

RIGHTS HERE, RIGHT NOW:

ARE CHILDREN'S RIGHTS
A REALITY IN WALES?



Wales NGO Interim Report

Edited by Rhian Croke



Save the Children

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SAVE THE CHILDREN WORKS IN MORE THAN **120 COUNTRIES**
WE SAVE **CHILDREN'S** LIVES
WE FIGHT FOR THEIR **RIGHTS**
WE HELP THEM FULFIL THEIR **POTENTIAL**

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The **Wales UNCRC Monitoring Group** is a national alliance of non-governmental and academic agencies coordinated and chaired by Save the Children's Wales programme. The group is tasked with monitoring and promoting the United Nations Convention on the Rights of the Child in Wales.

Group membership includes: Aberystwyth University Centre of Welsh Legal Affairs, Barnardo's Cymru, Cardiff University Department of Child Health, Children in Wales, Funky Dragon, Nacro Cymru, NSPCC Cymru, Save the Children Wales (Chair & Coordinator), Swansea University, School of Law.

Observers include: Children's Commissioner Office for Wales, Equality and Human Rights Commission, Welsh Government, Welsh Local Government Association, UNICEF UK.

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Chapter One: Introduction

**Rhian Croke, Wales UNCRC Monitoring Group Coordinator,
Save the Children Wales**

A Wales NGO interim perspective on the UK Concluding Observations 2008

Devolution in Wales

The population of children 0-17 years in 2011 was 633,400 around 20% of the total population.¹ In May 2007, the new Government of Wales Act came into force. The Act increased the powers available to the National Assembly for Wales (NAfW) and separated the functions of the National Assembly for Wales and the Welsh Assembly Government. The Welsh Government has devolved law making powers in a number of key areas, including education, social services and health services. The UK Government still retains responsibility for the police and the legal system, tax and benefits, asylum and immigration and youth justice and gives the Assembly in Wales its block grant.² As a result of UK Coalition cuts, reductions in the Welsh Government's budget are expected to amount to £1.8bn or 7% over 4 years³ which will affect the delivery of services in Wales. The Welsh Government has been consulting on creating a separate Welsh jurisdiction in the UK, and the Silk Commission is looking at expanding the fiscal powers of NAfW from autumn 2012.

The Wales UNCRC Monitoring Group

Since 2002, the Wales UNCRC Monitoring Group has increased in size and strength resulting in an increasing engagement of NGOs and academic institutions in developing understanding of the importance of the UNCRC. The Monitoring Group's strength lies in its strong repository of knowledge and multi-disciplinary expertise as well as its links to wider spheres of knowledge and influence both within Wales, across the UK and internationally. Capitalising on the power of the international framework, especially the UNCRC reporting process, *Righting the wrongs: the reality of children's rights in Wales*⁴ and *Stop, look, listen: the road to realising children's rights*⁵ were published in 2006 and 2007. These robust evidence based reports on the state of children's rights in Wales have helped to develop a constructive and critical collective debate on children's rights issues in Wales.

The Group has contributed to significant changes to strategic policy making for children in Wales and to Wales becoming the first country within the UK to incorporate the UNCRC (within its devolved limitations) into its domestic law.

*"I will say that I think that this is a historic piece of legislation and I pay tribute to all those involved I pay particular tribute to the UNCRC Monitoring Group, which I think gave high quality evidence."*⁶

Critical to its success has been its decision to both retain its strong independent role at the same time as engaging in direct and regular dialogue with the Welsh Government and the National Assembly for Wales, supporting knowledge development on children's human rights as well as advising on how to progress a children's rights perspective across the machinery of Government.

1 Office of National Statistics, 2012

2 Schedule 6 of the Annual Budget Motion shows £15.4 billion has made available by HM Treasury for the total Welsh block in 2013-14 financial year. This is £339,000 lower than that stated at the time of the draft budget.

3 Actual figures are disputed depending on whether or not inflation is taken into account.

4 Croke & Crowley (eds) *Righting the wrongs: the reality of children's rights in Wales*. Save the Children 2006.

5 Croke & Crowley (eds) *Stop, look, listen: the road to realising children's rights in Wales*. Save the Children 2007.

6 Record of proceedings, National Assembly for Wales, 18th January 2011.

This report, *Rights Here, Right Now: Are children's rights a reality in Wales?* is a much overdue Wales UNCRC Monitoring Group interim perspective on the extent to which law, policy and practice in Wales has progressed since the United Nations Committee on the Rights of the Child released their UK Concluding Observations 2008 to the UK Government.⁷ This report has adopted the UN Committee's guidelines with regard to the eight thematic clusters and reported progress made against the Concluding Observations under the relevant thematic areas.

Evidence gathering

The Wales UNCRC Monitoring Group held a series of hearings and follow up seminars that invited expert witnesses to discuss the progress (or lack of) in relation to an area of the UK Concluding Observations 2008 and encouraged group discussion regarding the best way forward regarding their implementation.

Expert witnesses representing Welsh Government, public bodies, voluntary sector and academic institutions were invited to contribute written and, on most occasions, oral evidence. As part of the oral sessions the Monitoring Group heard from a maximum of five expert witnesses at each hearing. Written submissions were encouraged from individuals who were not able to attend the hearing sessions.

Hearings took place between October 2011 and October 2012, and focussed on the children's rights thematic areas of Child Poverty, Child Health, Disability, Child Protection and Juvenile Justice. During the October – December period 2012 written evidence was collated from expert witnesses on the subjects of Participation, Child Sexual Exploitation, Play and Corporal Punishment.

The Wales UNCRC Monitoring Group found the oral and written evidence extremely valuable in contributing to the rich evidence base that underpins this report. This, in conjunction with the expertise of the chapter authors and their networks, wider literature and research has been used to demonstrate progress (or lack of) on the Concluding Observations and make key recommendations to the relevant duty bearers.

Traffic light system

This report follows the traffic light system undertaken in *Stop, look, listen: the road to realising children's rights in Wales*, so that it can immediately be indicated to the reader, the level of progress regarding each Concluding Observation. It is meant to inform the key duty bearers where they should be focusing their efforts.



Red = Limited progress since 2008 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 2008 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 2008 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.

⁷ Committee on the Rights of the Child 49th Session, Consideration of the States Parties reports Under Article 44 of the Convention Concluding Observations: United Kingdom of Great Britain and Northern Ireland. CRC/C/GBR/CO/4 20 October 2008 <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC.C.GBR.CO.4.pdf>

NGO reporting 2013-2014

The Wales UNCRC Monitoring Group will focus on monitoring a further series of subjects relating to the UK Concluding Observations 2008 during 2013, including Gypsy and Traveller children, education, best interests, looked after children, LGBT issues and asylum seekers and Refugees. These subject areas will contribute to the final report to the UN Committee on the Rights of the Child.

An overview of *Rights Here, Right Now: Are children's rights a reality in Wales?*

Divergent approach to children's rights in Wales

Rights Here, Right Now acknowledges that children have been a priority for governments in Wales since devolution and the divergent policy and legislative context for children and young people in Wales has led to some radical and progressive developments that support the rights of children and young people.

Since 2008 two key pieces of legislation have been developed to deliver change for children in Wales. The Children and Families (Wales) Measure 2010 encompasses a broader approach to child poverty than the UK Child Poverty Act, encapsulating 13 Broad Aims that include aims that can be clearly connected to human rights principles, such as non-discrimination, participation and survival and development.

The ground breaking piece of legislation, the Rights of Children and Young Persons (Wales) Measure 2011 made Wales the first country in the UK to incorporate the United Nations Convention on the Rights of the Child into domestic law, presenting us with a critical opportunity for taking the embedding of children's human rights based approach further. This Measure imposes a legal duty on Welsh Ministers to have due regard to the rights and obligations in the United Nations Convention on the Rights of the Child (UNCRC) and its Optional Protocols. The legislation comes in two stages: first, from 1st May 2012, applying to the making of new law or policy and review of existing policies and from 1st May 2014 will apply to all of the Welsh Ministers' functions.

The Social Services and Well-being Bill which started its progress through the National Assembly in January 2013 and will commence on 1st April 2016, offers another important legislative opportunity to deliver on improving children's well-being and make changes to safeguarding structures. However, children's rights and outcomes need to be more clearly evident on the face of the Bill if children's rights are to be fully realised within the child protection system.

In 2011 Wales became the first country ever to receive the Right to Play Award from the International Play Association. The award was made in recognition of the progress the Welsh Government has made in relation to the right to play.⁸

In contrast, *Rights Here, Right Now* highlights where Westminster Government policy has continued to work against the grain of the Convention in areas such as the physical punishment of children and juvenile justice. There has been no material change in the UK Government's position concerning compliance with the UNCRC and juvenile justice since the State Party report in 2008. With regards to corporal punishment, the UK government continues to defend its current position, the defence of reasonable punishment does not, in its view, contravene children's human rights. What is perhaps more disturbing is that since devolution, successive Welsh governments have supported the call for law reform to give children in Wales equal protection from being hit, however, since 2011, Welsh Government has remained strangely quiet on its divergent opinion which it had frequently expressed

so boldly and eloquently. The Welsh Government should embrace its stated commitments to children's rights and demonstrate leadership on this issue as a matter of urgency.

The gap between policy and implementation

Of great concern and, as reported in *Stop, look, listen* in 2007, despite a clear commitment to ensuring that rights based entitlements exist at a policy and legislative level in Wales, the current reality of children's experience still falls well short of what they could expect in a prosperous and developed nation. Progress in eradicating child poverty and reducing inequalities in Wales has stalled. Current Government figures put child poverty levels at 200,000 or 31% of children in Wales.⁹ Based on current figures, to meet the Welsh Government's 2020 target to eradicate child poverty, current levels would have to fall 4 times as fast in the next decade as they did in the last.¹⁰

Public Health Wales Observatory data shows that inequalities persist when comparing the most deprived fifth of the population with the least deprived fifth for the following indicators: low birth weight, teenage conception, child pedestrian injuries and hospital admissions. However, data from the All Wales Perinatal Survey does suggest that the inequality for stillbirths and infant mortality may be narrowing.

In 2009 a joint WAO, HIW, Estyn, and CSSIW audit of services for children and young people with emotional and mental health needs¹¹ concluded that: "*despite some improvements in recent years, services are still failing many children and young people, reflecting a number of key barriers to improvement.*" Since then the Welsh Government has published an action plan (Breaking the Barriers, 2010), has passed the Mental Health Measure and published a mental health strategy for all ages, *Together for Mental Health*. It is hoped that this raft of new measures will address the implementation gap and children's mental health services so vital to support the many vulnerable groups of children and young people will no longer be in a state of crisis.

Rights Here, Right Now reports that child neglect continues to remain a stubborn problem and has consistently been the most common reason for children being on the child protection register in Wales. Comparing numbers on the child protection register over recent years there has been a steady increase: between 2004 and 2012 the numbers have increased by 34%. Also of great concern is that the number of looked after children in Wales has increased by 24 % over the last five years and now Wales has the highest rate (92 per 10,000 population aged under 18) of looked after children per head of population across the nations of the UK.

Listening to children as the experts on their lives is as important as ever and is highlighted throughout *Rights Here, Right Now*. The recent sexual abuse scandals emphasise that children have not always been listened to. *Rights Here, Right Now* also raises concerns regarding the full implementation of Article 12 within judicial proceedings in that children are not having their views heard or given due weight and those children and young people are not being consulted about the development of services. Since 2008, there have been significant advances towards the realisation of Article 12 in Wales, with a rapid increase in participation activities and policies involving children and young people. However, the rhetoric for the participation of children and young people in decisions that affect their lives remains in contrast with the practice of children's participation, which remains patchy and far from inclusive or embedded.

9 DWP (2012). *Households Below Average Income: An analysis of the income distribution 1994/95–2010/11*, June 2012. London: The Stationary Office.

10 Kenway, P. & Parekh, A (2011). *Op. cit.*

11 http://www.wao.gov.uk/assets/englishdocuments/CAMHS_eng.pdf

Dearth of data collected on children's lives

The report throughout recognises that there is dearth of data being collected on children's lives. There has been no definitive survey on the mental health or emotional well-being of children in Wales. There is an absence of good data at national and local levels on the profile and identification of children of prisoners, child sexual exploitation and child trafficking in Wales. There is no single database which regularly records the violence and abuse experienced by children and young people in Wales and despite bullying being the second biggest reason that children contact ChildLine, Welsh Government do not centrally monitor bullying incidents. There is a lack of disaggregated data measuring the experience of vulnerable groups such as disabled children, BME, Gypsy and Travellers etc. Without appropriate disaggregation of data these groups are becoming increasingly invisible in policy and service provision.

Fiscal austerity

The delivery of services is already being affected in Wales as a result of public expenditure cuts.¹² It is also noted that funding often remains short term and opportunistic, limiting the impact that structures and services can have for children and young people and leaving services and structures more vulnerable to political re-prioritisation and further reductions in public spending.

The Welsh Government must ensure that sufficient resources are assigned to tackle the full range of children's rights violations, taking all steps in its power to deliver, prioritise and fund effective services for children to the '*maximum extent of available resources*'. It is more critical than ever in these times of fiscal austerity that Welsh Government commits to transparently demonstrating the proportion of expenditure on children and that the focus on children is not lost as part of the transition to an integrated service provision agenda for adults and children.

Conclusion

Against this backdrop more work needs to be done to instil shared priorities and ownership of the children's rights agenda across Government portfolios and between national and local government and other sectors. There is a need for concerted action in reducing the implementation gap between national policy rhetoric and local delivery. Programmes and initiatives need to be better integrated to work together more effectively to achieve the necessary strategic impact.

The Rights of Children and Young Persons (Wales) Measure 2011 presents us with a critical opportunity to better implement children's rights in Wales. However it requires strong leadership to be shown by Welsh Ministers – it is Ministers who are responsible for compliance with the Measure – and it is Ministers who are ultimately responsible for ensuring that the promotion of children's rights is taken seriously in the policy to implementation process in Wales. Assembly members, Children's Commissioner for Wales, NGO community and children and young people themselves also have a critical role to play in scrutinising Ministers' decisions and as determined advocates contributing to the on-going development of a strong culture of children's rights in Wales.

We hope that this report will contribute to the critical process of holding Welsh Government and UK Government to account to achieve change for children and young people in Wales and that it sets out the beginning of a clear agenda for action putting us in a much stronger position as we approach the beginning of the next UNCRC reporting phase.

¹² Actual figures are disputed depending on whether or not inflation is taken into account.

Chapter Two: General measures of implementation

Rhian Croke and Pat Dunmore, Save the Children, Dr Simon Hoffman and Jane Williams, Wales Observatory on Children and Young People's Rights.

Legislation



CRC/C/GBR/CO/4 para 11: The Committee recommends that the State party continue to take measures to bring its legislation into line with the Convention.

Welsh Government responsibility

Whilst resistance to implementation of the Convention into domestic law continues at UK level, there has been a significant development in Wales. On 14th July 2009 the then First Minister of Wales, Rhodri Morgan, announced that his government would explore the possibility of embedding the principles of the Convention into law on behalf of Welsh children. This political commitment was seen as a continuation of a position consistently held both by the Welsh Government and by the National Assembly.¹³ The legislative process took a further three years: the Rights of Children and Young Persons (Wales) Measure 2011 (the Measure) was given Royal Approval on the 16th March 2011, and came into effect on 1st May 2012. The Measure is the first, and to date the only, general legislative measure implementing the Convention in domestic law in the UK: it has effect in Wales only.

Section 1 of the Measure imposes a legal duty on Welsh Ministers to have due regard¹⁴ to the rights and obligations in Part One of the Convention and to specified sections of its Optional Protocols. The due regard duty applies when Ministers are exercising their functions. The Measure comes into effect in two stages: from 1st May 2012 the due regard duty applies when Ministers are making of new law or policy, or reviewing or amending; from 1st May 2014 the due regard duty will apply when Ministers are exercising any of their functions.

In the context of the Committee's recommendation the Measure is significant as section 6 gives Welsh Ministers a power to amend legislation that does not comply with the Convention or its Optional Protocols. The power is to be exercised within the legislative competence of the National Assembly for Wales. The exercise of this power is dependent on the identification of possible amendments through a reporting process introduced by the Measure: section 4 establishes a requirement for Ministers to report on progress toward compliance with the due regard duty - initially by the 31st January 2013, and thereafter every five years.

Further significant aspects of the Measure are: a requirement, under section 2, for a Children's Scheme setting out the arrangements in place for complying with the due regard duty. There is an associated obligation to consult with external stakeholders when developing the Scheme (including the Children's Commissioner for Wales, the voluntary sector and children and young people (section 3), and to have regard to reports and recommendations made by the UN Committee on the Rights of the Child.¹⁵

¹³ Oral statement of the First Minister Rhodri Morgan (14th July 2009). The Welsh Assembly Government's Legislative Programme 2009-10.

¹⁴ The due regard duty is fitting for the Welsh context of devolution. It results in positive change administratively but will not have an effect on judicial remedies in the courts. This is appropriate given the particular stage of Welsh devolution and as Wales shares its legal system with England.

¹⁵ The first Children's Rights Scheme was published in March 2012 and will be revised by May 2014.

The Welsh Government published its first report under section 4 on 31st January 2013. There have been some positive developments, for example, the establishment of a Welsh Government Measure Implementation Team, the introduction of a children's rights impact assessment process, and on-line 'due regard' training for officials. There is also some evidence of due regard being given to the Convention in policy areas and in the development of legislation (e.g. Travel Bill, Human Transplantation Bill).

There are however a number of areas of concern. These are identified in an assessment of the Children's Rights Scheme Progress Report¹⁶ carried out by the Wales Observatory on Human Rights of Children and Young People.¹⁷

Institutional arrangements

Whilst the Children's Scheme promotes the notion of leadership by senior officials on the implementation of the due regard duty, the progress report suggests a drawing back from this position. The original intent was for leadership, advice and guidance to promote children's rights across Director General areas. This purposive approach has since been diluted through the introduction of the Children's Rights Scheme Monitoring Group which appears to have a less proactive remit. Effective leadership is essential if the due regard duty is to be applied in such a way as to guarantee new legislation is Convention compliant and to ensure systematic review of existing legislation.

Effective and transparent Children's Rights Impact Assessment (CRIA)

CRIA is key to effective implementation of the due regard duty and to ensure Convention compliant legislation. The introduction of a 'Six Steps' impact assessment tool as an aspect of implementation of the due regard duty is a positive innovation. In order to determine whether the requisite rigour is being applied to consideration of substantive rights, and therefore whether the due regard duty is being properly applied, the CRIA process needs to be transparent and open to scrutiny. Although we are told that officials will keep a record of CRIA processes these are not available for consideration by the NGO community. This is an impediment to proper scrutiny and accountability. In the absence of transparency it cannot be confirmed that every effort is being made to ensure that legislation in Wales is compliant with the Convention. There is also a lack of data to confirm (or refute) assertions concerning the take-up of support and training initiatives by officials, data such as the number of participants, seniority and departments. There is also very limited evidence on the impact of these processes, i.e. qualitative assessment of whether the training and support is increasing knowledge of Convention rights.

Review of existing legislation

As noted above, the Measure contains a power for Welsh Ministers to amend non-compliant legislation if this is identified in a report published under section 4 of the Measure. The first report published under this section does not identify legislation for this purpose. An example of legislation suitable for amendment within the powers of the National Assembly for Wales is section 58 of the Children Act 2004. In effect section 58 maintains the defence of reasonable chastisement of children by their parents and thereby authorises legalised assault on a child. It is regrettable that the progress report does not seek to identify legislation (including but not limited to section 58), suitable for amendment (See for further discussion Chapter Four: Corporal Punishment).

16 Wales Observatory on Children and Young People's Human Rights response to the Welsh Government (2013) Children's Rights Scheme Progress Report (endorsed by the Wales UNCRC Monitoring Group).

17 Wales Observatory on Human Rights of Children and Young People is based at Swansea University.

Coordination



CRC/C/GBR/CO/4 para 13: The Committee reiterates its previous recommendation that the State party ensure effective coordination of the implementation of the Convention throughout the State party.

Welsh Government responsibility

Prior to 2011, there were promising steps taken in Wales to improve coordination of the UNCRC across Welsh Government. A Minister for Children with responsibility for the UNCRC in Wales was established in 2002 and a Cabinet Committee for Children and Young People was established in 2003. The Cabinet Committee was chaired by the Minister for Children, Education and Lifelong Learning with a Children and Young People's Officials Group to support its work. The First Minister was also a member.

The Committee's terms of reference included ensuring that the interests of children and young people were given due priority in all Cabinet and Welsh Assembly Government policy making; overseeing the implementation of the UNCRC in Wales and the Assembly Government's 'Seven Core Aims'; and ensuring that a strategic approach was taken to the development of policies and programmes so as to deliver commitments to children and young people.¹⁸

As is the case in other parts of the UK, a lack of resources and political clout remain key obstacles to satisfactory coordination and monitoring of UNCRC implementation across government in Wales. There have been recent concerns expressed that children's rights are beginning to slip down the political agenda in Wales. This fear can be partially confirmed given a Deputy Minister is responsible for children (previously it was part of a senior Minister's portfolio) and there is no longer a Cabinet Committee for Children and Young people.

In the Deputy Minister's response to the Monitoring Group's request for evidence¹⁹ she noted that the Cabinet Committee for Children and Young People may not exist but wanted it to be acknowledged that the requirement under the Rights of Children and Young Persons (Wales) Measure 2011 is that all Ministers 'consider evidence on how children's rights have been considered from May 2012'. The Deputy Minister also pointed to the requirement in the Measure that Welsh Ministers must involve and consult children and young people. The Deputy Minister's responses reflect the important effect of the Rights of Children and Young Persons (Wales) Measure in generalising responsibility for implementation of the UNCRC across all Welsh Government functions and how the Children's Rights Scheme can help secure effective structures for implementation across Welsh Government. However, there are a number of issues that require further clarification and/or action.

It is not clear from the Children's Rights Scheme that the Deputy Minister for Children and Social Services has responsibility for coordination and monitoring of the UNCRC across government. Indeed, both the Scheme and the Deputy Minister's response suggest that responsibility for implementation is generalised or diffused amongst all Welsh Ministers. This is good in the sense that implementation requires actions across all devolved policy areas. However lack of central coordination of implementation of the UNCRC within Welsh Government is a cause for concern: where everybody is responsible the danger is that no-one is accountable. As noted above the role of the new Children's

¹⁸ <http://wales.gov.uk/about/cabinetsubcommittees/cyp/?lang=en>

¹⁹ Written evidence presented to the Wales UNCRC Monitoring Group in 2012 in relation to the progress of General Measures of Implementation by the Deputy Minister for Children, Health and Social Services.

Rights Scheme Monitoring Group and who has overall accountability is not made clear in the recent Children's Rights Scheme progress report. The demise of the Cabinet Committee for Children is a matter of concern for the same reason: responsibility for children's rights is said to have been generalised by the duty of due regard under the Measure, but central coordination and political accountability have been weakened.

Children and young people's involvement

Consultation with children and young people as required by the Rights of Children and Young Persons (Wales) Measure 2011 is to be welcomed but is only a small part of effective involvement of children and young people in monitoring and implementation. Clarification is needed of the proposed children and young people's involvement in 'scrutiny and implementation'. In practice involvement of children and young people should emerge as part of a culture of change generated by the Measure. We would expect to see a clear role and support for Funky Dragon as well as the Children's Commissioner's networks as part of this, thus making effective use of existing institutions that have developed in an explicitly children's rights-focussed environment (see also Chapter Three: Participation).

The role of the National Assembly for Wales Children and Young People Committee

The National Assembly for Wales Children and Young People Committee was established in 2008. In 2011 as part of the fourth Assembly, a new Children and Young People Committee with a remit to "*examine legislation and hold Welsh Government to account by scrutinising expenditure, administration and policy matters encompassing: the education, health and well-being of the children and young people of Wales, including their social care*" was established. The Children and Young People Committee was critical to the progressing the Measure through its legislative passage under the formidable direction of the then Chair, Helen Mary Jones, Plaid Cymru AM.²⁰

In May 2012, the Chair of the National Assembly Children and Young People Committee welcomed the Monitoring Group's recommendation that they continue the critical role of ensuring cross-cutting scrutiny and monitoring of Welsh Ministers' decisions and policies in relation to UNCRC implementation and compliance with the Measure. The Chair expressed the wish of her Committee to be informed by the continuing work of the Monitoring Group as the Committee approaches its task of scrutiny in child-related fields and in particular when considering the Welsh Ministers' first progress report under the Measure.

Training was delivered to the Committee by the Wales Observatory and the Monitoring Group in October 2012 to support the capacity of the Committee to interrogate government action in all areas from a children's rights perspective. Following the training a further commitment was made by the Committee to scrutinise the Children's Rights Scheme progress report and also the Welsh Government National Action Plan on children's rights in spring 2013. It is hoped that all Committees not just the Children and Young People Committee will undergo training on children's human rights and "due regard" in relation to the Measure and will fulfil the responsibility of scrutinising Ministers' decisions for their compliance with the UNCRC.

National plans of action



CRC/C/GBR/CO/4 para 15: The Committee encourages the State party to adopt comprehensive plans of action for the implementation of the Convention in all parts of the State party.

Welsh Government responsibility

In November 2009 just over a year after the Concluding Observations were issued *'Getting it Right 2009: United Nations Convention on the Rights of the Child'* was published.²¹ Described as a 5-year rolling action plan, it sets out Welsh Government's priorities in responding to the UN Committee's recommendations. It contains 16 priority areas and 90 proposed time-bound actions. The 16 priorities are based on Welsh Government's response to the UN Committee's request (during the reporting process) for its priorities for children, which were developed following some limited consultation with NGOs in summer 2008. In addition to the 16 priority areas, the action plan also includes activities relating to breast feeding, Gypsy and Traveller children and health and health services.

In 2009, very positively, Welsh Government acknowledged that *'Getting it Right 2009'* was only 'the start of the journey' and described it as a base from which to move forward - a 'living document' which would be reviewed regularly. In 2010, the Wales UNCRC Monitoring Group asked that the review mechanism be used to address the document's weaknesses, for example, the lack of a budget linked clearly to future actions; an impression that it is sometimes a narrative of current activity; a lack of clarity as to how it links to the 'Seven Core Aims', the national well-being monitor or the UK Concluding Observations 2008; the absence of a clear monitoring framework and clear outcomes for children and young people; and a sometimes inaccurate picture of where Wales is currently at in implementing the UNCRC. Disquiet was also expressed that *'Getting it Right 2009'* was developed in a silo without firm buy-in from all parts of government or an adequate link to other relevant government strategies and proposals.

In 2010 the Welsh Government established the "Getting it Right Implementation Support Network" of key stakeholders. The aim of this group is to drive forward the work and input into the development of an evaluative framework for the *'Getting it Right 2009'* Action Plan. The Wales UNCRC Monitoring Group is a representative on this stakeholder group and consistently since 2010 has advised that the above concerns be addressed. However in the recent National Children's Rights Action Plan progress report published January 2013²² it appears that little of these concerns have been addressed.

A national action plan on children's rights should be a document that helps to increase awareness and understanding of the UNCRC across government and it should provide a useful tool with which NGOs and the Children's Commissioner for Wales can hold Welsh Government to account. Key to the action plan's success is buy in from local government and other public bodies to reduce the policy implementation gap that was identified by all stakeholders during the UNCRC reporting process 2008 as one of the principal barriers to achieving children's rights. However, little work has been accomplished in this area either.

It is extremely positive that we have a national action plan for children's rights in Wales but more work needs to be done to make it an effective document that is "fit for purpose", that can help to deliver change for children and young people in Wales. The Wales UNCRC Monitoring Group has advised

21 Welsh Assembly Government (2009) *Getting it Right 2009 United Nations Convention on the Rights of the Child. A 5 Year Rolling Action Plan for Wales.*

22 Welsh Government (2013) *Getting it Right progress report.*

Welsh Government that in getting this document right they need to consider the advice of the Office of the High Commissioner on Human Rights on the development and delivery of national human rights action plans²³ and review the terms of reference of the Getting It Right Implementation Support Network.

