The voice of the child in the child protection system

Ivana La Valle, Lisa Payne and Helena Jelicic, NCB Research Centre

This paper reviews the evidence on the voice of the child1 in the child protection system in England and on advocacy practices as a way of facilitating the meaningful involvement of children in the child protection system. It was written as part of Involved by Right - an EU Daphne programme grant-funded project which seeks to improve participation and advocacy in child protection to achieve better outcomes for children at risk2.

Findings in brief

- The United Nations Convention on the Rights of the Child (UNCRC, 1989) enshrines the right of children to be involved in all decisions that affect their lives. In England there is also national legislation and guidance stressing the importance of involving children in decision-making, specifically in child protection cases (Children Act 2004; DCSF, 2010).

- However, the evidence clearly shows that the child’s voice is often not heard and effectively represented in child protection cases. Research shows that both professionals and children themselves think that the meaningful engagement of children in the decision making process would lead to improved outcomes for children at risk.

- One way of ensuring the child’s voice is heard in child protection is to provide an advocacy service, which should enable children to put across their views and ensure their rights are protected. There is some evidence showing the benefits of providing advocacy to children and national guidance recommends that child’s voice should be meaningfully represented during the child protection process. However, there is currently no statutory right to independent advocacy in the child protection system and no information on how widely available this is.

- While there is limited research on the effectiveness and impact of advocacy, the available evidence suggests positive benefits. Advocacy can empower children, enable them to better understand the process and influence decisions, reduce risks, and result in better targeted services for children and their families.

1 In this paper the child(ren) refers to both a child(ren) and a young person/people.

2 Involved by Right is led by the Royal Borough of Kensington and Chelsea, and includes NCB, Barnardo’s and other European partners. In England, the Royal Borough of Kensington and Chelsea is implementing an advocacy service for children to be actively involved in decision making in child protection conferences. The service is delivered by Barnardo's and evaluated by NCB Research Centre (http://www.participationworks.org.uk/involved-by-right).
Background

Local authorities in England have a statutory duty to safeguard and promote the welfare of children. Section 47 of the Children Act 1989 places a duty on local authorities to investigate where there is reasonable cause to suggest a child is suffering, or is likely to suffer, significant harm. When there is a concern that a child might be at risk of significant harm, the local authority should instigate child protection proceedings. The English child protection system has been closely scrutinised by a number of reviews in the past few decades, because of widespread and repeated public concern that it is failing to adequately protect many children at risk. In order to improve the outcomes for children, professionals have often stressed the need for the voice of the child to be heard in the child protection process (e.g. Munro, 2011). The first part of this paper summarises findings on the extent to which the voice of the child is being heard in child protection cases. The second part summarises the evidence on advocacy practices as one way of making a child’s voice heard in the child protection process.

The voice of the child in the child protection process

The evidence has consistently shown that the child’s voice is often not heard and effectively represented in child protection cases. Research has found that both professionals and children themselves think that the meaningful engagement of children in the decision making process would lead to improved outcomes for children at risk. For example, an independent review into child protection and social work practice reported on a submission made by the Office of the Children’s Commissioner for England, in which children who had experience of the child protection system ‘voiced the importance of being heard separately from their parents and being listened to’ (pg. 26, Munro 2011). The children consulted for this review found the child protection process confusing and wanted better information, greater honesty and consistent support from the same worker throughout services which would not be withdrawn as soon as the crisis has passed.

The failure to listen to children and to make sure their views are taken into account in child protection cases was highlighted in a recent Ofsted report of 67 serious case reviews (Ofsted 2010). The report indicated that:

- professionals did not see the child frequently enough or did not ask the child about their views and feelings
- professionals did not listen to adults who tried to speak on behalf of the child and could provide important information about the child
- parents and carers prevented professionals from seeing and listening to the child

A rare study in which children were asked about their views of the child protection system revealed that:

- children were not always well informed by professionals but they tried to piece together information to make sense of what was happening, mainly by getting the information from family members
- children wanted to maintain a sense of control throughout the child protection process and did not want to hand over their worries to a professional to sort out. However, they wanted to share them and work with a trusted adult on finding the best solution for making them safe (Cossar, Brandon & Jordan 2011).

A key part of the child protection process is the child protection conference where various professionals and parents/carers offer their assessment of the situation and are meant to work together to suggest a plan to reduce the risk to the child. It is also recommended that, when appropriate, children attend the child protection conference (see following section). The Cossar et al (2011) study revealed that children who attended a child protection conference were not well prepared for it and found the conference difficult to understand. Children felt they were asked awkward questions and felt that others did not listen to what they had to say.

The voice of the child: guidance for the child protection process

The Children Act 2004 places a duty on local authorities to ascertain the child’s wishes and feelings and take them into consideration when making decisions during child protection process, as far as is reasonable, practicable and consistent with child’s welfare. However, the framework for involving children was laid out six years later in the Working Together to Safeguard Children (2010) guidance. This intention is also supported by articles 3 and 12 in the UN Convention on the Rights of the Child: article 3 states that the ‘best interests’ of the child must be the primary concern when making decisions that may affect them; article 12 preserves the child’s right to express his/her views, with his/her wishes being given due weight in accordance with his/her age and maturity (UNCRC, 1989). The Working Together to Safeguard Children (2010) guidance recommends the development of local protocols to actively involve children in the child protection system. In order to keep the child in focus during the child protection process, professionals should:

- develop a direct relationship with the child and gather information from the child about his or her needs or situation
- elicit the child’s wishes and feelings
- provide children with honest and accurate information about what is happening and future possible actions

3 Harm is defined as ill-treatment or the impairment of development. Harm becomes significant when comparing the child’s health and development with what could be reasonably expected from a child of similar age.

