Stop, look, listen:

the road to realising children's rights in Wales

Wales NGO alternative report

Edited by Rhian Croke
and Anne Crowley

Save the Children
Achub y Plant

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Save the Children fights for children in the UK and around the world who suffer from poverty, disease, injustice and violence. We work with them to find lifelong answers to the problems they face.

Save the Children UK is a member of the International Save the Children Alliance, the world's leading independent children's rights organisation, with members in 27 countries and operational programmes in more than 100.

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2nd Floor, Phoenix House
8 Cathedral Road
Cardiff, CF11 9LJ

Tel: 029 2039 6838
Email: Walesinfo@savethechildren.org.uk
www.savethechildren.org.uk/wales

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This report is dedicated to Peter Clarke who died in January 2007. As Wales' first Children's Commissioner, Peter did much to champion the rights and interests of children and young people, holding others to account in meeting their obligations.

Members of the UNCRC Monitoring Group are:

Darren Bird, Funky Dragon

Dr Samantha Clutton, Barnardo's Cymru

Rhian Croke, Save the Children

Simon Jones, NSPCC Cymru

Mike Lewis, Children in Wales

Sean O'Neil, Children in Wales

Ann Sherlock, Centre for Welsh Legal Affairs, Aberystwyth University

Sue Thomas, Nacro Cymru

Keith Towler, Save the Children (Chair)

Dr Elspeth Webb, Department of Child Health, College of Medicine, Cardiff University

Jane Williams, School of Law, Swansea University

Observers:

Joanna Davies, Welsh Local Government Association

Rhian Davies, Children's Commissioner for Wales Office

Huw Gwyn Jones, Children's Strategy Division, Department for Children, Lifelong Learning and Skills, Welsh Assembly Government

David Middleton, Children's Strategy Division, Department for Children, Lifelong Learning and Skills, Welsh Assembly Government

List of contributors

Matthew Batten (Lesbian, Gay, Bisexual young people)
Stonewall Cymru. www.stonewallcymru.org.uk/cymru/

Dr Samantha Clutton (Children of prisoners; Sexual exploitation)
Barnardo's Cymru. www.barnardos.org.uk

Rhian Croke (General measures of implementation)
Save the Children. www.savethechildren.org.uk

Anne Crowley (General measures of implementation; Corporal punishment)
Save the Children. www.savethechildren.org.uk

Ant Edwards (Irish, Roma & Gypsy Travellers)
Save the Children. www.savethechildren.org.uk

Mike Greenaway (Play)
Play Wales. www.playwales.org.uk

Lynne Hill (Disabled children)
Children in Wales. www.childreninwales.org.uk

Duncan Holtom (Education)
People and Work Unit. www.peopleandworkunit.org.uk/

Simon Jones (Child protection)
NSPCC Cymru. www.nspcc.org.uk/

Mike Lewis (Looked after children)
Children in Wales. www.childreninwales.org.uk

Sean O'Neil (Child poverty)
End Child Poverty Network Cymru. www.childreninwales.org.uk/1725.html

Ann Sherlock (General measures of implementation)
Aberystwyth University Centre of Legal Affairs. www.aber.ac.uk/cwla/

Anna Skeels (Participation)
Save the Children. www.savethechildren.org.uk

Eleri Thomas (Participation; Education)
Save the Children. www.savethechildren.org.uk

Sian Thomas (Asylum)
Save the Children. www.savethechildren.org.uk

Sue Thomas (Juvenile justice)
Nacro Cymru. www.nacro.org.uk/cymru/

Dr Elspeth Webb (Discrimination; Health)
Cardiff University Department of Child Health. www.cardiff.ac.uk/medicine/child_health

Jane Williams (General measures of implementation)
Swansea University, School of Law. www.swan.ac.uk/law/

Foreword

As Chair of the United Nations Convention on the Rights of the Child (UNCRC) Monitoring Group it is my pleasure to introduce you to the Wales Non Governmental Organisation (NGO) alternative report. NGOs have a long and proud history of championing the rights of children and young people in Wales and this report has been prepared as a genuine collaborative act by a range of agencies from across Wales. This report measures progress against the UN Committee's Concluding Observations of 2002 and is a valuable tool in assessing the extent to which children's rights are being realised and in holding government to account to meet its obligations to implement the UNCRC. The Monitoring Group is submitting the report to the UN Committee on the Rights of the Child for their periodic examination of the UK State party.

The report highlights areas where UK Government policy is purposely working against the grain of the Convention, in particular, the physical punishment of children, the status of asylum seeking children and the juvenile justice system. Children in Wales and the rest of the UK can still be legally hit and hurt; asylum seeking children are detained and often deported back to unsafe countries of origin; and the UK has the highest rate of incarcerating children in western Europe. These are non-devolved policy areas but the report provides creative opportunities for the Welsh Assembly Government to assert influence and maximise its role in these areas. Critically though the UK Government must recognise its obligations and work in partnership with the Welsh Assembly Government to seek solutions that will fit within the Welsh policy context.

The report quite rightly reminds us of areas of real progress in Wales, where the Welsh Assembly Government has made a clear commitment to establish systems and structures based on children's rights. For instance in the field of participation, the establishment of the first children's commissioner in the UK, the establishment of Funky Dragon (the children and young people's assembly for Wales) and the development of national policy that is explicitly underpinned by the UNCRC (for example the *National Play Policy, Youth Offending Strategy* and the *National Service Framework for Children, Young People and Maternity Services).*

However, the report also brings attention to where the Welsh Assembly Government must further develop its policy. The areas of response to the sexual exploitation of children, child impact assessements, annual reports on the state of children's rights fall into this category as does the need for a strategy to raise awareness of the UNCRC and the creation of a national implementation plan for children's rights.

Even with the commitment we have in Wales to ensuring that rights based entitlements exist at the policy level, the current reality of children's experience falls well short of what they should expect in a prosperous and developed nation. This report is clear throughout that there needs to be progress at the level of service delivery if we want to effectively implement children's rights. It remains a national disgrace that 28% of children in Wales live in poverty; that looked after children experience such poor outcomes; that disabled children are distressed that they are not taken seriously and have trouble accessing services that they desperately need; that Gypsy Traveller children frequently experience racist bullying and they have the poorest life expectancy of any ethnic group and that children's mental health services, so vital to support the many vulnerable groups of children and young people, are in a state of crisis.

The Welsh Assembly Government, local authorities and those who deliver services in partnership or on their behalf, face a critical turning point in the short history of devolution in Wales. These duty bearers need to respond to the issues in this report. We acknowledge that there has been good progress with regards to policy development since 2002, but now the time is ripe to ensure that the gap between policy and implementation is met and the realisation of children's rights is turned into a reality.

Keith Towler
Chair, UNCRC Monitoring Group
Programme Director, Save the Children Wales Programme

Chapter One
Introduction

A Wales NGO perspective on the progress of the UK Concluding Observations 2002

The population of Wales is nearly 3 million with nearly 700,000 children under the age of 18 accounting for 24% of the total population. Over a quarter (28%) of households in Wales are made up of families with dependent children. As in the rest of the UK, Wales has an ageing population. With this declining demographic visibility we can expect a political shift in favour of older citizens, with children no longer being at the forefront of the policy agenda.[1]

Wales is a country that includes areas experiencing pronounced deprivation. Though levels of child poverty have fallen in Wales since the UN Committee last examined the UK in 2002, the most recent figures indicate that the encouraging progress has begun to lose momentum with 28% of children in Wales remaining in poverty.[2]

The population of Wales is overwhelmingly White. Only 2.1% of the population of Wales are from non-White ethnic backgrounds. The 2001 census figures indicate that about half of the Black and Asian population of Wales live in Cardiff, as do a third of the Mixed and Chinese groups.[3] Wales is officially a bilingual country and the 2001 census indicated an increase in the use of the Welsh language after many years of decline. In 2001, 21% said they could speak Welsh compared to 19% in 1991 (and 54% in 1891). This percentage increases with 39% of children aged 10 to 15 years able to speak, read and write Welsh.[4] The geography of Wales is largely rural with population concentrations in a small number of cities in the south.

Devolution in Wales

Following a public referendum, the National Assembly for Wales was established in 1999. During its first two terms, the Assembly did not have the power to make primary legislation, but enjoyed extensive executive powers to develop 'made-for-Wales' policy in the fields of children's health and social care, education, transport, housing and play and leisure. Over this period (1999-2007), the Assembly Government pursued policies which they underpinned with a firm commitment to children's rights and the UNCRC, diverging significantly in this regard from the UK Government. A move that many commentators, including those in the NGO sector very much welcome.

In May 2007, the new Government of Wales Act came into force. The Act increased the powers available to the National Assembly and separated the functions of the National Assembly for Wales and the Welsh Assembly Government. This new relationship mirrors much more closely that between the UK Government and the Houses of Parliament.

The UK Government still retains responsibility for the police and the legal system; tax and benefits; policy relating to asylum and immigration; youth justice and gives the Assembly in Wales its block grant which amounted to over £14bn in 2007-8.

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[1] http//:www. statistics.gov.uk/census2001/profiles/w.asp
[2] DWP (2007) *Households Below Average Income 2003-04 to 2005-06.*
[3] WAG (2005) *A Statistical Focus on Ethnicity in Wales.* http//:www. wales.gov.uk/keypubstatisticsforwales/
[4] http//:www. statistics.gov.uk/census2001/profiles/w.asp

Children's rights agenda in Wales

The issues of rights and well being of children has been significant on the Welsh political landscape for many years not least because there have been strong links between governmental and non-governmental agencies. Devolution has heralded a new more inclusive approach to governance and within this context children have assumed critical importance to the new governments of Wales. The Assembly Government sees children as rights bearers and states clearly that:

> *"Children and young people should be seen as citizens, with rights and opinions to be taken into account now. They are not a species apart, to be alternately demonised and sentimentalised, nor trainee adults who do not yet have a full place in society".* [5]

This emphasis on the importance of children's rights can be most clearly seen when the Welsh Assembly Government adopted the Convention as the basis of all its policy making for children and young people in 2004, positioning its overarching strategy for children and young people within a UNCRC based framework. There is much agreement between government in Wales and the NGO sector on the aspiration of turning children's rights into a reality and about using the Convention as the guiding light to achieve this goal. The debate has been about how best to achieve this rather than whether this approach has any validity. The challenge nevertheless remains to ensure that children's rights are realised at the point at which children experience the outcome of policies, structures and services.

There has been increased and constructive ongoing debate and dialogue between the Welsh Assembly Government and the UNCRC Monitoring Group since January 2006 when the UNCRC Monitoring Group published and launched *Righting the wrongs: the reality of children's rights in Wales. Righting the wrongs* is an interim NGO alternative report and the most extensive report on the state of children's rights in Wales up to 2006. The report effectively launched the third and fourth round of reporting to the UN Committee on the Rights of the Child in Wales and significantly raised the importance and profile of children's rights and the Convention.

Righting the wrongs was followed, in March 2007, by the Welsh Assembly Government's report *Rights in Action* which demonstrated a Welsh Assembly Government wide commitment to monitoring the progress of children's rights. This report was released well in advance of the UK State party report to encourage and support the ongoing dialogue on children's rights implementation in Wales.

The Wales NGO alternative report – *Stop, look, listen: the road to realising children's rights in Wales*

The overall aim of this report is to provide a non-governmental perspective on the extent to which law, policy, and practice in Wales has progressed since the UN Committee released their Concluding Observations 2002 to the UK State party. A summary of the report is also available.[6] Funky Dragon has published a children and a young people's report that directly represents children and young people's views from across Wales. The office of the Children's Commissioner for Wales is preparing a report in conjunction with the other UK Children's Commissioners. All these reports will be submitted to the UN Committee on the Rights of the Child to assist them in their periodic examination of the UK State party's progress in implementing the UNCRC.

The Group has adopted the UN Committee's guidelines with regard to the eight thematic clusters and reported progress measured against the Concluding Observations 2002 under the relevant thematic headings. The Concluding Observations did not cover all breaches of children's rights, so this report attempts to report on some of these ommissions, for example disabled children, children's right to play, children of prisoners.

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[5] WAG (2004) *Children and Young People: Rights to Action.* p.4

[6] http://www.savethechildren.org.uk

The report employs a traffic light measuring system, so it can be immediately indicated to the UN Committee and other readers, the progress (or lack of progress) regarding each Concluding Observation. It is meant to inform the UN Committee where the UNCRC Monitoring Group considers the Welsh Assembly Government and/or the UK Government should be concentrating its efforts. We do encourage all readers to read the supporting text that contextualises and substantiates each traffic light.

Traffic light system:

Red = Limited progress since 2002 regarding the development of policy/legislation/guidance that promotes the Concluding Observation and inadequate implementation of children's rights at the level of service delivery.

Amber = Good progress since 2002 regarding the development of policy/legislation/ guidance that promotes the Concluding Observation but more needs to be done particularly at the level of service delivery in order to implement children's rights effectively.

Green = Excellent progress since 2002 regarding the development of policy/legislation/ guidance and there is evidence that this is having a positive impact at the level of service delivery with the full implementation of children's rights.

This report is a critical part of the process of holding the Welsh Assembly Government and the UK Government to account to achieve change for children and young people in Wales and we commend its importance to the UN Committee on the Rights of the Child.

Chapter Two

General measures of implementation

(Articles 4, 42 and 44, paragraph 6 of the Convention)

Reservations

CRC/C/15/Add.188 para. 7: State party reconsider its reservation to article 22 with a view to withdraw it.

UK Government responsibility

Where states are unable to protect children, many migrate for care and protection. Regrettably, those asylum-seeker and trafficked children who arrive in the UK do not have their rights respected and are frequently at risk of exploitation. When the UK Government ratified the UNCRC in 1991 it put in place a general reservation relating to immigration and citizenship. The UK Government has consistently refused to remove the reservation despite representations that the reservation has a direct negative impact on children's wellbeing.

The reservation should not only be removed to respect the principle that children's rights are universal but also because in practice asylum seeker children in the UK clearly have their UNCRC rights breached on a regular basis. New developments in UK Government immigration policy and practice consistently ignore the UNCRC and this directly impacts on some of the most vulnerable children in the UK. The impact of the UK Government's New Asylum Model and the proposed changes under its unaccompanied asylum seeker reform programme as detailed later in this report further undermine and erode the rights of asylum seeker children in Wales and the UK. The removal of the reservation would establish a significant protective factor in preventing future negative government policy and ending current practices such as detention and the removal of children from their parents for immigration purposes.

CRC/C/15/Add.188 para. 7: Take all necessary measures to end the detention of children in the same facilities as adults and to withdraw its reservation to article 37(c).

UK Government responsibility

We very much welcome the UK Government's decision to review the reservation to article 37(c). HM Chief Inspector of Prisons reports have questioned that the Government has achieved a complete separation of girls from women's prisons in England and Wales.

Key recommendations

The UK Government should:

- Immediately remove the general reservation on the UNCRC in relation to immigration and citizenship.
- Meet the requirements of 37(c) and clarify when it is going to withdraw the reservation.

Legislation

CRC/C/15/Add.188 para. 9: Incorporate into domestic law the rights and principles of the Convention to ensure compliance of all legislation with the Convention.

Welsh Assembly Government responsibility

UK Government responsibility

UK Government resistance

The lack of incorporation of the UNCRC into UK domestic law remains a major concern. The Children Act 2004 offered the opportunity to incorporate the principles and the provisions of the Convention within the statutory framework for children's services. However, the UK Government resisted amendments proposed by the Welsh Assembly Government to introduce the Convention as a framework for service provision. This reflects the lack of political willingness of the UK Government to embrace a culture of children's rights.

The Welsh Assembly Government – a divergent approach

The Welsh Assembly Government has within the limits of its powers adopted a welcome divergent approach to that of the UK Government. In 2002, the UN Committee welcomed the fact that the Welsh Assembly had used the Convention as the framework in its strategy for children and young people. In 2004, the commitment to the UNCRC was consolidated when the Welsh Assembly Government formally adopted the UNCRC as the overarching set of principles for all of its policy on children and young people. Also in 2004, the Welsh Assembly Government issued *Rights to Action* a policy document[7] adopting seven core aims for children, which are presented as a direct translation of the UNCRC's articles into the following broad policy aims:

1. A flying start in life: Articles 3, 29, 36
2. A comprehensive range of education and learning opportunities: Articles 23, 28, 29, 32
3. Enjoy the best possible health and freedom from abuse, victimisation and exploitation: Articles 6, 18-20, 24, 26-29, 32-35, 37 and 40
4. Access to play, leisure, sporting and cultural activities: Articles 15, 20, 29, 31
5. Be listened to, treated with respect and have their race and cultural identity recognised: Articles, 2, 7, 8, 12-17, 20
6. Have a safe home and community which supports physical and emotional well-being: Articles 19, 20, 25, 27, 32-35, 37, 40
7. Are not disadvantaged by poverty: Articles 6, 26, 27, 28

Specific national initiatives have also been developed, such as the *National Service Framework for Children, Young People and Maternity Services* (NSF) that are explicitly linked to the UNCRC and can be seen as measures to implement the seven core aims.[8]

Extending Entitlement is another national initiative that falls under the umbrella of the seven core aims and is the National Assembly's legal direction on youth services. It sets out universal basic entitlements for young people aged 11-25 years. The 10 entitlements are not explicitly linked to the UNCRC but are clearly consistent with it. The significant point being that the language of entitlement is adopted, marking a shift in the conceptual basis towards a rights-based approach.

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[7] WAG (2004) *Children and Young People: Rights to Action.*

[8] WAG (2005) *NSF for children, young people and maternity services.* http://www.nhs.uk/nsf

Further to the Assembly's resolution of adopting the UNCRC in 2004 and the aforementioned statutory and non-statutory initiatives, the Children Act 2004 guidance for Wales requires local authorities and their partners to have regard to the UNCRC, enshrining in secondary legislation that:

> *"The Assembly Government has adopted the UN Convention as the foundation for all its dealings with children and young people, and local authorities and their relevant partners should have regard to its principles in providing services".* [9]

UK Children's Commissioners

The Office of the Children's Commissioner for Wales was established in Wales in 2001; the Office is required to have regard to the UNCRC.[10] The Northern Ireland and Scottish Children's Commissioners have a statutory requirement to have regard to the UNCRC in all of their work.[11] However, the requirement for the Children's Commissioner in England (who also maintains a role in law in respect of non-devolved matters for children) is simply to refer to the UNCRC as an aid to interpretation of 'children's interests'. This establishes a much weaker link with the UNCRC on non-devolved matters affecting children in Wales.[12] It reflects the UK Government's express rejection of the UNCRC as a part of the legislative framework for children's services in England and Wales and serves to undermine implementation of the Welsh Assembly's commitment to the UNCRC.

