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# Comisiynydd Plant Cymru Children's Commissioner for Wales

Sally Holland

**\*\* Cymraeg isod \*\***

Briefing Paper for the 2016 National Assembly for Wales Elections.

As the champion for children and young people's rights in Wales, I have produced this briefing for all of the political parties in Wales to inform the development of policies that will demonstrate a commitment to Welsh children and young people and deliver better outcomes for all, whatever their circumstances. There are fundamental aspects of our law and policy which can be enhanced in the next Assembly term to improve the life opportunities of our children and young people.

We should be proud of our history on children's rights in Wales but we cannot be complacent. Firstly, the **gaps in opportunities and outcomes** between the poorest quarter of the child population and richest quarter are still far too wide. Secondly, there are vulnerable groups such as looked after children, disabled children and those experiencing mental illness that require **more effective support and protection**. Thirdly, there are changes that could enhance the **rights of all children and young people**. This includes opportunities for children and young people to act as active citizens, equal protection from physical assault and a strengthening of underpinning rights legislation.

I firmly believe that children should be prioritised in our laws and public policies, in order to secure positive outcomes and fulfilled lives. To realise children's rights there must be:

- a) strong underpinning legislation and policies;
- b) effective processes and sufficient funds and commitment to implement the policy agenda, and
- c) improved outcomes and experiences for children and young people.

Since my appointment in April this year I have worked with my counterparts across the UK to publish a report to the UN Committee on the Rights of the Child<sup>1</sup> assessing the UK Government and devolved governments' progress on children's rights over the last five years. I have listened to over a thousand children and young people in face-to-face meetings about what their priorities are, as part of my 'What Next/Beth Nesaf' consultation, the findings of which I will be sharing and taking forward in 2016. These developments, along with research evidence about what policies achieve best outcomes for children, are the sources of the following policy priorities for Wales.

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<sup>1</sup> <http://www.childcomwales.org.uk/en/publications-list/>

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## *Tackling child poverty*

I strongly support the continuation of the Flying Start programme but am concerned that children living in poverty outside Flying Start areas do not have access to these enhanced services. Parties should explore ways in which more children living in poverty could benefit from inclusion in the programme.

Universal childcare should be at the heart of our ambitions for public services in Wales. I call on political parties to recognise the growing evidence base supporting the development of a universal system, which promotes social mobility as well as economic prosperity<sup>23</sup>, by extending entitlement to affordable, high quality child care and early education.

## *Support and protection*

Health, education, social and justice services should consider how young people experience the often abrupt transition from child to adult services (described as a 'cliff-edge') and develop more young person-centred transition arrangements, including some services for young adults up to 25. Clear statutory arrangements are particularly needed to manage the relationships between local authorities and health services in order to ensure the best interests of children and young people are placed at the centre of provision.

All political parties should commit to implementing the *Together for Children and Young People* programme for children and young people's mental health and well-being and ensure adequate funding of services. There is a need for additional, evidence-based preventative and primary community mental health services in order to reduce demand on clinical services, which should be quickly available for those who require them.

Looked after children should receive high quality care which enables them to recover from early trauma and achieve improved outcomes. All parties should be prepared to commit to adequate resources for recruiting and supporting sufficient high quality foster homes.

All children leaving care should have adequately funded living and support services in accordance with their assessed need. Children in residential children's homes should be entitled to access the When I am Ready scheme and have the option to extend their placement until they are 21. All care leavers should be guaranteed safe and secure housing and an active offer of education, training or a job from their corporate parent within their 'family business' – the local authority and their local partners.

All parties should commit to implementing a national action plan on Child Sexual Exploitation that will ensure consistency of response throughout Wales and availability of consistent data to inform service planning. All children who have experienced trauma and abuse should have access to therapeutic services and support.

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<sup>2</sup> <http://www.ippr.org/publications/no-more-baby-steps-a-strategy-for-revolutionising-childcare>

<sup>3</sup> [http://www.ippr.org/publications/extending-the-early-years-entitlement-costings-concerns-and-alternatives?utm\\_source=IPPR+weekly+newsletter&utm\\_campaign=f1aaef8906-IPPR-news\\_151009\\_EY-extn\\_0carbsLondon\\_Tory-conf&utm\\_medium=email&utm\\_term=0\\_0b30c067fe-f1aaef8906-277618781](http://www.ippr.org/publications/extending-the-early-years-entitlement-costings-concerns-and-alternatives?utm_source=IPPR+weekly+newsletter&utm_campaign=f1aaef8906-IPPR-news_151009_EY-extn_0carbsLondon_Tory-conf&utm_medium=email&utm_term=0_0b30c067fe-f1aaef8906-277618781)

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All parties should work to ensure that all migrant and refugee and asylum-seeking children are able to access basic services such as education, health and an adequate standard of living, as enshrined within the United Nations Convention on the Rights of the Child (UNCRC).

