

# **The state of children and young people's advocacy services in England**

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December 2023

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## Foreword from Dame Rachel de Souza

Every child should feel that their voice is heard, and their wishes and feelings are taken into account by the adults that care for them.

At the heart of all my work as Children's Commissioner are the voices of children. I hear directly from children about their experiences of their home life, school, their friendships, as well as the challenges they face. And through my independent advocacy service 'Help at Hand', my team support hundreds of children every year who are living away from home or receiving social care services.

Last year, when I gave evidence to the United Nations Committee on the Rights of the Child, I reflected on the vital importance of respecting children's right to be heard (Article 12 of the UN Convention on the Rights of the Child). I believe that when children are truly heard, it enables us all to protect them better.

I want to thank all of the children's social care teams in local authorities across the county for their dedication to ensuring that vulnerable children's voices are heard and that they get the care they need. Advocates play a vital role in turning this right to be heard into a reality for many of the most vulnerable children. When advocacy works well it can keep children safe and improve the care they receive

I was delighted when earlier this year the government's strategy on children's social care 'Stable Homes Built on Love' recognised that the model of advocacy should shift towards a model where children are proactively offered an advocate to advise and support them and have to 'opt-out' of support rather than 'opt-in'.

Yet, the findings I present in this report show just how far the current system of advocacy is from a model where children get proactive advocacy wherever they need it. Using data, I collected from almost all local authorities in England, to whom I owe a debt of gratitude, I found that even when children get a referral to an advocate, and most children do not, many referrals do not result in children getting direct support from an advocate.

There are also inconsistencies in how advocates are trained and the qualifications they are required to have to advise children on their rights and entitlements. Fundamental to an advocate's ability to stand

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up for a child is that they both are, and are seen to be, genuinely independent. But this report shows that there are real question marks about how independent advocates are from the local authority that commission them.

When advocacy works well it can be truly transformative for children, unblocking issues they are experiencing and providing them with a trusted and reliable adult who will always be in their corner. As Children's Commissioner, I have made it my mission to make sure every vulnerable child who needs help from an advocate can access that help whenever they need it.

For this vision to become a reality there will need to be changes to the way that advocacy is commissioned, how the quality of advocacy is assessed, and a national effort to increase the number of well trained and skilled advocates. All of these reforms will need to be adequately resourced to ensure that they can be effectively implemented.

## Executive summary

The Children's Commissioner's role is to listen to children and make sure their voices are heard. She therefore has a particular interest in, and duty to investigate, the quality of advocacy services for children. For this report the Children's Commissioner's office interviewed young people, advocates and managers, and asked the 152 local authorities of England to submit information about their commissioned and in-house advocacy services for children and young people in 2022-23. In total, 144 local authorities responded to the data request in time for analysis, representing 95% of local authorities in England.

### Availability of services

- There is a wide range in the ratios of advocates to children. Across England, 112 local authorities reported having 450 full-time equivalent advocates. Nearly a quarter (22%) of reporting local authorities were unable to provide data on their number of full-time equivalent advocates. On average, local authorities employed one advocate for every 3,053 children eligible for advocacy services, ranging from one advocate per 58 eligible children to one every 26,639 eligible children.
- Not all children who should be getting advocacy are receiving this support, and there is a wide range in access across local authorities. Comparing the total number of referrals for advocacy support reported by each local authority to the total number of children entitled to an advocate indicated an average referral rate of 5%, and a wide range in referral rates (from 0% to 42%) across local authorities.
- Some groups of eligible children were able to make more use of advocacy than others. For example, the highest mean referral rate for advocacy services was for 16–17-year-old homeless children (50%), followed by children on Child Protection (CP) plans (33%), while children with SEND and children on Child in need (CIN) plans had the lowest mean referral rates (2% and 3% respectively).
- The estimated percentage of all children eligible for advocacy services that get support (a 'representation') from an advocate after they receive a referral for advocacy is 65% (this estimate

is referred to in the report as the 'conversion rate' and was 0.78 across all children in need, so not all children in need of help from an advocate go on to receive it.

- Estimated conversion rates of referrals to representations also varied between groups of children and young people. Children being assessed for children's social care had the highest mean conversion rate (1.43), while children on child protection plans and homeless 16–17-year-olds had the lowest mean conversion rates (0.77 and 0.74).
- Compared to 2019, the estimated conversion rate for children with SEND fell from 0.90 to 0.82, while the conversion rate for care leavers had remained similar (reduced by 0.02 to 0.87).
- Only 27% of local authorities reported providing continuous advocacy (where the offer is not related to a single issue, and there are no time limits) for children and young people by default. This shows how far the current commissioning structure is from an opt out model where every child can access advocacy whenever they need it. Advocacy was provided on a continuous basis on request in 50% of local authorities, 42% of local authorities stated that advocacy must relate to a specific issue, and 13% of local authorities reported time limits on access to advocacy services.
- While data completeness has improved since the office's 2019 report on advocacy, important gaps in evidence remain.

## **Quality of advocacy services**

- 89% of local authorities required at least some experience or a professional qualification from their advocates, with around half of local authorities (49%) requiring demonstrable prior experience of working with children and young people and 32% requiring a Level 3 Certificate in Independent Advocacy.
- In interviews, professionals frequently mentioned the lack of training or qualifications required to become an advocate, particularly specialist training, which sometimes presented a barrier to providing advocacy services to young people.

- As advocates should play central role in helping children and young people navigate the complexity of local authority complaints processes, their involvement in this process can be seen as a proxy measure of the quality of the advocacy service that children receive. On average across 118 local authorities and all levels of complaints, 62% of all complaints involved an advocate. Local authorities recorded a total of 21 complaints per local authority on average across all types, including 19 Level One complaints and under five Level Two complaints or above.
- Local authorities providing in-house advocacy services were eight percentage points more likely than other local authorities to require prior experience of working with young people (34% compared to 26%).

### **Independence of services**

- When asked about the commissioning of services, the vast majority (83%) of local authorities reported using externally commissioned services to provide at least some of their advocacy services to children and young people in their area, although this figure includes those who use a mixture of in house and externally commissioned services.
  - Local authorities were asked to select which providers were used to provide their advocacy services. External charity providers were used by 62% of local authorities, external commercial providers were used by 21% and 12% used spot purchase, and 28% of local authorities provided advocacy services in-house. Across all local authorities, none used only charity providers or only commercial providers to provide advocacy, but 14% of local authorities provided advocacy entirely through in-house provision.
  - The non-independence of advocates either directly employed or commissioned by local authorities was a key perceived conflict of interest raised by advocates. For example, for externally commissioned advocates spoke about struggling to retain independence as they rely on the local authority to contract and fund their services which can create a tension for advocates.
  - For in house advocacy services, there is a challenge for advocates in how they retain their independence from the local authority. When asked about the roles of advocates, 26% of
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responding local authorities reported that advocates also covered other roles within the local authority, including co-ordinating volunteers and managing youth engagement and participation programmes. This highlights how challenging it can be for advocates working in house to maintain independence and effectively challenge decisions.

## **Spend on services**

- On average local authorities spent £729 in 2022-23 per referral. This represents an increase of £63 compared to findings from a previous study by the CCo which collected spend data from 68 local authorities (average £666 per referral in 2019). However, accounting for inflation between 2019 and 2023, this represents a decrease in spend in real terms of £86 on average per referral.
- The average cost per referral was higher among the local authority that provided at least some in-house provision (£940), than if at least some provision was provided externally, either through a charity provider (£779) or a commercial provider (£669).

## **Mental Health advocates**

- Local authorities have a duty to commission an independent mental health advocate or an independent mental capacity advocate for children who are subject to the Mental Health Act or 16- and 17-year-olds detained under the Mental Capacity Act.
- The quality of the data the office received from local authorities on the numbers of children eligible for this form of advocacy and the referrals for this group was very poor, indicating a concerning lack of join up between children's social care services and the health services that children are receiving.

## **1. The importance of advocacy**

*This chapter provides an overview of what advocacy is and which groups of children and young people are eligible for it, the role that the Children's Commissioner's Help at Hand team plays in providing independent advocacy, what good advocacy looks like in practice and the wider policy context for why the office is looking at advocacy services in England.*

### **1.1. For children living away from home, advocates amplify their voice**

All children have the right to be listened to and have their wishes and feelings heard by those who make decisions about them. Some children, because of their additional vulnerability, have a legal right to independent advocacy. This is a vital safeguard for ensuring that children living away from home or who have a social worker have their rights upheld.

The Children's Commissioner for England has a statutory duty set out in the Children Act 2004 to promote and protect the rights of all children, with particular regard to children who are living away from home or receiving social care services. In particular, she has a statutory duty to investigate the availability and effectiveness of advocacy services for children, under section 2 of the Children Act 2004.

The United Nations Convention on the Rights of the Child (UNCRC) includes the right for children to be heard (Article 12). It is central to the Children's Commissioner's work to ensure this right is a reality for all children, and particularly the most vulnerable. The legal entitlement to advocacy is one of the most important mechanisms for ensuring this right is respected.

### **1.2. What is advocacy?**

The central role of an advocate is to support children and young people to express their wishes and feelings to decision-makers, and ensure their rights are upheld.<sup>1</sup>

Certain groups of children in England have a statutory entitlement to independent advocacy.<sup>i</sup> This includes, any child classified as a child in need<sup>ii</sup>, care leavers, Children with special educational needs and disabilities, 16- and 17-year-olds who have presented to the local authority as homeless, young carers, 16- and 17-year-olds who lack mental capacity and children who are subject to the Mental Health Act.

How children access advocacy services will depend on where they live, particularly if they are living away from home. For children living in foster care, the local authority that acts as their corporate parent will either provide advocacy from within the local authority (known as in-house) or will commission an external organisation, for example, a charity. For children who live in residential settings, such as children's homes or secure children's homes, alongside the local authority provision the residential setting may employ advocates that visit the settings to provide advocacy to children on a regular basis.

Then there are children living in the secure estate. This includes children living within Young Offender Institutions and Secure Training Centres. For all children living in these settings, the Ministry of Justice commissions advocates from Barnardo's to deliver advocacy services for children.

For children who are subject to the Mental Health Act or the Mental Capacity Act, the local authority where the child is placed will commission an independent mental health advocate or an independent mental capacity advocate. These advocates support people to understand their rights under the law, as well as helping them to express their views and make complaints.

Across all provision, if a child is unable to express their own wishes and views either due to their age or due to having complex additional needs, a non-instructed advocate is appointed to take action on behalf of the child or young person.

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<sup>i</sup> This includes groups set out in the following legislation: The Health and Social Care Act 2012, The Adoption and Children Act 2002, The Children and Families Act 2014, Care Act 2014, Mental Health Act (as amended) 1983).

<sup>ii</sup> Which includes, children being assessed by children's social care, children on child in need plans, children on child protection plans and looked after children.

