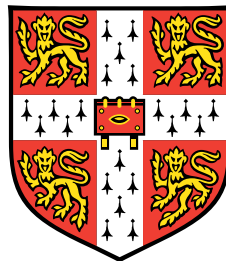


**Protocol on Advice and Advocacy for Parents  
(Child Protection)**

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# Preface

The Department of Health provided s.64 funding to the authors to develop a model protocol which can be used by those responsible for designing and delivering child protection services in England and Wales. This protocol draws upon the research evidence of a qualitative research study conducted by the authors on specialist advice and advocacy for parents in child protection cases (1997-2001). It has been developed in consultation with the Department of Health and a wide range of policy makers, practitioners, parents' advocacy groups and academics with expertise and interest in this area, who are listed on the previous page. It has also been welcomed as a positive tool for promoting partnership in child protection cases by a number of people and organisations including:

- The Association of Lawyers for Children
- The Association of Directors of Social Services
- The Bibini Centre for Young People
- The Right Honourable Dame Elizabeth Butler-Sloss, DBE, President of the Family Division
- British Agency of Adoption and Fostering
- British Association of Social Workers
- Children's Legal Centre
- Durham County Council Area Child Protection Committee
- Family Rights Group
- Merseyside Family Support Group
- National Youth Advocacy Service
- Parentline Plus

Although it has been developed by the authors for the Department of Health, all the views and recommendations expressed within it are those of the authors alone.

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# 1. Introduction

## 1.1. Why is this protocol necessary?

One of the key objectives of the government's Quality Protects (QP) programme for improving children's services is to promote the participation of children, young people and their families in the planning and delivery of services, and in decisions which affect their day to day lives. Particular attention is to be given to enhancing their individual voices, for example through the development of independent advocacy services. In child protection, one of the means of promoting their participation is to develop materials such as protocol examples, which relate to the core guidance in Working Together to Safeguard Children (1999)<sup>1</sup>.

A number of steps have already been taken to promote advocacy for *children and young people*. For example, National Standards on the Provision of Children's Advocacy Services have recently been published by the Department of Health<sup>2</sup>. However the Department is also committed, as part of the QP programme, to promote the participation of *families* in the delivery of services, particularly child protection planning and decision-making. It has therefore funded the authors to develop this protocol to promote best practice regarding the involvement of advocates on behalf of parents. For ease of reference, and unless otherwise specified, we use the term "parent" to include other carers, relatives and/or significant persons in the child's life throughout this protocol, and the term "advocate" to include advocates (employed by advocacy organisations) and practising solicitors with specialist knowledge of child protection who provide advocacy in this context. This is discussed further in section 2.5.

The Department acknowledges that advice and advocacy is an important and legitimate resource for parents whose children are the subject of child protection enquiries. There is a clear expectation in core guidance that parents should routinely be given information about how they can access advice and advocacy services from the outset of the enquiries, and enabled to involve an advocate to support them throughout the process<sup>3</sup>. It is based on the premise that:

- a positive partnership between parents and the local authority is *the* fundamental principle underpinning the successful protection of children at every stage of the process, but that
- parents may need to be given support, information and advice from an independent advocate, to be able to participate effectively in the process from an informed position.

Area Child Protection Committees (ACPCs) are asked to have in place a protocol covering the involvement of [children and] family members in child protection conferences, and the role of advocates<sup>4</sup>. To save each ACPC from reinventing the wheel, this protocol outlines best practice on the advocate's involvement in a child protection case. It is intended to inform local protocols.

## 1.2. Who is this protocol for?

Research evidence<sup>5</sup> suggests that advice and advocacy for parents is not as yet a coherent, nationally available service. The few specialist advocacy schemes which exist are innovative, and

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<sup>1</sup> Department of Health, Working Together to Safeguard Children: A guide to inter-agency Working to Safeguard and Promote the Welfare of Children, The Stationery Office, London, 1999.

<sup>2</sup> Department of Health, National Standards for the Provision of Children's Advocacy Services (2002) available on [www.doh.gov.uk/childrensadvocacy](http://www.doh.gov.uk/childrensadvocacy).

<sup>3</sup> Working Together, 1999, paras 5.43 & 5.57, and paras 7.19-21.

<sup>4</sup> Working Together, 1999, para 4.18.

<sup>5</sup> B. Lindley, M. Richards & P. Freeman, 'Advice and advocacy for parents in child protection cases – what's happening in current practice? [2001] *Child and Family Law Quarterly* 13:2 at p.167; and B. Lindley, M. Richards and P. Freeman, 'Advice and Advocacy for parents in Child Protection Cases: an exploration of conceptual and policy issues, ethical dilemmas and future directions', *Child and Family Law Quarterly*, 13:3, p1

their advocates, along with practising solicitors who provide advocacy in child protection, have had to develop many of their skills on the hoof. Moreover, the responses of local authorities to advocates' involvement in child protection is very variable: indeed it is still quite rare for advocates to become involved in such cases, with the result that, not surprisingly, there is some evidence of caution amongst professionals about their involvement, especially when they are not familiar with the advocate's work and/or when the advocate is being, or is perceived as being, confrontational.

This protocol outlines the ethical and practice issues which need to be addressed when advocates become involved in helping *parents*. Specifically, it provides guidance for:

- advocates on the remit of their role (including its limits) within a child protection framework; and
- social work practitioners and other child care professionals on how to work with advocates.

The overall aim of the document is to promote best practice, so that advocacy for parents enhances parental participation in planning for children who are subject to s.47 enquiries rather than undermining it. It is the first time such a protocol has been developed at a national level. It draws upon qualitative research evidence about the current advocacy available to parents<sup>6</sup>, and has also been developed in consultation with a wide range of child care and advocacy organisations, and also the Department of Health, the ADSS, the Law Society<sup>7</sup>, and members of the judiciary. The authors believe they have outlined a framework for best practice, but given the fact that this protocol is breaking new ground, feedback from readers about how it works in practice is very important. The authors would therefore invite readers to complete and return the evaluation form at the end of the document, to assist them with future revisions of the protocol. This version (and any revised version) is available on the following websites:

[www.sps.cam.ac.uk/CFR/advocacyprotocol.pdf](http://www.sps.cam.ac.uk/CFR/advocacyprotocol.pdf) ; <http://www.doh.gov.uk/acpc/>;  
<http://www.doh.gov.uk/qualityprotects/>; and [www.frg.org.uk](http://www.frg.org.uk).

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<sup>6</sup> This protocol is informed by the research findings of a qualitative research study on specialist advice and advocacy for parents in child protection cases (1997-2001). The study was funded by the Nuffield Foundation, and the key findings are set out in Appendix 1.

<sup>7</sup> Solicitors are subject to rules and principles governing their professional practice and conduct. All solicitors MUST comply with this guidance, which takes precedence over this protocol. The Family Law Committee's guidance to solicitors on their involvement in child protection procedures and attendance at child protection conferences is currently being revised – the current guidance can be found at [www.lawsociety.org.uk](http://www.lawsociety.org.uk) in the family specialism section.

## 2. Background

### 2.1. Why might parents want an advocate?

Guidance in Working Together (1999) flags up the importance of the local authority working in partnership with parents as *the* fundamental principle underpinning the successful protection of children at every stage of the process<sup>8</sup>. The rationale for, and commitment to, it is that

*“parents know more about their family than any professional could possibly know, and well-founded decisions about a child should draw upon this knowledge and understanding”<sup>9</sup>.*

Yet, the inherent complexity of the relationship between the parents and the local authority may prevent this from being achievable in every case: where there is a divergence of views between the social worker and the parents about the risk of harm to the child, the social worker’s duty to protect the child takes precedence over his/her role as advocate for the family as a whole. This often leaves the parents unsupported<sup>10</sup>. When this occurs, parents may need to be supported by an independent advocate to be able to participate effectively in the process<sup>11</sup>.

### 2.2 Do parents have a right to have an advocate<sup>12</sup>?

Although parents do not as yet have a statutory *right* to involve an advocate on their behalf in a child protection case, there is nevertheless a strong presumption that they should be able to. Not only is this set out in Working Together 1999<sup>13</sup>, and the government’s objectives in the Quality Protects programme, as described above, but it has also been established in case law. In the judicial review case of R-v- Cornwall CC ex parte LH (1999)<sup>14</sup> the local authority’s policy, which prohibited solicitors from attending conferences on behalf of parents for any purpose other than to read out a prepared statement, was declared unlawful. Whilst acknowledging that legal representation in conferences was not appropriate, Scott Baker J concluded: *“it seems to me that in general solicitors ought to be allowed to attend **and participate** [emphasis added] unless and until it is felt that they will undermine the purpose of the conference by making it unnecessarily confrontational”* (p244C).

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<sup>8</sup> This is not a new approach. It was regarded as one of the central principles in the previous version of Working Together 1988, also published by the Department of Health; and was the subject of specific guidance issued by the Department of Health in the Challenge of Partnership, HMSO London, 1995, and the findings of previous research - see Department of Health, Child Protection: Messages from Research, HMSO, 1995.

<sup>9</sup> Chapter 7 at page 75.

<sup>10</sup> M. Bell, “Working in Partnership in Child Protection: the Conflicts” 1999, 29 *British Journal of Social Work* 437, at pp 437-455; B Corby, M Millar and L. Young, “Parental Perspectives in Child Protection Work: Rethinking the Rhetoric”, 1996, 26 *British Journal of Social Work* 475, at pp 475-492; J. Thoburn, A Lewis, and D. Shemmings, Paternalism or Partnership? Family Involvement in the Child Protection Process, HMSO, 1995.

<sup>11</sup> Hunt, J & McLeod, A, 1999, The Last resort: Child Protection, the Courts and the Children Act, HMSO, London at pp149-152; P. Freeman, & J Hunt, Parental Perspectives in Care Proceedings, 1998; B. Lindley, M. Richards & P. Freeman, ‘Advice and advocacy for parents in child protection cases – what’s happening in current practice?’ [2001] *Child and Family Law Quarterly* 13:2 at p.167; and B. Lindley, M. Richards and P. Freeman, ‘Advice and Advocacy for parents in Child Protection Cases: an exploration of conceptual and policy issues, ethical dilemmas and future directions’, [2001] *Child and Family Law Quarterly*, 13:3, at p.311.

<sup>12</sup> The question of whether parents involved in child protection cases should have a right to involve an advocate is also addressed in B. Lindley, J. Herring and N. Wyld ‘Public Law Children’s Cases: whose decision is it anyway?’ In J. Herring (ed), Family Law: Issues, Debates, Policy, Willan Publishing, 2001 at pp 170-200.

<sup>13</sup> See Working Together, 1999, paras 5.43 & 5.57, and paras 7.19-21. Note that this guidance carries considerable weight because it is issued under s.7 Local Authority Social Services Act 1970, which: *“requires local authorities in their social services functions to act under the general guidance of the secretary of state. As such, this document does not have the full force of statute, but should be complied with unless local circumstances indicate exceptional reasons which justify a variation”* (p.viii).

<sup>14</sup> R-v- Cornwall CC ex parte LH (1999) [2000] 1 FLR 236.

In addition, section 6 of the Human Rights Act 1998 (HRA) provides that it is: "*unlawful for a public authority to act in a way which is incompatible with a Convention right*". This means that any decisions made by local authorities (or any other child care agencies involved in child protection cases) within a child protection framework should not be in breach any of the rights established by the European Convention on Human Rights and Fundamental Freedoms (ECHR). The most relevant rights to this context are the *right to a fair trial in the determination of civil rights* (Article 6), and the *right to respect for private and family life* (Article 8). Although there has not as yet been any specific ruling on whether parents have a right to advocacy in child protection cases under the HRA, these two articles raise a strong expectation that parents should be treated fairly when their children are subject to child protection procedures. Indeed they have been referred to in two recent cases regarding local authority decision-making which have established, amongst other things, that:

- there is an implicit procedural requirement in Article 8 that parents should be involved in the decision-making process when crucial decisions about the child's future are made, otherwise the decision may be quashed (Re: M (Care: Challenging Local Authority Decisions)<sup>15</sup>); and
- the right to a fair trial in Article 6 is not confined to the "purely judicial part of the proceedings", but applies to the *administrative processes* of the case as well – unfairness at any stage of the litigation might involve not merely a breach of Article 8 but also of Article 6 (Re L (Care: Assessment: Fair Trial)<sup>16</sup>).

