

Cyflwynwyd yr ymateb i ymgynghoriad y [Pwyllgor Cydraddoldeb a Chyfiawnder Cymdeithasol](#) ar [Profiadau menywod yn y system cyfiawnder troseddol](#)

This response was submitted to the [Equality and Social Justice Committee](#) consultation on [Women's experiences in the criminal justice system](#)

WECJS 11

Ymateb gan: Comisiynydd Plant Cymru | Response from: Children's Commissioner for Wales

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## Ymateb i Ymgynghoriad / Consultation Response

Date / Dyddiad: 20.09.2022

Subject / Pwnc: Womens Experiences in the Criminal Justice System

Background information about the Children's Commissioner for Wales

The Children's Commissioner for Wales' principal aim is to safeguard and promote the rights and welfare of children. In exercising their functions, the Commissioner must have regard to the United Nations Convention on the Rights of the Child (UNCRC). The Commissioner's remit covers all areas of the devolved powers of the Senedd that affect children's rights and welfare.

The UNCRC is an international human rights treaty that applies to all children and young people up to the age of 18. The Welsh Government has adopted the UNCRC as the basis of all policy making for children and young people and the Rights of Children and Young Persons (Wales) Measure 2011 places a duty on Welsh Ministers, in exercising their functions, to have 'due regard' to the UNCRC.

This response is not confidential.

## **Implementation of the Female Offending Blueprint**

1. My Office has been closely involved in the delivery of the Welsh Government Blueprint for Youth Justice, and I have a keen interest in this work. I welcome the commitment placed within the Women's Blueprint to focus on the importance of family/child relationships for women who offend. It is welcomed that the needs and impact of parental offending behaviour on children has been recognised in the Blueprint, and I am supportive of efforts to consider children more prominently in decisions and strategic planning for female offending.
2. The incarceration of a parent is a significant, unsettling life event for children. We also know, that for offenders who maintain strong family links, they are less likely to reoffend. Therefore, it is essential that services consider the implications that maintaining links may have on children.
3. Children and young people have rights to family life, which can be impacted by decisions made in the course of responding to incidents of adult offending behaviour. Article 9 of the United Nations Convention on the Rights of the Child (UNCRC) sets out that children have a right to live with their family if that's what is best for them, and Article 10 sets out that children have a right to stay in contact with their parents. Article 3: Adults should always do what is best for children, is a General Principle of the UNCRC and plays a significant role in the realisation of all other rights set out in the Convention. This should be the basis for decisions taken in relation to children, including those which may have an impact on family life. Whilst I welcome the commitment to acknowledge the interconnectedness and value of family relationships, there is a role for all services to reflect on how they can balance children rights and risks to children when maintaining family links. For some children, maintaining those links will be critical, whereas for other children, this could be at odds with their best interests. It is also paramount that when a child is impacted by parental offending behaviour, agencies working with children and young people are notified to enable them to appropriately support children with this. Therefore, I would urge those services involved in the safeguarding of children, and justice services, to work collaboratively on these issues and to place the child's needs at the centre of decision making.
4. I have welcomed the 'Think Child' Safeguarding Policy Framework published by HMPPS which aims to better involve children and young people in decisions that affect them which are made by HMPPS. This guidance is a reminder that the work of Probation Officers has an impact on some of the most vulnerable young people, and offers practical guidance on how Officers can uphold their 'due regard' to children to protect them and their rights.

## **Development for the Women's Rehabilitation Centres / Women's Centre in Swansea**

5. My office has had some preliminary discussions with HMPSS on the development of the Women's Residential Centre proposals, and whether the centre should be a venue for children to visit.

6. It is my understanding that this decision remains under consideration. I feel strongly that any decision taken in relation to children visiting/staying at the centre must be considered via a Children's Rights Impact Assessment to ensure that all rights of children are robustly considered. Any proposal relating to the involvement of children must take account of, and balance the rights implications of children and the safeguarding concerns that may arise.
7. My Office is aware of excellent outreach work taking place at HMP Parc between fathers and their children, which could be shared as best practice with the Women's Centre. My participation team have also worked closely with Prison settings across Wales to deliver children's rights training to fathers, to support positive engagement with children when visits take place. My Office is keen to help share best practice and support the Centre to embed rights-based approaches to children's involvement.

**The availability of appropriate custodial provision and support for different groups of women including girls under the age of 18, disabled women, those with mental health problems, women from ethnic minorities, those who have experienced sexual violence or domestic abuse, women with alcohol or drug problems and Welsh speaking women**

8. Wales has very low numbers of children and young people needing custody arrangements which is testament to the excellent diversionary work taking place across Wales' Youth Justice Teams. Girls make up just 13% of children receiving a caution or sentence across England and Wales.<sup>1</sup>
9. Whilst it is welcome that we are dealing with very low numbers of girls offending (previously this has been 2/3 at any one time), the provision of support, and options for custody placements are extremely limited. In Wales, Hillside Secure Children's Home is the only provision that can take girls on a custody/Remand order. This can result in girls being placed a significant distance away from their homes and support networks, for example in HMYOI Wetherby near Leeds. Placing children such significant distances from home can present challenges for successful resettlement. The lack of provision for girls in Wales means girls are regularly placed in England, where there is a notable decline in standards in secure custody settings, which has led to the closure of some provision in recent months.<sup>2</sup>
10. A lack of suitable secure welfare accommodation also has a huge impact on girls' ability to successfully resettlement after custody. There is often nowhere suitable for children to go. My Office has long lobbied for changes to this area and recognise the critical role Local Authorities, Regional Partnership Boards and Welsh Government have in ensuring safe, therapeutic accommodation is providing for the most complex needs of young people.<sup>3</sup> Plans are in place to develop some provision across Wales, along with a commitment in the

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<sup>1</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1054236/Youth\\_Justice\\_Statistics\\_2020-21.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1054236/Youth_Justice_Statistics_2020-21.pdf)

<sup>2</sup> <https://www.nao.org.uk/wp-content/uploads/2022/04/Children-in-custody-secure-training-centres-and-secure-schools-Summary.pdf>

<sup>3</sup> [No Wrong Door: bringing services together to meet children's needs - Children's Commissioner for Wales \(childcomwales.org.uk\)](https://www.childcomwales.org.uk/no-wrong-door-bringing-services-together-to-meet-childrens-needs)

Youth Justice Blueprint to develop a Small Home Pilot in North Wales – however, none of these planned provisions are yet operational despite being desperately needed.

11. It is also a concern that care experienced girls are at greater risk of criminalisation than their peers and are overrepresented in youth and criminal justice systems. Research by the Centre of Child and Family Justice, 'Disrupting the Routes between Care and Custody for Girls and Women',<sup>4</sup> highlighted that girls are often at risk of over-criminalisation for minor offences, whilst the need to access support to address underlying issues related to trauma and neglect go unmet.
12. I am pleased that Wales has recently published its Protocol to Reduce Unnecessary Criminalisation of Care Experienced Young People. This is something that was called for by my predecessor and is a much welcomed development, setting out shared ambitions for a multi-agency response to supporting looked after children. However, there is still a way to go to ensure this work embeds and has a meaningful impact on ensuring children in care are not over criminalised for challenging behaviour. My Office have a keen interest in ensuring the Protocol is upheld in Wales, with my Officers having an active role in developing training guides and resources for those working with children in care to help the Protocol embed.

Submitted by:



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<sup>4</sup> <https://www.cfj-lancaster.org.uk/files/pdfs/care-custody-policy-briefing.pdf>