

Together Trust response to the government's advocacy consultation

To what extent do you agree that standards 1 to 3 put children and young people at the heart of advocacy? (required)

a. Strongly agree

12. Do you think there is anything missing from standards 1 to 3? (required)

a. Yes

Please tell us the reasons for your answer: (required)

- 1.1. The proposed standards represent a real improvement to the previous advocacy framework. The need for advocacy to be focused on the 'feelings' of children, as well as their views and wishes is welcome (Standard 1). The points listed within the standard ('How to meet this standard') are comprehensive and if met are strong indicators that 'children are at the heart of our advocacy system'.
- 1.2. We welcome the new expectation for organisations to inform children of their right to an advocate as soon as they are entitled to one, as well as the need for them to provide regular reminders to children about their right to access the service (see 1.2 and 1.13).
- 1.3. Within the guidance, there is not a lot of detail about what 'reminders' should look like nor how frequently they should be given. We believe that the best model would be for children who currently have a statutory entitlement of advocacy (under the Children Act 1989) to have an 'active offer' of advocacy as soon as they enter care and/or are in receipt of social care services – in line with the recommendation made in the recent Review of Children's Social Care for an 'opt-out model'. This should not affect the rights of other groups of children to access an advocate for circumstances listed under the 'when an advocate is most useful' list (page 7, new advocacy standards).
- 1.4. We prefer the term 'active offer' as we believe the terminology makes it clearer to professionals that there is a responsibility to routinely communicate the offer and makes it clearer to children that the offer of advocacy is always there should they need it in future.
- 1.5. It should be made explicitly clear that commissioners of advocacy services should review advocacy with looked after children on at least a yearly basis to ensure that their decision not to have an independent advocate has not changed.
- 1.6. One young person told me *"I had no idea it even existed. My personal adviser (PA) did not answer any of my calls for weeks, and I was paid late, and the advocate helped sort it out for me by getting me a new PA. Once I knew about the service I helped all of my*

friends that were struggling to get advocates. I was proud of that, once I knew my rights I could actually help other people out.”

- 1.7. This could be solved in part by integrating conversations about advocacy into LAC Reviews. For example, every LAC Review (every 6 months) there could be a standing item to discuss the role of advocacy and remind children and young people of their right to it. Ultimately, we must find ways to raise the levels of awareness among children and young people, which will also be necessary if children and young people are to truly have input over the design and delivery of future advocacy services (Standard 2).
- 1.8. Children and young people should frequently be made aware that advocacy (under the new standards) is not only accessible when they have a clear complaint, as it was previously. This is one of the brilliant things about the new proposals and would make a big difference in practice.
- 1.9. *For example when Mira*, a non-verbal child joined one of our residential children’s homes, an IRO asked us to request an independent advocate for her, which we promptly did, because her previous placements had broken down and we wanted to ensure that her wishes, feelings and views were heard. Because there was no active complaint, Mira was denied access to an independent advocate.*
- 1.10. The new proposals would have helped Mira’s circumstances in two discernible ways. The first was that she would have access to non-instructed advocacy (standard 3), and the second is that she would have been entitled to advocacy despite there being no “active complaint.” In this situation, the IRO identified that having access to an advocate could help Mira with processing her views, wishes and feelings, which points to the importance of professionals in understanding advocacy and its value.
- 1.11. Other roles within the children’s social care, such as Independent Reviewing Officers (IROs) and Independent Visitors (IVs) should be expected to understand the role of advocacy within the children’s social care system and be able to articulate it to children they support. In our conversations with charitable providers of advocacy, we know that referrals for advocacy often come from IROs themselves. Many children and young people have no idea that they are entitled to advocacy.
- 1.12. The inclusion of children and young people as ‘active partners’ in the targeted ‘design, delivery and evaluation’ of advocacy services is a positive step (Standard 2), as it represented stronger commitment compared to what is currently articulated in the *Advocacy National Standards 2000*, where services must simply listen to the views and ideas of young people to improve (Standard 8).
- 1.13. Furthermore, we agree with the expectation that advocacy services should endeavour to provide continuity in a child or young person’s advocate (unless the child requests a change) (standard 1.16). Building a trusting relationship with children is important to

ensuring that they feel comfortable in voicing their views, wishes and feelings. The children we care for often have multiple social worker changes within a year. Wherever possible, efforts must be taken to prevent advocates from becoming another professional that comes in and out of children's lives.

