the Bill, must reflect a statutory duty to make available '**Independent Professional Advocacy**' and not simply '*advocacy*'. This is particularly critical where these provisions are intended to preserve the current statutory advocacy duties upon local authorities that are imposed within the provisions of the Children Act 1989, Adoption and Children Act 2002 and the Children Leaving Care Act 2000- to provide Independent professional advocacy to looked after children, children in need (including those in need of protection) and care leavers.

The group agree that the use of the word '*advocacy*', on the face of the bill, without the qualification that this relates to '**Independent Professional Advocacy**' will lead to a lack of clarity in relation to the duty. In 2009 Welsh Government published draft guidance entitled '*A Guide to the Model for Delivering Advocacy Services for Children and Young People*'. In this guidance, Welsh Government clearly identified four separate and very different models of advocacy provision in their 'Advocacy Jigsaw' (appendix 1). Whilst many of the provisions of the guidance are now outdated (e.g. references to the role of Children and Young People's Partnerships), this guidance and the associated advocacy jigsaw have never been revised, nor retracted, nor have they been superseded by subsequent statutory guidance. As such, local authorities and providers in Wales still refer to this model.

The '*National Standards for the Provision of Children's Advocacy Services in Wales*', published by Welsh Government in 2003, are also explicit about the expectation that statutory advocacy services for eligible children and young people are independent and commissioned externally of the local authority:

"Standard 6: Advocacy works exclusively for children and young people

Why this standard is important: *Advocacy will only be used, and is only possible, if children and young people are confident that advocates are acting exclusively on their behalf and have no potential or actual conflicting interests or pressures. The advocacy service is funded and managed in a way that ensures independence from the commissioning body, so that children and young people have confidence that their advocates will act for them and are free from any conflicts of interest."* (National Standards for the Provision of Children's Advocacy Services in Wales', 2003, p13)

We feel strongly that leaving the current references to statutory advocacy on the face of the Bill as they are i.e. referring only to '*advocacy*', leaves the duty open to interpretation by individual local authorities. This could lead to a situation where it is considered agreeable to utilise any of the four models of advocacy specified within the jigsaw in order to meet their statutory duties to eligible children and young people. This could lead to peer, informal or formal advocacy projects being established within or led by local authorities, and yet meet their statutory duties. Should this happen, the critical **independence** of the advocacy relationship will be entirely lost, as will the professional expertise and specialism brought to the situation by an **independent professional advocate**. It is this independence and professional expertise which enables **independent professional advocacy** to effectively represent and where necessary, challenge local authorities, on behalf of vulnerable people, particularly children and young people who are entitled to access statutory advocacy due to their legal status of being in the care system.

To lose these two defining principles will have significant implications upon, not only the ability of the Bill to enable and empower '*persons in need and support*' and strengthen '*user voice and control*', but also the ability of advocacy to continue to act as a critical **safeguard** for Wales' most vulnerable children, young people in Wales. The importance of **Independent professional advocacy** in safeguarding children and young people in care in Wales has been well documented in Waterhouse's '*Lost in Care*' Report and in the review of advocacy services for looked after children, care leavers and children in need by the Children's Commissioner for Wales '*Missing Voices*'. The work of the Ministerial Expert Advisory Group on Advocacy is also clearly focussed upon '**independent professional advocacy**' for eligible children and young people.

Finally, in the proposed changes it states:

"For regulation making powers to place duties of Local Authorities to make advocacy available in prescribed circumstances to prescribed person's."

The All Wales Children & Young People's Advocacy Providers Group feel that it is critical that these 'prescribed person's' are clearly identified on the face of the Bill. This is the only means by which to ensure that all current statutory advocacy duties in relation to looked after children, care leavers and children in need (including those in need of protection) are fully preserved within the new Bill.

If we are to avoid a repeat of the painful history of Waterhouse, the legislature must preserve and strengthen the statutory duties upon local authorities to provide '**independent professional advocacy**' to these vulnerable groups of children and young people and this must be explicit upon the face of the Bill.

ABOUT US

All Wales Children & Young People's Advocacy Providers Group is the national network for organisations committed to the further development of quality independent advocacy services for children and young people within a children's rights framework.

The Network is managed and facilitated by Children in Wales. Membership of the Network¹ includes all the major advocacy provider organisations including Tros Gynnal Plant, NYAS Cymru, Voices from Care Cymru in addition to the Mental Health Advocacy Pembrokeshire, MEIC, ProMo Cymru, Second Voice Wrexham and Children in Wales. Welsh Government and the Office of the Children's Commissioner for Wales both have observer status on the Group.

We would wish to acknowledge the work of Tros Gynnal Plant and NYAS Cymru in the initial drafting of this paper.

