

Hawliau Plant
Cymru

Children's Rights
Wales



Llywodraeth Cymru
Welsh Government

Children's Rights Scheme 2021

Arrangements for having due regard to the United Nations Convention on the Rights of the Child (UNCRC) and its Optional Protocols when Welsh Ministers exercise any of their functions.

December 2021

Foreword

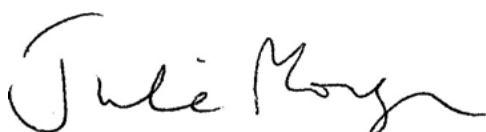
Wales is a country where children's rights are a fundamental entitlement and not an optional extra. We have led the way in children's rights by enshrining them in law through The Rights of the Children and Young Persons (Wales) Measure 2011¹. We were the first UK nation to make such significant legislative arrangements to ensure the centrality of children's rights.

I want to see a Wales which recognises children and young people as active citizens with an important contribution to make in their communities and nation.

This revised Children's Rights Scheme is structured around *The Right Way: A Children's Rights Approach in Wales*² developed by the Children's Commissioner for Wales. This new structure provides a strategic framework to integrate children's rights into every aspect of decision-making.

I warmly welcome the wide ranging and in-depth inquiry into Children Rights by the Children, Young People and Education Committee³. I am pleased to have included a number of the committee's recommendations within this revised Scheme.

I consulted on the draft Scheme between December 2020 and March 2021 and I am grateful for the informed responses received which have been considered carefully. This Scheme has been updated to ensure children's rights continue to be at the core of policy making for Welsh Government Ministers and officials.



Julie Morgan MS
Deputy Minister for Social Services

¹ [Rights of Children and Young Persons \(Wales\) Measure 2011](#)

² [The Right Way - A Children's Rights Approach in Wales](#), Children's Commissioner for Wales, March 2017

³ [Children, Young People and Education Committee - Inquiry on children's rights in Wales](#), August 2020

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Purpose of the scheme

Whilst the intended audience for this document is the Welsh Ministers and Welsh Government officials, it also has a role in outlining to the Welsh public the practical arrangements the Welsh Government has in place for ensuring children's rights are considered in the undertaking of their work.

The aim of the Children's Rights Scheme ('the Scheme') is to support:

- high quality policy making to improve the lives of children and young people;
- children and young people to realise their rights through active participation in the policy process; and
- children and young people to exercise their rights as citizens of Wales and the world.

This Children's Rights Scheme 2021 replaces the Children's Rights Scheme 2014⁴.

Structure of the Scheme

The Scheme is structured around the five principles of the Right Way approach, developed by the Children's Commissioner for Wales. This provides a strategic framework to integrate children's rights into decision-making, policy and practice. The principles are as follows:

- **Embedding children's rights** – putting children's rights at the core of planning and delivery;
- **Equality and non-discrimination** – ensuring that every child has an equal opportunity to be the best they can be and is not discriminated against;
- **Empowering children** – enhancing children and young peoples' capabilities as individuals so they're better able to take advantage of rights;
- **Participation** – listening to children and young people and taking their views meaningfully into account; and
- **Accountability** – authorities should be accountable to children and young people for decisions and actions that affect their lives.

⁴ [Children's Rights Scheme 2014](#)

Developing this scheme

The Welsh Government consulted on a draft version of this Scheme⁵ between 17 December 2020 and 26 March 2021 – this included a children and young person’s version.⁶

A summary of responses was published on 25 June 2021⁷. 34 responses were received (24 responses to the consultation and 10 responses to the children and young people’s version of the consultation).

In reviewing this Scheme, Ministers have considered reports, suggestions and general recommendations published by the UN Committee on the Rights of the Child (‘The Committee’)⁸. Ministers have also considered the following reports:

- The National Assembly for Wales Children, Young People and Education Committee scrutiny of the Measure and its final report *Children Rights in Wales*, August 2020;
- Equality and Human Rights Commission Report, *The impact of Legal Integration of the UN Convention on the Rights of the Child in Wales*,⁹ August 2018;
- *Evaluation of the Welsh Government’s Child Rights Impact Assessment procedure under the Children’s Rights Scheme pursuant to the Rights of Children and Young Persons (Wales) Measure 2011, 2015*¹⁰, and
- The UK Children’s Commissioners’ joint report to the UN Committee on the Rights of the Child in December 2020¹¹.

