

This response was submitted to the Children, Young People and Education Committee consultation on Sixth Senedd Priorities

**CYPE SP 78**

**Ymateb gan: Ruth Coombs, Pennaeth Cymru, y Comisiwn Cydraddoldeb a Hawliau Dynol**

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**Theme 1: School-age education**

**1.1 Restraint in Schools**

Following a formal inquiry under Section 16 of the Equality Act 2006, the Equality and Human Rights Commission recently published a report '[Restraint in Schools Inquiry: using meaningful data to protect children's rights](#)'.

Our inquiry found that, without a standardised system for the monitoring and reporting of restraint, a significant proportion of schools are not being supported with the basic safeguards needed to protect children. Our recommendation is that the use of restraint in schools should be monitored, recorded and analysed with the same rigour as exclusions.

Schools face the challenging task of developing their own recording and monitoring practices for restraint. While most schools are doing their best, our inquiry found that across primary, secondary and special needs schools, restraint policies and the information gathered about its use vary from school to school. Some schools do not have policies in place to ensure the safeguarding of pupils; this includes not having policies that cover the recording of all incidences of restraint, the analysis of restraint records and the recording of any adverse impacts.

A data-informed approach to restraint is key to managing restrictive interventions effectively. We found that almost half of the schools that analyse restraint data had put in place new or revised de-escalation practices. Three in ten reported that it helped them to reduce their use of restraint, either with an individual or with a group of pupils. We spoke to schools that use data-informed practices to prevent low-level disruption or 'challenging behaviours' from escalating into crises, which are illustrated by our case studies of best practice.

Under the public sector equality duty (PSED), schools are required to assess the impact of their policies and practices on people with protected characteristics, however our inquiry found that nearly three in ten schools (29%) do not have a policy that covers the analysis of incidents involving their use of restraint. Without sufficient data, schools cannot identify whether they use restraint disproportionately on certain groups, such as disabled children and children from ethnic minority backgrounds, and take mitigating actions. This leaves them at risk of not meeting their legal requirements under the PSED.

Furthermore, without common standards and national data, it is difficult for Estyn to consider and use relevant available restraint data to identify trends, inform priorities and support school inspection and evaluation.

To address this, [we made a series of recommendations for the UK and Welsh Governments, which can be viewed here](#)



The Commission's formal inquiry powers require that organisations to which recommendations are directed must have due regard to those recommendations.

The CYPE Committee may wish to focus on the use of restraint in schools as a priority for example by conducting its own inquiry.

### **1.2 Implementation of the new Curriculum for Wales – Human Rights Education**

We recently published research into Human Rights Education (HRE), [“Respect, equality, participation: exploring human rights education in Great Britain.”](#) The report considers what good practice in HRE looks like, how it is benefiting learners and includes Welsh case studies. We are keen that HRE is embedded within the implementation of the new Curriculum for Wales and would welcome the opportunity to work with the CYPE Committee and the Welsh Government in sharing this research and learning with all schools and relevant stakeholders throughout Wales. It will also be important that opportunities to reinforce a HRE approach in Codes and Guidance are taken by the Welsh Government.

Our human rights tracker contains [an assessment of Welsh Government's progress on Human rights education, training and awareness raising](#). The Commission has allocated a progress assessment of 'limited progress' meaning here have been legal or policy changes to improve human rights protections but very limited evidence of sustained improvements in the enjoyment of human rights on this issue.

### **1.3 Implementation of the new Curriculum for Wales – Post-implementation Review**

In [our consultation response to the CYPE Committee on the Curriculum and Assessment \(Wales\) Bill](#) we highlighted that the equality considerations and implications across protected characteristics must be embedded into all of the plans to undertake a post-implementation review. This will ensure the Welsh Government are able to fully understand and assess the impact on children and young people with protected characteristics.

We highlighted the need to gather, disaggregate, use and embed equality related evidence and to take an intersectional approach as a part of the PSED collecting and using relevant equality information. This is critical in meeting the general and specific duties and essential to making informed and effective decisions.