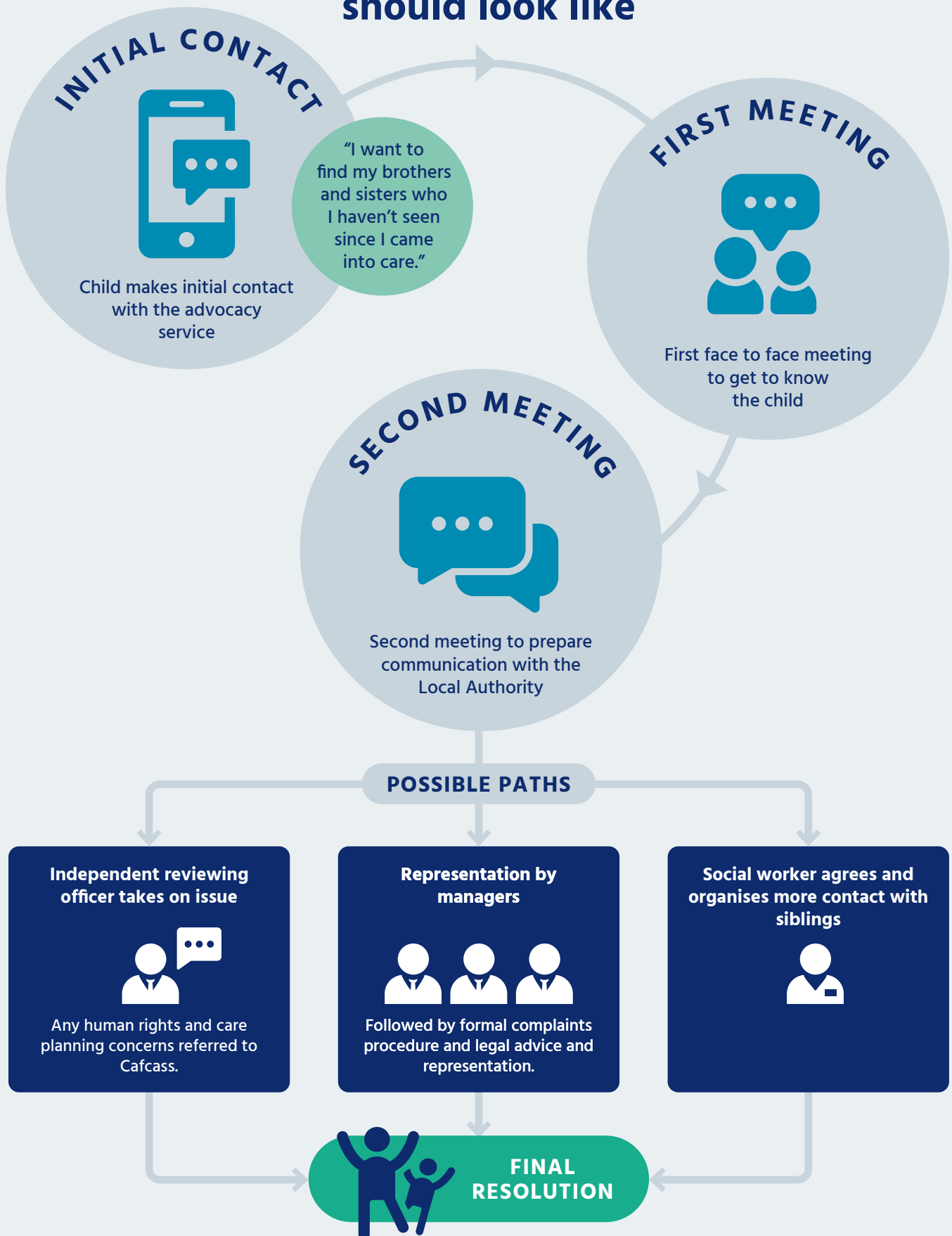
### **1.3. The Children's Commissioner's Help at Hand team**

The Children's Commissioner, under Section 2D of the Children Act 2004, can intervene to provide advice, assistance, and representation to any child who is living away from home or receiving social care services. This includes children who are in care, in hospitals and in youth custody settings.

The Children's Commissioner typically acts as an escalation point in instances where advocacy services at a local level face barriers to getting children the help that they need. The team also provide direct advocacy to children, such as unaccompanied children seeking asylum who are placed in temporary contingency accommodation, who are not able to access advocacy elsewhere.

**When advocacy services work well, a child's journey through advocacy services should look like:**

# Example of what a child's advocacy support journey should look like



## 1.4. What good advocacy can achieve for children

Advocacy services play a vital role in keeping children safe, and improving the care they receive. They do this both by highlighting failings and by providing children with a trusted adult who is dedicated to upholding their rights and getting them the help that they need.

Tragic revelations of the failings in the care of children are a reminder of the vital importance of high-quality independent advocacy. The recent national safeguarding practice review into safeguarding children with disabilities and complex needs in residential settings in Doncaster between 2018 and 2021, revealed appalling, systematic abuse of children.<sup>2</sup> The children, who had complex disabilities and health needs, were in the care of local authorities because this was deemed to be better for them than remaining with their families. However, instead of being protected, they were victimised. Their disabilities were exploited by the abusers to prevent the children themselves from being heard. These children, as the review noted, needed independently commissioned advocates who had the specialist knowledge and skills required to accurately represent the best interests of children. Without it, their abuse went on unchallenged for too long.

Yet, when advocacy works well and children get the right help and feel that their voices are heard, it can have profound and lasting impacts on their lives.

As the CCo found in a recent report, the 16- and 17-year-olds who presented as homeless to their local authority and accepted their offer of an advocate were statistically significantly more likely to be given care under section 20 than children who declined it (38% vs 31%).<sup>iii</sup> Being given section 20 care in these instances can have a lasting impact on children's lives, crucially shaping the level of support young people receive when transitioning into adulthood.

Navigating the complexity of the care system can be extremely challenging for children and young people. For children, having an advocate can provide a sense of security and can be less intimidating

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<sup>iii</sup> After controlling for the different characteristics of the children in the analysis, accepting the offer of an advocate still statistically significantly increased the chances of a children being accommodated under section 20. See Technical Report for more detail, available at <https://www.childrenscommissioner.gov.uk/resource/homeless-16-and-17-year-olds-in-need-of-care/>

than other professionals such as a social worker. As one interviewee put it: *'...I feel like that's crucial information because as a child [...] your brain can develop, so you can be very swayed easily and [to] have an advocate is kind of warming to know that there is someone who is going to be there to support you if you're nervous, if you're scared.'* – Young woman, 18.

Every week the Help at Hand team see examples of advocates supporting children and young people to access the care, love, and protection they need to thrive. The review of the service for the past year has recently been published. Below is an example of the positive impact advocates can have on children's lives from the Help at Hand team.

### **1.5. A growing recognition of the value of high-quality advocacy**

In recent years there has been a recognition of the vital importance of independent advocacy in children's lives. Last year, the Independent Review of Children's Social Care ('The Care Review') recommended that the government establish an 'opt-out' model of advocacy for all children in care. This would mean that children would not have to seek out advocacy themselves, but instead would be proactively offered it. The Care Review also recommended the opt-out model operate independently from the local authority and agencies that deliver care services to children, to increase confidence that the advocacy services will act in their best interests.

#### **Help at Hand case study**

**'Owen'** was 16 and had been removed from his mother with his young siblings due to neglect and abuse. His siblings were placed in foster care and Owen signed a Section 20 agreement for accommodation. However, the local authority could not find a suitable placement so asked him to stay with his grandparents in their one-bedroom flat while they looked. The local authority made several offers of accommodation but subsequently withdrew them for funding reasons. After almost a year, Owen was still with his grandparents in unsuitable, cramped conditions. He asked for an advocate to help him make a complaint to the manager. When this did not have an impact, his advocate contacted the service manager to raise concerns about Owen's situation and the lack of a clear response or timeline. After further delay, in 2023 the advocate reached out to Help at Hand for support with Owen's case, with his consent. Help at Hand wrote to the team manager, Independent Reviewing Officer, and social worker to ask why Owen had not been offered accommodation. He was provided with a Section 20 placement the following day.

In response to The Care Review, the Department for Education (DfE) published a strategy for children's social care, 'Stable Homes, Built on Love.'<sup>3</sup> The strategy committed to consulting on plans to implement the proposal for an opt-out model but did not comment on the recommendation for the model to be independent. It is important to note that the Care Review focused on children who interact with the care system who have an entitlement to advocacy, including looked after children, children in need and care leavers. So, there is a question of whether the government's plans for an opt-out model will extend to children outside of the care system, including for example young carers. As yet, it is unclear how an opt-out model would operate in practice; this report therefore examines some of the barriers an opt-out model would need to overcome and makes recommendations about how it should be delivered.

The DfE is also currently updating the National Standards for the Provision of Children's Advocacy Services (2002) and the statutory guidance on Providing Effective Advocacy Services for Children and Young People Making a Complaint under the Children Act 1989 (2004). The government has launched a consultation on the revised version of the standards and accompanying statutory guidance. The CCo welcomes the intention to improve the quality and delivery of advocacy, although they will need further change once an opt-out model is established and if the CCo's recommendations on the need for greater independence are implemented in full.

Additionally, after extensive reviews and consultations a draft Mental Health Bill to reform the Mental Health Act was introduced in 2022. The draft Bill included proposals for an opt-out model of Independent Mental Health Advocacy, and an extension to 'informal' patients (those who are not detained under the act). However, the King's Speech in November 2023 did not refer to the Bill and the much-needed reforms contained within it<sup>4</sup>.

To inform the development of an opt-out model of advocacy, with consistently high standards in place, the Children's Commissioner used her statutory data collection powers to assess the extent of variation in the availability, quality and effectiveness of services across the country. The findings from this data collection are presented in this report.



## 2. Methodological overview

Using the Children's Commissioner's statutory data collection power under section 2F of the Children Act 2004<sup>5</sup>, the office asked all 152 local authorities in England to provide data on their commissioned or in-house advocacy services for children and young people in financial year 2022-23.

This report uses the data collected from local authorities in England to illustrate the extent of variation in the availability and quality of advocacy services. The request included questions on the number of children eligible for advocacy services, number of referrals and representations raised on behalf of young people, advocacy provider, monitoring, and evaluation, and spend. This report also attempts to estimate the disparity between the number of children in need of advocacy and the availability of services for them.

This report also provides comparisons with a previous report conducted by the Children's Commissioner's office in 2019<sup>6</sup> to establish a national picture of how advocacy services have changed over the past four years.

*This following is a summary of the full methodology, available in Annex A1.*

The office adopted a mixed-methods approach for this report, combining research findings from the following five data sources:

1. Collection and analysis of local authority-level data from 144 local authorities in England,
2. Findings from quantitative data collected from local authorities by CCo in 2019<sup>7</sup>,
3. Case studies from the CCo's Help at Hand service,
4. Interviews with advocates and other professionals involved in the provision or commissioning of advocacy services in England,
5. Interviews with young people who had experienced homelessness aged 16 or 17.

