

# Comisiynydd Plant Cymru Children's Commissioner for Wales

## Keith Towler

Mr William Powell  
AM  
Chair of NAFW

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19 September 2011

Dear Chair

Thank you for your letter (29/06/11) in which you ask for my view in relation to the Save Our Schools (P-04-323) petition submitted to your committee.

This is a hugely complex issue which encompasses considerations of community life, Welsh language, transport, classification of small school and overarching welfare issues. My intention is not to provide my point of view on all the issues but instead to draw the Committee's attention to the need for any school reorganisation to be undertaken sensitively and in compliance with the international human rights standards set out in the UN Convention on the Rights of the Child (UNCRC)

In my Annual Report 09/10, I noted:

*"I welcome the fact that following the guidance issued in September 2009 and effective from January 2010 there is a duty on local authorities to consult with children on school reorganisation proposals that affect them. I have had a number of calls from children and young people who are understandably distressed having become aware of proposed changes which may have a major impact on their lives."*

*There is a need for urgent change in the way that authorities provide information to children and ensure their participation in the process. I may consider looking at how local authorities are carrying out their duties to children under the revised statutory guidance."*<sup>1</sup>

In February 2011, I submitted a response to the Welsh Government's consultation 'School Organisation – Potential to Change the Process Ref WAG 10-10419' (attached – annex 1). This consultation has subsequently become the precursor to the Schools and Standards (Wales) Bill announced by the First Minister in the Welsh Government's legislative programme which is due to change the schools organisation process.

Within the consultation response I particularly welcomed the clear reference to the UNCRC within a Statutory Code for proposers of changes to schools. I also referred to the Rights of Children and Young Persons (Wales) Measure 2011 and how those provisions should impact upon Welsh Government policy. Furthermore there are implications of the provisions relating to children and young people's participation under section 12 of the Children and Families (Wales) Measure which should also be explored.

Within the response I also note:

*"...that the proposed changes seek to ensure that those who have a legitimate interest in the process would be enabled to engage more effectively with the process and expect that this will definitely include children's participation throughout the process."*

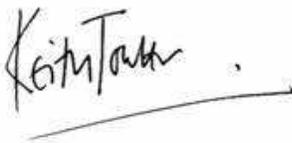
I see my role as holding authorities to account in the way in which they undertake their schools reorganisation processes, ensuring that they are consistent with relevant articles within the UNCRC (see appendix 1), for instance the right to information and the right to express views freely.

This is always an emotive issue. If you were to take the best interests of the child (UNCRC article 3) as a key consideration it is possible that in an individual school reorganisation proposal, one person's wellbeing may not match another person's perception. This is reflected in the National Assembly for Wales' Rural Affairs Sub Committee report following their inquiry into the reorganisation of schools in rural Wales (November 2008). Members of the Petitions Committee may well be interested in looking at the recommendations made within that report and the Government response.

There will often be those disappointed with a local authority decision but whatever the decision taken, it is important that the authorities examine all relevant consequences of a decision, making a holistic assessment. Importantly, the consultation process must be comprehensive and transparent, ensuring the participation of children and young people within that process.

I hope the committee find this letter useful in its deliberations.

Yours sincerely

A handwritten signature in black ink that reads "Keith Towler". The signature is written in a cursive style and is positioned above a horizontal line that serves as a separator.

**Keith Towler**  
**Children's Commissioner for Wales**

# Response of the Children's Commissioner for Wales to the Welsh Assembly Government's consultation on School Organisation – potential change to the process



February 2011

The Children's Commissioner for Wales is an independent children's rights institution established in 2001. The Commissioner's principal aim is to safeguard and promote the rights and welfare of children.<sup>1</sup> In exercising his functions, the Commissioner must have regard to the United Nations Convention on the Rights of the Child (UNCRC).<sup>2</sup> The Commissioner's remit covers all areas of the devolved powers of the National Assembly for Wales insofar as they affect children's rights and welfare and he may also make representations to the National Assembly for Wales about any matter affecting the rights and welfare of children in Wales.<sup>3</sup>

The UN Convention on the Rights of the Child (UNCRC) is an international human rights treaty that applies to all children and young people aged 18 and under. It is the most widely ratified international human rights instrument and gives children and young people a wide range of civil, political, economic, social and cultural rights which State Parties to the Convention are expected to implement. In 2004, the Welsh Assembly Government adopted the UNCRC as the basis of all policy making for children.