⁵ [Draft Children's Rights Scheme 2021 - Welsh Government Consultation Document](#)

⁶ [Draft Children's Rights Scheme 2021 - Children and Young People's Consultation Document](#)

⁷ https://gov.wales/sites/default/files/consultations/2021-06/summary-of-responses_1.pdf

⁸ The Committee published concluding observations about the progress made by the 4 UK nations in upholding children’s rights in 2016 and regard has been paid to those in preparing this revised Scheme. Ahead of its next examination of the 4 UK nations progress, the Committee published its list of issues in February 2021. The next set of concluding observations by the Committee will be issued after the UK submits its report to the Committee in 2022 on progress in implementing the UNCRC.

⁹ [The Impact of Legal Integration of the UN Convention on the Rights of the Child in Wales](#), Dr Simon Hoffman and Sean O’Neill, Equality and Human Rights Commission, August 2018

¹⁰ [Evaluation of the WG’s CRIA procedure under the CRS pursuant to the Rights of Children and Young Persons Wales Measure \(2011\)](#), Dr S Hoffman & C Morse – Wales Observatory on the Human Rights of Children and Young People, June 2015

¹¹ [Report of the Children's Commissioners of the United Kingdom of Great Britain and Northern Ireland to the United Nations Committee on the Rights of the Child](#), December 2020

1. Introduction

The Rights of Children and Young Persons (Wales) Measure 2011 ('the Measure'), was passed by the National Assembly for Wales (NAfW) in January 2011. Section 1 of the Measure places a duty on the Welsh Ministers when exercising any of their functions to have due regard to the requirements of the following:

- Part I of the United Nations Convention on the Rights of the Child ('UNCRC')¹²;
- Articles 1 to 7 of the Optional Protocol to the Convention on the Rights of the Child in the involvement of children in armed conflict¹³, except article 6(2); and
- Articles 1 to 10 of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography¹⁴

The Scheme is made under section 2 of the Measure and sets out the arrangements the Welsh Ministers have made, or propose to make for the purpose of securing compliance with the duty under section 1.

The UNCRC is an international agreement that protects the human rights of children and young people up to the age of 18. It recognises not only their basic human rights but gives them additional rights to protect them from harm as one of the most vulnerable groups in society.

There are 54 articles in the UNCRC. Articles 1 - 42 set out how children and young people should be treated and articles 43 - 54 concern how adults and governments should work together to make sure all children and young people are entitled to their rights.

¹² [Convention on the Rights of the Child](#)

¹³ [Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict](#)

¹⁴ [Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography](#)

2. Background

Wales and the UNCRC

The UNCRC is an international convention setting out the civil, political, economic, social and cultural rights of children. The text of the UNCRC was approved by the Member States of the United Nations on 20th November 1989.

On the 16th December 1991, the Government of the United Kingdom of Great Britain and Northern Ireland ratified the UNCRC and it came into force in respect of the United Kingdom on 15th January 1992. The United Kingdom has also ratified two 'Optional Protocols' to the UNCRC.

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

States that have ratified the UNCRC are required, by article 44, to report to the United Nations Committee on the Rights of the Child ('the Committee') on the measures they have adopted to give effect to the rights recognised within the UNCRC and progress made towards enjoyment of those rights.

In 2002 the National Assembly for Wales (NAfW), set up by the Government of Wales Act 1998, developed the Seven Core Aims¹⁵ for children and young people which summarised the UNCRC as a basis for planning, decisions on priorities and objectives nationally and on a local level.

In January 2004 the NAfW adopted the UNCRC as the underpinning basis for its policies concerning children and young people. For the purposes of this Scheme, 'children' and 'young people' refer to those up to the age of 18 years to align with the UNCRC.

¹⁵ [Programme for Children and Young People](#), September 2015

What is the duty on Welsh Ministers?

Section 1 of the Rights of Children and Young Persons (Wales) Measure 2011 states that from 1 May 2014:

Welsh Ministers must, when exercising any of their functions, have due regard to the requirements of:

- Part I of the UNCRC;
- Articles 1 to 7 of the Optional Protocol to the Convention on the Rights of the Child in the involvement of children in armed conflict, except article 6(2); and
- Articles 1 to 10 of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

The functions of Welsh Ministers include everything that the Welsh Ministers *may* do under the power invested in them under legislation and everything the Welsh Ministers *must* do because legislation has placed a duty on the Welsh Ministers to do it.