## *Rights for all children and young people*

Children and young people have consistently told me how important open spaces to play in are to their everyday lives. All parties should support local authorities to comply with their statutory duties to secure sufficient play opportunities for children and young people across Wales.

All political parties should commit to introducing legislation to ensure that children under 18 have the same protection from physical punishment as adults, fully protecting children from violence and supporting families to provide nurturing environments where all children are able to fulfil their potential. This is a fundamental issue of equality and human rights and the current legal defence of 'reasonable punishment' is inconsistent with the ambition for every child and young person in Wales to realise their rights as set out in the UNCRC<sup>4</sup>.

There should be a nationally representative Youth Assembly for Wales. The current government-funded model, Young Wales, provides a useful platform to inform the work of Welsh Government. However, there is scope to further develop mechanisms which holds Welsh Government to account and which are not designed to support Government in their work.

Sixteen and seventeen year olds should be given the vote in all elections and referenda in Wales. The Welsh Government must improve participation in schools and ensure that robust education on the political system is incorporated throughout the statutory education curriculum.

It is apparent to me that there is currently a diffuse arrangement for children's policy across Welsh Government. More can be done to improve the status given to children and young people in our democratic design, and to improve the visibility of children and young people in the coordination and delivery of public services. It is my view that Wales needs a dedicated Children's Minister who is empowered to lead on children's rights and hold Cabinet to account on their duties of due regard. A dedicated Children's Minister could provide the required leadership to ensure the realisation of children's rights across Government.

Whilst no UK nation has fully incorporated the UNCRC into domestic law, we have taken steps towards this in Wales, through the Children's Rights Measure<sup>5</sup>. Due regard should not start and end with Ministerial functions and I call on political parties to seek to extend the duty of due regard to the UNCRC to all persons exercising functions under legislation relating to children and young people, as it has been through the Social Services and Well-being (Wales) Act 2014.

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<sup>4</sup> <http://gov.wales/docs/dsjlg/publications/cyp/150629-compliance-report-en.pdf>

<sup>5</sup> <http://www.legislation.gov.uk/mwa/2011/2/contents>

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I believe there is a real opportunity in light of recommendations made following an independent review into my office<sup>6</sup>, for a new legislative basis for the Children's Commissioner for Wales. Simplifying the legislation and giving the Commissioner authority to deal, in a consistent manner, with all matters relating to children's rights in Wales would offer a more coherent framework. This would provide a single point of contact for children in Wales, able to protect and promote their rights and welfare. I maintain the call for my post to be appointed by and report to the National Assembly for Wales, rather than Welsh Government as is currently the case.

## *Conclusion*

As Commissioner leading an independent human rights organisation for children and young people in Wales I wish to work with all political parties to develop evidence-based policy proposals that will further embed children's rights in Welsh society and improve outcomes for children and young people. I look forward to working with the new government from 2016 to achieve this goal.



**Sally Holland**  
Children's Commissioner for Wales

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<sup>6</sup> <http://gov.wales/topics/people-and-communities/people/children-and-young-people/rights/commissioner/review-of-childrens-commissioner/?lang=en>

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## Papur Briffio ar gyfer Etholiadau 2016 i Gynulliad Cenedlaethol Cymru

Yn rhinwedd fy swydd fel pencampwr hawliau plant a phobl ifanc yng Nghymru, rwyf wedi cynhyrchu'r briffiad hwn ar gyfer holl bleidiau gwleidyddol Cymru, er mwyn llywio datblygiad polisiau a fydd yn arddangos ymrwymiad i blant a phobl ifanc Cymru ac yn cyflawni gwell canlyniadau i bawb, beth bynnag yw eu hamgylchiadau. Mae agweddau sylfaenol ar ein cyfraith a'n polisi y gellir eu gwella yn y tymor Cynulliad nesaf er mwyn gwella cyfleoedd ein plant a'n pobl ifanc mewn bywyd.

