

Firstly I welcome that paragraph 30 identifies the intention to carry out a range of impact assessments “to make sure that it does not adversely affect people with autism spectrum conditions, people who aren’t on the autism spectrum, staff involved in the delivery of autism services, organisations or other areas disproportionately.” For the purpose of these considerations I would like to highlight that all children have equal rights under Article 1 of the United Nations Convention on the Rights of the Child (UNCRC) and that all disabled children have the right to special care and support so that they can lead a full and independent life (Article 23). In respect of the options and tools which can be used for conducting impact assessments I would recommend utilising the Children’s Rights Impact Assessment (CRIA). The CRIA can be undertaken to assess the distinct impact of particular decisions on children and young people. This includes decisions about budget allocation. Whilst undertaking a CRIA at this stage is not a requirement under the Children’s Rights Scheme this does not preclude its use and I believe that if effectively undertaken at this early stage and reviewed at appropriate intervals it will contribute to meaningful consideration of children’s rights.

In respect of the provisions currently proposed, were an Autism Bill for Wales to be taken forward, I would like to make the following four points at this stage:

The proposals and materials provided at this stage show an equal regard to children and adults, within the scope of the Bill. As the Children’s Commissioner for Wales I would like to take the opportunity to emphasise that children and young people are a distinct group of individuals in our society with unique strengths, perspectives and circumstances whilst also being one of the most vulnerable, often with the least powerful voice. As Commissioner I have a statutory role to safeguard and promote the rights and welfare of children and help their voices be heard, however under the UNCRC, all adults have responsibility to do what is in the best interests of children (Article 3). With this in mind if the journey of this Bill is to continue with a ‘people’ based approach it is important that those involved ensure that this initial equity for children is not lost or diluted in the development process itself, the provisions contained within it and accountability arrangements. My office, with expert advice from the Wales Observatory on Human Rights of Children and Young People, has published The

Right Way: A Children's Right Approach in Wales' (March 2017).<sup>1</sup> This document provides a principled and practical framework to integrate children's rights into every aspect of decision-making, policy and practice. It is underpinned by 5 principles; embedding Children's Rights, equality and non-discrimination, empowering children, participation, accountability. The application of this children's rights approach in the context of legislation concerning 'people' may also provide opportunities for these principles to be embedded more widely.

Articles 12 and 13 of the UNCRC provide children and young people with a right to express their views in all matters affecting them and to be provided with information. This is both relevant in terms of the Bill's further development and the provisions currently proposed for inclusion. For example I note that the materials for this consultation appear to be designed with adult audiences in mind and I propose that this should be addressed in future. Question d) asks for views in relation to incorporating a statutory requirement for Welsh Government to consult with individuals, were a statutory National Autism Strategy to be developed. If this requirement is taken forward it should ensure that children are included and meaningfully afforded the two rights referenced in the Articles above.

As you may be aware, my Office has an Investigations and Advice service which is an independent source of advice and support for children and young people or those who care for or work with them. Often contact occurs as a result of the person feeling they have nowhere else to go with a problem. Since my time as Commissioner we have received a frequent number of contacts related to autistic spectrum conditions. These include but are not limited to: the referral process and length of waiting time for diagnosis by Child and Adolescent Mental Health Teams, the Special Educational Needs process (Additional Learning Needs), availability of school support before and after diagnosis, school exclusion and the appeals process, availability and changes to Social Services including at the point of transition, and the availability of services to support children and families more widely in their day to day lives. For me this indicates that if a statutory requirement for a National Autism Strategy and statutory guidance were created, they should draw these matters coherently together for a specific purpose, despite cutting across different landscapes and legislation. Related to this I have noted that matters have been raised in respect of the relationship between existing legislation, the forthcoming Additional Learning Needs and Education Tribunal

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<sup>1</sup> [www.childcomwales.org.uk/wp-content/uploads/2017/04/The-Right-Way.pdf](http://www.childcomwales.org.uk/wp-content/uploads/2017/04/The-Right-Way.pdf)

(Wales) Bill and a proposed Autism (Wales) Bill. At this point I would raise that any new Bill should take into account existing arrangements and complement the forthcoming ALN legislation.

It is important to note that casework issues listed above also impact negatively on children with other neurodevelopmental and learning disabilities, often without a clear diagnosis even after assessment. It is therefore a matter for debate as to whether what is required is a specific Bill for children and adults living with an autism spectrum condition, or wider measures that ensure that all of our public services are person-centred and aim to remove barriers facing those who are not neuro-typical or who have a learning disability, in order that all citizens are enabled to fulfil their potential.

Finally, the consultation document outlines proposals in respect of data collection and monitoring. I would stress that whether this is taken forward as part of the Bill, or that sufficient changes could be made to strengthen current arrangements under existing legislation, it is important to have good quality statistical data and qualitative information about children and young people in Wales if we are to understand their experiences and develop strategies and responses that meet their individual needs.