

www.cymru.gov.uk

Children's Rights Scheme

Report on the compliance with the duty under section 1 of the Rights of Children and Young Persons (Wales) Measure 2011.

1 May 2012 – 31 January 2013



Foreword

I am delighted to introduce this progress report outlining how Welsh Ministers are complying with the Rights of Children and Young Persons (Wales) Measure 2011.

We want to achieve a culture in Welsh Government where there is a full appreciation of children's rights, and that we consider rights in all our work. This builds on our philosophy as a Government over the years in putting children's rights at the heart of what we do. The Measure places a duty on us as Ministers to have due regard to children's rights when we develop or revise policy and or legislation.

The Children's Rights Scheme, which received approval from the National Assembly for Wales in March last year, set out how we would achieve this and our arrangements to ensure we comply with the requirements of the Measure. This progress report is focussed on the implementation of our Children Rights Scheme.

I am extremely proud of the fact that Welsh Government is at the forefront of this groundbreaking work and we are determined to get it right. Children and young people living in Wales deserve the best support we can give so they can achieve their full potential.

As we develop and embed these arrangements across Welsh Government, we will continue to look both domestically and internationally, working in partnership to ensure we learn from good practice.

We will be revising and updating our Children's Rights Scheme in 2014 as the Measure places further duties on us as Ministers to consider children's rights in all we do. I will be looking to our stakeholders, including children and young people, to help inform its development.

As part of this first report you will see that the work so far is leading us in the right direction. It has been a very busy and exciting nine months since the Measure came into force. While we recognise there is more to do, I believe we have made an excellent start. We remain committed and focused on our responsibilities in regard to the Measure and most importantly children and young people in Wales.

Gwenda Thomas AM

Deputy Minister for Children and Social Services

Gwerder Khomas.

Introduction

The Welsh Government is clear in its continued commitment to improving the lives of children and young people. We aim to provide opportunities and experience for them to grow, to ensure that they know and understand about their rights and that there is help for them as and when they need it.

The introduction of the Rights of Children and Young Persons (Wales) Measure 2011 was a demonstration of this commitment and we are determined that it will have a positive impact on children, young people and their families.

The Measure was passed by the National Assembly for Wales on 18 January 2011 and approved by Her Majesty in Council on 16 March 2011. The Measure embeds consideration of the UNCRC¹, and the Optional Protocols², into Welsh law.

The Measure places a duty on Welsh Ministers to have due regard to:

- The United Nations Convention on the Rights of the Child;
- The Optional Protocol to the Convention on the involvement of children in armed conflict; and
- The Optional Protocol to the Convention on the sale of children, child prostitution and child pornography.

From 1 May 2012, up to and including 30 April 2014, the duty applies to decisions of the Welsh Ministers about any of the following:

- proposed new legislation
- proposed new policies
- a review of or change to an existing policy and/or legislation

We are the first Government in the United Kingdom to introduce such a duty to have due regard to children's rights. This is a huge step forward and the result will be a culture change in relation to children's rights and ultimately a positive impact on children, young people and their families.

Our Children's Rights Scheme³ was made under section 2⁴ of the Measure, which states that Welsh Ministers must make such a scheme setting out the arrangements they have made, or propose to make, for the purpose of securing compliance with the duty. On the 27 March 2012 the National Assembly for Wales approved the Welsh Government's Children's Rights Scheme and these arrangements are now in place.

² http://www.unicef.org/crc/index_protocols.html

3

¹ http://www2.ohchr.org/english/law/crc.htm

³ http://wales.gov.uk/topics/childrenyoungpeople/publications/rights/?lang=en

⁴ http://www.legislation.gov.uk/mwa/2011/2/section/2

Section 4⁵ of the Measure states that Welsh Ministers must publish a report detailing how they and the First Minister have complied with the duty under Section 16 of the Measure and that the report needs to be laid before the Assembly on or before the 31 January 2013.

This report therefore sets out how Ministers have complied with the duty in the 9 months since it came into force on 1 May 2012 and up to the publication of this document in January 2013. It is in two sections, to firstly cover the processes and arrangements in place and secondly the impact we are already seeing. We are pleased to be able to provide some examples of children's rights impact assessment activity and how this is being monitored.

