

Coram Voice response to the DfE consultation on Advocacy Standards and Guidance – Dec 2023

Introduction

This documents pulls together Coram Voice feedback on two documents published for consultation by the Department in September 2023 – (1) the *National Standards for the Provision of Children and Young People’s Advocacy Services* (‘Standards’) and (2) *Effective Advocacy for Looked-After Children, Children in Need and Care Leavers: Statutory Guidance for local authorities* (‘Guidance’).

It is informed by

- A survey of children and young people conducted in partnership with NYAS in 2022.¹
- A workshop on advocacy at our National Amplify conference attended by around 25 care experienced children and young people. Children and young people from 20 local authorities attended this event, which was attended by DFE and a write up of workshop findings has been shared separately with DFE colleagues.²
- A series of workshops with Coram Voice advocates and managers discussing the Standards and Guidance.

We welcome the publication of the new Standards and Guidance, which will provide a long awaited refresh of guidelines on how to commission and deliver advocacy services for children.

The publication of the documents also provide a welcome opportunity to raise awareness of advocacy services and their crucial role in supporting children’s rights, especially the right to be heard. We urge the department to accompany the release of the final documents with a communications campaign to raise awareness amongst advocacy services, local authorities and other services commissioning, referring to or partnering with advocacy services.

¹ To read the report go to <https://coramvoice.org.uk/latest/children-and-young-people-respond-to-care-review-recommendations-on-advocacy-independent-visitors-and-protected-characteristics/>

² For a write up of the session see https://coramvoice.org.uk/wp-content/uploads/2023/12/Session_6_Speak_Up_Stand_Out_Youth_Advocacy_1_.pdf

Summary of recommendations

- Use the publication of the new Standards and Guidance as an opportunity to **promote awareness** and understanding of advocacy services for children and young people.
- Set clear **expectations on commissioning organisations** to promote, resource and work with advocacy services so that they can meet the standards.
- Create a **child friendly plain English** summary should be created, including a clear [definition of what advocacy is](#).
- Make sure that the Guidance and Standards use **consistent language** and do not contradict each other. Make sure this language is **empowering** of children and young people and **emphasises rights**.
- Distinguish between visiting advocacy and advocacy commissioned by local authorities for particular groups (like children in care). Create a **separate standard on Visiting Advocacy** that recognises that visiting advocates who regularly visit a particular a home, school or hospital can see recurring problems and challenge abusive cultures in addition to supporting individual children to be heard.
- **Apply the Standards to all settings and circumstances** where children and young people are entitled to help from an advocate – including health, social care, education, criminal justice, housing and immigration
- Make sure that both the Guidance and Standards are **clear on who is entitled to advocacy** – Article 39 have a comprehensive [online list](#).
- Proactively offer advocacy not just in the situations identified in the guidance, but provide a **named advocate** for all children and young people entitled to one.
- **Involve children and young people's in commissioning** as well as developing existing services. Local authorities should jointly create service specifications with children and young people and publish a strategy for children and young people's advocacy, developed with children and young people.
- **Remove wording that would stop advocacy services from influencing parliament and policy-makers**– a key role of advocacy services is to highlight systemic failures, amplify young people's voices, and help them be heard nationally.
- **Further clarify non-instructed advocacy** e.g. amend definition, emphasise that non-instructed advocates should meet the child or young person and make 'rights based', not 'best interest' decisions.
- Put greater emphasis on **knowing legal rights** as informing and helping children and young people realise them is an important part of advocacy. .
- **Include shadowing and opportunities to learn from colleagues** in addition to any formal training to build up advocates skills.
- **Adequately resource advocacy contracts so that they can deliver the Standards**, e.g. information about advocacy should be available in range of accessible formats, but low contract values may limit what can be produced for individual services.
- Ensure a **minimum handover period of 3 months when transferring services** to new suppliers, with detailed plan for minimising disruption to CYP.