Allocation of resources



CRC/C/GBR/CO/4 para 19: The Committee recommends that the State party, in accordance with article 4 of the Convention, allocate the maximum extent of available resources for the implementation of children's rights, with a special focus on eradicating poverty and that it reduce inequalities across all jurisdictions. In this endeavour, the State party should take into account the Committee's recommendations issued after the day of general discussion of 21 September 2007 devoted to "Resources for the rights of the child - responsibility of States". Child rights impact assessment should be regularly conducted to evaluate how the allocation of budget is proportionate to the realization of policy developments and the implementation of legislation.

Welsh Government responsibility

Welsh Government is the only Government in the UK to acknowledge the importance of being able to identify how much spending is allocated to children. It commissioned an analysis of financial provision for children within its budget for 2004-05 in *"response to a requirement to understand the resources which are spent on children, in order to inform policy development, and to comply with a responsibility under the United Nations Convention on the Rights of the Child to report on the amount and percentage of national budgets spent on children."*²⁴ Though the analysis was described by the NGO Wales alternative report to the UN Committee as "fairly rudimentary" it also acknowledged that this was the first time the Welsh Government had attempted to identify spending on children or indeed any government.²⁵ A further analysis was carried out for the 2006-07 budget and in March 2009 a statistical bulletin was published which presented estimates for the proportion to be spent on children in the period 2007 - 08 to 2010 - 11.²⁶ Based on existing spending plans the proportion of the Government budget allocated to children was projected to remain around 28%.²⁷

In 'Getting it Right 2009' Welsh Government committed to "improving the transparency of budgeting for children and young people" as one of its 16 priorities and recognised that it still had *"very much further to go to provide as accurate a picture as possible"*.²⁸

A Welsh Government Task and Finish Group (made up of both policy and financial officials) was established in 2010 to: work towards a better understanding of current ways to improve budget forecasting and spend on children; consider other relevant issues such as participatory budgeting and

23 Office of the High Commissioner on Human Rights Handbook on National Human Rights Action Plans. United Nations Geneva. 2002.

24 Save the Children (2007) Stop, look, listen: the road to realising children's rights in Wales.

25 Ibid

26 Statistics for Wales and Welsh Assembly Government (2009) Financial provision for Children within the Welsh Assembly Government Budget.

27 Cited in National Assembly for Wales Children and Young People's Committee (2009) Children's Budgeting in Wales.

28 Welsh Assembly Government (2009) *Getting it Right 2009* United Nations Convention on the Rights of the Child. A 5 Year Rolling Action Plan for Wales.

pro-poor spending; and consider the recommendations made by the National Assembly for Wales Children and Young People Committee inquiry into children's budgeting that reported in 2009.²⁹

Since the Task and Finish Group concluded in 2010 there has been some progress, particularly in relation to participatory budgeting and financial education as noted in "*Getting it Right*" progress report 2013. Also in Autumn 2012, a tool kit and a leaflet were produced to help children and young people to understand the draft budget and the draft Welsh Government budget was put through the Welsh Government's children's rights impact assessment process. However, as noted above, it is impossible for civil society to assess how robust an analysis this was due to the assessment process not being made public. It is also not clear whether standard questions relating to children's budgeting are included within the children's rights impact assessment process for all pieces of policy and legislation.

There is nothing clearly stated within the "*Getting it Right*" progress report 2013³⁰ regarding Minister Jane Hutt's 2010 agreement to produce a Welsh Government children's budget statement every 3 years. There is still a lack of visibility of children in the Welsh Government budget, which as it stands makes no specific mention of children. The lack of transparency in public expenditure on children means that it is currently not possible to tell without more detailed analysis whether the Welsh Government is using available resources to the 'maximum extent' to fulfil children's rights under the UNCRC and whether, for example, there are sufficient levels of expenditure to achieve the target of ending child poverty by 2020. Transparent data on expenditure on children needs to be collected and published. This approach will encourage the development of indicators to monitor if spending is reaching and benefiting the poorest children and families. This data should be used to inform future rounds of budget allocation.

Under Article 4 of the UNCRC, Ministers have a clear obligation to demonstrate whether Government is fulfilling children's economic, social and cultural rights 'to the maximum extent of available resources'. The preparation of a children's budget is an essential tool in both meeting the duty to Article 4 under the rights Measure and evidencing how planned spending cuts are impacting on the outcomes for children and young people in the enjoyment of their rights. Finally it is clear and apparent that more work needs to be done to encourage local authorities and local health boards and their partners to demonstrate transparently the proportion of expenditure on children and young people.

Dissemination, training and awareness-raising



CRC/C/GBR/CO/4 para 21: The Committee recommends that the State party further strengthen its efforts, to ensure that all of the provisions of the Convention are widely known and understood by adults and children alike, inter alia by including the Convention in the statutory national curriculum, and that it ensure that its principles and values are integrated into the structures and practice of all schools. It also recommends the reinforcement of adequate and systematic training of all professional groups working for and with children, in particular law enforcement officials, immigration officials, media, teachers, health personnel, social workers and personnel of child-care institutions.

Welsh Government responsibility

29 National Assembly for Wales Children and Young People's Committee (2009) Children's Budgeting in Wales and See Welsh Assembly Government Written Response (2010) to the Children and Young People's Committee Report on Children's Budgeting in Wales. <http://www.assemblywales.org/bus-home/bus-guide-docs-pub/bus-business-documents/bus-business-documents-doc-laid.htm?act=dis&id=202996&ds=11/2010>

30 Welsh Government (2013) *Getting it Right* progress report.

The Rights of Children and Young Persons (Wales) Measure 2011 placed a duty of due regard with respect to Articles 1 to 41 but not Article 42. Instead Section 5 of the Measure places a duty on Welsh Ministers to promote knowledge and understanding amongst the public, including children. Section 5 now sits alongside Article 42 as legal duties of the Welsh Government. *Getting It Right*³¹ identifies 'raising awareness of the UNCRC and the Concluding Observations' as a priority. The *Getting It Right Update* in January 2013³² lists a number of achievements including development of a range of training materials via the *Let's Get It Right* website, and delivery of core training to central government civil servants. Welsh Government has worked with external partners to begin to fulfil this duty, including commissioning training packages and supporting the *Taking the Rights Steps* conference held at Swansea University. However there is no evidence of any systematic efforts towards implementing Article 42 or Section 5 of the Measure.

Awareness raising with adults and children in general

The steps set out in the *Getting it Right* 2011 update, together with an update report to the UNCRC Monitoring Group for Wales from the Welsh Government in February 2013³³ demonstrate some small steps towards general awareness raising in Wales. However this has all been piecemeal and there has been no widespread effort in this respect. In some areas work has actually decreased. For example, in *Getting it Right* p18 'the Minister for Children, Education, Lifelong Learning and Skills committed to holding an annual conference to raise awareness of the UNCRC in November each year and in time this will also be used as a platform to provide an update on the progress that has been made against this Action'. This decision was reversed in 2011 and the conference and annual feedback no longer happens. Also in *Getting it Right* p17 the Welsh Government committed to including the UNCRC in its Common Core of Skills, Knowledge and Understanding as part of its Children and Young People's Workforce Development Plan. Work on this ceased in Mid 2010 and to date there are no plans to restart it.

Inclusion in the school curriculum

The UNCRC is now included in the PSE³⁴ curriculum in schools for 7 to 19 year olds in Wales. However, little has been done to encourage schools to do more than refer to it in passing. Evidence given in 2011 to the Article 42 sub group of the UNCRC Monitoring Group for Wales showed very little awareness of children's rights amongst either school staff or pupils. Recent, as yet unpublished, research carried out in 2012 showed no improvement.

Systematic training of professionals working with and for children

In 2011/12 the Article 42 sub group held a series of hearings looking at awareness of the UNCRC with a number of key professional groups.³⁵ The evidence from these hearings was written into an awareness raising strategy³⁶ for the Welsh Government and presented to them in April 2012. The evidence demonstrated that there is very little awareness of the UNCRC amongst professionals in Wales and there is still no systematic training of professionals working for and with children in Wales. The Welsh Government has commissioned a series of train the trainer sessions in this area

31 Welsh Assembly Government (2009) *Getting it Right 2009 United Nations Convention on the Rights of the Child. A 5 Year Rolling Action Plan for Wales.*

32 Welsh Government (2011) *Getting it Right Action Plan for Wales – Update Report 2011*

33 Welsh Government (January 2013) *The Welsh Government's Progress against the Article 42 Strategy Report Recommendations*

34 Welsh Assembly Government, *Personal and social education framework for 7 to 19-year-olds in Wales, 2008*

35 Hearings were held examining teachers, social workers, childcare workers, the police, the media and health professionals. It was not possible to arrange a hearing with immigration officials at the time.

36 Article 42 Group on behalf of the UNCRC Monitoring Group for Wales (2012) *Raising Awareness of the UNCRC in Wales - towards a strategic approach by the Welsh Government*

and there are a very small number of organisations offering one or half day introductory sessions to professionals. However attendance at such training is not a requirement for any professional group and does not meet the requirement set out in section H of General Comment no 5 that *'Training needs to be systematic and ongoing - initial training and re-training'*. A paper from the Welsh Government³⁷ presented as Progress against the Article 42 Strategy Report Recommendations contains no reference to the report or its recommendations.

In summary, very little progress has been made on implementing Article 42 in Wales and in some areas commitments have been rescinded on and work has ceased.

Key recommendations

LEGISLATION

Welsh Government should:

- Ensure stronger proactive leadership from senior officials on implementation of the Measure, including by providing clearly articulated terms of reference for implementation groups.
- Ensure that future Children's Rights Scheme progress reports include data to support robust evaluation of initiatives introduced to give effect to the due regard duty.
- In all cases, make CRIA records available for scrutiny (or an adequate summary).
- In consultation with relevant stakeholders, continue to make improvements to CRIA tools and budget impact assessment.
- Systematically review existing legislation to determine whether this should be amended to ensure compliance with the Convention.

COORDINATION

Welsh Government should:

- Strengthen the authority of the Deputy Minister for Children and Social Services with clear responsibility for UNCRC implementation.
- Ensure there is appropriate political accountability and central coordination for the implementation of UNCRC within Government.

Children and young people's involvement

- Clarify the process for children and young people's involvement in 'scrutiny and implementation' of the UNCRC.

National Assembly for Wales should:

- Ensure that all Committees are responsible for the cross-cutting scrutiny and monitoring of the Welsh Ministers' decisions in relation to UNCRC implementation and compliance with the Rights of Children and Young Person Wales Measure.

³⁷ Welsh Government (January 2013) The Welsh Government's Progress against the Article 42 Strategy Report Recommendations

NATIONAL PLANS OF ACTION

Welsh Government should:

- Consider the advice of the Office of the High Commissioner on Human Rights regarding the development and delivery of National Human Rights Action Plans.
- Review the 'action plan' to ensure it is fit for purpose and includes an improved monitoring framework with clear, resourced, time bound actions as well as clear outcomes for children and young people.
- Develop better links between "*Getting it Right*" and reporting on children's rights budget information, the data collated as part of the Children and Young People's Wellbeing Monitor; the UK Concluding Observations 2008 and the Rights of Children and Young Persons (Wales) Measure.
- Work with local authorities and other public bodies to effectively implement "*Getting it Right*" as soon as possible.

ALLOCATION OF RESOURCES

Welsh Government should:

- Improve the necessary systems to enable routine analysis (Children's Budget Statement) of all Government spending on children in all of its future budgets.
- Ensure that the planning and reporting process makes the links between budgets and outcomes more visible and transparent.
- Develop the link between reporting of children and young people's budget information with the Children and Young People Well-being Monitor; the National Action Plan on Children's Rights and the Rights of Children and Young Persons (Wales) Measure.
- Target the 'maximum extent of available resources' to those children and young people who are the most vulnerable and the poorest.

Local authorities and local health boards should:

- Produce children's budget statements and set out timescales for producing such.

DISSEMINATION, TRAINING AND AWARENESS-RAISING

The Welsh Government should:

- Develop, through discussion with statutory and non-governmental stakeholders, a comprehensive strategy for raising awareness and understanding of the UNCRC throughout Wales.
- Include within the comprehensive strategy the recommendations emerging from such discussions, together with the several reports, mapping exercises and other initiatives so far undertaken.

Chapter 3: Guiding principles

Respect for the views of the child (Article 12)

Danielle Lavin and Mererid Lewis, Participation Unit, Wales

Commentary on progress

Over the last seven years, there have been significant advances towards the implementation of Article 12 in Wales, with a rapid increase in participation activities and policies involving children and young people. However, the rhetoric for the participation of children and young people in decisions that affect their lives remains in contrast with the practice of children's participation, which remains patchy and far from inclusive, or embedded^{38 39 40 41}.

Indeed, although children and young people are firmly placed on the Welsh Government's agenda, there is a real danger that the progress made since 2007 for children and young people's participation will be reversed as a result of 'mainstreaming' within a children's rights based approach. Practitioners are concerned this will dilute the importance of Article 12 and is possibly being used to mask public expenditure cuts. There is also concern that Article 12 is no longer being seen as instrumental to achieving all of the other rights as expressed in the UNCRC and that it will in the future be neglected under a more general paternalistic children's rights approach.

Nevertheless, the Welsh Government has made a commitment to promote and support children and young people's participation through formally adopting the UNCRC and to implement children and young people's right to participate as stated in Article 12. It is also showing its continued commitment through the programme for Government which states that it will:

"Continue to improve opportunities for all children and young people in Wales to participate in decision making on issues which affect them."⁴²



CRC/C/GBR/CO/4 para 33a: promote, facilitate and implement, in legislation as well as practice, within the family, schools and the community as well as in institutions and in administrative and judicial proceedings, the principle of respect for the views of the child

UK & Welsh Government responsibility

Legislation

There has been strong Welsh Government and cross-party support for the strategic development of children and young people's participation. In 2010, the new legislative framework of the Children

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- 38 Lansdown, G (2001), 'Children's Welfare and Children's Rights', in Pam Foley, Jeremy Roche and Stanley Tucker (eds.) *Children in Society, Policy and Practice* (Palgrave Macmillan, Basingstoke)
 - 39 Sinclair, R. (2004) 'Participation in practice: making it meaningful, effective and sustainable', *Children and Society*, 18: 106-118.
 - 40 James, A. (2007) 'Giving voice to children's voices: practices and problems, pitfalls and potentials', *American Anthropologist*, 109 (2): 261-272.
 - 41 Skeels and Lewis (2012) 'Using national standards for children and young people's participation to inform health research', in Jennie Fleming and Thilo Boeck (eds) *Involving Children and Young People in Health and Social Care Research* (Routledge, Oxon)
 - 42 *Commitment within the Programme for Government* (2011)

and Families (Wales) Measure incorporated, as one of its broad aims, a goal to help young people participate effectively and responsibly in the life of their community. Section 12 specifically states that:

Participation of children in local authority decision making:

(1) A local authority must make such arrangements as it considers suitable to promote and facilitate participation by children in decisions of the authority which might affect them.

Furthermore, the Rights of Children and Young Persons (Wales) Measure 2011 places a duty on Welsh Ministers to show due regard when developing and/or reviewing policy and legislation. From 2014, this will be extended to all Ministerial functions. There are concerns however, that showing 'due regard' and 'giving due weight' in effect means that children's ability to exert power is in the hands of "responsible adults".⁴³ This means that adults are able to constrain 'what matters'⁴⁴ and have the power to decide how much of a voice children and young people get in decisions that affect them.

However, if due regard is implemented appropriately, with children and young people being systematically involved and their views regarding policy and legislation taken into account, then this represents a tangible opportunity for the progression of Article 12 in Welsh policy making. It is important that this opportunity is not lost and that civil society take an active role in advocating for the inclusion of the voice of children and young people within this process.

Policy and practice

The Welsh Government has not developed an overarching national participation strategy as was recommended in the last Wales NGO alternative report⁴⁵ and was highlighted in the government report 'Getting It Right' as a 'way forward in which to provide a strategic steer to local participation strategies'.⁴⁶

Nevertheless, advisory guidance was issued to local authorities in August 2007 so that they, together with their partners, could develop a local participation strategy. All strategies had an action plan and a commitment to monitoring and review. However according to the evaluation of local participation strategies carried out by Ecorys in 2010, it revealed that in practice, 'this is largely ad hoc outside of the revised strategies that have been produced to date'.⁴⁷ Furthermore, the situation with local participation strategies has until recently been in a state of flux as statutory guidance drafted on the basis of the advisory guidance was issued for consultation in October 2011 but has only just been confirmed (February 2013). The original draft guidance included a requirement to have a strategy and a youth forum in place. However, the guidance released allows the local authority to decide on a 'mechanism' for engagement – this may or may not be a youth forum.

Welsh Government's recently released strategic guidance on participation, focused on mainstreaming the area into local strategic planning, as an appendix to the "Shared Purpose – Shared Delivery" (the Single Integrated Planning Guidance issued to all local authorities in Wales)⁴⁸. Due to the significant

43 Wyness, M. (2001) 'Children, childhood and political participation: Case studies of young people's councils, *The International Journal of Children's Rights* Volume 9: Issue 3 pp 193–212,

44 Lundy (2007), 'Voice is not enough: conceptualising Article 12 of the United Nations Convention on the Rights of the Child', (*British Educational Research Journal* 33/6, 927-42)

45 Save the Children (eds.) (2007), *Stop, look, listen: The Road to Realising Children's Rights in Wales* (Wales Programme of Save the Children, Cardiff)

46 Welsh Government (2009), *Getting it Right: United Nation Convention on the Rights of the Child* (Welsh Assembly Government, Cardiff)

47 Ecorys (2010, *Evaluation of Local Authority Participation Strategies – Final Report to the Department for Children, Education, Lifelong Learning and Skills of the Welsh Assembly Government*, (Ecorys, London)

48 Not yet been released

delay in its release local authorities had begun to formulate their Single Integrated Plans for 2011-14 without any formally approved overarching guidance as to how children and young people should be listened to and their views taken into account. There is a concern that this has unsettled the previous consistency that was developing across the country.

The Welsh Government will monitor local arrangements for participation and information published as part of citizen engagement under the Single Integrated Plan. It is intended that these plans will provide evidence to Inspectorates and the Welsh Audit Office (WAO) when undertaking reviews of the efficiency and effectiveness of local services. Inspectorates and the WAO may also review the outcomes achieved and procedures involved to demonstrate how effectively children and young people are being listened to, involved and engaged. It remains to be seen how effective these arrangements will be in practice.

Implementation of specific policy on school councils

Significant and positive progression towards 'pupil participation' was made with the issue of statutory School Councils Regulation (2004) and Guidance (2006). Following this legislation, all schools in Wales now have a school council. Furthermore, there are examples of particularly good practice emerging across Wales where implementation has encouraged the creation of a general school policy where participation is central to everything they do.⁴⁹ The school councils' website has been redesigned and re-launched and is now known as Pupil Voice Wales. This provides a wealth of information on good practice in the area.

The main issue that has affected successful implementation of school councils has been a lack of consistency of approach, training of professionals and monitoring across local authorities and schools. This has resulted in various levels of children and young people's participation being deemed acceptable.

An attempt to address this issue was made by the Welsh Government with the production of statutory guidance. However, the guidance did not receive ministerial approval and without ministerial support is not being adequately disseminated or promoted. The guidance has been published as a good practice document on the Pupil Voice Wales website⁵⁰ but unfortunately this is not enough to ensure a consistent approach across the country.

Practice in Judicial and Administrative Proceedings and the Implementation of Independent Advocacy Services

There is emphasis placed on the child's right to be heard, "in any judicial and administrative proceedings affecting the child" in paragraph 2 of Article 12. The Committee on the Rights of the Child have made clear that this applies to all relevant judicial proceedings "without limitation".⁵¹

It is currently unclear the extent to which Article 12 is respected, and thus how able children are to participate, in the wide range of relevant judicial proceedings. This is due to a lack of significant contextual evidence examining the issue in Wales. In November 2012, a landmark children's rights test case was taken before the appeal courts in which a 15 year old boy from Carmarthenshire challenged a decision to place him in foster care based on an argument that he was denied an opportunity to express his views or have them given due weight in the proceedings.⁵²

49 <http://pupilvoicewales.org.uk/english/home/about-us/our-case-studies/>

50 <http://www.pupilvoicewales.org.uk/grown-ups/get-involved/good-practice-guide/>

51 Committee on the Rights of the Child (2009), General Comment No.12, 'The right of the child to be heard' (Geneva, UN Committee) para.32

52 <http://www.bbc.co.uk/news/uk-wales-south-west-wales-20400405>

In a UK-wide context, research conducted by CAFCASS showed that only a third of children consulted who had previously been involved in divorce proceedings had been able to communicate to the court what they wanted to happen to them.⁵³ This is despite a large number of respondents who would have liked to have been able to inform the court directly of their needs, wishes and feelings.

These examples raise great concern regarding the full implementation of Article 12 within judicial proceedings in that a child is not having their views heard or given due weight. Arguably, due to the potential seriousness of the outcomes to the child or young person, this is the arena where there is more need than ever to listen to their voices.

There has been progress made in enabling children to be heard in education administrative hearings. Following the Education (Wales) Measure 2009⁵⁴ children and young people are now able to directly make appeals about their special educational needs (SEN) to the SEN Tribunal for Wales. The Welsh Government has also recently released statutory guidance⁵⁵ related to the Education (Pupil Exclusions and Appeals) (Maintained Schools) (Wales) Regulations 2003, explicitly stating that learners over the age of 11, as a relevant person, have the right to be notified of an exclusion and appeal that decision directly.

However, there are doubts surrounding both administrative and judicial proceedings as to the extent young people are able to independently and effectively represent themselves and how adequate the provision of advocacy support is to enable them to participate. This is a particular concern in relation to vulnerable children, for example those in care, asylum seeking unaccompanied children, those in custody and homeless children. For the education hearings mentioned above there is an obligation that local authorities must make the 'appropriate arrangements' to enable the relevant person to appeal.⁵⁶ The extent to which this is done sufficiently is uncertain and relates somewhat to the inconsistent provision of independent advocacy services across Wales.

In 2010, Wales launched a ground-breaking national advocacy service, known as Meic. Meic is an information, advice and advocacy service provided via a helpline available 24 hours a day 7 days a week. Independent advocacy services in general play a crucial role in safeguarding children when exercising their right to have their voices heard.

The importance of this was amplified in Wales after the Waterhouse Report⁵⁷ into child abuse and protection. The importance of listening to children and taking their views seriously was emphasised by the report and one of the concluding recommendations was the creation of independent advocacy services. Unfortunately, following a comprehensive review of the services in Wales by the Children's Commissioner⁵⁸ in 2011, there is still a great deal of concern surrounding the weaknesses in the provision of services in practice.

53 Cafcass (2010), How it looks to me – Private law consultation (Sheffield: Cafcass)

54 Part 1, Section 1

55 Welsh Government (2012), Exclusion from schools and pupil referral units, (Guidance document number: 081/2012) (Cardiff, National Assembly for Wales)

56 Education (Pupil Exclusions and Appeals) (Maintained Schools) (Wales) Regulations 2003, Regulation 4

57 Waterhouse Report (2000), Lost in care - Report of the Tribunal of the Inquiry into the abuse of children in care in the former county council areas of Gwynedd and Clwyd since 1974, (London: Stationary Office)

58 Children's Commissioner for Wales (2012), Missing voices - A review of independent professional advocacy services for looked after children and young people, care leavers and children in need in Wales (Swansea: Children's Commissioner for Wales)

The key findings of the report and barriers to accessing the services included a lack of understanding of the meaning of 'advocacy' by young people⁵⁹ or the existence of an entitlement to receive it⁶⁰; a lack of support and understanding by professionals of the need for independent services; and a lack of consistency across local authorities.

The Welsh Government has responded to the report and has made commitments. However, it is now vital that these commitments are upheld and further developments in the area result in a strong strategic lead by Government. It is perhaps necessary at this stage to re-visit the Waterhouse 'Lost in Care' report. It is unclear whether the lessons have been learnt from the report as to the fundamental necessity of listening to children and the detriment of not doing so.



CRC/C/GBR/CO/4 para 33b: Support forums for children's participation, such as the United Kingdom Youth Parliament, Funky Dragon in Wales and Youth Parliament in Scotland

Welsh Government responsibility

In Wales, there is a National forum for participation, Funky Dragon, and regional local authority youth forums (although this is not consistent practice across Wales). There are also some specialised forums for more vulnerable sectors, such as Gypsies and Travellers.

It is important that these forums do not just exist but that it is possible for the young people's views to influence government agendas. There is an emerging practice of young people from Funky Dragon being able to sit on adult forums, such as the Climate Change Commission for Wales, and it is hoped that this will encourage further invites to ministerial advisory groups. The increase of this practice in the future could help to lessen the gap between providing the arenas for participation and ability for young people to materially influence policy.

The futures of youth forums for participation across Wales are uncertain. There remains no legislative support for Funky Dragon and, although 'mechanisms' for children and young people's participation was made mandatory for local authorities in the Children and Families (Wales) Measure 2010, creation of a youth forum is not essential. This has been confirmed by the recent release of the appendix guidance in "Shared Purpose – Shared Delivery".

The consequences of this are two-fold. Without a statutory footing it is possible that resources allocated by Welsh Government to Funky Dragon could be moved elsewhere. With regard to local authority youth forums, it is likely that a lack of guidance surrounding 'mechanisms' for participation will create increasing differences in approaches to participation Wales-wide. It could also be argued that a decrease in the presence of local authority youth forums could impact on the ability of Funky Dragon to effectively represent all children and young people's views.

59 Some social workers and other professionals believe the word 'advocacy' can create a barrier to accessing services: Children's Commissioner for Wales (2012), Missing voices - A review of independent professional advocacy services for looked after children and young people, care leavers and children in need in Wales (Swansea: Children's Commissioner for Wales), page 21, para 4.1

60 Out of 457 children questioned, 128 had not been told about advocacy or had not been offered an advocate: Children's Commissioner for Wales (2012), Missing voices - A review of independent professional advocacy services for looked after children and young people, care leavers and children in need in Wales (Swansea: Children's Commissioner for Wales), page 21, para 4.1

Additionally, there is not enough evidence to demonstrate where the views and opinions of children and young people within formal structures have been given 'due weight' in accordance to Article 12. An example of this is the regional Gypsy and Traveller youth forums, where young people are consistently unable to influence matters that impact on their lives, such as a redress for important safety concerns relating to current traveller sites.

There is an argument that the lack of influence of these forums has been caused by a focus on a 'child's right to be heard' but not necessarily listened to and has meant that there has not been a complete implementation of Article 12.⁶¹ For there to be complete respect for the article, there needs to be space for young people to express their views, facilitation of this expression, opportunities for this expression to be listened to and influence. At present there has been a lot of support for the creation of 'spaces' for young people's participation but an absence of views expressed in those spaces having the requisite influence (or 'due weight'). This is creating an accountability issue regarding Welsh Government and local authorities that needs to be addressed.



CRC/C/GBR/CO/4 para 33c: Continue to collaborate with civil society organisations to increase opportunities for children's meaningful participation, including in the media

Welsh Government responsibility

The Participation Unit for Wales, based at Save the Children – working with the Children and Young People's Participation Consortium for Wales – has developed a set of National Standards for children and young people's participation to help address the gap between rhetoric and reality. These Standards were endorsed by all members of the Welsh Assembly Government's Children and Young People's Cabinet Sub Committee and launched in 2007 and have featured in consequent policies and legislation. The launch of the National Kite-mark in 2010 was a catalyst for the development of teams of young inspectors across Wales. This boosted the desire of many organisations to self-assess their practice to ensure they were doing the best they could to guarantee a good quality process and receive a kite-mark awarded by young people as recognition.

From March 2013, the activity of the Participation Unit, in terms of its support to deliver the objectives of the National Children and Young People's Participation Consortium for Wales, will cease. There is a danger that this will create a vacuum in terms of central and national support for the standards, Kite-mark and Young Inspectors' teams. It is essential that after this time, the Welsh Government takes a lead and works with partners in the sector to develop a national structure or plan to ensure continuity of the progress made and future consistency.

In line with the work carried out by the Unit, there is also a large body of resources that have been developed that encourage good practice. There is uncertainty where these will be hosted post-March. However, the Welsh Government has funded a 'Participation Hub' which highlights some of the key practice in Wales. This includes information about and access to other services, websites, resources and training courses. It is essential that support remains for the Hub and that there is a commitment to disseminate the resources created by the Unit so they are not lost.