All of the rights of the Convention are important for all children at all times and there are specific articles within the Convention which relate to education and the participation of children in society. This response has been developed using the framework of the UNCRC. Relevant articles of the UNCRC are reproduced at appendix 1.

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**This response is not confidential**

<sup>1</sup> Section 72A Care Standards Act 2000

<sup>2</sup> Regulation 22 Children's Commissioner for Wales Regulations 2001

<sup>3</sup> Section 75A (1) Care Standards Act 2000

## **Introductory Comments**

In the Commissioner's annual report for 2009 to 2010 reference was made to the impact on children of school organisation proposals.

*I welcome the fact that following the guidance issued in September 2009 and effective from January 2010 there is a duty on local authorities to consult with children on school reorganisation proposals that affect them. I have had a number of calls from children and young people who are understandably distressed having become aware of proposed changes which may have a major impact on their lives.*

*There is a need for urgent change in the way that authorities provide information to children and ensure their participation in the process. I may consider looking at how local authorities are carrying out their duties to children under the revised statutory guidance*

The Commissioner therefore welcomes the consultation and the proposals contained within the document, particularly the clear reference to the UNCRC within a Statutory Code for proposers of changes to schools. The National Assembly for Wales recently approved the Children and Young Persons Rights (Wales) Measure and will introduce a requirement for Welsh Ministers to pay due regard to the UNCRC when developing new guidance, policy and legislation from April 2012 onwards. That Measure may well impact on the proposals within this consultation given the indication from the Minister that he will be seeking a legislative opportunity to make the necessary legal changes to the process outlined in this consultation. Furthermore there are the implications of the provisions relating to children and young people's participation under section 12 of the Children and Families (Wales) Measure will also need to be explored in the development of any future legislation in this area. The Commissioner would expect that the interaction between provisions of different pieces of legislation are fully explored prior to the development of any new legislation in this area.

The Commissioner would urge the Welsh Government to look at the provisions of the UNCRC holistically when developing any new legislation, guidance or policy in this area.

The Commissioner notes that the proposed changes seek to ensure that those who have a legitimate interest in the process would be enabled to engage more effectively with the process and expects that this will definitely include children's participation throughout the process.

The Commissioner's comments will be constrained to the perspective of children and young people. The Commissioner provides an Advice and Support Service which parents, children and professionals can call and in the past few years we have received a number of calls in relation to school organisation proposals.

**Question 1:** Is the current list of circumstances in which statutory proposals are required appropriate? If not, what would you want to add, remove or modify? [This question relates to paragraph 1 of part 2 and Annex C.]

The Commissioner would agree that the current list of circumstances in which statutory proposals are required is appropriate.

**Question 2:** Do you think that the following amendments proposed are suitable? a) prescription about reduction in capacity; b) prescription about transfers of school site (for all schools including special); and if not, what would be preferable? [This question relates to paragraph 1 of part 2 and Annex C.]

The Commissioner agrees that the suggested amendments are suitable.

The Commissioner understands that there is a drive to ensure efficient planning of school places across Wales and therefore understands the proposal to allow reductions in capacity of a school as this would in our view allow local authorities greater ability to effectively plan school places.

**Question 3:** Do you agree with the current division of responsibilities in respect of making proposals for changes to school organisation? [This question relates to paragraph 2 of part 2 and Annex D.]

The Commissioner is aware of the ongoing court case in relation to the sixth form provision at Brynmawr Foundation School. Therefore whilst that judgement is being awaited it is difficult to comment fully on the accuracy of the statements made on page 28.

**Question 4:** Should proposers be required to publish a consultation document? [This question relates to paragraph 5 of part 2 and Annex E.]

The Commissioner welcomes the proposal that proposers should be required to publish a consultation document. The reason for this is that the Commissioner's Advice and Support service has been contacted by parents and children around a number of school organisation proposals. Concerns have been expressed about what processes proposers have to follow in relation to a school organisation proposal. Particular concerns have been expressed in relation to the participation of children in a process that will clearly impact on their lives.

In the Commissioner's annual report for 2009/2010, the Commissioner made the following observation:

*I welcome the fact that following the guidance issued in September 2009 and effective from January 2010 there is a duty on local authorities to consult with children on school reorganisation proposals that affect them. I have had a number of calls from children and young people who are understandably distressed having become aware of proposed changes which may have a major impact on their lives. There is a need for urgent change in the way that authorities provide information to children and ensure their participation in the process. I may consider looking at how local authorities are carrying out their duties to children under the revised statutory guidance*

If future legislation was developed in this area, the Commissioner would strongly urge there to be a duty on proposers to publish a consultation document.