These arrangements will be monitored and amended as appropriate up until 1 May 2014. A new Children's Rights Scheme will be developed for spring 2014 which will include an update on arrangements as the Measure extends the due regard duty to apply to all decisions and actions by Welsh Ministers.

http://www.legislation.gov.uk/mwa/2011/2/section/4/enacted
Section 1(2), Rights of Children and Young Persons (Wales) Measure 2011.
Section 1(1), Rights of Children and Young Persons (Wales) Measure 2011.

Section 1

Putting the arrangements in the Children's Rights Scheme into place

Ministers

Ministers have agreed the arrangements in place within our Children's Rights Scheme to ensure they comply with the duty upon them. The duty to ensure that these arrangements work effectively remains with Ministers and they are accountable to the National Assembly of Wales, and to the public, in respect of this.

A reminder to consider children's rights and advice on how to do this is now included in the advice guidance template used by all Government Officials to inform, advise and assure Welsh Ministers. This includes a link to the internal online training package on the UNCRC and how to apply our Children's Rights Impact Assessment (CRIA). The CRIA we have developed is a six step approach to guide Welsh Government staff through the process of having due regard to children's rights. It is explained further on later in this report (pg 8).

It is alongside the Welsh Government's Policy and Delivery Portal which centralises the impact assessments Welsh Government staff need to complete when developing their policies and legislation.

These systems are in place to ensure that the advice Minsters receive demonstrates that due regard to the UNCRC and other duties has been given and Ministers take decisions with this assurance.

<u>The Implementation Steering Group (Children's Rights Scheme Monitoring</u> Group)

In our Children's Rights Scheme, we outlined the role of the Implementation Steering Group. Since that time it has become apparent that the role of this Group has changed from that of a steering group to one of ensuring compliance with the Children's Rights Scheme and sharing good practice. We have therefore moved to having a Children's Rights Scheme Monitoring Group. The Group is composed of representatives from each of the Welsh Government Departments.

A key role of the Group is to work together on behalf of Ministers to ensure we as a government are complying with the duty in the Measure through the implementation of our Children's Rights Scheme. Members of this Group are in a position to feedback on how the Scheme is being implemented across each Departmental area of Welsh Government.

The Children's Rights Scheme Monitoring Group also provides advice and guidance to the implementation team based within the Department of Health, Social Services and Children. This helps to improve the processes and help steer the work, as well as bring feedback from their area as to how the Measure is being implemented and if there is any best practice to share or any difficulties to address.

The Group ensures that the Children's Rights Impact Assessment is used in a coherent way along side the other statutory impact assessments that need to be in place.

Measure Implementation Team

Our Children's Rights Scheme outlines the role of the Measure Implementation Team.

A significant role for the Team is to raise awareness and understanding of the UNCRC, the Measure and the duties within it. The activities that have taken place to do this are highlighted throughout this document and include developing on-line packages, providing tailored training packages and one to one support to various policy and legislation colleagues.

Examples include a series of 'lunch and listen' face to face sessions involving a presentation and a question and answer session. This allows staff to access support over lunchtime where they can learn in a more informal context.

Team training sessions have taken place in Welsh Government offices in Cardiff, Merthyr, Rhondda Cynon Taff, Carmarthenshire, Aberystwyth (including staff based in Newtown) and the Llandudno Junction offices.

The Implementation Team has also been offering individual support and advice to colleagues in understanding and implementing the duty within the Measure. This support is offered in a variety of ways including e-mail, phone and face to face meetings. All communications related to the support and advice given is saved centrally and will be continuously analysed to ensure a consistent and effective approach is in place.

This support will continue to be offered, all the training includes an evaluation form in order to monitor that the sessions are effective and appropriate for the audience.

In liaising with Colleagues, the Team gather samples of Children's Rights Impact Assessments and monitors whether the Welsh Government is complying with the due regard duty. This has provided data and evidence that has been analysed and has informed this report. This information allows the Implementation Team to gain a better understanding of the diverse and at times complex content analysis required from colleagues. The team is constantly reviewing the analysis to help look where further support maybe required and put in place.

Additional support and guidance is also available from the Welsh Government Legal Services and if required the external expertise available in Wales and or internationally.

The Team also facilitate the Children's Rights Scheme Monitoring Group, and work closely with stakeholder groups.