Using the Children's Commissioner's statutory data collection power under Section 2F of the Children Act 2004, the CCo asked the 152 local authorities of England to submit information about their commissioned or in-house advocacy services for children and young people. In total, 144 local authorities responded to the data request within the deadline, representing 95% of the local authorities in England. A further four local authorities submitted data after the deadline, however data from these four local authorities was not included in the full analysis. Simple statistics covering all 148 responding local authorities are presented in Annex A2.

### **3. Support provided to children by advocates**

This chapter provides an overview of the data the office received, the overall numbers of children eligible for advocacy across local authorities, the numbers of available advocates and data on the numbers of referrals and representations for each group of eligible children and young people.

#### **3.1. Overall numbers**

Local authorities were asked to provide the number of children with an entitlement to advocacy in their local authority in 2022-23 financial year (Table 1).

For most groups of children, over 90% of local authorities were able to provide an estimate of the number of children, except for 16 and 17-year-olds who are homeless, and young carers, of which 14% and 19% of local authorities respectively were unable to provide data. The concerning lack of information on 16- and 17-year-olds who present as homelessness was an issue the CCo identified in a report published in November 2023.<sup>8</sup> Local authorities should have information about young carers as they are now included in the annual School Census data return to the Department for Education, so it is concerning that so many local authorities were unable to provide an estimate of the number of young carers in their area.

Many local authorities were unable to provide estimates on the number of children who are subject to the Mental Health Act or the Mental Capacity Act (see Section 7). This suggests a lack of join up between those commissioning IMHA and IMCA services, and those providing children's social care. This is concerning not least because local authorities have a duty under section 86 of the Children Act 1989 to visit children who are accommodated in residential special schools, care homes and hospitals for over three months. These are the settings where any children subject to the Mental Health Act or Mental Capacity Act are most likely to be placed. Data on these groups of children is presented in section 7 below.

Local authorities were asked to provide a total number of children eligible for advocacy services, as well as a total number of children in need and a breakdown of this number by whether children were being assessed for social care, children on child in need plans, children on child protection plans,

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looked after children and care leavers. Local authorities were also asked to provide values for children with special educational needs or disabilities (SEND)<sup>iv</sup>, homeless 16- and 17-year-olds and young carers.

Across all 144 responding local authorities, summing the number of children eligible for advocacy services on 31<sup>st</sup> March 2023 gives 942,564, which is likely an overestimate. For many local authorities, the total number of children in need did not equal the sum of the total number of groups of children in need. This could be driven in part by the fact that we asked local authorities about care leavers up to the age 25 who may not all be recorded as children in need. The total number of children in need who local authorities were responsible for on 31<sup>st</sup> March 2023 was 376,158. The mean number of children in need per local authority on 31<sup>st</sup> March 2023 was 2,746, with a maximum of 18,182 children (Table 1).

These numbers are broadly comparable to statistics published by the Department for Education based on its annual Children in Need Census, which reports a total of 403,090 Children in Need, including 50,780 children on Child protection plans, on March 31<sup>st</sup> 2023<sup>9</sup>.

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<sup>iv</sup> Children with SEND may include a wider group of children that are receiving special educational needs support and not defined as children in need.

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**Table 1. Summary statistics for the number of children local authorities were responsible for on 31<sup>st</sup> March 2023**

<b>Group</b>	<b>Number of local authorities</b>	<b>Mean</b>	<b>Min.</b>	<b>Max.</b>	<b>Total (all local authorities)</b>
Children being assessed by children's social care	140	794	8	11,784	111,149
Children on child in need plans	142	756	39	5,639	107,318
Children on child protection plans	143	336	0	1,372	48,046
Looked after children	142	637	0	13,332	90,470
Care leavers (aged 18 to 25)	142	486	0	3,295	68,971
Children with special educational needs or disabilities	135	3,503	19	21,613	472,938
16–17-year-olds who are homeless	124	34	0	350	4,243
Young carers	117	337	0	3,407	39,429
Total number of children in need	137	2,746	261	18,182	376,158
<b>Total number of children entitled to advocacy services</b>	<b>143</b>	<b>6,591</b>	<b>0</b>	<b>37,295</b>	<b>942,564</b>

Note: the total number of children entitled to advocacy is likely to be an overestimate due to double counting by local authorities of individuals who are members of more than one group.

### **3.2. Availability of advocates**

Across 112 local authorities (22% of local authorities were unable to provide data), the total number of advocates employed on 31 March 2023 was 450 and the mean number of full-time equivalent (FTE) advocates was four, including instructed and non-instructed advocates and those who acted as both instructed and non-instructed advocates. Therefore, on average, local authorities in England employed one advocate for every 3,053 children eligible for advocacy services. The lowest ratio of FTE advocates to total number of children eligible for advocacy services was 1:58 and the highest ratio across local authorities was 1:26,639.

The availability of non-instructed advocates was estimated according to the number of referrals for this form of advocacy reported by local authorities, as there is no clear baseline for the numbers of children who might need a non-instructed advocate. On average, local authorities in England employed one non-instructed advocate for every 11 referrals on behalf of all children eligible for advocacy services. The lowest ratio of FTE advocates to referrals was under 1:1 and the highest ratio across local authorities was 1:178.

### 3.3. Referrals and representations

In total, local authorities made 28,261 referrals for all children and young people eligible for advocacy services in 2022-23 equating to an average of 198 referrals per local authority across all local authorities. Ten local authorities could not provide data on the number of referrals. The minimum number of total referrals reported for all children eligible for advocacy services by any local authority was zero and the maximum number of referrals reported by any local authority was 2,040. In 18 local authorities, the number of referrals for all eligible children was zero, this is concerning given that local authorities have statutory duties to ensure eligible children and young people have access to advocacy.

It is noteworthy that for many groups of young people, the vast majority of local authorities were unable to provide data on the number of referrals and representations made on behalf of children and young people. Data completeness for referrals and representations in 2023 was particularly poor for young carers and children being assessed by children's social care (only 33% and 39% returned complete data respectively – see Table 2).

**Table 2. Total number of referrals and representations for each group of young people in 2022-23**

Group	Number of local authorities with complete data		Total referrals	Total representations
	2019	2023		
Children being assessed by children's social care	NA	56	1,648	1,737
Children on Child in need plans	NA	75	1,888	2,500

Children on child protection plans	NA	90	10,654	5,486
Looked after children	NA	97	9,006	5,322
Care leavers (aged 18 to 25)	70	87	2,034	1,123
Children with Special Educational Needs or Disabilities (SEND)	26	77	2,327	1,265
16–17-year-olds who are homeless	NA	64	443	370
Young carers	NA	48	261	191
Total number of children in need	NA	115	27,568	18,166
<b>Total number of children entitled to advocacy services</b>	<b>NA</b>	<b>100</b>	<b>28,261</b>	<b>17,994<sup>v</sup></b>

Note: ten local authorities could not provide data on the number of referrals. 'Complete data' refers to the number of local authorities which provided a value for the number of referrals and representations, with no missing data.

### 3.4. Variation in referral rates for different groups of children

To understand how this range in number of referrals differed based on potential demand for services, the rate of referrals was estimated by comparing the total number of referrals reported by each local authority to the total number of children entitled to an advocate on 31st March 2023. The mean referral rate was 5% of all children eligible for advocacy services, but this ranged from 0% to a maximum of 42% across local authorities. These findings suggest that even in local authorities with similar levels of need there is still significant variation in the number of referrals made.

These percentages are estimates due to uncertainty in both the numerators and denominators. Some children may make use of advocacy services more than once over the course of a year, which would make these percentages too large. There are also more children eligible for advocacy over the course of a year than at a point in time, which also inflates these percentages. Therefore, the estimates should be considered maximums.

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<sup>v</sup> Note that total number of children in need is larger than total number of children entitled to advocacy services. This may be due to variation in the interpretation of Children in Need across local authorities in the data return.

There was also variation in access to advocacy across the different groups of children eligible for advocacy services. The highest mean referral rate was for 16–17-year-old homeless children (50%), followed by children on child protection (CP) plans (33%), while children with SEND and children on Child in need plans had the lowest mean referral rates (2% and 3% respectively – Table 3). For all groups, the lowest referral rate across local authorities was zero. This means these groups of children received no help from advocates across the whole of 2022-23.

While these numbers should be considered an estimate, it is concerning that only 2% and 3% of children with SEND and children on child in need plans received referrals for advocacy in 2022-23. Moreover, only 15% of looked after children who are living in care received referrals in 2022-23. These findings provide vital context for how much the sufficiency of advocacy services would need to increase across the country for an opt out model, where every child can receive advocacy, to be fully implemented.



**Table 3. Summary statistics of the rate of referrals in 2022-23 by number of children (on 31<sup>st</sup> March 2023) by group**

<b>Group</b>	<b>Number of local authorities</b>	<b>Mean referral rate</b>
Children being assessed by children’s social care	73	8%
Children on child in need plans	106	3%
Children on Child protection plans	117	33%
Looked after children	122	15%
Care leavers (aged 18 to 25)	109	6%
Children with special educational needs or disabilities	101	2%
16–17-year-olds who are homeless	72	50%
Young carers	54	17%
Total number of children in need	130	9%
<b>Total number of children entitled to advocacy services</b>	<b>143</b>	<b>5%</b>

In total, 2,430 young people were referred to non-instructed advocacy services with, on average 17 young people referred to non-instructed advocates per local authority in 2022-23.<sup>vi</sup>

Local authorities were also asked to select the most common source of advocacy referrals from a list of options. Across local authorities, the most selected option was social workers (68%), followed by self-referrals by children and young people (15%). Independent Reviewing Officers (IROs) were next the most common referrer in fewer than 10% of local authorities.<sup>vii</sup> IROs are assigned to looked after children to monitor the care they receive. All other options account for fewer than 5% of responses.

<sup>vi</sup> The maximum number of non-instructed advocacy referrals by any local authority was 615.

<sup>vii</sup> Independent Reviewing Officers are only relevant to looked after children but given that data was collected at local authority rather than child level is not possible to consider referral data for looked after children in isolation.

### **3.5. The numbers of children getting help once referred**

Once a child is referred, the advocate may or may not go on to offer help to that child – this was defined in the data request as whether they made a representation on their behalf. The data request defined a representation as an action taken by the advocate on behalf of the child. Examples include writing a letter on their behalf, representing them in meetings or contacting professionals in their lives. In this section a ‘conversion rate’ for children and young people is calculated, which is defined as the percentage of children that receive a representation from an advocate after a referral is made.

The overall conversion rate (for all children eligible for advocacy services) was 0.65. This rate was 0.78 across all children in need (Table 4). Children being assessed for children’s social care had the highest mean conversion rate (1.43, therefore more representations than referrals), while children on child protection plans and homeless 16–17-year-olds had the lowest mean conversion rates (0.77 and 0.74).

