



SIAA Response - Raising the age of referral to the children's reporter consultation

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Scottish
Independent
Advocacy
Alliance

Introduction

The Scottish Independent Advocacy Alliance (SIAA) is a membership organisation that has the overall aim of ensuring that independent advocacy is available to any marginalised person in Scotland. Independent advocacy safeguards people who are discriminated against or whom services find difficult to serve, empowering people who need a stronger voice by enabling them to express their own needs and make their own decisions.

SIAA welcomes the opportunity to respond to the Scottish Government consultation on raising the age of referral to the children's reporter. Our contribution draws on the experiences of our members and their expertise in supporting children and young people.

Response to the first and second questions: do you agree that the maximum age of referral to the Reporter should be increased to 18 and if so, are the existing grounds of referral to a Children's Hearing sufficient?

SIAA would like to see the maximum age of referral to the Reporter increased to 18. The current system does not address the needs of children between the ages of 16 and 18 who might require protection, leading to children "falling through the gaps", and that it does not take a holistic view of children who offend (a change to the maximum age of referral would stop young people from getting a criminal record that could stay with them for years - which is far from a holistic view of the child). Raising the age of referral would also be in line with the UNCRC, which sets that all people under 18 years of age are considered as children, and would therefore extend support across the board.

Participation should be a central feature of any measures that are taken: this means following and respecting GIRFEC and UNCRC principles and making sure children and young people, their parents and carers are aware of them and understand them enough to know their rights. This should go hand in hand with an extension of resourcing for independent children's advocacy services in order to cover the extending age range, to ensure that every child has access to independent advocacy and that the system is holistic and fair to all.

Independent advocates support people to understand and secure a range of human rights helping to make them meaningful in the real world. In addition, the values that underpin independent advocacy mesh with the PANEL principles of a human-rights based approach (Participation, Accountability, Non-discrimination, Empowerment and Legality) because they:

- Enable people to participate in systems and processes
- Hold decision makers to account
- Fight discrimination
- Empower people
- Promote equality
- Ensure that decision makers work within the law

Response to questions 3, 4 and 5: what are your views on the potential implications, including resource, of increasing the age of referral to the Reporter for local authorities, Police, SCRA (the public body which operates the Reporter service), for Children's Hearings Scotland (the body which operates the national children's panel) and other service providers/organisations?

If the change to the age range is implemented it will bring additional work for local authorities, social work and third sector organisations, which are already underfunded and have long waiting times.

Some of our member independent advocacy organisations have recently taken on work for Children's Hearings. These organisations are key to ensuring that children have their voice heard in the process they are taking part in. There needs to be a holistic approach to resourcing, which includes the independent advocacy organisations that have worked for many years on this policy area and are instrumental in upholding children's human rights and participation in processes that significantly affect their lives.

It is important that child friendly, inclusive and accessible communication is budgeted for and implemented across all sectors working with children and young people in relation to the Reporter. Consideration should also be given to evidence that 16- and 17-year olds can be harder to reach, and have different needs than younger children so this needs to be reflected in resourcing and funding.

Independent advocacy and children

Article 12 of the UNCRC states that children have the right to be listened to and taken seriously. This means that children and young people must be given the information they need to make good decisions and that their views and opinions need to be considered in decisions that are made about them.

However, many children will, in practice, require significant support to make this a reality. They may need help in understanding the complexities of decisions that are being made about them, as well as in overcoming barriers to their participation such as power imbalances, lack of confidence and a history of feeling ignored and irrelevant in previous decision-making. “Advocacy gives the young person a chance to tell someone what they want or like, outwith the line of professionals. It helps children and young people to put their views across with what they think is best for them as a lot of children don’t as they don’t think they would be listened to or they don’t know how to say it” (Who Cares? Scotland, <https://www.whocarescotland.org/what-we-do/advocacy/>).

Evidence from our members indicates that, even when people have a right to access independent advocacy (e.g. through the Mental Health (Scotland) Act 2003), there are still multiple barriers to their actually receiving this support. This includes a lack of knowledge and understanding about their right to advocacy, as well as a paucity of adequate funding for independent advocacy organisations to be able to deliver at the necessary capacity. This is particularly true for children and young people, with evidence from our members consistently identifying children and young people with mental disorders as a group that is frequently unable to access independent advocacy, despite their statutory right to do so – for many of them, the right to independent advocacy remains an abstract notion that cannot be realised in practice.

SIAA is a Scottish Charitable Incorporated Organisation | Charity number

SC033576

enquiry@siaa.org.uk | www.siaa.org.uk

18 York Place | Edinburgh | EH1 3EP