Welsh Government Staff

It is the role of all Staff to assure Ministers that the UNCRC has been considered, and the Children's Rights Impact Assessment has been completed when they are providing Ministers with information and options and asking Ministers to make decisions about policy and legislation. The Children's Right Impact Assessment will also point out that they are expected to keep a record of the impact assessment and decision process and share this with the Measure Implementation Team.

It was recognised early on that there was a need to develop a sustainable, accessible and cost effective approach to increasing the understanding of the impact of children's rights on day to day work. In response an on-line training course has been introduced which is available at every desktop computer in Welsh Government. This includes a survey which sets a baseline analysis of understanding of the UNCRC and the subsequent increase in knowledge once the course is completed.

In order to further support teams across Welsh Government, the implementation team have used various mechanisms such as guidance within templates as part of all Ministerial submissions, timely reminders of the training, posters, leaflets and the development of the six step model, including the production of a pro forma in order that all completed children's rights impact assessments are recorded and saved in a centralised IT system for monitoring purposes.

As a result officials have been proactive in contacting the Implementation Team for support via a dedicated internal mailbox and other contact details to seek support in relation to the children's rights assessment tool. This instigates face to face meetings, phone line support and e-mail correspondence if required. All activity is logged and snapshot evaluations are in place to help monitor the appropriateness and quality of support.

A suite of materials and procedures have been produced to support colleagues during the early days of applying the duty. They include a dedicated internal web page with all online training resources, Frequently Asked Question sheets (FAQs), legal documentation and contact details where colleagues are able to access support.

The majority of lawyers from the Welsh Government Legal Services have undertaken a dedicated one day training session under the heading of 'UNCRC Training for Welsh Government'. This session included a half day lecture from Professor Aoife Nolan from Nottingham University School of Law who introduced and covered an international focus on the human rights of children, UK law, socio – economic rights, democracy and the courts as well as specific issues under the UNCRC: related to Child Participation Rights.

The Implementation Team lead official was in attendance to help with a policy insight and to describe and discuss the CRIA in place. Alongside this the lead lawyer during the development of the Measure in the first instance also presented on its purpose and background.

The training is a recognised accredited Law Society professional development worth 5.5 (CDP) points.

Welsh Government Working in Partnership

We continue to work alongside external stakeholders with expert knowledge in the area of children's rights. The Welsh Government funded a conference at Swansea University to consider furthering children's rights in Wales and the world. This was a pre-conference to the 5th World Congress on the Rights of Children and Adolescents⁸. The arrangements in implementing the Rights of Children and Young Persons (Wales) Measure 2011 were discussed in detail.

Officials have supported an Academic Seminar, held by the Wales Observatory⁹ on the Human Rights of Children, on the analysis of the concept of due regard and presented on the Welsh Government children's rights impact assessment for external groups as part of a workshop activity.

The Children's Rights Scheme arrangements were considered by the Getting it Right¹⁰ Implementation Support Network, which is convened by the Welsh Government and made up of stakeholders who have expertise and interest in furthering children's rights. This Network advises us on our arrangements and our progress against the recommendations made by the UN Committee on the Rights of the Child, as well as works with us when there are joint projects or campaigns that can be taken forward.

By working with stakeholders like UNICEF, the Children's Commissioner, the UNCRC Monitoring Group and the Observatory, we have developed approaches in learning from others as this work progresses.

Arrangements in place to ensure compliance

Children's Rights Impact Assessment (CRIA)

The UN Committee on the Rights of the Child recommends all countries that ratify the UNCRC undertake children's rights impact assessments (CRIA) on all decisions related to children. A CRIA can be described as a prior assessment of the impact that a decision can have on a child or a group of children affected by it.

CRIA is used internationally as a term that relates to a tool for translating the Convention on the Rights of the Child into practice in a practical and structured manner.

The CRIA developed by the Welsh Government is a six step approach which acts as a tool for officials when developing or reviewing policy and/or legislation.

⁸ <u>http://www.equityforchildren.org/5th-world-congress-for-the-rights-of-children-and-adolescents-</u>769/index.html

⁹ https://www.facebook.com/WalesObservatoryHRCYP

http://wales.gov.uk/topics/childrenyoungpeople/publications/gettingitright2009/?lang=en

In developing a Children's Rights Impact Assessment we felt it was vital that it was a model that was workable and easily understandable. The result is shown here:



All the training in place will introduce the CRIA as an essential tool to support staff in considering and having due regard to the UNCRC when developing or reviewing policy or legislation.