In the second case, Munby J gave guidance to social workers on how to avoid unfairness to parents in local authority decision-making in future. In addition to notifying them of material criticisms of, and deficit in, their parenting or behaviour, and advising them on how they may improve their parenting or behaviour, a parent or other party who wishes, should have the *right to attend and/or be represented* [emphasis added] at professionals meetings. This case re-emphasises the requirement of procedural fairness in local authority decision-making found in other cases, but stops short of establishing that there is an absolute right to representation for parents within local authority decision-making processes.

### **2.3. What do advocates actually do for parents?**

Advocacy comes in many different guises, ranging from legal advocacy in court where the lawyer pleads the persons case for them, to citizen or peer advocacy in other forums in which the advocate assists the person to express their views to someone who will make a decision which affects his/her life. It has been described as "helping another person obtain something from someone with power", with the individual's rights as a citizen (both to information and to a particular standard of service) being the "fulcrum upon which advocacy balances"<sup>17</sup>. When applied in a child protection context we suggest that, without compromising the safety of the child, the core goal of advocacy is twofold:

- to empower parents to participate in the child protection process from an informed position, speaking for themselves wherever possible, and
- to promote good communication, and a positive working relationship, between the parents and the local authority<sup>18</sup>.

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<sup>15</sup> Re M (Care: Challenging Local Authority Decisions) [2001] 2FLR 1300.

<sup>16</sup> Re L (Care: Assessment: Fair Trial) [2002] EWHC1379 (fam); [2002] 2 FLR 730.

<sup>17</sup> N. Bateman, *Advocacy skills: A handbook for Human Service Professionals*, Arena, 1995 at p.2-22.

<sup>18</sup> B. Lindley, M. Richards & P. Freeman, 'Advice and advocacy for parents in child protection cases – what's happening in current practice?' [2001] *Child & Family Law Quarterly* 13:2 at p.167.

In order to achieve this goal, advocates need to be clear about the nature of their intervention/role and how it might differ from their previous involvement with the family or other related professional experience<sup>19</sup>. In short they need to make sure they have the right hat on. Our suggestions on how this can be best achieved are outlined below.

#### 2.4. Are advocates for parents also advocates for the child?

Although there is provision in Working Together for older children to make their own direct contributions to conferences and plans<sup>20</sup>, the child's views will generally be presented in the child protection process by the social worker. However, it is clearly good practice for the child to have their own advocate if they wish<sup>21</sup>. This might arise, for example:

- where there is a divergence between the social worker's and the child's views about what is in his/her best interests, and the child does not feel his/her views are being represented and/or heard; or
- where there is a disagreement between the social worker's and the parents' account of the child's views.

In these circumstances they might choose a professional advocate, a peer advocate or a relative to support them.

The role of the child's advocate is distinct from that of the advocate for the parent, and is guided by the National Standards on the Provision of Children's Advocacy Services<sup>22</sup>. The parent's advocate does *not* advocate for the child, unless s/he is working directly with him/her, in which case s/he should make it explicitly clear to all parties involved in the process. In all other circumstances, s/he advocates for the parent alone. Where the parent disagrees with the social worker's report of the child's views, the advocate may present the *parent's* understanding of the child's views.

#### 2.5. Who may act as an advocate?

It is important to acknowledge at the outset that advocacy may be provided by a range of different people in a variety of different ways. Research evidence suggests that there is no one type of advocate who is optimal for all stages of every case. All parents are likely to attempt to speak for themselves to the best of their ability, but they may also want to rely on a number of people for support, advice and intervention at different stages of the child protection process. Broadly these people fall into two categories:

- **informal supporters**, who tend to be be-frienders, members of self-help groups, relatives and friends, and who generally do not have specialist knowledge about child protection prior to their involvement in the case; and
- **formal advocates** who tend to be professionals, including practising solicitors, and generic advocates, some, but not all of whom, have specialist knowledge of child protection issues.

The category into which the person providing advocacy or support falls is determined by their relationship with the parent, rather than the skills they have. For example, if the parents happen to have a friend who is a social worker and who offers to support them through the process, the latter

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<sup>19</sup> For a discussion of how advocacy differs from other forms of intervention, for example mediation, family group conferences, and self-help groups, see B. Lindley, M. Richards and P. Freeman, 'Advice and Advocacy for parents in Child Protection Cases: an exploration of conceptual and policy issues, ethical dilemmas and future directions', [2001] *Child and Family Law Quarterly*, 13:3, at p 311.

<sup>20</sup> See para 5.57, Working Together, 1999 as above.

<sup>21</sup> For further guidance on advocacy for children and young people, see Department of Health, National Standards for the Provision of Children's Advocacy Services 2002, available on [www.doh.gov.uk/childrensadvocacy](http://www.doh.gov.uk/childrensadvocacy). Note also that local authorities are now required to provide advocacy services for children who make a formal complaint under s26, CA (s26, CA amended by s119 Adoption and Children Act 2002)

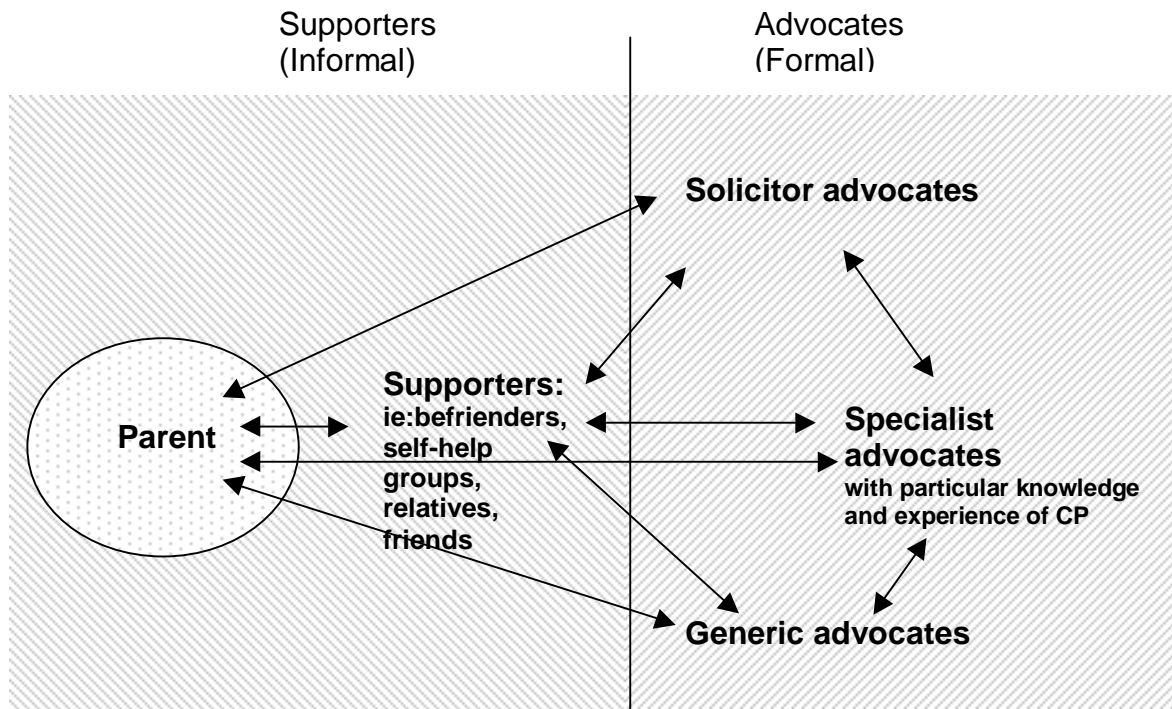
<sup>22</sup> These standards were issued by the Department of Health in November 2002, as s. 7 Guidance for councils with social services responsibilities. They are available on [www.doh.gov.uk/childrensadvocacy](http://www.doh.gov.uk/childrensadvocacy).

is a supporter rather than an advocate because s/he has some personal involvement with the parent and may therefore be less able to be objective and/or bound by their usual professional codes of conduct if it means criticising the parent with whom s/he has an emotional attachment.

For ease of reference in this document we use the terms **supporter** and **advocate** to describe these two groups respectively. We suggest that it would be helpful if practitioners routinely differentiated between these two groups so as to avoid confusion in practice. To facilitate this, we suggest that procedures should distinguish between the expectations of advocates and supporters.

This protocol focuses on the role of **advocates** for parents in child protection. However, there is also a section which addresses the issues which arise when a **supporter** becomes involved in the process on their behalf.

**Fig 1: Potential range of different types of supporters/advocates**



## 3. Referring Parents to Advocates

### 3.1. Why refer parents to advocates?

The guidance in Working Together recommends that parents whose children are the subject of s.47 enquiries should always be given information about how advice and advocacy can be obtained from independent sources, both locally and nationally. They should also be told that they may bring an advocate and/or friend or supporter to a child protection conference<sup>23</sup>. It should be acknowledged that a supporter may be the only person available to parents, and/or may indeed be the preferred choice of the parent.

### 3.2. Which advocates should parents be referred to?

Each ACPC should conduct a trawl of local advice and advocacy services to ascertain the extent of services which are available to parents in their area. The aim of this exercise will be to *compile a list* of local and national sources of independent advice and advocacy to be given to parents at the outset of s.47 enquiries. This exercise will involve identifying:

- local advice and advocacy services which already have the expertise to work with parents in child protection, as identified in the next section;
- local generic advice and advocacy services (such as Citizen's Advice Bureaux, citizen advocacy groups, women's groups, parenting groups and disability groups) which would be willing to extend the remit of their work to include advocating for parents in child protection, if the local authority encouraged and sponsored them to receive the necessary training;
- local black and minority ethnic groups who either already have the expertise, or have the willingness and potential to acquire expertise in child protection, to advise, advocate and support families involved in such cases. This will give black and minority ethnic families the possibility of involving an advocate from their community if they wish. Training for such organisations may be available from Family Rights Group (FRG) free of charge;
- practising solicitors in the area who have experience in child protection, and are familiar with Working Together and the local child protection procedures, particularly those who are members of the Law Society's Children Panel. This information can be obtained from the Law Society's Information Services (telephone 01527 504433), from the Community Legal Services Directory line (telephone: 0845 608 1122) and/or from the local Law Society; and
- any national advice and advocacy services which are able to provide specialist support to parents and their advocates and supporters, as required. This should include FRG which is the only nationally available, specialist advice service for parents involved in child protection. It operates a free telephone advice service for families who are in contact with social services about the care of their children, and their advisers and supporters. This service is open between 1.30-3.30pm Monday to Friday on freephone 0800 731 1696. Advisers are also able to send out written information to callers including detailed legal, practice and research information. Much of this information can be viewed on their website: [www.frg.org.uk](http://www.frg.org.uk).

<sup>23</sup> See paras 5.43 & 5.57, and paras 7.19-21.

### 3.3 How should parents be referred to advocates?

We suggest that local child protection procedures should require the social worker, who is leading the enquiries under s.47 CA, to be responsible for giving this information to the parents as soon as the enquiries are initiated, at the same time as any other information being given to them about the child protection process, the concerns, and other adult services available to them to meet their needs. In practical terms, the most efficient way of implementing this would be to delegate the task to the administrative staff who support the child protection team under the supervision of the lead social worker. In addition, social workers may want to draw parents' attention specifically to the possibility of involving an advocate where there are communication difficulties, for example where the parents and local authority are not understanding each other's perspective and concerns.

