Time to listen: Independent advocacy within the child protection process

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Introduction

Recent high profile cases have once again put child protection services under close scrutiny. The exposure of systematic safeguarding failures in Oxford, Rochdale and Edlington have raised questions about the extent to which services are putting children’s experiences and voices at the heart of the child protection process. In Rochdale, a high-profile case uncovering a child sexual exploitation ring revealed that, despite victims disclosing acts of child sexual exploitation to professionals, ‘overall child welfare organisations missed opportunities to provide a comprehensive, co-ordinated and timely response.’\(^1\) Victims expressed frustration with the response from social services and the police, describing them as ‘not listening to them.’\(^2\)

The recent publication of Lord Carlile’s inquiry ‘The Edlington Case’ also highlights a range of failings in the child protection system following a serious assault on two young victims in Edlington in 2009\(^3\). The perpetrators were brothers aged 10 and 11, who were subject to a child protection plan for physical abuse and neglect and were looked after by the local authority, yet many opportunities were missed to effectively meet their needs.

Responding to concerns raised by both the Rochdale and Edlington cases the Secretary of State for Education publicly commented on ‘the failure of our current child protection system.’\(^4\) He strongly emphasised the need to focus child protection procedures on the interests and needs of *children* rather than those of adults.

Professionals and expert government advisors have often stressed the need for the voice of the child to be heard in the child protection process in order to improve safeguarding practices and outcomes for children. The 2012 Munro Review of Child Protection states: ‘Children and young people are a key source of information about their lives and the impact any problems are having on them in the specific culture and values of their family. It is therefore puzzling that the evidence shows that children are not being adequately included in child protection work.’\(^5\)

Child protection conferences are a key part of the child protection process, where various professionals, the child or young person and parents/carers offer their assessment of the situation and where appropriate, work together to agree a plan to protect the child. Advocacy within child protection conferences, whereby children are supported by skilled independent practitioners to express their views and talk about their experiences, can bring vital clarity and understanding of the child’s perspective. What’s more, the meaningful engagement of children in the decision making process can lead to improved outcomes ensuring that children are kept

\(^{1}\) Rochdale Borough Safeguarding Children Board, *Child Sexual Exploitation Themed Review*, September 2012, p19


\(^{3}\) Department for Education (2012) *The Edlington Case*, A Review by Lord Carlile of Berriew CBE QC

\[^{4}\] Michael Gove speech (16th Nov 2012) ‘The failure of child protection and the need for a fresh start’

safe. However, there is currently no specific right to an independent advocate for child protection conferences.

This report sets out clear evidence to show that strengthening access to advocacy can significantly improve the experience and safeguarding of children within the child protection system. It also shows that the lack of a clear legislative driver for advocacy in child protection means that the child’s voice is often not heard and effectively represented, potentially leaving them at risk. The report makes a clear case for swift Government action to address the legal gap by introducing a statutory presumption that children are supported by an independent advocate in initial and review child protection conferences, unless they choose otherwise. Lessons for practice are also set out, as well as further recommendations for both central and local government.

**Policy Context**

Article 3 of the UN Convention on the Rights of the Child requires that the best interests of the child be a primary consideration in all actions concerning him/her. Article 12 gives all children the right to freely express their views in all matters affecting them, and due weight must be given to these views in accordance with the child’s age and maturity. Within child protection, this part of the treaty is reflected in the Children Act 1989 (as amended by the Children Act 2004), which places a duty on local authorities to ascertain a child’s wishes and feelings and give them due consideration when making decisions during the child protection process. Local authorities should also act in accordance with the European Convention on Human Rights with regards to adapting decision-making procedures to make effective participation possible for children.

Until recently, the framework for ascertaining a child’s wishes during the child protection process was provided by the *Working Together to Safeguard Children Guidance* published in 2010. From April 2013, a revised version of this guidance has been in place, with the aim of reducing the level of prescription and bureaucracy involved within safeguarding procedures.