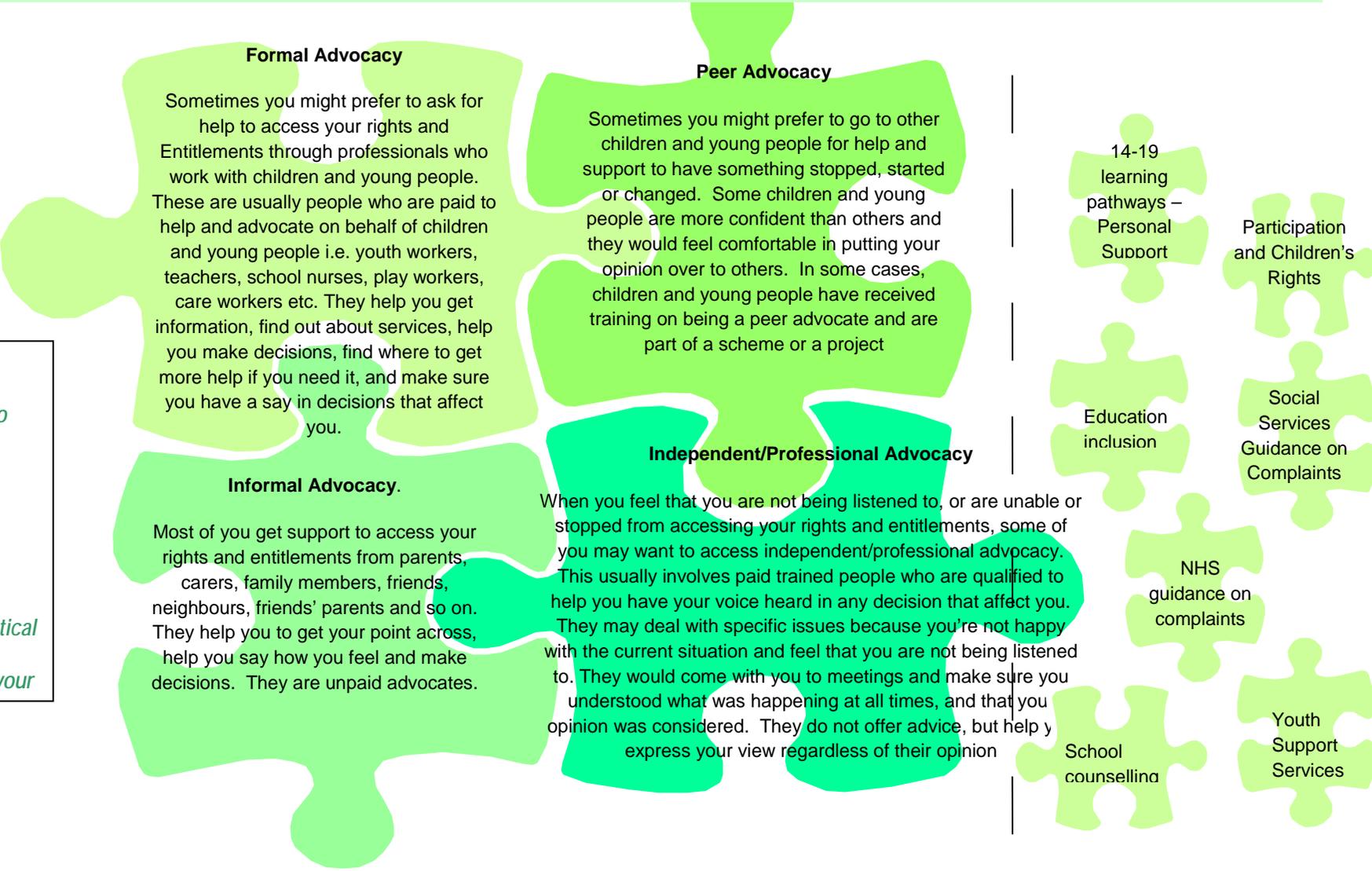
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¹ Given the extremely tight timescales between our meeting on Friday 4th October and the plenary session on Tuesday 8th October, it has not been possible to fully consult with all member organisations of the Network. Therefore, only member organisations present during the meeting have been included. Further work during Stage 2 will be undertaken to engage other organisations represented in the Network

There are many different ways of providing advocacy, and many people who can be advocates. However, there is a difference between Informal Advocacy, Formal Advocacy, Independent/Professional Advocacy and Peer Advocacy. The following Jig-saw shows these differences and how they interlink;

APPENDIX 1

- An Advocate....*
- Supports you to make sure you have your say
 - Listens to you
 - Gives you confidence
 - Gives you information
 - Gives you Practical help
 - Negotiates on your



ⁱ <http://www.senedd.assemblywales.org/documents/s20479/HSC6-27-13%20ptn1A.pdf>