

**CORPORATE PARENTING BOARD**

**23 September 2008**

**INDEPENDENT ADVOCACY FOR LOOKED AFTER CHILDREN**

**REPORT OF THE HEAD OF SAFEGUARDING**

**LINK TO WORK PROGRAMME : Corporate Parenting: Safeguarding**

**1. Purpose of Report**

- 1.1 To advise the Board of the delivery of independent advocacy for Looked After Children and Care Leavers

**2. Background**

- 2.1 From April 2008 arrangements commenced under a contract with NCH Children's Rights Service to provide Independent Advocacy for looked after young people, care leavers and other users of Children's Social Care Services

- 2.2 The provision of Independent Advocacy for young people who make, or who may be considering making, a complaint or representation about the services they receive from the local authority, is a statutory requirement.

- 2.3 Children and young people are eligible for independent advocacy if they:

- Are accommodated by the Local Authority, or
- Are subject to Care or Interim Care Orders to the Local Authority, or
- Are a child or young person making complaint or representation relating to a period when they may have previously been accommodated or subject to a Care Order, or
- Qualify for the provision of service under the Leaving Care Act,
- Are a child or young person who meets the statutory definition of a child in need.

and:

- They wish to make or are likely to make a complaint or representation about the service they receive from the Council.
- They wish to make a complaint at any stage of the Complaints Procedure up to and including making representations to the Ombudsman.

2.4 The current contract provides for such variation as may be required due to changes to legislation or government guidance

### 3 **Current Position**

3.1 NCH Children's Rights Service currently provide the service. There is direct access to the service by telephone, writing and email.

3.2 There is a quarterly Advocacy Monitoring Group comprising

- Representatives of NCH Children's Rights Service
- Development Manager (Looked After Children)
- Young People's Officer
- Quality Assurance Officer
- Complaints Manager
- Representatives of:
  - Case Management
  - Services for Looked After Children
  - Leaving Care Service
  - Disabled Children's Service

3.3 Sunderland Young People's Officer continues to exercise a facilitating role where required to support young people accessing the service and continues to be involved in support to young people's rights. In some circumstances the Young People's officer may facilitate the young person making a complaint or representation in the first instance, where the young person so requests, or if there is extreme urgency in bringing the matter to the attention of the relevant service. This is in line with National Standards.

3.4 In addition, any young person contacting the complaints officer directly is offered the opportunity to have an independent advocate, and the complaints officer may now also make direct referral to the service.

3.5 Under the new contract in place since 1st April 2008 six young people have accessed the service. Two other young people have been offered Advocacy in relation to complaints about past episodes in care but at the time of writing it is not known whether this has been taken up.

3.6 Specific arrangements have been agreed from June 2008 to extend the Independent Advocacy Service to young people who are cared for under Private Fostering arrangements. These young people are not 'Looked After' by

the local authority, but have an entitlement to service from the authority to ensure their safety and wellbeing.

- 3.7 So far in 2008-9 the number of young people accessing the service has matched the referral rate for the whole of 2007-8. All of the young people referred so far have sought assistance via the Young People's Officer or have been referred by the Complaints Officer. As at 4 August 2008 there had been no direct self-referrals to the service.
- 3.8 The Safeguarding Unit filters inquiries made by professionals or carers on behalf of young people. In some cases it has been identified that the young person does not have any complaint or representation but required other support and the query has been appropriately redirected
- 3.9 Ongoing consultation between the Safeguarding Unit and NCH monitors Advocate involvement to ensure that individual advocates' independence is not compromised by being drawn into inappropriate involvement in other aspects of the young person's case.

#### **4 Accessing the Service**

- 4.1 Draft guidance has been circulated to all relevant services for comment (attached at appendix 1)
- 4.2 Allocation of advocates has generally been rapid, and well within the 5 working days of referral as required in the service specification
- 4.3 Revised information leaflets were circulated to young people and their carers, about the Children's Complaints Service and advocacy availability but there remains a concern that awareness of the service needs to be constantly refreshed, including regular contact from the Advocacy Provider with children's homes, carer groups and other service staff. This was not provided for under the spot purchase arrangement in 2007-08, but is included in the service specification for the contracted service from April 2008.
- 4.4 Children's Complaints leaflets have been updated to include current contact details including the Advocacy Service details.
- 4.5 NCH have arranged visits to children's homes and to foster carer support groups to promote awareness of the service. We have asked them to maintain this as a rolling programme to maintain awareness, and to also visit Foster Care support groups to promote awareness of the service for fostered children

4.6 The Children's Complaints Manager is now working closely with the Safeguarding and Quality Assurance Unit to ensure that access to Advocacy is promoted.