The revised version of the guidance does recommend obtaining and understanding the wishes and needs of children within a ‘child-centred’ system. In relation to child protection conferences, social workers are advised to:

- help prepare the child if he/she is attending or making representations through a third party
- give information about advocacy agencies and explain that the family may bring an advocate, friend or supporter to the conference.

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8 Section 47(5A) Children Act 1989 (amended by Section 53 Children Act 2004)
It also states that children and young people have said they need to be provided with advocacy within the child protection process ‘to assist them putting forward their views’.

However, despite acknowledging this, the new guidance gives less prominence to the involvement of children during assessment and within the child protection process than the previous version. In particular, there is no longer a presumption that the child, subject to age and understanding, should be invited to attend their conference with an advocate if they wish to do so.

Furthermore, despite obligations on local authorities to ascertain and consider a child’s wishes and feelings during the child protection process, as specified within the Children Act 1989, there is currently no specific statutory right to advocacy in the child protection process, and advocacy services are provided at the discretion of local authorities. Less prescriptive guidance, alongside no clear statutory right to advocacy, risks reducing the opportunity for children to participate in the child protection process.

Whilst in the past ten years there has been a drive to improve participation and advocacy in child protection, there is no national data collected on how many local authorities provide an advocacy service. The extent to which a child’s wishes and feelings are ascertained and taken into account is now part of the Ofsted framework for inspecting the arrangements made by local authorities to protect children. To date, twelve local authorities in England have been inspected within this framework: eleven inspection reports raised the importance of independent advocacy and six local authorities were told to either improve, or establish, access to independent advocates in child protection. This indicates that independent advocacy is currently not widely available to children in the child protection process.

Outside of child protection, the Children Act 1989 places a statutory duty on local authorities to provide an advocacy service to assist looked after children, care leavers and children in need who wish to make a representation or complaint. This is accompanied by the ‘Get it Sorted’ regulations and guidance, which state that:

"The local authority should provide the child or young person with information about [the] advocacy services. This will usually be the name, telephone number and contact point for the service. If the child so requests, the complaints officer, or equivalent officer should make initial contact with the advocacy service on their own initiative and keep a record of the conversation."
The ‘Get it Sorted’ regulations and guidance have not been updated since 2004, and do not relate specifically to advocacy in the child protection process.

For looked after children, there is a statutory duty on the local authority to appoint an individual as an Independent Reviewing Officer (IRO) for every child. The duties of the IRO include ensuring that any ascertained wishes and feelings of the child concerning their case are given due consideration by the appropriate authority and that children are informed of their right to bring proceedings. The IRO handbook states that:

‘When meeting with the child before every review, the IRO is responsible for making sure that the child understands how an advocate could help and his/her entitlement to one. Advocacy is an option available to children whenever they want such support and not just when they want to make a formal complaint.’

Figures show that in 2010-11: 45 percent of children in England aged 4 and over physically attended and spoke for themselves at their looked after children's statutory review; a further 17 percent attended and had an advocate speak for them; and only three percent of children neither attended nor had their views conveyed to the meeting. There is no comparable data for how many children attend or have an advocate speak for them within child protection conferences.

At present, there is a gap in statutory duties for local authorities when it comes to the provision of an advocacy service within the child protection process. The new version of the Working Together to Safeguard Children Guidance, effective from April 2013, gives less prominence to the involvement of children during assessment and the child protection process than the previous version. Less prescriptive guidance supports social workers to exercise their professional judgement and enables local practice to be more flexible. However, in order to ensure our safeguarding system is truly child-centred and all possible steps are taken to keep children safe, an advocacy service within the child protection process should be embedded as a statutory right so that it is provided for all children, by all local authorities.

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14 Department for Education and Skills (2004) Get it Sorted; Providing effective advocacy services for children and young people making a complaint under the Children Act 1989, p12
15 Children Act 1989, Adoption and Children Act 2002: Section 118; and The Care Planning, Placement and Case Review (England) Regulations 2010: Section 26
Why do we need a greater use of advocacy in child protection?