These conversation rates show that even when children get a referral to advocacy, and as shown by the referral rates above most children do not, many of these referrals do not convert into representations. Taking children on child protection plans as an example, the estimated mean referral rate for this group was 0.33, meaning that two thirds of these children did not even get a referral for advocacy. For children on child protection plans who do get a referral, only 0.77 of these referrals resulted in children receiving support from an advocate. These findings further illustrate just how far the current provision of advocacy services are from being able to provide an opt out model of advocacy where every child can receive support when they need it.

Compared to 2019, the conversion rate for children with special education needs and disabilities decreased from 0.90 to 0.82, while the conversion rate for care leavers remained similar (reduced by 0.02 to 0.87).

Substantial variation in conversion rate was not only found between groups of children and young people but also between local authorities. For almost all groups of children and young people, the minimum conversion rates reported by any local authority was zero, except for young carers (0.12) (Table 4).

**Table 4. Minimum, maximum and conversion rates (representations per referral) across local authorities and mean conversion rate in 2023 and 2019**

Group	Lowest local authority conversion rate	Highest local authority conversion rate	Mean local authority conversion rate	
			2019	2023
Children being assessed by children's social care	0	12.5 <sup>viii</sup>	NA	1.43
Children on child in need plans	0	8	NA	0.91
Children on child protection plans	0	2	NA	0.77
Looked after children	0	10	NA	0.92
Care leavers (aged 18 to 25)	0	4.5	0.89	0.87
Children with special educational needs or disabilities	0	1.57	0.90	0.82
16–17-year-olds who are homeless	0	1	NA	0.74
Young carers	0.12	1.4	NA	0.86
<b>Total number of children in need</b>	<b>0</b>	<b>1.6</b>	<b>NA</b>	<b>0.78</b>
<b>Total number of children entitled to advocacy services</b>	<b>0</b>	<b>2.45</b>	<b>NA</b>	<b>0.65</b>

However, no significant correlation<sup>ix</sup> was found between conversion rate of referrals to representations for all children eligible for advocacy services and actual spend for the 2022-23 financial year. Likewise, no significant correlation<sup>x</sup> was found between the conversion rate for all children eligible for advocacy services and the total number of full-time equivalent advocates employed. Similarly, no clear trend could be found between conversion rate and Ofsted rating for each local authority's children's services department.

<sup>viii</sup> Note, this maximum value is particularly high as one local authority reported a large number of representations in relation to the number of referrals in 2022-23. However, as the values are plausible, the value was not treated as an outlier.

<sup>ix</sup> Pearson product moment correlation ( $r(116) = -0.06$ ,  $p = 0.54$ ).

<sup>x</sup> Pearson product moment correlation ( $r(98) = 0.01$ ,  $p = 0.92$ ).

## 4. Children's access to advocacy

*This chapter explores some of the barriers that can prevent children and young people from accessing the advocacy services they are entitled to. This includes how advocacy is provided to children and awareness of advocacy services.*

### 4.1. Variation in how advocacy is provided

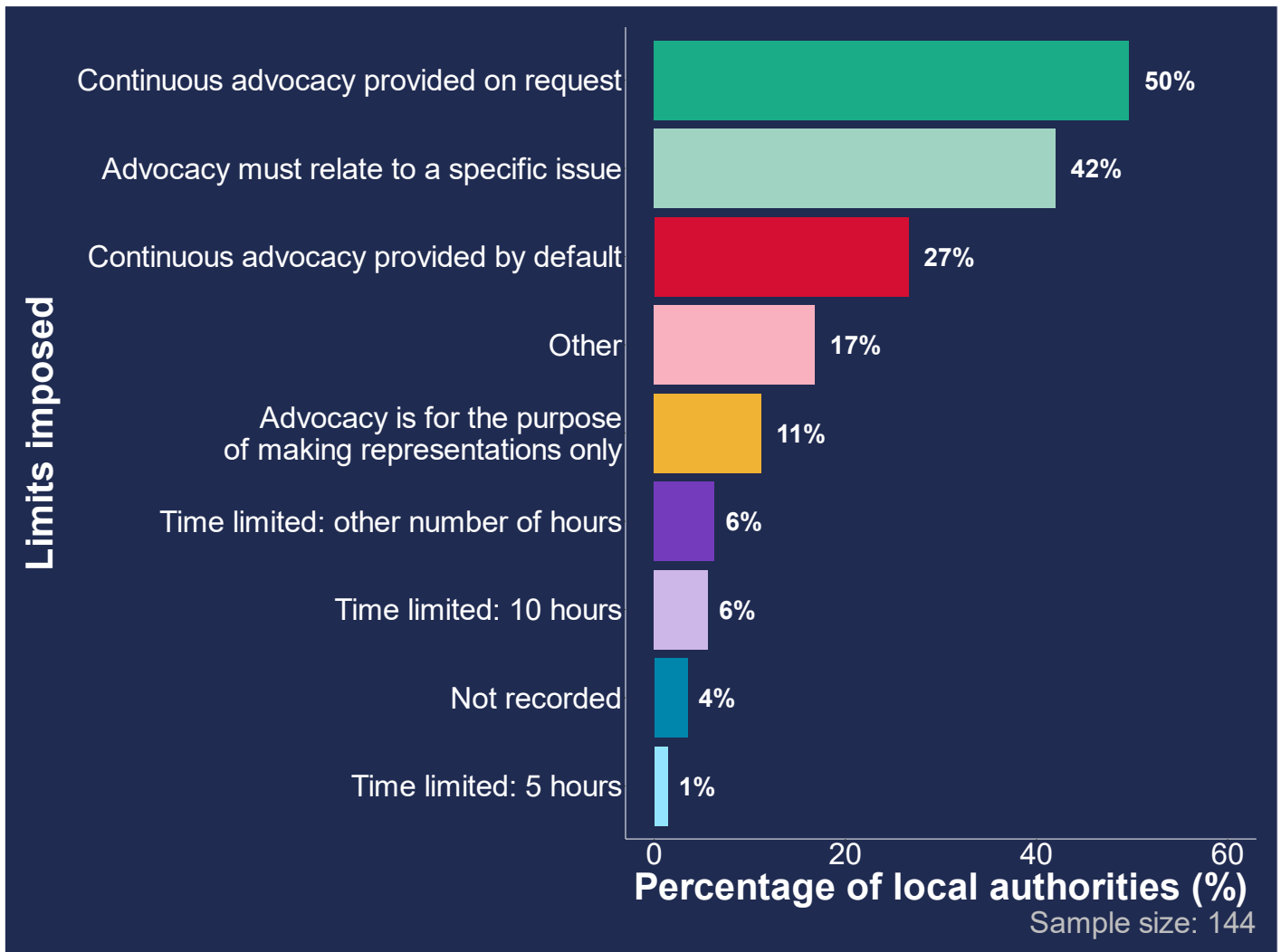
Every child with an entitlement to advocacy must receive this advice and support whenever they need it. Yet there is currently a wide variation in how advocacy is provided to children which shows how far the delivery of services needs to evolve to meet this goal.

Concerningly, only 27% of local authorities reported providing continuous advocacy for children and young people by default. Continuous advocacy means the service is not issue based, and there is no defined time limit on the service provided, 'by default' means that children are automatically given access to this form of advocacy without having to request it. This is the CCo's preferred model of advocacy as it ensures children have access to an independent adult who can raise issues with their care if and when they arise rather than the child having to seek help every time they need it, and that they are proactively offered the help. Half (50%) of local authorities reported providing advocacy on a continuous basis on request, rather than by default.

However, in many areas there were constraints on how advocacy was provided: 42% of local authorities stated that advocacy must relate to a specific issue and 13% of local authorities reporting the use of time limits to manage access to advocacy services (Figure 1). Children who are entitled to advocacy may not always have a particular issue with which they need help, but there will still be many decisions being made, and meetings being held, about them where they could benefit from support – not least as an advocate may be able to *identify* an issue that a child is not aware of.

**Figure 1. Limits on the provision of advocacy services reported by local authorities.**

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Note: Local authorities were able to select more than one limit type.

#### 4.2. Variation in who gets access to advocacy

As section 3.4. above set out, the data presented in this report shows that the highest mean referral rate was for 16–17-year-old homeless children (50%). Yet, even within this group the office has observed a substantial variation across local authorities in whether children get access to the advocacy they are entitled to. For example, the CCo’s recent report looking at 16- and 17-year-olds who present as homeless to their local authorities found substantial discrepancies across local authorities in children being offered an advocate.<sup>10</sup> Despite there being clear statutory guidance in place to ensure that children get an independent advocate to help them to assess the relative merits of the

accommodation offers available to them, only 18% of children were offered an advocate when their need was being assessed, while 36% were not, and for almost half (47%) of presentations, the local authority did not return this information.<sup>xi</sup> The inconsistencies that the office found across the two data collections the CCo conducted where the office asked how many 16- and 17-year-olds are reported to have access to advocacy demonstrates just how poor the data is on advocacy services across the country.

### **4.3 Age-related barriers**

Some local authorities reported that only children of a certain age were able to access advocacy. For example, one local authority responded that advocacy was only available for children aged between 8 and 18, while another local authority set the minimum age at 11-years-old. Furthermore, across all local authorities, 18% reported a maximum age of advocacy entitlement of under 25-years-old.

This is deeply concerning, as no child should be excluded from having their wishes and feelings heard simply because of their age. It is perhaps particularly concerning that the upper age limit of 18 would mean that the majority of care leavers would be unable to access their statutory right to advocacy.

### **4.4 Awareness of services**

Professionals and young people also told the team that advocacy was often poorly signposted. As a young person told the CCo, advocacy was not communicated as a service until they were already in a critical time of need: *'I really started knowing about advocacy was when I got evicted because I had nothing, I had literally nothing, nowhere to turn to, I'd been evicted from the hostel aged 19, don't know what to do, no care leaver status, what's next, and if it wasn't for me chasing it up I'd probably be living in a youth hostel now, 100%' - Girl, 21.*

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<sup>xi</sup> These numbers do not match the data collected for this report on homeless 16- and 17-year-olds, which may be due to differences in the nature of the data collection. Unlike this report, the office's recent report on homeless 16- and 17-year-olds was based on analysis of child-level data.

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Likewise, advocates often spoke about a lack of understanding of advocacy from other professionals working with vulnerable young people, which could at times lead to hostility and conflict: *'There's a lot of hostility and conflict from me, whereas I'm just trying to explain, you know, we're just trying to tell them that you do have the right to ask for this because this is the law. Maybe a bit more understanding from professionals about what the advocacy role is'* – Advocate.

An advocate suggested a welcome pack for young people to signpost them towards a range of services available to them from the local authority, including advocacy and how advocacy works in relation to other professionals, such as social workers: *'We've developed a welcome pack [...] that has all information that you could possibly need as a young person about your rights, what to expect from social workers, what to expect from the IROs. But within that, there's a link to the advocacy service so they could directly contact them if they wanted to'*.

