

Kirsty Williams AC/AM
Ysgrifennydd y Cabinet dros Addysg
Cabinet Secretary for Education



Llywodraeth Cymru
Welsh Government

Mick Antoniw AM
Chair
Constitutional and Legislative Affairs Committee
National Assembly for Wales

SeneddCLA@Assembly.Wales

7 November 2018

Dear Mick,

Thank you for your letter of 24 October on behalf of the Constitutional and Legislative Affairs Committee (CLAC) seeking further clarity on how, in particular Article 12 of the UNCRC has been taken into account in completing the Children's Rights Impact Assessment (CRIA).

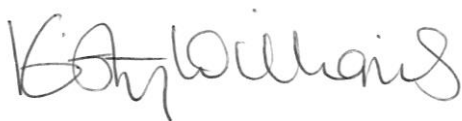
In bringing forward proposals, including proposals to close any school, proposers are required to comply with the School Standards and Organisation (Wales) Act 2013 and the School Organisation Code including in respect of consultation. Under the existing Code which came into force in October 2013, proposers must make suitable arrangements to consult with pupils of any school affected by their proposals and, where possible, with children and young people who are likely to attend those schools. As a minimum, this must include consultation with the school councils of the affected schools. This requirement remains unchanged in the second version of the Code.

The Welsh Government issued guidance to local authorities, the governing bodies of maintained schools and other proposers on consultation with children and young people in respect of school organisation proposals to support the Code.

Under the revised Code the decision to consult and move forward with the closure of a rural school must not be taken until all viable alternatives to closure have been considered. Consideration of alternatives must be a two stage process with the proposer doing this before they even decide to commence consultation on closure, with an opportunity for anyone with an interest including pupils and prospective pupils and their parents, to suggest alternatives to closure which the proposer must consider. As such children's rights to have a say on the proposed closure of a rural school and to have their opinions taken into account are further enhanced by the new arrangements.

Whilst consideration of Article 12 was considered within the body of the CRIA, Article 12 was not specifically referred to in Step 3 of the CRIA. An updated version of the CRIA is now attached and will be published shortly.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Kirsty Williams', written in a cursive style.

Kirsty Williams AC/AM
Ysgrifennydd y Cabinet dros Addysg
Cabinet Secretary for Education



Children’s Rights Impact Assessment (CRIA) Template

Title / Piece of work:	Strengthening the School Organisation Code in respect of a presumption against the closure of rural schools
Related SF / LF number (if applicable)	MA-L-KW-5346-16 MA-L-KW-0060-18 MA-L-KW-0204-18 MA-L-KW-0439-18 MA-L-KW-0656-18
Name of Official:	David Weale, School Organisation and Admissions Branch
Department:	Department for Education & Public Services
Date:	29 October 2018
Signature:	

Please complete the CRIA and retain it for your records on iShare. You may be asked to provide this document at a later stage to evidence that you have complied with the duty to have due regard to children’s rights e.g. Freedom of Information access requests, monitoring purposes or to inform reporting to the NafW.

Upon completion you should also forward a copy of the CRIA to the Measure Implementation Team for monitoring purposes using the dedicated mailbox CRIA@wales.gsi.gov.uk

If officials are not sure about whether to complete a CRIA, they should err on the side of caution and seek advice from the Measure Implementation Team by forwarding any questions to our mailbox CRIA@wales.gsi.gov.uk

You may wish to cross-reference with other impact assessments undertaken.

NB. All CRIAs undertaken on legislation must be published alongside the relevant piece of work on the WG website. All other CRIAs must be listed in the WG CRIA newsletter and must be made available upon request. Ministers are however, encouraged to publish all completed CRIAs.

Six Steps to Due Regard



Step 1. What's the piece of work and its objective(s)?

A brief description of the piece of work

In Plenary in November 2016 the Cabinet Secretary for Education announced a number of actions she would take in respect of small and rural schools, recognising that schools and communities in different parts of Wales face different challenges as the Welsh Government moves forward with its reforms to raise education standards. As part of this she committed to consult on strengthening the School Organisation Code in respect of a presumption against the closure of rural schools. This commitment is one of the key actions in our national mission¹.

The School Organisation Code ("the Code") is made by the Welsh Ministers.² It sets out what must be done whenever significant changes to schools are proposed - such as a change in category of a school or the opening or closing of a school. There is currently no presumption in favour or against the closure of any type of school. The first edition of the Code recognises that the prime purpose of schools is the provision of education. However, it also recognises that in rural areas a school may also be the main focal point for community activity and its closure could have implications beyond the issue of the provision of education. When bringing forward proposals to close any school, proposers must give special attention to alternatives and assess the impact of closure on the community through the production of a Community Impact Assessment.

We propose to strengthen the first edition of the Code to include a specific presumption against the closure of rural schools. This will require proposers to follow a more detailed set of procedures and requirements in formulating a rural school proposal and in consulting on and reaching a decision as to whether to implement a rural school closure proposal.

A presumption against closure does not mean that rural schools will never close. The objective is to ensure that the case for closure is strong and that the decision to consult and move forward with closure is not taken until all viable alternatives have been conscientiously considered, including federation. Identifying alternatives to closure must be a two stage process with proposers doing

¹ Education in Wales: Our national mission action plan for 2017-21.