The CYPE Committee may wish to scrutinise The Welsh Government's plans for any post-implementation review.

### **1.4 School exclusions**

If Wales is to make sure that every child is able to fulfil their potential, then it is vital that we understand why an increasing number of children are experiencing exclusions or are being educated otherwise than at school (EOTAS) and why certain groups are overrepresented.

We raised the over-representation of certain groups in national statistics on exclusions in our state of the nation report – Is Wales Fairer? 2018. The consequences of formal exclusion from school, whether temporary or permanent, can be very serious. The high exclusion rate of pupils eligible for free schools meals has a negative impact on their attainment. Understanding and addressing the disproportionate use of exclusions experienced by certain groups of children, such as pupils eligible for free school meals and pupils with Additional Learning Needs is necessary, when considering education other than at school. This must be understood to ensure the legislation supports all pupils including those in EOTAS.



Our human rights tracker contains [our assessment of Welsh Government's progress on school exclusions and managing 'challenging behaviour'](#). We have allocated a progress assessment of 'no progress' meaning there have been no legal or policy changes to improve human rights protections in relation to this issue, and very limited evidence of progress in the enjoyment of these rights.

### **1.5 Addressing the impact of the pandemic on educational inequality**

We are concerned that during the pandemic, existing inequalities in education have deepened with potentially severe and long-lasting impact on young people, reversing the progress we had observed and increasing persistent inequalities for the most disadvantaged. Given the economic impact of the pandemic, increasing levels of poverty may further affect education attainment and long-term prospects.

Our report '[How coronavirus has affected equality and human rights](#)' highlights the disproportionate impact that pandemic response measures have had on the education of already disadvantaged learners. Inequalities in the home-learning environment and changes to grading systems risk exacerbating existing inequalities in education, leading to a disproportionately severe impact on some groups including, Black pupils, Gypsy, Roma and Traveller pupils, pupils with additional learning needs (ALN) and those who are socioeconomically disadvantaged.

Our human rights tracker contains [an assessment of Welsh Government's progress on educational attainment](#). We have allocated a progress assessment of 'no progress.' Performance has worsened in certain areas and evidence of inequalities for different ethnic groups and children with additional learning needs persists. No improvement has been made in the attainment gap between socio-economically disadvantaged and other children, despite additional government funding. While it is too early to assess the impact of the coronavirus pandemic, there are concerns that existing attainment inequalities are likely to widen.

The CYPE Committee may wish to prioritise an examination of how the pandemic has affected equality and human rights in education and of the action the Welsh Government is taking to identify and address this impact including ensuring the needs of pupils with ALN are met.

## **Theme 2: Further and higher education**

### **2.1 Embedding equality and human rights into Tertiary Education and Research**

The CYPE Committee may wish to scrutinise the new Tertiary Education and Research (Wales) Bill and new Commission for Tertiary Education and Research (CTER) to ensure that equality and human rights considerations and principles are at the heart of both the new legislation and Commission and that promoting equality, eliminating discrimination and fostering good relations are at the forefront of emerging priorities.

## **Theme 3: Health and well-being, including social care (as they relate to children and young people)**

### **3.1 A rights-based approach to preventing sexual harassment in schools**



We welcome the introduction of relationships and sexuality education (RSE) which requires schools to teach pupils about respectful relationships, consent, and damaging stereotypes (including in relation to sex, gender and sexual orientation) as a statutory part of the new curriculum for all education settings..

We would like to offer our support in providing evidence of effective approaches to teaching children about healthy relationships. The Commission has produced a position paper based on our own research and on evidence of international best practice, which suggests that a rights-based approach to implementing RSE can help schools prevent and tackle sexual harassment. We would be happy to share this paper with Committee members.

We recommend that Welsh Government should prioritise a preventative approach to sexual harassment in schools by equipping children and young people with knowledge and understanding of human rights. This should include:

- Ensuring that its forthcoming RSE statutory guidance and code, and other strategies and products, support schools and colleges to shape their RSE curriculum in line with a rights-based approach, including by drawing on relevant [Council of Europe](#) and [United Nations](#) resources.
- Making human rights education, including knowledge and understanding of the UN Convention on the Rights of the Child (CRC), a mandatory part of all teacher training and continued professional development. This should focus on supporting children to understand that sexual harassment is a form of discrimination and a human rights violation, and explaining what they can do to challenge it.