This means the duty on Welsh Ministers applies whenever they use any of their powers to make a decision, or where there is a duty placed upon them to make a decision. All actions of the Welsh Government are taken using powers or duties of the Welsh Ministers.

The duty imposed by section 1 of the Measure will be referred to as the 'due regard duty'.

The Measure places the due regard duty on Welsh Ministers and they must be fully aware of this duty when they make decisions. The due regard duty applies even where Welsh Government officials are carrying out functions on behalf of the Welsh Ministers. The duty also applies to Deputy Ministers.

The term 'due regard' requires a balanced consideration of issues. This means that Welsh Ministers, when exercising their functions, must think about how what they are doing relates to the rights and obligations of the UNCRC. In identifying any negative impact on children and young people Welsh Ministers must consider whether any action can be taken to avoid or minimise this impact. Welsh Ministers must also consider how, by using their functions, they can improve the way children and young people access their rights.

Having considered this, the outcome needs to be given balanced consideration (due regard) against the other factors that the Welsh Ministers must take into account in making the decision in question.

3. Embedding children’s rights within Welsh Government

Children’s rights are at the core of policy making in Wales. Children’s rights underpin our ambition for each and every child to have the best start in life and to fulfil their potential.

Compliance with the duty to have due regard to the UNCRC has been firmly embedded in the Integrated Impact Assessment (IIA) alongside other legal duties on Ministers such as the Public Sector Equality Duties under the Equality Act 2010, Socio-economic duty, legislation relating to the Welsh Language and the duty not to act incompatibly with the European Convention on Human Rights.

There are also treaties which have been ratified by the UK Government and are therefore legally binding. These are set out in Annex A.

The Scheme has the following arrangements in place:

3.1 Children’s Rights Impact Assessment (as part of the Integrated Impact Assessment)

The Integrated Impact Assessment (IIA) allows us to undertake a rounded assessment of the impact of a proposed action, including the social, economic, cultural and environmental effects.

The Children Rights Impact Assessment (CRIA), forms a key part of the IIA, and is the tool officials are expected to use to support Welsh Ministers in ensuring the due regard duty is fulfilled.

The CRIA provides a framework for officials to think about, and record, whether the policy proposals are supporting children and young people’s rights. It enables officials to consider what the policy/legislation/advice is trying to achieve and the impacts that might have (positive and negative) on children with different life experiences.

The CRIA template includes prompts to support officials in their analysis, to evidence that children’s rights have been considered and that every opportunity has been taken to identify ways of realising the relevant rights to support Ministers as they take decisions.

The CRIA process is consistent with the UNCRCs requirements as set out in the General Measures of Implementation (Articles 4, 42 and 44(6)).

3.2 Manual for Welsh Government officials to support the embedding of children rights

The manual provides support to embed children's rights thinking in the policy making process. The CRIA template is available in the manual.

The manual provides clarity on the roles and responsibilities within the Welsh Government as follows:

Ministers

Welsh Ministers must have due regard to the UNCRC when exercising any of their functions. They must give balanced consideration to children's rights as part of their decision making process.

Welsh Government officials

Welsh Ministers expect Welsh Government officials to have due regard by paying proper consideration to the UNCRC before they provide information, advice, options and recommendations. Officials are expected to undertake a CRIA, which is the process Welsh Government has developed to support Welsh Ministers in ensuring the due regard duty is fulfilled. If a CRIA is not undertaken on a particular policy/decision, officials will need to record why this is the case.

Deputy Directors

Deputy Directors have a specific role in signing off the CRIA as they are the accountable officers. The manual will outline the key leadership role that Deputy Directors play to lead the CRIA process within their divisions.

3.3 Establishment of a Children's Branch within the Welsh Government

The Children's Branch has a key leadership role in embedding children rights across the organisation. Key activities include:

- Helping officials to understand the UNCRC and its Optional Protocols and their role in ensuring the due regard duty is met;
- Leading the Welsh Government response to UNCRC reports and UN Concluding Observations recommendations;
- Preparing and updating the CRS and the manual for officials;
- Reporting compliance against the duty under section one of the Measure;

- Providing support for officials to engage effectively with children and young people and the preparation of child friendly documents;
- Advice and support on CRIA; and
- Leading on the children's rights raising awareness plan.