Evidence has consistently shown that the child’s voice is often not heard and effectively represented in child protection cases and both professionals and children themselves think that the meaningful engagement of children in the decision making process would lead to improved outcomes. For example, the Munro Review of Child Protection stresses the need for the voice of the child to be heard. It reports on a submission made by the Office of the Children’s Commissioner for England, in which children who had experience of the child protection system ‘voiced the importance of being heard separately from their parents and being listened to’\(^\text{18}\). The children consulted found the process confusing and wanted better information, greater honesty and consistent support from the same worker through services that would not be withdrawn as soon as the crisis passed.

Unpublished research on children’s experiences of child protection procedures conducted by the Office of the Children’s Rights Director reveals a mixed picture. Whilst some children felt that the child protection process was explained to them by their social worker, that they were listened to and had the chance to ask questions, others did not. There were reports of children who found social workers difficult to trust and talk to, did not understand the child protection process, felt they were not listened to enough, and felt they hadn’t been able to have a say in what was happening to them\(^\text{19}\).

Research for the Department for Education reported that in 2009-2011, 75 percent of 21 overview reports of serious case reviews concerning the death or serious abuse/injury of a young child aged between 5 and 10 years refer to the child's voice not being heard or taken account of\(^\text{20}\). The failure to listen to children and to make sure their views are taken into account in child protection cases was also highlighted in a recent Ofsted report of 67 serious case reviews\(^\text{21}\). The report indicated that:

- professionals did not see the child frequently enough or did not ask the child about their views and feelings
- professionals did not listen to adults who tried to speak on behalf of the child and could provide important information about the child
- parents and carers prevented professionals from seeing and listening to the child
- professionals focused too much on the needs of parents and overlooked implications for the child

\(^{19}\) Office of the Children’s Rights Director (May 2012) Children’s experience of child protection procedures. For the Munro Review progress report
Another recent study in which children were asked about their views of the child protection system revealed that:

- children were not always well informed by professionals but they tried to piece together information to make sense of what was happening, mainly by getting the information from family members
- children wanted to maintain a sense of control throughout the child protection process and did not want to hand over their worries to a professional to sort out - they wanted to share their worries and work with a trusted adult on finding the best solution for making them safe
- children who attended a child protection conference were not well prepared for it and found the conference difficult to understand - they felt they were asked awkward questions and that others did not listen to what they had to say

Providing an independent advocate who represents the views of the child, and enables the child to influence decisions, can ensure the child’s voice is being heard within the child protection process and that effective action is taken to protect them.

**How advocacy improves outcomes**

Based on evidence from existing services, there are a number of benefits to providing an advocacy service to children involved in child protection proceedings. These have been brought together in a guidance document for policy makers on independent advocacy in child protection, published in February 2013. These benefits are set out below, together with further evidence from an evaluation of a pilot advocacy service for child protection conferences at the Royal Borough of Kensington and Chelsea (RBKC) [see Box 1]:

**Ensuring the child remains everyone’s focus:**

Having an advocate present a child’s views or having a child present at their child protection conference can bring clarity and understanding of the child’s perspective. The evaluation of the RBKC advocacy pilot reported that the service enabled children’s views to be represented in a systematic way, and ensured that due attention was paid to these views when formulating child protection plans. Case file analysis revealed that the child’s wishes and feelings were taken into account in almost all child protection conferences in which advocacy was provided. Conversely, the analysis of 10 case files where an independent advocate was not involved revealed limited evidence of children’s views being taken into account. Having a child physically present, and giving serious consideration to their wishes and feelings, was a powerful mechanism for focusing professionals and parents on the

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child’s needs and rights. Professionals also described how contributions from the child and advocate improved the atmosphere of the conference, facilitating a more constructive dialogue:

'It makes a big difference to the information we receive and lets us put them [children’s views] in the centre of our discussions and thinking, rather than on the periphery.’ Conference chair

Enhancing the child’s engagement in the child protection process:

Children in the RBKC pilot were satisfied with child protection conference decisions when they had received feedback, could see evidence of their views being taken seriously and changes had since occurred. Even when children ‘had not got exactly what they asked for’, they appreciated decisions being made that partly reflected their expressed views. The advocate’s work helped to ensure that children better understood the aim and focus of child protection conferences, which enabled them to influence decisions. Receiving balanced feedback from the advocate after the child protection conference also gave children more confidence in their advocate, which could lead to the disclosure of new safeguarding issues.