To date, staff have reported that they find the CRIA a very helpful tool that makes them truly think about the UNCRC and what impact their policy or legislation has on the UNCRC and how they can give further effect to children's rights.

A pro forma is in place which officials use to record their analysis and this is then saved within the central filing system. Internal evaluation and monitoring forms are also in place and information from these has been used for the purpose of this report.

There is significant interest by other nations in this CRIA and it seems to be developing into an internationally renowned impact assessment and we are happy to share with others as requested. The Canadian, Scottish, Argentinian and Jersey Government have requested more information and have met with officials in person and as part of telephone conferences in order to explore it's methodology in more detail as it is considered good practice.

Challenging Welsh Ministers

Our Children's Rights Scheme outlines how children, young people or/and those who represent them can challenge Ministers when they feel they have not considered children's rights when developing policy or/and legislation.

Stakeholders felt that the Welsh Government's complaints procedure was not easily accessible for children and young people. As a result, we have asked young people to work with us to develop a short on-line guide that sets out the steps they need to follow to challenge Welsh Minsters. This guide will be available on the Welsh Government website.

Some children and young people may need some support to challenge Ministers. The guide signposts children and young people to organisations which would be able to offer advocacy support. This includes 'meic' the advocacy and advice helpline and the Children's Commissioner for Wales.

Scrutiny of the arrangements

In terms of the arrangements in the Children's Rights Scheme, a snapshot evaluation has taken place across a number of Welsh Government policy and legislation areas of work that have had support on their particular Children's Rights Impact Assessment work and analysis since the duty came into force. This included the quality and relevancy of support received. First indications are very positive with officials reporting that the arrangements in place are clear and easy to use. They also report that the support received as and when needed has been invaluable.

It is anticipated that initially the number of enquiries for support from the Implementation Team will continue to increase to enable officials to consider the duty on Ministers. In the longer term, the intention is that officials will be informed and empowered to consider children's rights, along side other impact assessments, in all that they do.

There is much interest in the Rights of Children and Young Persons (Wales) Measure 2011 and our Children's Rights Scheme, both domestically and internationally. As highlighted previously, we have received queries from many countries asking for detail on the development of the Measure and the arrangements in place in Wales for them to consider if it can be adapted to be used within their own jurisdiction.

Officials have been part of an advisory board that included academics, lawyers and children and young people on new research commissioned and managed by UNICEF. This research looked at 12 countries that have incorporated the UNCRC as part of their work and involved taking part in a field trip alongside UNICEF to Brussels to meet with the Belgium Government amongst others to learn from their experience of incorporation.

Stakeholders in Wales with expertise in children's rights are also taking an interest in the arrangements we have in place and we welcome their interest, suggestions and support.

Section 2

How it is making a difference to children, young people and families

The Welsh Government believes that having due regard to the UNCRC when developing policy and legislation will have a positive effect on outcomes for children and young people. While it is early days we are already seeing positive impact and early themes developing. This includes:

More participation of children and young people – while many policy areas have always consulted with and involved children and young people in developing and shaping policy, it is now much more commonplace across the Welsh Government. This may include engaging through various forums such as school councils or County Forums, or commissioning specific pieces of engagement/workshop activity.

More children and young people friendly documents/leaflets – as children and young people are considered a stakeholder, we are seeing more and more the development of 'easy read' or children and young people friendly leaflets. An example is the Welsh Government budget leaflet that explained the allocation of budget to various areas and the types of expenditure, also the consultation leaflets on the Social Services (Wales) Bill and Together for Mental Health. This is to ensure that children and young people are given the opportunity to influence policy and legislation from the start.

Children's budgeting – as a result of policy and legislation having due regard to the UNCRC, all budgetary decisions will in turn reflect children's rights. This is a much more effective and meaningful way of considering children's rights alongside Welsh Government budgets. This is also a significant shift in the way Welsh Ministers and officials work and it goes some way to addressing the recommendation of the UN Committee on improving the transparency of budgeting for children and young people. In addition, the Minister for Finance and Leader of the House met with school children to discuss the Draft Budget in early November 2012.