Dylem ymfalchïo yn ein hanes hawliau plant yng Nghymru, ond ni allwn laesu dwylo. Yn gyntaf, mae'r **bylchau o ran cyfleoedd a chanlyniadau** rhwng chwarter tlotaf y boblogaeth blant a'r chwarter cyfoethocaf yn dal yn llawer rhy fawr. Yn ail, mae angen **cefnogaeth ac amddiffyniad mwy effeithiol** ar rai grwpiau agored i niwed megis plant sy'n derbyn gofal, plant anabl a rhai sy'n profi salwch meddwl. Yn drydydd, gallai rhai newidiadau wella **hawliau pob plentyn a pherson ifanc**. Mae hyn yn cynnwys cyfleoedd i blant a phobl ifanc fod yn ddinasyddion gweithredol, amddiffyniad cyfartal rhag ymosodiad corfforol a chryfhau'r ddeddfwriaeth sy'n darparu sylfaen ar gyfer hawliau.

Rwy'n credu'n bendant y dylai plant gael blaenoriaeth yn ein cyfreithiau a'n polisiau cyhoeddus, er mwyn sicrhau canlyniadau cadarnhaol a bywydau cyflawn. Er mwyn gwireddu hawliau plant, rhaid cael:

- a) seilwaith cryf o ddeddfwriaeth a pholisiau;
- b) prosesau effeithiol a chronfeydd ac ymrwymiad digonol i roi'r agenda polisi ar waith, ac
- c) gwell canlyniadau a phrofiadau ar gyfer plant a phobl ifanc.

Ers i mi gael fy mhenodi ym mis Ebrill eleni rwyf wedi bod yn gweithio gyda fy nghymheiriaid ar draws y Deyrnas Unedig i gyhoeddi adroddiad i Bwyllgor y CU ar Hawliau'r Plentyn<sup>7</sup>, yn asesu cynnydd Llywodraeth y Deyrnas Unedig a'r llywodraethau datganoledig ym maes hawliau plant yn ystod y pum mlynedd diwethaf. Rwyf wedi gwrandao ar fwy na mil o blant a phobl ifanc mewn cyfarfodydd wyneb yn wyneb ynghylch eu blaenoriaethau, fel rhan o'm hymgyngoriad 'Beth Nesa'/What Next', a byddaf fi'n rhannu ac yn datblygu canfyddiadau'r ymgynghoriad hwnnw yn 2016. Y datblygiadau hyn, ynghyd â thystiolaeth ymchwil ynghylch pa bolisiau sy'n cyflawni'r canlyniadau gorau i blant, yw'r ffynonellau ar gyfer y blaenoriaethau polisi canlynol i Gymru.

### *Trechu tlodi plant*

Rwy'n cefnogi'n gryf barhad y rhaglen Dechrau'n Deg, ond rwy'n pryderu nad yw plant sy'n byw mewn tlodi y tu allan i ardaloedd Dechrau'n Deg yn gallu cael mynediad i'r gwasanaethau gwell hyn. Dylai'r pleidiau edrych ar sut gallai mwy o blant sy'n byw mewn tlodi elwa o gael eu cynnwys yn y rhaglen.

<sup>7</sup> <http://www.complantcymru.org.uk/cy/rhestr-cyhoeddiadau/>

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Dylai gofal plant cyffredinol fod yn ganolog i'n huchelgais ar gyfer gwasanaethau cyhoeddus yng Nghymru. Rwy'n galw ar bleidiau gwleidyddol i gydnabod y sylfaen gynyddol o dystiolaeth sy'n cefnogi datblygiad system gyffredinol, sy'n hybu symudedd cymdeithasol yn ogystal â ffyniant economaidd<sup>89</sup>, trwy estyn yr hawl i dderbyn gofal plant ac addysg gynnar fforddiadwy, o ansawdd uchel.

## *Cefnogaeth ac amddiffyniad*

Dylai gwasanaethau iechyd, addysg, cymdeithasol a chyfiawnder ystyried sut mae pobl ifanc yn aml yn profi pontio sydyn o wasanaethau plant i wasanaethau oedolion (sy'n cael ei ddisgrifio fel 'ymyl clogwyn') a datblygu mwy o drefniadau pontio sy'n troi o gwmpas y person ifanc, gan gynnwys rhai gwasanaethau i oedolion ifanc hyd at 25 oed. Mae angen arbennig am drefniadau statudol clir i reoli'r berthynas rhwng awdurdodau lleol a gwasanaethau iechyd, er mwyn sicrhau mai lles pennaf plant a phobl ifanc sy'n ganolog i'r ddarpariaeth.

