



cl@n childlaw

Community Law Advice Network
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Consultation on Independent Advocacy – Guide for Commissioners

cl@n childlaw offers a unique, independent legal advocacy service to children and young people. We are lawyers delivering free legal advice and representation to children and young people, who would otherwise have found it very difficult or impossible to access the legal help that they require. We help children & young people up to the age of 18, or 21 if they have been looked after children.

We deliver specialist training in child law and aim to contribute to policy development in relation to the realisation of rights for children and young people across Scotland through our evidence based Policy Development Unit.

Within our team, we have considerable experience of the Children's Hearings system, and advocating for children within it and in other settings. We work to a strict set of rules on conflict of interest, prescribed by the Law Society of Scotland. All solicitors have to be familiar with the concept of conflict of interest as part of their everyday work in terms of professional ethics.

We have no direct interest in the commissioning or delivery of advocacy to persons with a mental disorder. However, we note that the Scottish Government proposes to "consult separately on supplementary material focussing specifically on advocacy for children and young people. That material will be designed for use in conjunction with the Guide for Commissioners." (see para 4, Background to Consultation) Against that background, we are particularly interested in the proposed Standards set out at Appendix 1, especially those associated with Principle 3.

It appears that delivery of advocacy services to children and young people perhaps differs from delivery of such services in other sectors, in that there are several organisations which

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provide high quality, much-needed advocacy for children and young people *and* are service providers. It appears that the inter-related concerns around: (a) “independence” or otherwise of advocacy provision; and (b) conflicts of interest are probably the most challenging to resolve. The challenge, therefore, appears to be to maintain and improve the quality and availability of advocacy services overall, while taking account of, or resolving the issues around independence and conflicts of interest.

We recognise the concerns around provision of advocacy by those who provide other services. However, should the proposed standards be applied to advocacy for children and young people, we are concerned that Standard 3.1 may have the effect of reducing the range of advocacy available to children and young people. We would prefer to see a standard which imposes a requirement on all organisations delivering advocacy services to have robust, transparent conflict of interest policies and procedures in place. Such an approach would have the benefit of striving for the highest possible standards, whilst maintaining levels of service currently available. Even where an advocate is wholly independent, conflicts of interest may arise, in relation to interests of different people for whom they are advocating. Our view is that it is critical to have mechanisms in place to recognise and address conflicts of interest in all advocacy provision, and that this should be the overriding concern, rather than necessarily focussing on complete independence of advocacy.