Legal and administrative proceedings

Weak legislative representation of the UNCRC undermines implementation through legal and administrative proceedings. Nonetheless the courts have increasingly referred to the UNCRC, mainly to aid interpretation of European Convention on Human Rights obligations.[13] Regulations and guidance governing administrative systems make little reference to the UNCRC, although specific links between domestic law functions and UNCRC obligations have been made in some policies and guidance.[14]

Key recommendations

The Welsh Assembly Government should:

- Use all available means to effect legislative change pursuant to the Assembly's commitment to the UNCRC, including using the mechanisms of the Government of Wales Act 2006 to enact measures amending and consolidating legislation on social services, child care, health and education in Wales.

The UK Government should:

- Introduce legislation giving comprehensive effect to the UNCRC in domestic law.

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[9] WAG (2004) *Children and Young People: Rights to Action. Stronger Partnerships for Better Outcomes. Guidance on Local Co-operation under the Children Act 2004.*

[10] Regulations 22 of the Children's Commissioner for Wales Regulation 2002 (SI 2001/2787) (W237) (the 2001 Regulations).

[11] The precedent was set by Regulation 22 of the Children's Commissioner for Wales Regulations 2001 (S.I. 2001/2787) (W237) (the 2001Regulations).

[12] Section 2 (11) Children Act 2004.

[13] Williams, J. (2007) Incorporating Children's Rights: the Divergence in Law and Policy. *Legal Studies,* Volume 27, Number 2, June 2007, pp. 261-287(27). Blackwell Publishing.

[14] See 9 above

Resources

CRC/C/15/Add.188 para. 11: Ensure transparent analysis of sectoral and total budgets across the State party and in the devolved administrations to show the proportion spent on children, to identify priorities and to allocate resources to the "maximum extent of available resources".

Welsh Assembly Government responsibility

In 2006, the Minister for Children acknowledged the importance of identifying public expenditure on children and commissioned an analysis of Assembly Government spending on children in Wales. This analysis was published alongside the report the Assembly Government prepared on progress in implementing the Convention.[15]

The analysis is fairly rudimentary but it does, for the first time identify a baseline of proportions spent to benefit children in Wales in the year 2004-5 and include some basic examination of expenditure across different sectors, such as health and education. The Assembly Government estimate that around 30% of its budget benefits children. Expenditure on children is judged to be 57% of the money given to local government but only 14% of the health and social services spend. It would have been helpful to have had more information on the methodology used to align the score-card of 'benefits to children' and 'spend' but the Assembly Government's analysis is a welcome first step.

The Assembly Government has yet to commit itself to regular appraisals of its budget to determine proportions spent on children and ensure it is allocating resources to the 'maximum extent of available resources'.[16] Wales remains a very unequal society with over one in four children living in poverty and children living in the severest poverty having their basic needs (such as heating and a proper diet) compromised.[17] It is imperative that the Assembly Government build on the budget analysis they have undertaken and establish regular appraisals of their expenditure on children allowing monitoring over time and transparent accountability.

Guidance under the Children Act 2004 is set to require local strategic partnerships (from April 2008) to outline in their children and young people's plans, details of the finances allocated to services benefiting children. This is another very welcome step but we are as yet unclear what arrangements will be in place to encourage and support compliance.

Key recommendations

The Welsh Assembly Government should:

- Establish the necessary systems or mechanisms to enable routine analysis of its spending on children in all of its future budgets (with reference to good practice in other State parties).
- Ensure that the arrangements it puts in place to inspect the functioning of the children and young people's partnerships include appraisal of the performance of each of the 22 partnerships in setting out annual accounts of the public expenditure on children.

[15] Financial Provision for children within the Assembly Government budget: a technical note. http://new.wales.gov.uk/
[16] CRC/GC/2003/5 – General Comment no. 5 (2003).
[17] Save the Children (2006) *Hard Times*.

Co-ordination

CRC/C/15/Add.188 para. 13: Assign coordination of the implementation of the Convention to a highly visible and easily identifiable permanent body with an adequate mandate and adequate resources.

Welsh Assembly Government responsibility

Co-ordination across the Welsh Assembly Government

The Assembly Government has taken a number of very positive steps to establish government structures that ensure children's issues are high up the political agenda and that there is effective co-ordination, including:

- A Minister for Children who holds the responsibility of UNCRC implementation and championing the rights and interests of children across government.
- A Cabinet sub-committee for children and young people which has responsibility for overseeing the implementation of the UNCRC in Wales.[18]
- A children and young people officials group, which supports the work of the Cabinet sub-committee and encourages the strengthening of cross-cutting policy development on children's issues.

At the time of writing, three months after the Assembly Elections, it is still not yet clear whether these structures will be replicated in the new coalition government of Wales. This uncertainty emphasises the need to give these government structures a basis in law.

The sub-committee's role in overseeing the implementation of the Convention was strengthened in 2006 and over the past 12 months, the Assembly Government has pursued work on the State party report diligently and produced a co-ordinated and comprehensive report on progress in implementing the UNCRC in Wales.

However, despite some good intentions, collaboration across departments of government on developing and implementing policy as it affects children and young people is generally poor. During the period 2004-7, responsibility for children's policy has been split over at least three departments. The Cabinet sub-committee's mandate has not been of a high enough order in the scale of political commitments and has had insufficient resources at its disposal to effectively lead and co-ordinate policy development. The Minister for Children during this period brought no dedicated budget and this undoubtedly compromises an ability to influence strongly the political agenda towards the interests of children. Children in Wales (an umbrella organisation for children's organisations in Wales) have suggested that budgets could be pooled at a national level to support joint initiatives and maximise their positive impact on children.

Co-ordination at a local level

Strategic local partnerships (known as children and young people's framework partnerships) have been in place since 2002 and have recently been put on a statutory footing.[19] Local authorities and key partner agencies are required in law to co-operate to improve the well-being of children and young people in the local area. The Children Act 2004 placed a duty on every local authority in Wales to appoint a lead director and lead member for children and young people's services.[20]

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[18] Terms of Reference Cabinet sub-committee http://new.wales.gov.uk/about/cabinet/cabinetsubcommittee
[19] See 9 above.
[20] The *Children Act, 2004* (Section 27) (1).

Local health boards have to designate lead officers and members and NHS Trusts designate lead executive and non-executive directors with responsibilities mirroring those of the local authority lead director.

Each of the 22 partnerships is required to produce a children and young people's plan setting out *"how the well-being of children and young people living in the area will be improved"*.[21] The first plans were due to be submitted in July 2007. The aim is that the selected child outcome indicators will help assess just how partnerships are doing in terms of progressing the seven core aims and improving the well-being of children in their area but this outcomes framework is not yet fit for purpose.

The reality on the ground is again whilst there has undoubtedly been progress in co-ordination at this local level there is still considerable room for improvement.

Co-ordination across the State party

In 2002, the UN Committee expressed concern at the absence of a central mechanism to co-ordinate the implementation of the UNCRC across the UK. In this reporting round, the Department for Children, Families and Schools in Whitehall, has taken the lead in co-ordinating the preparation of the UK State party report incorporating contributions from each of the devolved administrations. However, there are no more permanent arrangements in place to co-ordinate implementation across the State party.

In conclusion, there are many positive developments in respect of establishing a more co-ordinated response to implementing the UNCRC in Wales. However, we need more powerful and better resourced cross-cutting structures.[22]

Key recommendations

The Welsh Assembly Government should:

- Establish a Cabinet Committee for Children and Young People with an adequate level of co-ordinated civil service resource to support it across all aspects of Ministerial portfolios.
- Strengthen the role of Minister for Children (and young people).

The National Assembly for Wales should:

- Establish a Scrutiny Committee for Children and Young People to ensure cross-cutting scrutiny and monitoring of Welsh Ministers decisions and policies.

Local authorities should:

- Work effectively with key partners to drive forward and evidence the implementation of the UNCRC at the local level.

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[21] See 7 above. p8.

[22] Children in Wales (2007) *A Wales Fit for Children and Young People*.

Plan of action

CRC/C/15/Add.188 para. 15: The adoption and implementation of a comprehensive plan of action for the implementation of the Convention.

Welsh Assembly Government responsibility

National strategy

The Welsh Assembly Government has adopted the UNCRC as the framework for its strategy for children, translating the UNCRC into its seven core aims for the children of Wales.[23] However, the aims are not understood across all of government (especially outside of policy areas traditionally focused on children or young people) and often compete with other governmental strategies and plans. The seven core aims for children need to have greater prominence and be reflected in the Assembly Government's overall plan or strategy for Wales. As the UN Committee advises in their General Comment No. 5 the strategy should be endorsed at the highest level of government and explicitly linked to national development planning and national budgeting, otherwise the strategy will remain marginalised outside key decision-making processes.[24]

Neither is there really a national 'plan' or strategy as such setting out the action that will be taken to progress the seven core aims by the Assembly Government and its partners. From time to time the Welsh Assembly Government has published updates on progress towards the core aims, but not in any routine manner or reporting against a clear plan with targets and milestones.

Implementation at local authority level

In 2007, the Welsh Assembly Government issued draft guidance on the content and shape of the single children and young people's plan the local strategic partnerships are required to prepare. However, the guidance does not give enough practical meaning to the implementation of the UNCRC.[25]

Children's rights impact assessments

The Welsh Assembly Government could develop better mainstreaming of children's rights and the UNCRC in policy and decision-making processes if it used children's rights impact assessments. Children's rights impact assessments are strongly recommended by the UN Committee as one of the most effective ways to give children's issues better visibility, coherence and significance across government structures.

Key recommendations

The Welsh Assembly Government should:

- Ensure that the seven core aims for children are given greater prominence and are reflected in the government's overarching strategic plan.
- Produce a national plan for progressing the seven core aims with targets and milestones. As the national strategy for implementing the UNCRC, the plan should include key objectives for government to undertake children's rights impact assessments; to raise awareness of children's rights; and to monitor public expenditure on children.

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[23] WAG (2002) *Children and Young People: A Framework for Partnership* & WAG (2004) *Children and Young People: Rights to Action.*

[24] See 16 above.

[25] WAG (2007) *Children and Young People: Rights to Action Draft Planning Guidance and Regulations for Local Authorities and their Partners on Children and Young People's Plans.*

- Strengthen its guidance for the 22 children and young people's partnerships on the single plan they are required to produce. The plans must give real practical meaning to the implementation of the UNCRC and partnerships need more guidance, leadership and support on how to achieve compliance with the UNCRC. Specifically, we recommend that guidance includes the following:
  - Rights based outcome measures and indicators for monitoring progress in each local authority area in Wales including disaggregated data and children's views and feedback.
  - Requirement to integrate key objectives to undertake children's rights impact assessments; to raise awareness of children's rights; and monitor budgets for their expenditure on children.
  - Make the role of the lead director with regard to ensuring implementation of the UNCRC more explicit.

Local authorities should:

- Work with their key partners to drive forward and evidence the implementation of the UNCRC at the local level.

Independent monitoring structures

CRC/C/15/Add.188 para. 17: Establish independent monitoring structures in accordance with the Paris Principles.

Welsh Assembly Government responsibility

UK Government responsibility

The office of the Children's Commissioner's for Wales was established in 2001. The model is not compliant with Paris Principles in that it is restricted in the matters it is empowered to comment upon. It does not have the power to comment directly to relevant Ministers on policy areas, which are not devolved e.g. immigration and asylum, tax and benefits and youth justice. A number of attempts have been made by NGOs in Wales and the office of the Children's Commissioner themselves to change this position but to no avail. The UK Government has chosen instead to confer weaker powers over non-devolved matters across the UK to a Children's Commissioner based in England.

In practice the Children's Commissioner for Wales has dealt with non-devolved matters and there has been good collaborative working between the four Children's Commissioners in the UK. Joint statements have been made on specific UNCRC issues, for example Article 22,[26] seeking to raise public awareness and to influence government policy. However the statutory basis for collaboration regarding monitoring and reporting on the UNCRC is weak. The Welsh Commissioner has the broadest remit, embracing review and representation on any matter affecting children in Wales as well as individual case work and investigations.[27] This remit complies with the UN Committee's recommendations in para. 17 (a), (b) and (d).

The Children's Commissioner for Wales has a growing budget and is relatively well resourced. The core budget has increased year on year since 2001 with additional funds for specific projects increasing the total in other years.[28] Additional resources have been used to expand the advice service provided to children.

[26] Joint policy statement of the UK's four Children's Commissioners, December 2005.
[27] Williams, J. (2005) Effective government structures for children? The UK's four Children's commissioners. *Child and Family Law Quarterly* 17 pp 37 – 53.
[28] See Children Commissioner for Wales Annual Reports.

The Children's Commissioner for Wales has invited in a team to evaluate the work of the office. The project led by Swansea University has a strong peer research element. A recent survey of 1300 children aged 7-16 in schools across Wales undertaken by the research team indicates there is limited awareness of the Commissioner's work among children and young people. Only 13% of the sample of children said they had heard of the Commissioner.

Although the Welsh Commissioner is formally independent of the Welsh Assembly Government, independence is potentially undermined because the office is funded through an Assembly Government Minister rather than directly by the National Assembly. [29]

Key recommendations

The Welsh Assembly should:

- Use the opportunity offered by the Government of Wales Act 2006 (which strengthens the separation of the Welsh Assembly Government and the National Assembly for Wales) to transfer the funding of the Children's Commissioner from the Assembly Government to the National Assembly, which now has a clear scrutiny, and monitoring function.

The UK Government should:

- Introduce legislation to confer on the UK's four Children's Commissioners the statutory function of monitoring and reporting on UNCRC implementation in their respective jurisdictions and throughout the UK.
- Empower the Welsh Children's Commissioner to investigate and comment on any matter affecting any child ordinarily living in Wales (thus bringing the office into line with the Paris Principles).

Data collection

CRC/C/15/Add.188 para. 19: Establish a nation-wide system such that disaggregated data are collected on all persons under the age of 18 years for all areas covered by the Convention, and write regular reports regarding implementation of the UNCRC.

Welsh Assembly Government responsibility

The Office of National Statistics, the Welsh Assembly Government, the UK Government and others collect a range of data on children but they do not cover all areas of the Convention. The data gathered is rarely used to assess progress and shape strategy and there have been no regular reports on the 'state of children' in Wales to promote public debate. Neither the Assembly Government nor the Children's Commissioner has fulfilled this function.

The Welsh Assembly Government embarked on a process to determine a national approach to measuring progress and evaluating outcomes for children and young people with its launch of *Rights to Action*[30] in 2004. However, progress has been far too slow and three years later a disappointing framework has just been published which amounts to an ad hoc collection of existing public service performance indicators. Whilst linked to the UNCRC (as reflected in the Assembly Government's seven core aims for children) the suite of indicators cannot be seen as rights-based. There is no mention of disaggregated data (and no requirement to provide); and few indicators reflect, in any way, children and young people's subjective views or experiences. The framework is not

[29] Children's Commissioner for Wales, *Annual Review 2005 – 6, Section 6.*
[30] See 7 above.

accompanied by any prescription for local partnerships (or indeed national government) to use the data to assess progress and design policies. Neither is there any reference to the provision of regular reports on Wales's children, let alone a description of the arrangements for scrutiny and debate.

In conclusion, the mechanisms for monitoring outcomes for children in Wales remain woefully inadequate.[31] This makes it very difficult to assess progress towards improving children's well-being and therefore to evaluate the impact of policies. In some areas of children's lives, the lack of data on children in Wales is particularly acute. For example, there is little Wales-specific data on health and wellbeing, in particular mental health.

Key recommendation

The Welsh Assembly Government should:

- Collate, analyse and publish disagreggated data on all children's rights, monitoring progress across the country in achieving its seven core aims for children. It should report on an annual basis to the National Assembly on the 'state of children in Wales' to enable debate and reflection. The data collected in Wales should be capable of measuring progress over time and allow comparisons with countries within the UK and Europe.

Training/dissemination of the Convention

CRC/C/15/Add.188 para. 21 a: Substantially expand the dissemination of information on the Convention and its implementation among children and parents, civil society and all sectors and levels including initiatives to reach vulnerable groups.

Welsh Assembly Government responsibility

The Welsh Assembly Government has distributed limited information directly related to developing an understanding of the Convention. The Convention and related materials should be translated and made available into Welsh and the minority languages of the country as well as making it more accessible to people with disabilities. The Welsh Assembly Government has not yet met this responsibility. The Council for Education and World Citizenship and Save the Children have funded bilingual Welsh/English leaflets of the UNCRC. In *Rights in Action* the Welsh Assembly Government expressed their intention to develop leaflets giving information to children and young people of all ages about their rights as set out in the Convention. The Welsh Assembly Government has also part funded Funky Dragon to produce *Our Rights: Our Story* Information Pack for young people. This tells the history of the UNCRC and the ongoing work they are undertaking to produce a children's report on the progress of implementing the UNCRC. Whilst useful as an introduction there needs to be follow up volumes to do justice to children's rights more broadly as well as materials targeted specifically at professionals working with children and young people.

Funky Dragon's research carried out with over 8,000 young people across Wales has revealed that only 8% of young people had been taught about the UNCRC in school.[32] The proposed framework for the Personal and Social Education (PSE) curriculum for 7-19 years includes consideration of rights underpinned by the UNCRC.[33] However, rights are not fully integrated across the curriculum or in initial teacher training[34] and implementation of the PSE Framework itself has often been weak.

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[31] Bradshaw, J. and Mayhew, E. (2005) *The Well-being of Children in the UK*. Save the Children and University of York.
[32] Funky Dragon (2007) *Our Rights: Our Story.*
[33] WAG. (2007) *Personal and Social education Framework for 7-19 year-olds in Wales* p.13.
[34] Memorandum from the Children's Commissioner for Wales (CC 1) to the House of Commons Joint Committee On Human Rights (2006).

CRC/C/15/Add.188 para. 21b: Develop systematic and ongoing training programmes on human rights including children's rights for all professional groups working for and with children.