- 1.14. Perhaps the most welcome addition is for a new standard on non-instructed advocacy (Standard 3). We strongly agree that advocacy services need to be inclusive to non-verbal children and those with complex needs, and advocates undertaking non-instructed advocacy should adopt a person-centred approach and have sufficient time, training, and resources to observe and get to know the child (3.9).
- 1.15. Commenting on the proposal, one of our residential managers said "*I think it would be good if advocacy services were more inclusive and available to children who are non-verbal. In a previous role I worked with an advocate who was trying to support a non-verbal young person however this only consisted of her visiting him once in the service and then talking to me about his communication. From this it was determined that he could not understand any changes in the home. If more time had been invested in getting to know the young person it would have been more beneficial.*"
- 1.16. Moreover, we welcome standard 3.3 about every advocacy service having at least one advocate who is trained to be able to carry out non-instructed advocacy. However, it is crucial that the recruitment, retention and training of non-instructed are prioritised by providers (and commissioners) otherwise there will be an implementation gap between what *should* happen and what *does* happen in practice.
- 1.17. The need for high quality training for non-instructed advocacy cannot be overstated. If each local authority or advocacy provider has its own training for non-instructed advocates, then there is a risk that the quality of advocacy services will not be consistent. Therefore, we recommend that the government create training resources for the new non-instructed advocacy role or facilitates local authorities and providers of advocacy services to share best practice about what good non-instructed advocacy looks like.

To what extent do you agree that standards 4 to 6 ensure advocates are professionals who champion children and young people? (required)

b. Somewhat agree

15. Is there anything missing from standards 4 to 6? (required)

a. Yes

Please tell us the reasons for your answer: (required)

- 2.1. Proposed standards 4 to 6 make significant improvements to the current advocacy framework. They are sufficiently detailed, and if implemented in full will result in improvements to the standard of advocacy received by children.
- 2.2. Specifically, we welcome standard 5 which has a strengthened focus on the values, knowledge skills and training of advocates. This is crucial, and one of the aspects that is currently missing from the 2002 standards.
- 2.3. We agree with the Children's Commissioner that appropriate training should be a requirement for all advocates. At present there is no standard training and assessment framework (Children's Commissioners, 2019). We want to see the implementation of standardised advocacy training to ensure that all advocates have the required skills to robustly challenge poor practice and represent the views of vulnerable children – that does not mean that all children should receive advocacy in the same way, but that the same values and skills are promoted consistently.
- 2.4. The proposed standard on commissioning organisations and service providers' duty to promote advocacy is welcome, especially the promotion of early referral when children are experiencing difficulties being heard or require info and help relating to other aspects of their rights (i.e 4.5, 4.8, 4.9).
- 2.5. Wherever possible advocates should make a written record of the views, wishes and feelings of the children they support to refer to, and they may agree on advocacy goals, though these should not be shared with other parties without express permission of the child (or in a circumstance where there are safeguarding concerns). This is necessary to build a trusting relationship and retaining independence.
- 2.6. To ensure that standard 4.5 (the expectation for interpreting services to be made available so that children and young people can communicate in their preferred language) is implemented, each local authority must have sufficiency to meet the expected increase in demand. Where there are not enough interpreters to assist children with accessing advocacy, government should provide additional financial support to local authorities to enable this standard to be met. Many local authorities are facing shortages in interpreters, and there is a national shortage of British Sign Language (BSL) interpreters across the country, with only 800 registered interpreters for more than 25,000 people in the UK.
- 2.7. Advocacy must not become a box-ticking exercise. We welcome standard 4.2 which explicitly states that '...advocacy services should ensure that advocates have sufficient knowledge, skills and time to advocate for children and young people's views....'. Our staff have told us that it is crucial for advocates to go beyond a listening role, and to take a person-centred approach to developing a meaningful relationship with children.

- 2.8. That is not to say that all professionals interacting with children in care should be advocates for their views, wishes and feelings. A residential manager from one of our homes in Greater Manchester gave many examples of having advocated for the wishes and feelings of children in our care. Including for:
- A child who had been out of school for 13 months before coming to our home.
 - A child (16) who did not want to move to semi-independent accommodation but to stay in our residential care.
 - The same child (16) who having been 'moved on' to semi-independent accommodation was not allowed to smoke outside and who had to walk to a bus stop at night, on a main road, to smoke.
 - A child who had been in our care for 3 years who was given notice to move into foster care (despite having had numerous unsuccessful foster care placements previously break down) and did not want to go. CAHMS advocated for the child to stay in our care.
- 2.9. However, it cannot be said that every child in care will have someone who is actively fighting their corner. One of the "missions of the Children's Social Care Review" is for children to have loving relationships, which is why the role of the advocate is so important. Ideally, children will already have an existing relationship with an independent advocate when a complaint arises. Therefore, while advocates should work flexibly (standard 4.2), relationship building should also be prioritised.
- 2.10. Furthermore, advocates can help where there is disagreement about what is in the best interests of the child. In James* and Ethan's* case we requested an advocate for two children in our care because parents and professionals could not agree as to what was in their best interest. An experienced advocate was appointed who had a wealth of experience working with non-verbal children and a strong knowledge of the Children's Act. The outcome was positive for both children.
- 2.11. We welcome the stronger focus within this section on recruiting advocates from diverse backgrounds to better represent the children and young people they are working with (standard 6).
- 2.12. Additionally, standard 6.3 ('advocacy services monitor and record service uptake against the cohort of eligible children and young people',) will be extremely helpful in understanding which children, from which areas, are currently accessing advocacy. This information should help inform future communication.
- 2.13. With regards to standard 6.6, children must have the opportunity to feedback in a way that they can communicate (for example BSL, foreign language) if services are to be improved.
- 2.14. While the reforms to advocacy are focused on improving the quality of advocacy consistently across the country, the difference in local authority budgets, resources and

