

# Improving advocacy for children and young people: principles and minimum standards – Discussion paper

**RESPONDENT INFORMATION FORM** This form **must** be returned with your completed questions to ensure that we handle your response appropriately

## 1. Name/Organisation

Organisation name

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## 3. Permissions - I am responding as...

Individual

/

Group/Organisation

Please tick as appropriate

- (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate  Yes  No

- (b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available

or

Yes, make my response available, but not my name and address

or

Yes, make my response and name available, but not my address

- (c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick as appropriate  Yes  No

- (d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

Yes

No

**4. Are you directly involved in:**

**Commissioning advocacy for children and young people** x

**Delivering advocacy to children and young people**

## QUESTIONS

### 1. Are the aims and objectives of this discussion paper clear?

Yes  No  No opinion

This question as it stands is unclear. It is not clear which aims and objectives are being referred to here.

It could be taken to mean does the discussion paper do what it set out to do i.e. present an argument about the importance of advocacy and the need for national overarching principles and minimum standards in advocacy for children and young people. If so, then the answer to the question is yes.

If, on the other hand, the question refers to why do we actually need another document setting out principles and standards in order to improve children and young people's advocacy when we have so many agencies and organisations (see paras 52 onwards) all working to provide this already - some in similar settings and some in very distinct and specialist settings e.g. Looked After children, trafficking and child protection, then the answer has to be no! There is no clear transparent rationale to explain why we need more principles and standards in an already crowded arena. Nor indeed why we should have a separate set of principles for children and young people when reference is made to the Scottish Independent Advocacy Alliance (SIAA), principles and standards (para 2) which clearly set out the key factors to be considered in the provision of advocacy services for children and young people.

The aims in this document are too general and suggest that all advocacy can be done by anyone the child chooses whether or not the child or young person understands the significance of that choice.

### 2. a) Do you believe that it is necessary to develop a suite of principles and minimum standards focusing specifically on the provision of advocacy support for children and young people?

Yes  No  No opinion

### b) If no, do you feel that existing principles, standards and guidance, including the Scottish Independent Advocacy Alliance (SIAA) materials, are sufficient to cover practice in this area?

Yes  No  No opinion

Action for Sick Children Scotland (ASC(S)) welcomes the Scottish Government's proposals to develop a suite of principles and minimum

standards focusing specifically on the provision of advocacy support for children and young people.

Action for Sick Children (Scotland) (ASC(S)) is the only Scottish charity which promotes the needs of all sick children and young people in our healthcare system. We work for improved standards and quality of care for children and young people when they are ill in hospital, at home or in the community. We aim to represent their needs and those of their families and ensure that their voices are heard both on an individual level and in relation to influencing health policy, planning and practice. We do this in partnership with the children and young people themselves as well as parents, carers and professionals. We will also signpost where necessary to other relevant organisations with expertise in advocacy, for example Who Cares ? Scotland.

Our work is predicated on the principles of the European Association for Children in Hospital (EACH) (of which we are a member organisation) and its Charter which sets out 10 standards for children and young people's health care at times of illness and is underpinned by the UNCRC. We would draw the steering group's attention to 2 charter articles which are of particular importance in relation to children and young people's advocacy:

Article 4 – Children and young people have the right to information in a way they can understand  
and

Article 5 – Children and young people should be listened to and take part in all decisions affecting their health care.

As an organisation we are totally committed to helping children and young people meet their healthcare needs and to upholding and promoting their rights in this regard. Our EACH Campaign manifesto Each Child and Young Person's Health Matters also makes specific mention of the vital importance of good quality advocacy in particular for those who may be marginalised by virtue of their disability or Looked After status.

<http://www.ascscotland.org.uk/default.asp?page=46>

Specific principles and minimum standards are necessary to reflect the additional support that is needed to engage properly with children and young people and to enable them to exercise their right of being heard. Simply supplementing the range of existing advocacy guidance which covers both children and adults is insufficient and inappropriate.

**3. a) The principles and minimum standards have been developed to apply to the broad range of individuals and organisations who can give advocacy support to children and young people. Is this target audience appropriate?**

Yes  No  No opinion

**b) If no, who should the principles and minimum standards apply to?**

The Introduction (para 5) recognises the wide range of circumstances and breadth of provision that advocacy provision can take, from a more informal discussion with a teacher, to the more formal settings associated with the children's hearing system or indeed child protection settings. It follows therefore that these standards will need to apply to ALL who find themselves in the advocacy role.

