



Ein cyf/Our ref MA(P)HID/3943/17

Lynne Neagle AM
Chair
Children, Young People and Education Committee
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

14 November 2017

Dear Lynne

Thank you for your letter of 24 October to the Cabinet Secretary for Communities and Children. I am responding in my capacity as the recently appointed Minister for Children and Social Services.

In your letter you ask a number of questions, in light of evidence provided to the Committee's by the Children's Commissioner for Wales. For ease of reference I have responded to each of your points in the order they are set out in your letter.

1. Children's Rights

- **The committee would welcome further clarification on whether your statement that there is 'no evidence' that a general due regard duty would have a positive impact on outcomes applies to the Welsh Government's own due regard duty under the Rights of the Children and Young Persons (Wales) Measure 2011**

The Welsh Government has clearly demonstrated its commitment to children's rights by embedding the UNCRC in legislation. Ministers must, therefore, already have due regard to children's rights when making their decisions. It is incumbent on us to have due regard from the beginning of the process of developing policy and legislation – it is not a one-off consideration or a tick-box exercise. I therefore expect officials, Cabinet colleagues and Ministers to exercise the duty with rigour and an open mind, making evidence based and informed decisions.

The placing of this duty on Welsh Ministers ensures that due regard to the UNCRC occurs at a strategic level and provides a framework for all decisions – including policy and legislation.

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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.

- **The impact of the due regard duty within the Social Services and Wellbeing (Wales) Act 2014**

This will be considered as part of the formal, independent evaluation of the Act. The scope of the evaluation is currently being considered by a stakeholder evaluation group which includes representatives from the children's sector. An evaluation plan will be published by the group before Christmas and the evaluation will commence in the autumn 2018 following a full OJEU procurement exercise. At this stage, therefore, it is too early to provide any comment on this specific issue, but officials can assure Committee that this will be considered as part of the formal evaluation of the Act.

- **The basis for the Welsh Government's current policy position on the due regard duty**

The current Welsh Government position is that placing a general due regard duty on frontline staff will not of itself ensure the desired outcome, rather it would just add to the administrative burden on frontline staff. The view of Welsh Government is that the most effective approach to achieving our common goal and desired outcome is to weave the rights of the child into the fabric of the legislation.

2. Child Rights Impact Assessments (CRIAs)

- **Outline your view on the influence that CRIA are having within the Welsh Government's current decision making and policy development**

The CRIA process has become embedded in the development of Welsh Government legislation, new policies and programmes. The CRIA ensures that children's and young people's rights are central when making decisions or developing policy. While the duty on Ministers is to have due regard to children's rights, rather than to complete a CRIA, the introduction of the CRIA process ensures consistency in practice across Government. Professor Simon Hoffman of the Wales Observatory on Human Rights of Children and Young People carried out an evaluation of the CRIA process in 2015, and recommended it should be streamlined. As a result we are working with key stakeholders to develop and pilot the use of a streamlined CRIA template. We are also considering whether there is scope to streamline all of our impact assessment processes, to ensure that the quality of impact assessments are improved and integrated with the substantive direction of the Wellbeing of Future Generations Act.

- **Will take a continued and active interest in CRIA through this Assembly and will seek formal dialogue with you following the publication of the Compliance Report under the Rights of the Children and Young Persons (Wales) Measure, due in January 2018**

I welcome the continued interest being shown in the CRIA process by the Committee.

3. Children's Commissioner for Wales

- **The Committee would be grateful if you could clarify whether you remain satisfied that the governing legislation for the Children's Commissioner for Wales is compliant with the Paris principles**

I am satisfied that the governing legislation for the Children's Commissioner for Wales is compliant with the Paris Principles. Whilst the Children's Commissioner for Wales is appointed by the First Minister and funded by the Welsh Government, her status as an independent human rights institution is fundamental to her operation and impartiality. The Commissioner determines her own work programme (in compliance with legislative obligations) and her work plan (including statutory reviews or examinations) and does not require any Ministerial approval. In addition the Assembly is able to scrutinise her work and hold her to account.

4. The UK's withdrawal from the EU: children and young people

- **Confirmation of whether, as part of the 'Securing Wales' Future' White Paper, a CRIA (usually published alongside legislative proposals) has been undertaken to underpin Welsh Government's approach to the Brexit process (and more information on it if so)**

A CRIA has not been undertaken as Securing Wales Future is not a formal policy document and is a Welsh Government call to the UK Government to adopt our positions. These positions are not policy commitments to be delivered on. I anticipate that some future work streams in preparation for Brexit negotiations and their outcomes might well require formal assessments which would include CRIAs.

- **an update on the workshops and online consultation to capture the views of children and young people on EU withdrawal**

It is vital that children and young people are given opportunities to make a meaningful input into shaping the Welsh Government's position on Brexit. My officials are looking at existing social research on this issue, which shows what children and young people are concerned about. I am aware of recent research undertaken by WISERD which suggests that some of our young people in Wales feel frustrated at not having had a say in the outcome of the EU Referendum. We are currently planning our own engagement process, including a series of focus group workshops with young people across Wales, so that we can truly understand children and young people's views on the matter.

- **an update on progress with the establishment of the promised advisory group of young people**

With regards to engagement with the European Advisory Group, my officials are currently finalising the mechanisms to enable children and young people to do so. I expect that the arrangements for the children and young people's advisory group will be finalised shortly.

5. Advocacy

- **The Committee would welcome confirmation of what role the Welsh Government is taking to monitor whether authorities have fully implemented the approach, which was targeted for June 2017 in the implementation plan to which you referred in evidence**

Advocacy is not a new provision for local authorities, it is their statutory duty. Welsh Government recognises the active offer is a new requirement which is why we have committed to provide the additional funding of up to £550k which includes covering the cost of the active offer. The new Advocacy Framework has been implemented across Wales since July.

The Welsh Government has continued to work with partners to ensure a collaborative approach to advocacy including with ADSS Cymru, WLGA and the wider Senior Leadership Group (SLG) for advocacy to drive implementation and monitor progress. The SLG is next due to meet on 16 November to review the national picture and ADSS Cymru will provide an update of the active offer and monitoring to date. Following this, responsibility for advocacy including monitoring will be placed under the Ministerial Advisory Group for Improving Outcomes for Children which will look wider than the national approach to consider health and education (ALN) advocacy services.

I hope you find this information helpful.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'Huw', with a horizontal line underneath it.

Huw Irranca-Davies AC/AM

Y Gweinidog Gofal Cymdeithasol a Phlant
Minister for Children and Social Care