**Question 5:** If so, should the content of the consultation document (and other matters) be specified in a Statutory Code? [This question relates to paragraph 5 of part 2 and Annex E.]

The Commissioner believes that the content of the consultation document should be specified in a Statutory Code. When addressing individual circumstances which have been brought to the Commissioner's Advice and Support Service attention, there is often a lack of clarity and inconsistency in the approaches of proposers. A statutory code which sets out clearly what must be included in a Consultation document would ensure that a consistent approach is taken across all local authorities. This would ensure a consistent level of participation for children and young people.

**Question 6:** Is the list of matters to be included, as set out in the template document appropriate? Should anything else be included? [This question relates to paragraph 5 of part 2 and Annex E.]

The Commissioner would suggest that in line with the provisions of Articles 12 and 13 of the UNCRC that there should be some additional matters included in the Consultation document.

We would suggest that there should be a requirement to set out the following:

- 1 The impact on children and how children in the affected schools will be supported should the proposal go ahead
- 2 How information will be shared with children and young people in age appropriate formats, which may include both oral and written information
- 3 How children and young people's views will be gathered and acknowledged.

Without access to age appropriate and accessible information, it is very challenging for children to engage with any process effectively. Given that proposed changes to their schools are a considerable change in their lives, it is imperative that children are able to participate in the decision making process. This requires adults to ensure that children understand the issue which is being discussed and that there are processes to gather perspectives which are accessible to children. Children's views are as important as the views of adults in this process. The Commissioner's advice and support service has been contacted by children in one school who felt that the proposer had not taken account of their views during either the consultation or statutory proposal phase. This made the children feel frustrated and that their views were not valued.

We note that on page 8 there is reference to a pro-forma for comments which may be an effective way of gathering the views of adults. However, we would suggest that this may not be the most effective way of gathering the views of children and would suggest that proposers are supported to use a wide variety of methods of gathering children's views.

There is an indication that impact on the staff in the schools affected by the proposals is included and we would suggest that the impact on the children should also be clearly set out.

We would hope that any legislation developed and associated guidance would stress the importance of keeping everyone informed and allowing everyone to participate, and that in doing so people will generally make informed and rational decisions when given the facts.

The Commissioner would be willing to engage with the Welsh Government and local authorities in relation to children's participation to ensure the positive meaningful participation of children. We would suggest that such participation would need to be underpinned by the National Standards for Children and Young People's Participation<sup>4</sup>.

**Question 7:** For promoters: Would the template document contained in Annex E be a useful tool in producing future consultation documents? [This question also relates to part 2.]

The Commissioner would like to suggest that the consultation template as described in Annex E may not be accessible for children and young people and that consideration may need to be given to requiring the production by proposers of children and young people's summary documents. We note that the Welsh Government produced a children and young people's version of this consultation document to gather their views which explained succinctly what the consultation refers to and how children can make their views known. We would hope that in future this process would be replicated across local authorities and other proposers alongside other ways of making information available to children and young people.

**Question 8:** Do you agree:

- a. consultation documents should only be published during term time?
- b. consultation should run for a minimum of 6 weeks, with at least half of the consultation period falling in term time?
- c. with the list of those who should be consulted?

If not what would you wish to change/add? [This question relates to paragraph 7 of part 2 and Annex E.]

The Commissioner notes the recently laid Subordinate Legislation, The School Organisation (Miscellaneous Amendments) (Wales) Regulations 2011. These regulations relate to the publication of Statutory Notices and the timescales for these. It would appear to be appropriate that consultation documents should only be published during term time to ensure the maximum engagement of those affected. We would also support at least half of a consultation period being in term time.

We would suggest that consideration is given to including school councils in the list of statutory consultees as these have been established to provide children with a method to have their voices heard on matters that affect their lives.

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<sup>4</sup> <http://wales.gov.uk/topics/educationandskills/publications/guidance/nat-standards-young-people-par?lang=en>

We would suggest that the code should include a requirement for there to be a meeting proposed with the school council and also information for all children and age appropriate explanations of how to voice any concerns they may have.

**Question 9:** Do you agree that the proposer should publish a consultation report setting out the issues raised and the response to them; Estyn's assessment; and recommending how to proceed? [This question relates to paragraph 7 of part 2.]