Detailed comments

Status of documents and accountability

- The 2002 Advocacy Standards that the new Standards replace, were issued under Section 7(1) of the Local Authority Social Services Act 1970. This status should be given to the new Standards to give them weight and encourage compliance. Hiding this wording in the Annex makes it unclear as to whether this applies to the whole document
- The current documents are not always clear on where responsibility lies and what is within the remit of a commissioned advocacy service and what a commissioning agency should do.
 - Whilst providers of advocacy should seek to adhere to the Standards when delivering services, they are only able to do so within the parameters of the contracts that commissioning organisations establish.
 - The responsibility for ensuring children and young people have access to advocacy that meets their needs sits with the local authority or other commissioning organisation. There is therefore a requirement that those that commission and establish advocacy service resource advocacy to meet the Standards. They must also develop a culture where staff are expected to support advocacy and work together with advocacy services to realise the shared goal of making sure children and young people's voices are heard and they know their rights.
 - To be effective Advocacy services rely on other professionals to respond to requests for information, act on young people's views or clarify why they cannot, where this is not possible. They need those who work directly with children and young people actively promote advocacy and make children and young people aware of the support available.
 - It is also important to note that advocacy services do not solve problems, they highlight them. It is for social care services to embed and respond to children and young people's wishes and feelings.
- Commissioning at a local level is important to embed advocacy as a key part of children's social care at a local authority level. The direct relationship with a local authority through commissioning can support communication, information sharing and a culture committed to the common goal of amplifying children and young people's voices.
- It is important that advocates whilst independent, are seen as a crucial part of a system that support the best outcomes for children. This will encourage other professionals to value advocacy and see it as a tool that can help them as well as young people. Advocacy is not just about avoiding negative things. It can also add positive things to children and young people's life, e.g. the improved wellbeing that

comes with a sense of agency and control³. Decision made with the child's views and wishes can make plans more robust.

Language

- Whilst the Guidance states that it is aimed at children and young people the language is complex and not child friendly. A child friendly plain English summary should be created. This does not need to include the full details of the Guidance, but should be clear on: what advocacy is; who is entitled to it; where to access it; what to expect from an advocacy service; and how you can get involved in improving advocacy services (including making complaints).
- The full Standards and Guidance should also be accessible and could benefit from being shortened and tightened, including removing repetition in place.
- The top level Standards should be in plain English and child friendly so that everyone has a common understanding of what to expect from an advocate⁴. Readability checkers can help assess the complexity of language used⁵. For clarity, it would be helpful to ensure that each standard focuses on one core thing rather than lots of different elements, as several currently contain more than 1 separate statement.
- When they are referring to the same things the Standards and Guidance should use consistent language and set the same expectations so that there is no confusion about which document to apply.
- The word 'advice' is overused throughout these documents, whilst advocates provide information/advise on what children's rights are, they take instruction from children and do not advise them. If they are providing non-instructed advocacy they will highlight children and young people's rights and any (potential) views/wishes for the decision maker to take into account. This point is explained well in para 1.5 and 1.6. of the Standards

Advocates do not promote or act on their own opinions and views. They never assume what it is the child or young person needs or wants, or seek to influence. Their role is to represent the child or young person's views, wishes and feelings and to champion their right to be heard and other rights. They show respect to children and young people and encourage others to act similarly.

They provide children and young people with all the relevant information and support them in interpreting and understanding that information so that they can make well-informed decisions.