61 Lundy (2007), 'Voice is not enough: conceptualising Article 12 of the United Nations Convention on the Rights of the Child', (British Educational Research Journal 33/6, 927-42)

The Welsh Government has continued since 2007 to fund streams of work related to the participation of children and young people. The Wales-wide European Social Fund (ESF) bid had participation as one of its key components. Part of this bid resulted in the Reach the Heights programme, which aimed to encourage the participation of young people aged 16-18 who are not in education, employment or training, to have the opportunity to have their voices heard, to be empowered and have the confidence to voice their opinions on matters that affect their lives. However, this left a gap in terms of the provision of projects focused on children's participation. There have been short-term projects which have supported under 11's participation, such as the Children as Researchers (CARS) Project run by Funky Dragon. However, the support for the participation of 0-10s continues to be left behind, and strategic developments by Government have been minimal.

The funding for the Reach the Heights initiative ends in March 2013 and there is no indication at this stage that the theme of participation will fit into future ESF funded programmes. This is concerning as the practice still does not feel sufficiently embedded. The main drive by government is that participation is ready to be mainstreamed. Whilst it is important that this occurs, in practice mainstreaming a culture, such as participation, is one that takes a generation rather than the life-cycle of a funding stream.

Conclusion

Despite the apparent success of Welsh Government developing participation policies in relation to Article 12, generally, the funding of participation structures remains short term and opportunistic, which limits the impact that they are able to have. It also leaves them vulnerable to political re-prioritisation and re-structuring in consequence of public expenditure cuts.

There have been many well intentioned policies, however, there is a danger that some are made and are not adhered to. It should be remembered that 'There is a critical difference between going through the empty ritual of participation and having the real power needed to affect the outcome of the process'.⁶²

This leaves scope for adults to manipulate the duty to what suits them rather than ensuring that participation actually occurs and is an intrinsic part of it. There is also a danger that, 'children's engagement is perceived as appealing, though a disposable addition to main governmental business'.⁶³

Key recommendations

Welsh Government, working with its partners, should:

- Develop a comprehensive national strategic approach to children and young people's participation including the provision of clear measurable objectives to ensure consistency across local authorities.
- Ensure there is clarity and transparency around how due regard will take into account the views of children and young people and that the details surrounding this are made publicly available.
- Ensure that the final statutory guidance, as part of the "Shared Purpose – Shared Delivery" Single Integrated Plan guidance, is issued as soon as possible.
- Release final plans of monitoring arrangements for participation under the Single Integrated Plan.

62 Arnstein, S. (1969) 'Eight rungs on the ladder of citizen participation', *Journal of the American Institute of Planners*, vol 35, no 4, pp 216-24.

63 Tisdall, E. and Bell, R. (2006). Included in governance? Children's participation in 'public' decision making. In: Tisdall, K., Davis, J. Hill, M and Prout, A. *Children, Young People and Social Inclusion, Participation for What?* Bristol, Policy Press.

- Encourage inspectorates to inspect school councils on the basis of quality as well as presence.
- Undertake a review and evaluation of the provision of advocacy services for children involved in judicial proceedings.
- Introduce a system of monitoring and evaluating levels of children's participation in judicial proceedings.
- Re-visit the Waterhouse 'Lost in Care' Report (2000) and the Children's Commissioner's 'Missing Voices' Report in the context of independent advocacy services.
- Ensure a strong strategic lead is shown by Welsh Government in the context of provision of advocacy services to children and young people.
- Introduce legislation, long-term core funding and central support to secure national and local participation structures and mechanisms (including Funky Dragon).
- Make a commitment to demonstrate how the spaces for young people's participation are having the requisite influence.
- 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.
- Continue funding for the 'Participation Hub' and the dissemination of resources for participation.

Chapter 4: Civil rights and freedoms

Corporal punishment

Dr Anne Crowley and Peter Newell, Children are Unbeatable Alliance! Cymru

CRC/C/GBR/CO/4 para: 42 The Committee, reiterating its previous recommendations in the light of its general comment No. 8 on “the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment”, as well as noting similar recommendations made by the Human Rights Committee; the Committee on the Elimination of Discrimination Against Women; and the Committee on Economic, Social and Cultural Rights, recommends that the State party:

- a) **Prohibit as a matter of priority all corporal punishment in the family, including through the repeal of all legal defences, in England and Wales, Scotland, and Northern Ireland, and in all Overseas Territories and Crown Dependencies;**
- b) **Ensure that corporal punishment is explicitly prohibited in schools and all other institutions and forms of alternative care throughout the United Kingdom and in the overseas territories and crown dependencies;**
- c) **Actively promote positive and non-violent forms of discipline and respect for children’s equal right to human dignity and physical integrity, with a view to raising public awareness of children’s right to protection from all corporal punishment and to decreasing public acceptance of its use in childrearing;**
- d) **Provide parental education and professional training in positive child-rearing.**



UK Government responsibility



Welsh Government responsibility

Commentary on progress

Further to the Committee on the Rights of the Child issuing its Concluding Observations in October 2008, the Welsh Government published a National Action Plan on Children's Rights in 2009 setting out its key priorities and actions in response. Priority 10 of the Action Plan was:

“Working to make physical punishment of children and young people illegal in all situations”

The National Action Plan stated that the Welsh Assembly Government accepted the UN Committee's Concluding Observations *“that the defence of “reasonable punishment” (section 58 of the Children Act 2004) ought to be removed so that children and young people enjoy the same level of protection in law as adults.*⁶⁴

The Welsh Assembly Government's plan specified ‘what will happen’ as:

“In June 2009, Welsh Ministers signed up to the Children are Unbeatable Campaign Statement: We remain committed to the United Nations Committee on the Rights of the Child's call for a global ban on physical punishment which will:

- *fulfil children's human rights*
- *reduce violence against children*
- *improve the effectiveness of child protection*
- *provide a foundation for promotion of positive discipline that works*

*We have a long-standing policy of opposition to corporal punishment and promote positive, non-violent forms of discipline. We accept the UN Committee's recommendation that the ‘reasonable punishment’ defence ought to be removed, so that children and young people can enjoy the same level of protection in law as adults do.”.*⁶⁵

While the Welsh Government then did not have the constitutional power to change the law it continued to promote positive parenting messages through its funded parenting support programmes such as *Flying Start* and *Incredible Years*. A range of civil society organisations such as Barnardo's Cymru, Action for Children and NSPCC also continued to provide family support programmes often in partnership with local government.

In March 2011, a referendum in Wales effectively changed the devolution settlement giving the National Assembly in Wales powers to pass its own legislation in certain areas of policy including child protection. In October 2011, in response to a query from two Assembly Members, the First Minister for Wales stated:

“The Welsh Ministers’ view is that it would be possible for legislation to be passed by the Assembly... whose effect would be to bring to an end the availability of the defence of reasonable punishment for those cases where it still applies for an offence of assaulting a child.”

On the 19th October 2011 the National Assembly for Wales voted in favour of a motion urging the Welsh Government *“to bring forward legislation for consideration by the Assembly which would end the availability of the defence of ‘lawful chastisement’ for an offence of assaulting a child.”* The motion was carried by a strong cross-party majority of 25 votes to 14. Welsh Ministers abstained.

During the debate, the Deputy Minister for Children, while stating that as a Government and a National Assembly, *“we believe that hitting children is wrong”*, and noting a long-term commitment to legislating, stated that *“we would not be able to bring forward legislation during the term of this Assembly”*.

64 Welsh Assembly Government (2009) *Getting it Right 2009* United National Convention on the Rights of the Child: A 5-year rolling action plan for Wales setting out key priorities and actions to be undertaken by the Welsh Assembly Government in response to the Concluding Observations of the UN Committee on the Rights of the Child 2008. Pp:48-49.

65 Ibid

In the Welsh Government's National Action Plan for Children's Rights Progress report 2013, they reported:

*"In October 2011 the Deputy Minister for Social Services and Children confirmed that the Welsh Government would not put forward legislation regarding physical chastisement, during the current Assembly term. However, cultural change will be promoted to encourage positive disciplinary alternatives to physical punishment. The Welsh Government is currently working with the Children are Unbeatable Alliance! Cymru to develop recommendations around how best to influence and bring about the changes that we seek. This will include consideration of the most appropriate media for communicating with parents."*⁶⁶

This is not accurate. In a meeting with the Deputy Minister in October 2012, CAU! Cymru representatives made clear that the Welsh Government should fulfil the commitments of successive Welsh Governments since 2002 and introduce the necessary legislation at the first opportunity. It is incompatible with the Rights of Children and Young Persons (Wales) Measure 2011, to keep Welsh children waiting until after 2016. As the Committee on the Rights of the Child has made clear in successive Concluding Observations to the UK and in its General Comment on the rights of the child to protection from corporal punishment⁶⁷, prohibition – i.e. removal of the 'reasonable punishment' defence – is an immediate obligation of states. The Welsh Government informed the Committee in 2008 that it was committed to a complete ban on smacking, but at that time did not have the devolved power to do so.

The Children are Unbeatable! Cymru Alliance is not working with the Welsh Government on recommendations concerned with any other course of action other than legislating at the earliest opportunity and delivering on its human rights obligations and prior commitments.

If Wales is to take action to ensure that law and policy affecting its children meets with the obligations imposed by the UNCRC, then it is clear that the National Assembly must pass the necessary legislation to remove the "reasonable punishment" defence. The adoption by the Assembly of the Rights of Children and Young Person (Wales) Measure in 2011 re-emphasises this.

The first legislative opportunity should be used to bring this reform before the Assembly. Successive Welsh Governments have been calling vociferously for this legal reform since 2002 and meanwhile the human rights pressure on the UK Government, with repeated recommendations from the Committee on the Rights of the Child and other human rights bodies, has grown substantially. Even since 2008, the human rights pressure has continued to build:

- In a Memorandum to the UK Government following a formal visit in 2008, the Council of Europe's Commissioner for Human Rights, while condemning the lack of progress made by the UK Government, welcomed the strong support that the Welsh Assembly Government had expressed for removal of the reasonable punishment defence:

*"As international and European human rights treaty bodies have reiterated, respect for human dignity and physical integrity are the foundation of human rights. Maintaining a law which allows some level of violence to be justified as punishment or discipline is not in compliance with human rights. That children, uniquely, should have less protection under the criminal law from assault is additionally discriminatory and unimaginable, given children's obvious special vulnerability. It is inconceivable that any Member State would defend less legal protection from assault for any other population group – women, people with disabilities, elderly people. Children are more dependent and defenceless in relation to adults and need more rather than less protection."*⁶⁸

⁶⁶ Welsh Government (2013) *Getting it Right*, National Action Plan on Children's Rights Progress Report.

⁶⁷ General Comment N° 8 (2006): The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (arts. 19; 28, para. 2; and 37, inter alia)

- When the UK was examined in the first cycle of the Universal Periodic Review in 2008, Italy, France and Sweden recommended the Government should re-consider its position on corporal punishment.⁶⁹ The UK Government rejected the recommendations, stating that it sees no need for law reform since it believed the current law is working well.
- In May 2009, the Committee on Economic, Social and Cultural Rights repeated its 2002 recommendation, saying: The Committee reiterates its recommendation that physical punishment of children in the home be prohibited by law.⁷⁰
- The European Committee of Social Rights, monitoring the UK's compliance with the European Social Charter, issued its latest 'conclusions' on the UK's report early in 2012, patiently answering all the UK's excuses for not banning completely and concluding that the UK was not in compliance because of its failure to remove the "reasonable punishment" defence completely.⁷¹
- During the second cycle of the Universal Periodic Review of the UK in the Human Rights Council in Geneva on May 24 2012, the UK Government was pressed hard to ban the corporal punishment of children in the home with recommendations from Finland, Sweden and Hungary, emphasising the clear human rights obligation to do so.⁷²

Conclusion

The UK government continues to defend its current position in response to these recommendations saying that the defence of reasonable punishment does not, in its view, contravene children's human rights. The Welsh Government has remained strangely quiet on its divergent opinion which prior to 2011 it frequently expressed so boldly and eloquently.

Since devolution, successive Welsh governments have supported the call for law reform to give children in Wales equal protection from being hit. There has also been strong cross party support for this reform in the Assembly itself. Removing the defence of reasonable punishment is not an 'optional extra' for a government supportive of children's rights: it is a fundamental requirement.

Key recommendations

- Welsh Government should embrace its stated commitments to children's rights and demonstrate leadership on this issue as a matter of urgency.
- The National Assembly for Wales should legislate to remove the defence of 'reasonable punishment' in line with its human rights obligations as soon as practicable. Children in Wales have waited too long for equal protection under the law on assault. We now have an opportunity in Wales with the new legal powers to bring forward legislation that can promote and protect children's human rights to live free from violence.
- Alongside legislation, Welsh Government with other partners should continue to invest resources to actively promote positive, non-violent discipline of children.

68 Memorandum by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe following his visits to the United Kingdom, February and March 2008; issue reviewed: corporal punishment, CommDH(2008)28, Strasbourg, 9 October 2008

69 (A/HRC/8/25, Report of the Working Group, paras. 56(2), 56(3), 56(4) and 56(5))

70 E/C.12/GBR/CO/5, 22 May 2009, para. 24

71 European Committee on Social Rights, ; January 2012, Conclusions XIX-4 (2011)

72 Universal Periodic Review, Human Rights Council, 13th session (examination May 24 2012, Geneva)

Chapter Five: Family and alternative care

Children of prisoners

Laura Tranter, Barnardo's Cymru



CRC/C/GBR/CO/4 para. 44: Ensure support to children with one or both parents in prison, in particular to maintain contact with the parent(s) (unless this is contrary to their best interests) and to prevent their stigmatization and discrimination against them.

UK & Welsh Government responsibility

Commentary on progress

The National Offender Management Service (NOMS) is an Executive Agency of the Ministry of Justice (MoJ). Its purpose is to protect the public and reduce re-offending by delivering the punishment and orders of the courts and supporting rehabilitation by helping offenders to reform their lives. NOMS is responsible for commissioning adult offender services, in custody and in the community, in England and Wales. In addition the Executive Agency is responsible for providing custodial services both directly and under contract to other government departments through the public sector prison service.

The agency has published *An Introduction to NOMS Offender Services Commissioning* which includes the following intention:

*'Continue to work with the Welsh Government and its devolved agencies to ensure alignment between offender services directly commissioned by NOMS and the Welsh Government's devolved responsibilities, to maximise outcomes for offenders, their families and local communities.'*⁷³

Over the past 2 years there have been a number of specialised services developed in Wales with a primary focus on the needs of children and families of offenders/prisoners. There is a designated NOMS Children and Family Pathway Lead with a specific remit to develop links with Welsh Government and local authorities across Wales. There is a Wales Regional Development Manager for Action for Prisoners Families⁷⁴ providing advice, support and guidance to all Sectors across Wales to enable them to identify families, develop effective assessment tools and good practice measures. A number of prison based partnerships have been developed including:

- Prison Advice + Care Trust (PACT): Family Support staff employed in HMP Swansea + HMP Cardiff.
- HMP Parc Invisible Walls Wales project: Big Lottery funded G4S project at HMP Parc with multi agency community partners delivering services to fathers in prison and their families in the community.
- Family and Friends of Prisoners (FFOPS): running HMP Swansea's Visitors Centre.
- Platform 51: providing direct support to women offenders and their children.
- St. Giles Trust: providing "through-the-gate" services to prisoners in HMP Cardiff and their families in the community
- Gibran: providing support services to women returning to Wales from HMP Eastwood Park.

⁷³ NOMS (2012) Commissioning Intentions 2013-2014 <http://www.justice.gov.uk/downloads/about/noms/commissioning-intentions-2013-14-oct12.pdf>

⁷⁴ www.prisonersfamilies.org.uk/

Whilst the Welsh Government has been engaging with officials from NOMS in order to improve Family Information Services, and there has been some progress made in regards to delivering child friendly environments within visitors centres in the majority of prisons in Wales, responses to enquiries regarding children of prisoners suggest that general progress from Welsh Government in this area has been limited and slow. We understand that the Children's Commissioner for Wales is concerned about the needs of children of prisoners/offenders and that he intends to highlight the issue within the next 12 months.

Issues of concern

There is currently a lack of joint working and commissioning between an England and Wales centralised criminal justice system and local authority services within Wales. There is a lack of coordination of services to support children and families of offenders/prisoners in Wales which results in inconsistent levels of service delivery and limited cross-communication about this issue between NOMS, Ministry of Justice and Welsh Government.

The progress that has been made to date has been limited and slow and has largely been developed by third sector service providers and prisons. There is currently no Welsh Government strategy, guidance or core funding that is aimed specifically at addressing the needs of children of prisoners. There is no single agency responsible for children and families of prisoners/offenders in Wales and responsible for obtaining children's views on how having a parent in prison affects their lives.

Of considerable concern is the lack of understanding and recognition of the impact of parental imprisonment on children in the family by universal family support services (i.e. inconsistencies in service delivery) and of the rights of children in such circumstances. There is a lack of services delivering holistic, multi-agency approaches which best meet the families' individual needs and, put simply, not enough community based support for families of offenders/prisoners.

Despite ongoing pockets of local good practice there is still no consistent way of identifying children affected by parental imprisonment. It follows from this that there is no way of involving these as yet unidentified children in the decisions that affect them. Some progress has been made but huge systematic gaps remain. There is no standardised assessment of families' needs unless there is a safeguarding issue. Appropriate information is not always gathered on the children in the family and how the sentence will impact upon them. There is a lack of support for parents to encourage them to share their family circumstances (i.e. a partner in prison) with statutory agencies e.g. schools/education, social services etc. There is a lack of awareness/ knowledge of the issues for offenders' families across statutory sectors such as education.

There is an assumption by professionals that release is the end of a process rather than the beginning of a new and often turbulent time for families. Families are not routinely consulted in pre-release preparations and are not always informed of the release process e.g. release dates, times etc. Despite the Welsh Government Families First⁷⁵ and IFSS⁷⁶ guidance and service development, children of offenders are not specifically mentioned, and are therefore not recognised as a group with specific needs and consequently their issues are not being appropriately addressed.

75 Welsh Government (2011) Families First Programme Guidance <http://wales.gov.uk/docs/dhss/publications/111219ffguideen.pdf>

76 Welsh Government (2010) Integrated Family Support Services: Statutory Guidance and Regulations <http://wales.gov.uk/topics/childrenyoungpeople/parenting/help/ifst/ifsspublications/4435364/?lang=en>

A major problem for the children of Welsh female prisoners is the distance that is required to travel to visit their mothers. There are currently no prisons for female offenders in Wales with the majority of female offenders from South Wales imprisoned in HMP Eastwood Park in Gloucester and women from North Wales sentenced to HMP Styal in Cheshire.

There is a lack of financial support for family visits which subsequently has a direct impact on the number of visits a family can and cannot afford. This means that poorer families frequently find it very difficult to maintain contact/ties throughout the length of the sentence. There is a lack of focus on the importance of family and community ties and their links to rehabilitation and to the reduction of re-offending and how maintaining family contact can have a positive impact on the rights of the child.

Adult criminal justice services are not always aware of the rights of the child and therefore do not routinely have policies in place and mandatory training to address this issue. The current criminal justice system remains almost exclusively offender focused with little regard for the impact of imprisonment on families.

Key recommendations

Welsh Government should:

- Recognise children of offenders as a specific group within Welsh Government policy.
- Increase awareness raising, training and policy development on the issues faced by children of prisoners and integrate into a children's rights framework.
- In partnership with NOMS establish joint commissioning of long term services for children and families.
- In partnership with Ministry of Justice/NOMS establish an independent single agency to be responsible for ensuring consistency of service delivery and ensuring the views of children and young people with a parent in prison are collated and addressed across Wales.
- Enable greater engagement on the issues faced by children and families of prisoners from welfare and support agencies across all local authorities in Wales.

UK Government/Ministry of Justice/NOMS should:

- In partnership with Welsh Government establish strong national and regional partnerships to provide local and national perspectives to feed into Welsh Government policy development.
- Give greater consideration at the sentencing stage as to where prisoners serve any custodial sentence. To improve continued contact with family these sentences need to be served in prison establishments as close to the family home as possible.
- Review sentencing guidelines regarding the numbers of women who have primary care responsibilities for children in their family who are imprisoned for relatively low level crimes.

Child protection

Kate Carr, Cecile Gwilym and Vivienne Lang, NSPCC Cymru

General commentary on progress

Children have the right to be protected and so it is incumbent on any society to protect its children from abuse and neglect. It is important to monitor the extent of child abuse and neglect so that we know if efforts to prevent maltreatment and protect children are working. The most recent research into the prevalence of child abuse and neglect in the UK⁷⁷ found that 1 in 4 young adults (aged 18- 24) or 25.3% had experienced severe maltreatment during childhood. When compared to the previous UK wide child maltreatment study undertaken in 1998/9⁷⁸, it was found that there had been some reduction in children and young people reporting some aspects of physical and sexual abuse, but there had been no change in the experiences of neglect. In many ways children are safer today than in previous generations as understanding of abuse and neglect and action taken to tackle abuse is improving. However, self-reporting surveys of child abuse and neglect still reveal high levels of abuse and neglect and it is clear that the majority of child maltreatment does not come to the attention of the public authorities.

Children in need are children who need services in order to safeguard and promote their welfare or who have a disability. In Wales, the Children in Need Census⁷⁹, published at the end of March 2011, revealed that there were 19,655 children in need, which was a rate of 315 per 10,000 children aged under 18 years. Drilling down into different groups of children in need, we know there were 2,890 children on child protection registers on 31 March 2012 (a slight increase compared to 31 March 2011). This represents a rate of 46 children per 10,000 population aged under 18.⁸⁰

The highest number of registrations was shown in categories involving neglect (46%), followed by emotional abuse (31%) and the lowest in the category of sexual abuse (7%). Care should be taken in the interpretation of these statistics; they are not estimates of the number of children subject to abuse, rather a record of all children in the area for whom there are unresolved child protection issues and who are the subject of an interagency plan.

Comparing numbers on the child protection register over recent years there has been a steady increase: between 2004 and 2012 the numbers have increased by 34%. Neglect remains a stubborn problem and has consistently been the most common reason for children being on the child protection register in Wales. The NSPCC study on child maltreatment in the UK⁸¹ found that one in ten young adults had experienced serious neglect during their childhood and research undertaken by the NSPCC and Community Care in 2012 found that children suffering neglect are unlikely to receive timely help from social services, according to nearly 60% of social care professionals.⁸²

77 Radford, Lorraine, Corral, Susana, Bradley, Christine, Fisher, Helen, Bassett, Claire, Howat, Nick and Collishaw, Stephan (2011) *Child abuse and neglect in the UK today*. London: NSPCC.

78 Cawson, P., Wattam, C., Brooker, S. and Kelly, G. (2000) *Child maltreatment in the United Kingdom: A study of the prevalence of child abuse and neglect*. London: NSPCC.

79 Wales Children in Need Census 2011 <http://wales.gov.uk/topics/statistics/headlines/health2012/1202293/?lang=en>

80 Local authority child protection registers 2012 <http://wales.gov.uk/topics/statistics/headlines/health2012/1211282/?lang=en>

81 Radford, Lorraine, Corral, Susana, Bradley, Christine, Fisher, Helen, Bassett, Claire, Howat, Nick and Collishaw, Stephan (2011) *Child abuse and neglect in the UK today*. London: NSPCC.

82 http://www.nspcc.org.uk/Inform/resourcesforprofessionals/neglect/policy_wda92078.html

Another group of children in need are those who are 'looked after' and cannot be with their families. There are many reasons why the state may be the corporate parent including because a child has suffered abuse or neglect or was at risk and also includes children who are looked after on a voluntary basis or by agreement with their parents. In Wales there were 5,726 looked after children on 31 March 2012⁸³, an increase of 310 (6%) over the previous year. The number of looked after children in Wales has increased by 24% over the last five years and now Wales has the highest rate (92 per 10,000 population aged under 18) of looked after children per head of population across the nations of the UK.

Most child sexual abuse remains hidden, unrecognised and unreported. Since the uncovering of Jimmy Savile as a predatory sex offender who abused over 450 victims over many decades, there have been an unprecedented number of victims who suffered child sexual abuse in the past and present who have come forward. Jimmy Savile escaped prosecution, but over the coming years other perpetrators of child sexual abuse will be brought to justice across the UK.

In Wales concerns emerged that the terms of reference of the Waterhouse Inquiry were too tightly drawn and that some perpetrators had escaped prosecution. The UK Prime Minister stepped in quickly to announce new inquiries into the original investigations undertaken by North Wales Police and the new allegations and also into the terms of reference of the original inquiry. Interim reports are due to be published in 2013.

What is clear is that the views of children have not always been listened to, heard and acted upon, which is a clear breach of Article 12. It is essential that children are believed and that a clear message is sent out to children that if they are abused and they come forward that they will be believed and supported. Independent professional advocacy services need to be available and accessible to children across Wales and should comply with the National Standards for the Provision of Children's Advocacy Services 2003 (see also Chapter 3. Participation). It is also essential that policy makers and practitioners respond to the emerging manifestations of sexual abuse such as sexual exploitation by gangs and within teenage relationships (see also Chapter 8. Sexual exploitation and Chapter 6. Health).

Children have been a priority for governments in Wales since devolution. The previous Welsh Assembly Government used its legislative powers to deliver change for children in Wales through the Children and Families (Wales) Measure 2010 and the Rights of Children and Young Persons (Wales) Measure 2011. Now the Welsh Government has primary legislative powers, it has made clear its intent to deliver early intervention and improve well-being and make changes to safeguarding structures through its Social Services and Well-Being Bill which started its progress through the National Assembly in January 2013 and will commence on 1 April 2016.

However, children's rights and outcomes need to be more clearly evident on the face of the Bill if children's rights are to be fully realised within the child protection system. The Bill will also establish a National Safeguarding Board for adults and children and it is recommended that this Board provides a clear national direction, is strong and robust and holds all regional safeguarding boards and agencies to account for their safeguarding duties. There will also need to be strong guarantees in place to ensure that children's safeguarding issues are not sidelined while the adult protection framework is developed.

83 <http://wales.gov.uk/topics/statistics/headlines/health2012/120927/?lang=en>



CRC/C/GBR/CO/4 para. 51 a: Establish mechanisms for monitoring the number of cases and the extent of violence, sexual abuse, neglect, maltreatment or exploitation, including within the family, in schools and in institutional or other care.

Welsh Government responsibility

The Welsh Government publishes child protection data through the Children in Need Census, Child Protection Register figures and statistics relating to looked after children as detailed above. The Welsh Government also publishes the Children and Young People's Wellbeing Monitor⁸⁴ for Wales every 3 years which provides an overview of the wellbeing of Welsh children and young people. It is also encouraging better information sharing between agencies through the *Wales Accord for Sharing Personal Information* (WASPI) and the SAIL project.

However, there are a number of significant issues linked with child protection data collection:

- Different agencies (health and social services for example) collect different data and store and report on it separately.
- Data from social services tends to rely heavily on registration statistics, which is problematic because child protection register figures differ from actual incidence of maltreatment. Not all abuse is reported and in particular research⁸⁵ shows that registration seriously underestimates maltreatment of older children and teenagers, largely because their maltreatment does not get recognised.
- There is no single database which regularly records the violence and abuse experienced by children and young people in Wales and can be used as a basis to develop a comprehensive strategy to tackle child abuse and neglect.
- Despite bullying being the second biggest reason that children contact ChildLine, Welsh Government do not centrally monitor bullying incidents.



CRC/C/GBR/CO/4 para 51. b: Ensure that professionals working with children (including teachers, social workers, medical professionals, members of the police and the judiciary) receive training on their obligation to report and take appropriate action in suspected cases of domestic violence affecting children

Welsh Government responsibility

Tackling violence against women and domestic abuse is a priority for the Welsh Government: the implementation of the *Domestic Abuse Action Plan* is clearly stated as an action in *Getting it Right*, the rolling UNCRC Action Plan for Wales.⁸⁶ The Welsh Government plans to introduce legislation to end violence against women, domestic abuse and sexual violence and has published a white paper outlining its proposals. It builds on the Right to be Safe strategy⁸⁷ in 2010 and focuses on:

⁸⁴ <http://wales.gov.uk/docs/caecd/research/110328cypmonitoren.pdf>

⁸⁵ Gilbert R, Spatz, Widom C, Browne K, Fergusson D, Webb E (2009) *Burden and consequences of child maltreatment in high-income countries*, *Lancet* 373: 68 – 81

⁸⁶ Welsh Assembly Government (2009) *Getting it Right*. 5 year rolling action plan to implement the UNCRC in Wales.