Welsh Assembly Government responsibility

A scoping study recently commissioned by Save the Children to determine the level of knowledge of children's rights and what training is being delivered on children's rights in Wales revealed that overall across the professions there is uncertainty about what is really meant by children's rights.[35] Only a limited number of professionals have received training or delivered training on children's rights. Professionals interviewed believe that there is insufficient ongoing and systematic training on children's rights to make it applicable to the workplace. They comment that much of what is being done is far too brief and unstructured to make children's rights comprehensible and accessible. A great deal of emphasis is placed on the importance of Article 12 within youth work and the children and young people partnerships, yet this is often to the neglect of the full range of rights under the UNCRC. Professionals working with children and young people make it clear that they would like to receive more training on the full set of rights under the Convention.

With regards to training on children's rights in further/higher education, there are some children's rights courses and parts of courses available but no comprehensive specialist training on children's rights in any part of Wales. In general whilst some progress has been made at certain academic institutions since Sophocleous reported in 2001,[36] some backsliding appears to have happened as well. There would appear to be even less optional courses available across the disciplines of health, law, social work and teacher training.

Key recommendations

The Welsh Assembly Government should:

- Develop and resource a comprehensive strategy for disseminating knowledge regarding the principles and provisions of the UNCRC throughout society.
- Ensure that training on the Convention is mandatory for all professionals working with or delivering a service to children and young people.
- Ensure that there is a single, integrated approach to children's rights training and diffusion of information.

The Children's Commissioner should:

- Work with the Welsh Assembly Government to raise professionals', the public's and children and young people's awareness and understanding of the UNCRC.

[35] Milne, B. (2007) *Who is disseminating information on the United Nations Convention on the Rights of the Child in Wales?* Unpublished scoping study for Save the Children.

[36] Sophocleous, C. (2001) *Who is raising awareness of the UNCRC? Building a Constituency for Children's Rights: an Audit of Children's Rights Teaching in Wales, for Save the Children.* Unpublished.

Chapter Three

General principles

(Articles 2, 3, 6 and 12)

Discrimination

CRC/C/15/Add.188. para. 23 a & c: Monitor the situation of children exposed to discrimination and develop on the basis of the results of this monitoring, comprehensive strategies containing specific and well-targeted actions aimed at eliminating all forms of discrimination.

This section will give an overview to the discrimination that children and young people in Wales face today. Discrimination experienced by particular groups of children and young people is discussed in more detail in later chapters of the report. The tables below illustrate the multiple layers of discrimination children in Wales and the rest of the UK experience. Any strategy to monitor or take action against the discrimination of children and young people in Wales needs to be comprehensive and take into consideration both direct and indirect discrimination. Indirect discrimination is the inequitable treatment of one group disadvantaging another, as opposed to direct discrimination in which the focus of discriminatory attitudes, actions and policies is the group itself.

Table 1. Direct discrimination impacting on children[37]

Childism	Example of impact on children
Overt discrimination	Excluding children e.g. hotels: "'Well-behaved' dogs are welcomed, but not children under 12"[38]
Marginalisation	Not seen as 'core business' • Not prioritised in health spending e.g. Welsh Assembly Government health targets largely adult based; NICE[39] inequalities review only on adult health • Traffic spending focused on cars so children forced to walk or cycle on roads to amenities • Certain groups missed out in policy e.g. Children Adolescent and Mental Health Services (CAMHS) for 16-18 year olds not in education in Wales
Age blindness	Ignoring special needs of children and thus excluding them e.g. marina developments with inadequate barriers between toddlers and deep water
Deficit model	Lack of participation – children's views not taken seriously or not believed
Victim blaming	Children blamed for: • Being sexually abused • Being run over • The consequences of poverty

[37] Webb Elspeth. (2006) The Impact of Discrimination on Children. *Ethics, Law and Society* Volume II. 2006. Eds Gunning, J. and Holm, S. Ashgate publishing UK.

[38] *The Escape guide: 20 great hotels for walkers.* http://travel.guardian.co.uk/article/2006/jan/29/walkingholidays.hotels.observerescape

[39] National Institute for Clinical Excellence (NICE).

Stereotyping	Presented in the media as victims (if young) or inherently bad (especially if a poor male adolescent) Not believed Demonised within the criminal justice system
Internalised discrimination	Internalise belief that physical abuse of children is acceptable, or that children have no voice – increases vulnerability of children at risk
Exploitation	Tests and outcomes dominated education – relentless hard work of children feeding a cramming and tutoring industry

Table 2: Indirect discrimination impacting on children

Primary focus	Mechanisms via which children are disadvantaged
Girls/women	Low pay; single mother households trapped in poverty Poor maternity provision: working mothers returning to work when babies are very young Pervasiveness of domestic abuse against women[40] – harms their children
Parents	No or little paternity leave Limited parental leave for child illness Little acknowledgment of dual role of working parents in occupational law[41] Inadequate childcare services for young children Inadequate provision for prams – public transport exacerbates the difficulty in accessing public services
Black and ethnic minority communities	Increased risk of growing up in poverty[42] Increased risk of being in care[43] Poor access to health care[44] Inadequately protected from harm[45]
Asylum seekers[46]	Poor health care Living in detention Living in poverty

[40] Brooks, R. & Webb, E. (2007) Helping Families Who Are Victims of Domestic Abuse. *Mental Health Interventions and Services for Vulnerable Children and Young People: Chapter 12* Ed. Vostanis, P. London. October 2007. Jessica Kingsley.
[41] Leach P (1995) *Children First.* London. Random House.
[42] Modood, T. & Berthoud, R. *Ethnic Minorities in Britain: diversity and disadvantage*. London 1997. Policy Studies Institute.
[43] DfES. Children looked after by Local Authorities Year Ending 31 March 2004 Volume 1: commentary and National Tables. HMSO 2005.
[44] Webb, E. (2000) Healthcare for ethnic minorities. *Current Paediatrics* 2000: 10; 184-90.
[45] Webb, E., Maddocks, A. & Bongilli, J. (2002) Effectively protecting Black and minority ethnic children from harm: overcoming barriers to the child protection process. *Child Abuse Review* 2002: 11: 394-410.
[46] Save the Children (2005) *Uncertain Futures: Children seeking asylum in Wales*.

Homeless families[47]	Stigmatised Poor access to services Low uptake of surveillance and immunisation
Disabled	Unequal access to information and services, and to participate[48] Absent services e.g. no CAMHS for children with learning disability in Wales
Mentally ill	Stigmatised Unsupported – children acting as carers to mentally ill adults[49]
Travellers	Marginalised in strategy. Accommodation inadequate – poor quality living conditions and lack of access to safe play[50]

Children experience discrimination both in consequence of their status as children and as a result of other stigmatising factors. These combine to put disadvantaged children in double or multiple jeopardy. Discrimination affects individual children directly, particularly those in socially marginalised communities, but also influences political and fiscal policy in ways that disadvantage all children.

Key recommendations

The UK Government should:

- Make age discrimination in the provision of goods, facilities and services against children and young people illegal.

The Commission for Equality and Human Rights should:

- Scrutinise the actions of government (national and local) to challenge prejudice, and deliver quality, equitable services to children and young people.

[47] Tischler, V. et al. (2002) Evaluation of a mental health outreach service for homeless families *Arch. Dis. Child.* 2002; 86: 158-163.

[48] Non-discrimination: disability. Hill, L. (2006) Croke, R. & Crowley, A. (eds) *Righting the wrongs: The reality of children's rights in Wales*. Save the Children.

[49] Hill, A. Study reveals plight of child carers Observer May 13th 2007.

[50] Niner, P. (2006) *Accommodation needs of Gypsy-Travellers in Wales: A report for the Welsh Assembly Government.*

Best interests

CRC/C/15/Add.188 para. 26: The Committee is concerned that the principle of primary consideration for the best interests of the child is not consistently reflected in legislation and policies affecting children throughout the State party, notably in the juvenile justice system or immigration practices.

UK Government responsibility

Juvenile justice

The best interests of the child are not reflected adequately in criminal justice policy and practice. Responses to children in trouble continue to be centrally controlled and reflect a punitive ethos. The UK Government has confirmed that it will not be raising the age of criminal responsibility in England and Wales, which at 10 years of age, is one of the lowest in Europe. As a result too many young people are being criminalised. Criminalisation is also occurring because of the restrictive approach that limits diversionary opportunities and does not permit flexible consideration of individual difference or the minor nature of some offending.

The increasing importance of initiatives that are focused on the prevention of offending has provided the impetus for youth offending teams to engage with mainstream agencies such as health and education to reduce young people's (who have been identified as at risk) involvement in crime. This has however meant involvement with children below the age of criminal responsibility. In terms of services that might be universally targeted at any child in need of assistance, the *All Wales Youth Offending Strategy* recognises and works towards delivering that aim, but there is still a requirement for more harmony between youth justice, welfare and health law, and this needs to be reflected at the UK policy level.

The current criminal justice system lacks balance between appropriate sanctions and addressing criminogenic needs. Children and young people continue to be dealt with in a similar manner to adults in courts, trials and sentencing processes, which is not appropriate. The evidence suggests that custody is not used as a measure of last resort or for the shortest appropriate period. Children are being detained at younger ages, for lesser offences and in significant numbers. Custody is widely acknowledged to be a negative experience that does not guarantee the prevention of future offending.

Compliance with the Convention has also worsened, particularly with regard to anti-social behaviour measures. Despite the fact the original intention was that these orders would only be used against children and young people in exceptional instances with the emphasis on early intervention to prevent potentially criminal behaviour, practice does not reflect this. Some of the concerns centre on the fact that the same standard of proof as criminal orders does not apply; that a civil order can result in a criminal sanction (custody) if breached; the erosion of privacy safeguards with the presumption of media reporting and the stigmatisation of children who are subject to them.

Asylum

There is an increasing gulf between UK legislation designed to protect all children and the reality of immigration policy and practice as it affects asylum-seeker children. In practice, there are a number of ways this plays out – current immigration procedures in the UK are adult oriented and do not reflect the protection needs of children, nor child specific forms of persecution. The application process does not ensure children's views are heard, does not inform them about their rights and their opinions do not inform decisions about whether they are returned. As a result, children do not get a fair hearing for their asylum claims and are at significant risk of being returned to unsafe situations.

The current asylum system allows for no adjudication on the best interests of the child and asylum caseworker staff lack expertise on child specific persecution. For separated children in Wales, the refusal of the UK Government to implement the 2002 Concluding Observation relating to guardianship and the total absence of specialist advocacy means that there are no safeguards in place to ensure that asylum seeker children have their best interests represented.

Key recommendations

The UK Government should:

- Review youth justice law to incorporate the principles and provisions of the Convention and harmonise with mainstream welfare, education and health law.
- Address thoroughly the particular situation of children in the ongoing reforms of the immigration and asylum system to bring it in line with the principles and provisions of the Convention.
- Consider the appointment of guardians to unaccompanied asylum-seekers and refugee children.

Participation

CRC/C/15/Add.188 para. 30:

- **Take further steps to promote, facilitate and monitor systematic, meaningful and effective participation of all groups of children in society, including in schools.**
- **Consistently reflect the obligations of article 12 in legislation.**
- **Ensure procedures are formed to acknowledge publicly the views expressed by children and the impact they have on developing programmes and policies.**

Welsh Assembly Government responsibility

There has been good progress with regards to establishing mechanisms to support children and young people's participation but more work is needed to ensure long-term impact and sustainability. The Welsh Assembly Government has identified a lead Minister with responsibility for children and young people's participation supported by an advisory specialist panel. New national and local platforms have been established to develop policy, practice and opportunities for children and young people's participation including a national participation consortium and unit; a participation project within government; a participation workers network and a children and young people's national assembly for Wales. Local structures include local authority youth forums and school councils across Wales. Examples of participation are evident at local and national levels.[51]

[51] Participation Consortium, Welsh Assembly Government and Save the Children (2005) *Mapping Participation Report, Mapping Participation Welsh Assembly Government Divisions Report,* (2006) *Mapping Participation Young People's Report.*

A definition of children and young people's participation and a set of national standards have been adopted by the Assembly Government and NGOs and the Assembly Government meets annually with Funky Dragon.[52]

There has been some progress with regards to legislation but this has been mainly in the area of education where all schools are now required to establish school councils and include pupil representatives on school governing bodies.

Key issues of concern

ALLOCATION OF RESOURCES AND GOVERNMENTAL COMMITMENT

National and local structures are dependent on short-term and diverse funding streams. There is only a limited statutory basis for participation and the Assembly Government has no overarching strategy for developing and supporting children and young people's participation. There is a need for an evidence base supporting children and young people's participation to be compiled to push forward the agenda.

SYSTEMATIC, MEANINGFUL AND EFFECTIVE PARTICIPATION

The quality and level of participation in decision-making needs to shift with too many viewing participation as consultation. Children or young people are not routinely informed about their rights and all too often they are only asked to give their views and opinions on those matters that adults decide they want children or young people's views on.

The strategic commitment to participation must reach across all sectors and be embedded in practice. The policy commitment must be translated into all interactions with children and young people and become everybody's business. Participation should be a key component in all professional training and practice development.

PARTICIPATION OF ALL GROUPS OF CHILDREN IN SOCIETY

The reliance on European structural funds to drive forward the participation agenda in Wales has meant an emphasis on developing the participation of young people aged 11+, with the danger that the support and development of the participation of 0-10s may be 'left behind'. Funky Dragon, the Participation Unit and the Assembly Government's own participation project are heavily reliant on these funds.

Inclusion of hard to reach, as well as younger, children remains a key issue for the development of the participation agenda in Wales. Disabled children and other groups with specific additional needs are not able to engage easily through the current mainstream structures and processes available for participation. Tackling these inequalities and finding alternative routes for participation remains a priority.

OBLIGATIONS OF ARTICLE 12 IN LEGISLATION AND NATIONAL POLICY

There is a need to develop participation in education as a whole, over and above the statutory basis for school councils, and a need to join up developments within education with external structures and initiatives promoting participation across Wales. There is also a need to further monitor and gather evidence from children and young people about their participation in statutory and legal systems – this remains an area of concern.

The adoption of the national standards for participation needs to be followed by the incorporation of these standards into policy and practice, in particular into national inspection frameworks and assessments. The standards need to be 'robust' and 'have teeth' to be truly effective.

[52] WAG. (2003) *The Dragon's Dialogue: Issues for Discussion with Children and Young People in Wales*.

Key recommendations

The Welsh Assembly Government working with key statutory partners should:

- Introduce legislation, long-term core funding and central support to secure national and local participation structures and mechanisms – including Funky Dragon.
- Develop and implement an overarching participation strategy for Wales.
- Proof all policies and initiatives to ensure they all actively support children and young people's participation in decision-making, incorporating and endorsing the national standards for children and young people's participation for Wales.
- Allocate additional resources to support the strategic development of the participation of children aged 0-10 years in decision-making in Wales, including the development of relevant structures.
- Promote a full understanding of participation and its diversity and include this in all training for professionals by sectors working with children and young people.
- Ensure the equal right to participate of groups of children with specific additional needs through a range of appropriate structures, processes and opportunities, nationally, regionally and locally.

Chapter Four
Civil rights and freedoms
(Articles 7, 8, 13-17 and 37(a))

Corporal punishment

CRC/C/15/Add.188 para. 36 a: With urgency adopt legislation throughout the State party to remove the "reasonable chastisement" defence and prohibit all corporal punishment in the family and in any other contexts not covered by existing legislation.

UK Government responsibility

Children in Wales have made it known that whilst some adults might view 'smacks', 'taps' or 'slaps' as trivial, the hitting of children causes physical pain and has an emotional impact. In the most recent consultation, children aged seven and eight years of age, said that being smacked stings and causes pain. They also talked about their feelings, with the majority of the children saying that smacking makes children feel sad and upset.[53]

The Welsh Assembly Government has taken a principled stand against the physical punishment of children (the only government in the UK to do so) and agrees with the UN Committee that corporal punishment should be prohibited in law.[54] However, the power to legislate on this issue lies with the UK parliament in Westminster not with the National Assembly for Wales.

The Assembly Government (with strong cross-party support within the legislature) has made representations to the UK Government on a number of occasions and the Children's Commissioner for Wales has highlighted concerns both to the Assembly Government and (with the other Children's Commissioners of the UK) to the UK Government.[55] The UK Government continues to refuse to introduce the necessary legislation thus denying children in Wales equal protection despite this being the expressed wish of Wales' democratically elected government.

CRC/C/15/Add.188 para. 36 b: promote positive, participatory and non-violent forms of discipline and respect for children's equal right to human dignity and physical integrity, engaging with children and parents and all those who work with and for them, and carry out public education programmes on the negative consequences of corporal punishment.

Welsh Assembly Government responsibility

To the Welsh Assembly Government's further credit it has taken a number of steps to promote positive and non-violent forms of discipline and respect for children's equal rights including the funding of Children are Unbeatable! Alliance to campaign for legal reform and the publication of a booklet for parents on alternatives to physical punishment. It has repeatedly stated its strong opposition to the smacking of children.

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[53] Children are Unbeatable! Wales (2006) *Help at Hand. An evaluation report on a programme of activities promoting alternatives to smacking children.*

[54] Jane Hutt, Minister for Children. NAfW Record of Proceedings/Cofnod for October 23rd 2002 and NAfW Record of Proceedings/Cofnod for January 14th 2004.

[55] Statement by the four UK Commissioners for Children and Young People on the Physical Punishment of Children (22 January 2006). http://www.childrenareunbeatable.org.uk

There are some concerns that the Assembly Government is at times leaning too heavily on the Children are Unbeatable! Alliance, to continually remind it to 'operationalise' its principled position. The Alliance is currently urging the Assembly Government to establish its own, dedicated and resourced public education campaign – to step up its efforts to communicate respect for children's right to human dignity and integrity and persuade parents to use alternative forms of discipline. There is an urgent need to adopt a more sustainable approach in Wales with government funding for the Alliance in Wales coming to an end in March 2008.

Wales is acknowledged to be leading the way on the issue of physical punishment within the UK. However, the continued existence of the legal justification for hitting children remains a serious difficulty in making further progress.

Key recommendations

The Welsh Assembly Government should:

- Continue to press the UK Government for legal reform to give children equal protection.
- Establish a public education strategy supported by an increased level of parenting support.

The UK Government should:

- Introduce legislation to give children equal protection from assault. The law in the UK must send the clear message that hitting children is as unacceptable and unlawful as hitting anyone else.

Children of prisoners

Area of concern not addressed by Concluding Observations 2002: Children of prisoners (articles of specific relevance 2 and 9 of the UNCRC).