³ The odds of having 'very high' well-being increased 1.5 times if young people felt included in decision-making compared with those who did not feel involved. Selwyn, J. & Briheim-Crookall, L. (2022) 10,000 Voices: The views of children in care on their well-being, Coram Voice and the Rees Centre, University of Oxford

⁴ An example of easy read document is the Advocacy Charter (aimed at advocates working with adults) <https://www.ndti.org.uk/assets/files/The-Advocacy-Charter-Easy-Read.pdf>

⁵ See <https://www.thewriter.com/tools/readability>

Formatting

- There is numbering in the Standards document, but not applied to all paragraphs, whereas the Guidance document does not number paragraphs or headings. Numbering paragraphs and heading consistently makes it easier for advocates or relevant parties to reference the Guidance and Standards.
- The use of direct quotes from young people is welcome in that it brings the voice of children and young people directly into the document. However, quotes should only be used where they illustrate the point being made. There are examples of misleading quotes that do not pertain to the section where they are used or that suggest the role of an advocate is different than it is.

Definition of advocacy

- There are several different definitions of advocacy in the document and not all get to the heart of what advocacy is. There is not enough emphasis on children's rights and the use of 'advice' suggests that advocates should be telling children and young people what to do in a given situation, rather than be guided by children and young people's views.
- A clear child friendly statement at the front of both documents about what an advocate/advocacy is would be best. Although the document states that the core principles were developed with children and young people the language is on par with the financial times⁶.
- We recommend that core principles (p.5) are directed at the child and set out as what they can expect from an advocate. Below is wording we use on our website, adapted using the Writer readability tool to be easy read.

What is an advocate?

- *They work for you, and no one else.*
 - *They make sure you understand what workers say and help you say what you want to say.*
 - *They tell you about your rights and the things that you should get from services, workers, carers or where you are living.*
 - *If you are not happy about how you are treated, they can help you sort out any problems or concerns.*
 - *They can go to meetings with you or speak to others about what you want and feel.*
- Both the Guidance and the Standards should be clear about the distinction between advocates and other professionals. Advocates do not make best interest decisions, they do not tell children what to do or provide children with the interventions that

⁶ Readability checked with The Writer's readability checker. <https://www.thewriter.com/tools/readability>

they may request through the advocate. Advocates are led by the child and are there to make sure that the child's voice is heard in decision making processes. They inform children and young people about their options. It is the responsibility of other professionals to consider and respond to children and young people's wishes and feeling as they make plans, make decisions or provide support to the child or young person.

Visiting vs community advocacy

- The Standards and Guidance should be clear on distinction between visiting advocacy, where services are contracted to regularly visit a particular setting like a children's home or a secure unit and advocacy commissioned to support the needs of a particular group of children e.g. looked after children and care leavers, homeless 16 and 17 year olds, or children going through child protection processes in a particular local authority.
- Currently the potential for visiting advocates to be a positive force for identifying and challenging abusive cultures and practices within the institution as highlighted in recent reports⁷ is not being realised. There is no consistency nationally in the role and function of visiting advocate. A separate standard on visiting advocacy could address this gap.
- Visiting advocacy, by seeing a range of children in a particular setting regularly, may be able to spot patterns and pick up organisational and cultural issues. This will be particularly important with severely disabled children who cannot directly instruct an advocate and where children come from a number of different local authorities (as is often the case in specialist residential settings). Visiting advocates, by regularly seeing children in a particular setting, may also be able to build up the trusting relationship referenced in 1.4. of the Standards.
- There are generally different commissioning arrangements for Visiting and Community advocacy and who is responsible for this provision should be clearer in the Guidance and Standards.

Importance of Rights

- We welcome the section on children's rights in the Guidance on page 8 but feel that language in Standards should be mirrored to emphasise that the right to be heard includes both listening and acting on children's views.

⁷ Para 3.46 and 3.47

https://assets.publishing.service.gov.uk/media/643e82136dda69000c11df6a/Safeguarding_children_with_disabilities_in_residential_care_homes_phase_2_report.pdf

*Article 12 (respect for the views of the child) Every child has the right to express their views, feelings and wishes in all matters affecting them, and to have their views considered and taken seriously.*⁸

- It is important to emphasise advocates role in supporting children to understand their rights and empowering children and young people to express their wishes and feelings.