⁸⁷ Welsh Government (2010) *Right to be Safe Strategy*
<http://wales.gov.uk/topics/housingandcommunity/safety/domesticabuse/publications/besafe/?lang=en>

- Strong leadership across public sector services in Wales.
- Better education and awareness from the “cradle to the grave” which includes the public, frontline staff and professionals.
- Strengthening and integrating services that are consistent, effective and of a high standard.

The white paper makes clear reference to the long term impact on children who experience violence in the home and states the need to ensure children receive the relevant protection, support and services, as part of the Welsh Government's commitment to the UNCRC. However, the duties proposed will need to be much stronger and clearer in relation to provision of services for children.

Good guidance from the Welsh Government is in place⁸⁸ but the main problem has been inconsistent local implementation of national policy and guidance. This includes training for professionals on reporting and taking appropriate action in suspected cases of domestic abuse affecting children. No national domestic abuse training strategy has yet been published, despite it being a priority under the *Right to be Safe Implementation Plan*. The annual report on Welsh Government's *Right to be Safe Action Plan* states they expect publication of the training strategy in 2013-14. The strategy will be developed to support the implementation of the minimum standards from the 10,000 Safer Lives project which includes having an annual multi-agency training plan for domestic abuse.

While all professionals working with children receive child protection training, not all child protection training includes domestic abuse issues. There are also concerns about the inconsistent quality and implementation of training across Wales. Some specialist training has been provided to ensure that midwives and nurses are confident in asking assessment questions in relation to abuse and violence. However, anecdotal evidence suggests that not all health professionals are asking these routine questions and so it is to be welcomed that the proposed legislation includes plans for the development and implementation of a national training framework. The proposed legislation intends to introduce a duty to “ask and act”. As Welsh Government social care policy increasingly moves towards a family-focused, integrated model, clear guidance will need to be in place for those working with adults to “ask and act” in order to establish where children may be involved and have unmet needs.



CRC/C/GBR/CO/4 para 51 c: Strengthen support for victims of violence, abuse, neglect and maltreatment in order to ensure that they are not victimised once again during legal proceedings.

UK & Welsh Government responsibility

CAFCASS Cymru is currently engaged in a significant amount of work around participation and the voice of children and young people involved in family court proceedings. Family Court Advisors are generally mindful of the need to balance the responsibilities of parents with the interests of children. A safeguarding screening assessment for domestic abuse has been put in place, which particularly looks at the effect of inter parental conflict on children. There is some recognition by CAFCASS Cymru that they need to develop more systematic ways to communicate with children and young people and progress is under way to achieve this. For example, work is currently being done on a feedback and evaluation process for children and young people to ensure that service provision is based on the voice and opinions of users (see also Chapter 3. Participation).

⁸⁸ (Information and Guidance on Domestic Abuse: Safeguarding Children and Young People in Wales; Safeguarding Children and Young People Affected by Domestic Abuse <http://new.wales.gov.uk/topics/housingandcommunity/safety/domesticabuse/publications/safecandyp/?lang=en>)

However, evidence has highlighted potential problems in cases of child contact where domestic abuse has been an issue. In such cases, it is sometimes assumed that contact with the abusive partner is in the child's best interest, which can put both the child and the non-abusive parent at increased risk.⁸⁹ This is of particular concern in the light of the UK Government's decision to legislate to introduce a principle of shared parenting in applications relating to contact, residence and parental responsibility. This goes against the paramountcy principle contained in the Children Act 1989 and poses significant risks for children and non abusive partners in cases of domestic abuse.

Where children are witnesses in criminal court cases it is important that they are able to provide the best evidence and are not fearful or stressed. NSPCC undertook an evaluation of a pilot Young Witness Service in Northern Ireland⁹⁰ and found there was an overwhelmingly positive response to the remote live link, in a building away from the courthouse, which enabled young witnesses to give their best evidence. The remote live link is now being rolled out by the Department of Justice in Northern Ireland and it is recommended that this service is also made available to children involved in criminal cases in Wales and England.



CRC/C/GBR/CO/4 para 51 d: Provide access to adequate services for recovery, counselling and other forms of reintegration in all parts of the country.

Welsh Government responsibility

The Welsh Government published a comprehensive strategy for Child and Adolescent Mental Health Services in 2001, *Everybody's Business*, which was clearly described as part of the Government's response to the obligations outlined in the UNCRC. However, a 2009 joint WAO, HIW, Estyn, and CSSIW audit of services for children and young people with emotional and mental health needs⁹¹ concluded that: *"despite some improvements in recent years, services are still failing many children and young people, reflecting a number of key barriers to improvement."* (See also Chapter 6. Health)

Since then the Welsh Government has published an action plan to address the implementation gap (*Breaking the Barriers*, 2010), has passed the Mental Health Measure and published a mental health strategy for all ages, *Together for Mental Health*.

Tight criteria for accessing CAMHS services in Wales tend to exclude children from services unless they present with a diagnosable mental illness (see also Chapter 6 Health). In general, maltreated children will not fit these criteria until they present with either extreme hyperactivity, depression, eating disorders, serious self harm or when presenting a danger to others. These children present at such high level on the spectrum of need because they have not been able to access adequate support to help them to recover earlier on in their lives. There is also a lack of appropriate therapeutic and supporting interventions for so called extremely troubled adolescents. School counselling services may help older children with less severe difficulties if they seek help. However, these services are not specialised in helping children recover from maltreatment. This is a breach of Article 39 which states that children who have been neglected or abused should receive special help.

89 Woman's Aid (2004): *Twenty Nine Child Homicides: Lessons still to be learned on domestic violence and child protection*

90 David Hayes, Lisa Bunting, Anne Lazenbatt, Nicola Carr and Joe Duffy: *The experiences of young witnesses in criminal proceedings in Northern Ireland: 2011* Department of Justice (NI)

91 http://www.wao.gov.uk/assets/englishdocuments/CAMHS_eng.pdf

Additionally children continue to have difficulties accessing services in their own right. The use of the term DNA (did not arrive) implies that children have capacity to have consented in the decision not to be brought to a clinic or appointment.

Key recommendations

Welsh Government, working with its statutory partners should:

- Clarify its overarching strategy for safeguarding and protecting children. In particular, it needs to be clearer how children's rights to be safeguarded and protected are being realised.
- Support professionals who work with children to effectively identify and respond to child neglect so that neglected children receive the support they have a right to.
- Urgently commission research into the underlying causes of the high rate of looked after children in Wales.
- Ensure independent professional advocacy services are available and accessible to children across Wales and comply with the National Standards for the Provision of Children's Advocacy Services 2003.
- Ensure that the Social Services and Well-being Bill becomes more rights focused and that children's rights are more overtly written into and embedded into the Bill.
- Ensure that the new safeguarding structures work effectively, hold all agencies to account for their safeguarding duties and that children's safeguarding issues are not sidelined while the adult protection framework is developed.
- Ensure the rights and needs of children are met under the proposed legislation by delivering a training framework which supports professionals to "ask and act" in relation to both victim and children who may be experiencing domestic abuse
- Ensure that there is effective and regular measurement of the violence and abuse experienced by children and young people in Wales in all settings.
- Take steps to ensure that children and young people who have experienced abuse can access appropriate, child centered therapeutic services as required.
- Ensure that the focus on children's rights to protection and safeguarding is not lost as part of the transition to an integrated service provision agenda for adults and children.
- A consistent and systematic approach is adopted to embed children's rights across all strategies, delivery plans and services for mental health.
- Child protection and safeguarding is embedded in the design and delivery of all mental health services.
- Omissions in service development priorities for children and young people should be addressed by:
 - developing a dedicated infant mental health strategy
 - ensuring service provision for vulnerable groups, including children and young people who are victims of sexual abuse
 - acknowledging the impact of adult mental health issues on dependent children

UK Government should work with the Welsh Government to ensure:

- That the best interests of children and young people remain the paramount principle during legal proceedings.
- That the remote live link young witness service is made available to children involved in criminal cases in Wales and England.

Chapter Six: Basic health and welfare

Disabled children

Lynne Hill, Children in Wales



CRC/C/GBR/CO/4 para. 53: In the light of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and the Committee's general comment No. 9 (2006) on the rights of children with disabilities, the Committee recommends that the State party:

(a) Take all necessary measures to ensure that legislation providing protection for persons with disabilities, as well as programmes and services for children with disabilities, are effectively implemented.

Welsh Government responsibility

National policies and programmes

Families First

Families First is a Welsh Government programme that promotes the development of multi-agency systems and support, with a clear emphasis on prevention and early intervention for families, particularly those living in poverty. The programme operates in every local authority area. The Family First programme has a specific element that should identify proposals to improve support for families with disabled children and young people.

Short breaks

Children Act 1989 and the Breaks for Carers of Disabled Children (Wales) Regulations 2012 placed a duty on local authorities to provide breaks from caring for carers of disabled children to support them to continue to care for their children at home.

Play sufficiency

The Play Sufficiency Duty is part of the Welsh Government's anti-poverty agenda and acknowledges that children can have a poverty of experience, opportunity and aspiration, which can affect children from all social, cultural and economic backgrounds in Wales. The Play Sufficiency Assessment regulations 2012⁹² require all local authorities to assess the sufficiency of play opportunities for children within its area. Within the statutory guidance there is specific mention of the needs of disabled children *"Play opportunities are accessible to and inclusive of disabled children and may include support to access play opportunities."*⁹³

92 Play Sufficiency Regulations (2012) <http://www.assemblywales.org/bus-home/bus-business-fourth-assembly-laid-docs.htm?act=dis&id=239251&ds=10/2012>

93 Creating a Play Friendly Wales Statutory Guidance to Local Authorities on assessing for sufficient play opportunities for children in their areas. Welsh Government 2012.

Support for children with additional needs

The Welsh Government has developed a programme of work entitled *“Forward in Partnership for children and young people with additional needs”*⁹⁴ which will reform the legislative framework for special educational needs.

New legislation to be introduced will:

- Give a statutory footing to the concept of Additional Needs (AN)⁹⁵
- Replace special education needs (SEN) statements with new integrated Individual Development Plans (IDP) for children and young people
- Set out how integrated plans will cover those aged 0–25 years who fall within different categories of need
- Set out the duties to be imposed on relevant bodies
- Set out the resolution process for any disputes
- Impose a duty on Welsh Ministers to issue a code of practice in relation to the new statutory framework for AN
- Impose a duty on relevant bodies to collaborate in respect of AN provision.

Children and young people with AN will have Individual Development Plans (IDPs), which will include:

- Biographical information about the child or young person, contact details and information about all those working with them
- Contributions from the children and young people, their parents/carers and professionals working with them. IDPs will consider both what is important to the child or young person and what is important for them.
- An action plan outlining how the child or young person's needs will be met by whom and by when and how this will be reviewed in the future.
- The plan will be reviewed at least six monthly.

This work is currently being piloted in eight local authority areas, and the pilots will be independently evaluated. The current pilot phase will end in August 2013.

Early Support

Early Support⁹⁶ is the Welsh Government mechanism to improve services for disabled children and children with additional needs and their families. Early Support has developed a range of resources and training that are aimed at bringing service providers together to work in partnership with the family to ensure the child and family's requirements are met. The aim is to put parents at the centre of the planning process.

Transition services for young disabled people

Supported by European funding, there has been a transition pilot developed in 15 of the 22 local authority areas in Wales. This work has been well received by young people, parents and professionals.

⁹⁴ <http://wales.gov.uk/consultations/education/senframeworkconsultation/?lang=en>

⁹⁵ Additional Needs is the term that will be used to describe “a child or young person would be deemed to have an additional need if they have a greater difficulty than the majority of persons of the same age, which can encompass significant problems due to their physical or sensory needs; communication needs; ability to learn; or social and emotional development”. From consultation document.

⁹⁶ <http://www.earlysupportwales.org.uk/>

This work is now coming to an end, and although many areas will continue the work, there is no guarantee that all the projects will continue, and there are no plans to roll out the model across Wales. Some of the work developed within the Additional Needs agenda will support transition; however there are currently many young people who are still not having the same choice or opportunity as their non disabled peers.

However, as noted in Stop, Look Listen in 2007⁹⁷, there still remain areas where services and guidance remain undeveloped, including child development services, child health services, and provision for young disabled people aged 16 and over.

Access to play

The Play Sufficiency Duty is a welcome step forward from Welsh Government (see also Chapter 7. Play). As local authorities are currently completing their Play Sufficiency audit, it is too early to comment on their effectiveness.

However, it is worth noting that currently there are a number of concerns in relation to supporting access to a range of play opportunities for disabled children and young people in Wales.⁹⁸

“The reality for most disabled children and young people is, as one young person said, ‘there is nothing for me’.”⁹⁹

With regards to issues of inclusion, parents are often reluctant to allow their children to participate in mainstream leisure, fearing reaction from peers and the competence and/or values of instructors. Many young disabled people are accustomed to spending much of their leisure time with family or extended family, so attending external clubs can be terrifying for them. Many groups remain suspicious and reluctant to include disabled young people, due to underlying fears around health and safety, potential litigation and ability to provide adequate support.

Transport is identified as a problem for disabled young people across Wales. Even where there is an adequate public transport system it is not always an option for all young people with a learning disability. Physical access to leisure centres is also often inadequate. Local authorities may have made adjustments to entrance or eating areas but won't have a hoist or changing place in the toilet. Adjustments often appear superficial or tokenistic, designed to meet minimum legislative requirements as opposed to embracing inclusion.

The knowledge and confidence of staff is often called into question. Leisure centre staff and instructors need more exposure to improve confidence working with disabled children and young people. Training alone is an inadequate way of addressing concerns and promoting confidence.

Disabled children and young people don't always benefit from government schemes. For example the Welsh Government's 5x60 initiative¹⁰⁰ only works with special schools in seven local authorities across Wales, however all mainstream comprehensive schools benefit from this scheme. Finally, not all children enjoy or wish to be involved in mainstream play and leisure and this also needs to be acknowledged.

97 Croke & Crowley (eds) Stop, look, listen: the road to realising children's rights in Wales. Save the Children.

98 Evidence gathered from Mencap and Local Authority leads as part of evidence sessions.

99 Fair Play for Disabled Children and young people in Wales. Bevan Foundation January 2011.

100 <http://www.sportwales.org.uk/community-sport/education/5x60.aspx>

Bullying

All schools in Wales are required to have an anti-bullying policy and, ideally, that policy should be developed and implemented with the input of pupils in the school. The Welsh Government advocates that schools adopt a whole-school approach to bullying, but it is up to individual schools to determine what measures it takes to prevent and respond to bullying based on local requirements.

Welsh Government have developed work under the title of *Respecting others*,¹⁰¹ a series of anti-bullying materials that provide guidance and practical solutions on preventing and responding to incidents of bullying in schools. The series includes a brief overview document and detailed guidance on five areas of bullying, one of which is bullying around special educational needs and disabilities. While this work is welcomed, for many young disabled people in Wales it appears to have little impact.¹⁰²

As the Welsh Government does not collect any systematic data from schools on bullying, it is difficult, if not impossible, to know how schools are addressing these issues. In gathering evidence from practitioners the picture across Wales was varied. One contributor reported *"While some schools demonstrate having excellent practice in trying to combat bullying and its effects on individuals and society other schools do not have any bullying issues in their school"*.

Despite progress in terms of policy, the reality for most disabled children and young people is that outcomes have not improved greatly. For example bullying remains a concern for visually impaired children and young people who are additionally vulnerable when they are unable to see and therefore identify the perpetrator(s). Bullying also seems to be more problematic for young people in SEN units as opposed to special schools. Outside the school setting little is done to tackle bullying in communities and for disabled children and young people and their parents this fear also limits opportunities for socialising and engaging in community activities.¹⁰³

Education and exclusions

Disabled children are often the subject of exclusion from schools, particularly those with communication or emotional behavioural difficulties¹⁰⁴. Welsh Government statistics indicate a decline in numbers of exclusions. *"In 2010/11 there were 158 permanent exclusions from maintained primary, secondary and special schools and pupil referral units in Wales, a decrease of 27 from 2009."*¹⁰⁵

Of more significant concern is the number of unlawful or illegal exclusions. Many of these exclusions happen repeatedly, which results in some children and young people missing out on educational opportunities and losing contact with peers:

*"It is not lawful for schools to ask parents or guardians to keep their children away from school without the school giving formal notification of an exclusion. In instances when this does occur the correct term is 'unlawful exclusion' but it is commonly referred to as an 'illegal exclusion'."*¹⁰⁶

¹⁰¹ <http://wales.gov.uk/topics/educationandskills/publications/circulars/antibullying/?lang=en>

¹⁰² Evidence gathered from interviews with disabled young people undertaken by Children in Wales.

¹⁰³ Evidence gathered from RNIB and Gwynedd Local Authority lead during evidence gathering sessions

¹⁰⁴ Experiences of illegal school exclusions in Wales: a qualitative study, by Victoria Butler. A partnership research project by Barnardo's Cymru and SNAP Cymru Commissioned by the Department for Education and Skills (DfES), the Welsh Government

¹⁰⁵ Exclusions from schools in Wales 2010/11. Statistics for Wales February 2012.

¹⁰⁶ Experiences of illegal school exclusions in Wales: a qualitative study, by Victoria Butler. A partnership research project by Barnardo's Cymru and SNAP Cymru Commissioned by the Department for Education and Skills (DfES), the Welsh Government

A 2007 Children's Commissioner for Wales Report¹⁰⁷ following investigation into the unofficial school exclusions of a pupil with special educational needs made nine recommendations, and *Experiences of illegal school exclusions in Wales: a qualitative study*, by Victoria Butler, published in June 2011 made 27 recommendations. The recommendations of these reports should be fully implemented.

Poverty

The financial challenges facing families with disabled children in the UK is well documented, most recently the Children's Society (2011)¹⁰⁸ found that four in every ten disabled children in the UK were living in poverty.¹⁰⁹

The Benefits Awareness Campaign work led by Citizens Advice Bureau to raise awareness of benefits and the Family Fund extra initiative, both highlighted in the *Getting it Right National Action Plan 2009*, have both contributed to ensuring that families with a disabled child or children are accessing the appropriate benefits and can apply for grants to buy items that they require. However there are still significant challenges that families face every day in terms of meeting their household costs.

Contact a Family in their report entitled *Counting the Costs 2012* highlights that:

*"going without essentials and getting into debt to pay for food, heating and clothes is the norm for most families with disabled children. Parent carers talk about the harsh choices they constantly have to make, the unfairness and the shame they feel when they can't afford specialist equipment and toys – essential for their children's safety, development and dignity."*¹¹⁰

Families with a disabled child find themselves living in poverty for a number of, often interlinked, reasons, including:-

- One or both parents may not be able to or chose to return to work.
- Marriage breakdown.
- Lack of suitable childcare.
- Costs of specialist equipment.
- Higher household costs, such as the need to run heating for longer, or additional wear and tear on clothes, bedding and washing machine.

*"For families from Black Minority Ethnic (BME) communities there are concerns that there is poor take up of benefits, an over-representation of some disabilities amongst certain ethnic groups, high rates of unemployment, families living in inappropriate accommodation, and poor capacity of the community in general to support the vulnerable amongst them, although. evidence seems to be sporadic or anecdotal."*¹¹¹

As Wales faces the impact of significant welfare reforms there will be many families with disabled children facing a far bleaker 2013 and beyond.

107 Children's Commissioner for Wales report following investigation into unofficial school exclusions 2007.

108 4 in every 10 Disabled Children living in poverty. The Children's Society 2011.

109 4 in every 10, published by the Children's Society 2011.

110 Counting the Costs (2012) The financial reality for families with disabled children across the U.K. 2012.

111 Quote from ABCD as part of evidence gathering sessions <http://www.abcdcymru.org.uk/>

Health

While Welsh government is seeking, through engagement and partnership working, to ensure that professionals can better understand what constitutes a good service for disabled children and young people, to enable planners, commissioners and delivery agents to shape effective services, there remain considerable barriers and challenges for families accessing health service provision. There has been good policy development but delivery is very slow (See also Chapter 6. Health). For example the *National Service Framework for Children, Young People and Maternity Services* was a very good policy but progress and impact have been limited.

Services offered to disabled children living at home in the community varies enormously between different areas, with families waiting up to 12 months in some parts of Wales for community child development nursing or clinical psychology services.¹¹² There is an increasing need for universal community nursing services across Wales. The number of children and young people with complex health needs are increasing as life expectancy is longer. For example children born with cystic fibrosis can now live into mid or late 30's rather than having a life expectation of less than 20 years. There is also a rapidly growing population of teenagers and under fives.¹¹³

Wales has a poor record in the provision of wheelchairs. Children need wheelchairs for mobility and to have fun and do things. Recent NICE guidelines on mobility ignored the issues for disabled children. For many disabled children and their families, multiple appointments are a constant challenge to families, in terms of travel time and waiting time while at the clinic – for a child with challenging behaviour this can be a very stressful experience for them and their parents.¹¹⁴

Disabled children who have a learning disability and mental health needs have in the past received very poor mental health services. However, recently there has been some progress and in some parts of Wales CAMHS have appointed a nurse to work with disabled children.¹¹⁵

For Welsh speaking children and their families there is an added challenge in that not all the professionals are able to communicate with them in their first language.¹¹⁶ For families from BME communities, accessing health services can be an intimidating and confusing process, especially if the family do not speak English and have experienced discrimination when accessing other services. Health professionals lack knowledge and skills in how to provide culturally and linguistically appropriate services. Training on diversity issues is not given the priority it deserves.¹¹⁷

Disabled children's participation in decision making

The Welsh Government is committed to ensuring that all children and young people are given opportunities to have a voice and be heard on issues which affect them. The Children and Families (Wales) Measure 2010 places a duty on local authorities, working with relevant partners, to make such arrangements as it considers suitable to promote and facilitate participation by children in decisions of the authority which might affect them.

111 Quote from ABCD as part of evidence gathering sessions <http://www.abcdcymru.org.uk/>

112 Information from Local Authority lead officer during evidence gathering sessions.

113 Information from Health expert during evidence gathering sessions

114 Information from Health expert during evidence gathering sessions

115 Information from Local Authority lead officer during evidence gathering sessions

116 Information from Local Authority lead officer during evidence gathering sessions

117 Information from ABCD as part of evidence gathering sessions <http://www.abcdcymru.org.uk/>

In gathering evidence for this report a number of contributors expressed the view that for disabled children and young people their awareness of rights is limited, and informing young disabled people of their rights and ensuring their full understanding is a complex and lengthy task. Disabled young people may have heard of UNCRC but it's unclear if they know how the Convention applies to their everyday lives. This may also be true for professionals; they are aware of the UNCRC but wouldn't use it to challenge a situation or decision (see also Chapter 2. General measures of implementation).

Progress in listening to children and facilitating true participation requires sufficient time to fully prepare and involve children and young people, more so for children with disabilities. There is a tendency to forget about disabled children and young people when consulting about the development of services and this includes within local authorities and health boards.

Government consultation documents are inaccessible – this process excludes young people with a learning disability. There should be more creative ways of communicating ideas to disabled young people. Production of an easy read document alone does not make something accessible – it still requires interpretation, because the concept remains complex even if the language is simplified.

Key recommendations

PLAY

Local authorities should:

- Audit provision, accessibility, staff development and training to ensure disabled children and young people are supported during the introduction and integration into an activity.
- Include integration into their business plans to show how they plan and deliver their activities.

BULLYING

Welsh Government should:

- Continue to drive forward initiatives to support anti bullying both in schools and in local communities.
- Work with local authorities to collect data on the incidence and impact across Wales.

Local authorities should:

Support local initiatives between mainstream and special schools to promote understanding. Monitor the number and nature of complaints received, in both school and community settings, to ensure new strategies can be developed to tackle bullying.

EXCLUSIONS

Welsh Government should:

- Act to address the recommendations in the Children's Commissioner for Wales (2007) and Butler (2011) reports to ensure that all children and young people are able to access education.

POVERTY

Welsh Government should:

- Collate child poverty statistics that reflect the additional costs faced by households with disabled children.
- Ensure that eradicating poverty among disabled children is a key part of the implementation of the Welsh Government's child poverty strategy.

- Ensure all households with disabled children take up their full entitlement to disability benefits.

HEALTH

Welsh Government should:

- Review health provision to disabled children, young people and their families, to ensure that the range of services required to support both their specific condition and their general health are fully addressed across Wales.

PARTICIPATION

Welsh Government should:

- Ensure that all services explicitly include and record the views of disabled children and young people, detailing how those views were gathered.

Health

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

Health and health services



CRC/C/GBR/CO/4 para 55: The Committee recommends that inequalities in access to health services be addressed through a coordinated approach across all government departments and greater coordination between health policies and those aimed at reducing income inequality and poverty.

Welsh Government responsibility

Health inequalities

Public Health Wales Observatory publishes data on health inequalities for a number of indicators. This data shows that inequalities persist, comparing the most deprived fifth of the population with the least deprived fifth for the following indicators: low birth weight, infant mortality, teenage conception, child pedestrian injuries and hospital admissions. However, data from the All Wales Perinatal Survey does suggest that the inequality for stillbirths and infant mortality may be narrowing.

Welsh Government policy has given priority to giving every child a healthy start – as evidenced in policy documents *Fairer Health Outcomes for All*¹¹⁸ and *Together for Health*¹¹⁹. There are a number of Welsh Government initiatives also aimed at tackling child health inequalities. Regular and robust evaluation of these initiatives is required, such as has been recently published for *Flying Start*,¹²⁰ to investigate their effectiveness.

118 <http://wales.gov.uk/docs/phhs/publications/110329working2en.pdf>

119 <http://wales.gov.uk/docs/dhss/publications/111101togetheren.pdf>

120 <http://wales.gov.uk/about/aboutresearch/social/latestresearch/EvalFlyStart7-20/?lang=en>

Unfortunately we are currently witnessing an increasing trend towards muddying the waters with adult focused issues when tackling child poverty and health inequalities (see also Chapter 6. Child poverty). This goes counter to the 2010 Marmot Review¹²¹, and the earlier Black¹²² (1980) and Acheson¹²³ (1998) reports, which all stressed the importance of targeting interventions to reduce health inequalities in the first 5 years of life.

Low birth weight

In developed nations, up to 27% of low birth weight babies can be attributed to cigarette smoking during pregnancy.¹²⁴ Data from the UK infant feeding survey (2010) shows that 33% of women smoked either before or during pregnancy, and 16% of women smoked throughout pregnancy.¹²⁵ Data on trends in low birth weight in Wales show that the percentage of low birth weight babies in the most deprived 5th was 1.5 times (or 50% higher) than the rate in the least deprived fifth.¹²⁶

Stillbirth and infant mortality rates

Within Wales, stillbirth rates are persistently higher in the most deprived quintile of social deprivation measured, although rates over the last decade suggest a slight narrowing of the gap between the most deprived and least deprived quintiles. There has been little change in post neonatal mortality rates since 2002. Within Wales, post neonatal death rates are higher in the most deprived quintile of social deprivation compared to the least deprived quintile; however the gap has narrowed since 2000.¹²⁷

Teenage conceptions

Information on teenage conceptions comprises data on legal abortions and births. Girls who have a baby before they are 16 years old are more likely to lack education and training and to suffer poor socio-economic conditions in later life. Reducing the number of teenage conceptions, therefore, is important if the cycle of deprivation is to be broken. Data from Public Health Wales Observatory show that at baseline the teenage conception rate (<16 years) in the most deprived fifth was 3 times that of the rate in the least deprived fifth.

Injuries

After the age of one, injury is a leading cause of death in most European countries including Wales. Injury associated deaths, hospital admissions and disability adjusted life years all show marked social inequalities in Wales, but with male adolescents and young adults from poor communities shouldering a particular burden and with motor vehicle accidents of particular concern. The 2012 Public Health Wales report, *The Burden of Injury* in Wales provides strong evidence for which interventions work and which do not.