Welsh Assembly Government responsibility

There are an estimated 150,000 children and young people with a parent in prison in England and Wales.[56] Approximately 7% of the school population will experience the imprisonment of a parent during their time in school.[57]

Children with a prisoner in the family may experience a range of issues including poor emotional well-being, disruptive behaviour, low self-esteem, poor educational achievement and significant mental heath difficulties.[58] Parental imprisonment is associated with family economic strain, and instability in children's care and living arrangements for children, even after controlling for parental substance misuse and mental health problems.[59]

There are a number of strategies in place or under development that should ensure that the issues for the children of offenders are being addressed. For example, the national offender management service (NOMS) strategy to reduce re-offending in Wales makes it clear that *"all criminal justice system agencies and their partners have a responsibility to help children, young people and the families of offenders"*.[60] Welsh Assembly Government are supporting the delivery of this strategy and associated initiatives.

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[56] See for example, Children in Wales evidence to the Welsh Affairs Committee, November 2006.
[57] Action for Prisoners' Families. (2003) *Submission in response to Green Paper Consultation, Every Child Matters.*
[58] See for example Brown, K. (2001) *No–one's ever asked me: young people with a prisoner in the family.* London. Action for Prisoners' Families.
[59] Phillips, S. et al. (2006) Disentangling risks: parent criminal justice involvement and children's exposure to family risks. *Criminology and Public Policy,* Vol 5 Number 4 pp 677-702.
[60] NOMS Wales. (2006) *Joining Together in Wales an Adult and Young Person's Strategy to Reduce Re-offending.*

However, evidence to suggest that the rights and needs of Welsh children and young people with a parent in prison are being met is very limited at this time. Four prisons are located in Wales and developments in relation to child-centred policies for all aspects of visiting and family contact within the Welsh secure estate are at a very early stage. There are no custodial facilities for women in Wales and this compounds the difficulties for their children, who are arguably at greatest risk of poor outcomes.[61]

There is no available evidence of targeted community based support for the children of prisoners. Some organisations may be delivering work in this area but this information is not readily available.

Key recommendations

The Welsh Assembly Government working with key statutory partners should:

- Ensure that local authorities treat the children and families of prisoners as a priority vulnerable group in line with guidance to local children and young people's partnerships.
- Inform mainstream services, including education, of the evidenced needs of this group and support good practice in meeting these needs.
- Provide sustainable resources for targeted services (both prison and community based) for the children and families of offenders.

[61] See Welsh Affairs Select Committee, Third Report. (2007) *Welsh Prisoners in the Prison Estate*.

Chapter Five

Family environment and alternative care

(Articles 5, 9-11, 18 paragraphs 1 and 2, 19-21, 25, 27 paragraph 4, and 39)

Child protection

In Wales, as of March 31st 2006 there were 2,163 children on the child protection registers (a rate of 33 children per 10,000) compared with 2,670 children (a rate of 40 children per 10,000) in 1999. The proportion of registrations primarily for reasons of neglect rose from 42% in 1999 to 57%; the proportions registered for reasons of sexual abuse declined from 16% to 10% over the same time period. Care should be taken by the interpretation of these statistics, they are not estimates of children subject to abuse rather the purpose of child protection registers is to provide a record of all children in the area for whom there are unresolved child protection issues and who are currently the subject of an interagency plan.[62] These are also the children and young people who are 'known' to statutory services. Research has shown that three-quarters (72%) of sexually abused children did not tell anyone about the abuse at the time, 27% told someone later, 31% still had not told anyone about their experience(s) by early adulthood.[63]

It should be acknowledged that the Welsh Assembly Government tabled a Legislative Competence Order on Vulnerable Children on 10th July 2007. If this order is passed it will provide the Assembly with the ability to produce primary legislation in respect to the lives of many vulnerable children and young people in Wales. There is potential that this could lead to the Assembly being able to address some of the issues raised by the UN Committee more directly.

CRC/C/15/Add.188 para. 38 a: Introduce a system of statutory child death inquiries.

Welsh Assembly Government responsibility

The Welsh Assembly Government has tasked the National Public Health Service (NPHS) to lead a group in looking to establish a child death review system in Wales. The group will look at not only establishing the system, but also its relationship with other structures and systems already in place. It is important that any new system does not take an overly medicalised approach, recognising the social factors that can contribute to the death of a child.

CRC/C/15/Add.188 para. 38 b:
Develop a strategy for the reduction of child deaths as a result of violence and the reduction of all forms of violence against children.

Welsh Assembly Government responsibility

The Assembly Government's *Rights to Action* agenda has progressed in Wales, but it still has the feeling of a loosely connected series of responses to violence and abuse against children and young people. During the workshops at the launch of *Righting the Wrongs* in January 2006, it was fed back by professionals the need for more integration of the strategies relating to children and young people.

The Welsh Assembly Government's Cabinet sub-committee for children and young people has been a positive development in encouraging joined up thinking, as has the Assembly Government's Safeguarding Group, which has sought to involve key external agencies.

[62] Statistical Bulletin SDR 114/2006. Available at: www.wales.gov/statistics

[63] Cawson et al. (2000) *Child Maltreatment in the UK: A Study of the Prevalence of Child Abuse and Neglect.* NPSCC, pp 35 and 85/86, and Cawson et al. (2002).

The report of the Safeguarding Vulnerable Children Review, *Keeping Us Safe*, published in February 2006 and the subsequent response by the Welsh Assembly Government may provide an opportunity for bringing together all the relevant strategies to deliver on the challenges set out in the report. Particularly as the report set out as one of its key challenges:

> *"WAG to review arrangements for the co-ordination of Ministerial and civil servant responsibilities with regard to children with a view to achieving greater co-ordination and harmonisation of planning and operations."* [64]

The Assembly Government has also published guidance relating to the Children Act 2004 and the establishment of local safeguarding children boards, although it is too early to ascertain the impact of these new structures.

CRC/C/15/Add.188 para. 38 d: Carry out large-scale public education campaigns and programmes (including through schools) on reducing child death and child abuse with information on the role of statutory and other services in protecting children.

Welsh Assembly Government responsibility

The Welsh Assembly Government has taken a principled and public stance in support of equal protection for children and has recently published a booklet encouraging parents to use alternatives to physical punishment. However, the Assembly Government has not sought to develop any public education campaign to highlight the roles the statutory agencies and the wider community have in safeguarding children and young people. This despite the Safeguarding Vulnerable Children Review recommending the government develop a public education campaign that includes:

> *"d) Promoting among all public services, independent providers and the business community a better understanding and acceptance of their wider responsibilities for safeguarding children."* [65]

Both the *NSF* and the Children's Commissioner for Wales' *Clywch Report* recommended that children and young people received information of services that can help them if they are experiencing abuse, such as ChildLine. The implementation of this has been varied.

Also the recently published guidance *Safeguarding Children: Working Together Under the Children Act 2004* does acknowledge the role of the wider community in safeguarding.

The Welsh Assembly Government has also recently published the revised Personal and Social Education Framework guidance for consultation. The guidance does provide a framework for teachers to tackle issues relating to child protection and safeguarding at appropriate developmental stages. There is still the need to ensure that those delivering the sessions have the knowledge and confidence to discuss what can be difficult or sensitive issues.

[64] NAfW (2006) Safeguarding Vulnerable Children Review, *Keeping Us Safe'*. p. 77.
[65] Ibid, p. 57.

CRC/C/15/Add. 188 para. 38 e:
Establish effective procedures and mechanism to receive, monitor and investigate and prosecute instances of abuses, ill treatment and neglect, ensuring the abused child is not victimised in legal proceedings and that his/her privacy is protected.

Welsh Assembly Government responsibility

The guidance on the *Children Act 2004, Safeguarding Children: Working Together* does have an extended section on information sharing, which was not the case under the old guidance. This is an acknowledgment of the crucial nature of information sharing when dealing with cases of suspected abuse. It also contains an updated section on management of people who present a risk of harm to children and young people.

Services that help protect and support children and young people giving evidence in court continue to be patchy, with no clear strategy for providing specialised provision.

CRC/C/15/Add.188 para. 38 f: Record in the British Crime Survey all crimes committed against children.

UK Government responsibility

Despite development by the UK Government of the offending, crime and justice survey, the recording of all crimes committed against children and a comprehensive analysis is still not in place. This has an impact on the ability of the Welsh Assembly Government to measure outcomes for children and young people.

CRC/C15/Add.188 para. 38 g: Provide for the care, recovery and integration for victims.

Welsh Assembly Government responsibility

There continues to be widespread concern around the provision of and access to services for children and young people who experience abuse and the waiting times for certain services.

In 2006 the Welsh Assembly Government announced that it would be conducting a mid-point review of its CAMHS strategy, *Everybody's Business*. Reviews are also being conducted by the Welsh Audit Office, in partnership with Health Inspectorate Wales (HIW).

The publication of the Welsh Assembly Government's school-based counselling strategy is a positive step forward to encouraging children and young people to talk to someone if they have a problem or are experiencing abuse. However, there are no plans to develop counselling services outside of schools despite representation that these services are needed for those children and young people who do not attend school.[66] It is not clear what funding will be made available for the schools' counselling service and it has been acknowledged by the Assembly Government that it will take some years to train sufficient counsellors to implement the strategy.

[66] Barnardo's Cymru evidence to the Wales Audit Office Review of CAMHS.

CRC/C/15/Add.188 para. 38 h: Strengthen the reporting system, through full support of the confidential centres for abused children, and train teachers, law enforcement officials, care workers, judges and health professionals in the identification, reporting and management of cases of ill treatment.

Welsh Assembly Government responsibility

The recently published consultation relating to the development of children and young people's plans[67] contains a section relating to workforce planning, which directs these plans to include workforce development and joint training initiatives within the single plan. We hope that this will provide increased opportunities for joint training on safeguarding across professions. Although there needs to be greater clarity over how this will be developed as the guidance[68] for local safeguarding children boards states that they have a role in identifying training needs for those working with children and young people and also to provide training to assist in safeguarding and promoting the welfare of children.

The consultation also highlights that the children's workforce development network is in the process of developing a children's workforce strategy, which will be consulted on. This will provide opportunity to produce a common skills foundation for people working with children and young people, as has happened in England. More work needs to take place to ensure that there is a clear understanding across professions for responsibility in relation to child protection and safeguarding issues.

Key recommendations

The Welsh Assembly Government working with its key statutory partners should:

- Clarify its overarching strategy for safeguarding and protecting children. In particular, it needs to be clearer how the different strategies that impact on children's rights and welfare link together.
- Urgently develop a strategy for providing children and young people with information about who to contact if they are worried about abuse.
- Resource a public education campaign to empower communities to recognise and act to stop abuse against children and young people.
- Take steps to ensure that children and young people who have experienced abuse can access appropriate, child centred therapeutic services as required.
- Ensure that there is effective and regular measurement of the violence and abuse experienced by children and young people in Wales.
- Develop a basic standard package of training on child protection to be used across professions, ensuring that **all** professionals develop the same awareness and are provided with the tools to safeguard children and young people.

The UK Government should work with the Welsh Assembly Government to ensure:

- A consistent approach to supporting young people giving evidence in court needs to be developed, with a national network of services providing young witness support.

[67] See 25 above.
[68] WAG. (2006) *Safeguarding Children: Working Together Under the Children Act 2004.*

Looked after children

CRC/C/15/Add.188 para. 38 c: Ensure consistent legislative safeguards for all children in alternative care, including those who are privately fostered.

And other areas of concern not identified by the Committee – in particular the continuing poor outcomes for children in public care in Wales.

Welsh Assembly Government responsibility

The Welsh Assembly Government has invested heavily in improving services for looked after children and young people. Despite some progress at the policy level, there is still much to do to ensure that the care experience is a positive one for children in Wales and to improve outcomes and life chances for looked after children.

Key issues of concern

NUMBERS OF CHILDREN IN THE CARE SYSTEM

The trend in the numbers of children and young people looked after continues to be upwards. The number of children and young people looked after at 31st March 2006 was 4,784[69], an increase of nearly 30% since 31st March 2002. The rate of children being looked after in public care also continues to increase. In 2004, the rate per 10,000 of children looked after in England and Wales stood at 55; by 2005 the rate in Wales was 67 per 10,000 while England's rate remained static. The Assembly Government has not (as of July 2007) published any kind of analysis to indicate why this might be happening.

OUTCOMES FOR LOOKED AFTER CHILDREN AND CHILDREN LEAVING CARE

This upward trend causes strain on a generally struggling system and the continuing poor outcomes for children in public care remains of concern to a range of professional groups and children, young people and families. Whilst some local authorities have greatly improved the service they provide to children in need and those they look after, some continue to struggle with certain aspects leading to an inconsistent service being delivered across Wales and therefore an inconsistent level of improvement in the outcomes for children.

For example, for educational attainment at 16, the lowest scoring authority in Wales scored 0% GSCE/GNVQ qualification, with the highest scoring just over 80%. This wide variation is a recurring theme within the 33 indicators that are collected on looked after children and young people in Wales. Practice varies widely in its quality and effectiveness.

Of particular concern is the rise in the number of children in public care who are not being provided with the stability they so desperately need. Latest figures suggest that on average across Wales, 14% of children looked after had three or more placements within the year, compared to 10% of children looked after having three or more placements in 2004-5.[70]

[69] Statistical bulletin SDR 155/2006. Available at http://www.wales.gov.uk/statistics

[70] Statistical Bulletins SDR 138/2006 and SDR 155/2006. Available at http://www.wales.gov.uk

The outcomes for the population of young people leaving care show little sign of improvement. In the year ending 31st March 2006, local authorities were in touch with 89% of care leavers who had been in care on the 1st April 2003 and had their 19th birthday in the year ending 31 March 2006. Only 40% of these young people were in education, training or employment. This figure has remained fairly static over the last five years despite significant new investment in leaving care services across Wales.

ACCESS TO INDEPENDENT ADVOCACY SERVICES

Access to independent advocacy services for looked after children is still very patchy across Wales and there have been unacceptable delays in rectifying these deficits despite repeated calls by the Children's Commissioner for Wales and other independent bodies and inquiries to do so as a matter of urgency. [71]

Since 2002, looked after children and other children in need including care leavers have a statutory right to advocacy support when making a complaint under the Children Act 1989.[72] However in many areas of Wales and for children placed out of their home areas, children are not able to access this entitlement. The Assembly Government's new service model for delivering advocacy services for children and young people in Wales[73] currently under discussion has received a very cautious welcome from some children's NGOs with the issues of independence and resourcing still unresolved. Voices from Care, a peer led organisation for young people in Care in Wales, states:

> *"Through our contact with young people in the care system we believe that only advocacy that is truly independent will have the capacity to improve the currently scandalous outcomes of looked after children. Our view is supported by other influential bodies including the office of the Children's Commissioner for Wales and the Assembly's All Party Group on Looked After Children. We are disappointed that despite the recommendations made over a number of years by a number of bodies, the only model put forward by the Welsh Assembly Government is one that fails to provide the independence that is fundamental in upholding the rights of the child."* [74]

ACCESS TO MENTAL HEALTH/THERAPEUTIC SERVICES

There is a continuing shortage of mental health and therapeutic services for children and young people with many looked after children adversely affected.

PRIVATE FOSTERING

The Welsh Assembly Government has now published regulations relating to private fostering, although there is a need for clarity on how these new arrangements are being monitored.

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[71] CCfW (2004) *Telling Concerns*. (2003). WAG (2006) *Report of the Safeguarding Vulnerable Children Review: Keeping us Safe*. Sir Ronald Waterhouse (1999) *Lost in Care* (1999). Lord Carlisle (2002) *Too Serious a Thing*.

[72] Children Act 1989 sec 26a.

[73] http://www.new.wales.gov.uk/topics/childrenandyoungpeople/childrenfirst

[74] Voices from Care (personal communication 16th July 2007)

Key recommendations

The Welsh Assembly Government working with local authorities and other key statutory partners should ensure:

- A continued and increasing emphasis on offering a range of quality placements to meet children and young people's needs.
- Children and young people in care are able to maintain secure and enjoyable placements.
- Basic improvements in frontline services in health (especially mental health) education and social services for looked after children and young people.
- All looked after children and young people in Wales have access to independent advocacy and support in raising concerns.
- Increased accommodation options for care leavers, including extending the use of supported lodgings and enabling more young people to stay in foster placements.

The Welsh Assembly Government and the Welsh Local Government Association (WLGA) should:

- Closely monitor the implementation of regulations relating to private fostering to ensure that the new arrangements are proving effective in identifying and supporting children and young people in these situations.

Chapter Six

Basic health and welfare

(Articles 6, 18 paragraph 3, 23, 24, 26, and 27 paragraphs 1-3)

Health

There are a number of general concerns around the funding and prioritising of health services for children in Wales. Firstly, health budgets for children are not ring-fenced. This, combined with the complexity of the funding streams and lack of transparency in spending, make children's health budgets vulnerable when resources are scarce. Secondly, the *National Service Framework (NSF) for Children, Young People and Maternity Services,* whilst a welcome development is not accompanied by additional resources, nor are there alternative mechanisms to ensure that *NSF* standards can be delivered. Without these it is unsurprising that Welsh Assembly Government and local health commissioning targets have largely focussed on adults.

CRC/C/15/Add.188. para. 40: Take all appropriate measures to reduce inequalities in health and access to health services, to promote breastfeeding and to adopt the International Code for Marketing of Breast-milk Substitutes.

Welsh Assembly Government responsibility

Health inequalities

The National Public Health Service (NPHS) publishes a wide selection of health and outcomes data on children including in some cases an equity ratio,[75] an essential tool in tackling health inequalities. There are gaps, particularly in the provision of disaggregated data, for example, on the status of children from Black and Minority Ethnic (BME) populations.

The links between poor health and poverty, and the cumulative effect of disadvantage in childhood, are well established, and are clearly apparent in the NPHS datasets. The Assembly Government's child poverty action plan includes a welcome set of targets and milestones to monitor progress.[76] Those relating to children's health cover many of the UN Committee's areas of concern, e.g. Infant Mortality Rates (IMR); Low Birth Weight (LBW); under 16 conceptions; obesity; dental decay; injuries and environmental health. A specific action plan to meet these health targets is currently in preparation.

Core health services to children in need, i.e. disabled children, children at risk of harm, and those socially excluded, are provided by departments of Community Child Health (CCH). These services have had little new investment for over 20 years against a backdrop of significantly increased workload. Funding is piecemeal and politically driven and children and their advocates marginalised within commissioning agencies.

