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Llywodraeth Cymru
Welsh Government

Our ref MA JM 975 20

Lynne Neagle MS
Chair,
Children, Young People and Education (CYPE) Committee

SeneddCYPE@assembly.wales

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Dear Lynne,

Thank you for your letter of 10 August enclosing a copy of the Children, Young People and Education Committee's report on the Inquiry on Children's Rights in Wales.

I welcome the Report and its recommendations which I am sure will help to strengthen children's rights in Wales. Please find enclosed the Welsh Government response to your report. I am pleased to be able to inform you that the Welsh Government will accept or accept in principle the majority of the sixteen recommendations.

Work has already begun on implementing some recommendations and substantial progress is expected before the end of this Assembly term.

I acknowledge the delay in receiving the committee's report due to COVID-19 and want to reassure you that children's rights have been at the heart of decisions taken by the Welsh Government in its response to the pandemic.

As requested, I delayed the consultation on the revised Children's Rights Scheme (CRS) so that consideration of your recommendations may be taken into account. I intend to host a round table discussion with key stakeholders in the Autumn to consider progress and to hear their views on Children's Rights.

I would like to thank members of the Committee for their report.

Yours sincerely

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Written Response by the Welsh Government to the report of the Children, Young People and Education Committee entitled Children's Rights in Wales.

The Welsh Government has a proud history in relation to children's rights. It is based on our commitment to the principles of the United Nations Convention on the Rights of the Child (UNCRC).

Wales has led the way by enshrining children's rights in law through The Rights of the Children and Young Persons (Wales) Measure 2011. This legislation requires Welsh Ministers, to have due regard to the UNCRC and its optional protocols when exercising any of their functions.

Children's rights are a fundamental basis for our approach to government policy and underpin our ambition for each and every child in Wales to have the best possible start in life.

I would like to thank the members of the Children, Young People and Education Committee for their report on 'Children's Rights in Wales' and their specific recommendations, the majority of which I am able to accept. I have set out a full response to the Report's individual recommendations below.

Detailed Responses to the Report's recommendations

Recommendation 1: The Committee recommends

That the Welsh Government restate a demonstrable commitment to give due regard to children's rights in all decisions it makes, informed by a robust Child Rights Impact Assessment unless there is a clear reason for not undertaking one.

Response: **Accept**

The Welsh Government will reiterate the importance of children's rights at every meaningful opportunity.

Financial Implications – None.

Recommendation 2: the Committee recommends

That at the next opportunity a Ministerial role is created with clear and defined responsibilities for children and young people and which has a stated role of holding the Cabinet to account to deliver the provisions of the Rights of Children and Young Persons (Wales) Measure 2011.

Response: **Reject**

The 'due regard' duty under section 1 of the Rights of Children and Young Persons (Wales) Measure 2011, makes it clear that this duty is placed upon **all** Welsh Ministers, when exercising any of their functions. As Deputy Minister for Health and Social Services I have specific responsibilities in relation to children and young people and their rights, however as a government we are agreed that children's rights are everyone's responsibility. This means that the concerns of children and young people continue to be at the forefront of the Cabinet's collective thinking and policy making.

Financial Implications – None.

Recommendation 3: The Committee recommends

That the Welsh Government insert provision in its revised Children's Rights Scheme for all Welsh Ministers to undertake initial and follow up training on the Rights of Children and Young Persons (Wales) Measure 2011's "due regard" duty.

Response: **Accept in Principle**

The Welsh Government recognises the need for officials to have access to a strong body of knowledge about children's rights to provide comprehensive advice to Welsh Ministers. Officials are developing a suite of new resources and are currently working with Children in Wales to develop a revised training approach.

As part of the awareness-raising strategy (recommendation 8) the Welsh Government will outline a variety of approaches which promote children rights. This will include the offer of training for all Welsh Ministers and a structured process – through Young Wales – for Ministers to hear opinions from young people about concerns/thoughts relevant to their policy responsibilities.