## **5. Quality of advocacy services**

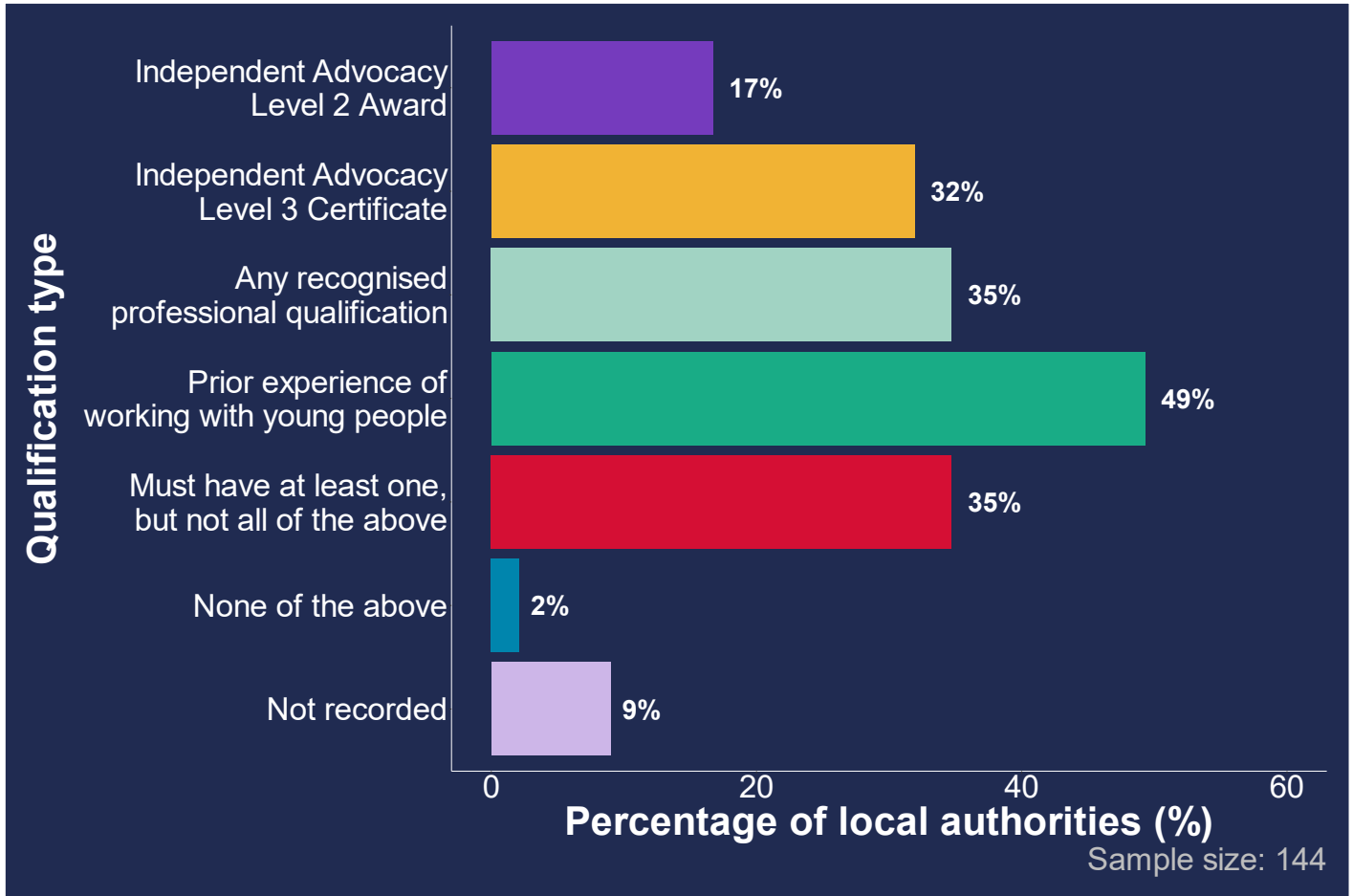
The quality of advocacy services delivered to children and young people can be difficult to assess. The CCo believes that the measure of high-quality advocacy is the extent to which an advocate or advocacy service is able to uphold the wishes, feelings and rights of children and effectively intervene to prevent harm to children's physical health and wellbeing. This section presents findings on various proxy measures of quality, including the training advocates receive, the qualifications and experience advocates require, the handling of complaints that children make about the care they receive and how local authorities evaluate the quality of their service.

### **5.1. Training, qualifications and experience**

Local authorities were asked to select which qualifications or levels of experience were required for advocates commissioned or employed by the local authority at the time of the survey. The majority (89%) of local authorities required at least some experience or a professional qualification from their advocates, but only around half of local authorities (49%) requiring demonstrable prior experience of working with children and young people and 32% requiring a Level 3 Certificate on Independent Advocacy (Figure 2). Only three local authorities (2%) stated that no experience or qualifications were required to be employed as an advocate and 9% did not record this information.

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**Figure 2. Percentage of local authorities that require minimum qualification levels for advocates.**

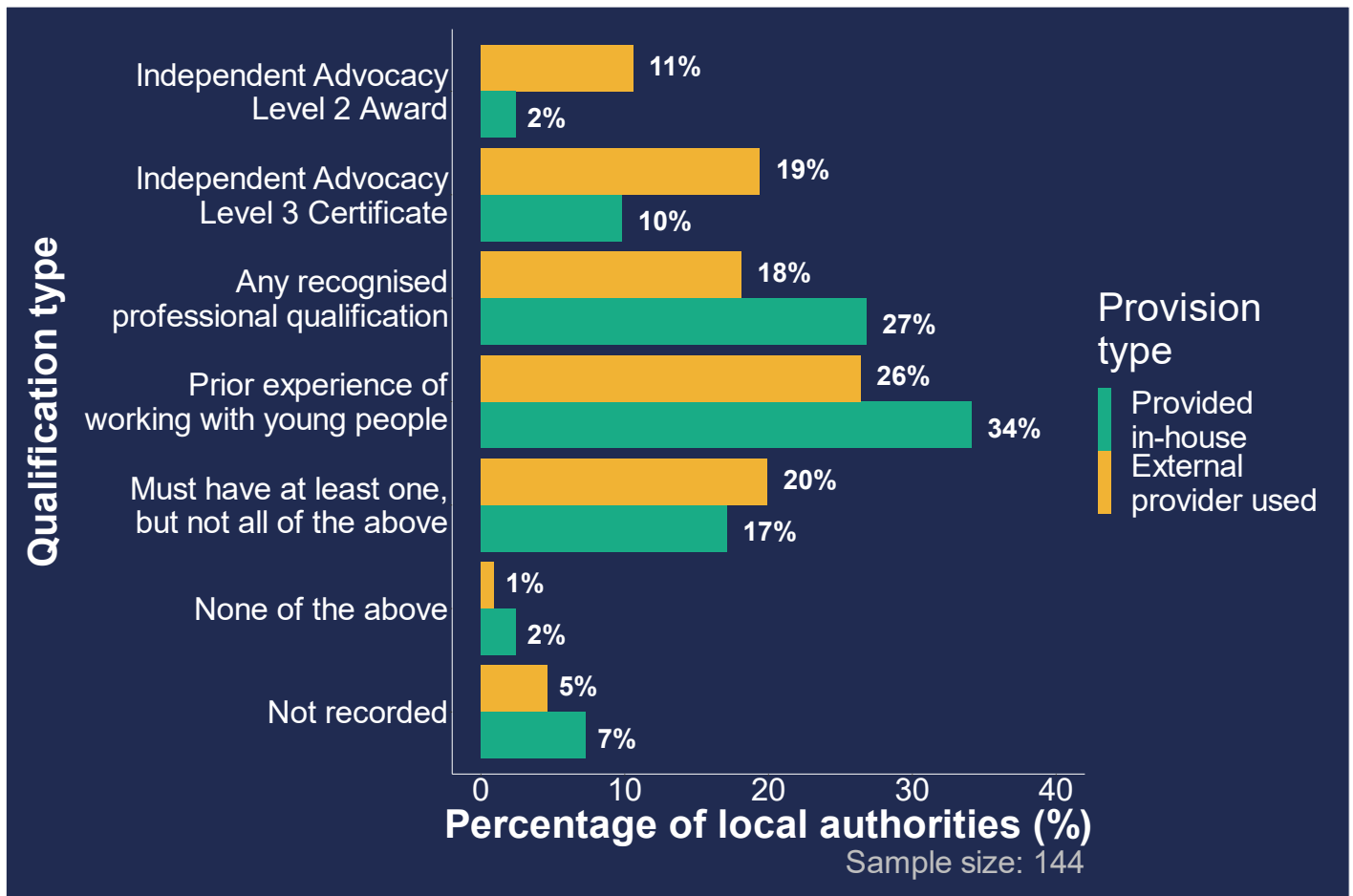


Note: Local authorities were able to select more than one qualification requirement for advocates.

Examining these findings by advocacy provider type, local authorities who reported providing at least some of their advocacy services through external providers (either commercial, charity or spot purchase) were more likely to require Independent Advocacy Level 2 Awards or Level 3 Certificates than local authorities providing at least some of their advocacy services in-house (Figure 3). However, local authorities providing in-house advocacy services were eight percentage points more likely to require prior experience of working with young people (26% vs. 34%).



**Figure 3. Percentage of local authorities that require minimum qualification levels for advocates, split by advocacy provision type.**



Note: Local authorities were able to select more than one advocacy provision type.

In interviews, professionals frequently mentioned the lack of training or qualifications required to become an advocate: *'I don't think there's any formal qualification that our advocates have to go through. They are closely supervised by the provider'* – Commissioning manager.

One non-instructed advocate told the CCo that this was especially the case for specialist training: *'I am lacking in knowledge about the SEND needs and entitlements so I think specialist knowledge in that area would be helpful to all advocates'* – Non-instructed advocate.

Once in post, advocates spoke about a lack of supervision, management or ongoing professional development. As one advocate said, *'I did find the training was very limited [...] I got told as long as you can talk to a young person, you'll be fine.'*

Another advocate told the CCo that the lack of supervision could be challenging, particularly when they needed support or advice when dealing with a difficult situation. For example: *'I don't have any one to ones, I don't have a review of how things are going generally. [...] Which you know, sometimes, when you're dealing with safeguarding concerns, it can be quite harrowing what you're listening to, you know, to what you're dealing with, and you should be able to offload that [...] and you know these children and young people are relying on you'* – Advocate.

Concerningly, a non-instructed advocate the team spoke to reflected on the complete lack of training and expertise amongst managers that had overseen the advocate's work. The non-instructed advocate said: *'No, I suspect neither of the people who manage me had qualifications in children, I'd say guaranteed. The person who managed me for about 3 years, she didn't have any qualifications in children because she knew nothing. She couldn't even grasp, Like, consent. You know the complicated situations with consent or, you know the difference between someone being accommodated under section this section [of legislation] and that section, where the parents have still got PR [parental responsibility], the whole thing confused her enormously, and I don't know that she was that interested'* - Advocate.