These principles and standards may indeed be used by anyone who finds themselves in the role of advocate for a child or young person, but they are more likely to be needed as a point of reference/guidance by people who are not already working in an IAS agency or setting where an advocacy service is a part of their organisation's activities. On the assumption that anyone could be an advocate, then guidance will be vital if they are not operating within a dedicated service or have access to specific advice.

We would caution here the need to consider some comment on exclusion criteria or exceptions. As it stands, it would seem to imply that anyone could be an advocate for a child or young person. Is it therefore possible for a young person, for example, to be an advocate on behalf of a child?

Local authorities and the NHS already use guidance about advocacy. Therefore one should be able to assume that schools also educate their pupils about the meaning and purpose of advocacy. In theory the target audience is appropriate; we are, however, doubtful about how well the guidance will be known and used within schools, carer organisations and paediatric settings within the NHS. We would like reassurance that it will be widely promoted and widely disseminated so that all who act in a role as advocate to a child or young person may benefit from it and benchmark their practice accordingly.

We would welcome such a national resource of principles and standards which will be available to all and act as a first point of reference and guidance for those embarking on this important work. We also recognise the potential of such a document to raise awareness of the importance of advocacy for children and young people and promote its vital significance for certain more vulnerable children and young people in our society. We refer specifically to Looked After Children, those in Kinship Care and those with exceptional healthcare needs.

In order to apply to all agencies and individuals from IAS to non-independent advocacy (i.e. advocacy within a carers organisation providing other services), these Principles and Standards need to be of the highest possible standard as they will be used as a benchmark to aspire to and to monitor and evaluate themselves and ensure that good quality advocacy is happening.

In relation to this, we note that there is little commentary on the preparation and training required for those who would be advocates. We feel there is a lack of clarity around the specification of who qualifies as an advocate and what the specification and descriptors of that individual might be. It is clear that they are being asked to represent the opinion of the child without prejudice and that goes without saying, but for quality assurance however better descriptors of the role of advocate and any associated qualifications may strengthen the document.

However, we would question the extent to which a *one-size-fits-all* approach is appropriate because in order to be applicable to all agencies and individuals, there is a significant risk that the standards will be too general. We refer to the number of specialist agencies and services listed at the end of the discussion paper from para 46 onwards and strongly recommend that the finished principles and standards document includes these special circumstances in a reference section, appendix or mechanism for signposting where relevant within each principle. If the principles and standards are ***designed to sit alongside the range of other guidance currently in place*** .....(Ministerial Forward) then it is vital that for them to be taken seriously and not just as another layer to agencies' existing standards and guidance, reference is made to these specific policies and provisions.

4. a) Do you feel the proposed principles and minimum standards could be applied in the broad range of circumstances in which advocacy support can be required by children and young people?

Yes xxx  No xxx  No opinion

b) If no, can you give examples of circumstances to which you do not think they would apply?

Yes, with the following provisos.

The standards **could** be applied in a broad range of circumstances. The question remains how well and consistently this is done and further clarification on that would be required.

They will only be applicable to all the broad and sometimes complex range of circumstances in which advocacy support can be required if the recommendations made above in Question 3 in relation to ensuring that specialist provisions and the agencies and services which provide these are included in the final principles and standards document.

We welcome these principles and minimum standards but are concerned

that there remain significant questions around the implementation and monitoring of provisions. ASC(S) has recently lodged a Petition to the Scottish Parliament in relation to the provision of education for children in hospital and at times of illness and our experience in this indicates that any amount of guidance does not necessarily translate into delivery.

We have mentioned our concerns in relation to training needs in Question 3 and would repeat them here. The principles and standards can be applicable only if there is built into the standards a minimum training and GIRFEC competence (only where the GIRFEC principles are applied wholly in the Local Authority) for every advocate, when the child's safety or wellbeing is concerned, and that the advocate has a detailed understanding of the issues involved that is at an appropriate level to be able to express the child's views effectively, while understanding that the child's best interests may not coincide with the child's choice.

**5. Do the principles and minimum standards make it clear that advocacy support needs to be free from conflicts of interest?**

Yes  No  No opinion

It is to be applauded that this is of sufficient importance that a separate principle has been allocated to this issue.

In particular we welcome the inclusion of point 4.3 which states that children and young people will be given information on this and have the opportunity to discuss why advocacy should be free from conflicts of interest. We recommend including here clarification on who might discuss this with the children and young people.