Dylai'r holl bleidiau gwleidyddol ymrwmo i weithredu'r rhaglen *Gyda'n Gilydd dros Blant a Phobl Ifanc / Together for Children and Young People* ar gyfer iechyd meddwl a llesiant pobl ifanc, a sicrhau bod gwasanaethau'n cael eu hariannu'n ddigonol. Mae angen gwasanaethau iechyd meddwl cymunedol sylfaenol ac ataliol ychwanegol, wedi'u seilio ar dystiolaeth er mwyn lleihau'r pwysau ar y gwasanaethau clinigol, a ddylai fod ar gael yn gyflym i'r rhai sydd eu hangen.

Dylai plant sy'n derbyn gofal dderbyn gofal ansawdd uchel sy'n eu galluogi i ymadfer wedi trawma cynnar a chyflawni gwell canlyniadau. Dylai'r holl bartïon fod yn barod i ymrwmo adnoddau digonol er mwyn recriwtio a chefnogi digon o gartrefi maeth ansawdd uchel.

Dylai fod gan bob plentyn sy'n gadael gofal wasanaethau byw a chefnogaeth wedi'u hariannu'n ddigonol, yn unol â'u hangen a aseswyd. Dylai fod gan blant sydd mewn cartrefi plant preswyl hawl i gael mynediad i'r cynllun Pan fydda i'n Barod, a gallu dewis estyn eu lleoliad nes eu bod nhw'n 21. Dylai fod gwarant o gartref diogel, sicr i bawb sy'n gadael gofal, a chynnig gweithredol o ran addysg, hyfforddiant neu swydd gan eu rhiant corfforaethol ym 'musnes y teulu' – sef yr awdurdod lleol a'u partneriaid lleol.

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<sup>8</sup> <http://www.ippr.org/publications/no-more-baby-steps-a-strategy-for-revolutionising-childcare>

<sup>9</sup> [http://www.ippr.org/publications/extending-the-early-years-entitlement-costings-concerns-and-alternatives?utm\\_source=IPPR+weekly+newsletter&utm\\_campaign=f1aaef8906-IPPR-news\\_151009\\_EY-extn\\_0carbsLondon\\_Tory-conf&utm\\_medium=email&utm\\_term=0\\_0b30c067fe-f1aaef8906-277618781](http://www.ippr.org/publications/extending-the-early-years-entitlement-costings-concerns-and-alternatives?utm_source=IPPR+weekly+newsletter&utm_campaign=f1aaef8906-IPPR-news_151009_EY-extn_0carbsLondon_Tory-conf&utm_medium=email&utm_term=0_0b30c067fe-f1aaef8906-277618781)

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Dylai'r holl bartïon ymrwymo i roi cynllun gweithredu cenedlaethol ar waith ynghylch Ecsbloetio Plant yn Rhywiol, er mwyn sicrhau ymateb cyson ledled Cymru ac argaeledd data cyson i lywio cynllunio gwasanaethau. Dylai pob plentyn sydd wedi profi trawma a chamdriniaeth gael mynediad i wasanaethau therapiwtig a chefnogaeth.

Dylai'r holl bartïon weithio i sicrhau bod yr holl blant mudol, sy'n ffoaduriaid neu sy'n ceisio lloches yn gallu cyrchu gwasanaethau sylfaenol fel addysg, iechyd a safon byw ddigonol, fel y nodwyd yng Nghonfensiwn y Cenhedloedd Unedig ar Hawliau'r Plentyn (CCUHP).

### *Hawliau i bob plentyn a pherson ifanc*

Mae plant a phobl ifanc wedi dweud wrthyf fi'n gyson pa mor bwysig yw manau agored i chwarae i'w bywydau pob dydd. Dylai'r holl bleidiau gefnogi awdurdodau lleol i gydymffurfio â'u dyletswyddau statudol i sicrhau cyfleoedd chwarae digonol i blant a phobl ifanc ledled Cymru.

Dylai'r holl bleidiau gwleidyddol ymrwymo i gyflwyno deddfwriaeth a fydd yn sicrhau bod plant o dan 18 yn cael yr un amddiffyniad rhag cosb gorfforol ag oedolion, gan amddiffyn plant yn llawn rhag trais a chefnogi teuluoedd i ddarparu amgylcheddau meithringar lle caiff pob plentyn eu galluogi i gyflawni eu potensial. Mae hwn yn fater cydraddoldeb a hawliau dynol sylfaenol, ac mae amddiffyniad cyfreithiol cyfredol 'cosb resymol' yn anghyson â'r uchelgais y dylai pob plentyn a pherson ifanc yng Nghymru wireddu eu hawliau fel y'u nodir yn CCUHP<sup>10</sup>.

