



SIAA submission of evidence: Alternative Children's Rights Impact Assessment

May 2020



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 vulnerable person in Scotland. Independent advocacy safeguards people who are marginalised and 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 contribute to the Observatory of Children's Human Rights', 'Alternative Children's Rights Impact Assessment'. Our contribution draws on the experiences of our members and their expertise in supporting vulnerable people – both children and adults - to have their voices heard in a range of situations relating to, for instance, mental health, education and social security.

We start by looking briefly at independent advocacy in the context of three key themes – human rights, Covid-19 and children – before highlighting the need for the Scottish Government to embed access to independent advocacy for children in its response to Covid-19 and make far more explicit the value that it can provide in helping mitigate the impact of the pandemic on Scotland's most vulnerable children.

1. Independent advocacy and human rights

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

2. Independent advocacy and Covid-19

The current pandemic is hugely concerning for everyone - but it is increasingly clear that both the virus itself and the legislation put in place to mitigate its impact are experienced differently by different people. Evidence from our members over the last couple of months has consistently demonstrated that the impact of Covid-19 is felt disproportionately harshly by already marginalised people and groups.

Independent advocacy organisations are well-placed to play a pivotal role in supporting people through this time of crisis. They are trusted community organisations with excellent local links and there is independent advocacy provision in all 32 of Scotland's local authorities.

3. 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.

4. The Scottish Government's response to Covid-19: Where is the independent advocacy for children?

The Scottish Government recently published its 'UN Committee on the Rights of the Child: Covid-19 Statement'. This is a 16-page document outlining its response to the concerns raised by the UN Committee regarding the situation of vulnerable children.

Information provision, advice-giving and independent advocacy are mutually supportive, but distinct, avenues of assistance that will help children and young people – and those supporting them - to challenge public authorities and enforce their rights throughout the crisis. However, they fulfil different functions and provide different levels of support. They are not interchangeable.

Critically, although the Scottish Government's statement makes a number of references to information-provision and advice-giving, it does not make *any* references to independent advocacy. SIAA contends that, protecting vulnerable children adequately against the impact of the Covid-19 health crisis will require the provision of suitable information, advice *and* independent advocacy. Consequently, the Scottish Government must make an explicit commitment to recognising and promoting the value of independent advocacy in the statement and similar documents, as well as ensuring that vulnerable children and young people are effectively sign-posted to independent advocacy services.

There are multiple places in the statement where the inclusion of independent advocacy would greatly enhance the content. Areas 6, 7 and 11, as defined by

the UN Committee, are particularly relevant in the context of independent advocacy:

Area 6. Define core child protection services as essential and ensure that they remain functioning and available, including home visits when necessary, and provide professional mental health services for children living in lockdown.

Area 7. Protect vulnerable children from the exceptional circumstances caused by the pandemic. These include children with disabilities; children living in poverty; children in street situations; migrant, asylum-seeking, refugee and internally displaced children; minority and indigenous children; children with underlying health conditions including HIV/AIDS; children deprived of their liberty or confined in police lock-up facilities, prisons, secure care centres, migrant detention centres or camps; and children living in institutions. States should respect the right of every child to non-discrimination in its measures to address the COVID-19 pandemic as well as take targeted measures to protect children in vulnerable situations.

We believe that children being supported by child protection services, as well as the vulnerable groups of children detailed in 'Area 7', would all hugely benefit from access to independent advocacy in order to help them to know and understand their rights, think through choices and make informed decisions. An independent advocate would be able help a child formulate and express their views from a very young age. For children with limited capacity due to their age or disability or limited verbal communication, a non-instructed

independent advocate could act to defend the human rights of the child and ensure their rights are central to decision-making processes.

5. Provide opportunities for children's views to be heard and taken into account in decision-making processes on the pandemic.

Providing opportunities for people to take part in and scrutinise decisions which affect them is a key element of a human-rights based approach to decision-making. Consequently, we strongly support the use of mechanisms to ensure that children and young people are meaningfully engaged throughout the pandemic. SIAA would argue that independent advocacy would need to be a key plank of this process, in order to ensure that a wide range of opinions are heard during engagement activities - including from those who are the most vulnerable and least likely to have their views sought and listened to.

6. Different types of independent advocacy

There are two different types of independent advocacy, both of which are relevant and useful within the context of supporting vulnerable children/young people through the Covid-19 pandemic. For more information, see SIAA's [Principles, Standards and Code of Best Practice \(2019\)](#) for independent advocacy.

Individual advocacy

There are a number of different types of individual advocacy, but it always involves a one-to-one relationship between an independent advocate and an advocacy partner (the person being supported). It can be provided by both paid and unpaid advocates. An advocate supports an individual to represent

his/her own interests or represents the views of an individual if the person is unable to do so. Advocates provide support on specific issues and provide information, but not advice. This support can be short or long term.

Non-instructed advocacy is a specific type of individual advocacy that happens when there are issues with a person's capacity perhaps resulting from limited communication due to a physical disability or a learning disability. In such situations, a non-instructed advocate seeks to uphold their advocacy partner's rights and ensure that decisions are taken with full consideration of their unique preferences, rights and perspectives.

Collective advocacy

Collective advocacy creates spaces for people to get together, support each other to explore shared issues and find common ground. It supports people to speak up about their experiences, values and expectations. It enables people to find a stronger voice, to campaign and influence the agendas and decisions that shape and affect their lives. Collective advocacy can help planners, commissioners, service providers and researchers to know what is working well, where there are gaps in services and how best to target resources. It helps legislators and policy makers to create opportunities for people to challenge discrimination and inequality and helps people learn to become more active citizens. Collective advocacy groups benefit from skilled help from an independent advocacy organisation and with the support of resources.

7. Conclusion

Independent advocacy is a key human rights tool that must be placed at the heart of legislative and policy processes if we are to ensure that Scotland's most vulnerable and marginalised children are not left behind in their ability to exercise their rights in the context of Covid-19.

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