Influencing policy/legislation – some policies and legislation would immediately be considered as relevant to children and young people. These areas would be expected to consider children's rights as a given. However, since the implementation of the Measure, other policy and legislative areas now have to consider the UNCRC and complete the Children's Rights Impact Assessment. Examples include the Active Travel Bill, Climate Change Commission, End Violence & Domestic Abuse Against Women White Paper, Housing White Paper and Human Transplantation Bill.

Influencing Delivery – as a result of the Welsh Government having to have due regard to the UNCRC, more and more guidance documents are making reference to the UNCRC and what this means for that area of work. This in turn is having an influence on public services as they comply with the legislation and statutory guidance issued. This will mean that children, young people and families will see the positive difference the measure is making as organisations, services and

professionals become more and more aware of the UNCRC and what it means for them in their work.

The above summary of analysis is a flavour of the impact on specific areas within Welsh Government. Annexed to this report we have included more detailed examples of certain policy and legislative areas where the Children's Rights Impact Assessment has had an influence and the recommendations, activity that took or are now taking place as a result.

Although the duty has only been in place for a relatively short space of time the evidence of impact is beginning to become clear but further scrutiny will take place over the longer term.

Conclusion

The due regard duty has now been in place for 9 months. Ministers are as committed as ever to children's rights and have shown this commitment by considering children's rights when developing numerous and diverse policies and legislation.

There has been a significant development in the understanding of officials of the requirements to consider children's rights when developing policy or legislation. There is further work to be done but procedures and materials have been put in place to aid and support Welsh Government staff.

A new Children's Rights Scheme will be introduced in May 2014. We will continue to review all the key elements and look forward to working with all stakeholders in developing the new scheme continuing to ensure what we are doing remains fit for purpose.

All in all there is much progress detailed within this report. It is the early stages but there is a good deal of progress in evidence. The work remains ongoing and there is worldwide interest and focus on the implementation model we are developing.

It is the case that the Measure in Wales is causing great interest externally and internationally, as was the case in the recent European Rights of the Child Forum¹¹ held in Brussels. As we explore the ways to incorporate the UNCRC as part of the Welsh Government culture, it is important to recognise the great strides being made as a country.

There is more to do and further reporting of progress will continue and the valuable external support and expertise will be accessed to help strengthen the approach into the longer term.

¹¹ http://ec.europa.eu/justice/fundamental-rights/rights-child/european-forum/index en.htm

Annex 1 – Examples of legislation / policies that have completed the CRIA

Framework for Action on Independent Living for Disabled People

The Welsh Government's Strategic Equality Plan includes an objective to tackle barriers and support disabled people so that they can live independently and exercise choice and control in their daily lives. The Framework for Action underpins that objective by identifying how we can strengthen action across Welsh Government and with external partners to support the rights of disabled people.

Disabled people and their representative organisations have been involved in developing the Framework and have helped to identify what, for them, are the key issues, examples of existing good practice, and areas for improvement around the following priority areas:

- 1. Information, advice and advocacy
- 2. Accessible and supported housing
- 3. Access to the built environment
- 4. Person-centred technology
- 5. Barrier-free transport
- 6. Employment
- 7. Choice and control in personalised care and support

As a direct result of officials using the CRIA the following actions were recommended for Ministers to approve. • Ensure that the public consultation on the Framework includes engaging with children and young people, and communicates that their responses would be welcome. • Ensure the consultation includes questions about the impact of the Framework on children and whether anything could be improved or included to support disabled children further. • Ensure that the consultation process takes account of the needs of disabled children.

Mandatory Power of Possession for Anti-Social Behaviour

This is to introduce a new additional mandatory power of possession for anti-social behaviour which social landlords may choose to use where serious housing related anti-social behaviour has already been proven.

The Welsh Government is committed to tackling anti-social behaviour. This commitment is shown in the Programme for Government and in the Housing White Paper that was launched in May 2012.

The Home Office is currently looking to simplify and streamline the toolkit of powers for social landlords and other agencies to tackle anti-social behaviour. Powers to deal with anti social behaviour are not devolved to Wales and will be implemented through a Home Office Bill.

The new proposals provide the opportunity for the Welsh Government to look at how the final sanction of eviction will interact with the other formal interventions which social landlords will be encouraged to use before seeking possession. Children may be affected by this as either perpetrators or victims of anti-social behaviour or as a family member of perpetrators of anti-social behaviour.