We would however request that in developing the principles and standards, due regards is given to the following:

Para 27, 1st bullet point: "All children and young people have a right to choose who they wish to advocate on their behalf". What safeguards are there to ensure that the child selects an appropriate advocate in a particular context (e g school, children's hearing), and guards against choosing an advocate with a conflict of interest?

**6. a) Do you agree with principle 1 and the associated standards?**

Yes  Partly  No  No opinion

**b) Are there any changes or additions to this principle or standards that you would like to see?**

ASC(S) warmly welcomes the prominence given to the protection of children and young people's rights including their right to be heard and would draw the steering group's attention to 3 articles in the EACH Charter which champion children and young people's healthcare rights and which also chime directly with the first Principle in this document.

Principle 1 – EACH Charter Article 5 – Children and young people should be listened to and take part in all decisions affecting their healthcare.

Standard 1.1 – EACH Article 10 – Children and young people should be treated with the respect, understanding and privacy they need at all times.

Standard 1.3 – EACH Article 4 – Children and young people have the right to information in a way they can understand.

1.3. states that advocates and other professionals provide appropriate information.....to help children and young people to make informed choices. 1.2 suggests to “proactively” make children and young people aware.... We suggest that this ought to include **whose duty it is to make sure that this “proactive” approach is happening**, i.e. Local authorities and NHS boards.

The statement about child protection 1.6 implies that awareness involves simply recognising the issue if it arises but child protection as in the child's best interests may be involved throughout the process or be the reason for the event itself. The advocate may need to be aware of the law, the Children Act, Education Act etc as well as GIRFEC (if in use in the Local Authority) and there may be complex issues around physical and mental health and wellbeing to be considered to which they may not be privy.

Furthermore, in relation to this item 1.6, given the emphasis placed on the fact that **All children and young people have a right to choose who they wish to advocate on their behalf**, (para. 27) there may be a conflict between that right to choose and that person's suitability not only in terms of preparation and training but also most importantly, where there are child protection concerns.

**7. a) Do you agree with principle 2 and the associated standards?**

Yes  Partly  No  No opinion

**b) Are there any changes or additions to this principle or standards that you would like to see?**

ASC(S) warmly welcomes the emphasis placed on listening to and respecting the views of children and young people and in particular that their views be given due weight when in the decision making process. It is our experience that this is not given sufficient regard within services, including health, and that there is often a lack of understanding around consent and as a result, asking the child or young person is often overlooked or avoided. We fervently hope that these Advocacy Principles and Standards will help to address this.

We would like to make the following specific points in relation to the standards:

2.7 In order for a child or young person to “give permission or instruct” they need to be aware that they can do so. The duty to make sure that they can exercise this right needs to be spelled out much more clearly. We would recommend including guidance here with an indication of who will issue this and discuss it with the young person.

Health issues may impact on the practicalities of applying these standards and if all advocates are chosen by the child or young person then the child’s rights to medical confidentiality must be confirmed. Health professionals may need formal guidance on how the advocate has ensured s/he is expressing the child or young person’s views and once again the Children Act and child’s best interests are paramount.

2.7 - Where a child or young person has difficulty in appointing an advocate, we would like clarification on who will provide the additional support for the child and young person to make an informed choice. This needs to be clarified otherwise the document runs the risk of remaining aspirational.

**8. a) Do you agree with principle 3 and the associated standards?**

Yes  Partly  No  No opinion

**b) Are there any changes or additions to this principle or standards that you would like to see?**

We give a cautious welcome to Principle 3 while our concerns remain as to the danger of making a statement such as **Advocacy is available where and when children need it**, (which is in any case quite bland and aspirational) when the reality may be very different. We would like to see fuller explanation as to how this is to be provided on a Scotland wide basis in the current economic climate. Again, we would draw attention to the vital importance of having safeguards in place and of these being made obvious and transparent in relation to children and young people’s right to choose their own advocate.

3.2 We question whether the choices are limited by area, resources locally and nationally, and time, if linked to health care? These statements are very general and more guidance needs to be given throughout the document of the way in which organisations, agencies and individuals can turn these broad general standards into practice. We would suggest that some sort of advocacy map or directory, along with a glossary could be drawn up in order to help people bridge theory and practice.

3.4 We are very anxious (as above) that children and young people are made aware that they have the right to advocacy services particularly if they do not fit into the delineated categories of Mental Health, Looked After or Children's Hearing etc. Children and young people who need the help of an advocate to receive their right to education during times of illness will not necessarily know that they have this right.

