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COMMITTEE MEMBERSHIP



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CHAIR'S INTRODUCTION



Since the Waterhouse report, *Lost in Care*, was published in 2000, a wide range of recommendations have been made about independent advocacy services for children and young people. It has taken a long time to get these delivered.

The Welsh Assembly Government's drive to introduce a new model for delivering advocacy services for children and young people is therefore welcome. The Children and Young People Committee (CYPC) recognised the urgency of delivering improvements in commissioning structures, and unanimously agreed to scrutinise the Welsh Assembly Government's proposals within a tightly focussed timescale. The Committee recognised that structures are urgently needed but if there are problems with those structures, they need to be put right now rather than further down the line.

An inquiry into the commissioning of advocacy services is particularly appropriate for the Children and Young People Committee to undertake as its first inquiry.

We often do not take the views of children and young people seriously enough, even if some of those young people over 16 are able to marry, join the Armed Forces and pay taxes. There is a responsibility on us as politicians to represent those without a voice and our children need to have the opportunity to voice their opinions and be listened to. It was in that spirit that the Children and Young People Committee was established. It is in that spirit that independent advocacy services are needed by children and young people.

In the course of this inquiry, we have heard from a wide range of organisations. Some of the most powerful voices have been those of young people themselves. They have told us that advocates enable the communication of their views and feelings, ensuring these are taken into account when decisions are made about their lives. They have shown us that advocates need to be able to listen, to understand, to get their voices heard, to stick with things and make them happen. Some have also described breaches of confidence and trust that have fundamentally damaged their relationships with advocates, and tainted their trust in 'the system' to help them. Perhaps above all they have told us that they need to really be able to believe their advocate is 'on their side' and completely independent of any other organisation in their lives.

Putting in place the best possible structures to enable independent advocacy will enable children to make themselves heard.

A handwritten signature in black ink that reads "Helen Mary Jones". The signature is written in a cursive, flowing style.

Helen Mary Jones
Chair, Children and Young People Committee

INTRODUCTION AND BACKGROUND

There have been many reports and inquiries, dating back to 1997, calling for the voice of the child to be listened to. In his investigation into the abuse of children in public care, *People Like Us* (1997), Sir William Utting concluded that looked after children needed independent advocacy as a source of protection, and as a means of ensuring that their voices were heard within an otherwise closed system. Advocacy was also a central issue of the Waterhouse report, *Lost in Care* (2000), which recommended that children making a complaint should have access to advocacy. The Carlile report, *Too Serious a Thing* (2002) on safeguards for children in the NHS in Wales recommended the same, and listening to the voice of the child was one of the main themes running through Lord Laming's report into the death of Victoria Climbié, *Keeping Children Safe* (2003).

The Children's Commissioner for Wales also added his voice to the debate, with the report *Telling Concerns* (2003), which reviewed arrangements for the provisions of advocacy and made recommendations for improvements to social services complaints procedures and advocacy services at national and local level. Concern about advocacy services has been a recurring theme in subsequent Children's Commissioner Annual Reviews.

In response to recommendations in the Utting, Waterhouse and Carlile reports, the Welsh Assembly Government made a long-standing commitment to review advocacy services for children and young people.

In March 2007, the Welsh Assembly Government launched a consultation on a *New Service Model for Delivering Advocacy Services for Children and Young People*. This consultation presented a model for delivering advocacy services, based on a principle of regional commissioning through Children and Young People's Framework Partnerships (CYPPs).

Responses to the consultation indicated a wide range of views on the best means to commission advocacy services. However, to enable these ideas to be openly debated, the Children and Young People Committee unanimously resolved to scrutinise the Welsh Assembly Government's proposals.

Bearing in mind the Welsh Assembly Government's intention to deliver improvements in advocacy services for children as swiftly as possible, the Committee agreed to aim to report by Easter 2008.