Deprivation scores for road traffic injuries recorded by the police depend on the place of injury occurrence. The latest data shows that the child pedestrian injury rate in the most deprived fifth was 2.3 times that of the rate in the least deprived fifth. The child pedestrian injury admission rate in the

121 <http://www.instituteofhealthequity.org/projects/fair-society-healthy-lives-the-marmot-review>

122 <http://www.sochealth.co.uk/public-health-and-wellbeing/poverty-and-inequality/the-black-report-1980/>

123 http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4097582

124 Delpisheh A, Kelly Y, Rizwan S, Attia E, Drammond S, Brabin BJ. Population attributable risk for adverse pregnancy outcomes related to smoking in adolescents and adults. *Public Health* 2007;121:861-8.

125 Bolling K, Grant C, Hamlyn B and Thornton A. The infant feeding survey 2005. The Information Centre 2007. <http://www.ic.nhs.uk/pubs/ifs2005> [accessed 3 April 2012]

126 Public Health Wales Observatory

127 All Wales Perinatal Survey Annual Report 2010 http://medicine.cf.ac.uk/media/filer/2012/03/07/awps_annual_report_english_2010_1.pdf. Accessed April 2012

most deprived fifth was 3.7 times that of the rate in the least deprived fifth. This is based on data up to 2005.¹²⁸ The next tranche of data is due to be reported shortly.

Dental health

There has been a reduction in dental decay in Welsh 12 year olds however, it is of concern that most of this reduction appears to have taken place in less deprived groups. For the most deprived quintile, there have been small reductions in decay rates but also a small widening of the inequalities gap.¹²⁹

There is currently no strong evidence base for the management of dental caries in the primary teeth of children, and little evidence to show that the traditional restorative approach to care works in a primary care setting. The funding arrangements to support research in primary medical and dental care in Wales are a barrier to research being undertaken in primary dental care where the majority of children are managed. The best possible health (Article 24 of the UNCRC) requires that research into care is supported. Safeguarding in the context of primary dental care has received some attention recently and dental practices are now required to have a lead dentist responsible for safeguarding. However there is no consensus on how to identify dental neglect and when half of 5 year olds in some areas have active dental decay determining when the threshold is breached can be challenging.

Data collection

The recently published Welsh Government strategy, *A Strategic Vision for Maternity Services in Wales*¹³⁰ has a strong public health focus, with clear emphasis on addressing smoking during pregnancy, maternal obesity and breast-feeding. The strategy also emphasises the need for good quality routinely collected information to inform progress on achieving healthy outcomes for the mother, baby and family. Welsh Government is committed to early years: the question is how does it effectively translate to tangible outcomes for children? One problem is we can't measure a lot of things that would be useful, e.g. the majority of low birth weight is due to smoking during pregnancy, but all Wales data sits in systems that cannot be tracked accurately.

A recent review in England advocates collecting data routinely on children's indicators such as developmental and language delay and school readiness.¹³¹ Currently these are not routinely collected in Wales. In fact it would be impossible to do so, with standard health visitor caseloads of 300 to 400 children. This lack of universal health visiting is a breach of rights, a barrier to monitoring progress, and goes counter to the early intervention work, because you cannot intervene early if children's problems cannot be identified. The so called enhanced health visiting in *Flying Start* areas is merely what was standard 20 years ago – we have in fact lost a universal service. All children should have these rights, not just those in certain geographical areas.

Disaggregation of data

The Joseph Rowntree Foundation recently undertook a literature review of ethnicity and poverty in Wales and found very little research or available information in this area.¹³² This illustrates a problem with how data on children in Wales is presented; it tends to refer to children generically, ignoring distinct groups within the wider population who have distinct needs and face additional barriers, barriers which lead to inequalities. Without disaggregation of data these groups are becoming

¹²⁸ STATS19 Available at: http://www.capic.org.uk/road_traffic.html

¹²⁹ <http://www.statswales.wales.gov.uk/TableViewer/tableView.aspx?ReportId=14036>

¹³⁰ <http://wales.gov.uk/docs/dhss/publications/110919matstrategyen.pdf>

¹³¹ <http://www.education.gov.uk/inthenews/inthenews/a0071184/government-sets-out-new-vision-for-ending-child-poverty>

¹³² To be reported in 2013 – see <http://www.jrf.org.uk/work/workarea/poverty-and-ethnicity>

increasingly invisible in policy and service provision, and there appears to be a lack of data to monitor progress of services being delivered and taken up by such groups, or to measure progress in relation to Article 2 of the UNCRC (see also Chapter 6. Disabled children). For example, numbers of black ethnic minority (BME) children are small, and the numbers of disabled children are small, but if, for example, we need to compare access and outcomes for BME vs. white Welsh deaf children, it's impossible to do so without a special research project.

Schools often have good data – for example school data in Cardiff identified that 40% of autistic children identified as having SENs come from ethnic minority communities, a huge over representation which has significant implications for services. However, *“there is evidence to suggest that legal uncertainty over what is, and what is not, permissible may be inhibiting data sharing by local authorities”*.¹³³ It is crucial that such uncertainty does not jeopardise the sharing and integration of data which is essential for identifying need, and monitoring implementation of the UNCRC.

Socially marginalised children

NGOs report¹³⁴ struggling to access sufficient health care for looked after children, and other marginalised children not receiving statutory protection from local authorities (such as homeless children, children fleeing domestic violence etc.). There is a huge lack of knowledge of available services among marginalised groups who find it very hard to navigate a very confusing and constantly changing system. Good or bad experience of services can depend on the values of the individuals working in this area, rather than a consistent approach across departments.

There additionally seems to be a lack of ring-fencing for child health budgets targeting such groups, or indeed any budgets for them at all. There are very few services either targeting their needs or acting as bridges to mainstream services; where these exist, they are provided on a good will basis and thus very vulnerable when budgets are tight, or when key individuals move jobs or retire.

Participation of children in services

There are many professionals who do their best to ensure that children feel empowered and listened to. However, this is more to do with the characteristic of the individuals, rather than a clear proactive participation agenda. Within the *National Service Framework for Children, Young People and Maternity Services*¹³⁵ and *Child and Young Person's Specialist Services Project (CYPSSP)*¹³⁶ the importance of the involvement of children and young people in the development of services and in advocacy was strongly recommended, but has not progressed (see also Chapter 3. Participation and Chapter 5. Child protection). For example Children and Young People Panels were proposed for every hospital in Wales but few have come to fruition.¹³⁷

School nurses could do more to comply with Articles 12 and 13. In response to a perception that nurses were not complying fully with guidance regarding the participation of young people in decision making the Royal College of Nursing has published guidance¹³⁸ to aid school nurses in applying the Fraser guidelines regarding children and young people's right to self-consent for vaccinations.

133 See “Public Sector Data Sharing: Guidance on the Law” page 2 at: <http://www.justice.gov.uk/downloads/information-access-rights/data-sharing/annex-h-data-sharing.pdf>

134 Oral and written evidence presented by Wahida Kent ABCD Cymru and rebekah Burns Cardiff Women's Aid

135 <http://www.wales.nhs.uk/sites3/docmetadata.cfm?orgid=441&id=46873>

136 <http://www.wales.nhs.uk/sites3/home.cfm?orgid=355>

137 Written evidence senior paediatrician

138 http://www.rcn.org.uk/__data/assets/pdf_file/0003/78636/002483.pdf

Mental health



CRC/C/GBR/CO/4 para 56: The Committee recommends that additional resources and improved capacities are employed to meet the needs of children with mental health problems throughout the country, with particular attention to those at greater risk, including children deprived of parental care, children affected by the conflict, those living in poverty and those in conflict with the law.

Welsh Government responsibility

Mental health prevalence

There has been no definitive survey on the mental health or emotional well-being of children in Wales. Such a survey is necessary to allow comparison with other like regions, to assess need, and to monitor future progress. In addition, unless there is comprehensive disaggregation of data, such a survey can mask an enormous percentage of mental illness in specific deprived groups, such as those in care, homeless, learning disabled etc.

However, such surveys are limited as they only pick up children who have reached criteria for the diagnosis of a mental illness, but miss those with significant emotional difficulties who are at risk of developing serious mental health problems, either later in childhood or as adults, without intervention (see also Chapter 5. Child protection). It is crucial to know who these children are and how many there are of them. We know from the UNICEF Well Being Monitor that the UK has a lot of distressed children, so any survey for Wales should aim to pick these up too.¹³⁹

Progress in improving CAMHS for children

Wales is still not meeting targets of personnel per head of population. Although there has been some progress in respect of primary CAMHS workers and the development of Tier 4 forensic services, specialist locality teams remain seriously underdeveloped.

In addition to under-resourcing, there are problems of attitudes and styles of practice. Non-attendance leads to off-listing, which disadvantages those families most likely to struggle to attend (e.g. families in poverty with complex health and social care needs; children in care; homeless families). *"Psychiatrists know the world out there is seething with difficulty, and they shelter in their clinics - it's a good way of controlling workloads".*¹⁴⁰ This has safeguarding implications, including being identified as contributing to levels of suicide.^{141 142} CAMHS are overly bio-medical, rejecting children if they do not fulfil strict diagnostic criteria, ignoring the wider social determinants of mental illness. If children's lives are seriously adverse, with very complex social issues, it's right ethically and practically to respond to their plight: for example, although there is a specific article, Article 39, of the UNCRC that states that children should receive special help to enable them to recover from abuse, this is not happening (see also Chapter 5. Child protection). Such children fail at that point in their lives to reach criteria for a mental illness and thus cannot access CAMHS except in extremis, but no other service has the skill required to help them recover. Child maltreatment is associated with mental illness in adults, delinquency and recidivist criminality, and poor educational outcomes.¹⁴³ It makes neither

¹³⁹ <http://www.unicef.org.uk/Latest/Publications/lpsos-MORI-child-well-being/>

¹⁴⁰ Oral evidence, ex president RCPsych

¹⁴¹ http://www.injuryobservatory.net/documents/why_children_die1.pdf Page 57.

¹⁴² Cardiff Part 8 review 2006. Personal communication A Mott.

¹⁴³ Gilbert R, Spatz Widom C, Browne K, Fergusson D, Webb E. Burden and consequences of child maltreatment in high-income countries Lancet 2009. 373: 68 - 81

economic nor humanitarian sense not to provide them services. This was clearly stated by the Children's Commissioner for Wales:

*"The difference between the medical and social models of assessment is shown starkly here. The medical model completely denies services to those who don't meet the referral criteria. A social model, on the other hand, would assess need on a spectrum and provide services to meet the needs."*¹⁴⁴

Integration of CAMHS into other services

CAMHS, Paediatric care, Social Services and Education remain remote from each other in Wales, with *"joint working between the health, local authority and voluntary sectors ... often ineffective"*¹⁴⁵. They tend to pass young people between them instead of working together to provide longer-term support. Perhaps this will only be resolved if we have truly pooled resources and budgets. Young people themselves, of-course, do not compartmentalise their lives. This is a message that has been repeated by children and families, and organisations that have examined CAMHS in Wales, for the last decade.¹⁴⁶

Children and young people with intellectual disability

Children with learning disabilities are one of the major at-risk groups for developing emotional and behavioural disorders, but were without access to specialist CAMHS for many years, as the all Wales Learning Disability service moved to being an adult only service and CAMHS did not have the expertise.¹⁴⁷ Although extra resources were earmarked in 2011 to meet the needs of this growing population in response to the audit of CAMHS in Wales¹⁴⁸, this has unfortunately occurred at the same time as generic budget cuts, ensuring that CAMHS overall budgets have remained unchanged. Generic NHS cuts are in addition having a devastating impact on existing psychology services, making the problem even worse in some areas than it was before, with long waiting lists for these services (for example: over 60 learning disabled children on a waiting list for psychology in one health board in 2011).¹⁴⁹ Training, experience, knowledge and skills of individuals tasked to provide these services is very variable, with personnel appointed to consultant posts without training in learning disability psychiatry. NGO's supporting children report that such children have problems even getting an appointment at all.¹⁵⁰ These same children are under-represented amongst those accessing school counselling.¹⁵¹

Counselling

Wales is the first country in the UK to introduce counselling into all secondary schools and there is currently an expansion into delivering a service to children in primary schools. The service has been evaluated and found to be effective.¹⁵² This is an important development, and deserves celebration. However, anecdotal evidence is emerging that there are some problems: child support workers report that children with poor school attendance or who have problematic behaviours at school (often because of what is going on in their home life) are labelled as wishing to get out of lessons so then trying to access a counselling session becomes very difficult for such children.¹⁵¹ In addition many of the most vulnerable and severely affected children may not be accessing education enough (or at all) to be in a position to access counselling. The evaluation did not address the needs of such children in its scope.

¹⁴⁴ *Somebody else's business*. <http://www.childcomwales.org.uk/uploads/publications/5.pdf> page 46.

¹⁴⁵ Young people with emotional and mental health needs Section 5. Pp74 – 79. At: <http://www.hiw.org.uk/Documents/477/CAMHS%20241109-e.pdf>

¹⁴⁶ WG. Services for children and young people with emotional and mental health needs http://www.wao.gov.uk/assets/englishdocuments/CAMHS_eng.pdf. Page 12 (pt.39)

¹⁴⁷ *Somebody else's business* At <http://www.childcomwales.org.uk/uploads/publications/5.pdf>

¹⁴⁸ WG. Services for children and young people with emotional and mental health needs http://www.wao.gov.uk/assets/englishdocuments/CAMHS_eng.pdf.

¹⁴⁹ Personal communication. Senior paediatrician

¹⁵⁰ Oral evidence Rebekah Burns Cardiff Women's Aid

¹⁵¹ <http://www.ncl.ac.uk/cflat/news/documents/wagesfinalreport.pdf>

In-patient services

Despite the opening of the new in-patient adolescent unit in Bridgend, facilities for young people with severe mental health problems are still inadequate across Wales. Following the latest Mental Health Act reforms, the numbers of young people placed on adult wards should be reducing; however according to WalesOnline, based on a series of Freedom of Information (FOI) requests, at least 38 under-18s spent 380 "bed days" on adult wards in 2011/12 in Wales¹⁵², and the BBC, also following an FOI request, reported 347 instances of children held in police cells under the Mental Health Act in England and Wales in 2011.¹⁵³

Breastfeeding



CRC/C/GBR/CO/4 para 58. The Committee, while appreciating the progress made in recent years in the promotion and support of breastfeeding in the State party, is concerned that implementation of the International Code of Marketing of Breast Milk Substitutes continues to be inadequate and that aggressive promotion of breast milk substitutes remains common.

Welsh Government responsibility

Complying with the Baby Friendly Hospitals Initiative

Initial progress made but situation static for last 2 years.

Targeting mothers in resource poor families

This is patchy: for example, midwifery routine enquiries for domestic abuse are not being done adequately.¹⁵⁴ Such families already have restricted access to health care. If domestic abuse is not identified then it is unlikely these mothers will get the enhanced support they need (see also Chapter 5. Child protection).

Adolescent health



CRC/C/GBR/CO/4 para 59: The Committee recommends that the State party intensify its efforts in order to provide adolescents with appropriate reproductive health services, including reproductive health education in the school.

Welsh Government responsibility

Sexual health

Staff working within Integrated Sexual Health (ISH) are committed to ensuring they meet the rights of children and young people but organisational change and financial constraints have proved challenging. Sexual Assault Referral Centres (SARCS) are not widely advertised to children and young people.¹⁵⁵

¹⁵² <http://www.walesonline.co.uk/news/wales-news/2012/07/10/call-for-end-of-scandal-of-under-18s-on-adult-mental-health-wards-91466-31355310/>

¹⁵³ <http://www.bbc.co.uk/news/uk-20377493>

¹⁵⁴ Webb E. Unpublished Cardiff&Vale UHB audit

¹⁵⁵ Oral evidence school nurse manager

Progress has varied across Wales and the financial constraints have resulted in what can only be described as retrograde changes to service provision in some areas. In many places there are long waiting lists and long queues for drop in services, (which breach young people's rights to privacy). Child support workers accompanying children to these services report lack of effective management within the waiting areas of some of these services, with children exposed to a variety of risk factors such as bullying and sexual exploitation. For example, although notices request non-use of mobiles, the use of mobiles is not policed; young people are photographed by peers and photos loaded onto social networking sites. Clinics frequently overlap with adult ISH clinics, putting young people at risk of sexual exploitation because the very public waiting areas allow easy identification of sexually active young people by potential abusers (see Chapter 8. For further discussion on Sexual exploitation).

Geographical disparities in services

Access for children and young people in rural areas remains problematic for all these services. Staff have in one area made available Saturday drop in sessions on a voluntary basis to ensure the service is sustained, as posts have been cut in some areas.¹⁵⁶ Family planning services are often difficult to access as many young people feel that they cannot access services due to concerns regarding breaches to their confidentiality. In primary care children and young people are not always dealt with as separate to their parents. Parental complaints drive the agenda *"Parents complain when the GP is seeing their child without them present, but it's going to take a very strong and confident child or young person to complain that the GP wouldn't see them without guaranteeing they wouldn't tell the parents"*.¹⁵⁷

Sex education

Funding is rarely available to target primary school age children. Sex education across all primary schools is dependent upon the individual head teacher as to quality and quantity. It is sporadic and lacking at best.¹⁵⁸

The sex education agenda is driven by outputs, i.e. teenage pregnancy and STDs, and the response is a focus on safe sex. High rates of teenage pregnancy and sexually transmitted disease are indicative of coercion and preludes to sexual violence. It is this work that needs to be addressed, rather than education on safe sex alone. Safe sex work is reliant on freely given and informed consent, something which is often lacking for young females: many young women and girls report sexual bullying, which supports research from Bristol University on high prevalence of peer sexual bullying and abuse¹⁵⁹; ChildLine report high numbers of children distressed by internet pornography, with girls being "pressured into doing things they don't want to do"¹⁶⁰. If girls are at a point in a sexual relationship where they have to insist their partner uses a condom, already that relationship isn't a positive one; so when it comes to them being able to make the right choices, or believing that they have the right to do so, we are ill-preparing them. The tenet of most work in this area is out of step with the real lives of young people. It is imperative to explore consent and coercive relationships with young people. The UK Government has a TV campaign on this – Welsh schools need to be picking up on this^{161 162}.

156 Written evidence; School nurse manager, South Wales

157 Oral evidence; School nurse manager

158 Oral evidence; School nurse manager, South Wales

159 http://www.nspcc.org.uk/inform/research/findings/partner_exploitation_and_violence_report_wdf70129.pdf

160 <http://www.telegraph.co.uk/technology/9496145/Hundreds-of-children-traumatised-by-hardcore-porn-contact-ChildLine.html>

161 <http://news.bbc.co.uk/1/hi/uk/8515601.stm>

162 <http://www.homeoffice.gov.uk/crime/violence-against-women-girls/teenage-relationship-abuse/>

Cardiff Women's Aid report developing a programme about relationships which children deliver to other children, which addresses these issues and gets very positive feedback from children and young people, but is seen by schools as *"too provocative"*. Schools need to rethink their approach in partnership with health and other agencies. Individual schools, whose decisions may be driven by wholly unrelated agendas, cannot be allowed to drive such an important public health intervention as sex education.

Conclusion

Children are still the Cinderella services. Children's issues remain unprioritised in the NHS. Leadership is required to ensure that children's voices are heard to re-energise and re-invigorate the political and strategic initiatives that occurred 10 years ago, and have been to a large extent wasted, because of a failure of implementation. The failure to cost, finance and implement the *National Service Framework for Children, Young People and Maternity Services* and the specialist services project is highly regrettable - *"excellent work, benchmarked in other European countries, lost because of a failure to complete the circle"*.¹⁶³ Everybody's Business was far and away better than any other strategy anybody had for children and adolescents anywhere else in the UK; but *"it languished on a shelf."* Wales has had since then a whole succession of reports from various bodies identifying a policy-implementation gap, including the last UNCRC examination. This has to change, otherwise we're going to produce strategy after strategy, but will be here in 25 years time saying the same thing.

Welsh government must take hard decisions about what can and cannot be afforded, and ensure that there are the resources locally to enable providers to meet their obligations. Otherwise they are left making choices between providing new cancer drugs to dying adults or mental health care for children with learning disabilities. It is easy to guess who wins out.

Key recommendations:

INJURIES

Local authorities, Public Health Wales and their partners should:

- Adequately fund the evidence based interventions identified in "The burden of injury in Wales" to prevent injury in children and young people, in particular focussing on motor accidents in males age 15-19.

DENTAL CARE

Health boards, Public Health Wales and local authorities should:

- Make available holistic and patient-centred dental care to all children, including prevention and service access. This needs emphasis on prevention at both individual and population levels through the use of community and school-based programmes which target ALL children, including pre-school and vulnerable populations; Designed to Smile is an attempt to do this and should be supported, resourced and evaluated. Water fluoridation would support Article 24 of the UNCRC.
- Provide geographically equitable access to specialist level care for children with complex behavioural, medical or dental needs (these are currently only available in South East Wales).

DATA

Welsh Government and Public Health Wales should:

- Develop more coherent data systems which can provide regular meaningful reporting to frontline professionals.
- Review how we use local authority data monitoring, including school data, to inform progress on health. There needs to be better understanding of local authority and health board obligations under the Data Protection Act so this is not an unnecessary barrier to accessing key information on populations.
- Integrate indicators measured by outside agencies with those measured within Wales: for example, the health school behaviour survey that runs across Europe gives data on smoking and levels of drinking in children.
- Support rigorous data collection focussing on needs, outcomes, risks, and service provision in relation to specific vulnerable groups, including Gypsy and Traveller children.
- Review the Welsh Government National Well-being Monitor. This was developed to measure how rights were being realised in Wales; but is over influenced by the kind of data already collected and is very epidemiological in approach. In addition we need measurable outcomes framed around UNCRC articles.¹⁶⁴

MARGINALISED GROUPS

Health boards and local authorities should:

- Ring-fence highly prioritised services in every area providing targeted health and social care to marginalised groups, extending the looked-after model to other children vulnerable to a range of adversities, and poor health and welfare outcomes for adult life.

MENTAL HEALTH AND CAMHS SERVICES

Welsh Government and statutory partners should:

- Conduct a regular survey both of mental illness and mental well being of the Welsh child population.
- Redirect resources from other NHS services to provide adequate funds to enable an establishment of safe and effective CAMHS in Wales, across all levels of working and available and appropriate for all children.
- Ensure CAMHS moves to a more holistic and preventive model, responding to the social determinants of mental illness and working in meaningful partnership with other players, including child health services, local authorities and NGOs.
- Ensure counselling is strengthened and access widened.

BREAST FEEDING

Health boards should:

- Re-launch and re-invigorate the *Baby Friendly Hospitals Initiative*.
- Be more effective at targeting mothers in resource-poor families, which includes better recognition of who these mothers are (including those affected by domestic abuse).

¹⁶⁴ For example, consider obesity. Currently we are measuring how obese children are and how many children are obese, whereas a UNCRC framed outcomes approach might measure how many children have easy access to play without having to cross a road; how many children live within 100 yards of more than one fast food outlet. We need to marry a rights approach with an epidemiological approach with the legal imperative of one and the epidemiological, needs based, harm and risk reduction approach of the other informing interventions equally.

SEXUAL HEALTH

Welsh Government, Health Boards, Public Health Wales and local authorities should:

- Increase promotion and awareness of services; advertise SARC's rather than managing demand by withholding information.
- Reduce waiting times and increase availability.
- Improve privacy and confidentiality.
- Improve training to ISH staff. ISH staff are not always fully prepared for working with young people. They need to be competent in the following issues: consent; Fraser Guidelines; maintaining confidentiality; and safeguarding - having the skills and confidence to recognise when young people are at risk of abuse and exploitation, including from peers, and breach confidentiality in such contexts.

SEX EDUCATION

Welsh government, health boards, Public Health Wales and local authorities should:

- Make sex education in primary school compulsory.
- Change the focus of secondary school teaching to reflect the reality of the lives of young people today, which includes much earlier sexual activity and an alarming rate of sexual coercion.
- Require schools to work in partnership with other agencies and work to a Wales wide framework with consistent standards of provision across all schools.

Child poverty

Ruth Mullineux, Save the Children and Sean O'Neill, Children in Wales

Commentary on progress

Progress in eradicating child poverty and reducing inequalities in Wales has stalled. There were significant gains in the first part of the new millennium but half of those gains have been lost since 2005 and child poverty levels in Wales are increasing.¹⁶⁵ Official figures released at the time of the last UN Reporting Round in 2008 identified the percentage of children living in relative poverty (households below 60% of national median income after deducting housing costs) as 28%. Current Government figures put child poverty levels at 200,000 or 31% of children in Wales.¹⁶⁶ Based on current figures, to meet the Welsh Government's 2020 target to eradicate child poverty, current levels would have to fall 4 times as fast in the next decade as they did in the last.¹⁶⁷ Predictions are that levels of child poverty will significantly increase across the UK in the coming years.¹⁶⁸

In 2007-2008, the global financial crisis plunged the UK into its longest and deepest recession since comparable records began in the 1950s, fundamentally changing the economic landscape in the UK. Significant changes to the UK political landscape have also occurred in recent years. The UK Conservative and Liberal Democrat Coalition Government was elected in 2010, introducing public spending cuts and a Comprehensive Spending Review¹⁶⁹ which underpins an austerity programme intended to significantly

¹⁶⁵ Kenway, P. & Parekh, A (2011). *Monitoring poverty and social exclusion in Wales, 2011*. York: Joseph Rowntree Foundation.

¹⁶⁶ DWP (2012). *Households Below Average Income: An analysis of the income distribution 1994/95–2010/11*, June 2012. London: The Stationary Office.

¹⁶⁷ Kenway, P. & Parekh, A (2011). *Op. cit.*

¹⁶⁸ IFS (2011). *Forecast for relative and absolute income poverty in the UK among children and working-age adults from 2010–11 to 2020*. London Institute for Fiscal Studies. Available at: <http://www.ifs.org.uk/comms/comm121.pdf>.

¹⁶⁹ HM Treasury (2010). *Comprehensive Spending Review 2010*. London: The Stationary Office.

reduce the UK's budget deficit.¹⁷⁰ The National Assembly for Wales' elections in 2011 saw Labour form a Government in Wales, now the only Labour administration in the UK. The economic, political and legislative landscape on child poverty has shifted substantially since the previous UNCRC Concluding Observations in 2008 and this forms the backdrop for any analysis of child poverty in Wales today.

CRC/C/GBR/CO/4 para 19: The Committee recommends that the State party, in accordance with article 4 of the Convention, allocate the maximum extent of available resources for the implementation of children's rights, with a special focus on eradicating poverty and that it reduce inequalities across all jurisdictions.



UK Government responsibility



Welsh Government responsibility

Key to addressing child poverty are income tax and welfare, controlled by UK Government. The transformed political landscape and the UK Government's reforms to personal tax and benefit policy are therefore central to our consideration of progress on "*allocat[ing] the maximum extent of available resources for the implementation of children's rights*". The constraints that this places on Welsh Government is widely recognised in the Welsh context. Our analysis therefore separates progress on areas of UK Government responsibility from those areas devolved to Welsh Government.

The UK Government's austerity programme and the impact on Wales

In 2010 the UK Government instigated an austerity programme based on a series of sustained reductions in public spending and announced major changes to the welfare benefit system, the extent of which are still becoming clear. By 2014-15, spending on benefits across the UK will be £18bn less than it is now (in cash terms)¹⁷¹. In October 2012¹⁷², the Chancellor proposed £10bn of additional savings to the welfare bill by 2016-17, however, the measures contained in the December 2012 Autumn Statement did not go this far, instead representing a £6.5bn reduction in the welfare bill in 2015-16.¹⁷⁴

It is broadly recognised that many of the welfare reforms announced by the UK Government will have a devastating impact on children in low income families.¹⁷⁵ A direct impact of the reforms to personal tax and benefit policy announced by the UK Government will be to increase child poverty, with latest forecasts showing one million more children living in poverty by 2020.¹⁷⁶ This represents an almost total reversal of the progress made under the previous UK government towards the cross-party goal of ending child poverty by 2020. In Wales, analysis predicts an increase in relative child poverty by about 6,000 in 2012-13 alone, but this figure is likely to be revised.¹⁷⁷

¹⁷⁰ A target was set to reduce the UK's deficit to the point that, in the financial year 2015-16, the total public debt would be falling as a fraction of GDP and £6.2bn cuts were announced.