Infant mortality rates

The infant mortality rate in Wales has fallen from about 6.2/1000 live births in 1994 to 4.1/1000 live births in 2003. However a widening in the rates between the most advantaged and the most disadvantaged offsets this overall trend.[77] Importantly the new Welsh Assembly Government Infant Mortality and Low Birth Weight targets are to focus on reducing the equity gap between rich and poor rather than a commitment to an overall reduction in IMR, and that is a welcome change in policy.

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[75] HMSO. (2004) *Deprivation and Health: A report by the National Public Health Service for Wales.*
[76] WAG. (2006) *Eradicating Child Poverty in Wales – Measuring Success*
[77] Dyer, O. Disparities in health widen between rich and poor in England. *BMJ* 2005;331:419.

Socially marginalised children

Access to health services in Wales relies on a permanent address and registration with a family doctor. For children who lack one or more of these attributes, access to care can be seriously compromised.[78] There are wholly inadequate safety-net services for these groups of children throughout Wales, including: Gypsies and Travellers, asylum seekers, newly arrived migrants, and families fleeing violence.

Promoting breast-feeding rates

Recent figures show an improvement, particularly in those initiating breast-feeding, a change that may be attributable to the UNICEF Baby Friendly Initiative. This has been partially successfully implemented in the 22 maternity units in Wales although only nine units (46% of hospital births) have full accreditation.[79]

Although making hospitals baby friendly will improve initial rates they do not address social issues, which result in a lack of support, or even hostility, for breastfeeding mothers in the community. Some legal protection for breastfeeding mothers, as in Scotland, would be welcome. The lowest rates for breast feeding are found in socio-economically deprived households, thus it follows that *"the greatest health gains could therefore result from raising...prevalence in the most poorly resourced families"*.[80] Many communities in Wales are heavily dependent on the earnings of part-time women workers in poorly paid jobs. Part of the campaign to improve breast-feeding rates must include a dramatic improvement in maternity provision.

The UK Government has made little or no progress in implementing the *International Code of Marketing of Breast Milk Substitutes* or the World Health Assembly's *International Marketing Code* (established 1981). Instead it has accepted an EU directive regarding the marketing and composition of baby milks, in spite of the opposition of professional bodies and NGOs, which will have the undesirable effect of increasing the use of substitutes.

Adolescent Services

CRC/C/15/Add.188 paras. 42:
a) Undertake further necessary measures to reduce the rate of teenage pregnancies, through, making health education part of the school curricula, ensuring the inclusion of sex education to all children and the availability of free protection measures; and improving access to confidential and adolescent-sensitive advice and information.
b) Review its differential policies for young mothers under the age of 16 years with regard to allowance entitlements and parenting courses.

Welsh Assembly Government responsibility

[78] Webb, E., Shankleman, J. et al. (2001) The health of children in refuges for women victims of domestic violence: Cross sectional descriptive survey. *BMJ* 2001. 323; 210-213.
[79] http://www.babyfriendly.org.uk/htables/country_view.asp
[80] Nicoll, A., Williams, A. Breast feeding. *Arch Dis Child* 2002;87:91-92.

Teenage pregnancies

Teenage conception rates are much higher in socially deprived groups, with those in care at very high risk of pregnancy.[81] These young women have poor social, economic, and health outcomes; if pregnancies proceed, the babies face high risks of low birth weight, infant death, pre-maturity and congenital abnormality. Given these poor outcomes, the high rates in Wales prompted development of the *Strategic Framework for Promoting Sexual Health,* which has seen a fall in teenage conception rates since the particularly high levels in 1998 (Table 3).

Table 3: Teenage conception rates in Wales 1998 – 2003

Year	Rate per 1000 for those aged 16-17	Rate per 1000 for those aged 13-15
1998	55.0	10.8
2003	45.7	8.2

Although progress has been made, rates in Wales remain high relative to other northern European countries. In 2006, the Chief Medical Officer added new targets for 2010 and 2020 as a priority area for public health. A key objective is to reduce the rate of teenage conception, and improve services for those young people whose pregnancies proceed. As a result a number of national and local initiatives are planned to provide young people with appropriate information, good sex and relationships education, accessible sexual health services, and to improve antenatal care and postnatal support, including access to evidence-based approaches to education and home visiting.

Appropriate health related services for adolescents

There has been some progress in this area with the continued development of in-patient facilities tailored for adolescents in many Welsh hospitals, although not all adolescents (specifically those admitted for pregnancy-related problems) are admitted to them.

A major concern relates to the transition of care for children with chronic conditions to adult services. Efforts, in some specialities, to develop a more phased handover have been restricted by a shortage of adult consultants available or willing to develop specialist services for older teenagers and young adults.

CRC/C/15/Add.188 para. 42 c: Take all necessary measures to strengthen its mental health and counselling services, ensuring that these are accessible and sensitive to adolescents.

Welsh Assembly Government responsibility

Mental health

The NPHS has recently published data on the mental health of adults but not on the state of the mental health of children. Although the Assembly Government acknowledges this deficiency, and expresses an intention to rectify it, there is no target date provided. Without this data progress in improving child mental health status cannot be monitored. What we do know is that Wales has a child suicide rate five times higher than England.[82]

[81] Source: Brook http://www.brook.org.uk/content/M6_4_teenage%20pregnancy.asp
[82] Source: Office of National Statistics.

Mental health services

The Welsh Assembly Government issued a 10-year strategy for the improvement of child and adolescent mental health services (CAMHS) in Wales in 2001.[83] The *NSF* also contains specific actions relating to CAMHS. These strategic documents are excellent but to date, only a small amount of funding has been made available to implement them. The CAMHS implementation group estimated that £10 million a year would be needed over three years (a similar per capita spend to England, where £440 million has been allocated to CAMHS since 2000). Instead the Welsh Assembly Government made £1.2 million available in 2004-5 with a one off payment of £1.4 million in 2005-6.[84] CAMHS in Wales are in crisis, with the Children's Commissioner having repeatedly spoken out on the Welsh Assembly Government's lack of commitment to resourcing and implementing its own strategy.

In addition to the CAMHS strategy, commissioning, resourcing and management at every level of government and service delivery is separated from that of all other children's health services, an approach which is service, not child focussed. As a result CAMHS are often ghettoised and poorly integrated with other children's services.

Children's NGOs and those working in children's health and social services in Wales are concerned that there is a lack of adequately trained and knowledgeable personnel – the average number of CAMHS workers in England is 15 per 100,000 population; in Wales the ratio is 5 per 100,000 (or less).[85] There are very few teams providing specialist services to vulnerable groups (e.g. post abuse services; looked after children; children with drug problems) developed in Wales despite earlier government commitment to the development of such teams.

There is also a dearth of in-patient provision; for example Wales has the least adolescent in-patient beds per head of population in the UK; and no specialist in-patient provision for those with eating disorders or learning disability. Children and young people are placed inappropriately on adult wards or at considerable distances from home. There are few appropriate counselling services for children and young people or mental health services for young people ages 16-18 not in education.

Barnardo's Cymru recently reviewed a number of consultations with young people in Wales who have experienced mental health services and identified that young people are particularly calling for better information about services including how to access them, more accessible support before things reach a crisis and services that are holistic, age appropriate, and staffed by personnel who are both trained and experienced in the needs of young people.[86]

As a result of the widespread concern over the development of comprehensive and equitable CAMHS across Wales and a range of stakeholders highlighting CAMHS delivery as a key issue, the Welsh Audit Office and Health Inspectorate Wales instigated a full-scale review in 2007, which will report in 2008.

In conclusion the overriding issue that is hampering progress regarding children's health is the lack of resources allocated to children's health care underpinned by the low priority given to children's health services by the Welsh Assembly Government.

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[83] WAG. (2001) *Everybody's Business*.
[84] Wales NGO Children's Policy Group (2007) Briefing Paper for National Assembly Elections: CAMHS.
[85] Meraj Hassan. Personal communication.
[86] Barnardo's Cymru. (2007) Campaign Briefing Paper. Unpublished.

Key recommendations

The Welsh Assembly Government working with key statutory partners should:

GENERAL

- Prioritise the health targets set out in *Eradicating Child Poverty in Wales – Measuring Success* and adequately resource the *NSF.*

INEQUALITIES

- Develop targeted services for marginalised children and young people across Wales.

BREAST-FEEDING

- Promote the rights of breast-feeding mothers, especially those in resource poor families, through statutory change and improved support.

TEENAGE PREGNANCY

- Ensure that all children in primary schools have access to high quality sex education provided in ways accessible to those most at risk.

MENTAL HEALTH

- Set up services for children and young people with learning disabilities who have mental health problems.
- Commission a survey of the mental health status of Welsh children.
- Comprehensively resource *Everybody's Business* and the CAMHS related *NSF* actions.
- Reintegrate CAMHS into other children's services to achieve holistic care reflecting the close links between mental health of children and the social and biological factors that affect their general health.
- Stop the practice of placing young people on adult mental health wards.

Lesbian, Gay, Bisexual young people

Much has been achieved since 2002 to promote equality of opportunity and support of young Lesbian, Gay and Bisexual (LGB) people in Wales.

The Government of Wales Act (s.120 1998) requires the National Assembly to:

> *"…. make appropriate arrangements with a view to securing that its functions are exercised with due regard to the principle that there should be equality of opportunity for all people."*

This duty and the similar duty placed upon local authorities includes LGB people and has led to a range of 'equality reforms' in education, health, local government and economic development, from which young LGB people have benefited.

CRC/C/15/Add.188 para. 42 d: The provision of adequate information and support to homosexual and transsexual young people, and the repeal of Section 28 of the Local Government Act 1986.

Welsh Assembly Government responsibility

Education

In Wales responsibility for education is devolved to the Welsh Assembly Government, providing a unique opportunity to make a real change to lives of Wales's pupils, students and teachers.

Section 28 of the Local Government Act was finally repealed on 18 September 2003. Prior to this, the Welsh Assembly Government guidance, *Sex and Relationships Education in Schools* (2002) clearly stated that Section 28 did not prevent *"objective discussions of homosexuality"* in the classroom, effectively repealing Section 28 a year earlier in Wales than in England.

Anyone who is thought to be 'gay', who is perceived to be 'different' or who does not conform to traditional gender roles can be subjected to homophobic bullying in Wales. Homophobic bullying causes permanent damage to young people and blights the schools and colleges where it takes place. 65% of young LGB people experience homophobic bullying in schools across Britan.[87] 58% of children never report it and if they tell a teacher, 62% of the time nothing is done.

> *"I can't tell anyone because, basically no-one knows that I am gay…. I got punched in the corridor today for example and I can't tell the teacher because it will involve coming out"* [88]

Making all young people, regardless of their sexuality, feel included and valued is a major opportunity for the educational system to transform the lives of a significant number of pupils and students.

The Welsh Assembly Government's *Respecting Others: Anti- Bullying Guidance*[89] for schools and local authorities, acknowledges the existence of bullying in relation to sexual orientation and identifies that homophobic bullying is not restricted to pupils who identify as lesbian, gay or bisexual. An Assembly Government commissioned review of the implementation of the *Respecting Others Guidance* found that those school or local authority policies which identified and tackled bullying across all equality strands (including those that specifically discussed how homophobic bullying is manifest and how it should be addressed) were consistently the most effective.[90] A fully inclusive anti-bullying policy, one that acknowledges and identifies the problem of homophobic bullying and challenges homophobic language is one of the most important steps a school can take to challenge homophobic bullying.

The Welsh Assembly Government has demonstrated a commitment to tackling homophobia and homophobic bullying in schools, but there remains more to be achieved in terms of implementing good practice.

Support services

There is a significant gap in service provision for young lesbian, gay and bisexual people across Wales. Young LGB people have specific needs that need to be recognised, such as support when 'coming out' or/and dealing with homophobic bullying.[91] Currently, there are only three support groups across Wales that exist specifically for young LGB people and no such group exists in Wales' capital city, Cardiff, which has a large gay scene. This lack of service provision makes it very difficult for young LGB people to access much needed advice and support services.

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[87] Hunt, R. & Jensen, J. (2007) *The School Report: the experience of young gay people in Britain's schools. Survey hosted and results collated by the Schools Health Education Unit.* Stonewall Cymru.

[88] See 87 above 14 year old boy from Wales survey response.

[89] WAG. (2003) www.wales.gov.uk

[90] WAG. (2006) *Evaluation of Anti-Bullying Policies in Schools in Wales.*

[91] Stonewall Cymru. (2003) *Counted Out.*

Housing needs

Research exploring LGB housing needs, revealed that homophobia was a significant cause of housing problems, where it manifested within the home, particularly in the form of rejection from family members, being forced out of the family home, ostracized by family members or being physically attacked by a family member.[92] This was shown to have particular implications for young LGB people who were dependent on their parents/carers for housing as well as financial, material and emotional support. Housing providers need to audit their services to ensure they are responsive to the specific needs of young LGB people.

Key recommendations

The UN Committee on the Rights of the Child should:

- Use 'Lesbian, Gay and Bisexual' or the acronym 'LGB' rather than the umbrella term 'homosexual.' The term 'homosexual' is considered by some members of the LGB community to be a derogatory and offensive term. It was used, historically, when same-sex attraction and relationships were construed as a mental illness. When referring to sexual attraction between people of the same-sex (or opposite sex) the Committee should use 'sexual orientation.'
- Consider using the term 'transgender' as an umbrella term for transsexuals, transvestites and cross-dressers. 'Transsexual' is an older, more medical term for a person who feels a consistent and overwhelming desire to fulfill their life as a member of the opposite sex.

The Welsh Assembly Government working with key statutory partners should:

- Allocate sufficient resources to increase the number of support groups required to counsel those people 'coming out' as LGB, responsive to their life stage.
- Increase support for the implementation of anti-bullying strategies in Wales' schools and colleges, including roll out of Stonewall training materials.
- Include LGB issues in the Personal and Social Education framework in the National Curriculum, and monitor implementation in schools across Wales.
- Ensure that school counsellors and teachers are trained in understanding LGB issues, and are confident to discuss sexual identity and relationships and tackle homophobic bullying.
- Ensure there is mandatory equality training for school governors in Wales, prior to taking up duties and the extension of the duties placed upon School Governors in Wales to promote gender and race equality to include promoting LGB equality.

[92] Stonewall Cymru & Triangle Housing. (2006) *The Housing Needs of Lesbian, Gay and Bisexual (LGB) people in Wales.*

Disabled children

Area of concern not addressed by Concluding Observations 2002: Disabled Children Article 23.

Welsh Assembly Government responsibility

The Concluding Observations of 2002 did not make reference to the rights of disabled children, a negligent omission as it is clear in Wales that we have a long way to go to meet the requirements of UK legislation and international treaties.

National policies and programmes

THE CHILDREN FIRST PROGRAMME

The Children First Programme has put a focus on disabled children and led to the establishment of more children with disability teams in local authorities. However, Children in Wales members report that there continues to be considerable variations in the availability and quality of services. In some areas the experience of service users shows little of the progress aimed for, with disabled children and young people continuing to experience difficulties in accessing play and leisure, short breaks, and support in their own home. In 2003, the Audit Commission reported that: *"The services that disabled children, young people and their families are offered depend largely on where they live, and on how hard parents are able to push"*.[93]

THE NATIONAL SERVICES FRAMEWORK FOR CHILDREN AND YOUNG PEOPLE AND MATERNITY SERVICES IN WALES (NSF)

The Welsh Assembly Government launched the *NSF* in 2005. This framework identifies a set of standards for disabled children and young people's services and a range of key actions to be achieved. *My Orange Book*, a hand-held record for disabled children with complex needs accompanies the *NSF*. However almost two years after the launch of the *NSF,* and with no additional funding many children and young people and their families, and professionals are disappointed and frustrated by the lack of progress and lack of information available in the public domain. Professionals are also concerned that as the prioritised or 'flagged' actions were only set for the first year of a ten-year programme, progress on the non-flagged actions would not be reported on until the end of the programme. It is clear that the *NSF* needs to be reviewed, and financially supported to ensure effective implementation.

Under developed services and policy guidance

While there has been a range of policies and guidance issued that impacts on disabled children and young people, such as guidance on *Inclusion and Pupil Support* and the *Strategic Action Plan for Children and Adults with Autistic Spectrum Disorder,* implementation is uneven and there are also areas where services are under developed and/or not directed by policy guidance.

CHILD DEVELOPMENT SERVICES

Agencies do not have a statutory duty to provide child development services for pre-school disabled children, so the availability of these essential services varies enormously. For children with emotional or behavioural difficulties and a learning disability, there are significant gaps in service provision.

[93] Audit Commission Public Sector Briefing. *Services for disabled children. A review of services for disabled children and their families*. Audit Commission p2.

CHILD HEALTH SERVICES

Areas of health service provision are not met in some cases because of inadequate resourcing of services; e.g. therapy services in particular speech and language therapy (which has serious implications for language-disordered children with special needs) and tertiary services for children with autism.

CHILDREN'S MENTAL HEALTH SERVICES

Disabled children experience a serious lack of access to CAMHS. There are no specialist CAMHS for children with learning disability in most areas of Wales and their needs are not met by routine secondary services.

EDUCATION, TRAINING, AND EMPLOYMENT

Disabled young people are not being well supported through post-16 education, with limited choices in terms of post-16 training or employment opportunities, and additional challenges in accessing support to pursue these options.[94]

TRANSITION SERVICES

There are challenges in the delivery of transition planning from the age of 14, transition to further and higher education and transition to employment. In all these aspects of transition, services are not meeting the needs of many disabled children and young people, who are not having the same opportunities and choices as non-disabled young people.[95]

Disabled children's participation in services

Disabled children and young people want to be involved in making decisions about services and issues that affect them. There are examples of good practice but this is not a consistent picture across Wales, with very little evidence of disabled children and young people being involved in shaping services. A report from disabled children and young people states:

> *"Disabled children and young people should be involved in helping to make services better. We should be asked about what we would like to see happen to us. Our views should be taken into consideration. Meetings should be set up with a group of disabled young people to attend regularly".* [96]

Bullying

In a 2005 consultation, disabled children and young people reported differing levels of confidence that schools and other settings would deal effectively with bullying. Many disabled children and young people felt that they would not be listened to or supported and felt that they would not report bullying for fear of worsening the situation.[97] It is clear that bullying is a very significant issue for disabled children, causing both distress and frustration for those involved.