Who is entitled to advocacy

- The standards should apply to all settings and circumstances where children and young people are entitled to help from an advocate – including health, social care, education, criminal justice, housing and immigration.
- For example, the exclusion of homeless 16 and 17 year olds is concerning. Whilst many do become children in need or looked after, it is in the initial assessment that they need advocacy and information to make informed decisions and navigate the system, as recognised in the Government’s Joint Guidance on Homeless 16 and 17 year olds.⁹ The importance of advocacy for this group was highlighted in a recent a report by the Children’s commissioner which showed that Homeless 16 and 17 year olds who have an advocate are 5 times more likely to be taken into care than young people who are not offered an advocate.¹⁰
- It is also confusing that there is no mention of Independent Mental Health Advocates (IMHA) & Independent Mental Capacity Advocates (IMCA) that children are entitled to, independently of whether these are covered by the guidance. Children and young people will not necessarily pick up on distinction between different advocacy roles.
- There are groups of children and young people who have an entitlement to advocacy that are not listed on page 5 of the revised Standards. The Guidance document does not highlight young people ‘qualifying for advice and assistance’ that are entitled to advocacy in the same legislation as children in care and care leavers. Cross reference Article 39’s [online list of children and young people in England who are currently entitled – by law and/or statutory guidance – to independent advocacy](#) to ensure that the Standards and Guidance include full details of advocacy entitlements.
- The documents should highlight that advocacy is an entitlement regardless of age and available from 0 to 25, though for some children this might take the form of non-instructed advocacy.

⁸ UNICEF summary of the United Nations Convention of the Rights of the Child: https://www.unicef.org.uk/wp-content/uploads/2019/10/UNCRC_summary-1_1.pdf

⁹

https://assets.publishing.service.gov.uk/media/5b0ed0b240f0b634b1266bc9/Provision_of_accommodation_for_16_and_17_year_old_who_may_be_homeless.pdf

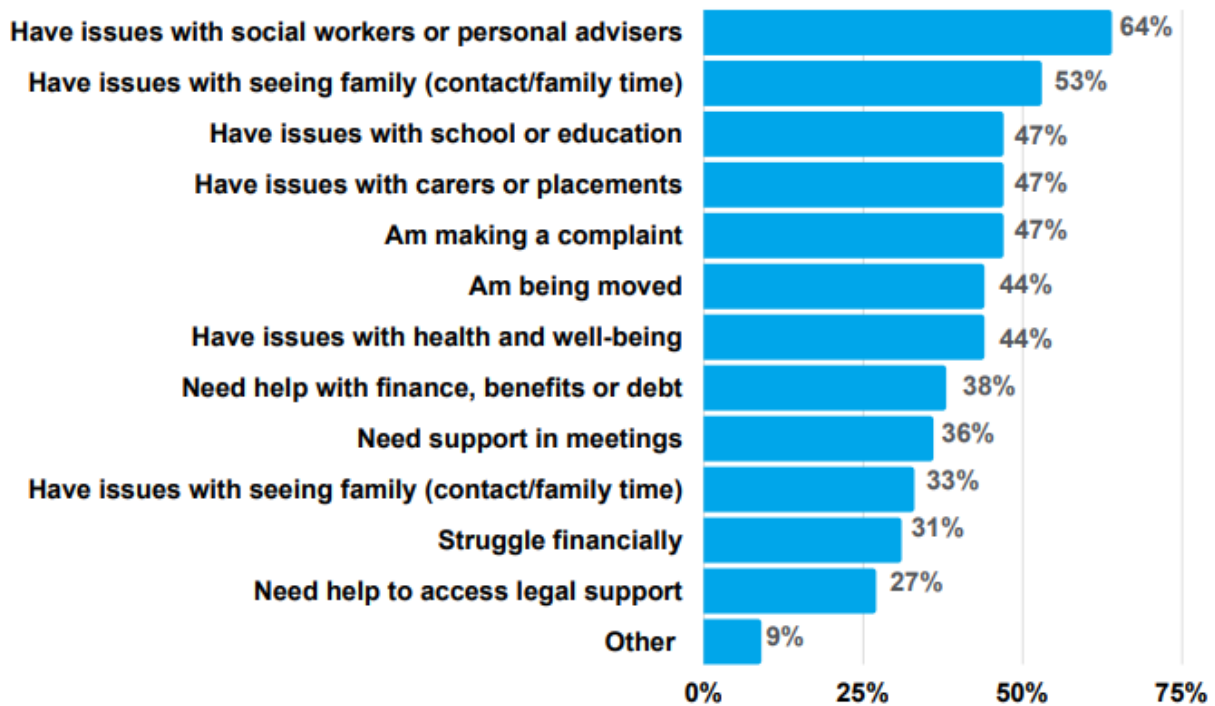
¹⁰ <https://assets.childrenscommissioner.gov.uk/wpuploads/2023/11/cco-homeless-16-and-17-year-olds.pdf>