#### **Good practice example:**

The referral practice in two areas is that the local specialist advocacy agency advertises its services in all the local area offices of the local authority, and social workers also refer parents to them when the parents request it, or it appears to the social worker that they need an advocate. This might be, for example, where the parent has learning difficulties, mental health problems, and/or where there are communication problems between the parent and the local authority with the result that the partnership has become strained.

The referral may involve the social worker giving the parent the agency's phone number, or may involve the social worker calling the agency on their behalf. Ideally, these organisations would want there to be a standard question in the Area Child Protection Committee Procedures paperwork about whether the family requires an advocate, so that the question is asked routinely in every case.

### 3.4 How can parents involve supporters?

It is not uncommon for parents to be unable to involve an advocate on their behalf either because there is no local specialist advocacy service and/or because they cannot afford to pay for a solicitor and are ineligible for Legal Help. In these circumstances (and indeed in addition to having an advocate) parents may well want to involve someone else, for example, a friend, relative, religious leader, or member of their local community, to support them through the process. If they do not involve such a person spontaneously (and especially when they do not have an advocate), social workers should:

- encourage them to find someone who would be willing to give them this support; and
- refer them to any local self-help groups which support parents through the child protection process.

To assist in this, ACPCs should compile a list of self-help groups and voluntary agencies such as neighbourhood family centres, parent groups, and other supportive agencies which link families to volunteer befrienders, all of whom may be willing to provide support to parents.

When parents involve a supporter as well as an advocate it is important for each to be clear about the extent and nature of their involvement. This is discussed further in the section on supporters' involvement (Section 11).

### Action points:

We recommend that:

- **ACPCs** should include a question in the paperwork used in a s.47 enquiries about whether the parent would like to involve an advocate, and/or needs to be helped to make contact with advocacy organisations and/or support/self-help groups;
- **ACPCs** should compile a list of local and national advice and advocacy services with expertise in child protection, including local solicitors specialising in child protection, which parents in their area can access;
- **ACPCs** should consider how they can assist local generic advice and advocacy services to develop their expertise to include working with parents in child protection;
- **ACPCs** should consider how they can assist black and minority ethnic groups and other voluntary organisations working with children and families to develop their expertise in the area of child protection;
- **ACPCs** should compile a list of self-help groups and voluntary agencies such as neighbourhood family centres, parent groups, black and minority ethnic groups, disability groups and other agencies which can offer support to parents. This would help to ensure that parents find independent support and services which meet their specific needs;
- **Social workers** who are responsible for leading the child protection enquiries should ensure that parents are given this list of advice and advocacy services at the outset of the enquiries. They may find it helpful to delegate this task to the administrative staff who support the child protection team, under their supervision;
- **Social workers** should consider specifically drawing parents attention to local advocacy services, particularly where there are communication difficulties;
- **Social workers** should encourage parents who do not have advocates to involve a supporter in the process. This might be a relative, friend, member of the local community, or someone from a local self-help group; and
- **Chairs of child protection conferences** should check that parents have been given the above information, and should ascertain whether they want to bring an advocate or supporter to any conferences.

## 4. Skills and Training for Advocates

This section applies to the training of *advocates* only. It does not cover the training or briefing of supporters. This is dealt with separately in section 11.

Solicitors wanting to advocate for parents in child protection cases will need to ensure that they attend training which is approved by the Law Society so that they can:

- ensure that they are informed about the Law Society's guidance and professional rules, with which they **must** comply, in addition to being informed about best practice; and
- secure CPD points.

### 4.1 What skills do advocates need?

We suggest that all advocates should have the following skills to work effectively with a parent in child protection:

- specialist knowledge and experience of child protection law and practice, and of the local policies and procedures in their area, so as to enable them to advise the parents about the risk to the child, their rights in the process and the options open to them;
- an ability to listen, counsel and relate to the family in a non-threatening, non-judgmental and culturally sensitive manner;
- an awareness of their own value base and reality;
- an ability to understand the parents' reality and how it differs from their own where the parents and advocate are from different ethnic origins;
- a commitment to equality of service provision for all families, and to identifying and challenging any form of discrimination they encounter in a case, for example on grounds of race, ethnicity, gender and disability;
- an ability to manage conflict;
- communication skills so that they can communicate in a confident, assertive but non aggressive manner;
- negotiating skills so that they can promote partnership between the parents and the local-authority in a diplomatic and constructive manner;
- an ability to be objective, detached and child focused so that they can understand the risk to the child;
- an ability to identify when their own reporting threshold is reached (this is discussed further below in section 7.2 and 7.3); and
- a professional approach in order that they have credibility with, and can be trusted by, the local-authority, without losing sight of their primary function which is to empower parents<sup>24</sup>.

### 4.2 What training are advocates recommended to have?

There is a need for all advocates, whether they are legal professionals<sup>25</sup> or advocates working for advocacy or similar organisations, to be trained so that they acquire the skills identified above, and hence are able to adapt from their previous professional role. To achieve this we **recommend** that

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<sup>24</sup> If this is lacking, advocates may be regarded with caution:

- by the local authority, in case they collude with any risk to the child, or may give parents unrealistic expectations, which might in turn heighten the tension in meetings; and
- by the parents if they are suspected of being "in cahoots" with the local authority and are therefore untrustworthy.

This is discussed further in the section on ethics.

<sup>25</sup> The Law Society Family Law Committee believes that professionals have a duty to learn, through appropriate training if necessary how to approach advocacy for parents – see Attendance of Solicitors at Child Protection Conferences Guidance, 1997, referred to at footnote 7, which is being revised. Solicitors are encouraged to participate in multi-disciplinary training where available.

this training<sup>26</sup> should be provided by trainers of sufficient quality and independence, who are drawn from a pool of approved course providers. The content of the training should include:

- the legal framework for child protection including the implications for practice of the Human Rights Act 1998, and the difference between administrative and judicial procedures;
- practice guidance in the Challenge of Partnership (1995) Working Together (1999), and the Framework for the Assessment of Children and their Families (2000);
- dissemination of relevant research findings on child protection and outcomes for children in care, including Child Protection: Messages from Research (DoH, 1995) and Children Act Now (DoH, 2001);
- equal opportunities and diversity awareness training
- an understanding of child abuse and how an analysis of risk is carried out in order to have a clear understanding of child protection issues;
- practical exercises such as role play on, for example, their role within a conference and how they can conduct themselves objectively yet assertively on the parents behalf; and
- case studies involving the ethical issues they need to address, as discussed in section 7.

### 4.3 Supervision of advocates:

It is clearly important that advocates have access to the expertise of a supervisor to help them address difficulties in their practice. It is therefore important that organisations employing advocates should have in place a system for the supervision and monitoring of the advocates work, including emergency access to a supervisor where there is an urgent practice issue to be resolved (for example where they may need to breach confidentiality to protect a child at risk of harm). This needs to be in place in addition to any support and advice available to them from their own professional bodies (see section 7 below). For example, solicitors have access to the Law Society's professional ethics advice line, but they may also want to discuss difficult ethical issues with their supervisor, mentor or colleagues in their firm for a second opinion.

Part of the function of the supervision process will also be to review the on-going training needs of the advocate.

#### Action points:

We recommend that:

- **Advocates** should receive specialist training in child protection research, law and practice, as well as advocacy skills and ethics in this context. This may include joint training between advocacy organisations, social services and the mutli-disciplinary child protection team.
- **Advocacy organisations** should ensure that advocates have access to a supervisor, on an emergency basis if necessary, to ensure that
  - their work is supervised,
  - they have support to resolve urgent practice issues, and
  - their training needs are regularly reviewed.

<sup>26</sup> The authors plan to develop a training pack for advocates in the future. Further details can be obtained from [bridgetlindley@hotmail.com](mailto:bridgetlindley@hotmail.com).

## 5. Funding Considerations for Advocates

There is no national system for funding advice and advocacy for parents in child protection. The result is that funding is often inadequate and insecure. Until this is addressed at a national level, it is important that ACPCs and practitioners are aware of the funding constraints, because this can prevent the service from being equally accessible to all parents involved in child protection.

### 5.1. Who pays for advice and advocacy?

- **Local advice and advocacy organisations:** Advocacy organisations, whether generic or specialist, usually rely on grants from local authorities and charitable trusts for funding. This type of funding tends to be insecure and may restrict the activities of the organisations to a particular sector of the community, or type of case. The result is that these organisations are unlikely to be able to provide unlimited advice and advocacy for all parents who approach them;
- **Solicitors:** Solicitors are paid either directly by their clients, or by the Legal Services Commission under the Legal Help Scheme. The latter covers them to advise parents, negotiate on their behalf and attend conferences with them up to a limit of £500 worth of work, provided the parent falls within the financial eligibility limit. In practice, this limit tends only to include those who are on benefit or a very low income. The result is that many people who are employed, are not entitled to Legal Help, yet do not earn enough to pay solicitors' fees;
- **Family Rights Group:** although dependent on charitable funding, FRG's advice service for family members and their advocates is free. It is therefore equally accessible to all who contact them by letter, email or telephone although its capacity to respond to contact from families is clearly limited by staff time available and the restricted hours of the advice line. Local authorities wishing to refer families routinely to FRG may want to consider negotiating a separate advice service contract with them specifically for families in their authority, outside of the usual advice times which are available to everyone.

### 5.2 What are the options if there is no funding available for parents' advocacy?

In these circumstances, the following needs to happen:

- **Social workers** should
  - encourage parents to contact FRG for advice and support, although the extent to which they can help will be subject to their staff availability (see above);
  - encourage parents to bring a supporter to meetings and conferences if they wish. Supporters should be briefed about their role, as outlined in section 11; and
  - refer parents to self help groups.
- **ACPCs** should ascertain the potential inequality of access to advocacy amongst parents whose children are drawn into the child protection process. Where there are gaps in service provision, they should develop strategies, in conjunction with the local authority and the local advice and advocacy forum (see section 10 below), to promote and support advice and advocacy services which target any excluded sections of the population, for example ethnic minority communities who cannot access regular advice and advocacy services due to a linguistic difference. This work should include the local authority identifying a budget and developing a sustained funding strategy to support independent advice and advocacy organisations, so that advocacy is equally available to all parents in the area who want and need it. This funding strategy needs to be medium to long term in order not to create an insecure service (as illustrated below).

### **Good practice example:**

In one London Borough, the ethnic monitoring unit recognised that there was a disproportionately high number of African, Asian and Afro-Caribbean children subject to child protection enquiries in comparison to the ethnicity of the local population as a whole. This unit recognised that the parents of these children were dealing with unfamiliar procedures in which there were often differences of opinion about child protection issues arising from different cultural practices regarding child-rearing. As a result, the unit persuaded the local authority that there was a need for an independent advice and advocacy service to support these parents through the child protection process. The authority responded positively to this proposal which resulted in an arm's length independent advocacy service being set up to meet the needs of those parents. It is 100% funded by the local authority and has been running on this basis for 8 years. As a result of this local authority financial support, it is now a well established organisation and has not been subjected to the uncertainties and insecurities of seeking charitable funding.

By contrast, at least two other local advocacy services have received partial local authority funding over the years. Although this has been very welcome, its usefulness is qualified if the funding commitment is short term only. In another London Borough, the funding for the advocacy organisation was abruptly withdrawn when there was a change of policy regarding spending priorities, with the result that the service had to close. Families using this service were suddenly left without support, mid-case.

### **Action points:**

We recommend that

- **Social workers and other child care professionals involved in child protection cases** should
  - encourage parents to contact FRG for free telephone/written advice;
  - refer them to self help groups; and
  - encourage parents to involve a friend or supporter in the process on their behalf when they are unable to fund, or find, an advocate, or when they choose to do so.
- **ACPCs** should identify the gaps in advocacy service provision in their area. In consultation with the local authority and the advice and advocacy forum, it should then develop strategies for promoting and, securing funding for, advice and advocacy services to meet the needs of the parent population which does not currently have access to the service. In particular this work should involve targeting black and minority ethnic groups who may face additional difficulties of not having their needs met and/or of discrimination, over and above their involvement in the child protection case.