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[94] NAfW. Equalities of Opportunity Committee. (2007) *Service provision for disabled young people. "Why is it that disabled young people are always left until last?"*

[95] NAfW. Education and Life Long Learning Committee. (2007) *Policy Review of Additional Educational Needs. Part 3: Transition.*

[96] Turner, C. (2003) *Are you listening? What disabled children and young people in Wales think about the services they use.* WAG p28

[97] Young Disabled Persons network. June 2005. Consultation with Children and Young people.

Key recommendations

The Welsh Assembly Government working with key statutory partners should:

- Review progress on the *NSF* and provide incremental milestones and allocate a budget to implement the standards for disabled children.
- Develop a process of gathering statistical data pertinent to disabled children and young people, particularly in relation to safeguarding, school exclusions, protection and care.
- Develop services to ensure that disabled children and young people are supported to be able to participate in a range of opportunities in their communities, and in play and leisure provision.
- Implement the recommendations of the National Assembly for Wales' Education and Lifelong Learning Committee to improve transition services for disabled children and young people.
- Monitor local partnerships against minimum set standards to improve the support to families through increased home support and short breaks services, particularly for the children in most need.
- Develop a system to monitor the provision of services against assessed need to ensure that every disabled child has the appropriate equipment to enable them to participate in education, training, play and leisure.
- Give disabled children a statutory right to child development services from birth (or time of diagnosis).

Child poverty

Though levels of child poverty have fallen in Wales since 2002, recent figures indicate that the encouraging progress made by Government has begun to lose momentum with 28% of children in Wales remaining in poverty.[98] Children most at risk of poverty include children of asylum seekers and migrant workers, disabled parents, single parents and large families, and children living in some Black Minority Ethnic groups.[99] Economists have indicated that an additional £4bn annual investment is required if the UK wide joint government pledge to halve child poverty by 2010 is to be realised with further substantial investment required to meet the eradication target of 2020.[100] The UK remains one of the richest countries in the world; the UK and Welsh Assembly Governments must be transparent in demonstrating that they are using the 'maximum extent of available resources' to tackle the scourge of child poverty in Wales. In a first world and developed country it is a disgrace that such a high percentage of the child population are living in poverty. The UK and Welsh Assembly Government should act with urgency to address the fundamental right of all children to live a life free from poverty.

CRC/C/15/Add.188 para. 44 a: Undertake all necessary measures to the 'maximum extent of available resources' to accelerate the elimination of child poverty.

Welsh Assembly Government responsibility

UK Government responsibility

[98] Department for Work and Pensions. (2007) *Households Below Average Income 2003-04 to 2005-06*. London. DWP.
[99] Preston, G. (ed) (2005) *At Greatest Risk*. London. CPAG.
[100] Hirsh, D. (2006) *What will it take to end Child Poverty? Firing on all Cylinders*. York. JRF.

Child poverty has moved significantly up the political agenda in Wales since 2002 with the Welsh Assembly Government introducing its own child poverty strategy and action plan, which sets out milestones and targets in respect of health, education, housing, and income.[101] There is an Assembly Government commitment to 'child poverty proof' all initiatives, strengthen programme bending to improve mainstream services in disadvantaged areas and introduce more income maximisation and debt minimisation programmes.

However, the benefit and tax system are non-devolved issues and while increased investment in child benefit and child tax credit, combined with an increase in employment, has contributed to the decline in children living in poverty in Wales much more needs to be done in terms of income transfers and support for vulnerable parents, to eliminate what the Prime Minister of the UK has called the *"scar on the nations' soul"* [102] and re-invigorate, the now stalled, progress.

Key issues of concern

Of particular concern is the high proportion of children living in severe poverty in Wales. A recent report highlighted that over 13% of children in Wales are living in households with less than 50% median income combined with material deprivation, compared to 6.9% in the South East of England.[103] Families living in severe poverty have to try and make ends meet on an average of £7000 per year after housing costs (for a couple with one child) to cover electricity and gas, phones, other bills, food, clothes, washing, transport and health needs, not to mention furnishings, activities for children and all other essential items.

Social mobility is now in decline, inequality between rich and poor in ascendancy and a sharp increase is witnessed in the proportion of working households in poverty, largely attributed to the low wages in Wales. There remain large inequalities in health, particularly for children in deprived areas and in educational attainment, where the 'narrowing of the gap' between poor children and their peers has stalled.

There is also concern that children and young people clearly understand the stigma and shame that living in poverty brings and acutely feel the lack of respect their 'different-ness' evokes in some of their peers and some of the adults around them.[104]

Government priorities focus on areas of high density of deprivation, which inevitably excludes a significant number of children from targeted support services living in other urban and isolated rural communities, characterised by reduced training, employment and play/leisure opportunities and poor transport infrastructure.

In respect of housing, Wales is now the least affordable region outside London and Southern England and there is a shortfall in the number of homes.[105] Over 35,000 children are living in poor housing with 43,000 residing in overcrowded conditions. £3bn is required to improve the present social housing stock alone and there are around 300,000 households experiencing fuel poverty, more than double the levels in 2004.[106]

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[101] WAG. (2005) *A Fairer Future for our Children.* WAG. (2006) *Child Poverty Implementation Plan.*
[102] Gordon Brown's speech 30 September 2002.
[103] Save the Children (2007) *Living Below the Radar.*
[104] Crowley, A. and Vulliamy, C. (2003) *Listen Up! Children talk about Poverty.* Save the Children.
[105] Shelter Cymru. (2006) *Building Future Wales: A New People and Homes Programme for Wales.*
[106] Kearton, L. (2006) *Debt and Utility Bills.* Cardiff. Welsh Consumer Council.

CRC/C/15/Add.188 para. 44 b: Better coordinate and reinforce its efforts to address the causes of youth homelessness and its consequences.

Welsh Assembly Government responsibility

Homelessness

The true extent of youth homelessness in Wales is notoriously difficult to measure. Official figures include only those presenting and accepted as homelessness with the real figure believed to be twice as high, with a significant number securing temporary informal arrangements.

The Welsh Assembly Government's *National Homelessness Strategy and Action Plan* sets out a range of proposals, including the need to prioritise the prevention of homelessness rather than treat it as an isolated issue.[107] Specific funding for homelessness projects has been made available and both 16-17 year olds and care leavers (18-21) are now considered as being in priority need.[108]

Early intervention approaches in identifying young people as potentially vulnerable to homelessness rarely take place and where they do, they are often un-coordinated and delivered in a fragmented way despite many young people already having come to the attention of other local authority departments or outside agencies.[109] Due to patchy mediation services, lack of suitable, affordable and supported housing options, concern remains over the inappropriate use of private rented sector accommodation. This compounded by the restricted housing benefit levels (see below), leaves many young people, including care leavers, finding themselves in a 'cycle of homelessness', unable to cope financially and with unsupported living.

CRC/C/15/Add.188 para. 44 c: Review its legislation and policies concerning benefits and social security allowances for 16 to 18 year olds.

UK Government responsibility

Benefits and social security for young people

The current benefit system still fails to protect vulnerable young people who cannot rely on their families for financial support. The reduced rates of benefit entitlements for 16 and 17 year olds, including housing benefit, continue to have a major impact on young people. The discriminatory Single Room Rent Restriction means that single claimants under 25 (living in accommodation in the private sector) continue to qualify for lower levels of housing benefit than those over 25.

[107] WAG. (2005) *National Homelessness Strategy 2006-08.*
[108] The Homeless Persons (Priority Need)(Wales) order 2001.
[109] Social Justice & Regeneration Committee. (2007) *Youth Homelessness: Everybody's Business, No-one's Responsibility.* Cardiff. NAfW

Key recommendations

CHILD POVERTY

The Welsh Assembly Government working with key statutory partners should:

- Establish mechanisms to measure both severe and persistent poverty and target resources at those most in need.
- Child poverty proof all government policy (to be extended to local authorities and all public bodies).
- Give consideration to the transport, play and recreational needs of children living in rural communities and non-government targeted urban areas.
- Take steps to address the lack of affordable housing in Wales and improve the current housing stock.

The UK Government should:

- Urgently increase investment in respect of both in and out of work benefit levels. To hit its 2010 target to halve levels of child poverty, the UK Government needs to invest an additional £4 billion.

YOUTH HOMELESSNESS

The Welsh Assembly Government should:

- Increase investment in homelessness, support services and safe house provision, which need to be routinely available and easily accessible.
- Place a statutory duty on local authorities to provide early intervention and quality mediation services.

SOCIAL SECURITY ALLOWANCES FOR 16 AND 17 YEAR OLDS

The UK Government should:

- End the Single Room Rent restriction and ensure that young people have entitlement to a non-discriminatory benefit allowance.

Chapter Seven

Education, leisure and cultural activities

(Articles 28, 29 and 31)

Education

Important progress has been made but more remains to be done, particularly in implementing policy and tackling inequalities.[110] Investment in schools has increased and Assembly Government policies such as the *Learning Country: Vision into Action* includes a commitment to children's rights and offers an ambitious vision for Wales. This vision is being fleshed out through policy reform for early years, 14-19 years and programmes such as *Flying Start* and *RAISE* [111] targeted at disadvantaged children. Educational achievement of disadvantaged children has been improving, matched by a general increase in achievement. However, the trend of rising education attainment levelled off around 2000.[112] Moreover, research suggests children in Wales tend to enjoy school less and experience more bullying than children elsewhere in the industrialised world.[113]

CRC/C/15/Add.188 para. 46 a: Ensure that legislation throughout the State party reflects article 12 and respects children's rights to express their views and have them given due weight in all matters concerning their education, including school discipline.

Welsh Assembly Government responsibility

The Welsh Assembly Government has introduced a duty to establish school councils and to consult pupils on local education authorities and schools.[114] Estyn, the inspection body in Wales, report that, *"Many young people feel that they are listened to in schools."*[115] However, progress in strengthening advocacy for children in schools has been disappointing[116] and more work is needed to develop whole-school approaches, involving children in all aspects of school policy and practice and engaging groups such as children with special educational needs and gypsy/traveller children.[117] There is evidence of strong progress but more work is still needed to complete the move from consultation to genuine participation.

CRC/C/15/Add.188 para. 46 b: Take appropriate measures to reduce temporary or permanent exclusions; ensure that children throughout the State party have the right to be heard before exclusion and have the right to appeal against temporary and permanent exclusion, and ensure that children who are excluded do continue to have access to full time education.

Welsh Assembly Government responsibility

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[110] Winckler, V. (ed) (2006) *Setting the Agenda: Priorities for Public Policy in Wales 2007-2012*. Tredegar, The Bevan Foundation.
[111] *Raising Attainment & Individual Standards in Education in Wales*.
[112] Kenway, P. et al (2005) *Monitoring Poverty & Social Exclusion in Wales 2005*. York, JRF.
[113] UNICEF (2007) *Child Poverty in perspective: An overview of child well-being in rich countries*. Florence, UNICEF.
[114] School Councils (Wales) Regulations 2005. See also http://www.schoolcouncilswales.org.uk
[115] Estyn. (2006) *Young peoples' participation in decision-making*. Cardiff. p.3.
[116] Children's Commissioner for Wales. (2006) *Annual Review 2004-05*. Swansea.
[117] Estyn. (2007) *Participation of children and young people (3-11) in local decision making that affect their lives*. Cardiff.
Estyn. (2006) *Young peoples' participation in decision-making*. Cardiff.

The Welsh Assembly Government has launched a national attendance and behavior review and children aged 11 to 18 now have the right to appeal against exclusion from school. However, since 2003/04, only small numbers (between 5 –7 a year) have been reinstated upon appeal[118] and reported rates of permanent exclusions remain high (451 for 2005/06), and similar to rates for the previous period (437 for 2004/05). The quality of alternative provision is often poor and a significant minority (36 for 2005/06) are recorded as receiving 'no provision'.

CRC/C/15/Add.188 para. 46 c: Undertake all necessary measures to remove the inequalities in educational achievement and in exclusion rates between children from different groups and to guarantee all children an appropriate quality education.

Welsh Assembly Government responsibility

Overall progress has appeared to have slowed but a number of promising initiatives have recently been introduced. The Assembly Government has focused upon early intervention to improve outcomes for children in disadvantaged areas, reformed schools and the curriculum and recently announced a major new programme, RAISE, to improve educational standards for disadvantaged children. Action is critical because despite significant improvements in educational attainment, on average, children from poorer families have much lower attainment than children from richer families.[119] Too many children leave school with few or no qualifications, and poor literacy and numeracy (one-third fail to reach the expected standard of 5 or more GCSEs grade A*-C or NVQ Level 2), stunting their life chances.

Strategies to increase educational achievement need to not only focus upon improving schools, but also engage children's families, other statutory services and children themselves, to strengthen children's personal capabilities, such as literacy, numeracy and social and emotional skills, and their consequent capacity to enjoy and achieve in school.[120] Because the skills and behaviour of children in the UK from poorer families begin to fall behind those of children from richer families from as early as three years of age, early intervention is vital.[121] Parents and carers are central to this. Engagement and support for parents and carers is acknowledged as essential in reducing educational inequalities and the Assembly Government has launched a Parenting Action Plan but more needs to be done. This is an area of concern not addressed in the Concluding Observations of 2002 and there is a need for increased programmes and resources to support parents.

The educational attainment of some groups of children including working class White boys[122] and children from some minority ethnic groups, such as Gypsy/Roma and Black and Asian ethnic backgrounds, are significantly below average.[123]

[118] NAFW. (2007) *Exclusions From Schools In Wales, 2005/06.* Statistical release. Cardiff.
[119] Kenway, P., Parsons, N., Carr. J. & Palmer, G. (2005) *Monitoring Poverty And Social Exclusion in Wales 2005.* York, JRF.
[120] Holtom. (2006) *Beyond the School Gate: Education Scoping Paper.* People and Work Unit and Save the Children.
[121] Sutton, C., Utting, D. & Farrington, D. (Eds) (2004) *Support from the start: Working with young children and their families to reduce the risks of crime and antisocial behaviour.* London, Department for Education and Skills.
[122] NAFW. (2007) *Examination and Assessment Achievement: Gender Analysis 2006.* Statistical release.
[123] NAFW. (2006) *Academic Achievement and Ethnic Background 2005.* Statistical release.

CRC/C/15/Add.188 para. 46 d: Ensure that children in detention have equal statutory right to education and improve education in care.

Welsh Assembly Government responsibility

CHILDREN IN DETENTION

The All Wales youth offending strategy requires that children entering detention be afforded the same rights as other children in Wales. At present, although many children make good progress whilst in detention, educational provision by young offender institutions has failed to meet the requirements of the national curriculum for Wales and the quality of provision has been mixed. Children's progress often stalls when they return to the community. Many children lack effective support and most local education authorities are failing to meet their statutory duty to provide 25 hours of supervised education a week.[124]

CHILDREN IN CARE

Local authorities are required to appoint educational coordinators for children in care and additional money has been made available as part of RAISE. Nevertheless, despite recent improvements, the average educational attainment of children in care continues to lag far behind that of other children.[125] Estyn has highlighted continuing weaknesses in joining up the response of different agencies and managing children's transitions between schools, when they move from one placement to another.[126]

CRC/C/15/Add.188 para. 46 e: Take measures and adequate mechanisms and structures to prevent bullying and other forms of violence in schools and include children in the development and implementation of these strategies.

Welsh Assembly Government responsibility

An anti bullying strategy is in place, but the Children's Commissioner for Wales reports that large numbers of children identify bullying as their most pressing concern. Twenty-nine percent of young people in Wales reported being bullied in the previous 2 months[127] and a recent study in the South Wales valleys suggests young people experienced significant levels of violence within school.[128] Racism, racist and homophobic bullying are a particular cause for concern.[129]

[124] Estyn. (2005) *The quality of the education and training provided for Welsh young people in the youth justice system.*
[125] SSIW & Estyn. (2001) *Educational Provision for Looked After Children.*
[126] Estyn. (2003) *The Effectiveness of Arrangements for Implementing Personal Education Plans for Looked-after Children (Key Stages 1-3).*
[127] UNICEF. (2007) *Child Poverty in perspective: An overview of child well-being in rich countries.*
[128] Lloyd-Jones, S. (2005) *A Map of Transition In The South Wales Valleys.* (PhD. Thesis) University of Wales Cardiff.
[129] Save the Children. (2005) *Uncertain Futures: Children Seeking Asylum in Wales.* WAG (2005) Review of Respecting Others: Ant-Bullying Guidance.

CRC/C/15/Add.188 para. 46 f: Include the Convention and human rights education in the curricula in all primary and secondary schools and teacher's training.

Welsh Assembly Government responsibility

The proposed Framework for Personal and Social Education (PSE) for 7-19 years includes consideration of rights underpinned by the UNCRC.[130] The framework responds to the Clywch report's recommendations on children's rights and child protection considerations.[131] However, rights are not fully integrated across the curriculum or in initial teacher training and implementation of the PSE Framework itself has often been weak.

CRC/C/15/Add.188 para. 46 g: Increase budget allocation to education.

Welsh Assembly Government responsibility

Education expenditure has continued to increase significantly[132] and the RAISE initiative targets additional funding on schools with a high proportion of pupils from disadvantaged areas. However, there has been a failure to effectively integrate investment by the Education department with that of other departments, such as Social Justice.[133]

CRC/C/15/Add.188 para.46 h: Develop educational programmes for teenage mothers to facilitate and encourage their further education.

Welsh Assembly Government responsibility

There is a statutory duty to support teenage parents and guidance states pregnancy should never be a reason for exclusion from education. Nevertheless, teenage parents still sometimes exit from education because they do not have sufficient support.[134] Although most local education authorities offer alternative education, provision is often limited, making it difficult for teenage mothers to reintegrate into mainstream education.[135]

Key recommendations

The Welsh Assembly Government working with key statutory partners should:

GENERAL

- Deliver its ambitious vision of increased achievement and reduced inequalities in education for all children in Wales.
- Strengthen early intervention, with a focus upon enhancing support for parents and integrating multi-agency responses within local education authorities and schools.
- Focus on improving standards, support and delivery targeted at those most disadvantaged and underachieving in school.

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[130] WAG. (2007) Personal and Social education Framework for 7-19 year-olds in Wales p.13.
[131] Children's Commissioner for Wales. (2004) *Clywch Report of the Examination of the Children's Commissioner for Wales into allegations of child sexual abuse in a school setting.*
[132] IWA. (2001) *The Economy Takes Centre Stage Monitoring the National Assembly for Wales December 2000 to March 2001.*
[133] Cf. WAG. (2006) *Interim Evaluation of Communities First.*
[134] End Child Poverty Network Cymru. (2006) *Tackling Child Poverty in Wales: A good practice guide for schools.*
[135] Estyn. (2004) *LEA Provision for Pregnant Teenagers and Young Parents.*

- Hold local education authorities and schools to account on delivering reduced inequality in education across Wales.
- Continue the strong level of investment, ensure that additional funding is targeted on reducing educational inequalities and is integrated with that of other departments.