Financial Implications – None.

Recommendation 4: The Committee recommends

That the Welsh Government include within the complaints mechanism in its revised Children's Rights Scheme the right to challenge a decision not to undertake a Child Rights Impact Assessment on any area of policy development.

Response: **Accept**

The Children's Rights Scheme (CRS) already sets out what children and young people (or their representatives) can do if they think Ministers have not had due regard to the UNCRC.

It also sets out the purpose of a Child Rights Impact Assessment (CRIA), when and how a CRIA should be undertaken and published and what should happen when decisions are not relevant to children and young people. This recommendation will be reflected in the revised CRS which is under development.

Financial Implications – None.

Recommendation 5: The Committee recommends

That the Welsh Government publish all completed Child Rights Impact Assessments, including on non-legislative policy decisions, as a matter of course.

Response: **Accept**

The Welsh Government took a decision in July 2020 to publish all CRIAs completed from 1st January 2020. These are published on the Welsh Government's website.

Financial Implications – None.

Recommendation 6: The Committee recommends

That the Welsh Government restate its commitment to ensuring that the legislative requirements in relation to children's rights are fully and effectively reflected in its financial decisions across all portfolios by swiftly amending its Budget Improvement Plan to make clear the specific steps the Welsh Government is taking to ensure it is complying with the "due regard" duty in the Rights of Children and Young Persons (Wales) Measure 2011.

Response: **Accept**

This Government is fully committed to fulfilling the legislative requirements for all impact assessments, including where these relate to the assessment of our financial decisions.

We are committed to continuously improving our approach to assessing the impacts of our budget proposals which is why we set out in the Budget Improvement Plan (BIP) the steps we intend to take over the next five years, including short-term and medium-term milestones.

As was outlined in the first BIP, we intend to refine and update the plan annually on a rolling five year horizon, and publish it alongside the annual draft Budget. This is to recognise the ongoing nature of driving and sustaining the longer-term changes we seek to implement. We will build on the work already undertaken and explore what further steps we can take to ensure that children's rights are integrated as part of our wider approach as part of the annual process.

Financial Implications – None.

Recommendation 7: The Committee recommends

That the Welsh Government return to publishing an individual Child Rights Impact Assessment on its Draft Budget to evidence compliance with the Rights of Children and Young Persons (Wales) Measure 2011, until this Committee can be reassured

that the Strategic Integrated Impact Assessment accompanying a Draft Budget demonstrates the duty of “due regard” to the United Nations Convention on the Rights of the Child has been exercised.

Response: Reject

Assessment of impacts is central to policy-making. The Integrated Impact Assessment tool provides a single, integrated framework that guides policy and legislative development. The tool helps us to undertake a rounded assessment of the impact of a proposed action, including the social, economic, cultural and environmental effects. It brings together the range of impact assessment duties in a coherent framework; reduces complexity and duplication; and, integrates the impact assessment process with the substantive direction of the Well-being of Future Generations Act.

Within the Integrated Impact Assessment tool there are screening questions to determine whether a more detailed analysis of a particular topic is needed. For children’s rights, the screening stage is statutory for all proposals, and a full assessment is required depending on the outcome of the screening stage. This process enables impact on children to be considered throughout the process.

We believe that taking an integrated approach to impact assessments of the draft budget through the Strategic Integrated Impact Assessment better reflects our responsibility to consider our decisions in the round through a number of lenses to understand their impact, including consideration of children’s rights.

This integrated approach enables us to better understand the overall impact of the decisions taken. We recognise that people and places are multi-dimensional and the integrated approach seeks to capture multiple and cumulative impacts which reflect people’s lived experience and the reality of our economy, culture and environment.

Financial Implications – None.

Recommendation 8: The Committee recommends

That the Welsh Government develop and publish a national awareness-raising strategy with measurable outcomes to promote knowledge and understanding amongst the public, including children and young people, of the United Nations Convention on the Rights of the Child and its Optional Protocols.