staffing are factors which will influence the reform's success. Ensuring that every child in care has someone standing up for their views, wishes and feelings must be a priority for central government (and if needed by local authorities, come with additional funding).

17. To what extent do you agree that standards 7 to 10 ensure advocacy services are independent, high quality and managed well? (required)

b. Somewhat agree

18. Is there anything missing from standards 7 to 10? (required)

a. Yes

19. Please tell us the reasons for your answer: (required)

- 3.1. Standards 7 to 10 are important in that they make it explicitly clear that advocates should act in an independent capacity, which is central for the role to operate with trust from children and other professionals.
- 3.2. It should be noted that in many situations where advocacy is helpful to a child, there are likely to be competing interests. For example, both providers and local authorities could have financial interests which risk undermining the views, wishes and feelings of a child where:
 - a) The child wants to move to a different place
 - b) The child wants or needs something that is expensive or difficult to obtain
 - c) The views, wishes and feelings of a child cannot easily be ascertained

For the system to work, advocates should be able to work independently and single-mindedly to advance children's rights, which is one of the reasons that independence as a principle is so vital.

- 3.3. If advocates are truly independent, then we believe that standard 7.23, which prevents advocacy services from seeking to influence parliament, government, and regulators, is not needed. Given that advocates have a wealth of knowledge about the law, as well as knowledge gained from engaging with vulnerable children on a 1-1 basis, their expertise should be seen as helpful in improving the way that children in care (as well as other groups of children) are supported within the UK.
- 3.4. From our conversations with charitable advocacy providers, we have heard examples of advocates being asked to step down from working with certain children after challenging poor practice. In those circumstances, children were reassigned to local authority advocates. To create a genuinely independent system, advocates must feel empowered to challenge bad practice without repercussions from the commissioning organisation.

- 3.5. Furthermore, standard 9.10 ('whistleblowing') should have additional detail about what whistleblowing policies should include. For example, where an employee whistleblows about a situation where a child is at risk, Ofsted as the regulator should be contacted. The standard should not prescribe an exact formula for organisations to follow but at present it is too vague to properly govern a profession that works with vulnerable children.
- 3.6. It is known that many children who are entitled to independent advocacy do not know that this service exists, let alone that they are entitled to it. We therefore welcome standard 7.10 which explicitly states that commissioning organisations should ensure that practitioners inform children of their right to advocacy.
- 3.7. The way in which advocacy services are communicated to children matters. Currently the way in which 'care leaver local offers' are published and displayed to care leavers is not consistent from borough to borough (Children Society). Specifically, some boroughs spell out in detail the financial support available to care leavers in easily accessible language, while others fail to display the document on a website (or in digital form) at all. This lack of a consistent offer adds to the confusion that many care leavers feel as they start to live independently. Every care leaver local offer should be available in a digital format and contain detail about advocacy services available in the local area.
- 3.8. We agree with standard 10.2 which explicitly states that the commissioning organisation has a responsibility to ensure that sufficient funding is provided to meet the service specification. This is crucial for enabling the realisation of standards. As pointed out in the section 2.14 however, local authorities themselves are facing significant budget shortfalls. If additional funding is needed, then central government should support local authorities to meet these standards.
- 3.9. Standard 7.5 gives a suitable time arrangement for advocacy services to respond to requests for help ('24 - 72 hours and within 48 hours for urgent referrals'). At the moment, referrals for advocacy can take too long and by the time that the advocate is in place, the complaint is no longer relevant.
- 3.10. With regards to the complaint procedure, although within the current framework there is discretion to accept complaints after a year, local authorities often rely on that provision to say to children and young people that they are out of time. We believe that children in care should have a longer period to make a complaint, especially as they are not always living in a place that meets their day-to-day needs (for example, a caravan) and it may take longer to process their views, wishes and feelings where there is not somebody regularly there to talk to them.
- 3.11. There is also relevant case law for expanding this proposal:

In September 2021, the Ombudsman found fault in a local authority refusing to consider a complaint made by a 17-year-old young woman (referred to as Miss X) about events which occurred more than 12 months earlier (connected to a child in need assessment). It is important for all local authorities to take into account what the Ombudsman said in this case. Specifically:

“When deciding whether to investigate, the Council needs to show it has considered Miss X’s age, any issues of vulnerability, any potential benefit to Miss X of now investigating the complaint, and whether a fair and effective investigation can still take place. (The Council) did not do so, and this was their fault”. ([Article 39 , 2022](#))

20. Do you agree with the proposed additional groups of children and young people being brought in scope of the standards? (required)

b. Somewhat agree

21. Do you have any other feedback about the proposed groups in scope of the standards?

- 3.1. It should be made explicitly clear that children who present at a local authority as homeless have the right to an independent advocate immediately. Although local authorities have a legal duty under s20 of the Children Act 1989 to accommodate children under 18 who are unable to live with their families, this routinely does not happen.
- 3.2. According to a recent report by the Children’s Commissioner for England, more than 6,500 children who are legally entitled to care are currently classed as homeless or accommodated under s.17 homelessness legislation. The Children Commissioner for England’s recent report (‘homeless 16 and 17 year olds in need of care’) states that only 39% of 16 and 17 year olds who presented to their local authority were taken into care under section 20 of the Children Act.
- 3.3. We have heard from charitable advocacy providers that 16 and 17 year olds they have supported initially presented at their local authority as homeless and were advised not to become a ‘looked after child’. The advice given was that they would have no privacy or autonomy, and it was shared without the young person being made aware of their right to an independent advocate. Thus, advocates have a role to play in providing *impartial* information – as well as listening and acting upon the views, wishes and feelings of children.
- 3.4. In the revised standards, it says that an advocate can be useful ‘when a child or young person first enters care and is considered a looked-after child’ (page 7). We would suggest that the ‘when an advocate is most useful’ section should also include explicit reference to when a child (who otherwise meets the criteria for looked after child status) presents at a local authority as homeless. This would act as an independent check and

balance, despite the child or young person not formally being recognised as a looked after child.

- 3.5. The Children’s Commissioner for England has two recommendations on advocacy that should be implemented in full:
- The Independent Reviewing Officer must only ever agree to a child being supported under section 17 if they are satisfied that their child has been fully informed of their housing options and has had access to independent advocacy – a child’s placement should be reviewed regularly, and children should be reminded of their right to select s20 care (page 44)
 - An opt out [active] offer of advocacy must be urgently adopted by the Department for Education, with every child proactively offered an advocate.
- 3.6. Moreover, we want to see the scope of the standards extended to children in England who are detained under the Mental Health Act 2007, and children who lack mental capacity under the Mental Capacity Act 2005.

22. To what extent do you agree with the proposed updates to the guidance? (required)

b. Somewhat agree

23. Please tell us the reasons for your answer: (required)

- 5.1. Overall, we welcome the strengthened content on the effective delivery of advocacy services, including the new focus on the feelings of children and young people. Several of the recommended changes will make a significant improvement to children’s rights in England, particularly the provision of non-instructed advocacy.
- 5.2. However, there are still areas of the regime which could be improved. As stated above, we believe that it is legitimate for advocacy services to use the knowledge they have obtained to ‘influence or attempt to influence parliament’. Advocacy services have first-hand experience in working with vulnerable children, and they must have the freedom to express their views to ensure that the rights of children are not protected.
- 5.3. It should be explicitly mentioned within the guidance that children should be proactively offered an advocate.

24. Is there anything missing from the updated guidance? (required)

a. Yes

25. Please tell us the reasons for your answer: (required)

- 6.1. In the consultation document, it says that the guidance has been updated to reflect changes since 2004 and align it with the revised standards. However, the scope of the guidance does not reflect the extended scope of the national standards. The national standards themselves are more comprehensive than what is summarised within the guidance. As commissioning organisations will largely rely upon the guidance, the two documents must be made more consistent.
- 6.2. We want to see the scope of the statutory guidance extended to cover children who present as homeless, as recommended by the Children's Commissioner for England in her recent report. Children who are legally entitled to care are going under the radar and are left without the support they are entitled to when local authorities do not follow their legal duty. Oftentimes they are making decisions about their care without access to an independent advocate. Where there is a bullet point list of when an advocate is most useful (page 20), we believe that 'When a child presents as homeless' must be added to the non-exhaustive list.