CHILDREN'S RIGHTS

- Continue to promote participation in schools with strong emphasis on excluded groups and expand participation to areas such as recruitment of teachers, curricula, school performance and inspections.

EXCLUSIONS

- Require local education authorities to take all necessary measures to minimise both formal and informal exclusions, and ensure that the quality of provision for excluded pupils is equal to mainstream education.

INEQUALITIES

- Require local education authorities and schools to continue to focus on early intervention and holistic responses.
- Ensure the effective implementation of recommendations to increase educational achievement in *Learning Country: Vision into Action, Narrowing the Gap* and the *Child Poverty Strategy* through scrutiny and monitoring of LEA and school performance for disadvantaged pupils.

DETENTION AND EDUCATION IN CARE

- Ensure the effective implementation of the *All Wales Youth Offending Strategy* and the realisation of equal rights to education in detention and continued support on return to the local community.
- Strengthen the support for looked after children and hold local authorities to account for educational provision for looked after children.

BULLYING

- Take all necessary measures to ensure local education authorities and schools implement effectively anti-bullying policies within schools.
- Survey children's experiences of bullying in Wales annually.

CURRICULA

- Take measures to ensure effective delivery of the PSE Framework within schools.
- Develop and embed the principles of the UNCRC across the curriculum and in initial teacher training programmes.

TEENAGE MOTHERS

- Strengthen the support for local authorities to improve provision for parents and hold local authorities to account to deliver quality provision.

Play

Area of concern not addressed by Concluding Observations 2002: Children's right to play (article 31).

Welsh Assembly Government responsibility

The Welsh Assembly Government rightfully flags up progress that it has made in meeting its commitment under Article 31, and within the UK context must be regarded as strides ahead in both its commitment as articulated in its policy and also the actions it has taken to deliver.

National play policy

The significance of the adoption of a *National Play Policy*[136] that recognizes the impact of modern society on children's lives as having restricted their opportunity to play freely, and that has resulted in a poverty of play opportunities in the general environment; should not be understated. The national policy comprises a statement as to how the Welsh Assembly Government defines play; the importance it places on play in children's lives; and its commitment to develop a strategy that turns the aspirations of the policy into a reality for children.

Play policy implementation plan

The development of the *Play Policy Implementation Plan*[137] is contextually appropriate for Wales at the time of writing, and many of the targets the Assembly Government has set itself will underpin long-term change in provision for children's play.

The Welsh Assembly Government has set itself a timetable to deliver on the strategy targets, and there appears to be a genuine commitment to deliver. However, the Assembly Government must commit itself to maintaining a momentum to deliver on its targets and in due course commission a five-year review of the strategy to ensure it continues to reflect the developing strategic context.

Statutory duty on local authorities

The Assembly Government's Play Policy Implementation Group recommended that the Welsh Assembly Government should place a statutory duty upon local authorities to provide for children's play needs to meet national minimum standards. Whilst the Children Act 2004, included a specific duty for children and young people's partnerships to co-operate in addressing the play needs of children and young people, this does not go far enough. The resistance demonstrated by the UK Government in including any reference to play in the Children Act 2004 evidences the widening policy gap across the four nations of the UK.

Children's time and space for their play continues to be eroded. This has been recognized by the Welsh Assembly Government, however until there is legislation that places a duty on local authorities to protect and provide for children's play to a minimum standard this erosion will continue.

[136] WAG. (2002) *National Play Policy.*
[137] WAG. (2006) *Play Policy Implementation Plan.*

Sustainable infra-structural development and allocation of resources

The Children's Play BIG Lottery funding programme will see considerable development of the voluntary sector infrastructure to support the strategic delivery of play provision at a local level, however this is only short term funding. The Welsh Assembly Government should require local authorities to commit to sustaining this infra-structural development.

The Assembly Government should continue to promote the transformation of those areas of school grounds not dedicated to sports activities, by landscaping and planting, to create compensatory natural spaces that provide children with a rich play environment that may be used within the school day and by the wider community outside the taught day. This initiative should be widened to include support for the protection and development of sufficient playable spaces in every community in Wales to meet all children's play needs.

The Assembly Government should be commended for the measures it has taken to deliver its commitment to children's play, including its support for a national organisation for play, Play Wales. However insufficient resources are committed to monitoring and evaluating the impact of its wider initiatives and there is anecdotal evidence that some local authorities are choosing to disregard guidance in respect of the use of resources.

The development of a coherent public education programme and publicity campaign to ensure that the developmental play needs of children are recognised for their critical importance to society and its future, might go some way to addressing this local authority response which appears to be predicated upon a lack of understanding.

The direct allocation of Welsh Assembly Government resources into children's play whilst considerably higher than the UK Government, when viewed against the resources committed to sport and art, do not reflect the significance of play in children's and young people's healthy development and lifestyle. The *National Play Policy* has articulated the aspiration but the allocation of resources has yet to reflect the importance of play in children's healthy development, especially when set against the governmental concerns over rising childhood obesity and children's mental health.

Training

The development of a pre-professional degree proposed by the Furlong Report[138] offers a significant opportunity to embed knowledge of children's play into the wider children's workforce providing students who choose to continue into teaching with a broad understanding of the nature and importance of play. It could also contribute to the play workforce development strategy, Quality Training Quality Play[139] supporting the delivery of staffed play provision by a qualified workforce.

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[138] Furlong, J. (2006) *Review of Initial Teacher Training Provision in Wales: A report to the Welsh Assembly Government.* Oxford: University of Oxford Department of Educational Studies.

[139] SkillsActive: Quality Training Quality Play 2006 - 2011. *The first UK strategy for playwork education, training and qualifications.*

Key recommendations

The Welsh Assembly Government working with key statutory partners should:

- Commit itself to maintaining a momentum to deliver to its strategy targets and in due course commission a five-year review of the national play strategy.
- Place a statutory duty upon local authorities to protect and develop sufficient playable spaces in every community in Wales and to meet all children's play needs.
- Put in place a coherent public education programme to ensure that the developmental play needs of children are recognised for their critical importance to society and its future.
- Commission in-depth research:
  - A comparative analysis of respective access to playable spaces and take up of play opportunities for all children, including in particular, disabled children and BME children.
  - A longitudinal study into the benefits of providing children with wider opportunities for play.

Chapter Eight

Special protection measures

(Articles 22, 30, 32-36, 37 (b)-(d), 38, 39 and 40)

Refugee and asylum seeker children

CRC/C/15/Add.188 para. 48 a: Refrain as a matter of policy from detaining unaccompanied minors and ensure the right to speedily challenge the legality of the detention in compliance with article 37 of the Convention. In any case detention must always be a measure of last resort and for the shortest period of time.

UK Government responsibility

The detention of asylum seeker children for immigration purposes continues to be UK Government policy. Although there are no detention facilities in Wales, children are removed from Wales and detained elsewhere in the UK. This will inevitably continue in order to meet the objectives of New Asylum Model (NAM) – a major restructuring of the asylum system which relies on increased detention to achieve its objectives. We welcome Welsh Assembly Government representation to Westminster on this issue.

CRC/C/15/Add.188 para. 48 b: Ensure that refugee and asylum seeker children have access to basic services, such as education and health and that there is no discrimination in benefit entitlements for asylum seeking families, which could affect children.

Welsh Assembly Government responsibility

Immigration and asylum are policy areas that are non-devolved, however provision of the majority of services that asylum seekers in Wales receive is the responsibility of the Welsh Assembly Government, local authorities and other public bodies. In 2007, the Welsh Assembly Government will launch its *Refugee Integration Strategy*. Its content and implementation as it relates to children and young people will be a key benchmark against which progress should be assessed. To date the Welsh Assembly Government has stated it has an 'aspirational commitment' to implementing article 22 of UNCRC, though to date the reality of improvements to frontline services for children and young people in Wales has yet to be delivered. A welcome progress is the Welsh Assembly Government funded refugee children's information post to ensure frontline professionals are equipped to protect and support these children.

Education provision

Limited educational opportunities for post-16 education continue to be a concern. Young people are also denied the opportunity to access higher education due to being required to pay overseas student fees. UK Government policy in introducing the New Asylum Model will disrupt initial access to education.

Health provision

The recent removal of UK Government funding for initial health screening upon arrival is a major setback. In Wales, the lack of secure permanent funding streams for asylum seeker health presents a major obstacle to planning future provision. To ensure equity with 'citizen' children all arriving children should be given a health assessment; young children should receive appropriate age-related assessment; catch up medical examination/screening programme should be provided; catch up immunisation programme and language support should be provided. Frontline practitioners are reporting increasing evidence that children of failed asylum seekers are being denied access to healthcare in line with UK Government policy.

Mental health provision

Health professionals are concerned that the total absence of specialist mental health provision is a major barrier to implementation of UNCRC article 24 and article 26. Research[140] highlights the impact on children and young people of the uncertainty associated with waiting for a decision on an asylum claim and being anxious about forced return to countries of origin. Children's mental health can be impacted by previous trauma or witness to trauma; psychological issues of grief, loss and guilt; emotionally traumatised children from witnessing atrocities, fear, sadness, sleep disorders, behavioural problems, poor concentration and learning difficulties.[141]

Poverty

Asylum seeker families continue to receive 70% of the benefit rates given to non-asylum seeking claimants. This is a UK Government responsibility. Research has shown that both children living in families and separated children in Wales report the negative effects of living in poverty.[142] Financial destitution is increasingly being used as a UK Government tool at the end of the asylum process to force families to return e.g. Section 9 of the *Asylum and Immigration (Treatment of Claimants) Act 2004* provides for the withdrawal of asylum support from failed asylum seeking families whom the Secretary of State certifies have failed without reasonable excuse to take reasonable steps to leave the UK voluntarily, or to place themselves in a position in which they can do so.

CRC/C/15/Add.188 para. 48 c: Consider the appointment of guardians to unaccompanied asylum seekers and refugee children.

Welsh Assembly Government responsibility

UK Government responsibility

There has been no progress on this issue as separated children in Wales do not have a 'guardian' or even access to basic appropriate independent advocacy, UNCRC Article 12 and Article 3 are breached.

Guardianship

The provision of social services support and care for the majority of separated children is through sections of legislation that do not confer parental responsibility.[143] There are no mechanisms to ensure this disempowered and vulnerable group of children have their best interests promoted or have their wishes and feelings taken into account.

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[140] Save the Children. (2005) *Uncertain Futures – Children Seeking Asylum in Wales.*
[141] Ryan, A. (2005) *Asylum seeker children's health issues in Wales.* Cardiff. Unpublished.
[142] See no 140 above.
[143] Save the Children. (2004) *Briefing on Guardianship for Separated Children.*

Specialist advocacy

In 2005 the Home Office commissioned a UK-wide review of the provision of specialist advocacy. In 2007 the results are still unpublished. In the meantime some of the most vulnerable children in Wales have no access to a support system to protect their best interests. The Welsh Assembly Government is engaging with NGO partners to explore this deficit.

CRC/C/15/Add.188 para. 48 d: Take all necessary measures to prevent the dispersal of children who have settled in a particular area when they reach 18.

UK Government responsibility

Separated children accommodated by the local authority are not yet subject to dispersal. The UK Government Unaccompanied Asylum Seeker Children *(UASC)* reform proposals propose to disperse young people to specialist authorities and disperse them via the adult system at age 18.

CRC/C/15/Add.188 para. 48 e: Undertake efforts to expedite the procedure for asylum applications and to avoid the placements of children in temporary accommodation and rather accommodate them as 'children in need' under childcare legislation.

UK Government responsibility

The NAM is the latest in a series of UK Government procedures designed to speed up the asylum determination process with few safeguards for children's best interests. The NAM affects all asylum claimants including children and young people. Key impacts include a requirement for all separated children age 12 and over to undertake a substantive interview, faster processing of these claims by immigration staff with very limited training to deal with children and young people and a revision of the current discretionary leave policy to increase return of separated children to countries of origin. It is positive that the Home Office has now located an asylum-screening unit in Cardiff, avoiding lengthy journeys outside Wales.

CRC/C/15/Add.188 para. 48 f: Carry out a review of the availability and effectiveness of legal representation and other forms of independent advocacy to unaccompanied minors and other children in the immigration and asylum systems.

UK Government responsibility

No review has been undertaken. Due to changes in funding there remain significant concerns regarding availability and quality of legal advice in Wales. The current asylum determination system results in unaccompanied children receiving less favourable asylum status than adults. In light of the UK Government planned returns of separated children, young people's access to specialist legal advice is essential.

CRC/C/15/Add.188 para. 48 g: Address thoroughly the particular situation of children in the ongoing reforms of the immigration and asylum system to bring it in line with the principles and provisions of the Convention.

UK Government responsibility

There is an ever increasing gulf between the immigration system and legislation designed to protect children e.g. implications of the NAM.

UASC reform proposals do not adhere to the principles of the Convention. In particular proposals to use medical x-rays to determine age and the creation of a lower-tier level of care for asylum seeker children in comparison to citizen children in need of protection, in conjunction with the increased return of separated children to countries of origin.

The UK Government has repeatedly refused to remove its general reservation, stating, *"The UK ratified the UNCRC subject to a reservation which the government believes necessary to maintain effective immigration control. We have no plans to withdraw this reservation"*.[144]

Key recommendations

The Welsh Assembly Government working with key statutory partners should:

- Ensure asylum-seeker children and young people have access to all basic services specifically education, health and mental health.
- Fund specialist independent advocacy for separated children as a step towards establishing a system of guardianship for all separated children.

The UK Government should:

- Immediately remove the general reservation on the UNCRC.
- Commission an independent review of compliance of all immigration law and practice with UNCRC principles with specific reference to children's best interests.
- Immediately end the detention of asylum-seeking children.
- Introduce a system of guardianship for separated children.
- Immediately withdraw UK Government UASC reform proposals.

[144] Baroness Scotland of Astha. Response to a Parliamentary Question, 28th October 2004.

Roma, Irish and Gypsy Travellers

CRC/C/15/Add.188 para. 49: Discrimination against children belonging to the Irish and Roma travellers is reflected by the higher rate of mortality, segregated education, the conditions of accommodation, racial attitudes. There exists a gap between policies and effective delivery of services.

Welsh Assembly Government responsibility

Roma, Irish and Gypsy Travellers continue to have the poorest life chances of any ethnic group in the UK. Life expectancy for men and women is ten years lower than the national average; Roma, Irish and Gypsy Traveller mothers are 20 times more likely than mothers in the rest of the population to have experienced the death of a child; and Gypsy and Traveller children have the lowest attainment levels of all minority ethnic groups in the UK.[145]

There has been some progress at the level of national policy. The Welsh Assembly Government has made some important and far-reaching commitments (see below) and there are examples of good practice across Wales. However, too many local authorities and public bodies continue to fall short of their obligations, with Roma, Irish and Gypsy Traveller children reporting incidences of bullying, unfair treatment, inequity and discrimination, at community and institutional levels.

Infant mortality

Infant mortality rates for Gypsy Traveller populations are much higher than for the settled populations. Research shows that 17.6% of Gypsy and Traveller women suffered the loss of a child compared to only 0.9% of the comparison group of socio-economically disadvantaged women.[146] The Health Assert Programme Wales (2005) research identified poverty, site evictions during pregnancy, lack of access to antenatal and postnatal care and environmental conditions as causal factors. Culture specific, tradition and religion are also reasons that women are failing to access relevant family planning and gynaecological services.

Education

The Welsh Assembly Government pledged to revise the guidance for meeting the education needs of Travellers by the end of 2003. Nearly four years on, revised guidance has still not been issued. Continuing delays are hindering progress on a number of the review's recommendations.

Save the Children's 2006 report echoes Estyn's 2005 report,[147] which found that secondary education provision for Gypsy Traveller children is patchy. Many schools and local authorities do not have policies in place and lack awareness of good practice to address the specific needs of Gypsy Traveller learners. Often little is done to adapt the curriculum and few schools have identified opportunities within the curriculum to promote the positive aspects of Gypsy Traveller culture. The relevance of the curriculum to the needs, aspirations and motivations of these children are key elements to address in successful transition for Gypsy Traveller children.

Models and approaches to actively engage, and importantly sustain, Gypsy and Traveller children in education must be further explored and strategies adequately resourced at delivery level, incorporating a choice of models within each local authority, appropriate to the individual learner.

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[145] Commission for Racial Equality. (2006) *Common Ground.*

[146] Maconochie, N., Doyle, P. & Prior, S. The National Women's Health Study; assembly and description of a population-based reproductive cohort. *BMC Public Health,* 4:35. 7 August 2004 (BioMed Central, 2004) based on 3512 miscarriages out of a total of 30661

[147] ESTYN. (2005) *The Education of Gypsy Traveller Learners: A Survey of Provision Made by Schools and Local Authorities to Meet the Needs of Gypsy Traveller Learners.* Save the Children (2006) *Scoping Exercise on Education of Gypsy Traveller Children and Young People.*

Accommodation

Historically, local authorities have blocked off many of the traditional sites resulting in Gypsy and Travellers stopping closer to the settled population, which is often a source of tension. Given the inadequate provision of council owned sites and difficulties in getting planning permission for private sites, roadside camping can be the only option although there are good examples of some local authorities providing facilities for roadside camps.

To inform policy development, the Welsh Assembly Government commissioned a report on the accommodation needs of Gypsy Travellers in Wales.[148] Following this report, the Assembly Government re-introduced the Gypsy Site Refurbishment Grant, allocating £1 million pounds per annum until 2010, to refurbish existing Gypsy Traveller sites. Despite the recommendations of the Welsh Assembly Government report, funding is not available to provide new sites or to facilitate the creation of transit sites.

Racial attitudes

Gypsy and Traveller children frequently face extreme racism making it harder for them to participate in education and leisure activities. The Commission for Racial Equality's report[149] evidences that relations between Roma, Irish and Gypsy Travellers and the general population are a particular cause for concern. Local authorities must commit themselves to effective engagement with Gypsy and Traveller communities, and develop a co-ordinated approach to meet their responsibilities under the *Race Relations Amendment Act, 2000.* This should impact on bullying and racism, which continues to be a part of children's everyday experience in schools.