We would agree with this provision to improve transparency within the process, however, we would suggest that there should be a requirement on the proposer to highlight separately and clearly the views of children and young people expressed during the consultation. The proposer should also be required to produce a report which is accessible to the children and young people affected by the proposal. We suggest that such amendments would mean that this would bring the process more clearly in line with Article 13 of the UNCRC which provides the child with the right to information. We note that the consultation document suggests that consultation reports should be sent to governing bodies and community councils. We would suggest that the consultation report is also sent to the school council of the affected schools and this links back to our suggestion to include the school council as part of the list of consultees.

Should a requirement be inserted for a proposer to meet with the school council during the consultation process we would suggest that there should be a follow up meeting with the school council when the response document is finalised.

**Question 10:** Should a time limit be set on deciding how to proceed? If so, should that limit be 3 months from the close of consultation? Should proposers be able to apply to Welsh Ministers for an extension of time? [This question relates to paragraph 9 of part 2.]

The Commissioner would support an upper time limit for proposers to decide how they will proceed. This is because children have expressed concerns to the Advice and Support Service as to the amount of time that school organisation proposals take to complete. There would need to be information provided to the community including children that there is a time limit on the decision making process.

**Question 11:** Are the proposed publication requirements appropriate? If not, what would you want to change? [This question relates to paragraphs 10 and 11 of part 2.]

We again note that there is no reference to children within those who are sent the statutory notices when they are published. We are concerned that again children appear to have been overlooked within these provisions. We would suggest that there is a need to consider how children and young people are informed of the publication of statutory notices. If the consultation process prior to the publication of a statutory notice has been effective in engaging children's participation then the children would be aware of the proposals.

The Commissioner's advice and support service has heard from children in some schools that they have found out about statutory proposals affecting their schools through local media or from their parents. Under Article 13 of the UNCRC, children have a right to information and it is important that proposers consider how they will ensure that children in affected schools are notified of these potentially important changes to their education at the same time as the adults.

**Question 12:** Do you agree with the proposed content for statutory notices? If not, what should be added or removed? [This question relates to paragraph 12 of part 2.]

The Commissioner would agree with the proposed content of the statutory notices, however, we would suggest that there is a need for children to be provided with an age appropriate explanation about how they can make an objection. We would suggest that there is a need to consider how children can be supported to make an objection. Some children and young people have told our Advice and Support Service that they have not understood how to make an objection. Given that children may have clear views to share, it is important that they are supported and enabled to make objections.

**Question 13:** Do you agree that in future all objections should be lodged with the proposer? [This question relates to paragraph 13 of part 2.]

We would agree that in future all objections should be lodged with the proposers rather than the complex set of arrangements that currently exist. We would suggest that this may help to expedite the process.

**Question 14:** Should the right to object be restricted to those groups identified in paragraphs 16 and 18? If not who should be added to or removed from the list?

We welcome the inclusion in paragraph 18 of those children and young people either attending or who might reasonably have wished to attend the schools named in the proposals. However as we have stated previously there is a need to ensure that children are able to participate throughout the process in order to be able to make an objection should a statutory notice be published. If children and young people are not provided with age appropriate information and support they are less likely to be in a position to make an objection to what could be a major decision in their lives. Article 12 of the UNCRC provides that:

*Article 12*

*1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.*

*2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.*

**Question 15:** Do you agree that the only proposals automatically determined by Welsh Ministers should be those attracting objections from a local authority, a diocesan authority or an FE institution? If not, who would you say should be included? [This question relates to paragraph 16 of part 2.]

The consultation document sets out that the proposed changes to the process will ensure that the shortcomings currently perceived in the process will be addressed and thus a reduced number of proposals would require determination from Welsh Ministers. We would suggest that the basis of initiating any process should be an analysis of educational provision in a given area.

We would agree that the three bodies who could trigger a decision by Welsh Ministers are appropriate. However it is critical that children and young people are enabled to understand who would decide should they make an objection.

We note however that at paragraphs 30 & 31 there is provision for Welsh Ministers to retain a power to call-in any proposal but that this would be used only in exceptional circumstances. We would suggest that consideration is given to Welsh Ministers using this power to call in should an objection raise concerns in relation to the UNCRC, which would be consistent with the Children and Young Persons Rights (Wales) Measure.

We would highlight concerns that have been raised with us previously that children have been used by adult campaigners and would seek the views of the Welsh Government as to how this can be avoided as far as possible.