In conducting their inquiry, the Committee took evidence from a range of witnesses, including the Deputy Minister for Social Services, representative bodies and organisations and directly from young people, with one young person attending a Committee meeting. Committee Members also undertook rapporteur visits to groups of young people.

Terms of Reference

The terms of reference for the inquiry were:

- to scrutinise the Welsh Assembly Government's proposals to deliver advocacy services to the children of Wales following the consultation on a new service model for delivering advocacy services for children and young people; and
- to make recommendations on the action that needs to be taken in order to improve the delivery of advocacy services to young people and children in Wales.

A Definition of Advocacy

The Welsh Assembly Government's *National Standards for the Provision for Children's Advocacy Services*, (2003), defined advocacy as:

“Advocacy is about speaking up for children and young people. Advocacy is about empowering children and young people to make sure that their rights are respected and their views and wishes are heard at all times. Advocacy is about representing the views, wishes and needs of children and young people to decision-makers, and helping them to navigate the system.”

THE LEGISLATIVE FRAMEWORK

Current Responsibility on Local Authorities

Advocacy is a cross-cutting issue, impacting on devolved responsibilities, such as education, health and social services, and non-devolved matters such as immigration and justice.

Under existing legislation, local authorities in Wales with social services responsibilities have specific duties, under section 26A of *The Children Act 1989*, to 'make arrangements' to provide assistance to:

- (1) persons who make or intend to make representations under section 24D of *The Children Act 1989*; and
- (2) children who make or intend to make representations under section 26(3) of *The Children Act 1989*.

Under the current legal framework a local authority must 'make arrangements' for the provision of assistance, including assistance by way of representation/advocacy. This assistance must be available to care leavers, children in need, looked after children and children who make or intend to make representations under section 24D and 26(3) of *The Children Act 1989*.

The wording of the statute means that a local authority can provide an advocacy service itself, or contract it out to a third party provider. The local authority can commission advocacy services, including voluntary agencies, providing they meet the national standards for the provision of children's advocacy services issued in 2003.

Primary legislation would be required to remove the responsibility on local authorities in Wales to 'make arrangements' for the provision of advocacy services.

Children and Young People's Partnerships

Children and Young People's Partnerships, made up of a local authority and partners, are a statutory requirement under *The Children Act 2004* (as amended). Such Partnerships are designed to bring together all local partners who provide services for children and young people. The Partnerships are responsible for services for all children and young people from the ante-natal stage to the age of 18 years, together with those participating in or receiving youth support services up to the age of 25 and care leavers up to 21 or 25 if in education or training.

The *Children Act 2004* (as amended) describes relevant partners of the local authority as being:

- the police authority and the chief officer of police for the area;
- the local probation board;
- the youth offending team;

- the Local Health Board;
- NHS trusts providing services in the area of the authority;
- the Welsh Assembly Government to the extent that it is discharging functions under Part 2 of the *Learning and Skills Act 2000*.

The Welsh Assembly Government's 2006 Circular, *Stronger Partnerships for Better Outcomes*, also recommends that the Partnerships include:

- a representative of the Local Safeguarding Children Board;
- representatives of local schools;
- representatives from Welsh medium organisations/groups
- a representative of the Fire and Rescue Service;
- a representative of relevant voluntary organisations, usually the Director of the County Voluntary Council (CVC).

Procurement Arrangements in the UK

In the UK, *The Public Contracts Regulations 2006* implement relevant EU procurement directives. Under these Regulations, a contract commissioning the provision of 'advocacy services,' would be classified as a 'Part B services contract'.

Contracts that are designated 'Part B services contracts' only attract certain Regulations: for example, only the award of the contract need be advertised in the Official Journal of the European Union.

All 'Part B services contracts' enjoy a threshold of £144,371 (€211,000) and the Regulations only apply if the value of the contract is above this amount.

Services contracts let by local authorities have a value threshold of £144,371 (€211,000) for both Part A and Part B type activities.

The tendering process for Part B contracts should not take longer than advertising locally via the contracting authority's usual tendering process.