Proactive offer – when advocacy should be offered to children and young people

- The concept of Opt Out advocacy was introduced in the care review and we welcome the emphasis in the Guidance and the Standards on proactively offering advocacy in a range of situations. We also believe that to make a proactive offer a reality a named advocate needs to be appointed to every looked after child, children who are subject to child protection enquiries, conferences and plans, care leavers and to other children and young people living in institutional settings.
- Consider being clearer about the frequency and or situations in which an offer of advocacy would be expected to be made (e.g. in 1.11 of the Standards).
- We welcome the emphasis on the range of situations that a young person may expect to receive advocacy. In addition to the situations identified both young people and professionals felt advocacy should be available when young people need help with mental health support, are unhappy with something in their placement or there are issues with contact with family and friends, or have issues with their personal advisers or social workers.
- It is good to see the emphasis on advocacy when young people are at risk of exclusion, but it should also be recognised that children and young people may have other issues with their education or relationships at school that they may want support to be raised.
- Children and young people at our Amplify conference wanted advocacy support when they had issues with:
 - Curfews, internet restrictions
 - Family & friends relationships
 - Freedom
 - Considering post 16/18 options and transitions
 - school and/or college
 - social workers or Personal advisers who did not listen
 - social workers, carers or support workers who say something offensive
 - making a complaint

In addition our 2022 survey respondents wanted help to be heard in the following situations.

I need someone to help me be heard when I...



Involving children and young people in services (Standard 2)

- For children and young people to be active partners they also need to be involved in the tendering, commissioning and design process. There should be an expectation on local authorities to include them in this. This is highlighted in the Guidance, but not in the Standards.
- Local authorities must explicitly engage CYP in jointly creating service specifications & should publish a strategy for CYP's advocacy, developed with CYP. Implementation and development should be led by a designated senior manager.
- We ran a workshop on advocacy at our Amplify conference attended by around 25 care experienced children and young people. When discussing how they could be involved in services they wanted to be involved in the recruitment of advocates, reviewing how well advocates do their jobs, how you can access services and how advocates work with young people.
- The case studies on active engagement, which were previously included in the Guidance have been lost. They were helpful and would be useful to include.

Non-instructed advocacy (NIA) (Standard 3)

- The definition of non-instructed advocacy in the Standards (p.6) is poorly worded. The child is not “non-instructed” but the advocacy is. We propose:

Non instructed advocacy is an approach used when a child or young person is not able to instruct an advocate and communicate their views wishes and feelings about a specific issue

- Some clarification of this standard is needed. It suggests that non-instructed advocacy would be possible without meeting the child, and in 3.7 that advocates should make best interest decisions. This is not the role of advocates. The suggestion that rights of children receiving NIA is unknown is also incorrect. Their views are unknown, but their rights are not.
- We welcome the recognition in this section that advocates should seek to take instruction whenever possible and that NIA is issue not person specific.
- Para 3.15 is problematic in that it obligates advocates to act as a litigation friend, which can create a conflict of interest. There is an inherent contradiction in being an advocate and a litigation friend – one makes best interest decisions, the other should not. Whilst our advocates have on occasion stepped in to take this role when no one else was available, it should not be expected of them. This would also not be funded by advocacy contracts, but should have its own funding stream.