## 6. The Role of the Advocate

Advocates perform a wide range of tasks when working with parents. The extent to which each is undertaken depends<sup>27</sup> to a greater or lesser extent on:

- the personal ability and strengths of the parents,
- the skills and expertise of the advocate,
- the financial resources available,
- the nature and extent of the local authority intervention in the particular case, and
- the way in which local authorities implement central guidance on parental participation, and the involvement of advocates for parents.

The range of tasks is broad and includes the following:

- developing a trusting relationship with the parent so as to be able to support them effectively through the process;
- working co-operatively with any supporter who may also be involved so as to maximise the parents' ability to participate in the process;
- giving the parent information about the legal and practice framework and their rights within it;
- helping the parent to clarify the specific concerns about their child, and how these can be resolved to the satisfaction of the local authority;
- advising the parent, or helping them obtain specialist advice, about the range of options open to them, the likely consequences of choosing a particular course of action, and thereafter helping them to formulate their views;
- helping parents to identify their needs and the services they require to meet their needs. This may arise particularly in relation to minority ethnic families and/or those with disabilities who may need additional services over and above advice, advocacy and support in relation to the child protection case;
- presenting their views and needs either by supporting them to express themselves to the local authority (for example helping them to prepare for meetings), or by presenting their views and needs (either verbally or in writing) on their behalf;
- identifying when two parents are themselves in conflict and therefore need separate advocates;
- negotiating with the local authority on their behalf, which may involve facilitating an exchange of information and any proposals for resolution of issues in dispute;
- encouraging the parent to work with the local authority, wherever appropriate;
- challenging the local authority's view on their behalf where it appears unreasonable to the parent<sup>28</sup>; and
- identifying when legal advice should be sought.

If agreement between the parents and the local authority is not reached, and the child is perceived to be at continuing risk of harm, the local authority will apply for a court order (emergency protection order, child assessment order or a care order). In these circumstances, the parent will have access to formal legal representation. Thereafter, any advocate who has been involved with them during the child protection process will be confined to a supportive, rather than a negotiating role, except for solicitors who can take on direct advocacy in a judicial forum.

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<sup>27</sup> These tasks are identified through a combination of the empirical results from the Cambridge study which highlight the tasks already being undertaken by advocates in this context, and a theoretical analysis of what parents are likely to need when they find themselves in this situation.

<sup>28</sup> The advocate's ability to undertake these various tasks hinges on them being able to adhere to particular ethical principles which are outlined in sections 7 & 8 below.

Where an advocate is working with parents who speak a different language to him/her, they will need to make use of an accredited translation/interpreting service to facilitate communication, and ensure equal service provision for all families. Advocacy organisations will need to secure a budget for this, and may wish to raise it with the local authority, the ACPC and the Local Advocacy Development Forum (see section 10).

**Example from a practising solicitor advocating for parents in a child protection case**

Call received from Mrs C. who received visit from Social Worker and police officer yesterday – allegations that Mr C. associating with paedophiles. Anonymous allegation (believed to be former partner of Mrs C.). Mrs C. was told that if husband does not leave house immediately, 10-month old baby son would be removed. Mr C. was required by social services to have no contact with child, except as agreed with the Social Services. Mr C. went to live with his adult daughter from previous marriage.

Attending Mr and Mrs C. – discussing potential conflict. Taking history from clients and advising with regard to forthcoming initial Child Protection Conference. Outlining and explaining role of Social Services and police re. Section 47 investigation. Letter sent to clients confirming instructions and advice. Letter also sent to Local Authority in order to:

- (1) ascertain their concerns,
- (2) obtain copies of any reports prior to initial C.P. Conference,
- (3) explain clients' position ie. prepared to co-operate fully with investigation,
- (4) request appropriate contact arrangements for Mr C.

Attending initial C.P. Conference – we acknowledged responsibilities of Local Authority to make enquiries but expressed concerns at delay in them doing so – they conceded at conference that no assessment taken place and therefore registration deferred. Agreement that Mr C. not to live at family home or have unsupervised contact.

Having explained to clients the need for them to co-operate fully, the Local Authority delayed making appropriate contact arrangements or interviewing Mr C. Therefore we wrote to Local Authority giving Social Services 21 days notice of Mr C.'s intention to return home, so that Local Authority could undertake initial assessment or initiate proceedings if they felt it appropriate without the need to seek Emergency Protection Order. Advised Local Authority that we would accept service in order to avoid *ex parte* application being made.

Child Protection Conference re-convened – Mr C. had by this time returned home. No further Social Worker involvement and child's name not placed on register.

Solicitor

## **An account of the work of Merseyside Family Support Association in a typical child protection case**

### ***The aim of the organisation:***

Merseyside Family Support Association (MFSA) is an independent voluntary agency which has 16 years experience of working with families in Merseyside, who are involved with social services about the care and protection of their children. Fundamental to the work of the agency is the belief that the right support for families can turn their lives around and put the needs of children first. Specifically, MFSA aims to:

- promote full participation by families in the planning of and decision making about their children's future;
- offer parents a safe environment in which to express their opinions and views;
- offer advice and support which is intended to empower parents to have their views heard at every level and to enable them to choose how they wish to proceed; and
- promote understanding, good practice and equal opportunities for all families.

MFSA works in partnership with parents, social services, other childcare agencies and the parents' legal advisers to ensure the best possible outcome for the family. Our advocates can not challenge the decision made by social services or the courts in relation to any child or children themselves, however we can assist the parents to challenge any decision they are unhappy or uncomfortable with. We do this by encouraging parents to attend all child protection conferences, Looked After Children (LAC) reviews, Core-Group meetings and Court hearings and meetings with their legal advisers, stressing the importance of the meeting and their co-operation and participation at them, in order to have their views heard, at every level. We attend all meetings and court hearings with the family, and offer as much support as is required. Our work in individual cases typically involves the following:

### ***The first meeting:***

When we receive a referral, we generally arrange to do a home visit within 48 hours if possible, as the case would be prioritised according to need, Court, or Child protection conference. Before we get involved with the family we explain:

- who we are;
- what support we can offer them;
- that our service is independent from social services, even though it may have been the social worker who contacted us to request support for the family;
- that everything they tell us is in confidence, which means that we will not share the information unless they ask us or give their permission to do so; but
- that we work within a child protection policy which means that we cannot keep a confidence if we became aware that there is or could be a child at risk.

We ask the parents to sign a consent form, which confirms that they are aware of, and understand, our child protection procedures. We then listen to what the parents have to say, which could take an hour or more, and advise them as to the best way forward according to the information they give us.

### ***Preparing for the child protection conference:***

We talk them through a child protection conference, who may be attending and why, and we give examples of possible outcomes at the conference. We advise parents on how to present themselves at a conference; and encourage them to listen, challenge constructively, and not offer what could be viewed as excuses for their behaviour.

### ***If the child's name is placed on the child protection register:***

If the decision of the child protection conference is to place the child's/children's name on the child protection register, we continue to support them through the implementation of the plan. For example, if the parents have agreed to attend a family centre, we try to negotiate that their transport costs are paid by the local authority. We also try and help the family resolve other issues that may have an impact on the family such as housing, debt management, drug or alcohol abuse, relationships, or domestic violence. Overall, we work in partnership with the parents, social services and other agencies to assist the parents to work towards the child protection issues being resolved and the children's names being removed from the register.

### ***If the local authority decide to initiate care proceedings:***

If the local authority issues care proceedings, we ensure the family have a solicitor who understands child care law. We talk them through the procedures for the court, the different hearings, the courts' time tabling and what the court may require of the parents in-relation to expert advice and co-operation. Again we encourage parents to participate in the proceedings at all levels, and to challenge constructively through their legal advisors. We help and encourage them to resolve any issues that may be having an impact on how they are behaving as parents. This could include people they may be associating with, such as a known schedule one offender.

Merseyside Family Support Association

## 7. Ethical Issues for Advocates

This section addresses the key ethical and practice issues which arise when advocates work with parents in child protection cases. We have set out below our view of best practice on these issues. This view has been informed by research evidence and a wide range of views expressed by our advisory and consultation groups. It is intended to provide a useful framework for all advocates. However, **practising solicitors are at all times bound to follow the Law Society's professional rules and guidance**, which take precedence over this protocol and any other best practice document. If they have any professional ethical question which they cannot resolve alone, they should seek advice from a supervisor or mentor, or contact the Law Society's professional ethics helpline (telephone) 0870 606 2577.

The role of the advocate is unique. S/he is there for the parent, but must nevertheless earn the trust of the local authority as well as the parents in order to foster an effective working relationship between them. This is achieved by maintaining, *and being perceived to maintain*, a delicate balance between empowering the parents to make informed choices about, and contributions to, the planning process, whilst also remaining objective to the extent of being trusted not to collude with or conceal information which might place a child at risk. We **suggest** that this balance is most likely to be achieved, and sustained, if s/he adheres to the following principles:

### 7.1 Does the advocate need to be independent of the local authority?

Advocates are not part of the multi-agency team which has statutory responsibility for protecting children who are suspected of suffering from significant harm. They are therefore independent of all other agencies involved in child protection work. This independence is crucial to the parents entering into a trusting working relationship with them. However, it cannot be assumed that all advocates will achieve it without making a conscious effort. In our view, they need to:

- understand the reasons for, and be committed to, the principle of independence;
- be vigilant about the possibility that their independence could be jeopardised, or be *perceived* to be jeopardised, for example if their advocacy organisation receives funding from the local authority, or is in the process of developing a good working relationship with the local authority, the advocate might be reticent to challenge the local authority, or make a complaint on behalf of a parent, for fear of rocking their professional and/or organisational boat;
- make it clear to both the parents and the local authority that, although it is not their responsibility to undertake making enquiries where there is a suspicion of harm, they may report any evidence they have that a child is suffering or is likely to suffer significant harm to the social services department which has a statutory duty to make such enquiries, as discussed below;
- make it clear that their intervention is *on behalf of* the parent, and not in their own right;
- decline to express a personal opinion about the level of risk to, and plans for, the child even if asked by either the local authority or the parent; and
- decline to give an opinion about registration in a child protection conference if invited to do so.

### 7.2 Should the advocate maintain the parents' confidentiality absolutely?

Alongside independence, the confidential nature of the advocate's work underpins the parent's ability to trust him/her, because it creates a private environment in which the parents can explore the issues, and possible solutions to the child protection concerns, without jeopardising their position with the local authority. However, there is a crucial limitation to this confidentiality: it is essential that advocates do not conceal information about any continuing, or likely harm to a child. Although the advocate is not under any *statutory* duty to report information they receive about

harm or likely harm to a child to the local authority, advocates with a professional qualification are under a professional duty to do so, for example:

- **Solicitors:** solicitors are required by their professional rules to maintain their client's confidentiality. However this can be breached in exceptional circumstances. For example, when they receive information that a child is suffering continuing harm, their professional rules *require them to consider* breaching confidentiality by disclosing this information to an appropriate authority. Specifically, they must consider whether the

*“threat to the child’s life or health, both mental or physical, is sufficiently serious to justify a breach of the duty of confidentiality”<sup>29</sup>;*

- **Social workers:** Qualified social workers who are employed by a voluntary agency (or affiliated to a self help group) in order to provide advocacy services, may be members of the British Association of Social Work (BASW) (such membership is optional, not mandatory). If so, they are required by BASW Code of Ethics to maintain a client's confidentiality, subject to a reporting exception that they may breach it

*“where there is clear evidence of serious risk to another person, including a child”<sup>30</sup>.*

The General Social Care Council has also been established to regulate the work of social workers in the same way that the Law Society regulates the work of solicitors. Membership of the Council is not yet mandatory for social workers, but a Code of Practice has been issued for Social Workers and their employers<sup>31</sup>. This document sets standards of professional conduct and practice for social care workers, including the need to respect the rights of service users while seeking to ensure that their behaviour does not harm themselves or others (standard 4). However, it does not explore the reporting threshold in any detail or how it should be applied in practice.