An evaluation of a national independent advocacy service conducted in 2006 also found that young people can develop many new skills and strategies as a result of receiving advocacy support, such as: becoming more confident and assertive; being able to document and present their views; and having better control over their anger and frustration in meetings with professionals.

Empowering children:

Advocacy has been described as an empowerment service for children. A review of evidence from five advocacy services provided to vulnerable children found that children particularly valued the independence of advocates and the fact that they were there for them alone, listening to their views and speaking on their behalf or supporting them to speak for themselves. This gave children an enhanced personal position, which enabled them to participate in professional decision-making.

The RBKC evaluation also found that the independent advocacy service empowered children and enabled them to express their views. Children recognised that their

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views had made a difference, and credited the advocate with making this possible. For example, as one child put it, without her advocate:

‘They don’t know what I would have said or what I think, and they wouldn’t have any of my views, and they wouldn’t really know my decisions.’

Providing children with additional support and protection to ensure a fuller picture emerges of their lives, wishes and concerns:

An advocacy service can provide children with time and space to talk to someone separate from social services, and outside the family, about their situation. A child who had been supported by an independent child protection advocate as part of a service provided by ‘Voice’ in Swindon explained:

"I could talk to my advocate about any problems and my concerns about things."

The RBKC evaluation reported that in some cases, the advocate had supported children to express views or wishes that had not been mentioned to their social worker. Whilst the advocacy service certainly did not do away with the need for social workers to engage children in discussions about their thoughts and feelings, it was seen to provide another distinctive way for children to be heard. In some cases, this independent service appeared more acceptable to families, and it was hoped that in time, it could serve as a bridge to more constructive engagement with social work staff.

Research on children’s experiences of child protection procedures provides an example of a child who felt their social worker hadn’t listened to their worries, however this was solved when an advocate helped them get their worries across, and get some wrong information corrected. A recent review of largely qualitative studies of advocacy in child protection also identified several positive effects for children, reporting that: the participation procedure itself was therapeutic; participation led to better decisions and tailored services, and advocacy helped to keep children safe by discovering and substantiating cases of abuse and neglect.

Increasing parent’s engagement in child protection processes and outcomes:

The evaluation of the RBKC advocacy service found that consideration of the child’s views in the child protection conference gave parents and professionals a shared point of reference. Parents echoed the positive views of the advocacy service given

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31 Child’s quote relates to advocacy assistance in 2011/12 provided by Voice which runs Swindon's Children’s Rights Service under contract with the local authority. Taken from Willow, C. (2013) Independent Advocacy in Child Protection. Guidance for Policy Makers, National Children’s Bureau
32 Office of the Children’s Rights Director (May 2012) Children’s experience of child protection procedures. For the Munro Review progress report
by professionals and children, whilst also identifying benefits for themselves stemming from the additional insights gained from children’s contributions, and the discussions they stimulated about children’s needs and feelings.\(^{34}\)

**Box 1: Involved by Right: independent advocacy service at The Royal Borough of Kensington and Chelsea**

Through Involved by Right, an EU grant-funded programme,\(^{35}\) the Royal Borough of Kensington and Chelsea (RBKC) implemented an advocacy service for child protection conferences in 2011. An advocate, independently supervised by Barnardo’s, is provided to children aged 7 and above, with the aim of incorporating their views into the decision-making process:

- The service is available for both ongoing cases (i.e. for child protection review conferences) and new cases (i.e. for the initial child protection conference).
- Every child who takes up the service is offered a visit from the advocate before and after their child protection conference.
- At the pre-conference meeting, the advocate explains the purpose of the conference and considers the child’s wishes to be involved in the meeting and what they want to say. The advocate then supports the child to express his/her views during the child protection conference. If the child does not wish to attend the conference, the advocate attends to report the child’s views.
- At the post-conference meeting, the advocate should explain the plan and any decisions made.