4.7 Independent Reviewing Officer have been briefed to ensure that when young people's awareness of the complaints system is discussed at Looked After Reviews, that they also ensure that they are aware of the Advocacy Service

## **5 Future Steps**

5.1 Discussion with NCH Children's Rights through the quarterly monitoring meetings to identify any remaining obstacles to self-referral.

5.2 The Advocacy Service will be engaging young people in the redesign and production of information leaflets to replace the currently available information with a range of leaflets for different for different ages and needs.

## **6 Summary:**

6.1 The advocacy service continues to be promoted to our young people

6.2 Improved Complaints systems liaison with the Young People's Officer and link with the Advocacy Service

6.3 The awareness of the Advocacy Service has improved and the take up rate by August 2008 has almost reached the level the whole of the previous year

## **7 Recommendation**

The Board is requested to note the continuing development of the arrangements and to continue to receive quarterly reports from the Advocacy Monitoring group.

John Arthurs

Development Manager, Looked After Children      September 2008

**CHILDREN'S SERVICES PROCEDURES**  
**Chapter 3      Looked After Children**

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**Section x.xx    Advocacy**

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# CHILDREN'S SERVICES PROCEDURES

## Chapter 3 Looked After Children

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### Section X.XX Advocacy and Complaints

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#### 1. Background

- 1.1 Young people who are users of Children's Services are by definition vulnerable. Looked After Children are particularly vulnerable as in many cases they do not have a single person in a position to speak out for them as would be the case for a child in the care of a 'good parent'
- 1.2 It is essential that young people using our services are able to have their voice heard, and that all our processes and practice in assessing their needs and planning and reviewing are undertaken in a manner which supports their involvement and listens to their views.
- 1.3 There will be occasions when a young person is not happy with decisions made, or may feel that their views have not been sufficiently taken into account, or they may feel that their needs are not being met, and it is vital that there are robust arrangements for them to make their own representations or complaints.
- 1.4 The local authority has a Children's Services Complaints and Representations Procedure which can be used by parents, carers and by young people themselves. This procedure can be accessed at X.XX
- 1.5 Where the complaint is made by a young person and not by an adult parent or carer, the young person has the right to be supported by an Advocate who is independent of the local authority if they so wish. In some cases the young person may be supported by an adult who is already known to him or her, such as a family member or friend. However, in many other cases the young person may have no-one independent of the authority to speak for them in support of a Complaint or Representation. In all cases they young person must be offered the opportunity to have an Independent Advocate if they wish.

#### 2. Legislation

- 2.1 The Advocacy Services and Representations Procedures (Children) (Amendment) Regulations 2004 outlines the duty given to a Local Authority to make arrangements for the provision of independent advocacy services for children and young people who are looked after, care leavers and children in need where they make, or are likely to make, a Complaint or Representation.
- 2.2 The National Standards for the provision of Children's Advocacy Services 2004 (issued under the provisions of Section 7 of the Local Government Social Services Act 1970) sets out standards for independence, direct and facilitated access, respective roles of Advocates and any Children's Rights

Officer(s) appointed by Local Authorities, publicising the service to young people and the duty upon Local Authorities to ensure that the service provides good value.

- 2.3 The National Standards also require the provision of an advocacy service to be independent of the management of the services received by the child or young person, and further require that the provision of advocacy in any individual case is not subject to decisions by social workers, carers or managers as to whether or not it is appropriate.
- 2.4 The service is provided within the guidelines of the Children Act 1989, as amended by the Adoption and Children Act 2004, and of the Leaving Care Act 2000.