## **5.2. Complaints**

Local authorities were asked to provide data on the number of complaints received from children about their care in the financial year 2022-23, and the level of these complaints, from an initial complaint (Level One) to complaints escalated to the Parliamentary and Health Service Ombudsman. On average, local authorities recorded a total of 21 complaints per local authority across all types, including 19 Level One complaints and under five Level Two complaints or above. On average across 118 local authorities and all levels of complaints, 62% of all complaints involved an advocate.

The finding that advocates were involved in six in every ten of complaints reported by local authorities is concerning given how central an advocate's role is in supporting children and young people to raise concerns about the care and support they are receiving. Moreover, complaints processes can be

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complex for children to navigate, so it is therefore essential that children can receive support from an advocate throughout these processes.

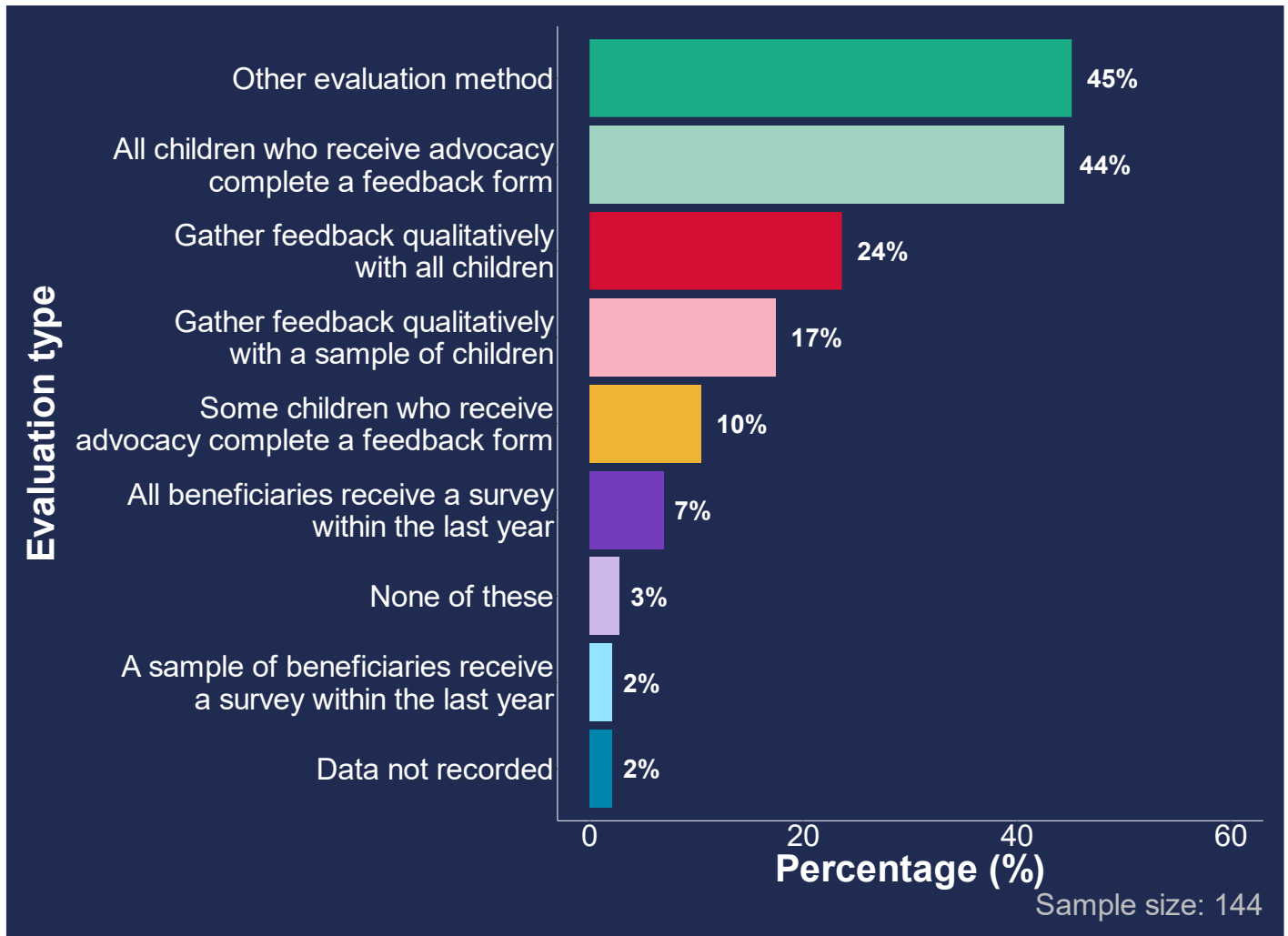
When describing the role that they played in pursuing a complaint for a child, one advocate highlighted the significance of having an advocate pushing for the child's wishes and feelings during the complaints process. The advocate said: *'But of course, then you get an e-mail back to say, you know it takes 5 working days to come back to you about the complaint. And I was thinking, "God, I'm running out of time". So, I rang the complaints line and said, "Look, this is an emergency. You know, I've got somebody that needs a placement freeze. This needs to be actioned now. You need to complete"'*– Instructed advocate.

### **5.3. Monitoring the quality of advocacy services**

Local authorities were asked to select which methods, if any, they used in 2022-23 to gather feedback from children and young people services to monitor and evaluate their provision of advocacy.

A list of potential evaluation methods was included in the data request, but local authorities were most likely to use a method that was not on the list (45%). Next most often, 44% of local authorities asked all children who receive advocacy to complete a feedback form, while 24% reported that they gather feedback qualitatively from all children who used the service and 17% reported gathering feedback qualitatively for a sample of children (Figure 4). Only 3% of local authorities stated that they used none of the forms of feedback listed and 2% did not record this information.

**Figure 4. How local authorities use evaluation to gather feedback from children and young people using their advocacy services**



A commissioning manager highlighted that commissioned advocacy services can be asked to evaluate their own services, which may provide the local authorities with a single point of view on the provision, but this wouldn't necessarily offer a truly independent assessment of the quality of the service.

A commissioner said: *'We put the majority of the ownership of evaluating the service on the provider. So, they have their own feedback collection methods [...] what we've tasked them with, as part of recommissioning, is using their own participation forum to essentially get young people's voices on*

*how the services working and ways to improve it [...] I don't think we should completely rely on the provider to get the feedback'.*

The same commissioning manager highlighted an example of co-producing evaluation methods with young people themselves, to ensure that service users benefit from the provision on offer: *'When I joined and had this recommissioning project, I [said] the first thing I'm going to do is obviously ask the service users what they want from it. [...] So, we worked with our own children in Care Council, and which has care leavers and children in care, and we talked to them a little bit about their experience of using services. [...] For example, we've asked them to set up their own participation forum for their children and people service users, so that co-production and participation isn't just a token thing'.*

## **5.4. Expenditure on services**

### **Overall spend**

As a proxy for the quality and effectiveness of the advocacy services provided to children and young people the office asked local authorities about their spend on advocacy services last year. In 2022-23, local authorities reported a mean planned spend of £89,498 and a mean actual spend of £95,989 on advocacy services for young people, equating to a mean overspend (the difference between planned and actual spend) of £5,669, or 6.3% above the average planned spend.

These figures may include costs such as management overheads, travel and other direct and indirect costs beyond salaries. Local authorities may have had different criteria for what to include in this cost when responding to the data return. Therefore, these findings are estimates.

On average, local authorities spent £49,077 in 2022-23 for every one FTE advocate employed (both instructed and non-instructed). By number of referrals, on average local authorities spent £729 in 2022-23 for every referral (including referrals for non-instructed and instructed advocacy for any reason). This is an increase of £63 from £666 in data collected in 2019 from 68 local authorities (Table 5)<sup>11</sup>. However, accounting for inflation between 2019 and 2023, this represents a mean decrease in spend in real terms of £86 per referral.<sup>12</sup>

### **Table 5. Summary statistics on actual spend per referral in 2018-19 and 2022-23.**

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Year	Number of local authorities	Mean spend per referral	Median spend per referral	Lowest spend per referral	Highest spend per referral
2018-19	68	£666	£511	£21	£3,019
2022-23	119	£729	£506	£17	£10,351

Note: numbers have not been adjusted for inflation.

The average cost per referral was higher if the local authority provided in-house (£940), than if provided externally, either through a charity provider (£779) or a commercial provider (£669). However, as previously noted, no significant correlation was found between local authorities' conversion rates of referrals to representations, and their spend.

## 6. Independence

### 6.1. Commissioning of services

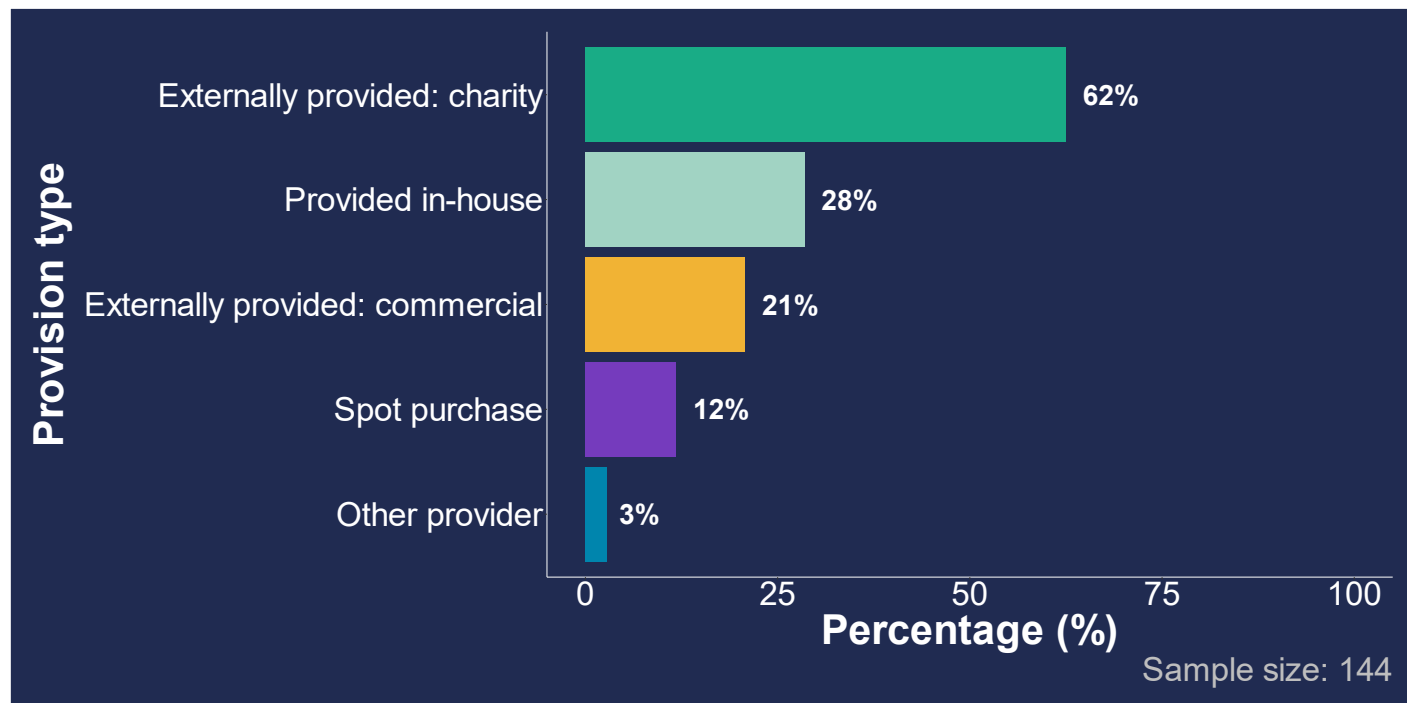
When asked about the commissioning of services, a majority (83%) of local authorities reported using at least one type of externally commissioned service to provide advocacy to children and young people in their area. External charity providers were used by 62% of local authorities, external commercial providers were used by 21%, and 12% used a spot purchase model.