In addition to these professional duties which apply to some but not all advocates, there are both moral and practical reasons why advocates should be contractually bound by their employers to work to a reporting duty: if they are not, they may collude with, *or be perceived to collude with*, harm to a child. This would not only be morally unacceptable in a society which expects all citizens to protect children from harm, but may also seriously undermine their credibility with the local authority. We therefore suggest that advocates adhere to the following principles that:

- if they receive information not already known to the local authority, which suggests that a child is suffering or is likely to suffer significant harm, then, subject to the advice and agreement of their supervisor (and/or professional body), they will make sure that this information is disclosed to the local authority, either by the parents themselves or where they refuse, they will report this information directly. It may be important for the advocate not to make assumptions that information is known by the local authority unless they are clearly told by the parent that it is; but
- in the absence of receiving such information, advocates should maintain the parents' confidentiality according to his/her wishes, unless ordered to breach it by the court.

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<sup>29</sup> See *The Guide to the Professional Conduct of Solicitors*, 8<sup>th</sup> Edition, chapter 16.

<sup>30</sup> BASW, 2002, Code of Ethics for Social Work, para 4.1.7, page 6, Birmingham.

<sup>31</sup> General Social Care Council, 2002, Code of Practice for Social Workers and Employers, London.

In order to implement this we suggest that:

- ❑ all advocacy organisations/providers should adopt the model confidentiality policy, and reporting exception set out below, and their employees should be contractually bound to work to this policy;
- ❑ solicitor advocates should work to their professional rules and guidance issued by the Law Society which broadly reflects this policy;
- ❑ social worker advocates should work to the General Social Care Council Code of Practice and/or BASW Code of Ethics; and
- ❑ all advocates should make it absolutely explicit, both to the parents and to the local authority, that they work within these boundaries. This should reduce the risk of the parents feeling betrayed if ever the advocate needs to breach confidentiality, and of the local authority fearing that they might collude with risk to the child.

### **Model Confidentiality Policy**

Confidentiality will normally be assured to anyone seeking advice support or advocacy from.....(name of advocate). This means that whatever the parent tells him/her will not be discussed with anyone else without the permission or express wishes of the parent.

However, there is one exception to this general principle:

**if information is disclosed or circumstances arise in which.....(name of advocate) thinks that a child is suffering or is likely to suffer significant harm, ....., (name of advocate) will discuss the information with his/her manager/supervisor, and if they jointly decide that this information should be passed on to the statutory authorities, ....., (name of advocate) will encourage and support the parent to do this directly, but if s/he is unwilling, then ....., (name of advocate) will pass this information onto the local authority, and will inform the parent(s) when this has occurred.**

Should this situation arise..... (name of advocate) will be willing to continue to advise and support the parent(s), and/or will refer him/her on to a solicitor, subject to the parent(s)' wishes.

The circumstances in which this might arise include (this is not an exhaustive list):

- where there is evidence that physical, sexual, emotional abuse and/or neglect of a child has taken place and this is not already known to the local authority;
- where a person who has been refused contact with a child is in fact having contact to a child; and
- where a court order or undertaking is in existence and is being breached.

All parents will be informed of the above policy.

### **7.3 How should advocates implement their reporting exception?**

The threshold for this reporting exception is that the advocate receives evidence that “a child is suffering, or is likely to suffer significant harm”. Advocates will inevitably draw upon their previous professional and personal experience in deciding whether or not the reporting threshold has been reached in each individual case. However, they will need to ensure that they approach this question from the perspective of an *advocate*, and not necessarily from their previous professional or personal experience. For example, advocates with a social work background will need to distinguish their response as an advocate, from that of their previous experience of working to a statutory duty in which they must initiate enquiries and seek out evidence which will confirm whether or not a child is at risk of harm.

In any event, an advocate working with a parent in child protection, should not have to make a judgement about whether the reporting threshold is reached alone. They should discuss it with their supervisor. If, following this consultation, they decide that the threshold has been reached, then they must ensure that this information is received by the local authority, either by:

- the parent disclosing this information, or, where they are not willing to do so, or
- by giving the information directly themselves.

This is an issue which needs to be addressed in the training and supervision of advocates.

#### **7.4 Should an advocate ever withhold information from a parent?**

The short answer is “no”. The advocate is there for the parent. The parents’ trust of the advocate would be undermined if s/her were willing to receive and withhold information from a parent. If this occurred, the relationship between the advocate and the parent would be in jeopardy, which might in turn exacerbate any difficulties the parent was having in working in partnership with social services. We therefore suggest that no information should be shared with an advocate unless the latter is free to disclose it to the parent.

#### **7.5 How does the advocate balance parents’ rights and children’s safety?**

Advocates are there to empower the parents. Their involvement in the process is therefore partisan to the parents’ position. However, we suggest that it is also important that they remain dispassionate in their work with the parent and are aware of the child’s perspective so that they can:

- help the parent to understand what the child protection concerns are perceived to be and why;
- avoid giving the parents false hopes by reinforcing views which are unlikely to be acceptable to the local authority or helpful to their participation in the process;
- avoid colluding with anything which might place a child at risk; and
- identify when their own reporting threshold is reached.

#### **7.6 How directive should advocates be when working with parents?**

Much of the advocate’s role is to support, encourage, and advise the parents to work with social services’ requirements. This may involve helping them to see what they need to change in their own behaviour in order to overcome the child protection concerns. Inevitably this leads to the advocate being directive to a greater or lesser extent in the advice that they give. However, it is important that they do not become too directive because:

- they cannot make parents do what they do not want to do;
- the parents need to “own” the views being expressed;
- they cannot be held responsible either by the parent or by the local authority for the way in which that parent behaves in response to the advice given; and
- sometimes the parents’ views about the child’s future will lead to the best outcome for the child.

We therefore suggest that advocates should advise parents, but only to the extent that they are willing to absorb the advice they are given into their own thinking and behaviour. Otherwise it may become oppressive and over-controlling of the parent, and unsustainable once the advocate is no longer involved. However, there may be difficulties with this in practice: if parents are unreasonably refusing to heed advice such that the relationship between the parents and the advocate is becoming strained, the advocate should seek advice from their supervisor about how to proceed.

**Action points:**

We recommend that:

- **Advocates** are clear about the importance of remaining independent of the local authority, and refusing to give an opinion about registration if invited to do so;
- **Advocacy organisations** should adopt the model confidentiality policy set out above, and all their employees should be contractually bound to observe this policy (including the reporting requirement if they receive information that a child is suffering harm). These organisations should provide training and supervision to their staff on the implementation of this policy;
- **Practising solicitors** should work to the professional rules and guidance issued by the Law Society;
- **Social worker advocates** should work to the General Social Care Council Code of Practice and/or BASW Code of Ethics;
- **Advocates** should be dispassionate in their work with the parent, so that they help the parent to understand what the child protection concerns are, and avoid giving them false hope;
- **Advocates** should advise parents, ensuring that ultimately parents “own” their views;
- **ACPCs** should make explicit the fact that advocates should not be asked to comment on the level of risk to the child; and
- **Social workers** should understand the ethical position of the advocate, and as a result should not place unrealistic expectations on him/her or jump to conclusions that the advocate is being confrontational the moment s/he is challenging his/her practice.

## 8. How Should the Advocate Conduct Him/Herself?

Advocates need to be able to negotiate with the local authority on behalf of a parent, but they also need to ensure that parents' views are heard and their rights respected. Their personal style is very important in this respect. They need to be both assertive and constructive in order to maintain this triangular dialogue. If they are too conciliatory, the parents may feel unsupported and may even suspect them of being in cahoots with the local authority; if they are too adversarial, they may lose credibility with the local authority by appearing to lack a good understanding of the subtleties of advocacy, risk and decision-making in a child protection context.

However, whilst a constructive but assertive approach may be optimal, it may not be so easy to achieve because the advocate's conduct may be perceived differently by the different parties involved. For example, the advocate may think they are challenging local authority decisions in a constructive manner, but a social worker, whose practice is being questioned, may feel that the advocate is being too adversarial. This divergence of perceptions is inevitable from time to time. Ultimately the local authority's view will prevail because, despite the judgement in *R –v- Cornwall CC ex parte LH*<sup>32</sup>, parents do not have an absolute and unqualified *right* to involve an advocate in meetings. The local authority has the ultimate discretion to exclude the latter from the conference setting or negotiations if they find their behaviour is having an adverse impact.

In order to avoid confusion in individual cases we suggest that ACPCs, in consultation with the local advocacy forum (see section 9) and local authority, establish:

- an acceptable style of advocacy which has the effect of restraining advocates who are too adversarial, yet allowing them to make legitimate challenges about evidence, opinion and practice issues on behalf of the parents;
- clear criteria for when advocates may be excluded from a child protection conference (such exclusion being kept to a minimum); and
- procedures for dealing with complaints between advocates and professionals involved in child protection cases.

### Action points:

We recommend that:

- **Advocates** should adopt a constructive but assertive approach in their dealings with other professionals in the child protection team and at the child protection conference; and
- **ACPCs** should establish an open and objective procedure for challenging an advocate if their conduct is considered to be unacceptable by the chair of a meeting/conference, including specific criteria for excluding advocates from a conference where this cannot be avoided, and an open complaints procedure for dealing with complaints between advocates and other child care professionals.

<sup>32</sup> [2000] 1 FLR 236 discussed in section 2 above.

## 9. Defining the Advocate's Role in Practice

Parents do not have a *right* to involve an advocate. Despite a strong expectation that parents may do so, discussed above, the local authority retains the right to exclude anyone whose behaviour is impacting adversely on the purpose of the conference. This would include an advocate whose behaviour fell into this category.

In a conference setting the decision to exclude them generally rests with the chair. In order to avoid such decisions being taken, potentially to the detriment of the partnership between the family and the local authority, it is important that all parties are clear about their remit of their role and the limits to it. We suggest that this will be best achieved by the following steps being taken:

### Action Points:

- **ACPCs** should clarify in their procedures how staff can actively incorporate the advocate's role into their practice in individual cases (subject to parental consent) for example:
  - whether social workers can, with the permission of parents and older children, communicate directly with advocates about the details of a particular case;
  - whether advocate/supporters are invited to conferences directly or whether the invitation should come from the parent;
  - whether reports are distributed directly to advocates/supporters in addition to parents; and
  - how to deal with situations where parents are themselves in disagreement eg: by ensuring that each parent has access to their own adviser/advocate if they wish.
- **ACPCs** should include in their procedures an aide-memoire for social workers on how they may work with advocates for parents in child protection – a model practice document is included in Appendix 2.
- **Social workers** should use this aide memoire in Appendix 2 to help them integrate the advocate role into their work with the family.
- **Advocates**<sup>33</sup> should consider entering into a three way agreement with the parent and the ACPC confirming their role, and the local authority's commitment to working alongside them as an integral part of their practice (see below).

<sup>33</sup> **Practising solicitors** may consider entering into such an agreement if they feel this benefits their client. This will be a matter of professional judgement in each case, but solicitors must be careful not to compromise their professional independence.

# Working Agreement between the Parent, the Advocate and the Social Worker

## Parents section:

### Name of ACPC:

Name of child(ren) subject to s.47 enquiries

### Name(s) of parent(s)

Address

Telephone number

I/we.....(name of parent(s)) have requested  
.....(name of advocate) to give me/us support, advice and assistance  
for me/us and my/our family during the present child protection enquiries and any subsequent involvement  
with social services.

I/we hereby authorise any agencies involved in the child protection enquiry process to:

- provide him/her with copies of all reports disclosed to me/us directly;
- invite him/her to any meetings to which I am/we are invited;
- communicate directly with him/her regarding my/our case on the understanding that no information is  
subsequently withheld from me/us by either the social worker or my/our advocate.

unless I/we indicate otherwise.