The branch has the grant management role for *Children in Wales*. Welsh Government funds *Children in Wales* to facilitate engagement with children and young people and to provide support to professionals working in the children's sector.

The Children's Branch is the sponsor body for the office of the *Children's Commissioner for Wales*. *The Children's Commissioner for Wales*' office is an independent human rights institution funded by the Welsh Government.

3.4 A training approach to support Welsh Government Ministers and officials

The Welsh Government recognises the need for officials to have access to a strong body of knowledge about children's rights to enable them to provide comprehensive advice to Welsh Ministers. A training approach has been developed for Welsh Ministers and Officials. This includes:

- An online training module on children's rights;
- An online training module on CRIAs;
- Access to masterclasses with children's rights experts; and
- Access to a range of children's rights resources.

4. Equality and non-discrimination

The Welsh Government recognises the importance of evidence as a foundational building block for government decision making and addressing equality and non-discrimination against children and young people.

The Scheme has the following arrangements in place:

4.1 CRIA – role of research and engagement with children and young people

The CRIA template supports Welsh Government officials in considering the effect (or unintended consequence) of the policy/legislation/advice on different groups of children and young people and whether any measures can be taken to reduce, remove or mitigate those impacts if possible.

The CRIA template reaffirms the importance of research and data on children and young people in enabling officials to understand potential discrimination issues. The engagement model (section 6.1) outlines the importance of engaging with diverse groups of children and young people with different life experiences.

4.2 External expertise to support children rights

We have established the Children's Rights Advisory Group (CRAG) which includes representatives from The Children's Commissioner for Wales' office, Children in Wales, the Wales Observatory on Human Rights of Children and UNICEF. This forum provides Welsh Government officials with the opportunity to receive ongoing expert, external advice on how Welsh Government policies are supporting children rights.

5. Empowering children and young people

Children's rights should empower children and young people so they are better able to take advantage of their rights, and to engage with, influence and hold accountable the people and organisations that take decisions that affect their lives.

Section 5 of the Measure places a duty on Ministers to take appropriate steps to promote knowledge and understanding amongst the public (including children and young people) of the UNCRC and its Optional Protocols. This duty is intended to give effect to the obligation stated in article 42 of the UNCRC.

The Scheme has the following arrangements in place:

5.1 A raising awareness plan

We have developed a raising awareness plan which is aimed at children, young people, their parents/carers and professionals working with children and young people. The plan seeks to promote knowledge and understanding of the UNCRC. It has 5 key strands:

- Direct communication and engagement with children;
- The early years approach;
- Education settings underpinned by the new Curriculum for Wales;
- Public sector/professional awareness of children's rights; and
- Communication with parents and carers.

Universal Children's Day on 20 November will be a key annual event to raise awareness of children's rights across government.

5.2 Implementing the awareness plan

We will work with external organisations who have a role in supporting this agenda to:

- develop a collective vision to improve awareness and understanding of the UNCRC; and
- clarify the respective roles and responsibilities of each organisation; and agree a coherent high level timeline of activity.

6. Participation

The Welsh Government recognises the importance of listening to children and young people and taking their views meaningfully into account. Article 12 of the UNCRC recognises the right of children and young people to express their views freely in respect of matters which affect them, and that the views of the child be given due weight in accordance with the age and maturity of the child.

The Scheme has the following arrangements in place to support a child's right to participate in the decision-making process:

6.1 Engagement model

The Welsh Government has developed an engagement model to ensure children and young people are provided with meaningful opportunities to express their views and for their views to be taken in account.

This includes annual opportunities for each Minister to hold discussions with children and young people.

Welsh Government officials will identify opportunities for children and young people to have their voices heard as part of the policy/legislation and decision-making process.

The Model provides a framework to facilitate and support Welsh Government officials' engagement with children and young people. It aims to:

- support officials in deciding which method or level of engagement would best suit their policy objectives and needs;
- ensure participatory work is representative and reflects the diverse nature of children and young people in Wales; and
- promote principles of good practice when working with children and young people.