4 Serious case reviews are instigated by Local Safeguarding Children Boards when a child dies or sustains serious injuries. The aim of the serious case review is for agencies to learn lessons from the case on ways they work to safeguard and promote the welfare of the child.
• invite children to make recommendations about services and support they need
• ensure that children have access to independent advice and support that enable children to express their views and influence decisions.

Advocacy services in child protection

One way of ensuring the child's voice is being heard in child protection is to provide an advocate who represents the views of the child throughout the child protection process and enables the child to influence decisions.

As stated in the Department of Health guidance (2002), an advocate:
• must be led by the views and wishes of children and champion their rights and needs
• should ensure children are not discriminated against.

Advocacy services should be well-publicised, accessible and easy to use and available quickly when requested. Advocates should work exclusively for children and provide a high level of confidentiality.

The benefits of involving children in child protection decisions and the negative consequences of not involving them are well documented, and national guidance suggests that children should receive independent advice and support during the child protection process. However, currently there is no statutory right to an independent advocate in the child protection system, which is provided at the discretion of local authorities. While in the past ten years there has been a drive to improve participation and advocacy in child protection, we do not know on how many local authorities provide an advocacy service.

The benefits of advocacy services

As suggested in the Munro review (Munro 2011), children who were supported by an advocate spoke very highly of the help they received. There have also been a limited number of small qualitative studies that have explored the impact of advocacy, as indicated by a recent scoping report of advocacy services in England (Brady 2011). The study found that monitoring and evaluation of advocacy services are not standardised and are primarily done by advocacy providers for internal and/or contractual purposes.

The few studies that have been published highlight the benefits of advocacy for children based on the views and perceptions of advocates, professionals and children themselves. The benefits from this evidence can be summarised in terms of a child's better understanding of the child protection conference, reducing risks and empowering children.

A better understanding of child protection conferences

An evaluation of an NSPCC local advocacy service in child protection (Scutt 1999) showed that children gained a better understanding of the purpose of the child protection conference when they were supported by an advocate before and during the conference. Advocates were seen as the sole source of preparation for the conference and helped children to make important decisions on participating in the conference.

When the child participated in the conference, the quality of information shared was more accurate and children felt the child protection plans were more acceptable as a result of their involvement. Children who did not attend the conference felt their views were put across by the advocate who provided them with good feedback after the conference, which enabled them to understand what had happened. Being supported by an advocate was empowering for children primarily because the support was independent and confidential, and the advocate acted only on their behalf.

Reducing risks

A more recent review of largely qualitative studies of advocacy in child protection (Vis et al 2011) identified several positive effects. The participation procedure itself was therapeutic for children; participation led to better decisions and tailored services; and it helped to keep children safe by discovering and substantiating cases of abuse and neglect.

The review concluded that to gain these positive effects, an advocacy service should be independent of social services and advocates should consult children before and after the child protection conference, as well as support them when children attend the conference.

Empowerment service

Advocacy has been described as an empowerment service for children (Scutt 1999; Dalrymple 2005; Vis et al 2011). For example, Dalrymple (2005) reviewed evidence of impact from five advocacy services provided to vulnerable children (e.g. children in care, with learning disabilities) and the findings showed that children particularly valued the independence of advocates and the fact that they were there for them alone, listening to their views and speaking on their behalf or supporting them to speak for themselves. This gave children an enhanced personal position which enabled them to participate in professional decision making.
Conclusions

The literature has consistently shown the need for the voice of the child to be heard in the child protection process so the system can work more effectively for children. Supported by children's rights campaigners, national guidance has incorporated the framework for involving children in the child protection process to ensure that children have access to the independent advice and support they need to express their views and influence decisions. One way of achieving this is by providing an advocacy service for children.

Even though there is no systematic evidence on how many local authorities in England provide advocacy services to children going through child protection, there is some limited evidence on the effectiveness and impact of advocacy. The evidence highlights features of advocacy that provide a positive experience of participation in the child protection process: careful preparation, speaking for the child and being there for the child before, during and after the child protection conference, independence and confidentiality— all of which a social worker may struggle to fulfill in their role. Involving children in child protection can be empowering, and the importance of a relationship with a trusted adult can be crucial to maximising their meaningful participation. Even though there is limited evidence on the impact of advocacy, some studies have shown positive benefits for children in terms of reducing risks and providing more targeted services to their families.

Our review has highlighted the need for more evaluations of the impact of advocacy services in order to establish the added value of children's participation in the child protection system.

Methodology

We conducted keyword searches for research and policy documents published in England using key social sciences databases and key websites. Database searches were supplemented by recommendations from NCB colleagues with relevant expertise and reference harvesting (i.e. perusing bibliographies to determine further sources of potential relevance).