3.6 If the start and end of the advocacy task are defined then children and young people with a long term condition may suffer repeated change of advocate and lack of confidentiality or may lose trust if a commitment to follow through as the Key Worker link role is reversed.

**9. a) Do you agree with principle 4 and the associated standards?**

Yes  Partly  No  No opinion

**b) Are there any changes or additions to this principle or standards that you would like to see?**

The resources involved in appropriate training for advocates and subsequently in training professionals and parents on how to work with a child's independent advocate are significant and should be defined and realistic limits set.

4.2 We are very pleased to see the inclusion of the training, support and supervision section for organisations but we wonder then if the document is intended for all, how those who are not in an organisation involved in the provision of advocacy will avail themselves of this. How realistic is it to pretend that any advocate chosen by the child or young person will be in a position to conform to these standards? If not, then what provision is the government planning to make to ensure that all advocates are properly trained and supervised?

If there needs to be prioritisation for advocacy then children and young people who lack parental support or are otherwise vulnerable should be identified as likely to have the greatest need and identified also as being at the highest risk of choosing inappropriate advocates. We question who will have the responsibility for triaging advocacy.

**10. a) Do you agree with principle 5 and the associated standards?**

Yes  Partly  No  No opinion

**b) Are there any changes or additions to this principle or standards that you would like to see?**

ASC(S) itself as an organisation is dedicated to promoting and striving for the highest possible standards in the provision of healthcare for all children and young people so we very much welcome the aspiration of this Principle that ***Advocacy for children and young people is of the highest quality.***

However, we feel that the standards are very broad and aspirational with the need for a number of additional clauses and even exclusions in order to clarify how these will work in practice.

One example of how these would need to be modified in reality is if a child or young person is admitted to hospital as an emergency, the access to appropriate advocacy with the training in issues of health needs and child protection, may not be possible, and essential treatment cannot be delayed till an appropriate advocate is found, informed and involved.

Specifically, we would draw attention to 5.4 and 5.6 as examples of which require greater explanation.

5.4 Advocacy support is well publicised and easily accessible to children and young people". How will this be achieved?

5.6 Advocacy services are accountable to children and young people whose views inform the provision, management and governance of the advocacy service". How will the views of children and young people be acquired?

5.9 Greater clarification on how this is to be provided is required here and we would direct the reader again to our comments in Question 3 above: *We feel there is a lack of clarity around the specification of who qualifies as an advocate and what the specification and descriptors of that individual might be. It is clear that they are being asked to represent the opinion of the child without prejudice and that goes without saying, but for quality assurance however, better descriptors of the role of advocate and any associated qualifications may strengthen the document.*

**11. a) Do the principles and minimum standards as currently drafted reflect your/your organisation's understanding of what advocacy support for children and young people should look like?**

Yes  No xxx No opinion

**b) Are there other principles or minimum standards that should be included?**

The principles and standards as they are currently drafted are to be welcomed in theory but as outlined elsewhere in our response they would benefit from clarification on a number of points in order to make them truly fit for application and use:

- clarification on implementation and relationship between these and the existing resources followed by agencies already providing advocacy services for children and young people
- Specific mention of necessary training and role description and how this is to be achieved
- Inclusion of specialist advocacy areas and signposting to these

Every professional involved with the care of children and young people must be aware of the UNCRC and be competent to identify the vulnerability of children and young people. They must be trained and demonstrate their ability and willingness to respect and listen to children and actively to seek advocacy for the child whose views they find difficult to understand.

Every child and young person should be assured that their views matter and are taken into consideration and that they can request or introduce an advocate at any time, but that the timing and options for having ? an advocate may be limited, if their best interests are to be served.

**12. What is your view on whether all advocacy support for children and young people should only be provided by independent advocacy services as defined under the Mental Health (Care & Treatment) (Scotland) Act 2003?**

No, to limit provision in this way would be to seriously limit the resources and availability of advocacy services. There are very many organisations who provide advocacy for their clients alongside the other services and supports in the wider organisation's activities. We have already given examples of this in the carer organisation example in Question 3. We would refer to the Scottish Independent Advocacy Alliance Principles and Standards for Independent Advocacy document mentioned in this discussion paper para 2 which very clearly sets out the relationship between the IAS organisations and those who are non-independent advocacy

providers. We already know that these last look to the IAS for guidance and advice, use their principles and standards and can monitor and benchmark their practice against the dedicated service organisation's.