6.2 Participation Standards

The Welsh Government promotes the Children and Young People's National Participation Standards¹⁶. The Standards identify the key issues workers should be aware of when working with children and young people in Wales.

¹⁶ [Children and Young People's National Participation Standards](#)

6.3 Young Wales

The Welsh Government will continue to provide core funding for Young Wales to develop a representative model to enable meaningful participation of children and young people for Welsh Ministers and officials.

6.4 Provide children and young people with accessible information

Welsh Government officials are encouraged to produce child/young people friendly versions of all guidance, consultations and policy documents where they have determined that policy proposals/legislation will affect children and young people. Communication should be appropriate for children and young people and relevant to their age, understanding and speech, language and communication needs.

7. Accountability

The Welsh Government recognises the importance of children and young people understanding how the Welsh Government is accountable to them for decisions and actions that affect their lives.

The Scheme has the following arrangements in place:

7.1 Feedback and complaints process for children and young people

We have created a complaints process for children and young people; this will enable them to challenge Minister(s) on a range of decisions including when they feel they have not complied with the due regard duty when making decisions that affect their lives.

There are also organisations that can support children and young people through providing feedback/support - please see Annex B.

7.2 Publishing and completing CRIAs

To promote transparency, CRIAs are published on the Welsh Government website.

The public will be able to challenge the Welsh Government where they believe Welsh Ministers have failed to comply with the due regard duty. This may include where a CRIA has not been undertaken as part of the IIA. If a CRIA is not undertaken officials will need to record why this is the case.

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

The Measure requires Welsh Ministers to publish a report every 5 years on how they and the First Minister have complied with the duty to have due regard. However, in order to promote transparency and accountability, the Welsh Government is committed to publishing its compliance report every 2.5 years.

This report provides the Welsh Government, and the Senedd, with an opportunity to reflect on the effectiveness of the arrangements as set out in the Scheme. It will outline how the scheme has delivered against its objectives in supporting:

- High quality policy making to improve the lives of children and young people;

- Children and young people to realise their rights through active participation in the policy process; and
- Children and young people being aware of and able to exercise their rights.

7.4 United Nations Concluding Observations

Member States that have ratified the UNCRC are required, by article 44, to report to the United Nations Committee on the Rights of the Child (the Committee) on the measures they have adopted to give effect to the rights recognised within the UNCRC and progress made towards enjoyment of those rights. The Welsh Government provides updates on progress of the Committee's Concluding Observations.

Annex A: A list of relevant International Treaties (non-exhaustive) ratified by the UK Government

- United Nations Convention on the Rights of the Child;
- The International Convention on the Elimination of All Forms of Racial Discrimination (1965)¹⁷;
- The International Covenant on Civil and Political Rights (1966)¹⁸ and its optional protocols¹⁹ and the second optional protocol²⁰;
- The International Covenant on Economic, Social and Cultural Rights (1966)²¹;
- The Convention on the Elimination of All Forms of Discrimination against Women (1979)²² and its optional protocol (1999)²³;
- The UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment (1984)²⁴; and
- UN Convention on the Rights of Persons with Disabilities (2006)²⁵.

¹⁷ [International Convention on the Elimination of All Forms of Racial Discrimination](#), December 1965

¹⁸ [International Covenant on Civil and Political Rights](#), December 1966

¹⁹ [Optional Protocol to the International Covenant on Civil and Political Rights](#)

²⁰ [Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty](#)

²¹ [International Covenant on Economic, Social and Cultural Rights](#), December 1966

²² [Convention on the Elimination of All Forms of Discrimination](#), December 1979

²³ [Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women](#)

²⁴ [Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#), December 1984

²⁵ [Convention on the Rights of Persons with Disabilities](#), 2006

Annex B: Organisations that can support young people in providing feedback

The Children's Commissioner for Wales has power to provide advice, representation and assistance to children and young people who may wish to challenge Welsh Ministers. The Children's Commissioner has the power to review how the Welsh Government's work has affected children and young people in Wales. The following is a link to the Commissioner's website:

www.childcomwales.org.uk/contact

MEIC – This is the Advocacy and Advice helpline for children and young people in Wales. The advocates at MEIC help children and young people to be heard by others. MEIC is available to advise and provide information to children and young people wishing to challenge Welsh Ministers. They can even contact others on their behalf.

The following is a link to the MEIC website: www.meiccymru.org