**Question 16:** Should the trigger point for a local determination be an objection by an affected governing body, an MP or an AM; or a total of 10 objections from community/town councils, school staff, pupils or parents? If not, what do you consider the trigger point should be? [This question relates to paragraph 19 of part 2.]

The Commissioner would like to suggest that an objection submitted by a school council should be considered to be a trigger point for local determination as they are an elected body of the children and young people in a school in the same way that the governing body are an elected body of relevant adults. It is hard to understand how school councils could be treated differently to governing bodies in relation to trigger points.

The Commissioner's advice and support service is also aware of schools where children have written a covering letter which is accompanied by a petition signed by a number of children. There have been discussions as to whether this would be counted as a single objection or whether it would be considered to be a multiple objection based on the number of signatures. We would hope how this type of response would be dealt with is resolved as these provisions are further developed.

Such experiences suggest to the Commissioner that there is a need for there to be clear guidance to children and young people about how to make an objection and how different forms of objections would be treated by a proposer.

**Question 17:** Do you agree that proposers should be required to prepare an objection report and submit it to the local decision maker within 4 weeks from the end of consultation? [This question relates to paragraph 20 of part 2.]

We note that the recently laid Subordinate Legislation, The School Organisation (Miscellaneous Amendments) (Wales) Regulations 2011 has already made this amendment to the process following a public consultation in the Autumn of 2010.

**Question 18:** Do you anticipate that local authority decision making cycles could be adapted so as to make a decision to proceed within 4 weeks from the end of the objection period? [This question relates to paragraph 20 of part 2.]

This question is best answered by local authorities, however we note that the recently laid revised regulations have made this a requirement from 1 March 2011.

**Question 19:** Do you agree that where there are local objections a decision making panel or committee should be established to decide whether the proposal should be implemented, modified or rejected? Should the committee consist only of those who do not have an interest in the proposal under scrutiny? [This question relates to paragraph 23 of part 2.]

The Commissioner would take the view that any local decision making committee or panel must consist of those who have no interest in the proposal under scrutiny. This is so that the process can be seen to be fair and independent from those proposing such changes.

The proposals contained in the paper appear to allow for no appeal process to local determination and that this may be something which may need to be considered as legislation is further developed in this area.

We note that local planning committees have appeal mechanisms and whilst we recognise the policy intention to increase the speed at which decisions are made there is a need to recognise that due process needs to be followed.

**Question 20:** Should the decision making panel/committee have membership broadly as set out in paragraph 23 or, alternatively, as in paragraph 25? If not, how should a decision making body be constituted?

Should legislation be developed in this area, there will clearly be public discussion as to the membership of such panels or committees. There would also need to be consideration given to ensuring effective training for local decision making panel or committee members so that they fully understand the criteria which they will need to apply.

**Question 21:** Do you agree that the decision makers should have 4 weeks within which to make its recommendation? If this is not considered sufficient time, what

timescale would be more appropriate? [This question relates to paragraph 26 of part 2.]

Local authorities would be best placed to comment as to whether local decision making processes would allow for decisions to be made within 4 weeks. The Commissioner's advice and support service is aware of cases relating to children's complaints in education where appeal panels are unable to meet within the timescales set out in guidance because of panel members being unavailable. There would need to be consideration given as to whether panels could operate with less than a full number of members being present so that decisions could be made even when there are illnesses or other reasons for panel members being unavailable.

**Question 22:** Do you agree that if the proposer did not accept a recommendation to modify the proposal, then the proposal would be considered rejected? [This question relates to paragraph 27 of part 2.]

Yes because the local decision making panel or committee would be using the criteria in the existing guidance and if they made a recommendation to a proposer who then did not accept that then the proposal would not have local approval.

**Question 23:** Do you consider that if the decision makers failed to make a recommendation a proposal should lapse? [This question relates to paragraph 28 of part 2.]

It would appear to be inappropriate for local decision makers to fail to make a recommendation on a proposal which has been referred for local decision making. The consultation document lays out how members of the community could make their objections known and thus trigger local decision making. If there was then a possibility that a proposal could lapse because local decision makers could not reach a decision, there is a clear possibility that communities would feel disaffected by the entire process. However the proposer could then decide to reintroduce the proposal and the entire process could have to be replicated with no guarantee that there would be a final decision.

The consultation document on page 5 sets out that the Welsh Government is seeking to develop a system which leads to speedier and more efficient decision making and the possibility that local decision makers could fail to come to a decision appears to not lead to this outcome.