Championing rights (Standard 4)

- We welcome the role of commissioning organisations emphasised in 4.1, 4.5. and 4.9. It is important that there is a culture that values advocacy across an organisation, that children and young people can access advocacy in a language that they understand and that involvement does not affect the child or young person’s right to see legal advice.
- Advocates should have a good working knowledge of relevant legal rights and assist children and young people to obtain legal advice where the local authority is not fulfilling its statutory obligations and the child or young person is in urgent need. Independent reviewing officers also have aligned statutory duties and powers of independent reviewing officers to refer significant breaches of looked after children’s rights to Cafcass, which in turn is empowered to initiate proceedings including through use of the Human Rights Act 1998.

Ensuring advocates have the skills to practice (Standard 5)

- Safer recruitment practices are essential in advocacy services. In 5.2. there is a specific list of what this should entail. There is a risk that by being very specific about what these practices should include, the list provided becomes outdated over time. The expectation should be that advocacy services consistently apply safer

recruitment practices and ensures that they review systems and processes regularly to ensure that they conform with the latest sector standards.

- We welcome the focus on quality training and support for advocates to do their role effectively and also the addition of trainees in 5.7 of the Standards. Our advocates highlighted that shadowing and opportunities to learn from colleagues as you practice is also essential to build up skills on the job. In terms of trainees, the line around not holding lead responsibility for statutory services (5.7), should not mean that they cannot have their own case load. The way to gain qualifications is to have an active case load and so would involve case holding and carrying out advocacy functions.

Equality and inclusion (Standard 6)

- We welcome the emphasis on equality and inclusion, including ensuring that information about advocacy is available in a range of formats. Contract values may limit what is possible to produce for individual services. It is therefore important to emphasise the need to ensure that advocacy services are adequately resourced.
- Para 6.5 of the Standards emphasises arrangements for advocates to meet in a place of the children and young person's choice. This wording does not reflect visiting advocacy and so paragraph needs some new wording to recognise this.

Independence and accessibility (Standard 7)

- We welcome the focus on wide publicity of advocacy services and ensuring accessibility through offering a free-phone telephone number. To make children and young people aware of advocacy services the young people we engaged felt using a range of tools to communicate was important, as was recognising that not all children and young people would have access to mobile phones and internet, especially younger children. Both digital and physical resources are needed.
- The children and young people at our Amplify workshop highlighted that they wanted to hear about advocacy through
 - Emails and updates from other professionals, not just carers
 - More teacher and tutors to learn and inform students
 - Links / websites
 - Videos
 - Lessons or Assemblies
 - Social worker updates on advocacy

Those that were aware of advocacy already had been told by professionals like social workers, PAs and foster carers, but also through school and college, participation groups or in mental health settings.

- We are concerned about the wording of 7.3 that suggest that children and young people in the same residential setting should not have the same advocate. CYP in

residential settings may have the same advocate (7.3) e.g. Visiting Advocates work with all children in a setting and have the benefit of being able to identify recurring issues. Smaller contracts & geographically dispersed services may make it more difficult to provide different advocates.