The service was evaluated by the NCB Research Centre\(^{36}\) which found that, with support from the advocate, children were able to:

- attend the child protection conference if they wished to
- express their views at the conference directly or via the advocate
- contribute to their child protection plan
- understand the purpose of the conference and the plan


\(^{35}\) For more information about the Involved by Right project, visit: [http://www.rbkc.gov.uk/subsites/safeguardingchildren/involvedbyright.aspx](http://www.rbkc.gov.uk/subsites/safeguardingchildren/involvedbyright.aspx)

\(^{36}\) To view the full evaluation, visit: [http://www.ncb.org.uk/policy-evidence/research-centre/research-projects/a-z-research-projects/involved-by-right](http://www.ncb.org.uk/policy-evidence/research-centre/research-projects/a-z-research-projects/involved-by-right)
Lessons for practice

Recent evaluations and examples of good practice have provided some important learning in relation to the key features of an effective advocacy service that will support local authorities to improve provision of services. A ‘commissioning checklist’ for local authorities has been brought together in a guidance document for policy makers on independent advocacy in child protection, published in February 2013. The key features of an effective advocacy service are discussed below:

**Ensuring the advocate is independent:**

- Independence is essential for an advocate to be able to act on behalf of the child or young person. Statutory guidance for advocacy provision for looked after children, care leavers and children in need who wish to make a representation or complaint, recognises that advocacy should only be used and is only possible if children and young people are confident that advocates are acting exclusively on their behalf and do not have apparent conflicting interests. The same should apply to advocacy provision within child protection; advocacy services should therefore be structurally independent of the local authority.

**Child’s attendance at the child protection conference:**

- Children should always be consulted about whether they want to attend their child protection conference, and their attendance should be carefully considered on a case-by-case basis. Choosing the best way to present the child’s views needs to be guided by children’s wishes, also taking into account professionals’ advice about when it would be inappropriate for children to witness adult discussion.

- In order to successfully include children who attend their conference, the structure of the meeting should be tailored according to their individual needs and wishes. Within the RBKC pilot, the majority of children who participated presented their views first and then left the room. This avoided them witnessing any further adult discussions, the content of which might be inappropriate for them to hear.

**A child-centred approach:**

- Flexibility when working with each child by providing them with different options on how they wish to express their views and wishes is an important part of the advocates’ role. Children interviewed for research on their experiences of child protection procedures proposed that services ‘should think of ways a child might
find it easier to say difficult things. In order to elicit children’s views during the pre-conference meeting, the advocate at RBKC created a comfortable atmosphere and gave children several options through which to express themselves depending on their age, such as: stickers and drawing; cutting and pasting; creating a PowerPoint presentation on a computer; and/or writing their views. It is critical to ensure that provision is made for children with specific needs, such as those with special educational needs or disabilities.

- Child protection conferences should be made as friendly as possible, for example, children should be involved in decision making around how to structure the conference. The Youth Advisory Board at the RBKC found this to be the most important aspect of the service for a child attending a child protection conference and thought it should be standard procedure.

**Providing good information to professionals, children and parents:**

- Good information about the role of the advocate and the service provided to children needs to be provided to professionals, children and parents when the service is first introduced. This should provide a clear idea of: what advocacy looks like; what it can achieve; and the extent of the child’s involvement/presence during the child protection conference.