Across all local authorities, none used only charity providers or only commercial providers to provide advocacy, but 14% of local authorities provided advocacy entirely through in-house provision.

A further 28% of local authorities provided advocacy services using an in-house model (Figure 5). The overlap in responses is because local authorities were asked to select all options that apply in response to the question on commissioning of services.

Of the 120 local authorities that used external providers for advocacy (charity, commercial or spot-purchase), when asked which external providers local authorities used, 35% selected 'other' (mostly stating local independent providers), 34% commissioned NYAS (the National Youth Advocacy Service), 18% Barnardo's and 15% Coram Voice.

**Figure 5. Percentage of local authorities by advocacy commissioning arrangement in 2022-23**



Note: Local authorities were able to select more than one form of provision.

Despite the majority of local authorities choosing to externally commission the provision of advocacy services to external partners, during the team’s interviews, advocates and commissioning managers reflected on the challenges with these commissioning models.

The non-independence of advocates either directly employed or commissioned by local authorities was a key perceived conflict of interest raised by advocates. For in house advocacy services, the challenge of how to retain independence from the local authority can be extremely difficult to navigate.

For example, when asked about the roles of advocates, 26% of responding local authorities reported that advocates also covered other roles in addition to their advocacy duties. This included other roles as co-ordinating volunteers, managing youth engagement and participation programmes such as Children in Care Councils and Care Leavers forums, and as Independent Reviewing Officers. This highlights how challenging it can be for advocates that are working in house to maintain

independence and raises the question, for example, of the appetite an advocate will have for challenging the decisions of the Independent Reviewing Officers who they may work closely with I

Externally commissioned advocacy services can also struggle to retain independence as they rely on the local authority to contract and fund their services which can create a tension for advocates. One advocate told the CCo about a case in which this non-independence became a conflict of interest, leading to tension between the advocate and the local authority and the advocate eventually being removed as the young person's advocate: *'...It's a weird concept, isn't it, that the County Council has to provide advocacy? Then you provide advocacy, but if you then come up with something they don't like, then they then try and get you sacked'* – Advocate.

Another advocate spoke about how the tension between needing to work alongside the local authority at the same time as challenging them can be very difficult. The advocate said: *'the advertisement is kind of very much, you know, do you want to help children? Do you want to give children a voice? which, yes, that is the role. But actually, it misses out the nitty gritty bit of, you know, you will be kind of going up against social workers. You will be going up against the County Council who you have sort of work alongside'* – Advocate.

Children themselves are also often aware of the issues of independence. One advocate the team spoke to recalled: *'Funding is an issue, it's all broken up and patchy. If there was some kind of central funding for advocates, they could be truly independent...I had a very astute 16-year-old [...] she said, "Well you're not really independent, because the local authority is funding your contract" - it's true.'*

During the interviews with children and young people for the CCo's study of 16- and 17-year-olds who present as homeless, the issue of independence was raised. At a key juncture in their lives, children need access to high quality independent advice and support from an advocate. One young person reflected: *'I think it's better for them [advocates] to be independent because it means that [the council] doesn't have the overhead [ability] to just say ok 'bye bye''* – Young woman, 19.

Professionals, including advocates and commissioning managers, suggested the need to separate advocacy provision from the commissioning authority, to enable advocates to be fully independent: *'...Definitely separate it from the County Council, but I don't know how that would work really, because it's just contradictory the whole thing'* – Advocate.

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While the office welcomes the recognition for greater independence of services from the local authority proposed in the government's consultation on the National Standards for the Provision of Children's Advocacy Services, the CCo believes this needs to go much further.

## **7. Mental health advocates**

Local authorities have a duty to commission an independent mental health advocate or an independent mental capacity advocate for children who are subject to the Mental Health Act or 16- and 17-year-olds subject to the Mental Capacity Act.

In total, 447 children were reported to be subject to the Mental Health Act, with an average of six children per local authority, a minimum of zero and a maximum of 65 children in one local authority on 31 March 2023. Fewer children (278 in total) were reported as subject to the Mental Capacity Act, with an average of four children per local authority, a minimum of zero and a maximum of 41 children in one local authority. When asked about the commissioning of these services for these children around half of local authorities were unable to provide estimates of the number of children who were subject to the Mental Health Act and 16- and 17-year-olds subject to the Mental Capacity Act in their area on 31 March 2023 (47% and 53% respectively).

The quality of data provided for referrals was particularly poor, 49% of local authorities were unable to provide data on the number of referrals made on behalf of children subject to the Mental Health Act and 61% of local authorities were unable to provide data for 16- and 17-year-olds subject to the Mental Capacity Act.

## **8. The way forward**

It is the Children's Commissioner's mission to ensure that every vulnerable child in need of advocacy has access to a high-quality, independent advocate who can listen to their wishes and views, uphold their rights and support them to get the help they need.

For this vision to become a reality there will need to be changes to the way that advocacy is commissioned, how the quality of advocacy is assessed, and vitally, a national strategy to increase the number of well trained and skilled advocates.

As this report and the CCo's previous report on homeless 16- and 17-year-olds have shown, there is still a significant way to go<sup>13</sup>. The following recommendations sets out what the government will need to do to provide a high-quality service that truly delivers for children, and to fulfil its commitment to roll out an opt-out model of advocacy.

### **8.1. The need for truly independent advocacy services that children trust**

As this report has found, the vast majority (83%) of advocacy services in England are currently wholly or partly externally commissioned. Local authorities commission services from a range of external providers and have responsibility for assessing the quality of these services, funding and managing their contracts. As interviews conducted for this project have shown, advocates and children see this structure as a conflict of interest. That is why, as the government shifts to the opt-out model of advocacy, an independent organisation should be established to oversee the commissioning of advocacy services for children in England.

Moreover, as the CCo has observed through its own independent advocacy service Help at Hand, advocates acting in the best interest of a child must have access to a national service that can escalate their concerns about the issues children are facing. As the office's recent annual review of the Help at Hand service shows, this escalation point is vital as it provides as the team can address persistent issues that advocates have struggled to resolve, as well as monitor trends in the issues that children are facing.

**Recommendation:** A new independent, national advocacy service should ensure local authorities have access to a sufficient number of advocates who can provide independent and high-quality advocacy for children and young people. The Department for Education should fund this organisation to act as a broker between local authorities and external advocacy providers to ensure the needs of children and young people are met across local authorities and independence is maintained. While a national service, the advocates would not operate nationally, but be allocated to individual local authorities, so they can build relationships and understanding of local systems.

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**Recommendation:** The Children's Commissioner's office should be formally established as escalation point for all commissioned advocacy services in England through an amendment to the Advocacy Services and Representations Procedure Regulations 2004. Where an advocate believes a child's rights have been breached and the formal complaints process is not sufficient or appropriate, the Advocacy Services and Representations Procedure Regulations 2004 should specify that the advocate can escalate their concerns to the CCo's independent advocacy service Help at Hand.

In the immediate future there are changes that can be made to strengthen the independence of advocates.

The office welcomes the recognition in Standard 7 that for children to be confident in the advocacy they receive they will need to be confident that there are not conflicting interests or pressures on advocates. Yet as this report has shown, there are currently concerns that advocates are not able to act independently as a result of current commissioning arrangements. In the immediate term, while the independent national advocacy service is established, the Department for Education should strengthen Standard 7 of the National Standards for the Provision of Advocacy.

**Recommendation:** The Department for Education should strengthen Standard 7.18 of the National Standards for the Provision of Advocacy to ensure that advocacy services have to set out how their independence statement will be enacted to ensure its independence from its funders. Standard 7.16 should state that local authorities must also set out how their funding and management arrangements will support the advocacy provider's independence statement.

## **8.2. Greater accountability for the quality and effectiveness of services**

While the office welcomes the revised National Standards, it is currently unclear how the implementation of these standards will be monitored.

The National Standards outline that, through the framework for inspecting local authority children's services, Ofsted will assess children's access to advocacy; whether children are listened to; whether practice is informed by their wishes and feelings; feedback from children and families on the effectiveness of advocacy services; how children and care leavers understand their rights and how complaints are managed. However, Ofsted's framework for inspecting local authority children's

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services does not define how these aspects of local authority advocacy services will be inspected, and currently advocacy services are not always reported on within Ofsted reports. While the CCo welcomes the intention in the National Standards, it is not how this will happen in practice without significant changes to the Ofsted framework.

There is currently a dearth of data on the availability, quality and effectiveness of advocacy services at a local authority, as well as at national level. While it is essential that timely and consistent data is collected at a local authority level to enable close monitoring of services, it is also vital at a national level to inform government policy.

**Recommendation:** The evaluation criteria for leadership within Ofsted inspections of local authority children's services should focus on assessing the effectiveness of the advocacy services that local authorities commission for children with an entitlement to advocacy.

**Recommendation:** To improve accountability the Department for Education should collect and publish annual data from local authorities on referrals and representations for children. This should include all groups of children who are eligible for statutory advocacy support.

### **8.3. Quality of advocacy – training for advocates**

As we see in section 4.1.1., there is substantial variation in the quality of training across services. The data in this report shows that in house services have substantially lower levels of qualification requirements than services that are externally commissioned. This variation is unsurprising given the lack of minimum qualifications or certification for advocates.

While the revised Advocacy Standard recognise that advocates need to be equipped with relevant knowledge and skills to support children, and advocates should have access to continuous development opportunities, there is no mention of what a minimum qualification standard for advocates should be.

The role of non-instructed advocates is complex and specialist. While there are references within the revised Advocacy Standards (particularly 3.9. and 6.2.) to the need for non-instructed advocates to have sufficient training and resource, there is not currently a qualification requirement for non-instructed advocates.

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**Recommendations:** As the government adopts an opt-out model of advocacy, a minimum qualification standard for all advocates should be established in recognition that advocates need a grounding in relevant knowledge and skills to support them to effectively advocate for children and young people. A qualification that teaches advocates about the legal framework for children's rights should be developed and should be reflected in Advocacy Services and Representations Procedure Regulations 2004 and the revised Advocacy Standards.