Draft Human Transplantation Bill

This is a legislative proposal to introduce a soft opt-out system for organ donation in Wales. A soft opt-out system is one where consent to the removal and use of organs and tissues is treated as having been given unless the deceased objected during their lifetime, but where the next of kin of will be involved in the decision making process.

The aim of the Bill is to increase the number of organs and tissues available for transplant, which will benefit the people of Wales by reducing the number of people dying whilst waiting for a suitable organ to become available and improving the life of others.

The following actions were recommended after the CRIA had been used by officials. Review the age limit for the legislation within a reasonable timeframe and as part of the evaluation of the operation of the new system. • Ensure that the public awareness campaigns encompasses work with schools and other ways of engaging with children and young people, and communicates that they will be able to register whether they wish to donate or not donate organs and tissues if they die. • Ensure systems are designed so that if children register their wishes the information is held securely, and with complete confidentiality. • Ensure that the public awareness campaign takes account of the needs of disabled children.

Welsh Government Budget for Growth and Jobs 2013/2014

The Programme for Government sets out our agenda for the whole of this Government term and provides the strategic plan for the Welsh Government, setting out what Ministers want to achieve over the next five years (2011-2016). It is our plan of action and makes clear what we are going to do to improve the lives of the people of Wales and how we are going to measure our progress.

We recognise that continuity of effort is important and that we need to review our performance continuously to ensure that we are on track and this is why we are committed to publishing an annual report of our progress against the Programme for Government commitments.

Alongside this, the Final Budget 2013-14 sets out our spending plans for 2013-14 and as part of our budget preparations for 2013-14, we have again reviewed our spending plans to ensure our budgets are aligned to deliver the Programme for Government and have taken account of the key messages emerging from the Programme for Government annual report published in May to inform decisions. All the evidence suggested that, in the main, our budgets were in the right place to deliver against our commitments but where necessary we made changes to support our priorities.

We have already produced a resource pack "Welsh Government: What's it all about?" to engage children and young people with how budgets work and breaking down the terminology around finance. It was launched by the Minister for Education and Skills at the Urdd Eisteddfod in June this year. This is an activity-based resource aimed at KS 3 and KS 4 to be facilitated by teachers. It was written by three external educational subject experts, with extensive graphics developed in-house by our design team and was tested in classrooms by the school workload advisory panel.

The resource pack can be downloaded from the NGFL website and the Welsh Government Communications Team in Aberystwyth is responsible for its distribution. The pack includes an activity around 'Using Government Money' and links with the Budget. This is linked to Priority 15 and the actions covered within the Getting it Right Action plan for Wales in response to the Concluding Observations of the UN Committee on the Rights of the Child 2008. It focuses on improving the transparency of budgeting for children and young people at Welsh Government level.

We produced a children and young people's Budget leaflet. The leaflet was published on the Welsh Government's website and the electronic link sent to various organisations representing children and young people in Wales e.g. CLIC, School Council's website, Funky Dragon.

This type of engagement was again evident as part of the development of our spending plans, and the Minister for Finance and Leader of the House met with school children from Mary Immaculate Catholic High School in Cardiff to discuss the Draft Budget in early November 2012.

We will continue to build on this work in the preparation of future budgets.

Together for Mental Health – A Strategy for Mental Health and Wellbeing in Wales

This is the Welsh Government's strategic vision for delivering a world class mental health service for people of all ages in Wales. *Together for Mental Health* aims to embed the Measure within all aspects of provision around mental health and wellbeing in Wales, so ensuring individuals have holistic and meaningful care plans, and improve primary care mental health provision.

Specifically in relation to breach of rights, the strategy is cross Government and is therefore intended to meet and address all aspects of the UNCRC as they impact across devolved policy. However, to some extent the strategy is dependent on the successful delivery of other Welsh Government priorities (i.e. tackling poverty). Therefore a failure in any one area of policy could impact on other areas, including this strategy.

However, it is our intention to take activity forward through a National Partnership Board, which will be multiagency and cross departmental, therefore we will have flexibility to adapt to issues as they arise and ensure the rights of children and young people are upheld. Similarly as a long-term strategy the document will evolve with time, through periodic updating of the delivery plan, which will enable us to react to issues which affect children and young people as the arise.