If one of the purposes of this document is to widen the knowledge and understanding of Advocacy for children and young people and to promote its provision of services, then to reduce it to a limited range of providers would indeed be counter-productive.

Many vulnerable children and young people may well fall outwith the definition of having a mental health disorder and without formal diagnosis, they could be at risk of not being eligible for advocacy services. We have made reference elsewhere in our response to the many organisations who are non-independent providers and whose advocacy service sits within their organisation's wider activity. We would cite as an example, the provision made by Kindred at the Royal Hospital for Sick Children Edinburgh, previously known as Special Needs Information Point, and countless other carer organisations and others.

**13. a) Does the discussion paper give you enough information about how the principles and minimum standards will apply to you as an individual/organisation?**

Yes  No xxx No opinion

**b) If no, what other information would you need?**

There is insufficient information in relation to health care, parental advocacy for children and assessment of advocacy need, as well as resources to apply the standards especially in relation to the time involved in teaching an advocate about the issues involved in complex health care delivery.

There needs to be a clearer statement about the duty of Local Authorities and NHS services to not only provide independent advocacy but to promote this much more proactively. Much stronger emphasis needs to be placed on the need to be able to advocate on behalf of and communicate with children and young people with complex communication needs.

**14. The proposed principles and minimum standards will have to be considered alongside the range of existing resources focussing on advocacy provision. Is the relationship between the principles and minimum standards and those other resources sufficiently clear?**

Yes  No xxx No opinion

The principles and standards are unclear to us on 2 counts:

1. How the existing principles and Standards will mesh with the existing resources from other agencies
2. The pathway and mechanism between theoretical standards and their application in practice.

This document states these will *sit alongside* .....such a statement does not tell us how they will function together. What does this mean, will they be instead of, or additional/overarching? Surely the existing Advocacy providers will use the principles and standards which they already have in place. It is rather for the advocate who works outwith those organisations to use these principles and standards to guide them.

There needs to be a clear case example given to illustrate how the existing resources available via the agencies dedicated to IAS will interact alongside the existing principles and standards.

**15. Do you feel that the principles and minimum standards as currently drafted will complement the range of other guidance that is relevant to you/your organisation?**

Yes  No xxx No opinion

To some extent these will provide general standards in the area of children and young people's advocacy but as they currently stand, there is a likelihood that organisations already practising in the field will continue to refer to their existing guidance, unless the relationship and connection between the general and the specialist can be made more transparent.

Particularly within the area of child health, we feel that there are too many potential different interpretations of the rights, the needs, the resources, the priorities, the responsibilities and the need for ongoing involvement of advocates and others in confidential areas of the child's life.

## 16. Any other comments:

If we accept that advocacy may come from a range of different quarters not all of whom will be IAS or even non-independent advocacy providers, then the existence of separate principles and standards is a must; however, only if these very broad outlines are supplemented with references when necessary to specialist needs and services.

The introduction and promotion of stand-alone principles and standards for children and young people advocacy is to be welcomed for all the reasons outlined in the answers to the above questions. However, they can only become live and of use if there is a clear pathway between the principles and standards themselves and their implementation in practice. Without this they will never be more than aspirational. Experience tells us that children and young people are not sufficiently informed about their rights and that there is no control mechanism that ensures that Local Authorities and NHS boards fulfil their duty. For this reason it is important to have these standards and also to build in control/implementation pathways.

Specifically in relation to healthcare, assessment of competence to take decisions with long term consequences can be a difficult task and these standards indicate that this expertise will need to be available for both the child and the independent advocate in some cases. This will impact on already over stretched mental health resources for children and young people with significant legal consequences if challenged. If these are to be implemented then robust training and supervision will be mandatory.

ASC(S) very much hopes that with certain additions, strengthening clauses, glossaries and references sections, these principles and standards will raise awareness of the vital importance of children and young people's advocacy and further promote and strengthen its use throughout Scotland in the service of some of our most vulnerable and needy young people.

All response should be submitted to: [childrens.rights@scotland.gsi.gov.uk](mailto:childrens.rights@scotland.gsi.gov.uk)

Alternatively, hard copy responses can be submitted to:

Children's Rights Team  
Children's Rights & Wellbeing Division  
Scottish Government  
Area 2-B Dockside  
Victoria Quay  
Edinburgh  
EH6 6QQ

The deadline for responding to the discussion paper is **29 February 2012**.