#### **8.4. Advocacy for specific groups of children**

Government plans for an opt out model of advocacy appear to focus solely on children who interact with the care system, namely looked-after children, children in need and care leavers. Yet there are other vulnerable groups of children for whom having access to an independent advocate who can listen to their wishes and feelings and uphold their rights is essential. This section presents recommendations for how advocacy services should be provided to particular groups of vulnerable children.

**Recommendation:** The opt out model of advocacy provision should be explicitly extended to all children who have a statutory entitlement to advocacy, including for example young carers and children with special educational needs and disabilities.

#### **Children with complex needs and disabilities**

The abuse perpetrated towards children with complex needs and disabilities in residential settings in Doncaster was deeply distressing. The office was glad to be involved in follow up work which informed the Child Safeguarding Practice Review Panel's final report. It is good to see the government's response to the Panel's report acknowledge the seriousness of the failings and recognise the vital importance of high quality advocacy. However, a great deal more is needed to ensure that the Panel's recommendations are implemented in full and that this abuse is never repeated.

In its recommendations the panel concluded that, every child with *"disabilities and complex health needs in residential settings should have access to independently commissioned, non-instructed*

*advocacy from advocates with specialist training to actively safeguard the children and respond to their communication and other needs”.*

While the office welcomes the introduction of a new standard in the Advocacy Standards on non-instructed advocacy for children with complex communication needs, more focus is needed on the training and experience required to become a non-instructed advocate.

**Recommendation:** A minimum qualification standard for non-instructed advocates should be established. As well as teaching advocates about the legal framework for children’s rights, non-instructed advocates should be trained in how to support children with complex needs and disabilities. Moreover, non-instructed advocates should be required to have prior experience in working with children with complex needs and disabilities.

### **8.5. Children who have been victims of crime or abuse**

The CCo is deeply concerned about the safeguarding and wellbeing of child victims of crime and abuse as they navigate the criminal justice system. Following pre-legislative scrutiny of the draft Victims Bill (now Victims and Prisoners Bill), the Children’s Commissioner was disappointed by the government response which outlined that Children’s Independent Domestic Violence Advisors (CHIDVAs) and Children’s Independent Sexual Violence Advisors (CHISVAs) roles would not be defined in legislation, despite the significant role that these professionals play in children’s recovery from harm and abuse.<sup>14</sup>

**Recommendation:** The Victims and Prisoners Bill should introduce a statutory entitlement to advocacy for child victims who come into contact with the criminal justice system.

### **8.6. Children in inpatient mental health settings**

After extensive reviews and consultations, a draft Mental Health Bill to reform the Mental Health Act was introduced. The draft Bill included proposals for an opt-out model of Independent Mental Health Advocacy, and an extension to ‘informal’ patients (those who are not detained under the act). However, the recent King’s Speech did not refer to the Bill and the much-needed reforms contained within it.

**Recommendation:** The Government should urgently amend the Mental Health Act to ensure that all children have access to opt-out advocacy, including informal patients. In the interim, before the Act is amended, the Code of Practice should make clear that advocacy should be extended to all patients and operate on an opt-out basis.

## 9. Annexes

### A1. Methodology

This section describes the methods used to gather and analyse the data presented in this report:

- Collection and analysis of local authority-level data from 144 local authorities in England,
- Findings from child-level quantitative data collected from local authorities by CCo in 2019<sup>15</sup>,
- Case studies from the CCo's Help at Hand service,
- Interviews with advocates and other professionals involved in the provision or commissioning of advocacy services in England, and
- interviews with young people who had experienced homelessness at age 16 or 17.

### Quantitative data collected from local authorities

The CCo gathered data from 144 local authorities in England using the Children's Commissioner's statutory powers under the Children Act 2004.

In total, 144 out of 152 local authorities responded to the data request before the deadline, a 95% response rate. Two local authorities (Westmorland and Furness Council and Cumberland Council) submitted a combined data response. The survey was open for ten weeks from 28th June to 6th September 2023, after a deadline extension from the original closing date of 3rd August 2023.

The data return was designed and conducted using SmartSurvey, a secure, online survey platform. Local authorities were sent a secure link to fill out the survey.

The data request asked all local authorities for contact information, the number of children and young people eligible for advocacy services, the commissioning of advocacy services, children's access to advocacy, spending and the quality of advocacy, complaints and the handling of feedback from children and young people. Text boxes gave local authorities the opportunity to submit any further information about their advocacy provision, or on the quality of their data.

Unless otherwise stated, local authorities were required to provide aggregated data for their local authority across a specified time period (e.g., the 2022-23 financial year or on March 31st, 2023), as opposed to referral-level data. For example, if a child accessed advocacy twice within the stated time period, this would be counted twice, as two separate cases. Where local authorities were unable to provide exact figures, estimates were accepted. Where estimates were not available, local authorities were able to leave a question blank.

All cleaning and analysis of the data returned by local authorities was conducted by CCo researchers between August and November 2023. During the data cleaning process, the CCo followed up with local authorities where data checks flagged inconclusive, anomalous, or illogical responses. No weighting was applied throughout the data analysis process, so all sample sizes presented are minimums. Values (including number of young people, number of referrals and representations) for all children eligible for advocacy services were calculated as the sum of responses submitted for all other groups of young people.

Correlation analysis was used to statistically examine the strength and direction of the relationship between conversion rate of referrals to representations, and other numeric variables. Statistical significance was defined as a p-value of 0.05 or lower. Spend data was adjusted for inflation using the Bank of England's inflation calculator, which is based on Consumer Price Index (CPI) inflation data from the Office for National Statistics.<sup>16</sup>

## **Findings from data collected from local authorities in 2019**

This report makes comparisons with findings from the CCo's 2019 report, *'Advocacy for children: Children and young people's advocacy in England'*<sup>17</sup>. This report also utilised the Children's Commissioner's powers to request data from all local authorities in England, to learn more about the provision of advocacy. The report intended to explore the types of services being provided and

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commissioned in local areas, the cost of these services and to attempt to identify the level of demand. In total, 119 local authorities responded to the request, however the completeness of the data varied greatly between local authorities. No new analysis of the 2019 data was conducted for this report.

## **Case studies from the CCo Help at Hand service**

The experiences of the CCo's Help at Hand team have also informed this report through case studies which were selected as typical examples of children's experiences of advocacy services in England. All case studies used or referred to in this report are from between 2021 to 2023 and have been anonymised, using pseudonyms in place of real names and removing any potentially identifiable information.

## **Interviews with advocates, other professionals and homeless young people**

### Interviews with advocates and professionals

The CCo conducted 8 interviews with 10 advocates and other professionals including instructed and non-instructed advocates and commissioning managers between July and September 2023, to hear directly from those who currently provide or have recently provided advocacy services to children in England. These interviews spanned six local authorities. The purpose of the interviews was to hear their personal experiences, including their professional background and examples of good advocacy provision, as well as their opinions on how advocacy provision can be improved in England.

### Interviews with young people

The CCo conducted four interviews with young people aged 17 to 21 years old who had received advocacy services between June and July 2023. These interviews were primarily conducted as part of a CCo report on young people's experiences of homelessness in England<sup>18</sup>.

### Analysis of interview data

All interviews with professionals took place virtually using Microsoft Teams between July and August 2023. Interviews were audio recorded, transcribed and analysed thematically by a CCo social researcher by grouping similar quotes and responses across interviews into related themes.

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## A2. Total number of children across all 148 responding local authorities

Of the 148 local authorities that responded to the office's collection, only data from the 144 local authorities that responded before 6th September, in time for analysis, are included in this report. Data submitted by the four local authorities that responded after the cut-off date have not been through the same data cleaning process as the other local authorities. Table A1 below provides summary statistics (including the mean, minimum, maximum and total number of children) values for each group of children across all 148 local authorities.

**Table A1.** Summary statistics of the number of children local authorities were responsible for on 31 March 2023 across all local authorities that provided the CCo with data, before and after the deadline

<b>Group</b>	<b>Number of local authorities</b>	<b>Mean</b>	<b>Min</b>	<b>Max</b>	<b>Total (across all 148 local authorities)</b>
Children being assessed by children's social care	138	790	8	11,784	113,031
Children on child in need plans	145	751	39	5,639	108,960
Children on child protection plans	146	338	0	1,372	49,334
Looked after children	145	641	0	13,332	92,936
Care leavers (aged 18 to 25)	145	484	0	3,295	70,247
Children with special educational needs or disabilities	138	3,452	19	21,613	476,415
16–17-year-olds that are homeless	126	34	0	350	4,261
Young carers	120	332	0	3,407	39,809
<b>Total number of children in need</b>	<b>140</b>	<b>2,754</b>	<b>261</b>	<b>18,182</b>	<b>385,612</b>
<b>Total number of children eligible for advocacy services</b>	<b>148</b>	<b>6,453</b>	<b>0</b>	<b>37,295</b>	<b>954,993</b>

## References

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- <sup>2</sup> Child Safeguarding Practice Review Panel, 2023, Safeguarding children with disabilities in residential settings, [Link](#)
- <sup>3</sup> Department for Education, 2023. Children's social care: Stable homes, built on love. [Link](#).
- <sup>4</sup> Prime Minister's Office, 10 Downing Street and His Majesty The King, 2023. The King's Speech 2023: Oral statement to Parliament. [Link](#).
- <sup>5</sup> Legislation.gov.uk, 2023. The Children Act, 2004: Part 1, Section 2F. [Link](#).
- <sup>6</sup> Children's Commissioner for England, 2019. Advocacy for Children: Children and young people's advocacy in England. [Link](#).
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- <sup>9</sup> Department for Education, 2023. Characteristics of Children in Need. [Link](#).
- <sup>10</sup> Children's Commissioner for England, 2023. Homeless 16- and 17-year-olds in need of care. [Link](#).
- <sup>11</sup> Children's Commissioner for England, 2019. Advocacy for Children: Children and young people's advocacy in England. [Link](#).
- <sup>12</sup> Inflation rate calculated between 2019 and March 2023 based on the Consumer Price Index including owner occupiers' housing costs (CPIH) inflation data from the Office for National Statistics. [Link](#).
- <sup>13</sup> Children's Commissioner for England, 2023. Homeless 16- and 17-year-olds in need of care. [Link](#).
- <sup>14</sup> House of Commons Justice Committee, 2023, Pre-legislative scrutiny of the draft Victims Bill: Government Response to the Committee's Second Report. Section 61. [Link](#).
- <sup>15</sup> Children's Commissioner for England, 2019. Advocacy for Children: Children and young people's advocacy in England. [Link](#).
- <sup>16</sup> Inflation rate calculated between 2019 and March 2023 based on the Consumer Price Index including owner occupiers' housing costs (CPIH) inflation data from the Office for National Statistics. [Link](#).
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