**Question 24:** For local authorities: What costs might be incurred by local authorities in establishing and supporting a decision making panel/committee for school organisation proposals? [This question relates to paragraphs 23, 25 and 29 of part 2.]

**Question 25:**

- a. Should Welsh Ministers have a fall-back power to call-in proposals for determination?
- b. If so, should this only be used in exceptional circumstances?
- c. What do you consider those circumstances might include? [This question relates to paragraph 30 of part 2.]

The Commissioner would support the provision that Welsh Ministers should have fall-back powers to call in proposals for determination. In response to question 15 we raised the extending the range of issues when this call in power could be used to include the possibility of Welsh Ministers having a power to call in should there be concerns raised in terms of the UNCRC. The Commissioner is concerned that should there be no appeal to Welsh Ministers then the whole process has no additional determination stage.

b) Yes and we have suggested an additional exceptional circumstance previously.

c) We would suggest that if children raised concerns that they felt had not been addressed during either the consultation or statutory proposal stage and had communicated this to the Commissioner then the Welsh Ministers should have a call in power in such circumstances.

**Question 26:** Should modified procedures be available for proposals for closure of mainstream small schools? [This question relates to paragraph 32 of part 2.]

The Commissioner is concerned that small schools would not be subject to the same process as other schools and thus in effect policy for children in those schools would be different based on the number of pupils alone. One of the key principles of the UNCRC is non discrimination against children. There appears in the first option presented that there would be no opportunity for stakeholders including children to be able to object and trigger referral to a local decision making panel. In the second option presented there appears to be the potential that a proposer could decide on a proposal with no local decision making process.

The Commissioner is unable to support either of these proposals and would suggest that there is a need to review the proposals in this area.

**Question 27:** If so what should the pupil threshold be? Should it be 15 or 20 or higher?

[This question relates to paragraph 32 of part 2.]

The question as to how to define a small school is a more complex issue than simply a set figure, particularly with reference to community impact for all children. The Commissioner notes that the Proposed Education Measure has also made reference to the issue of defining small schools. There is a need to consider what is in the best interests of the children in small schools in as wide a context as possible rather than simply defining schools as small according to the number of children on roll.

**Question 28:** Should simplification take the form of omitting the statutory notices and objections stage? Or in the event of objections should the local review or determination by Welsh Ministers stage be omitted? Would any other modification of the full process be appropriate? [This question relates to paragraph 32 of part 2.]

See response to question 26.

**Question 29:** Should the requirement for statutory proposals for closure be removed when a school has no pupils, to be replaced by notification of closure by the local authority or governing body? [This question relates to paragraph 33 of part 2.]

The Commissioner would seek clarification as to who the local authority or governing body would notify in such circumstances.

**Question 30:** Do you agree that proposers should be able to give notice of a change of timing of a proposal by up to 3 years or the abandonment of a proposal without reference to Welsh Ministers? [This question relates to paragraph 36 of part 2.]

The Commissioner recognises that these proposals would give local authorities and other proposers a greater level of flexibility but only to retime or reschedule proposals. We would wish to emphasise that there would need to be clear communication to the children and young people affected as changes to timescales can cause uncertainty for children.

**Question 31:** Do you agree that Welsh Ministers should continue to have fall-back powers to address rationalisation of school places for use in cases where local authorities or governing bodies have failed to take action to match supply and demand? If not, how would you suggest this problem should be addressed? [This question relates to paragraph 37 of part 2.]

Yes we would agreed to the retention of these fall back powers to address the rationalisation of school places. We note that the powers have never been used as yet but there needs to be some safety net in terms of an overall national framework for planning of school places

**Question 32:** We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

Responses to consultations may be made public - on the internet or in a report. If you would prefer your response to be kept confidential, please tick here:

## Appendix 1 Extract from the United Nations Convention on the Rights of the Child<sup>5</sup>

### Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

### Article 13

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.
2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
  - (a) For respect of the rights or reputations of others; or
  - (b) For the protection of national security or of public order (ordre public), or of public health or morals.

### Article 28

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:
  - (a) Make primary education compulsory and available free to all;
  - (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
  - (c) Make higher education accessible to all on the basis of capacity by every appropriate means;

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<sup>5</sup> <http://www2.ohchr.org/english/law/crc.htm>

(d) Make educational and vocational information and guidance available and accessible to all children;

(e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

## **Article 29**

1. States Parties agree that the education of the child shall be directed to:

(a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;

(b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;

(c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;

(d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;

(e) The development of respect for the natural environment.

2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.