¹⁷¹ HM Treasury (2010). *Comprehensive Spending Review*. London: The Stationary Office.

¹⁷² Osborne, G. (2012). *Conservative Party Conference Speech 2012*. Birmingham: October 2012.

¹⁷⁴ HM Treasury (2012). *Autumn Statement, 5th December 2012*. London: The Stationary Office.

¹⁷⁵ Children in Wales (2012). *Children's groups urge amendments to Welfare Reform Bill*. Press Release [W/E/NI/S]. Cardiff: Children in Wales. Available at: <http://www.childreninwales.org.uk/news/17889.html>

¹⁷⁶ The Child Poverty Action Group has predicted that a further 200,000 children could be pushed into poverty if the Benefits-Uprating Bill is passed. This 200,000 children is in addition to the 400,000 more children that the Institute for Fiscal Studies (IFS) has previously projected will be living in relative poverty by 2015 as a result of coalition policies, and the 800,000 more children it estimates will be living in relative poverty by 2020. See: IFS (2011). *Forecast for relative and absolute income poverty in the UK among children and working-age adults from 2010-11 to 2020*. London: Institute for Fiscal Studies.; CPAG (2012). *Child Poverty Strategy in Disarray from Poverty-Producing Bill*. London: Child Poverty Action Group.

¹⁷⁷ Welsh Government (2012). *Analysing the impact of the UK Government's welfare reforms in Wales – Stage 1 analysis*. Cardiff: Welsh Government.

The impacts of welfare reform are set to be far reaching.¹⁷⁸ The Children's Commissioner for England has underlined that a planned imposition of a cap on the amount of benefits paid to poor families is a clear contravention of children's rights and risks "unjustified discrimination."¹⁷⁹ Families with children are expected to lose proportionately more of their income across the income distribution compared to other household types with the poorest households with children estimated to lose the largest proportion of their income as a result of tax and benefit changes. In addition, tax and benefit changes to be implemented over the coming years are envisaged to take more proportionately from lower-income groups than from higher-income groups, except the very richest income group, and are likely to be even more regressive in Wales.¹⁸⁰

Modelling and projections of the impact of welfare reform carried out at UK level are not available in Wales, but nonetheless, the consensus is that welfare reform is likely to have a disproportionate effect on people and families in Wales as one of the most disadvantaged areas of the UK.¹⁸¹ Early analysis predicted that on average households in Wales would lose 4.1% of their income (or £1,110 per year), compared to a UK average loss of 3.8% (or £1,170 per year).¹⁸² Further analysis updates the picture of potential negative impacts in Wales.¹⁸³ Impacts are accentuated because of Wales' existing high levels of poverty, a weak economy, high levels of public sector employment and a higher existing dependency on benefits (18.4% versus 14.5%).¹⁸⁴

Moreover, 90% of the planned public spending cuts are still to take effect. Universal credit, as the major strand of welfare reform change, is not being phased in until autumn 2013 and even then changes will be gradual. The full impact of the changes are therefore yet to be felt. There is a great deal of trepidation that families in Wales are facing the toughest challenge to their well-being for decades, with the impact in some areas predicted to be 'tsunami-like' in its effect.¹⁸⁵ Despite this, research shows that public attitudes increasingly blame people for their own poverty despite a low level of awareness or understanding about the facts, realities or complexities of living in poverty.¹⁸⁶ Efforts by Governments to raise awareness of the realities of child poverty would be beneficial.

The Welsh Government has established a Ministerial Task and Finish Group to assess and monitor the cumulative impact of all the welfare changes on policies and services, and to produce a series of analyses.¹⁸⁷ An external stakeholder group on welfare reform has also been established.¹⁸⁸

¹⁷⁸ Increased conditionality, rigorous assessments, a benefit cap and cuts for disabled people, reduced support with housing and childcare costs and the change to the indexation of benefits away from the RPI to the CPI have been identified as potentially having a negative impact for many low income households.

¹⁷⁹ Children's Commissioner for England (2012). *A Child Rights Impact Assessment of the Welfare Reform Bill*. London: Office of the Children's Commissioner for England.

¹⁸⁰ Browne, J. and Levell, P. (2010). *The distributional effects of tax and benefit reforms to be introduced between June 2010 and April 2014: a revised assessment* (IFS Briefing Note 108).

¹⁸¹ Donnelly, M. (2011). *Wales on the Edge*. Cardiff: Cuts Watch Cymru.

¹⁸² Welsh Government (2012). *Analysing the impact of the UK Government's welfare reforms in Wales – Stage 1 analysis*. Op.cit.

¹⁸³ Welsh Government (2013). *Analysing the impact of the UK Government's welfare reforms in Wales – Stage 2 analysis*. Cardiff: Welsh Government.

¹⁸⁴ Welsh Government (2012). *Analysing the impact of the UK Government's welfare reforms in Wales*. Op. cit.

¹⁸⁵ Donnelly, M. (2011). Op. cit.; Beatty and Fothergill (2011). *Tackling Worklessness in Wales*. Sheffield: Centre for Regional Economic and Social Research, Sheffield Hallam University.

¹⁸⁶ Joseph Rowntree Foundation (2011). *Do we blame people for being in poverty?* Blog Post: York: Joseph Rowntree Foundation. Available at: <http://www.jrf.org.uk/blog/2011/12/blame-people-being-poverty>

¹⁸⁷ Welsh Government (2012). *Analysing the impact of the UK Government's welfare reforms in Wales*, Op cit. Welsh Government (2013). *Analysing the impact of the UK Government's welfare reforms in Wales – Stage 2 analysis*. Op Cit; Adam, S. & Phillips, D. (2013). *An ex-ante analysis of the effects of the UK Government's welfare reforms on labour supply in Wales*. Cardiff: Welsh Government.

¹⁸⁸ Andrews, L (2012). *Written Ministerial Statement on Welfare Reform, January 2012*. Cardiff: Welsh Government

Nevertheless full breakdowns of UK-wide projections on the impact of Welfare reform are not yet available for Wales. Urgent work should ensure that the severity of the impact is fully understood and the ‘*maximum extent of available resources*’ are allocated to support those children that are hardest hit.

Maximising resources

As a result of UK Coalition cuts, reductions in the Welsh Government’s budget are expected to amount to £1.8bn or 7% over 4 years.¹⁸⁹ Budget cuts will affect the delivery of services in Wales. However, devolution provides scope for policy distinctiveness in many areas.

Although there has been some progress in the area of children’s budgeting since 2008, there remains a lack of visibility of children in the Welsh Government budget (see also Chapter Two. General measures of Implementation). The lack of transparency in public expenditure on children means that it is currently not possible to ascertain, without more detailed analysis, whether the Welsh Government is using available resources to the “*maximum extent to fulfil children’s rights*” under the UNCRC.

The UK remains one of the richest countries in the world; UK and Welsh Governments must be transparent about how the current allocations of budget and restrictions on departmental spend can be reconciled with ensuring that the ‘*maximum extent of available resources*’ are allocated to tackle child poverty in Wales. They must also consider the impact of current fiscal consolidation policies in undermining this approach and be mindful of implementing policies that will penalise families with children and risk significant increases in child poverty.



CRC/C/GBR/CO/4 para 65.a: Adopt and adequately implement the legislation aimed at achieving the target of ending child poverty by 2020, including by establishing measurable indicators for their achievement.

UK and Welsh Government responsibility

The UK Child Poverty Act was passed in 2010, legally binding UK governments to a commitment to eradicate poverty in Britain by 2020. A series of four measurable targets have been put in place and Governments are required to report against them annually.¹⁹⁰

In Wales, our evidence sessions recognised that the Welsh Government has made significant progress since 2008 in adopting legislation, policy and a range of programmes designed to reduce child poverty in Wales in the devolved policy areas in which the National Assembly for Wales has powers.¹⁹¹ The Welsh Government has consistently reiterated its commitment to the target of eradicating child poverty by 2020, in fact going further than the rest of the UK in its interpretation of ‘eradication’.¹⁹²

¹⁸⁹ Actual figures are disputed depending on whether or not inflation is taken into account.

¹⁹⁰ HM Government (2010). *Child Poverty Act 2010*. London: The Stationary Office.

¹⁹¹ Since the passing of a referendum on increased law making powers in March 2011, the National Assembly for Wales is now able to introduce Bills and legislate on its 20 devolved areas of responsibility.

¹⁹² The Welsh Government states: “While recognising the importance of the UK targets, the Welsh Assembly Government, by using the policy levers at its disposal, aims to eradicate child poverty by 2020. To deliver against this aspirational target would mean that Wales would match the lowest child poverty rate in Europe. The lowest rate ever achieved has been 5 per cent before housing costs.” Welsh Government (2011). *The Child Poverty Strategy for Wales*. Information document No: 095/2011. Cardiff: National Assembly for Wales.

The Children and Families (Wales) Measure¹⁹³ received royal assent in 2010 and introduced a duty on local authorities, local health boards and named public authorities to identify actions designed to tackle child poverty. The Measure outlines 13 broad aims. The Measure also placed a duty on Welsh Ministers to produce a revised national Child Poverty strategy which was duly released in 2011. This was broadly welcomed and was supported by programmes and initiatives intended to achieve its three key objectives to: 1) reduce the number of families living in workless households; 2) increase the skills of parents and young people as well as to; 3) tackle health, education and economic inequalities.¹⁹⁴

Significantly, the Welsh Government stated that “the new legislative framework that is now in place, through the Child Poverty Act 2010 and the Children and Families (Wales) Measure 2010 means that, for the first time, there will be a statutory framework to drive child poverty action stretching from the UK Government, the Welsh Assembly Government through to local authorities and other public agencies.”¹⁹⁵

The Welsh Government consulted extensively on the *Child Poverty Strategy* and a *Delivery Plan*. The 2010 *Draft Child Poverty Delivery Plan*¹⁹⁶ adopted a clear child rights approach built around the Welsh Government's 7 Core Aims for children and young people (which summarise the UNCRC). Following publication of the Child Poverty Strategy in 2011, it was stated that fiscal consolidation and changes in UK Government Policy meant that a number of the detailed policy actions and commitments outlined in the Draft Delivery Plan needed further development and would be adapted to become a 'living document' that could be regularly updated.¹⁹⁷ It was also announced that the Welsh Government would review the full range of indicators used to collect data on child poverty. However, the Draft Delivery Plan was not finally published.

The Welsh Government's new overarching approach to poverty

Following the May 2011 election, the new Welsh Government announced its intention to integrate its actions on child poverty into a cross-cutting *Tackling Poverty* approach which would encompass both adults and children. The Tackling Poverty Action Plan (TPAP) was published in July 2012 as a 'living document' subject to updates and is designed to 'supplement the delivery' of the Welsh Government's child poverty strategy.¹⁹⁸ The Welsh Government has established a new *Tackling Poverty External Advisory Group* to help ensure progress is achieved in this regard.¹⁹⁹

The TPAP, a non-statutory publication, represents a new broader approach by Government to addressing levels of poverty through a whole family approach. The child's rights approach, adopted in the drafting of the Child Poverty Delivery plan which identified how the priorities for Government related explicitly to the UNCRC, is less clear in the new Plan. Despite seeking assurances that the 7 Core Aims would remain central to the new action plan²⁰⁰ this was not to be the case upon publication. The Children's Commissioner for Wales has put his concerns about this approach on record.²⁰¹ A key reason for these concerns is recognition that a child poverty

193 Welsh Government (2010). *Children and Families (Wales) Measure*. Cardiff: National Assembly for Wales.

194 Welsh Government (2011). *Child Poverty Strategy for Wales*. Op.cit.

195 Welsh Government (2010). *New strategy and delivery plan to tackle child poverty in Wales*. Press Release. Cardiff: National Assembly for Wales. <http://wales.gov.uk/newsroom/childrenandyoungpeople/2010/100512childpoverty/?lang=en>

196 Welsh Government (2010). *Draft Child Poverty Delivery Plan*. Cardiff: National Assembly for Wales.

197 Welsh Government (2011). *The Child Poverty Strategy for Wales*. Op.cit.

198 Welsh Government (2012). *Tackling Poverty Action Plan*. Cardiff: National Assembly for Wales.

199 Welsh Government (2012). *Appointment of members to the Tackling Poverty External Advisory Group, Decision report, 18 April 2012*. Cardiff: National Assembly for Wales.

200 End Child Poverty Network Cymru (2011) *Memo for meeting with the Deputy Minister for Children and Social Services 8/12/11* Available at: <http://www.childreninwales.org.uk/areasofwork/childpoverty/povertypublications/index.html>

201 Children's Commissioner for Wales (2012). *Child Poverty Strategy 2012 onwards*. Swansea: Children's Commissioner for Wales.

approach is fundamentally different to a family poverty approach.²⁰² It is clear that poverty cannot be addressed without also tackling family poverty. However, even within the family context, there are other important dimensions of a rights-based perspective on child poverty to be addressed (such as emotional and intellectual dimensions) over and above additional services for children that can improve their well-being and help reduce child poverty. Child poverty cannot be reduced by tackling family poverty alone.

The entering into force of the Rights of Children and Young Persons (Wales) Measure is a positive step towards ensuring that the Welsh Government's programmes and initiatives on poverty pay due regard to the impacts on children. However, it is unclear how, if at all, the Welsh Government's *TPAP* has been subject to the due regard process in accordance with this Measure.

Adequate implementation of legislation

The question of whether legislation in Wales has been 'adequately implemented' is less clear-cut. Evidence taken emphasised that strategies have yet to fully achieve the desired outcome of reducing levels of child poverty and that legislation in this area is still young and that a bedding-in process needs to take place.

At a local level, Welsh Government is currently implementing revised statutory guidance for local working, emphasising that local government and partners through Local Service Boards should be working to develop a Single Integrated Plan (SIP) for their area by April 2013. A SIP is designed to reduce complexity, duplication and promote multi-agency working, thereby freeing up resources. It should replace at least four of the existing statutory plans including the Children and Young People's Plan. In future, local authorities and partners are advised by Welsh Government to use their Single Integrated Plans as the main instrument to discharge their statutory child poverty duty under the Children and Families (Wales) Measure 2010.²⁰³

Against this backdrop, more work needs to be done to instil shared priorities and ownership of the child poverty agenda (particularly within a wider tackling poverty approach) across Government portfolios and between Government and other sectors. There is a need for concerted action in reducing the implementation gap between national policy rhetoric and local delivery, which was an issue highlighted in the 2008 Concluding Observations. Programmes and initiatives need to be better integrated to work together more effectively to achieve the necessary strategic impact. There is also a need for better synergy between the raft of Welsh and UK government programmes and policy, for example in relation to fuel poverty programmes and employment/training initiatives.

A shift towards a broad tackling poverty approach has also impacted on the ability to monitor and evaluate progress on addressing child poverty in Wales. The Draft Child Poverty Delivery Plan outlined a set of core child poverty indicators and the consultation process was designed to develop a broader and more robust set of indicators to reflect the cross-cutting and holistic nature of child poverty.

202 There are two fundamental differences between a child-rights approach to child poverty and a family approach. The first is putting the child at the centre of all policy measures to combat child poverty and the second is acknowledging the child as a social actor outside of the family. As Eurochild states "Once framed in a child rights context - based on the United Nations Convention on the Rights of the Child (UNCRC) and the existing legal base of the European Union - the distinctiveness of a child poverty approach becomes clear and should drive all policy initiatives to combat child poverty." Eurochild (2011).

Child poverty – family poverty: are they one and the same? A rights-based approach to fighting child poverty. Policy Position. Brussels: Eurochild.

203 Welsh Government (2010). Children and Families (Wales) Measure. Op.cit.

The Welsh Government had committed itself to provide annual statistics updating on child poverty milestones and targets with the first of these published in 2010.²⁰⁴ However an update for 2011 was not provided due in part to the change in policy direction. A range of indicators for measuring the outcomes of the TPAP appear in the plan itself and Chapter 9 of its 2012-2016 Programme for Government.²⁰⁶ The End Child Poverty Network Cymru is therefore pressing for arrangements for monitoring and evaluating progress on child poverty to be further strengthened.²⁰⁷

At the time of writing the UK Government has issued a consultation²⁰⁸ to explore a new approach to measuring child poverty, sparking a widespread debate about the future of the relative child poverty measure.²⁰⁹ Despite these debates at a UK level, there appears to be a clear commitment in Wales to a continued use of the headline relative poverty measure as part of a basket of indicators.²¹⁰ The need for a basket of indicators to capture the range of aspects of poverty is recognised to capture additional measures to mitigate poverty that the Welsh Government has put in place. However, in moving towards a broader picture of poverty with measures that will adequately capture this, it is recognised that we must not in any way lose sight that income is fundamental to the poverty debate.²¹¹



CRC/C/GBR/CO/4 para b: Give priority in this legislation and in the follow-up actions to those children and their families in most need of support.

Welsh Government responsibility

Wales continues to have the highest proportion of children living in severe poverty of any nation in the UK (14%).²¹² Currently, the Government's approach prioritises areas of high density of deprivation, which inevitably excludes a significant number of children living in other urban and isolated rural communities.²¹³ Assistance should be better targeted to those groups of children at the most risk of poverty and those in the severest poverty.

Welsh Government has taken steps to broaden its approach by re-positioning *Communities First* as an anti-poverty programme with a focus on economic, skills, education and health outcomes. Commitments to extend the *Flying Start* programme, doubling the number of children benefitting through support for families, health visiting and nursery places are also welcome. Welsh Government has also taken welcome steps, through *Families First* and Intensive Family Support Teams, to focus action on the early years, early intervention and prevention.

204 Welsh Government (2010). *Eradicating Child Poverty in Wales: Child Poverty Milestones and Targets Update*, November 2010. Cardiff: Welsh Government.

206 Welsh Government (2011). *Programme for Government 2011-2016: Chapter 9: Tackling Poverty*. Cardiff: Welsh Government.; Welsh Government (2012). *Tackling Poverty Action Plan*. Op. cit.

207 End Child Poverty Network Cymru (2012). *Child Poverty: A Programme Towards Eradication*. Cardiff: Children in Wales Available at: <http://www.childreninwales.org.uk/areasofwork/childpoverty/povertypublications/index.html>

208 DfE (2012). *Consultation on Measuring Child Poverty*. London: The Stationary Office.

209 Whitham G (2012). *Ending Child Poverty: The Importance of Income in Measuring and Tackling Child Poverty*. London: Save the Children.

210 Oral evidence received as part of UNCRC Evidence sessions. 5th July 2012.

211 ECPN (2013). *Measuring Child Poverty: A Consultation on better measures of child poverty*. Cardiff: End Child Poverty Network.

212 Save the Children (2011). *Severe Child Poverty Nationally and Locally*. London: Save the Children.

213 End Child Poverty Network Cymru (2009). *Child Poverty and Social Exclusion in Rural Wales*. Cardiff: Children in Wales Available at: <http://www.childreninwales.org.uk/areasofwork/childpoverty/povertypublications/index.htm>

As Welsh Government moves towards an integrated *Tackling Poverty Action Plan* and reconfigures flagship programmes and interventions, it is essential that we don't lose sight of those children most in need of support. There is still a requirement for increased and more effective targeting of services to those living in poverty recognising that pockets of deprivation occur in all areas. Many children are more vulnerable to poverty due to their specific circumstances as is recognised and therefore requires targeted interventions tailored to their needs.²¹⁴



65. (c) When necessary, besides giving full support to parents or others responsible for the child, intensify its efforts to provide material assistance and support programmes for children, particularly with regard to nutrition, clothing and housing.

Welsh Government responsibility

A backdrop of unprecedented pressures on family finances and the continuing effects of global recession and sluggish growth on the UK economy has intensified the need for states parties to provide 'material assistance and support programmes'. Growing numbers of families are struggling to make ends meet.²¹⁵ Steady increases in the cost of fuel, transport, food and clothing all intensify the difficulties faced by low income households. Children themselves are worrying about pressures on family finances, with over half of Welsh children (53%) in low income families being worried that their parents are finding it harder to pay for everyday necessities like food, heating and clothes.²¹⁶

In our evidence sessions it was noted that the demand for financial advice to a national advice service from people on benefits has increased by 24% over the past year. In addition, 19 foodbanks currently operate across Wales (the first project opened in 2008) and over the last 12 months have provided food parcels for 16,000 people in crisis. Between April 2011 and June 2012 foodbanks experienced a 193% increase in people needing support.²¹⁷ The number of households experiencing fuel poverty has more than doubled in recent years with research highlighting that not only is the problem increasing but also deepening with more children likely to have fallen into severe fuel poverty in recent times. It is also important to recognise that the Legal Aid, Sentencing and Punishment of Offenders Act which abolishes legal aid for welfare and benefit cases could impact on tens of thousands of people who could be put at greater risk of homelessness and poverty without funding for their advisers.²¹⁸

Welsh Government funding for the expansion of credit union networks and advice services to help maximise income is to be welcomed and should provide a vital source of support for families.²¹⁹ The NEST and Arbed energy efficiency programmes are also welcome yet many of the Fuel Poverty Coalition's calls have yet to be addressed since its launch in 2009.²²⁰ Work to enhance digital inclusion needs to be intensified to ensure that children and families most in need of support are not

214 Welsh Government (2010). *Draft Child Poverty Delivery Plan*. Cardiff: National Assembly for Wales.

215 Media Wales (2012). *Families put under 'unbearable pressure' by cost of living rises*. Cardiff: The Western Mail.

216 Whitham, G. (2012). *It shouldn't happen here*. London: Save the Children.

217 Trussell Trust (2012). Written evidence submitted as part of UNCRC Evidence sessions. July 2012.

218 A key element of the legal aid bill, is the abolishment of legal aid for welfare and benefit cases and an aim to cut £350m from the £2.2bn legal aid funding; HM Government (2012). *The Legal Aid, Sentencing and Punishment of Offenders Act*. London: The Stationary Office.

219 Welsh Government (2012). *Welsh Government Announces Review of Advice services, 19 June 2012*. Cardiff: National Assembly for Wales; Welsh Government (2012). *An Action Plan for the Credit Union Movement in Wales 2010-2013*. Cardiff: National Assembly for Wales.

220 Fuel Poverty Coalition (2011). *A Turning Point in the Fight Against Fuel Poverty in Wales: Fuel Poverty Charter*. See: <http://www.fuelpovertycharterwales.org.uk/>.

excluded from being able to access financial products, seek and train for employment and associate with others. This is particularly important given that the Universal Credit system is 'digital by default' designed to be viewed and tracked online.

Making work pay

A growing body of recent research emphasises the relative economic difficulties faced by Wales.²²¹ Supporting people to find work is a key way to support families and boost incomes. During our evidence session, unemployment, under-employment and low pay were all identified by participants as significant problems for Wales and key factors that contribute to high child poverty levels. In Wales unemployment has consistently remained above the UK average in recent years.²²² Furthermore, recent figures show the youth unemployment rate stands at 23.6%²²³ with long-term youth unemployment recently increasing almost fourfold in a year in Wales.²²⁴ The continuing rise in the number of young people not in education, employment or training in Wales is alarming given both the immediate and long term consequences of economic inactivity to individuals and the future prosperity of the country. A heavy reliance on public sector employment makes Wales particularly vulnerable to spending cuts compared to other parts of the UK.²²⁵

The *TPAP* pinpoints employment as '*the best route out of poverty*'²²⁶ providing protection for individuals and families from poverty and the Programme for Government outlines tackling worklessness and raising household income as a key area for action.²²⁷ Initiatives such as *Genesis*, *Integrated Family Support Centres* and more recently the *Jobs Growth Wales* programme as well as a range of measures to improve the skills of young people and families have all been positive actions by Welsh Government. A range of effective projects and services resourced through European funding should be recognised and efforts to preserve them should be made during the transition to the next round of EU funds.

However for many who do attempt to engage with the labour market in Wales, in many areas there is little prospect for self-improvement or escape for existing low skilled workers.²²⁸ The characteristics of the Welsh labour market are such that 'high performance' jobs are in limited supply and rely on workers having attained the adequate skills to be able to fill them (which is undermined by the persistent 'poverty gap' in education). Innovative Welsh Government schemes such as the *Redundancy Action Scheme (ReAct)* and *ProAct*²²⁹ should be noted for helping to keep Welsh businesses afloat and workers in employment during the recession. However, these programmes were focused on higher-skilled portions of the workforce, with limited benefits for the significant numbers of low-skilled workers in the economy.

221 Beatty and Fothergill (2011). Op. cit; Davies, R. (2011). *An Anatomy of Economic Inequality in Wales*. Cardiff: EHRC, WISERD.

222 See Office for National Statistics website: Labour Market Statistics Regional Monthly Data. <http://wales.gov.uk/topics/statistics/headlines/economy2012/121212/?lang=en>

223 ONS (2012). Regional Labour Market: H110 - Headline Indicators for Wales, December 2012 (figures Jul 2011-Jun 2012). London: Office for National Statistics.

224 Figures for Aug 2011- Aug 2012 see NOMIS (2012). JSA Claimants by Age and Duration-Time Series. London: Office for National Statistics.

225 In Wales, a quarter of the national workforce is employed in the public sector, significantly higher than the proportion in the UK as a whole. Around 344,000 people in Wales work in the public sector, or some 27.5% of all employees, compared to the UK average of 21.2%. Moreover, private sector employment in Wales fell by 5.4 per cent (52,000) between 2009 quarter 1 and 2010 quarter 1 compared to a 1.1 per cent fall across the UK as a whole. Women are also widely cited to make up 75% of the public sector workforce in Wales emphasising the potential knock on effects on children. ONS (2010). *Regional Analysis of Public Sector Employment, 2010*. London: Office for National Statistics.

226 Unemployment is routinely identified as a major risk factor for low income in Wales. the risk rising from 5% for a full-working family to over 60% for a workless one; Kenway, P. (2009). Op. cit..

227 Welsh Government (2012). *Tackling Poverty Action Plan*, Op.cit.

228 Davies, R. et al. (2011). Op. cit.

229 Member's Research Service (2011). *ReAct and ProAct*, January 2011. Cardiff : National Assembly for Wales.

While increased employment has a part to play in moving towards the Welsh Government's ambitious commitments on child poverty, it is increasingly recognised that employment cannot achieve this target on its own.²³⁰ The complex interwoven nature of the decline in key industries in many areas of Wales, persistent patterns of low levels of educational attainment of disadvantaged groups and a need to balance caring responsibilities for children, means that increasing numbers of parents are left with little choice but to take up low paid, part-time or temporary work often with unpredictable hours and low job security.²³¹ Involuntary part-time working, underemployment and variability in working patterns mean that for many, employment potentially embeds them in poverty to a greater extent than lifting them out of it.²³² There are also significant questions about whether proposed changes under Universal Credit will 'make work pay' with predictions of negative impacts on work incentives for many low-income families.²³³

In-work poverty is therefore increasingly recognised as a key element of the child poverty picture. More than half of children living in relative poverty (6 in 10) are in families where at least one parent is working.²³⁴ Individuals' earnings in Wales are, on average, lower than the UK average; 26% of employees in Wales are low-paid, compared to 22% in the UK.²³⁵ The Welsh Government's commitment to exploring ways of ensuring a living wage for every worker in Wales is welcome, and work on this agenda should continue.²³⁶

The Welsh Government needs to take account of these issues with a view to effecting strategic and structural change to support skills development and improve labour market opportunity, to avoid low pay and insecurity increasingly becoming the norm for many in Wales' workforce. This would recognise the fact that opportunity for progression within the labour market is often limited in poorly paid jobs. There are still many answers needed about the depth of systemic changes that would need to be made in order to achieve the levels and types of employment needed to achieve Welsh Government targets on child poverty reduction. Services, from child and health care to transport, would need to be extended and adapted to help families cope with the time pressures that would replace the financial pressures faced by many parents and families if increased full-working was to become the norm.²³⁷

Childcare support

Access to affordable, good quality childcare is a key element in a parent's decision to take up and remain in work.²³⁸ Moreover the provision of affordable, accessible and high quality childcare is seen as a key component of the Welsh Government's *TPAP* to both support parents into employment and enhance developmental outcomes for children.²³⁹

230 Kenway, P. (2009). *Op. cit.*

231 Davies, R. et al. (2011). *Op. cit.*

232 Ibid.

233 Whitham, G. (2012). *Ending Child Poverty: Ensuring Universal Credit supports working mums*. London: Save the Children.