Response: Accept

Work is already underway on developing a national awareness-raising strategy.

Financial Implications – None.

Recommendation 9: The Committee recommends

That the Welsh Government ensure human rights education, including children's rights with reference to the United Nations Convention on the Rights of the Child, is taught under the new Curriculum for Wales.

Response: **Accept**

Developing an awareness of human rights will be a mandatory part of the Curriculum for Wales because they form part of the Statements of What Matters Code, which will be mandatory under the proposed Curriculum and Assessment Bill.

The Code will set out key concepts for each area of learning and experience. The curriculum adopted must encompass those key concepts.

This is set out within Humanities, in the statement: Informed, self-aware citizens engage with the challenges and opportunities that face humanity, and are able to take considered and ethical action. In particular, this sets out that as part of this, learners develop an awareness of their own rights and will explore the concept of rights.

Financial Implications – None.

Recommendation 10: The Committee recommends

That the Welsh Government include a strengthened and child friendly complaints mechanism in its revised Children's Rights Scheme to empower children and young people to seek redress when necessary and to uphold their rights.

Response: **Accept**

A revised Children's Rights scheme will recognise that children may need help to make a complaint should they feel that due regard to the UNCRC has not been given by Ministers when carrying out their functions.

We will also look at the complaints procedure with a view to making it more child friendly in order that the complaints process is more accessible and provides children with a better understanding of their right to complain when they feel that Ministers have not complied with the due regard duty.

In addition, we propose to hold discussions with the Public Service Ombudsman to understand their position on how to facilitate complaints by children.

Financial Implications – None.

Recommendation 11: The Committee recommends

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That the Welsh Government call on the UK Government to ratify the 2014 United Nations Convention on the Rights of the Child Optional Protocol to give individual children the right to make representations directly to the United Nations.

Response: **Accept**

We undertake to write to the UK Government to call on them to ratify the Optional Protocol to the Convention on the Rights of the child on a communications procedure (2014).

Financial Implications – None.

Recommendation 12: The Committee recommends

That the Welsh Government set out in its revised Children's Rights Scheme a clear strategy to ensure the participation of children and young people in discussions on Welsh Government decisions which affect them.

Response: **Accept**

We are working with Children in Wales to develop a sustainable representative model for Young Wales to ensure the voices of children and young people can feed into policy.

Financial Implications – None.

Recommendation 13: The Committee recommends

That the Welsh Government publish a detailed strategic response to the United Nation's Committee on the Rights of the Child 2016 Concluding Observations within the next six months. This should include details of progress made against all the recommendations and what actions are being taken to address areas of concern.

Response: **Accept**

We agree to report progress made against all recommendations relating to devolved matters.

Financial Implications – None.

Recommendation 14: The Committee recommends

That the Welsh Government publish an annual update of progress made against the United Nation's Committee on the Rights of the Child Concluding Observations, to be laid before the Senedd and scrutinised annually by the relevant committee.

Response: **Accept**

We propose to regularly update Members of the Senedd on progress.

Financial Implications – None.

Recommendation 15: The Committee recommends

That all devolved public bodies (such as local authorities and local health boards) should be placed under a specific duty to have due regard to the United Nations Convention on the Rights of the Child. The Welsh Government must provide guidance to all devolved public bodies as to what this means in terms of their day to day functions and how compliance will be monitored.

Response: **Reject**

In January 2020, Welsh Government commissioned a research consortium led by Swansea University to undertake research into strengthening and advancing equality and human rights in Wales.

The final report, including the main findings and recommendations, will be submitted to Welsh Government by the end of February 2021. We need to wait for the outcomes of this research.

Financial Implications – None.

Recommendation 16: The Committee recommends

That the Welsh Government, at the earliest legislative opportunity, transfer responsibility for the appointment, accountability, and funding of the Children's Commissioner for Wales to the Senedd.

Response: **Reject**

Any change in appointment arrangements and accountability will require primary legislation; there is no legislative time available in this Senedd term.

Financial Implications – None.