### **3. Entitlement to an Advocate**

3.1 Children and young people will be eligible for independent advocacy if they:

- Are accommodated by the Local Authority, or
- Are subject to Care or Interim Care Orders to the Local Authority, or
- Are a child or young person making complaint or representation relating to a period when they may have previously been accommodated or subject to a Care Order, or
- Qualify for the provision of service under the Leaving Care Act 2000, or
- Are a child or young person who meets the statutory definition of a child in need,

And:

- They wish to make, or are likely to make, a complaint or representation about the service they receive from the Council at any stage of the Complaints Procedure up to and including making representations to the Ombudsman.

3.2 A young person who is looked after or a care leaver is entitled to have an advocate where they make a complaint or representation in respect of a service provided by the Local Authority, including such services which may be contracted by the Local Authority to other providers or partner agencies including schools and placement providers, and including any service for which they are eligible by virtue of being in care or in need, and any service to which a looked after child may be eligible by virtue of any additional need(s) particular to the child.

3.3 Advocates are also available where a complaint or representation is made by a young person who is not looked after but is in receipt of services by virtue of being a 'Child in Need', and the nature of the complaint or representation relates to services provided by or on behalf of the local authority.

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#### **4 Guidance for Complaints Officers**

- 4.1 Upon receipt of a complaint from a young person the complaints officer making the initial contact will ask the young person if they have, or would wish to have, an Independent Advocate who is supporting them in making their complaint.
- 4.2 If the young person does not have an Advocate or identified supporter, the Complaints Officer will ask the young person if they wish to have an advocate, and if the young person so wishes will support them to make contact with the Advocacy Service.
- 4.3 In some cases it will be appropriate for the Complaints Officer to refer the young person's details to the Advocacy Service on the young person's behalf and with their permission. Where the Complaints Service makes a direct referral to the Advocacy Service, they will also notify the Young People's Officer that a referral has been made
- 4.4 The Complaints officer will ensure that the Advocate has access to the Complaints and Representations Procedure and details of the young person's complaint (unless the young person wishes to withhold this pending discussion with their advocate)
- 4.5 Where the young person has identified a friend or relative to support their representations, and the young person does not wish to have an Independent Advocate, the complaints officer will nevertheless ensure that the Young Person is provided with the contact details of the Independent Advocacy Service.
- 4.6 The Complaints Officer will seek and act upon the child's or young person's agreement to provide their advocate with copies of any correspondence or reports to the young person related to the complaint, and will keep both the young person and their advocate informed of the progress of the complaint
- 4.7 Where a Complaint or Representation is received from or on behalf of a young person who already has the support of an advocate, the Complaints Officer will ensure that correspondence with the young person in relation to their complaint is also copied to the advocate



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### **5 Guidance for Managers, Social Workers and Carers**

- 5.1 When a young person commences a period of being provided with a service from Children's Services, or becomes looked after, the Social worker should ensure that they and their carers are provided with the current information leaflets about how to make a complaint or representation, and details of the contacts for advocacy.
- 5.2 If at any stage the social worker or carer becomes aware that the young person may have a dis-satisfaction about the service provided, they should in the first instance discuss the matter with the young person and attempt to reach a resolution. It is inevitable that there will be times when disagreements occur, and it is central to social workers' and carers' roles to ensure that the young person is clear about what is happening and why, to clarify misunderstandings and to resolve disagreement wherever possible.
- 5.3 Where is not possible to resolve the disagreement, for example, where the social worker or carer does not have the authority to make the decisions necessary to resolve the young person's concern, the young person should receive a response to their queries within a reasonable time.
- 5.4 If the young person is dis-satisfied with the outcome, carers or social workers should ensure that the young person knows they can make a complaint if they wish, and that they can get someone independent to help them decide what to do.
- 5.5 The choice as to how to proceed rests with the young person, and they can telephone, write or email to the Advocacy Service. However for some young people, this itself can be a challenge, and it may be appropriate for the carer or social worker to help the young person to do this.
- 5.6 If Social Workers or Carers have any concerns that the young person may wish to make a complaint or representation but is inhibited for any reason from doing so, they should contact the Safeguarding and Quality Assurance Team to make an 'Advocacy Query'. This will be dealt with usually by the Young People's Officer, who will facilitate the young person's access to advocacy.