Signed.....(name of parent)

Dated.....

Signed.....(name of parent)

Dated.....

## Local Authority/ACPC section

### Name of ACPC:

Name of child(ren) subject to s.47 enquiries:

Name of allocated social worker (if any)

Address

Telephone

I ..... (name of social worker) hereby confirm on behalf of the  
.....(name of LA/ACPC) that, in accordance with  
..... (name of parent(s))' wishes, the child protection team of the above ACPC will co-  
operate with .....(name of advocate/supporter) in their work with .....  
.....(name of parent(s)) by:

- inviting him/her to meetings;
- providing him/her with reports in the case;
- communicating with him/her directly about the case on the understanding that no information is  
subsequently withheld from .....(name of parent(s)) by either the local authority or  
.....(name of advocate/supporter)

Signed.....(name of LA/ACPC officer)

Position.....

Dated.....

**Advocate's section:**

**Name of ACPC:**

Name of child(ren) subject to s.47 enquiries

**Name of advocate**

Organisation (if any)

Address

Tel:

Position held:

I, ..... (name of advocate/supporter), hereby confirm that

1. I have read:

- Working Together 1999
- Local child protection policies and procedures of the ACPC
- Protocol on advice and advocacy for parents in child protection cases

2. I will work with .....(name of parent(s)) to provide him /her with, or help him/her to obtain, support, information and advice in connection with child protection enquiries under s.47 CA 1989;

3. I am authorised by him/her to communicate directly with the local authority on his/her behalf;

4. I will either support him/her to present his/her own views in the process, or will speak on his/her behalf both in negotiations and meetings, when requested to do so;

5. **Advocates employed by advocacy organisations:** I will abide by the confidentiality policy agreed between my organisation and the ACPC. That means that I will keep all information given to me by.....(name of parent(s)'s strictly confidential, in accordance with .....(name of parent(s)) wishes, subject to the overriding proviso that I will, in consultation with my supervisor, report any information I receive that a child is suffering or is likely to suffer significant harm, if .....(name of parent(s)) will not report the information themselves.

OR

5. **Practising Solicitors:** I am bound by my professional duty to maintain my client's confidentiality, but this can be overridden if the threat to a child's life or health, both mental or physical, is sufficiently serious to justify a breach of that duty.

Signed.....(name of advocate/supporter)

Dated.....

## 10. Local Advocacy Development

Research has found that a number of local advice and advocacy agencies, and their corresponding local authorities, have acknowledged the need to develop a positive working relationship between the two organisations to discuss general procedural issues and concerns arising from particular cases. Drawing upon these experiences, we recommend that each ACPC convenes **an advocacy development forum** to establish a dialogue about local issues between advocacy providers (including practising solicitors, the local Law Society and supporters organisations eg: self help groups) and their corresponding local authorities.

### Action points for the Forum:

We recommend that this forum needs to address a range of issues as follows:

- ❑ regular updating of the list of local advice and advocacy resources;
- ❑ review of local procedures on a regular basis to incorporate advocacy for parents as an integral part of the child protection process;
- ❑ joint training in which advocates become familiar with local procedures in their area and in which social workers become informed about the role of the advocate;
- ❑ exchanges of up-to-date information about the law, practice and research between advocates and social workers;
- ❑ the need to develop initiatives to provide a range of advice and advocacy services to meet the needs of the local population, particularly taking account of linguistic and cultural needs of those children who are the subject of enquires;
- ❑ support for black and minority ethnic groups to develop expertise in child protection;
- ❑ the availability of a translation/interpreting service to support the involvement of an advocate/supporter where s/he and the parent do not have a common language, or the parent needs information to be written in Braille;
- ❑ co-ordination with local child advocacy services, and other adult services available to parents with specific needs, for example where they have a disability;
- ❑ the need for a procedure for dealing with complaints between advocates and social workers, both about general practice issues, and specific issues which have arisen in particular cases, if it is not possible to resolve such issues informally;
- ❑ the need to establish clear and open criteria for excluding an advocate or supporter from a conference; (discussed in section 8 above)
- ❑ the need to evaluate the involvement of advocates for parents in the child protection process;
- ❑ the need to create a forum for consultation with families about the child protection process; and
- ❑ reviewing the funding of local advice and advocacy services, and developing strategies to meet any shortfall from a sustainable budget.

## 11. The Involvement of Supporters

Whether or not parents have an advocate, they may want to involve a supporter in the process. The guidance in *Working Together* specifically acknowledges this as a possibility: for example, as well as giving parents information about local advice and advocacy agencies, social services are expected to explain to parents that they may bring an “[advocate], friend or supporter” to the conference (para 5.57).

We outlined above who might fall into the category of supporter: relatives, friends, befrienders, members of the local community, religious leaders and also supporters from self-help groups. The key feature which distinguishes supporters from advocates is that generally their reason for becoming involved in the process on behalf of the parent is because they have a personal rather than a professional relationship with him/her, even if they also have a relevant professional qualification<sup>34</sup>. The support they provide is therefore likely to be emotional rather than, or as well as, objective. Thus their role is likely to be complimentary to that of an advocate, and for this reason may co-exist with it.

The purpose of this section is to outline some of the issues which may arise when a supporter is involved, and to suggest ways of addressing them so as to enhance the partnership:

### 11.1 How should supporters be briefed about their role?

Supporters who are well informed, are likely to be better equipped to support parents than those who are not. Their involvement will often be limited to their family/friend’s case alone, so it is unrealistic to think that supporters could receive specific training in order to acquire the skills and knowledge that an advocate has. We suggest two methods by which they could acquire a good understanding of the process, and their role within it:

- **Specialist support:** they should be referred to specialist advice services, such as Family Rights Group (FRG) whose details are provided in section 12, for written information, guidance and advice about the process and the facts of their specific case; and
- **Briefing packs**<sup>35</sup>: they should be given briefing packs in good time before any meetings/conferences are held about:
  - the duty on local authorities to make enquiries;
  - what the process entails;
  - what can happen as a result;
  - how to challenge in a constructive manner; and
  - the remit of the supporter’s role.

Given that some parents/supporters may need interpreters/help with literacy, ACPCs should ensure that this briefing information is available in a form which is suitable to all families drawn into the child protection system. This could be in written, audio or video form, and should meet the linguistic needs of the local population. In addition, ACPCs should ensure that a translation/interpreting service is available to translate the information into other languages as and when necessary.

Although it is much more difficult for supporters to be objective, and dispel fears that they may collude with risk to the child, this briefing pack would help to ensure that they intervene on behalf of a parent from an informed position, and thereby establish a better working relationship between them and the local authority, without either having unrealistic expectations of the other;

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<sup>34</sup> In some cases they may be involved as a result of belonging to a self-help group which has a strong emphasis on support or befriending.

<sup>35</sup> The authors plan to develop briefing packs in the future. For more information, please contact [bridgetlindley@hotmail.com](mailto:bridgetlindley@hotmail.com).

**Self help group members** who provide support to parents fall somewhere in between supporters and advocates. Self help groups should make themselves known to the local advocacy development forum, and should participate in training events facilitated by the local authority.

### 11.2 How should supporters help parents to participate in the process?

Supporters may well be able to undertake many of the tasks which an advocate undertakes depending on their own abilities, skills and knowledge base. They will undoubtedly be able to provide emotional support to the parent in the vast majority of cases since this is likely to be the primary reason for their involvement. However, if they are well briefed, they may also be able to help the parent to:

- ❑ understand the nature of the intervention and the possible outcomes;
- ❑ clarify and understand the nature of the child protection concerns and social services requirements for the child's future protection;
- ❑ obtain advice and advocacy, as needed, from specialist advice and advocacy organisations such as FRG and/or solicitors;
- ❑ express their views and negotiate with social services; and
- ❑ co-operate with social services and establish a good working relationship.

These tasks could be outlined for them in any briefing packs which may be developed.

### 11.3 How should advocates and supporters work together to enhance parental participation?

When there is both an advocate and a supporter actively involved in the same case, it is very important that there is clarity about their respective roles, so that they complement, rather than conflict, with each other. In these circumstances, we suggest that the advocate, supporter and parents have a three way discussion to clarify who is doing what, so as to maximise support for the parent and enhance their participation. Whatever is agreed then needs to be communicated to the social worker and any other professionals actively involved in the case, because it is not uncommon for ACPCs to allow only one person to negotiate or attend a meeting on behalf of a parent.

#### Action points:

We recommend that:

- ❑ **Supporters** should be referred by the social worker in the case to specialist advice services such as FRG, and also be given briefing packs, in a form which is suitable and accessible to the family, about their role in the process, from the outset of their involvement;
- ❑ **Advocates and Supporters** should agree with the parent who is doing what so that there is clarity about respective roles. This then needs to be communicated to the local authority; and
- ❑ **Self help group members** should be invited to participate in the local advocacy development forum and local authority training events.

## 12 Useful Addresses

### 12.1 Agencies providing advice and advocacy for parents in child protection cases:

#### **The Bibini Centre for Young People**

Family Support Services

Unit 6

St. Wilfred's Enterprise Centre

Hulme

Manchester

M15 5BJ

Tel: 0161 232 7977 (Office hours 9 am – 5 pm)

The aim of the family support services project is to provide community based services for black young people and their families who are in need of support. They provide a holistic service, including: advocacy, befriending, counselling, support and strengthening parenting skills, depending on the needs of the young person and their family. This may include advocating for parents in relation to child protection issues.

#### **Family Rights Group (FRG)**

Family Rights Group

The Print House

18 Ashwin Street

London

E8 3DL

Office 020 7923 2628

Fax: 020 7923 2683

Advice line: 0800 731 1696 (open 1.30-3.30pm Monday to Friday)

Website: [www.frg.org.uk](http://www.frg.org.uk)

FRG provides a specialist advice and information service for families in England and Wales, who are in contact with social services about the care of their children, and their advisers and supporters. It operates a free telephone advice service as listed above. Advisers are also able to send out written information to families and their advocates and supporters in the form of advice sheets, which include detailed legal, practice and research information. Much of this information is also available on their website.

FRG is also currently developing a Black And Ethnic Minorities Advice Agencies Project (BEMAAP), which provides support to community groups who are working with Black and ethnic minority families. BEMAAP can provide details of local organisations that may be able to provide advocacy and/or support. Contact BEMAAP on 0207 923 2628 for further details.

#### **Grandparent's Association (formerly Grandparent's Federation)**

Moot House

The Stow,

Harlow

CM20 3AG

Office tel/fax: 01279 428040

Helpline: 01279 444964 (10.00-3.30 pm Monday to Friday, plus some evenings)

Website: [www.grandparents-federation.org.uk](http://www.grandparents-federation.org.uk)

The Grandparents Association offers support information and advice to grandparents in England and Wales, who are denied access or are bringing up their grandchildren, both in public and private law cases. They also provide welfare benefits advice, and are setting up grandparent and toddler groups in some areas. They also offer some limited respite care for those bringing up their grandchildren.

**Merseyside Family Support Association (MFSA)**

Netherton Activity Centre  
Glovers Lane Netherton  
Merseyside  
L30 3TL

Tel 0151 525 5467  
Fax 0151 525 5467  
Website: [www.mfsa.co.uk](http://www.mfsa.co.uk)

MFSA offers advice and support to parents and families of children who are involved with social services in Merseyside. They guide them through child protection conferences or any subsequent care proceedings, and promote partnership, understanding and good practice between all parties, whenever possible.

**Newham African Caribbean and Asian Advisory Service (NACAAP)**

Stratford Advice Arcade  
107-109 The Grove  
Stratford  
London E15 1HP

Office opening hours: 10.00 am -4.00 pm, Monday to Friday  
Tel: 020 8519 8312  
Fax: 020 519 5770  
Advice: 020 519 8311 (Monday mornings)

NACAAP works with African Caribbean and Asian parents and carers in the London Borough of Newham who are involved with social services about child protection issues. They provide advocacy, counselling, support, advice and information, and can also refer to a team of specialist solicitors for free advice. Parents and carers can make contact either on the advice line, or by phoning the office to make an appointment, or by dropping in during office hours.