In 2003, the Welsh Assembly Government issued guidance on tackling and preventing bullying in schools. There has been no action taken to review whether schools or local authorities are making specific reference to Gypsies and Travellers in their anti-bullying or anti-racism strategies. Issuing guidance has been insufficient and needs to be followed up with support, training and monitoring to ensure the guidance is complied with, coupled with an action plan which sets out key targets.

CRC/C/15/Add.188. para. 50: The Committee recommends that the State party devise a comprehensive and constructive plan of action for Gypsy Traveller children.

Welsh Assembly Government responsibility

Comprehensive and constructive plan of action

Though duty bearers still give insufficient priority to the rights of Gypsy and Traveller children in Wales, there has been some progress in developing a comprehensive and constructive national plan of action. The National Assembly for Wales undertook a comprehensive review of service provision for Gypsies and Travellers which was published in 2003.[150] As part of the review the National Assembly consulted with Gypsy and Traveller communities across Wales and received evidence from children and young people.[151]

[148] Niner, P. (2006) Centre for Urban and Regional Studies. *Accommodation needs of Gypsy Travellers in Wales.* WAG.
[149] Commission for Racial Equality. (2006) *Common Ground: Equality, Good Race Relations and Sites for Gypsies and Irish Travellers.* Report of a CRE inquiry in England and Wales.
[150] NAfW. (2003) *Review of Services for Gypsies and Travellers.*
[151] Crowley, A. (2002) *Will you Listen? Views of Gypsy Traveller Children.* Cardiff, Save the Children.

The Assembly Government accepted the review's 50 recommendations which focused on improving health, education and accommodation services and devised a constructive plan of action. Unfortunately, implementation was initially very slow but in a welcome development, to assist in moving forward on service improvement, in 2006 the Welsh Assembly Government established a dedicated, cross cutting Gypsy Traveller Unit.

Key recommendations

The Welsh Assembly Government working with local authorities and other key statutory partners should:

- Implement without delay all the recommendations of the National Assembly for Wales' Review of Services for Gypsies and Travellers.
- Provide support, training and monitoring to ensure schools and local authorities comply with anti-bullying guidance.
- Resource the delivery of models and approaches that can effectively engage and sustain, Gypsy and Traveller children and young people in education.
- Establish specialist support structures for involving young Gypsies and Travellers in policy and service development at a national and local level.
- Establish a national practitioners network, which can feed into national policy and service development.

The new Commission for Equality and Human Rights (CEHR) should:

- Scrutinise the actions of government (national and local) to challenge prejudice, and deliver quality, equitable services to Gypsies and Traveller children and their families.

Sexual exploitation and trafficking

CRC/C/15/Add.188 para. 56 a: Undertake a study of the scope, causes and background of child prostitution.

Welsh Assembly Government responsibility

The Wales Advisory Group on Child Sexual Exploitation was established in 2004 to promote a co-ordinated response to the needs of children and young people at risk of sexual exploitation. The children's charity Barnardo's Cymru carried out a scoping study on the nature and prevalence of child sexual exploitation in Wales on behalf of the Group in 2005.[152] The report identified 184 separate suspected cases of child sexual exploitation in Wales (which is almost certainly an underestimate). A small number of local authorities in Wales have commissioned studies into the scope and prevalence of local child sexual exploitation.[153] To date there has been no Assembly Government funded study of the scope, causes and background of child sexual exploitation across Wales.

[152] Coles, J. (2005) *Out of sight, out of mind: Child sexual exploitation.* Cardiff, Barnardo's Cymru

[153] See for example Clutton, S. & Coles, J. *Sexual Exploitation Risk Assessment Framework: a pilot study*. Cardiff, Barnardo's Cymru.

CRC/C/15/Add.188 para. 56 b:
Review legislation not to criminalise children who are sexually exploited.

UK Government responsibility

The legislation is the responsibility of the UK Government, which has not removed provisions to arrest and prosecute young people who are considered to *"persistently and voluntarily return to prostitution"* under the *Sexual Offences Act 2003.* Assembly Government should lobby the UK Government to remove this provision in recognition of the fact that children and young people who are sexually exploited are the victims of abuse.

CRC/C/15/Add.188 para. 56 c: Continue to implement polices and programmes in accordance with the Declaration and Agenda for Action, and the global Commitment adopted in the 1996 and 2001 World Congress against Commercial Sexual Exploitation of Children.

Welsh Assembly Government responsibility

In response to the 2005 scoping study[154] the Assembly Government commissioned a national review of local authority protocols for child sexual exploitation in Wales and the development of guidance on responding to child sexual exploitation.[155] [156] The review identified a general lack of awareness about risk indicators, the content of local protocols and of associated procedures for responding to child sexual exploitation across agencies. There were some examples of consistent multi-agency working in response to child sexual exploitation but these were very limited. Child sexual exploitation is not being monitored in Wales. The Assembly Government review of local protocols and procedures for responding to child sexual exploitation identified a number of issues that must be urgently addressed. The new *All Wales Child Protection Procedures* include content in relation to child sexual exploitation and reference to new Assembly Government guidance that may go some way towards addressing these issues.

Child sexual exploitation is still not universally recognised as a child protection issue and children and young people who are sexually exploited are not clearly identified as the victims of abuse. Evidence from research in relation to the vulnerabilities and risk indicators associated with sexual exploitation is now well established.[157] The nature of these indicators means that children and young people at risk of sexual exploitation are more likely to come to the attention of statutory services and that looked after children are at greater risk than their peers.[158] However evidence of good practice in identifying and responding to child sexual exploitation in Wales is currently limited.[159]

In 2003 it was estimated that 70 separated asylum-seeking children were being looked after in Wales.[160] Trafficking is a particularly hidden form of child sexual exploitation and the scoping study carried out in 2005 identified only one case of trafficking. Although trafficking is a non-devolved area the Assembly Government should take action to identify and respond to the needs of trafficked children who are resident in Wales.

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[154] See 152 above.
[155] Guidance being produced by Coles, J. Barnardo's Cymru and to be considered by Assembly Government.
[156] Clutton, S. & Coles, J. (2007) *Child Sexual Exploitation: a review of local protocols and procedures in Wales.*
[157] Scott, S. (2001) *Barnardo's Phase Project: a case study evaluation.* Liverpool, University of Liverpool; Scott, S. & Skidmore, P. (2006) *Reducing the risk: Barnardo's support for sexually exploited young people: A two-year evaluation.* Barkingside, Barnardo's.
[158] Cusick, L. (2002) *Youth prostitution: a literature review. Child Abuse Review:* 11: pp 230-251
[159] See 152 above.
[160] Thomas, S. (2006) 'Special protection: Asylum' *In:* Croke, R. & Crowley, A. (eds) *Righting the wrongs: the reality of children's rights in Wales.* Cardiff, Save the Children.

CRC/C/15/Add.188 para. 56 d: Ensure that adequate resources (human and financial) are allocated to policies and programmes in this area.

Welsh Assembly Government responsibility

Assembly Government has funded a review into the implementation of local protocols for child sexual exploitation and has commissioned the production of up to date guidance on this issue.[161] However no Assembly Government resources have been identified to develop policies and programmes in this area.

A number of individual local authorities and their partners across Wales have commissioned child sexual exploitation risk assessments, risk awareness workshops, training, practice development and specialist services.[162] However there are no specific resources available to deliver this work and there are numerous cases where there is evidence that a young person is being sexually exploited and no resources are available to respond appropriately. A lack of resources means that children and young people are not being adequately protected from this form of abuse. This position is acute in relation to responses to young people aged 16 to 18 years.

Key recommendations

The Welsh Assembly Government should:

- Provide ring fenced funding to protect and respond to the needs of children and young people up to the age of 18 years who are at risk of or who are abused through child sexual exploitation.
- Advise local authorities that the use of secure accommodation is an inappropriate and ineffective response to child sexual exploitation.[163]
- Develop appropriate mechanisms and ensure high quality training of professionals for the identification of trafficked children and provide specific support services for trafficked children who are the victims of child sexual exploitation. [164]
- Ensure adequate data collection so we can develop a true picture of the extent of child trafficking in Wales.

The UK Government should:

- Remove provisions to arrest and prosecute young people who are considered to *"persistently and voluntarily return to prostitution"* under the *Sexual Offences Act 2003*.
- Fully resource the UK Government anti-trafficking action plan and ensure that all trafficked children are protected in line with international human rights standards.

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[161] Barnardo's Cymru have been commissioned to produce guidance and this has been included in the All Wales Child Protection procedures. In addition the guidance will be issued to local authorities across Wales once approved.

[162] See Clutton, S. & Coles, J. *Sexual Exploitation Risk Assessment Framework: a pilot study.* Cardiff, Barnardo's Cymru Barnardo's Cymru has established a specialist service for children and young people abused through sexual exploitation in Wales.

[163] Hibbert, P. (2005) *Appropriate support for sexually exploited young people. A Barnardo's briefing for professionals.* Barkingside, Barnardo's.

[164] ECPAT UK. (2006) *Response to 'Tackling Human Trafficking : Consultation on proposals for a UK Action Plan'.* Written submission 5th April 2006.

Juvenile justice

CRC/C/15/Add.188 para. 58 a: Establish a juvenile justice system that fully complies with the provisions and principles of the Convention and other international standards.

UK Government responsibility

UK Government compliance with the UNCRC has worsened since 2002. The Welsh Assembly Government does not have devolved responsibility for juvenile justice in Wales and as a result it is not able to develop a distinct system that is sympathetic to children and young people or one that uses the Convention as a framework. However it published the *All Wales Youth Offending Strategy*[165] in July 2004, which lays the foundation for the direction of youth justice policy in Wales and cites the UN Convention as a founding principle. The Welsh Assembly Government is committed to the reduction and prevention of youth crime and anti social behaviour and as such has made £12.9 million available to the 22 community safety partnerships in Wales to develop local initiatives to achieve this.

CRC/C/15/Add.188 para. 58 b: Considerably raise the age of criminal responsibility.

UK Government responsibility

Since the last reporting round the UK Government has confirmed the age of criminal responsibility will not be raised[166] and therefore remains at ten years in England and Wales. This is despite children's charities, penal affairs groups and the Joint Committee on Human Rights making representations to the contrary. Additionally, youth offending teams have become increasingly involved with children under the age of ten, largely due to the prevention of offending agenda.

CRC/C/15/Add.188 para. 58:
c) Review new orders introduced by the Crime and Disorder Act 1998.
e) Ensure privacy is protected.

UK Government responsibility

Reprimands and warnings

The limitations on the use of pre-court diversion for young people continue to stand in tension with the Convention. There remain discrepancies between the juvenile and adult system, as the number of warnings that can be given to young people is restricted. There are currently UK Government proposals[167] to introduce conditional cautioning, which would establish an additional pre-court stage for young people aged 16 and 17 years only; however the number of pre-court disposals would still be limited and precluded if there is a conviction on record. Cases involving less serious and more minor offending can still proceed to court rather than be dealt with through more informal and restorative means[168] and there are also indications that rates of diversion vary significantly across England and Wales.[169]

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[165] Welsh Assembly Government & Youth Justice Board. (July 2004) *All Wales Youth Offending Strategy.* Cardiff, WAG.
[166] Home Office. (2004) *Youth Justice – the next steps: summary of responses and the Government's proposals.* London.
[167] *Rebalancing the criminal justice system in favour of the law-abiding majority.* http://www.crime-reduction.gov.uk/criminaljusticesystem19.htm
[168] Audit Commission. (2004) *Youth Justice* 2004.
[169] Nacro (2007) *Some facts about children and young people who offend* – 2006. Youth Crime Briefing Paper.

Anti-social behaviour

Anti social behaviour orders (ASBOs) are civil orders that apply to anyone from the age of ten, can be for a minimum duration of 2 years and contain conditions that are restrictive in nature. There continue to be tensions with the Convention with regard to their punitive nature generally the fact that a custodial sentence can ensue for (civil) breaches.[170] Additionally, there can be difficulty in understanding the prohibitions and the increased likelihood of breach if they are not understood. This can be acute for those with learning difficulties or mental health problems. This indicates an infringement of rights that undermine the best interest principles and breaches of a number of UNCRC articles.[171] With regard to privacy, the Anti-social Behaviour Act 2003 has allowed for publicity in more cases than was previously the case and the presumption towards media reporting continues.

There has been a steady increase in the use of ASBOs since their introduction. In Wales there was one on a young person in 2000 and by 2005 that had risen to 88; with just half the overall total being on young people aged 10 to 17 years.[172] This is however a smaller percentage than those imposed on the same age group in England. [173]

There appears to be a more consistent approach in Wales in ensuring there is a diversionary response when complaints about anti social behaviour are received with children and young people being given the opportunity to change their behaviour and being provided with help and assistance to do so. Youth offending teams will refer young people to panels/programmes that offer supportive interventions, when initial warnings have not proved to be successful in preventing anti social behaviour.[174] The Welsh Assembly Government are supportive of this approach and the House of Commons Welsh Affairs Select Committee has commented that the aim in Wales is to use ASBOs as a measure of last resort.

CRC/C/15/Add.188 para. 58 d: No child to be tried as an adult.

UK Government responsibility

Children are routinely brought before the adult magistrates' court when co-accused with an adult or when there is no youth court sitting and may be tried in the adult (crown) court, despite practice direction to the contrary.[175] The Criminal Justice Act 2003 has allowed for a greater number and less serious cases to be dealt with in the crown court. Proposals in the *Auld Report*[176] for a reconstituted youth court to deal with all child defendants have not been implemented and do not feature in current government proposals. There is therefore no further progress in this respect.

[170] Solanki, A., Bateman, T., Boswell, G. & Hill, E. (2006) *Anti social behaviour orders*. London, YJB.
[171] Scraton, P. (Winter 2005) 'Scant respect for children's rights.' *Safer Society.* No 27 pp 17-19.
[172] http://www.crimereduction.co.uk
[173] Based on estimates of population used for the population from the 2001 census.
[174] Nacro Cymru. (2007) *Prevent and Deter in Wales: A review.*
[175] Practice direction by the Lord Chief Justice of England and Wales. *Trial of children and young people in the crown court.* 16 February 2000.
[176] Auld, L. (2002) *Review of criminal courts in England and Wales.* London, TSO.

CRC/C/15/Add.188 para. 58 f: Detention to be used as a last resort.

UK Government responsibility

Children continue to be detained on remand and sentenced in greater numbers, at lower ages and for less serious offences than was the case prior to the last UK report to the Committee. In Wales in 2005/6 there were 295 remand episodes and 460 custodial sentences involving children and young people.[177] There are estimated to be 180 to 190 young people in custody from Wales at any one time.

The continued high use of custody remains a concern. The *Criminal Justice Act 2003* introduced new custodial sentences, which can result in mandatory custodial sentences for young people. The average length of detention is higher than it was 10 years ago and custodial establishments are more highly populated with those who have breached intensive supervision and surveillance programmes and ASBOs.

The use of prison custody has long been regarded as unsuitable for children and numerous organisations have called for its abolition.[178] The *All Wales Youth Offending Strategy* does not identify this as an objective, but indicates that effective community based options should be available as alternatives to custody.

CRC/C/15/Add.188 para. 58 g: Detained children to have access to advocacy services and complaints systems.

UK Government responsibility

All secure establishments now have to have in place procedures relating to advocacy and complaints. However it is not known how this is working in practice, for example whether young people feel they can make complaints, what the nature of the complaints are and how they are resolved. The Prisons and Probation Inspectorate do not provide figures regarding the number of complaints received from children in prison, so this is difficult to monitor and measure.

CRC/C/15/Add.188 para. 58 h: Review conditions of detention and aim to ensure that Welsh children and young people entering custodial facilities in England must be afforded the same rights as their English counterparts.

UK Government responsibility

The majority of children and young people in Wales who lose their liberty are held in England.[179] There is a local authority secure children's home in Neath, South Wales and Parc is a young offender institution in Bridgend, South Wales. There is no provision in North Wales or specifically for females across Wales.

[177] Youth Justice Board statistics 2005/6. http://www.yjb.gov.uk/en- gb/practitioners/MonitoringPerformance/AnnualStatistics/

[178] Hibbert, P., Monaghan, G and Moore, S. (2003) *Children in Trouble: Time for Change*. London. Barnardo's.

[179] Youth Justice Board (2005) *Strategy for the Secure Estate for Children and Young People*.

The Welsh Assembly Government has been working with the Youth Justice Board to review the custodial options for young people from Wales. The All Wales Secure Justice Forum has been established to progress this. To date, the space in Parc has been extended from 36 to 64 juvenile beds, which will mean less young people being held in Ashfield (Bristol). The Welsh Assembly Government is also funding projects in Stoke Heath and Ashfield young offender institutions to offer Welsh Curriculum provision.

Existing concerns remain about the conditions of detention for young people as evidenced by reports from HM Inspector of Prisons, which continue to cite problems. Self-harm and suicide, as well as deaths following assault or staff restraint, continue to be a matter of concern.[180] Statistics from the Youth Justice Board (2005/6) indicate the vast majority of young people are held in young offender institutions (85%), and only a minority (7%) in secure children's homes. The Youth Justice Board's *Strategy for the Secure Estate* sets out improvements in conditions.[181] However the evidence would suggest the desired standards are yet to be reached. There is also continuing discrimination in the application of child welfare legislation in young offender institutions and secure training centres.

CRC/C/15/Add.188 para. 58 I: Those aged 17 to have status of child for remand.

UK Government responsibility

Children aged 17 continue to be treated the same as adults for remand purposes in most circumstances and similarly when in police detention. In Wales in 2005/6, 55% of juvenile remand episodes related to 17 year olds. The UK government has indicated an intention to include them in remand arrangements for children[182] but there has been no significant developments to date.

Key recommendations

The UK Government should:

- Commission independent research to identify what the age of criminal responsibility should be set at and how the needs of those who would fall below the new threshold could best be met.
- Urgently review current legislation, policy and guidance in relation to Anti Social Behaviour Orders as the growing body of evidence suggests that children and young people are more likely to be harmed than receive any benefits from their imposition.
- Incorporate the fundamental principle that custody should be used as a measure of last resort in sentencing guidelines, policy and practice. Additionally, when denial of liberty is essential and unavoidable young people should be held in establishments that fully meet their needs and respects their rights.

[180] Goldson, B. & Coles, D. (2004) *In the Care of the State?* London, Inquest.
[181] Youth Justice Board. (2005) *Strategy for the Secure Estate for Children and Young People.*
[182] See 166 above.