234 Goulden, C. (2012). *The Relentless Rise of In-Work Poverty (Article)*. York: Joseph Rowntree Foundation.

235 Davies, R. et al. (2011). *Op. cit.* Kenway, P., McInnes, T. & Palmer G. (2009). *Monitoring poverty and social exclusion in Wales, 2009*. York: Joseph Rowntree Foundation; Kenway, P., McInnes, T. & Palmer G. (2007). *Monitoring poverty and social exclusion 2007*. York: Joseph Rowntree Foundation.

236 National Assembly for Wales (2012). *Written Statement on the Living Wage in the Devolved Welsh Public Services*, 30 May 2012. Minister for Local Government and Communities, Carl Sargeant AM. Cardiff: National Assembly for Wales; National Assembly for Wales (2012). *Written Statement – The UK Living Wage in Wales*, 8 November 2012. Minister for Local Government and Communities, Carl Sargeant AM. Cardiff: National Assembly for Wales.

237 Kenway, P. & Parekh, A (2011). *Op. cit.*

238 Whitham, G. (2012). *Op. cit.*

239 Welsh Government (2012). *Tackling Poverty Action Plan*. *Op. cit.*

The Welsh Government set out its vision for childcare in Wales in a 2011 Policy Statement '*Nurturing Children, Supporting Families*', however many of the actions outlined have not yet been implemented.²⁴⁰ Strategies to increase universal provision should be implemented alongside the continued and extended free childcare for all 2-3 year olds in geographically targeted areas under *Flying Start*. Existing availability of childcare is patchy, with research in Wales revealing a widening gap in availability of childcare between the most deprived and least deprived areas of Wales, with gaps in childcare most likely to be in deprived and rural areas of Wales.²⁴¹ There are also persistent gaps in provision for older children and for children during school holidays, despite the Childcare Act 2006 placing a duty on local authorities in Wales to secure sufficient childcare in their area.

Reducing the impact of poverty on educational attainment

A key area where Welsh Government can support families and children is in the devolved area of education. Low educational achievement is a major cause of adult poverty, with poverty the most important reason for low educational achievement.²⁴² In terms of material support, the additional costs of education and the increasing challenge for parents of meeting education related costs such as school trips, uniforms and meals have been consistently identified as pressure points for low income families.²⁴³ The attainment gap between deprived pupils and their better off peers is a persistent and growing problem in Wales.²⁴⁴ Funding for schools through the *Pupil Deprivation Grant* and *Schools Effectiveness Grant* and additional *Communities First* funding have been allocated to support the aim of closing the 'poverty gap' in education. Moreover *Flying Start* and the *Foundation Phase* are both key policy drivers that give children in Wales a better start to their education.

Recent research has argued that the solutions for reducing the poverty gap in education can be found in holistic and mutually reinforcing approaches that unite schools, parents and communities²⁴⁵ and support for community schooling emerged as a key theme during our evidence sessions. As part of this the Government should provide clear guidance for schools and local authorities on how to use the funding in the most effective way possible and establish a clear system to monitor and regularly report on the effective use of grants that have been made available.²⁴⁶ Schools also need to take responsibility for leadership in this area and there are examples of good practice and published resources to help support schools in their quest.²⁴⁷

Housing

While successive Welsh Governments have taken a lead in raising standards far too many children in Wales are still living in poor quality accommodation. The poorest quality housing in Wales is often occupied by the poorest families in the poorest areas in Wales.²⁴⁸

240 Welsh Government (2011). *Nurturing Children, Supporting Families*. Cardiff: National Assembly for Wales.

241 Melyn Trust Consultancy (2010). *Analysis of the Supply of Childcare in Wales 2009*. Wales: Melyn trust.

242 Egan, D. (2012). *Communities, Families and Schools Together: A Route to Reducing the Impact of Poverty on Educational Achievement in Schools Across Wales*. Cardiff: Save the Children.

243 End Child Poverty Network Cymru (2009). *Cost of Schooling- A Renewed Call*. Cardiff: Children in Wales; The Bevan Foundation, NEA Cymru, Consumer Focus Cymru and Save the Children. (2009). *Paying the Price of Being Poor*. Cardiff: The Bevan Foundation.

244 Egan, D. (2012). Op.cit

245 Ibid; Estyn (2011). *Tackling poverty and disadvantage in schools: working with the community and other services*. Cardiff: Her Majesty's Inspectorate for Education and Training in Wales.

246 End Child Poverty Network (2012). *Child Poverty: A Programme Towards Eradication 2012*. Cardiff: Children in Wales.

247 End Child Poverty Network Cymru (2011). *Tackling Poverty in Wales: A Good Practice Guide for Schools*. Cardiff: Children in Wales; Estyn (2011). Op.cit.

248 Welsh Government (2012). *Statistical Bulletin: Homelessness April-June 2012*. Cardiff: Stats Wales.

Proposals contained in the Welsh Government's 2012 Housing White Paper should be recognised as a positive step forward in the attempt to increase the availability of affordable housing in Wales, tackle homelessness and reform the Private Rented Sector.²⁴⁹ Proposals including a target of 7,500 new "affordable" homes due to be delivered over the term of this Government, are welcome yet may not be sufficient in a climate of growing need. Adequate regulation of the Private Rented Sector is essential to safeguard the living conditions of vulnerable families and there are commitments within the White Paper to legislate for a national, mandatory registration and accreditation scheme for private landlords, lettings and management agents, which must be enforced and regulated. The aim of ending family homelessness by 2019 is a laudable objective yet it is important that young people who live independently and would not necessarily be included in the commonly understood model of the 'family' do not fall through the net.

Boosting incomes through material assistance: an era of new responsibility for Welsh Government.

As well as a wide-ranging overhaul of the benefits system and the introduction of Universal Credit, the UK Welfare Reform Act 2012 also abolishes a number of existing benefits, devolving responsibility to the Welsh Government for a number of key sources of material assistance for families and children in Wales; the most significant include replacement schemes for the discretionary elements of the Social Fund, Council Tax Benefit and new systems for the allocation of passported benefits.²⁵⁰ The landscape on arrangements for replacement schemes in Wales is fast-changing as replacement schemes need to be in place by April 2013. In this context this section aims to capture an overview of what the changes will mean for Wales.²⁵¹

There are concerns that the imposition of short timeframes for design, implementation and delivery of a new system for all of these benefits on the Welsh Government may block the development of the best possible replacement arrangements. Although separate administrative costs will be provided to set up and run the new schemes, at the time of writing, detail from UK Government has not been forthcoming.

The Welsh Social Fund

After a period of debate and consultation²⁵² in November 2012, it was announced that a replacement Welsh Social Fund would be developed and delivered for Welsh Government by an independent provider for two years from April 2013. The new Discretionary Assistance Fund, made up of two grants (Individual Assistance Payments and Emergency Assistance Payments) was announced by Welsh Government in March 2013, the fund will be used to help vulnerable and financially excluded individuals²⁵³. It remains to be seen if the new Discretionary Assistance Fund will succeed in providing a safety net to the most vulnerable families in Wales but as eligibility criteria funding is finalised we would urge that there is clear consideration of the need to prioritise the most vulnerable groups, particularly households with children living in severe poverty and to ensure all possible steps are taken to ensure that the fund can be accessed by the most vulnerable groups.

249 Welsh Government (2012). *Homes for Wales: A White Paper for Better Lives and Communities*. Cardiff: National Assembly for Wales.

251 It should be noted that further changes are likely to occur after publication of this report.

252 Drakeford, M. & Davidson, K. (2012). *Abolishing the Safety Net*. Cardiff: The Bevan Foundation; National Assembly for Wales (2012). *Oral Statement: Update on the Social Fund, 10 July 2012*. Minister for Local Government and Communities, Carl Sargeant AM. Cardiff: National Assembly for Wales.

253 Welsh Government (2013). *Written Statement - Arrangements to implement the Welsh Government's Discretionary Assistance Fund from 1 April 2013*. Minister for Local Government and Communities, Carl Sargeant AM. Cardiff: Welsh Government.

Council Tax Benefit in Wales

The localisation of council tax support must be considered alongside the context of the UK government's planned 10% reduction in central government spending on council tax benefit. The Welsh Government Minister responsible has expressed his 'profound concern' and 'deep reservations' at the cut.²⁵⁴ Originally Welsh Government stated it was not in a position to cover the shortfall in funding and published regulations about the operation of the replacement which set out that the maximum level of support that eligible claimants could receive would be 90 per cent. However Welsh Government has subsequently changed its position and increased the maximum level of support from the current 90 per cent to 100 per cent. During 2013, claimants will receive the full amount of support for their council tax bills for which they are eligible and this arrangement will be reassessed in 2014.²⁵⁵

Passported benefits

School meals, and particularly free school meals, are a means of reducing health inequalities brought about by poor diet. Moreover, in the Welsh context Free School Meal eligibility is used as a proxy measure for poverty and underpins the criteria for many of the Welsh Government's grants and assistance programmes as well as a wide range of data on educational attainment, which has been built up over a number of years. In order to continue the provision of free school meals, the Welsh Government has stated that it would find an alternative way of determining entitlement that aligns with the Universal Credit system in response to these 'radical welfare reforms'.²⁵⁶ However details about how Universal Credit will operate are still being developed and Welsh Government has expressed its concern at delays in it receiving sufficiently detailed data at a Wales level to enable a full assessment of the impact of new eligibility criteria and to support the development of a new entitlement system ahead of April 2013. At the time of writing details of the arrangements for Wales is still to be released.

Conclusion

Initially, in the years since 2008, we saw significant progress in prioritising child poverty with the agreement at UK-level of a cross-party target to end child poverty by 2020. The Welsh Government emphasised its strong commitment to this target, publishing a range of key strategies and legislation to work towards its achievement. However, the UK Government's austerity programme is predicted to increase child poverty significantly across the UK with families and children in Wales set to be hit particularly hard. Now, more than ever, the Welsh Government must ensure that sufficient resources are assigned to tackling child poverty and that it takes all steps in its power (through material assistance and support programmes as well as new responsibilities for benefits) to alleviate the pressures on families. Child poverty and a child right's approach must remain central within the broader *Tackling Poverty Action Plan* and more urgency must be given to measuring and delivering on outcomes on child poverty as well as monitoring the impacts of welfare reform on children and families in Wales.

254 National Assembly for Wales (2013). Written Statement: *Council Tax Support*, 17 January 2013. Carl Sargeant, Minister for Local Government and Communities. Cardiff: National Assembly for Wales; National Assembly for Wales (2012). *The Record*, 19 December 2012. Cardiff: National Assembly for Wales.

255 Welsh Government (2013). Written Statement: *Council Tax Support*. Op.cit.

256 National Assembly for Wales (2012). Written Statement: *The Impact of UK Government's Welfare Reforms: Amendments to Welsh Government Passported Benefits and Other Legislation*, 8th October 2012. Minister for Local Government and Communities: Carl Sargeant AM. Cardiff: National Assembly for Wales.

Key recommendations

UK Government should:

- Reconsider all policy decisions that have been predicted to have a negative effect in increasing child poverty and which will push families into greater poverty.
- Ensure that the 'maximum extent of available resources' are used to tackle child poverty and all efforts are intensified to meet statutory obligations under the Child Poverty Act.

Welsh Government should:

- Intensify assessments and monitoring of the impacts of welfare reform and spending cuts on levels of child poverty in Wales and take all necessary steps, through material assistance and support programmes, to help mitigate the negative effect on children most in need of support.
- Allocate the 'maximum extent of available resources' to eliminate child poverty, with an emphasis on early intervention and prevention, and take all possible steps to increase transparency of public expenditure on child poverty reduction.
- Explore ways to raise public awareness about the realities of child poverty in Wales to challenge negative and judgemental perceptions.
- Ensure actions, strategies and legislation to reduce child poverty are embedded in a children's rights approach and child poverty proofed.
- Achieve better join-up of programmes and initiatives on child poverty to form a coherent programme, matched by a clear set of robust indicators to help progress to be tracked and which are subject to coherent monitoring and evaluation arrangements.
- Ensure that Statutory Obligations under Part 1 of the Children and Families (Wales) Measure are met at a local level under the new Single Integrated Plan approach.
- While recognising that employment is a key route out of poverty develop actions to address in-work poverty and promote activities to support engagement in work such as through training, childcare and a living wage.

Chapter Seven: Education, leisure and cultural activities

Play

Marianne Mannello, Play Wales



CRC/C/GBR/CO/4:69 The Committee recommends that the State Party strengthen its efforts to guarantee the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts. The State Party should pay particular attention to provide children, including those with disabilities with adequate and accessible playground spaces to exercise their play and leisure activities.

Welsh Government Responsibility

International background

The UNCRC Concluding Observations 2002 did not address children's right to play. To respond to this, the International Play Association (IPA) began the work of requesting a General Comment on Article 31 at the triennial IPA World conference held in Hong Kong in 2008. IPA soon established a group of international co-signatories to the request. A literature review was commissioned by IPA and published by the Bernard van Leer Foundation²⁵⁷ in 2010. This initiated the Global Consultations Project²⁵⁸ that had partners in eight countries, the results of which were presented in person to the UN Committee in Geneva. At the IPA World conference held in Cardiff in 2011, IPA was able to announce the UN Committee's decision to draft a General Comment on Article 31 and that IPA had been invited to manage the drafting process. IPA established timeframes and a structure for the international Working Group and a 'pool of experts' for the drafting. Keith Towler, Children's Commissioner for Wales, accepted the invitation to join the international Working Group.

Playing into the future – surviving and thriving

In July 2011 Play Wales hosted the 18th world conference of the IPA in Cardiff. The conference offered four days to share evidence, experience and examples of good practice with colleagues from around the world. 450 delegates from 37 countries attended the conference. The First Minister for Wales, Carwyn Jones AM, received the International Play Association (IPA) Right to Play Award when he opened the conference on 4 July 2011. He accepted the Award on behalf of all those people in Wales who are working to make our country a better place for playing children.

The award is made to innovative projects around the world that support children's right to play – it is made every three years at the world conference. Wales is the first country ever to receive the Right to Play Award. The Award was made in recognition of the progress the Welsh Government has made in legislating to uphold children's rights – and particularly their right to play.

257 Lester, S and Russell, W (2010) *Children's Right to Play: An examination of the importance of play in the lives of children worldwide*. Bernard van Leer Foundation

258 International Play Association (2010) IPA Global Consultations on Children's Right to Play Report

Legislation and policy

The Welsh Government continues to make significant progress in meeting its commitment under Article 31, particularly in terms of children's play. Within the UK context, the Welsh Government continues to be ahead of other nations in the actions it has taken to deliver its commitment to play as articulated in its national *Play Policy*²⁵⁹, *Play Policy Implementation Plan*²⁶⁰ and *Programme for Government*²⁶¹. In particular, Section 11 of the Children and Families (Wales) Measure 2010 places a statutory duty on Local Authorities to assess and secure sufficient play opportunities for children in their area.

The importance of providing for play has also been referenced in *Creating an Active Wales*,²⁶² the national physical activity plan. Play Wales was part of an external stakeholder group, which supported the development of *Creating an Active Wales* and now sits on the Physical Activity Ministerial Advisory Group which provides expert advice to the Minister for Heritage to help ensure the effective implementation of the plan.

Additionally, the *Child Poverty Strategy for Wales*²⁶³ notes the right to play and its contribution to children's development and resilience, stating that the Welsh Government sees play as being a vital element in children's development and something that can provide a strong protective factor in children's lives.

Play Sufficiency Duty

The Play Sufficiency Duty comes as part of the Welsh Government's anti-poverty agenda which recognises that children can have a poverty of experience, opportunity and aspiration, and that this kind of poverty can affect children from all social, cultural and economic backgrounds across Wales.

The Order²⁶⁴ which brings into effect section 11(1) of the Children and Families (Wales) Measure 2010, which requires all local authorities to assess the sufficiency of play opportunities for children within its area, commenced on 1 November 2012. Each local authority is required to conduct a Play Sufficiency Assessment and complete an Action Plan in line with statutory guidance.²⁶⁵ A well conducted Play Sufficiency Assessment will provide local authorities with the evidence needed to identify gaps in provision and develop action plans to address these shortcomings. This will help local authorities to meet their duties to secure sufficient play opportunities for children, as far as reasonably practicable. The deadline for the completion of Assessments and Action Plans is 1 March 2013. The Welsh Government will consider these before the second part of the Duty, which is to secure sufficient play opportunities, is commenced.

To support local authorities to undertake Play Sufficiency Assessments, Play Wales and the Welsh Government, in conjunction with play providers across Wales, have produced a toolkit.²⁶⁶ It provides support to all local authorities in fulfilling their duties, as set out in the Play Sufficiency Assessment (Wales) Regulations 2012.

259 Welsh Government (2002) *Play Policy*

260 Welsh Government (2006) *Play Policy Implementation Plan*

261 Welsh Government (2011) *Programme for Government*

262 Welsh Government (2009) *Creating an Active Wales*

263 Welsh Government (2011) *Child Poverty Strategy for Wales*

264 Welsh Government (2012) The Children and Families (Wales) Measure 2010 (Commencement No.5) Order 2012

265 Welsh Government (2012) *Creating a Play Friendly Wales – Statutory Guidance to Local Authorities on assessing for sufficient play opportunities for children in their areas*

266 Welsh Government (2012) *Play Sufficiency Assessment Toolkit*

To achieve a play friendly society that offers a wide range of play and recreational opportunities it is necessary for all partners within the community to work together for this purpose. The Welsh Government encourages local authorities to acknowledge the importance of play in children's lives and make a firm commitment to work strenuously within their own structures, with partner organisations, children and their families and communities to ensure that children have access to the play opportunities that they expect and have a right to expect.

Early indications from local authorities and their partners suggest that the duty to undertake Play Sufficiency Assessments has:

- Raised the profile of play locally
- Allowed for the identification of linkage of local plans (such as Road Safety plans and local Creating an Active Wales plans) to play strategies
- Forged stronger departmental links between local government officers.²⁶⁷

Listening to children

During the summer of 2009, the National Assembly for Wales Children and Young People Committee carried out a participation project called *'It's all about you'*. Children and young people were asked to complete a ballot paper outlining the issues they thought the Committee should be investigating in the future.

The top three concerns for the young voters were:

- The environment
- Safe places to play and hang out; and
- Money worries.

The Committee referred the first and last issue to other Assembly Committees. The Children and Young People Committee then agreed to hold an inquiry into the provision of safe places to play and hang out in Wales in order to make recommendations about how the Welsh Government might improve provision. The largest proportion of additional issues highlighted by the vote – *'fear of others'* and *'litter and vandalism'* – would be included in the inquiry.

The inquiry was launched in December 2009. The Committee issued a questionnaire aimed at children and young people to enquire about their experiences and fears when accessing play opportunities and/or hanging out. The Committee also engaged with children and young people through workshops, meetings and visits to play projects. The Committee also called for written evidence from external stakeholders and held eight formal evidence gathering sessions, taking more than 11 hours of oral evidence from a broad range of interested parties.

The Committee published its recommendations following the inquiry in November 2010.²⁶⁸ The report contains a list of 26 recommendations covering areas such as the strategic priority of play, transport and road safety, urban planning and the needs of particular groups of children and young people. The Committee asked Welsh Government to set out how it intends to achieve the changes that the report recommends and the response suggested that the majority of the recommendations

²⁶⁷ (January 2013) All Wales Strategic Play Network NGO reporting process

²⁶⁸ National Assembly for Wales (2010) *National Assembly for Wales Children and Young People's Committee Provision of Safe Places to Play and Hang Out*

contained in the report fit closely with Welsh Government current policy direction and the work of implementing many of them is already in progress and would likely be addressed through the provision of Statutory Guidance for Play Sufficiency Assessments.²⁶⁹ Following the publication of the report, the then Chair of the Committee, Helen Mary Jones, AM, introduced a short debate in the Assembly: *The Right to Play*.²⁷⁰

Allocation of resources, infrastructure development and workforce development

For the past 12 years the Welsh Government has directly funded play provision, specifically staffed play provision, through the Play Grant, Play Theme of Cymorth, and currently, through the *Families First* funding programme.²⁷¹

In 2006 an additional £1m was made available from Welsh Government to Framework Partnerships to provide facilities for disabled children. This funding has continued and the current *Families First* funding stream has an emphasis on access to play for disabled children across most local authorities in Wales.

The Big Lottery Child's Play programme was one of two programmes under the Healthy Families Initiative in Wales. It aimed to:

- Develop new play spaces for children in their communities
- Develop play opportunities that allow children to choose how they play
- Develop staffed open-access play opportunities.

BIG made £13 million available for a limited number of strategic projects.

Round 1 of the programme has seen the development of ten regional voluntary sector play associations – meaning that, for the first time, there are play associations covering all of Wales. Together they form an infrastructure.

An evaluation found that overall projects were effective in building capacity of play associations and networks across Wales. It suggests that this is achieved through a more professional training infrastructure, and creating a stronger collective 'voice' to lobby potential funders and policymakers. The evaluation concluded that the programme championed open access and community-led play opportunities in a way that complements and adds value to statutory provision. Moreover, the projects showed the credibility of play associations for delivering local services on a commissioned basis.²⁷²

Round 2 of the Child's Play programme contributed to the development of ten regional peripatetic playwork projects, providing free, inclusive, staffed play opportunities where it has been identified that children and young people need it most – in their communities. This community-based model of provision has been proven to address some of the barriers faced by children and young people in accessing places to play in their community. This model encourages children to make more use of parks and open spaces, reducing children's fear of bullying and ensuring that play space is inclusive – supporting all children to make the most of the opportunities available in their own way.

269 Welsh Government (2011) Written Response to the Children and Young People Committee's Report on the Inquiry into the Provision of Safe Places to Play and Hang Out

270 A transcript of the debate can be found at: <http://assemblywales.org/bus-home/bus-third-assembly/bus-chamber/bus-chamber-third-assembly-rop.htm?act=dis&id=203895&ds=11/2010> [accessed 15 January 2013]

271 Play Wales (2003, 2006, 2009, 2011) *State of Play Reviews*

272 Ecotec Research and Consulting (2010) *Evaluation of the Child's Play Programme in Wales*

The growth in the playwork sector in Wales has resulted in a greater understanding of children's play, with the majority of playwork projects using current play theory (as referenced in *Play for a Change*²⁷³) in their practice. This appears to have led to a significant increase in the range of play opportunities available to children in local communities.²⁷⁴

Play Wales has been supported by Welsh Government to develop a suite of qualifications, Playwork: Principles into Practice (P3) to meet the play needs of all children in Wales and all those who work where children play. Both Level 2 and 3 courses are available as qualifications on the Qualifications Credit Framework, endorsed by SkillsActive and achieve an attainment rate of 80%.²⁷⁵ Welsh Government is currently supporting SkillsActive through the Sector Skills Priority Fund Programme to develop the final pieces of the jigsaw, the learner support materials for the Level 3 Certificate and Diploma.

In 2007, Welsh Government funded Play Wales to undertake the development of a National Centre for Playwork Education and Training in Wales – Playwork Wales. It supported the playwork sector to deliver quality services to children. The development and work of Playwork Wales enabled the sector to take a joined-up approach to the delivery of training and qualifications, capitalising on investment and making the most effective use of the resources available.

Playwork Wales worked in partnership with SkillsActive, to deliver the objectives agreed in the Sector Skills Agreement and *Quality Training, Quality Play, 2006-2011*, the UK Strategy for Playwork Education, Training and Qualifications. In spring 2009 Welsh Government interim funding was provided to support the delivery of Playwork: Principles into Practice Level 2 qualifications in Wales. Unfortunately it has not been possible to continue the funding for these projects. To that end Play Wales now undertakes the development and delivery of playwork qualifications as part of its core work, for which it is funded in part by the Welsh Government.

Welsh Government has supported the collaboration between the Health and Safety Executive (HSE) and the Play Safety Forum (of which Play Wales is a member), which has developed and published a joint High Level Statement on play.²⁷⁶

Issues of concern

Whilst Welsh Government has clearly taken measures to deliver its commitment to children's play, insufficient resources are committed to monitoring and evaluating the impact of the wider initiatives. In particular, there is a history of ineffective accompanying guidance for funding programmes. This has often resulted in a misinterpretation in decision-making at local level, often compounded by a lack of transparency. There is anecdotal evidence to suggest that complementary initiatives such as Integrated Children's Centre funding, *Communities First* and Community Focused Schools were not used to best effect for children's play.²⁷⁷ Unfortunately, the lack of clear and concise guidance, backed by robust scrutiny at national level, appears to have resulted in assumptions and good intentions made at national policy level not being translated into a reality at local level.

Most recently the change of Government funding priority resulting in the Cymorth unified funding stream being subsumed into *Families First* has resulted in a significant hiatus in funding for play provision across Wales. In most instances the resulting challenges have been resolved, but in a few cases this has resulted in the wholesale reduction in Government funding being used to support play provision.

273 Lester, S and Russell, W (2008) *Play for a Change – Play, Policy and Practice: A review of contemporary perspectives*. Play England

274 (January 2013) All Wales Strategic Play Network NGO reporting process workshop

275 Play Wales (2012) *Playwork: Principles into Practice (P3) Learner Qualification Attainment Rates*

276 Health and Safety Executive (2012) *Children's play and leisure: promoting a balanced approach*

277 Play Wales (2003, 2006, 2009, 2011) *State of Play Reviews*

Unfortunately the impact of Government support for play has received minimal monitoring and has never been evaluated. Additionally, the lack of an all Wales external evaluation of Round 2 of the BIG Child's Play programme is a missed opportunity in terms of evidencing the impact of this funding initiative on children's access to their right to play at local level.

For the future, Play Wales, in partnership with The University of Gloucestershire, will be undertaking and funding research into local authority responses to the Play Sufficiency Assessment. The research findings will inform Play Wales' future work relating to legislation and duties. Additionally funding is being sought for a second phase to evaluate the impact of the duty to secure sufficiency of play.

Although the Foundation Phase has contributed to a greater understanding locally of the importance of children's play, there appears to be an overemphasis on the role of play in learning to meet an education agenda, rather than as rights based issue in schools.

Although the Welsh Government has supported Play Wales, as members of the Play Safety Forum, to develop and publish in collaboration with the HSE, the joint High Level Statement (HLS) on play, there is concern that Welsh Government has not yet endorsed and adopted the HLS.

The majority of play services (within both the statutory and voluntary sectors) are grant funded. The lack of core funding for children's play has resulted in key officers' time and energy often being used for bid writing rather than in the development or delivery of play services.

Key recommendations

Welsh Government should:

- Commit to the timely commencement of Part 2 of the Play Sufficiency Duty, as committed to in Programme for Government, which will place a duty on local authorities to secure play opportunities for children in order to maintain the momentum and commitment currently being observed at local authority level.
- Identify dedicated funding for the delivery of level 2 and 3 play work qualifications and for the re-establishment of support for the development of the play workforce.
- Continue to work with external partners, such as Play Wales, to scrutinize the Play Sufficiency Assessment returns.
- Ensure a cross-departmental approach when responding to the findings of the Play Sufficiency Assessment returns.
- Support continued research, in particular, the second phase of research building on the current project between Play Wales and University of Gloucestershire, which will pay attention to the ways in which local authorities implement approaches to securing sufficient play opportunities.
- Should endorse and adopt *Managing Risk in Play Provision: Implementation Guide*²⁷⁸, which is currently being edited to remove reference to the previous UK government policies, updated with the HLS and re-published.
- Consider ways that the growth in community based provision currently funded by BIG's Child's Play programme can be sustained.
- Review all current national strategies and, in particular, action plans to ensure that actions, sentiment and timescales are coherent.
- Make best use of external expertise provided by NGO's such as Play Wales, when developing policies or programmes intended to support or promote children's play.