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#### **6 Guidance for Safeguarding and Quality Assurance Team**

(Applicable to the Young people's Officer, Independent Reviewing Officers, Quality Assurance Officers and Managers within the service)

- 6.1 Usually inquiries about Advocacy to the Safeguarding Unit will be dealt with by the Young People's Officer. However, it is important that all key members of staff in this service are aware of the Advocacy Service and how to ensure that young people are supported in accessing this service.
- 6.2 Independent Reviewing Officers will also routinely check at looked after reviews that the young people are aware of the information about complaints and advocacy, and it may be that the young person indicates at their review that they may wish to make a complaint or representation.
- 6.3 Young people requesting advice or support in relation to making a complaint or representation must be advised of their right to an advocate. In some cases it will be sufficient to ensure they know how to contact the service. In other cases it will be appropriate to discuss the young person's concerns with them, and if the young person wishes, refer the details of the matter to the Advocacy Service on their behalf
- 6.4 Where the young person requests an advocate, Independent Reviewing Officers or Quality Assurance officers should liaise with the Young People's Officer, but where the absence of the YPO would cause undue delay may make the referral directly to NCH on behalf of the young person, or may facilitate the young person to make direct contact themselves. In such circumstances the person making the referral should advise the YPO as soon as possible.

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#### **7 Dealing with Advocates: Guidance for Managers and Investigating Officers**

More detailed guidance for Investigating Officers is set out in the Investigating Officer information pack, but is referred to here for general reference

- 7.1 Managers investigating or responding to complaints need to ensure that the young person's need for Advocacy is supported in the manner in which they conduct inquiries and respond to complaints.
- 7.2 Where a young person does not have an advocate they can be referred or signposted to the service at any stage of an investigation into a complaint.
- 7.3 Where the young person is supported by an advocate they must be offered the opportunity to have their Advocate present for any meeting or interview with officers conducting the investigation
- 7.4 Advocates should receive copies of any correspondence, including appointment letters and complaints outcome reports, unless it is agreed with the young person that this should not be the case.
- 7.5 Advocates must not be used as a 'go-between' in any dealings with the young person unless the young person has specifically requested that the Advocate fulfils this function in relation to making representations or complaints to the authority.

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**8      Advocacy FAQs**

**8.1    What is an Advocate?**

An Advocate is someone who can support you if you need help to get your point of view over to people who can make decisions. Any decision about a young person who is receiving support from Children's Services should involve the young person themselves. However there may be times when the young person is not happy about what is happening to them and they may need help to make sure that they have their say. If this happens, the young person is entitled to have an Advocate to help them

**8.2    Who can ask for an advocate?**

Under the arrangements for Advocacy, any young person who is looked after, any care leaver or a young person getting other services from Children's Services can request an advocate.

Carers, parents or other professionals may ask for an advocate on the young person's behalf, but if this happens it must be clear that the young person actually wants it. Others may think the young person should have the help of an advocate but the decision is up to the young person themselves.

**8.3    Who decides when an advocate is provided?**

This is entirely the decision of the young person. The local authority may not 'gatekeep' the service. Where Complaints Officers or the Young People's Officer are involved, it is their role to ensure that the young person is aware of the service and if necessary facilitate their access to it, not to decide whether or not this should be provided.

**8.4    When should an Advocate be called.**

If any young person wishes to make a complaint or representation about the service they receive they should be offered an advocate to help them with this. Even if the young person is not sure whether or not to put in a complaint they should be offered an advocate to help them in the first instance to decide what to do.

If a young person does make a complaint to the Complaints Service, they must be offered the help of an advocate if they do not already have one.