- Confidentiality is an important element of how trusting relationships are built between advocates and children and young people. We welcome the emphasis on confidentiality and that individual children’s records should not be disclosed to commissioning organisations, unless there are significant safeguarding or abuse concerns. In addition, advocacy services should be identified as Data controllers in the Standards for data protection purposes (GDPR).
- As others in the sector, we are very concerned about the wording on of para 7.23.
 - The role of advocacy services include the ensuring the rights of children are upheld by vocalising recurring issues children and young people raise, especially where there are systemic issues that infringe on their rights. This is key to supporting Government to fulfil its longstanding commitment to give due consideration to the United Nations Convention for the Rights of the Child when making policy and legislation.
 - Children’s rights and advocacy services are a vital mechanism through which government can learn about the views and experiences of children and young people, and identify necessary action for the fulfilment of their rights.
 - The proposed paragraph is incompatible with the role of advocacy services to help children and young people influence wider policy and practice. It contradicts the aims expressed in other parts of the Standards to be a voice for children and report on concerns and systemic rights failures (e.g. in annual reports). It could make it more difficult for services to respond and contribute to consultations such as this, Parliamentary Committee inquiries, major reviews of safeguarding concerns or evidence gathering by the Children’s Commissioner.
 - Being able to whistle blow to regulators like Ofsted or support children and young people to contact their MPs when they come across serious safeguarding concerns and rights infringements is part of advocacy.
 - Many local advocacy services support participatory groups, such as children in care councils and care leaver forums, that campaign for changes in local policy and practice, which in turn, informs national legal and policy developments.
 - To stop advocacy services from supporting children and young people to communicate with parliamentarians and government on matters of concern to them undermines the independence of the services and children and young people an important route to decision makers.

Complaints (Standard 8)

- Para 8.4. of the Standards does emphasise the potential for quicker resolution through direct manager which is highlighted on page 14 in the Guidance. “For

complaints made about an advocacy service, the first response would be to try and resolve it at a local level with the emphasis on problem solving. This would usually be undertaken by an advocate's line manager". Ensure consistency of language between the two sets of guidance.

Safeguarding and whistleblowing (Standard 9)

- In addition to the requirement to make direct safeguarding referrals to the local authority designated officer/statutory agencies, the Standards should indicate that advocacy services should notify the appropriate regulator when the concern relate to abuse or neglect within a residential or secure setting.
- It should also place a requirement on advocacy services to request written acknowledgement of receipt of, and subsequent feedback on, safeguarding referrals

Well-managed services (Standard 10)

- Standard 10 should include a requirement for commissioning organisations to ensure contracts for new providers have a minimum handover period of three months with a detailed plan for minimising disruption for children and young people.
- We welcome the requirement in 10.2 of the Standards for commissioning organisations to ensure sufficient funding to meet service specifications. This should also include an explicit reference to commissioning organisations ensuring their specifications and funding comply with the requirements of the revised standards to be added to standard
- We welcome the inclusion of advocacy services to produce annual reports in 10.6. These should also include the problems children and young people have had accessing advocacy services.

Specific comments on the Guidance for local authorities

- In many ways the Guidance is clearer than the Standards, perhaps reflective of its more specific remit. When finalised, the Guidance should mirror the language of the Standards whenever they are referring to the same things so that they do not contradict each other.
- The Guidance should be clearer on whether local authorities should provide an advocate if a child requests one. Current practice includes local authorities and social workers gatekeeping services. Young people told us that they have been denied an advocate because workers said they 'did not need one'.

- The Guidance should distinguish between visiting and local authority commissioned advocacy, especially in section on children’s homes
- More detail needed on how advocacy should inform systemic decisions.
- The Guidance (e.g. Children Act complaints procedures) should stress that LA complaints procedures should be child-friendly.
- The guidance states it relates to looked after children, children in need and care leavers, yet it also highlights qualifying young people’s entitlement to advocacy – this group is different and additional from the other groups. Guidance should be clear that it applies to them as well.
- Wording on stages of complaints procedures suggest it is voluntary where it is mandatory. In this section it would also be helpful to highlight when you can take a complaint to the Local Authority Ombudsman.
- The Guidance should be explicit about ensuring that advocacy services have access to interpreting services for any children or young people who need it.

For any queries about our response to the consultation, please contact
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