**Norfolk and Norwich Families House**

125 Ber Street  
Norwich  
Norfolk  
NR1 3EY

Tel: 01603 621702 (office hours 9-5)  
Email: [admin@familieshouse.org.uk](mailto:admin@familieshouse.org.uk)

This is a charity which provides families with support including supervised contact. The project will be extending its services to provide independent advice and advocacy for parents involved in child protection cases as from April 2003. This service will initially be piloted in the Norwich area, and will be limited according to staff availability. However, it will be developed in the future subject to the pilot project being successful, and further funding being forthcoming.

## **12.2 Referral organisations for solicitor advocates**

### **Community Legal Services Directory (CLS)**

Directory telephone line: 0845 608 1122  
[www.justask.org.uk](http://www.justask.org.uk)

The CLS directory line will refer callers to a local specialist legal adviser or a solicitor specialising in family law. This includes children who are taken into care.

### **The Law Society**

Information Services  
Ipsley Court  
Berrington Close  
Redditch  
Worcs  
B98 0TD

Information on specialist solicitors: 0870 606 6575  
Website: [www.solicitors-online.com](http://www.solicitors-online.com)

Information services will provide up to date list of local solicitors on the Law Society's Children Panel.

### **Solicitors Family Law Association**

PO Box 302  
Orpington  
Kent BR6 8QX

### **12.3 Other relevant organisations:**

#### **Barnardo's**

Tanner's Lane  
Barkingside  
Ilford  
Essex  
IG6 1Qg

Tel: 020 8550 8822

Website: [www.barnardos.org.uk](http://www.barnardos.org.uk)

Barnardo's is involved in 300 projects nationwide which aim to help children and families overcome severe disadvantages. Problems include abuse, homelessness and poverty. Referrals are made by the local authority but there is some self referral as well. Further information on these projects can be obtained from the website, or by calling head office.

#### **Childline**

Studd Street  
London  
N1 0QW

Freepost address for children:

Childline  
Freepost 1111  
London N1 0BR

Tel: 020 7239 1000

Fax: 020 7239 1001

Website: [www.childline.org.uk](http://www.childline.org.uk)

- Helpline: 0800 1111 (open 24 hours a day, 7 days a week)
- The Line (a helpline for children living away from home including children in foster care, at boarding school): 0800 884444 (open Mon-Fri 3.30-9.30pm and 2.00-8.00) Sat and Sun;
- Minicom service for children with hearing difficulties: 0800 400 222 (Mon – Fri 9.30 –9.30 pm and Sat and sun 9.30 am – 8.00pm)

Childline is the UK free helpline for children and young people in trouble or danger. It provides a confidential phone counselling service for any child with any problem 24 hours a day every day. It listens, comforts and protects. Trained counsellors provide support and advice and refer children in danger to appropriate helping agencies. Childline also brings to public attention issues affecting children's welfare and rights.

#### **Children's Legal Centre (CLC)**

University of Essex  
Wivanhoe Park  
Colchester  
Essex  
CO4 3SQ

Office tel: 01206 872466

Advice Line tel: 01206 873820 (open 10am-12.30pm and 2-4.30 Mon-Fri)

The CLC is a charity which provides confidential telephone advice to any caller on any issue regarding children's legislation.

**Department of Health**

Wellington House  
133-155 Waterloo Road  
London  
SE1 8UG

Tel: 020 7972 2000

Website: [www.doh.gov.uk/qualityprotects](http://www.doh.gov.uk/qualityprotects).

The government's Quality Protects programme, which will conclude in March 2004, includes a commitment to promoting the participation of children, young people and their families in the planning and delivery of services and in decisions which affect their day to day lives, particularly through the development of independent advocacy services. Further information can be obtained about the Quality Protects programme from Steve Kingdom, Quality Protects Manager at Wellington House (above).

**National Centre for Disabled Parents**

Unit F9  
89-93 Font Hill Road  
London N4 3JT

Freephone 0800 018 4730

Textphone 0207 272 7764

Fax: 0207 263 6399

In addition to providing a range of services, two separate organisations operate within the Centre providing separate services:

**Disabled Parent's Network:**

This organisation runs a parent to parent helpline on:

Telephone: 0870 241 0450.

website: [www.DisabledParentsNetwork.org.uk](http://www.DisabledParentsNetwork.org.uk)

**Disability, Pregnancy and Parenthood International**

This organisation provides a UK based information service for disabled parents and those who work with them.

Freephone 0800 018 4730 (Information services available Mon-Fri 9.30 – 5.30)

**National Youth Advocacy Service (NYAS)**

99-105 Argyle Street,  
Birkenhead  
Wirral  
Merseyside  
CH41 6 AD

Tel: 0151 649 8700

Fax: 0151 649 8701

Advice line: 0800 616 101 (3.30-9.30pm Monday to Friday, plus 2.00-8.00pm Saturday & Sunday)

Website: [www.nyas.net](http://www.nyas.net)

NYAS gives legal and social work advice to young people up to the age of 25 about a broad range of personal problems. They provide independent case workers, and have access to in house solicitors and a network of independent advocates nationwide.

**NSPCC:**

Weston House  
42 Curtain Road  
London  
EC2A 3NH

Tel: 020 7825 2500

Fax: 020 7825 2525

Child Protection Helpline: 0808 800 5000 (open 24 hours per day 7 days per week)

Asian Helpline 0800 096 7719 (open 11-7 Monday to Fridays)

Cymru/Wales Helpline 0808 100 2524 (offers a bi-lingual service)

Website: [www.nspcc.org.uk](http://www.nspcc.org.uk)

- The NSPCC Child Protection Helpline provides advice, counselling and information to anyone concerned about child welfare. The NSPCC also receive and assess child abuse information and can refer child abuse matters on to appropriate agencies. The national 24 hour service is 0808 800 5000, or you can email on [help@nspcc.org.uk](mailto:help@nspcc.org.uk). There is also a text phone for the deaf or hard of hearing on 0800 056 0566.
- The Asian Helpline offers a service in 5 of the South Asian Languages and an Asian/English line. The Asian English service number is 0800 096 7719.
- The Cymru/Wales Helpline offers a bi-lingual service on 0808 100 2524.

**Parentline Plus**

Unit 520  
Highgate Studios  
53-57 Highgate Road  
London NW5 1TL

Office tel: 020 7284 5500

Helpline tel: 0808 800 2222 (open 24 hours a day 7 days a week)

website: [www.parentlineplus.org.uk](http://www.parentlineplus.org.uk)

Parentline Plus offers support to anyone in a parenting role – including the child's parents, stepparents, grand parents, foster carers and adoptive parents. It provides a confidential helpline to callers on a wide range of issues – from the arrival of a new baby, bullying, truancy, drugs, and teenage pregnancy to managing divorce or separation, and introducing new partners to their children. Where they cannot provide direct support, they will refer to a more appropriate agency, if possible.

**Voice for the Child in Care (VCC)**

Unit 4  
Pride Court  
80-82 White Lion Street  
London N1 9PF

Tel: 020 7833 5792

Fax: 020 7713 1950

Advice line: 0808 800 5792 (Mon- Fri 9.30-5.30)

VCC is committed to empowering children and young people in public care and campaigning for change to improve their lives. They provide direct advocacy to children and young people on request. There is a duty advocate available everyday for young people on the advice line, plus access to a legal adviser when necessary.

## Appendix 1

### A qualitative study of advice and advocacy for parents in child protection cases Summary of Findings by Bridget Lindley and Martin Richards, Centre for Family Research, University of Cambridge

*This summary describes the findings of a qualitative study, funded by the Nuffield Foundation, which explored the process of advocacy<sup>36</sup> for parents in cases in which the local authority was making enquiries under s.47 Children Act 1989. Such enquiries are conducted within an administrative rather than judicial framework. The rationale for the study was that partnership is regarded as **the** fundamental principle underpinning the successful protection of children (Department of Health, 1999). Yet it may not always be achievable in every case because where there is a divergence of views between the social worker and the parents about the risk to the child, the social worker's duty to protect the child takes precedence over their role as advocate for the family as a whole, often leaving the parents unsupported (Corby & Millar, 1996; Bell, 1999). When this occurs, parents may need to be supported by an independent advocate in order to be able to participate effectively in the process from an informed position (Hunt & McLeod, 1999; Freeman and Hunt 1995). Such advocacy is promoted in recent guidance, but it is not as yet a coherent, nationally run service. The few specialist schemes which exist are innovative, and their advocates, along with solicitor advocates, have had to develop many of their skills on the hoof, hence the need to explore the advocacy process in more detail.*

#### Key Findings

- Advocacy for parents in child protection is generally provided by *formal* advocates who tend to be professionals with specialist knowledge of child protection issues, and by *informal* advocates who tend to be lay advocates, relatives and friends, and who generally do not have such specialist knowledge prior to their involvement in the case. In this study, qualitative data was collected about the work of formal advocates, although some respondents reported their experience of informal advocates as well.
- The study found that specialist advice and advocacy tended to be provided by a few advocacy organisations working specifically with parents whose children were subject to s.47 enquiries, and by solicitors, most of whom were child care specialists and on the Law Society's Children Panel.
- The extent to which parents relied on specialist advice and advocacy varied according to their needs and the ability of the parents to understand the process and issues, and to speak for themselves without assistance.
- There was a strong consensus that parents should be referred to local and national sources of advice and advocacy as soon as enquiries are initiated as part of the routine child protection procedures, so that they know where to go to access the specialist advice, advocacy and support when they need it.
- The funding of specialist advice and advocacy was considered inadequate and insecure and can lead to unequal service provision for parents.
- The function of advice and advocacy was multifarious. It included supporting and advising the parent about the process, the child protection concerns and how they might be overcome, and what the likely consequences of particular courses of action might be; empowering the parent to express their views, and through brokering with the local authority to try to ensure that the parents' views are heard when the child protection plan is drawn up.
- There was some resistance amongst professionals to the advocate's involvement, especially when they were not familiar with the advocate's work and/or when the advocate was confrontational.
- There was a strong consensus that advocacy is helpful or very helpful provided the advocate has specialist knowledge and experience of the child protection process and issues, conducts him/herself in a professional, non-adversarial manner and becomes involved early on in the process.
- There is a need for an advocacy protocol to be drawn up, giving guidance about professional issues such as the advocate's independence, his/her confidentiality and its limits, his/her reporting duty and the extent to which s/he should be directive in the advice s/he gives.

<sup>36</sup> We use the term advocacy to describe the range of activities, including advice-giving, identified by the data and reported below.

## THE STUDY

### AIM:

When exploring the process of advocacy, particular attention was given to organisational issues, the function of advocacy, the professional dilemmas inherent in the advocate's role, and, without providing, any formal evaluation of its impact, the factors which are associated with advocacy being successful and unsuccessful. The study compared and contrasted the views of parents, advocates and social workers about the current service, and how it might be improved and developed. The longer term aim was that this data would provide the groundwork for designing a prospective, comparative study, which could evaluate the hypothesis that advocacy has a positive impact on partnership and enhances the parents' ability to participate in planning and securing their child's safety and protection.

### METHODS:

**Design:** Semi-structured interviews were conducted in two separate phases. Phase 1 involved interviewing parents, and their advocates and social workers wherever possible, about the work of professional advocates in a total of 36 specific child-protection cases. These cases were identified by a number of advocates who referred the research team to any parents they were advocating for within the first 6 months of the s.47 enquiries being initiated by the local authority. The data collected in this phase revealed a wide variation in what advocates did to support, advise and advocate for parents at this stage of the process, and also what they were allowed to do by different local authorities. Phase 2 therefore explored these issues further by interviewing advocates, and local authority staff who had direct experience of working with advocates, more generally for their views on advice and advocacy for parents in this context.