Advocacy is 'issue-based'. This means that the young person has a specific issue, or a number of issues, about which they wish to make representations or complaints

### **8.5 Who can be an advocate?**

National Standards for Children and Young people's Advocacy are very specific in the requirements for recruitment, selection, training, supervision and standards of confidentiality of Independent Advocates. A young person may choose a relative or friend or a professional to support them in making representations. Such an arrangement may be beneficial and supportive, but has the potential to generate conflicts of interest either between the young person's interests and those of the relative or friend, or between the professional and the employing organisation. Neither can properly operate within the confidentiality standards required of an independent advocate. In such circumstances the Advocacy Service will still be offered to the young person

### **8.6 What does an Advocate do?**

An Advocate will help the young person think about the issues they are concerned about. Where the young person decides to make a complaint or representation, the Advocate will help the young person write their complaint, or write it on their behalf, and will support the young person in any meetings with council officers to discuss the complaint. Once the council replies to the complaint, the Advocate will help the young person to make sure they understand the reply, and if they are still unhappy, the Advocate will support them in the next stage of the complaints process in the same way.

An Advocate can support a young person prior to a complaint or representation being made, throughout stages 1, 2 and 3 of the process if so required, and can continue if necessary if the young person wishes to make representations to the Children's Ombudsman

The Advocate may, if requested by the young person, deal directly with officers of the authority on the young person's behalf

Once the complaint is dealt with the Advocate's job is over.

### **8.7 Is the service confidential?**

Essentially, Yes. The Advocate does have a Duty of Care to report to the council anything which places the young person at risk of harm, but apart from that will not tell the council anything unless the young person agrees.

### **8.8 What will an advocate NOT do?**

An advocate will not take up a case on behalf of a parent, carer or other professional.

They will not become involved in making decisions about the case, and cannot be used as an 'independent' person to help resolve disagreements between parents, carers or professionals. If the young person wants an advocate because they are

unhappy that the adults cannot agree then the advocate may help the young person demand that the adults sort themselves out, but the advocate is not there as a referee!

### **8.9 Will the Advocate come to Looked After Reviews or Child Protection Reviews?**

Possibly, in certain circumstances. If the young person is not happy with the plan, they may decide with their advocate that the best place to resolve the problem is at a looked after review or conference or planning meeting. If this is the young person's request, then the LAR or Conference or meeting should be accessible to the advocate for this purpose. However, the local authority already has a responsibility to conduct these reviews in a manner which enables the young person to participate fully, and it should not be dependant upon young people having independent advocates to achieve this. An independent advocate will not normally attend a looked after review or conference instead of the young person.

### **8.10 What if young people need support with other things, such as housing, benefits, etc.**

The Advocacy Service is designed to assist young people with representations they wish to make about the service they receive from Children's Services. Children's Services have specific responsibilities to provide support to some young people in relation to housing and other services. It is not the role of the Independent Advocate to fulfil this function on our behalf. If there is a problem in relation to such services, then the Advocate may be involved, but only in supporting the young person who may wish to make representations about the level or effectiveness of the support received from Children's Services.

### **8.11 How does a young person get an advocate?**

They can contact the Advocacy service directly themselves, by telephone, in writing or email.

The can contact the Safeguarding Unit (Young People's Officer) who will pass their referral on to the Advocacy Service.

They can contact the Complaints Officer, who will ensure that, if they want to have an advocate, they are put in touch with the service. If the young person sends in a complaint form, the Complaints Officer will check this out when they make contact to get the details of the complaint.

They may ask a carer or a friend to make contact on their behalf, although in this case, the Advocacy Service or the Young People's Officer may make further inquiries to make sure that it is the wish of the young person, not other parties, for the provision of an advocate.

### **8.12 What if the young person wants a relative or friend to be their advocate?**

Young people may seek support of a relative or friend to make a representation or complaint. In such cases the young person must still be offered the opportunity to have an Independent Advocate. Other persons' involvement in supporting the young person in a complaint must be subject to the local authority's standards for confidentiality and consideration of the need to have parental consent for the involvement of the chosen supporter.

### **8.13 What if the young person wants an advocate from a particular organisation?**

The young person may use another service if they wish, but if there is a cost to such a service there is no provision for funding another service provider, and the local authority will need to be satisfied that the organisation meets National Standards for Children and Young People's Advocacy.

### **8.14 Confidentiality**

It is important that all staff who will have contact with a young person's Independent Advocate respect the young person's privacy and confidentiality. The young person will have shared with their advocate such information as they feel comfortable with.