Chapter 8: special protection measures

Child sexual exploitation and trafficking

Menna Thomas, Barnardo's Cymru



CRC/C/GBR/CO/4 para. 74: The Committee recommends that the State party intensify its efforts to collect data on the extent of sexual exploitation and abuse of children, essential to prepare adequate responses to and to combat these phenomena, including in the Overseas Territories. The State party should always consider, both in legislation and in practice, child victims of these criminal practices, including child prostitution, exclusively as victims in need of recovery and reintegration and not as offenders

Welsh Government responsibility

Commentary on progress

Since 2007, when the last Wales NGO report was published there have been significant improvements in addressing the issue of child sexual exploitation (CSE) in Wales. In 2008, The *All Wales Protocol for Safeguarding and Promoting the Welfare of Children who are at Risk of Abuse through Sexual Exploitation* was published and is currently being updated by the All Wales Child Protection Procedures Review Group (AWCPPRG) to ensure it remains fit for purpose, and links in appropriately with the statutory guidance, published in 2011. This work will be completed by spring 2013. In 2011 *The Safeguarding Children and Young People from Sexual Exploitation – Supplementary Guidance to Safeguarding Children: Working Together under the Children's Act 2004* was published.

In March 2011 the Welsh Government commissioned Barnardo's Cymru to deliver training on the guidance across the 4 Police Authority Areas in Wales with each LSCB offering 10 places to help support understanding and implementation. In 2012 Government conducted an online survey as part of a review of the *Supplementary Guidance to Safeguarding Children*. This showed that amongst 59 of the 77 respondents who completed the full survey there were high levels of awareness of the protocol and the guidance, but less confidence that it was being implemented effectively.

The Welsh Government has recently commissioned Barnardo's Cymru to produce an awareness raising leaflet for children and young people on CSE.

Training of professionals and identification of CSE

The success of the above is highly dependent on, in the first instance, frontline practitioners being able to identify the signs of a child or young person who is vulnerable to, or is, being exploited, and respond appropriately. The initial Barnardo's delivered training commissioned by Welsh Government has led to increased awareness of the need for improved access to training across all sectors.²⁷⁹ 'More work is needed to ensure that all agencies are able to identify sexual exploitation, support children and escalate concerns'²⁸⁰. Whilst there has been a marked improvement in awareness of the issue over the past five years the practice experience of Barnardo's CSE service is that there is still no

²⁷⁹ Summary of the Child Sexual Exploitation Guidance survey results. Welsh Government 2012

²⁸⁰ Out of Sight, Out of Mind; Breaking down the barriers to understanding child sexual exploitation/ CEOP June 2011

consistency of awareness and knowledge about good practice, and this also extends to awareness of the protocol and guidance.

Evidence gathered as part of the evaluation of the Barnardo's training suggests that an approach to training is being carried out in a piecemeal fashion in Wales, which reflects a similar situation in England. *'Awareness raising and training is piecemeal and inadequate'*.²⁸¹

Comments made by respondents to the CSE Guidance survey supported this position. Respondents thought training should become embedded in the initial and ongoing mandatory training of key professionals including social workers, health visitors, school nurses, midwives, the police and others who have routine contact with children, young people and families. The need for strategic managers and supervisors as well as all frontline staff and managers to receive training was also highlighted. Respondents thought that training should be made available to voluntary sector staff and also local community groups who often occupy key positions for the early identification of children who are vulnerable to and/or are being sexually exploited.²⁸²

The ongoing mandatory training of key statutory and voluntary sector professionals and practitioners on the ground should be the responsibility of the LSCBs. However a Joint Inspection of Local Safeguarding Children's Board published by CSSIW in 2011 identified problems with many aspects of LSCB functioning, in particular a lack of governance and accountability, the absence of a clear outcome framework, and an absence of secure funding arrangements. Moreover information from LSCB's is often circulated to organisations and not directly to key professionals.²⁸³ In the proposal for the new Social Services and Wellbeing (Wales) Bill Welsh Government intends to establish a national Safeguarding Board and set a new outcomes framework for its work. This is being seen as a progressive step.

It is important that when a case of CSE is identified that there is a clear appropriate practice and service response. Unless this is forthcoming or available then there is the risk that practitioners lose faith in the policy and guidance available.²⁸⁴

Multi-agency approach

There is clear evidence that the most appropriate and effective response to CSE involves a multi-agency approach preferably *'co-located units, where key practitioners from children's services and the police work together in a team, were identified as the 'ideal type'*²⁸⁵. Respondents to the Child Sexual Exploitation Guidance Survey suggested that *'multi-agency teams to deal with allegations of CSE.....can provide a continuity of response across an area'*.

Some examples of multi-agency work are evident in Wales e.g. Operation Artemis led by Gwent Police and the Gwent multi-agency information sharing and training forum, and the establishment of the Sexual Harm Group, a multi-agency bi-monthly meeting for practitioners in Cardiff LSCB. Evidence sharing across agencies experienced via Operation Artemis enabled an increase in perpetrator conviction rates and increased referrals for the CSE service.²⁸⁶ The overall evidence, however, suggests that multi-

281 S.Jago et al, What's Going On to Safeguard Children and Young People from Sexual Exploitation? How local partnerships respond to child sexual exploitation. University of Bedfordshire 2011.

282 Summary of the Child Sexual Exploitation Guidance Survey Results. Welsh Government 2012

283 Inquiry into Local Safeguarding Children Boards. Health, Wellbeing and Local Government Committee. November 2004

284 Response to questionnaire – Cardiff and the Vale LHB

285 S.Jago et al. What's Going On?, to Safeguard Children and Young People from Sexual Exploitation? How local partnerships respond to child sexual exploitation. University of Bedfordshire, 2011

286 Inside Out. Kwaya-James E. Barnardo's 2012

agency approaches are not consistently deployed across Wales to address CSE, and of those that are in existence some will require considerable professional development in order to become effective.

Currently, specialist services remain key to addressing the problem with the young people on the ground²⁸⁷. However the dearth of funding means that there is limited resource to meet the need being uncovered across Wales.

Data

There is an absence of good data at national and local levels on the profile of CSE and Child Trafficking in Wales. Some authorities gather data, but this isn't consistent across all authorities, neither is it consistent across sectors. Barnardo's Seraf service gathers data of its involvement with all referrals made, which enables better informed service development and the ability to track changes in patterns of CSE and trafficking. Unless this issue is addressed across statutory agencies then getting a clear picture of the extent of the problem will always be a barrier to good planning and service delivery.

Recent evidence gathered from Barnardo's specialist CSE services across the UK indicate that CSE is changing and becoming more complex with increased levels of peer exploitation, online grooming and domestic trafficking of victims. In Wales the trends for increased levels of trafficking and peer exploitation are particularly prevalent.

Sexual exploitation of boys

The sexual exploitation of boys is also an issue of concern in Wales. The Office of the Children's Commissioner in England recently published an interim report on research they have commissioned on child sexual exploitation in gangs and groups. The evidence gathered suggests a lack of recognition, awareness and understanding of the sexual exploitation of boys with reports of exploited boys coming primarily from agencies that were looking out for them *'where agencies were looking out for boys and young men who were victims, the gender split, while still present, was less pronounced'*²⁸⁸.

Boys who were unsure about their sexual identity were more likely to be at risk of sexual exploitation. A complex process of exploitation was reported where boys were groomed and forced to collude with adult abusers by being sent out to *'groom and sexually exploit girls and young women, before passing them on to an older man... Some would be given gifts or attention, or made to commit crimes with older men. Some would be coerced into having sex with girls or with each other. In one instance there was evidence that this was filmed and the footage used for the purposes of control.'*²⁸⁹ As a consequence of such experiences *'The panel was concerned that these boys and young men were identified as perpetrators of abuse, with their own exploitation not being given due consideration'*²⁹⁰. As this issue is closely connected with peer exploitation, of which we have seen a marked increase in Wales, then we suggest that this is an issue which requires further research and the piloting of different approaches to service delivery.

The increasingly central role of social media in child sexual exploitation was also evidenced in the Barnardo's survey. Overall there is a sense that we need to act more quickly in order to keep pace with these changes if we are to address this problem with any effect.

²⁸⁷ Out of Mind, Out of Sight: Breaking down the barriers to understanding child sexual exploitation. CEOP June 2011

²⁸⁸ S.Berlowiz et al, 'I thought I was the only one. The only one in the world', The Office of the Children's Commissioner's Inquiry into Child Sexual Exploitation in Gangs and Groups'. Interim Report. November 2012.

²⁸⁹ As above

²⁹⁰ As above



CRC/C/GBR/CO/4 para. 76: The Committee recommends that the State party provide the necessary resources for an effective implementation of the Anti-trafficking Action Plan. It also recommends that the State party ratify the Council of Europe Convention on Action against Trafficking in Human Beings and implement its obligations by ensuring that child protection standards for trafficked children meet international standards.

UK & Welsh Government responsibility

Commentary on progress

The Council of Europe Convention on Action against Trafficking in Human Beings was ratified on the 17/12/2008 and came into force on the 01/04/2009. With regards to the issue of Child Trafficking the Welsh Government guidance, issued as a supplement to *Working Together: Safeguarding Children under the Children Act 2004*, was published in 2008. A Trafficking Protocol was produced in September 2011 by AWCPPRG and now forms part of the All Wales Child Protection Procedures. Welsh Government commissioned ECPAT (End Child Prostitution and Trafficking) to produce an online training resource accessible to practitioners in 2011. Welsh Government appointed an All Wales Anti-Trafficking Coordinator in 2011.

Despite Welsh Government publishing practice guidance on how to address international child trafficking and commissioning ECPAT to produce an online training resource there is little evidence of this resulting in improved identification of trafficked children and young people in Wales. The first guidance was published in 2008 yet in the period January to September 2011 only 10 trafficked children were identified in Wales.²⁹¹

Respondents to the consultation process for this report indicate that time, resource and funding limitations explain the lack of widespread knowledge and understanding of trafficking, both domestic and international. However child trafficking as an issue sits firmly within child protection and safeguarding practice and awareness raising and training in this area of work needs to be treated on a par with all other child protection and safeguarding issues.²⁹²

Ensuring the availability of safe accommodation for adult victims of trafficking has increased the potential to deliver appropriate support and rehabilitation to victims. However there is no safe specialist accommodation for victims of child trafficking in Wales.

Key recommendations

Welsh Government should:

- In formulating the safeguarding element of the Social Services and Wellbeing (Wales) Bill ensure that CSE and Child Trafficking are at the heart of child protection and safeguarding practice and that a clear strategy is required for ongoing awareness raising and training for staff across all relevant agencies. A requirement should be made that an outcomes framework operating at government, local and practice levels is in place and that there are clear lines of accountability for this.

²⁹¹ Child Trafficking Update. CEOP October 2011

²⁹² The Challenges of Human Trafficking in Wales: putting the rhetoric into practice. Report from the Strategic Round Table on Human Trafficking for the public sector. Conducted by the NGO Anti-Human Trafficking Frontline Forum Wales in partnership with Cardiff University. 2012

- Take the opportunity via new legislation, particularly the Social Services and Wellbeing (Wales) Bill and the Domestic Abuse (Wales) Bill, to require that Police, Health, Education and local authorities (and where relevant the UK Border Agency) work together to provide improved information sharing, assessment and planning in order to ensure that children are protected from CSE and trafficking and that perpetrators are prosecuted.
- Utilise planned new legislation, particularly the Social Services and Wellbeing (Wales) Bill as a vehicle to ensure safe accommodation for child victims of trafficking and that this accommodation is delivered according to the ECPAT principles of safe accommodation.
- Utilise planned new legislation, particularly the Social Services and Wellbeing Bill and the Domestic Violence Bill, to require police, health, education and local authorities (and the UK Border Agency where relevant) to work together, possibly via the new Safeguarding Board arrangements, to coordinate effective data gathering processes in relation to CSE and trafficking.
- Research and pilot new service approaches into meeting the needs of sexually exploited boys and young men.

Juvenile Justice

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CRC/C/GBR/CO/4 para 78: Establish a juvenile justice system that fully complies with the provisions and principles of the Convention and other international standards.

UK Government responsibility

There has been no material change in the UK Government's position concerning compliance with the UNCRC and juvenile justice since the State Party report in 2008. Criminal law, criminal justice and youth justice are non-devolved matters.

In May 2012 Welsh Government introduced the Rights of Children and Young Persons (Wales) Measure 2011, which requires Welsh Ministers to have due regard to the UNCRC when exercising their functions.²⁹³ From May 2014 Welsh Ministers will be required to have due regard to the UNCRC, including its provisions on juvenile justice, when dealing with matters within the competence of Welsh Ministers. Since 2008 Welsh Government has acquired greater powers to introduce legislation. However responsibility for juvenile justice in Wales remains non-devolved. As a consequence Welsh Government does not have power to introduce legislation to amend the juvenile justice system in Wales only – even where such legislation is inconsistent with the UNCRC.

The All Wales Youth Offending Strategy²⁹⁴ (AWYOS) published in July 2004, and its accompanying delivery plan, are out of date and require revision. The Welsh Government published a Green Paper in 2012 to consult on proposals to prevent offending amongst those at risk of entering the criminal justice

²⁹³ Due regard must be had to Part I of the UNCRC, and specified articles of the optional protocols. The due regard duty is being introduced in stages. From May 2012 the Welsh Ministers must have 'due regard' when exercising their functions in respect to: provision to be included in an enactment; formulation of new policy; or, review or change to existing policy. From May 2014 the due regard duty will apply when the Welsh Ministers are exercising any of their functions.

²⁹⁴ Welsh Assembly Government & Youth Justice Board. (July 2004) *All Wales Youth Offending Strategy*. Cardiff, WAG.

system.²⁹⁵ This seeks to build on the core principles of the AWYOS. The AWYOS is influenced by the principles enshrined in the UNCRC committing Welsh Government to a child-rights approach to juvenile justice. This is also what is suggested by the recent consultation (this is a provisional assessment until such time as the outcome of the consultation is published and policy proposals are known).

Whilst it is unable to change the tenor of juvenile justice in England and Wales, and more particularly in Wales, Welsh Government is committed to reducing youth crime and anti-social behaviour, and to treating children who commit offences as children first and offenders second. The Welsh Government continues to make funding available in Wales to help local develop initiatives to a prevent youth offending, and there some is evidence of a diversionary and preventive child-rights approach at local level.²⁹⁶ This has led to a reduction in the use of ASBOs; an outcome in part consistent with the recommendation from the Committee on the Rights of the Child that the UK Government should abolish the ASBO.²⁹⁷

At this stage it is unclear what impact the new Police and Crime Commissioners²⁹⁸ will have on youth justice in Wales. However, it is important that the Commissioners recognise the approach taken toward children in Wales, and that they prioritise the prevention of youth crime as one of their primary objectives, and for there to be consistency of approach.



CRC/C/GBR/CO/4 para 78a: Raise the minimum age of criminal responsibility in accordance with the Committee's general comment No. 10, and notably its paragraphs 32 and 33.

UK Government responsibility

Since the State Party report in 2008 UK Government has confirmed that the age of criminal responsibility will not be raised. It therefore remains at ten years in England and Wales. This is contrary to recommendations from the Committee on the Rights of the Child in General Comment 10²⁹⁹ and concerns expressed in the Committee's Concluding Observations. The UK Government has maintained its position despite continued lobbying on this issue by children's charities and leading thinkers on children's policy issues, including: Maggie Atkinson, Children's Commissioner for England;³⁰⁰ Barnardo's;³⁰¹ The National Association for Youth Justice,³⁰² and the Centre for Social Justice.³⁰³ At the Liberal Democrat conference in September 2012 Lord Dholakia, President of Nacro, stated his intention to introduce a Private Members Bill to raise the age of criminal responsibility from 10 to 12 in England and Wales. Lord Dholakia's Bill had a first reading in the House of Lords of the 16th January 2013. Crispin Blunt, then Parliamentary Under-Secretary of State for Prisons and Youth Justice within

295 Welsh Government. (September 2012) *Proposals to improve services in Wales to better meet the needs of children and young people who are at risk of entering, or are already in, the Youth Justice System. Green Paper WGI5866*

296 See for example: Hoffman, S. and MacDonald, S., 2010. *The Tiered Approach to Youth Anti-social Behaviour in Swansea*, Swansea University School of Law Research Report.

297 CRC/C/GBR/CO/4 para 80.

298 The Police Reform and Social Responsibility Act 2011 transfers the control of police forces from police authorities to elected Police and Crime Commissioners. The first police commissioner elections will be held on 15 November 2012, and every four years thereafter.

299 UN Committee on the Rights of the Child General Comment Number 10 (2007) *Children's Rights in Juvenile Justice*

300 House of Commons Library 'The Age of Criminal Responsibility in England and Wales' SN/HA/3001, 18 April 2012.

301 Barnardo's, (2010) *From playground to prison: the case for reviewing the age of criminal responsibility*, Ilford: Barnardo's.

302 <http://www.guardian.co.uk/society/2012/dec/05/age-criminal-responsibility-childrens-rights>

303 Centre for Social Justice: Youth Justice Working Group. (January 2012) *Rules of Engagement – changing the heart of youth justice*. London: Centre for Social Justice

the Ministry of Justice, stated at the launch of the Centre for Social Justice's report on youth justice on 16 January 2012, that although the grounds for raising it were well argued it was not something the government would support.



CRC/C/GBR/CO/4 para 78b: Develop a broad range of alternative measures to detention for children in conflict with the law; and establish the principle that detention should be used as a measure of last resort and for the shortest period of time as a statutory principle.

UK Government responsibility

Since 2008 there has been a significant decline in the number of young people from Wales held in custody: from 143 in August 2009,³⁰⁴ to 86 in July 2012³⁰⁵. One of the main reasons for this fall has been changes to police practices: the ensuing drop in the number of first time entrants to the criminal justice system has been reflected in the number of young people on court orders and in the secure estate.³⁰⁶ However, the Howard League³⁰⁷ has drawn attention to the unnecessary detention of children and young people who are denied bail by the police (the majority of whom are bailed on appearance in court), suggesting that this is in contravention of the UNCRC which requires custody to be for the shortest period of time, and a measure of last resort.

There are alternatives to custody. Intensive supervision and surveillance was made a requirement of the youth rehabilitation order (a community sentence for youths) in November 2009. The Legal Aid Punishment and Sentencing of Offenders Act 2012 introduced new remand arrangements from December 2012: one of these is to make local authorities responsible for remand costs. Although too early to tell, this may operate as an incentive in ensuring there are community alternatives in place for those likely to be denied bail.



CRC/C/GBR/CO/4 para 78c: Children in conflict with the law are always dealt with within the juvenile justice system and never tried as adults in ordinary courts, irrespective of the gravity of the crime they are charged with.

UK Government responsibility

There has been no change in policy since 2008 and children are still 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. Such practices may increase with the reduction in the number of youth courts and the number of sittings.³⁰⁸ A further impact of the reduction of youth courts is that

304 Morgan R (December 2009) *Report to the Welsh Assembly Government on the question of Devolution of Youth Justice Responsibilities*.

305 Youth Justice Board. Monthly Youth Custody Report July 2012 <http://www.justice.gov.uk/statistics/youth-justice/custody-data>

306 Bateman T (2012). *Children in Conflict with the Law: an overview of trends and developments - 2010/2011*. National Association for Youth Justice (NAYJ).

307 Howard League (2011) *The Overnight Detention of Children in Police Cells* London: Howard League

308 The Magistrates Association Submission to the National Assembly for Wales' Communities and Culture Inquiry into Youth Justice in Wales
http://www.magistrates-association.org.uk/dox/consultations/1255515757_80_inquiry_into_youth_justice_wales_10.09.pdf?PHPSESSID=vbkeituu1k6c07r7128o3dc7p2

youth court magistrates are not able to maintain their level of knowledge and expertise, as they have fewer sittings at which they can gain relevant experience.³⁰⁹

The impact of a young person appearing before an adult court can be significant. Youth court magistrates have received training to deal with children and young people appearing in court, and the range of disposals available to the youth court differs in number and nature to those in the adult court. The presumption of a ban on identifying individuals appearing in the youth court, which is not a presumption in adult courts, protects the anonymity of youth defendants. Additionally the conduct of proceedings in the youth court is geared to meet the needs young people, to reflect their level of comprehension and understanding.³¹⁰

Support for young people who appear in court at weekends is not always provided by the youth offending team court duty officer. It is more usual for the local authority emergency duty team to provide this service. However they may not have the same degree of knowledge and expertise about bail and remand provisions as youth offending team staff, and may not be as effective as advocates for children's best interests to be taken properly into account in court proceedings and disposals.



CRC/C/GBR/CO/4 para 78d: Following the welcome withdrawal of its reservation to article 37 (c) of the Convention, ensure that, unless in his or her best interests, every child deprived of liberty is separated from adults in all places of deprivation of liberty.

UK Government responsibility

By virtue of the Legal Aid Punishment and Sentencing of Offenders Act 2012, 17 year olds will no longer be treated as adults for remand purposes (from December 2012). The Coalition Government signalled the intention behind this change in the law as being to make the arrangements for 17 year olds more 'compatible' with the UNCRC.³¹¹ Whilst this is a positive move, the Coalition Government has confirmed it will not change the arrangements for 17 year olds when arrested and charged with an offence by the police.³¹² This creates an anomaly in the treatment of 17 year olds in the criminal justice system. The charitable organisation Just For Kids Law has been granted a judicial review; the court will now consider the manner in which 17 year olds are dealt with in police custody.³¹³

A further concern is that five young people under the age of 18 years were transferred to adult prisons during 2011, the reason given being to protect the welfare of other young people. This is clearly a breach of Article 37.³¹⁴

309 Nacro Cymru (2011) *Reducing Custody* Bridgend London: Nacro

310 NCB and All Party Parliamentary Group for Children (January 2010) *Children and Young People in the Youth Justice System* London: NCB

311 Ministry of Justice (2010a) *Breaking The Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders* London: Ministry of Justice

312 Hansard reference 16 July 2012 : Column 549W
<http://www.publications.parliament.uk/pa/cm201213/cmhansrd/cm120716/text/120716w0004.htm>

313 http://www.cypnow.co.uk/cyp/news/1075246/judicial-review-examine-treatment-olds-police-custody?utm_content=&utm_campaign=081112_YouthJustice&utm_source=Children%20%26%20Young%20People%20Now&utm_medium=adestra_email&utm_term=http%3A%2F%2Fwww.cypnow.co.uk%2Fnews%2F1075246%2Fjudicial-review-examine-treatment-olds-police-custody

314 <http://www.cypnow.co.uk/cyp/news/1075953/government-admits-placing-offenders-adult-jails>



CRC/C/GBR/CO/4 para 78e: Provide for a statutory right to education for all children deprived of their liberty.

UK Government and Welsh Government responsibility

Children from Wales have a statutory right to 25 hours of education per week: local authorities with youth custody establishments in their local authority area have a duty to meet this requirement.³¹⁵ Until recently the Welsh curriculum has been offered to all Welsh young people in custody in Wales as well as those detained in establishments at Ashfield and Hindley in England. It has recently been announced that Ashfield is to be de-commissioned for juveniles reducing the number of institutions where the Welsh curriculum is available to children from Wales detained in England by 50%. In any event, children from Wales can potentially be sent anywhere in the secure estate,³¹⁶ most of which is located in England, and if this occurs (with the above exception) there is no guarantee they will be able to access their entitlement to the Welsh education curriculum.



CRC/C/GBR/CO/4 para 78f: Review the application of the Counter Terrorism Bill to children.

UK Government responsibility

There has been no change in the situation since 2008. Children remain subject to powers exercisable under the Counter Terrorism Act 2008. A review of these powers in January 2011 by the Home Secretary³¹⁷ failed to consider their impact on children.



CRC/C/GBR/CO/4 para 78h: Adopt appropriate measures to protect the rights and interests of child victims or witnesses of crime at all stages of the criminal justice process.

UK Government responsibility

There have been improvements at a policy level regarding child victims and witnesses. These have included revision of the National Standards set out in *Achieving Best Evidence in Criminal Proceedings* to include safeguarding and other standards required from those who support young witnesses. Despite this there is evidence that these standards are not being followed in practice by the local Crown Prosecution Service and police services.³¹⁸

Following a UK Government consultation on proposals to improve support for victims and witnesses, the NSPCC and Victim Support, in a joint response, stated that there are more than 40 policy, practice and guidance documents setting out commitments from criminal justice agencies to young witnesses.

315 Welsh Government Circular No 008/2011 'Learning for Children and Young People in a Youth Custody Setting in Wales Statutory Guidance for Local Authorities in Wales'.

316 This includes young offender institutions, secure training centres and local authority secure children's homes

317 Children's Rights Alliance for England (2011) *State of Children's Rights in England 2011* London: Children's Rights Alliance for England

318 Nuffield Foundation and NSPCC (2011) *Young witnesses in criminal proceedings: A progress report on Measuring up?* London: NSPCC

The minimum standards set out in the consultation, 'Getting it Right for Victims and Witnesses', fall far below the requirements set out in other available guidance applicable to the treatment of young witnesses.³¹⁹ There is presently no code of practice for children who are either victims or witnesses. The proposals in the current consultation do not appear sufficient to protect the rights and interests of child victims and witnesses.



CRC/C/GBR/CO/4 para 80: The Committee recommends that the State party conduct an independent review of ASBOs, with a view to abolishing their application to children.

UK Government responsibility

The UK Government proposes to replace Anti Social Behaviour Orders (ASBOs) with two new tools:³²⁰ the Crime Prevention Injunction (CPI) and the Criminal Behaviour Order (CBO). The proposals regarding CPI indicate that the threshold for use are likely to be 'causing nuisance or annoyance' which appears to be a less demanding test than 'causing harassment, alarm or distress' which applies to ASBOs. As is the case with ASBOs, breach of a CBO would be a criminal offence with a maximum prison sentence of five years. Breach of a CPI would be punished as contempt of court, which would not result in a criminal record but could carry a period of detention. Although imprisonment for contempt of court is not available against a minor government proposals included the possibility of curfew, activity or supervision requirements, for 10-17 year olds, or, as 'a very last resort, repeated breach causing serious harm could result in custody for up to three months for someone aged 14 to 17 years old.'³²¹ Although the risk of criminalisation is removed by the CPI, the threat of custody remains for breach of the CPI and the CBO – including custody for behaviour which is not otherwise criminal. Concerns raised by the Committee on the Rights the Child about ASBOs and their application to young people (reflecting widespread academic and practitioner concerns), are equally applicable in relation to the CPI and CBO.

The Welsh Government's position in relation to the use of ASBOs is that they should be used as a last resort - when other options have been pursued and exhausted. The emphasis has been placed on early intervention to tackle the problems that lead to anti social behaviour occurring.³²²

Key recommendations

UK Government should:

- Take whatever action is appropriate to raise the age of criminal responsibility in England and Wales and, as an absolute minimum, to take urgent action to raise the age of criminal responsibility to 12 years in accordance with the view of the Committee on the Rights of the Child.³²³
- Ensure that weekend and special courts have a youth court magistrate at each sitting.
- Abolish the ASBO for use against children.

319 NSPCC & Victim Support 'Joint Response to Ministry of Justice Consultation Getting it Right for Victims and Witnesses' April 2012

320 House of Commons Library Standard Note. (20 August 2012) Anti-social Behaviour: the Governments Proposals.

321 Home Office, 2012, More effective response to anti-social behaviour, CM 8367, p.49, C.12.

322 The House of Commons Welsh Affairs Committee - *The Police Service, Crime and Anti Social Behaviour in Wales Fourth Report of Session 2004-05 Volume I* (March 2005). See also fn 5 and accompanying text above.

323 UN Committee on the Rights of the Child General Comment Number 10 (2007) Children's Rights in Juvenile Justice

- Abandon plans for the Crime Prevention Injunction and/or the Criminal Behaviour Orders to apply to children.
- Urgently review the practice of treating children aged 17 as adults when detained by the police to make such treatment consistent with treatment before a court.

Welsh Government should:

- Review the AWYOS with a view to ensuring that juvenile justice in Wales takes place, insofar as it is possible, in compliance with the UNCRC.
- Ensure that outcomes and policy decisions taken in the light of the consultation on proposals to improve services in Wales to better meet the needs of children at risk of entering, or are already, in the youth justice system are consistent with the UNCRC.
- Support juvenile justice agencies in Wales and agencies working with children who are at risk of entering, or are already, in the youth justice system, to prevent offending and or diversion away from the criminal justice system.
- Take action to influence UK government to comply with the recommendations of the Committee on the Rights of the Child.
- Take action to influence the police and crime commissioners in Wales to act in a manner consistent with policy on children and young people in Wales and in compliance with the UNCRC.