**Sample:** The overall number of respondents interviewed was 106, comprising 43 parents, 28 advocates and 35 local authority staff. The profile of the parents was distinctive in that the majority of them were white (78%), mature (60%), and employed (83% of households). For the majority (53%), the child protection enquiries constituted the family's first contact with social services. In general, they were also very articulate. These parents were not necessarily representative of all those who are drawn into the child protection process or typical of those who seek advice and advocacy. Indeed it is likely that there was an under representation of black and ethnic minority families in the sample (Brandon, Thoburn, Lewis and Way 1999). The profile of the advocates and local authority respondents was professional and predominantly white in relation to the cases in phase 1, but was more mixed in phase 2 of the study.

**Data analysis:** Grounded theory (Glaser & Strauss, 1967) was used to identify common themes, perspectives and experiences in the qualitative data. The semi-structured format of the interviews meant that respondents reported experiences and issues which *they* perceived to be relevant and important. Full quantitative information on all the themes which emerged was therefore not available. However the qualitative analysis was striking in that particular themes clustered clearly.

## THE FINDINGS:

### Organisational issues

- There were two main types of providers of *formal specialist* advocacy: advocates employed by specialist advocacy organisations, known as *specialist advocates*, and solicitors specialising in child care law, known as *solicitor advocates*.
- These advocates were generally from a professional background in a related field and all had received some specialist training on child protection law/policy/procedure, although specialist advocates tended to have received more of this training than solicitor advocates;
- Specialist advocacy organisations were rare and were generally founded as a result of the ideas, energy and commitment of one or several pioneering individuals;
- Parents were generally referred to local specialist advocacy groups by social workers who were either familiar with their work, or when the partnership was under strain and they needed help to engage the parents with the issues. In other cases, parents were very resourceful in tracking down sources of specialist advice and advocacy on their own. Many of them found this difficult at a time when their lives were already under stress;
- There was a general consensus that there should be a standardised referral service, preferably as part of the local child protection procedures, to ensure that parents have access to the advice and advocacy they need early on in the process;
- Parents also relied on other agencies, non-specialist advocates, relatives and friends as well as

- specialist, professional advocates for support, but they were not the subject of this study;
- The funding of specialist advocacy was dependent on charitable grants. This was generally inadequate and short term thereby creating financial insecurity;
- The funding of solicitor advocates was either public funding where the parent fell within the eligibility limits or where there were proceedings pending, or private payment which most parents found onerous, if not prohibitive;
- The funding constraints on advocacy made it more accessible to some parents drawn into the process than others; some solicitors responded to this by working on a pro bono basis.

### **The function of the adviser/advocate**

Parents involved in child protection cases said they needed a specialist service which could help them to understand the concerns and process, and thereafter support them to address the issues and formulate and express their views in the process from an informed position. To meet this need, advocates worked with them both in a private and a public context, as follows:

#### ***In private:***

- developing a good relationship with parent, so that they felt able to trust the source of the information and advice given;
- informing them about the process;
- helping them to identify and understand the concerns, and what was expected of them to overcome the concerns;
- advising them on the options, and giving them an open and honest opinion on the likely consequences of particular courses of action;
- challenging parents about their views and/or encouraging their co-operation, as appropriate; and
- helping parents prepare for meetings, and debriefing with them afterwards.

#### ***In public:***

- supporting parents at meetings by translating jargon, managing the parents' behaviour, raising cultural issues, acting as a witness, and assisting them to express their views; and
- building bridges and promoting partnership between parents and the local authority by clarifying issues in dispute, making sure each party understood the others' views and expectations of them; and challenging the local authority on issues and process and/or encouraging the parents to co-operate, as appropriate.

### **Professional issues**

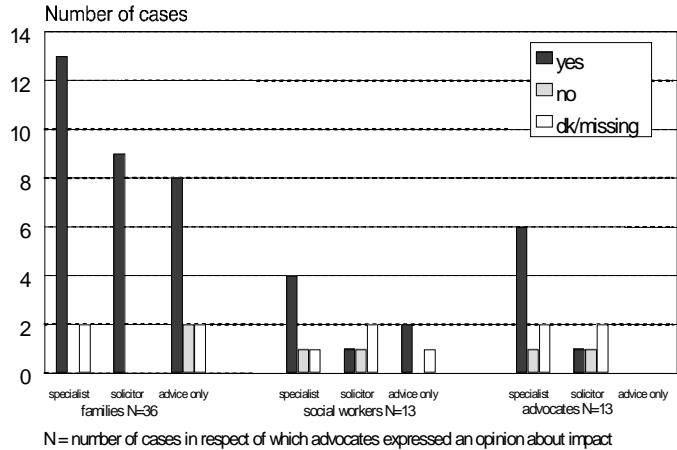
- Advocates were generally directive to a greater or lesser extent in the advice they gave, depending on how receptive the parents were, and the level of risk. However ultimately the parents formulated their own views because it was they who had to live with the consequences.
- The independence of the advocate from the local authority was a fundamental feature of their role because it was the basis on which the parent could trust their opinion to be objective.
- Advocates said that they generally maintained the parent's confidentiality unless they became aware of potential harm to a child which was not already known to social services. In these circumstances, they were under a self-imposed duty to report the information to social services unless the parent did so themselves.
- Some social workers feared that advocates might collude with parents and thereby place a child at risk of harm. This fear was greater in relation to lay advocates, friends and family, than in relation to known advocates who specialised in this work and were the focus of this study. Some advocates had been invited to collude with parents on a few occasions, but they had always resisted this. This fear was generally allayed if the advocate had a professional manner, and the social worker was aware that they adopted a reporting duty.
- Despite the advocate being partisan to the parent, both advocates and social workers thought it was important that the advocate also had an eye on the child's perspective and maintained a certain detachment from the parent so as to be able to give them sound advice.
- Most professional respondents considered that advocacy was most helpful in the process when the advocate adopted a non-confrontational style in their discussions with the local authority; and conversely, that if they adopted an aggressive, adversarial style this could be potentially counter-productive, especially if it inflamed the parents' emotional reaction.
- Solicitor advocates were far more constrained in what they did than specialist advocates because of a range of factors including financial constraints and some professional resistance to their involvement. Solicitors were frequently confined to observer status in meetings.

The majority of respondents thought it would be very helpful if an advocacy protocol was developed addressing professional and ethical issues and clarifying the role, so that there was less room for confusion and mistrust about what advocates do and do not do.

### Impact of the advocate

By far the majority of respondents thought that advocacy was either helpful or very helpful to partnership within the child protection process, provided it is specialist, independent, and non-confrontational, and is instigated at an early stage in the child protection process. The general impression was that it helped to engage parents in working with the local authority to address, and where possible overcome, the child protection concerns. This is confirmed in the figure opposite which records the views about the advocacy input in relation to all the cases in phase 1.

Figure 5. Did the advocate make a difference to the case?



There were some caveats to this positive view, already outlined above, including:

- the inequality of access to advocacy between parents due to regional variations of service provision and financial constraints;
- the lack of uniform system of referral to sources of advice and advocacy;
- mistrust which can arise where there is a lack of clarity about the advocate's role;
- problems in communication if the advocate is too adversarial;
- dissatisfaction amongst some parents that their advocate was not challenging enough to social services;
- a fear amongst some social workers that advocates might collude with the parents unless the advocate demonstrated their professional integrity; and
- the parents views can become masked if the advocate is too directive in their advice or too vociferous in their advocacy.

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## Appendix 2

### Aide memoire to assist social workers to work with advocates

#### 1. General:

- Have you read your local protocol on the involvement of advocates for parents?
- Have you received training on the involvement of advocates for parents?
- Do you understand the role and ethical position of an advocate?
- Do your local ACPC procedures allow you to communicate directly with advocates or is all information about the case given to the parent only?

#### 2. Individual cases:

##### 2.1 Referral:

- Has the parent been given information about local and national sources of advice and advocacy? If so, by whom..... Date.....

##### 2.2 The parent:

- Has the parent consented to you communicating directly with the advocate/supporter?
- Was the consent oral/written? Date.....
- Does the parent want the advocate/supporter to be invited directly to CPC if any, and sent copies of reports? Yes/No
- Does the parent need help to pay for their advocacy? Yes/No
- If yes, who will pay?.....

##### 2.3 About the advocate/supporter:

- Who is involved in the case to advise and support the parent?
  - an advocate (including solicitor advocate)
  - a supporter
- If an advocate: has s/he been asked to enter into an agreement with the local ACPC confirming their role.
- If a supporter:
  - Have you given the supporter briefing materials about their role in a child protection case?
  - Has s/he been asked if s/he needs any further assistance or information to prepare for their involvement including referral to specialist support, such as FRG?

## Appendix 3

### Aide-memoire for ACPCs to integrate advocacy for parents into practice

ACPCs need to: undertake the following in order to facilitate and integrate advocacy for parents into child protection practice:

#### Referral:

- **ACPCs** should compile a list of local and national advice and advocacy services with experience (or the potential to acquire the expertise) in child protection (including solicitors), which parents in their area can access;
- **ACPCs** should consider how they can assist local generic advice and advocacy services to develop their expertise to include working with parents in child protection;
- **ACPCs** should include a question in the paperwork used in a s.47 investigation about whether the family requires an advocate.
- **ACPCs** should compile a list of self-help groups and voluntary agencies such as neighbourhood family centres, parent groups, groups providing other adult services for example disability groups, and other supportive agencies so that social workers can help parents find independent support;
- **Chairs of child protection conferences:** should check that parents have been given the above information, and should ascertain whether they want to bring an advocate or supporter to any conferences.

#### Funding:

- **ACPCs** should identify the funding gaps, when compiling the list of local and national advice and advocacy services, with a view to developing and promoting advice, advocacy and support services to meet the needs of the parent population which does not have currently have access to the service.

#### Defining the advocate's role:

- **ACPCs:** make explicit the fact that advocates should not be asked to comment on the level of risk to the child;
- **ACPCs:** should establish clear and open criteria for challenging an advocate/supporter if their conduct is considered to be unacceptable by the chair of a meeting/conference, if the matter cannot be resolved informally.

#### Supporting social worker to integrate advocacy for parents into practice:

- **ACPCs** should clarify in their procedures how staff can actively incorporate the advocate's role into their practice in individual cases (subject to parental consent) for example:
  - whether social workers can communicate directly with advocates about the details of a particular case;
  - whether advocate/supporters are invited to conferences directly or whether the parent is expected to invite them;
  - whether reports are disclosed to advocates/supporters in addition to parents etc.
  - how to deal with situations where the parents are themselves in disagreement, ensuring that each parent has access to their own adviser/advocate if they wish
- **ACPCs** should include in their procedures their policy an aide-memoire for social workers on how they may work with advocates/supporters for parents in child protection, as in Appendix 2.

#### Advocacy development forum:

- **ACPCs** should convene an **advocacy development forum** to establish a dialogue between advocacy providers and their corresponding local authorities about local procedures, training and other issues, as discussed in section 4 above.

#### Complaints policy:

- **ACPCs** need to establish a procedure for dealing with complaints (whether from the advocate, the local authority or the parent), about the way in which an advocate has been involved in an individual case if the matter cannot be resolved informally.

## Appendix 4: Evaluation of this Protocol

This protocol has been informed by qualitative research on advice and advocacy for parents in child protection cases, and by a wealth of experience of policy makers, practitioners members of the judiciary ad academics with expertise in the field who commented on earlier drafts. It is therefore hoped that it is a sound document, which will be useful in practice. However, this is only the first edition of the protocol. We plan to review it and publish a revised version if necessary, in the future. We would therefore welcome your comments as follows:

Name \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Job title

In what capacity have you used this protocol?

How useful has this protocol been to inform your practice?

Very helpful          helpful          neutral          not very helpful          unhelpful

Why?

What revisions (if any) do you think should be made? Please use extra page if necessary

Why?

Any other comments

Please send these to us:

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