Dylai fod Cynulliad Ieuenctid i Gymru sy'n genedlaethol gynrychioliadol. Mae'r model cyfredol a ariannir gan y llywodraeth, Cymru Ifanc, yn llwyfan defnyddiol i lywio gwaith Llywodraeth Cymru. Fodd bynnag, mae lle i ddatblygu ymhellach fecanweithiau sy'n galw Llywodraeth Cymru i gyfrif, ac nad ydynt wedi'u llunio i gefnogi'r Llywodraeth yn ei gwaith.

Dylai pobl ifanc 16 ac 17 oed gael pleidlais ym mhob etholiad a refferendwm yng Nghymru. Rhaid i Lywodraeth Cymru wella cyfranogiad mewn ysgolion a sicrhau bod addysg gadarn ar y system wleidyddol yn cael ei hymgorffori ar draws y cwricwlwm addysg statudol.

Mae'n amlwg i mi bod trefniant gwasgaredig yn bodoli ar hyn o bryd o ran polisi plant ar draws Llywodraeth Cymru. Gellir gwneud mwy i wella'r statws a roddir i blant a phobl ifanc yn ein cynllun democrataidd, ac i wella gweledd plant a phobl ifanc wrth gydlynu a darparu gwasanaethau cyhoeddus. Yn fy marn i, mae angen Gweinidog Plant dynodedig ar Gymru, gyda grym i arwain ym maes hawliau plant a galw'r Cabinet i gyfrif o ran eu dyletswyddau sylw dyledus. Gallai Gweinidog Plant dynodedig ddarparu'r arweinyddiaeth angenrheidiol i sicrhau bod hawliau plant yn cael eu gwireddu ar draws y Llywodraeth.

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<sup>10</sup> <http://gov.wales/docs/dsjlg/publications/cyp/150629-compliance-report-en.pdf>

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Er nad yw'r un o wledydd y Deyrnas Unedig wedi ymgorffori CCUHP yn llawn i gyfraith gwlad, rydym wedi cymryd camau tuag at hynny yng Nghymru, trwy'r Mesur Hawliau Plant<sup>11</sup>. Ni ddylai sylw dyledus gyfeirio at swyddogaethau Gweinidogol yn unig, ac rwy'n galw ar y pleidiau gwleidyddol i geisio estyn dyletswydd sylw dyledus i CCUHP i bawb sy'n ymarfer swyddogaethau o dan y ddeddfwriaeth sy'n ymwneud â phlant a phobl ifanc, fel sydd wedi digwydd yn achos Deddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014.

Rwy'n credu, yng ngoleuni argymhellion a wnaed yn dilyn adolygiad annibynnol o'm swyddfa<sup>12</sup>, fod cyfle gwirioneddol i greu sylfaen ddeddfwriaethol newydd ar gyfer Comisiynydd Plant Cymru. Byddai symleiddio'r ddeddfwriaeth a rhoi i'r Comisiynydd awdurdod i ymdrin, mewn modd cyson, â phob mater sy'n ymwneud â hawliau plant yng Nghymru yn cynnig fframwaith mwy cydlynus. Byddai hyn yn darparu un pwynt cyswllt ar gyfer plant yng Nghymru, ac yn gallu amddiffyn a hybu eu hawliau a'u lles. Rwy'n galw eto am i'm swydd gael ei phenodi gan Gynulliad Cenedlaethol Cymru ac adrodd i'r corff hwnnw, yn hytrach na Llywodraeth Cymru, fel sy'n digwydd ar hyn o bryd.

## *Diwedd glo*

Fel Comisiynydd sy'n arwain sefydliad hawliau dynol annibynnol i blant a phobl ifanc yng Nghymru rwyf am weithio gyda phob plaid wleidyddol i ddatblygu cynigion polisi seiliedig ar dystiolaeth a fydd yn gwreiddio hawliau plant ymhellach yng nghymdeithas Cymru ac yn gwella'r canlyniadau i blant a phobl ifanc. Rwy'n edrych ymlaen at weithio gyda'r llywodraeth newydd o 2016 i gyflawni hyn.



**Sally Holland**  
Comisiynydd Plant Cymru

<sup>11</sup> <http://www.legislation.gov.uk/mwa/2011/2/contents>

<sup>12</sup> <http://gov.wales/topics/people-and-communities/people/children-and-young-people/rights/commissioner/review-of-childrens-commissioner/?lang=en>