[Research the EHRC carried out with schools in Wales, England and Scotland highlights the benefits of a rights-based approach to education.](#) Implementing the RSE curriculum in line with these principles may be an effective way for schools to prevent and tackle sexual harassment. Moreover, the Welsh Government has a legal obligation under the UN Convention on the Rights of the Child (CRC) to support schools to adopt a rights-based approach to education.<sup>1</sup> By encouraging teachers and children to respect and realise each other's rights, a rights-based approach is also consistent with the obligations of schools under the Public Sector Equality Duty.<sup>2</sup>

We ask that the Committee highlight this evidence when scrutinising implementation of the Curriculum for Wales 2022, including the forthcoming statutory guidance, codes and wider programme of support aimed at helping teachers to deliver RSE more effectively.

Given that The Welsh Government have [recently announced a review into culture and processes in response to reports of sexual harassment and abuse in schools](#), there has never been a more appropriate time to prioritise effective approaches to teaching children and young people about healthy relationships.

## Theme 4: Children and young people

### 4.1 Upholding Children's Rights in Wales

<sup>1</sup> Article 29 of the CRC sets out the development of respect for human rights and fundamental freedoms as one of the purposes of education. Article 42 requires governments to ensure that all children and adults know about the CRC and its contents.

<sup>2</sup> Section 149 of the Equality Act 2010. The PSED obliges schools in receipt of public funding to give due consideration to the need to eliminate discrimination, advance equality of opportunity and foster good relations.



In October 2020 [we submitted evidence to the United Nations \(UN\) Committee on the Rights of the Child](#). Our submission expressed significant concerns about how the pandemic is affecting children's rights, their wellbeing and their future prospects. We highlighted concerns about growing levels of child poverty, mental health concerns and widening educational attainment gaps. The report provided the Welsh Government with an extensive set of recommendations to protect and enhance children's rights.

We would also like to draw the Committee's attention to [our submission and recommendations made during the previous Committee's review of Children's Rights in Wales](#), which include strengthening the implementation of the Measure through developing outcome-focused objectives and making children's rights (and other UN treaty rights) legally enforceable. We encourage the Committee to follow up on Welsh Government's progress on delivering the Committee's recommendations.

## Other sources of information the Committee may wish to consider

### Human Rights Tracker

Our [human rights tracker](#) is the UK's first tool monitoring human rights compliance.

It is a searchable online tool to track how well the Welsh and UK Governments are putting its human rights obligations into practice and contains all of the most recent recommendations made to the UK by the UN treaty bodies and the Universal Periodic Review (UPR).

The Committee can use the tracker to:

- Review the progress the [Welsh & UK governments](#) have made towards fulfilling their international human rights obligations.
- Search by Wales and UK so you can see which government is responsible for implementing the recommendations.
- Find out what the UN has said about a particular human rights issue (such as education, living standards or work) or population group (such as disabled people or children) in the UK.
- Find dedicated pages on each of the UN human rights treaties the UK has agreed to follow, and on the UPR process.

### **EHRC, The Impact of Legal Integration of the UN Convention on the Rights of the Child in Wales – Hoffman/O'Neill**

In 2018 the Equality and Human Rights Commission [commissioned research on the impact of the Rights of Children and Young Persons \(Wales\) Measure 2011](#) (the 'Measure'), which is Wales-only legislation integrating the UN Convention on the Rights of the Child (the 'Convention') into Welsh law. The research assesses the impact of the Measure and how it has made a difference to children's rights in Wales. It concludes that the Measure has integrated the Convention in Welsh law and introduced a number of mechanisms to strengthen accountability for children's rights in policy in Wales. However, its potential contribution to strengthening Ministerial accountability for policy decisions has yet to be fully realised.