**An opt-out procedure:**

- Independent advocacy must be seen as an integral part of the child protection process. The RBKC pilot service initially sought parental permission before any child was offered the support of an independent advocate. The service then moved from this ‘opt-in’ procedure to an ‘opt-out’ arrangement. This made independent advocacy more routine and normal: in the final quarter of the evaluation, uptake of independent advocacy increased from an average of 46 percent to 59 percent of children and young people.

**Good relationships with Social Services and information sharing between Social Services and the advocate:**

- It is necessary to ensure professional and respectful working relationships between the advocate and social workers and clarity about their respective roles. Thoroughly briefing social workers about the role of advocacy can help to start the new working relationship based on a shared understanding of how the advocate and social workers can effectively work alongside each other. This can be done through offering information sessions or training to social workers.

- The advocate at RBKC successfully worked with social workers to get relevant information about a child’s family and any known safeguarding issues before

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meeting with the child. This was important in order to elicit the child’s views in the right way and provide relevant support. In particular, the information provided by social services should include any known incidents in order to raise awareness when a child discloses new safeguarding issues, whilst ensuring requirements around confidentiality and data protection are adhered to.

**Skills of the advocate:**

- The skills of the advocate are essential to the success of the service. These include: the ability to be sensitive in working with children of different ages and abilities; providing them with various options for expressing their views, and reassuring them if they had any concerns about the advocacy service or social services involvement in general. Monitoring and supervision by a line manager with safeguarding experience is essential to ensure the advocate is suitable for what is an extremely sensitive job.

**Conclusion and recommendations**

This report demonstrates the need for Government and local authorities to take swift action to ensure effective advocacy for children in the child protection process. Recent high profile cases and the cases of historic abuse relating to a number of public figures have demonstrated the need for children’s voices and experiences to be at the heart of the child protection system so that they are kept safe. In order to effectively protect our children it is vital that their voices are listened to; independent advocacy is an essential means to achieving this goal.

It is now more important than ever to ensure that there is a clear right to advocacy in initial and review child protection conferences. The recently published *Working Together* guidance gives less prominence to the involvement of children within the child protection process than the previous version. These changes have been made to ensure local practitioners have flexibility in determining how they provide services to children, based on retention of a strong legislative framework that sets out what children should receive. In the case of advocacy within child protection conferences, there are no strong legal duties. Consequently, there is a high risk that less prescriptive guidance will leave professionals and managers without a framework to help them to understand the need for advocacy and how it can help protect children.

In order to ensure that the benefits of models such as the *Involved by Right* independent advocacy service at The Royal Borough of Kensington and Chelsea are available to all children [see Box 1 above], the Government and local authorities should implement the following recommendations:
Recommendations for Government:

- Use the opportunity of the Children and Families Bill 2013 to introduce a statutory presumption that children are supported by an independent advocate in initial and review child protection conferences, unless they choose otherwise.

- Update ‘Get it Sorted: Guidance on Providing Effective Advocacy Services for Children and Young People making a Complaint under the Children Act 1989’ to reflect the current policy and practice environment and to specifically include the role of advocacy in the child protection process.

- Commission a study of good practice models of independent advocacy in child protection procedures to facilitate the sharing of practice across the country.

Recommendations for local authorities:

*Local authorities should review their advocacy and child protection conference services to:*

- Set in place a clear service level agreement for all stakeholders following commissioning of independent advocacy regarding the role of the advocate to ensure that children are supported before, during and after child protection conferences on an ‘opt-out’ rather than ‘opt-in’ basis.

- Ensure that advocacy and child protection conference processes are child-centred and meet the needs of specific groups of children and young people, such as disabled children and young people, those in custody and those in out of area placements.

- Ensure that they foster effective working relationships between social workers and independent advocates.

- Formalise a process regarding information sharing, setting out issues of confidentiality and data protection.

- Develop advocacy training programmes.

- Conduct an annual report and evaluation of child protection advocacy services, both quantitative and qualitative, from the perspective of all stakeholders including children and young people.

- Provide opportunities for children and young people to participate in decisions relating to the design and delivery of advocacy services.