² See sections 38 and 39 of the School Standards and Organisation (Wales) Act 2013

this before they even decide to consult on closure and then considering any other viable alternatives that come forward as part of the consultation. A more open and transparent process will be one in which the proposer is seen to be open to new ideas suggestions and proposals emerging from the consultation.

In order to have a presumption against the closure of rural schools it is necessary to define a rural school for that specific purpose. When considering developing a proposal to close a school the proposer will need to check whether the school is on the list and the further requirements set out in the Code apply. The consultation also therefore sought views on an appropriate designation of rural school, using the National Statistics Urban-Rural Classification.

What is the time frame for achieving this?

Before issuing or revising the School Organisation Code the Welsh Ministers are required to consult with local authorities, governing bodies of maintained schools, Estyn and anyone else they consider appropriate.

A 14 -week web-based public consultation on the revised code ran from 30 June 2017 to 30 September 2017. The consultation sought views on the introduction of a presumption against closure of rural schools, the further requirements and procedures proposers would need to follow and the designation of rural schools and list of rural schools that derived from it. A total of 70 responses were received from a wide representative range of key stakeholders including local authorities, diocesan authorities, school governing bodies, parents and individuals, teaching unions, community and town councils, Estyn and others. A full summary of consultation responses can be accessed at: <https://beta.gov.wales/school-organisation-code>

There was broad support for all of the proposals. However, some respondents suggested other schools that should also be designated as rural. Taking into account consultation responses the designation of rural schools was extended to include a further category of the Urban-Rural Classification.

The draft Code has been updated to reflect consultation responses. In accordance with section 39 of the School Standards and Organisation (Wales) Act 2013 the draft Code was laid before the National Assembly for Wales for 40 days on 17 September 2018. The Code is expected to come into force on 1 November 2018 unless the National Assembly for Wales resolves not to approve it.

Who are the intended beneficiaries?

Pupils, parents and families, teachers and rural communities

Is it likely that the piece of work will specifically affect children?

Yes. The Welsh Government is bringing forward these proposals to protect and potentially benefit the well-being of all children who attend maintained rural schools in Wales, recognising that all children and young people deserve an equal opportunity - regardless of their background or where they live - to reach the highest possible standards.

The duty of implementing the proposals will usually be on local authorities, but may also fall on the governing bodies of foundation and voluntary aided schools where those governing bodies have proposed the closure of their schools.

Will the piece of work have an effect on a particular group of children, if so, describe the group affected?

Our proposals will have an effect on those children who live in rural areas and attend schools designated as rural schools. The Code already has a focus on vulnerable groups, including children with Special Educational Needs and the impact that school organisation proposals may have on them and this will continue to be the case in the 2nd edition of Code.

Step 2. Analysing the impact

We envisage that the more open and transparent process introduced by the presumption against closure, will benefit pupils, their parents and the wider community. The two stage process of identifying and considering alternatives to closure will give all those who have an interest in proposals more trust and confidence in the process.

Where a viable alternative is identified which results in a rural school remaining open, for example federation with another school and/or use of community buildings or shared services on site to make the school more viable, it has potential benefits for the schools concerned, their pupils and the wider community.

While introducing a presumption against closure does not mean that rural schools will not close, it improves the chances of such schools remaining open where a viable alternative to closure is identified. Anecdotal evidence is that rural communities with a local school are more likely to thrive as they are better able to attract families with school age children into the area. As a result, other businesses providing services and jobs may be encouraged into the area which could benefit the wider community, including children and their families.

If the chances of rural schools remaining open are improved, it means that the children who attend schools which would previously have closed do not now face the disruption of being moved to another school in a different community.

If children are able to continue to attend their local rural school rather than another school which is further away it will keep their travel time to a minimum, which will be of benefit to children and their families. Local authorities may also benefit from not needing to provide school transport.

Ensuring that all viable options to keep the school open are properly considered may lead not only to the school remaining open but also to increased community use of school facilities by the wider community, which may also be of benefit to some children. For example, part of the school building or grounds may be used to accommodate childcare including wrap around childcare outside school hours, after school clubs, sports facilities, a library or post office.

The requirement that closure of any school – whether or not that school is “rural” - must be in the best interests of educational provision in the area remains unchanged.

A 14 week web-based public consultation on our proposals ran from 30 June 2017 until 30 September 2017. In addition to being publically available on the Welsh Government internet site, it was advertised in Dysg which is available to all schools, links to the consultation were provided to key stakeholders such as Estyn, local authorities and diocesan authorities, a 10% sample of school governing bodies (including various faith and non-faith schools), the Equality and Human Rights Commission, the Children’s Commissioner for Wales and education Consortia.

A children's version of the consultation was not prepared. While the purpose of our proposals is to protect and potentially increase the wellbeing of children who attend rural schools and their families, we are seeking to bring this about by making changes to the statutory School Organisation Code. These changes will apply to local authorities and the governing bodies of foundation and voluntary schools only, as they are the bodies that may propose the closure of a school.

In bringing forward proposals, including proposals to close schools proposers are required to comply with the School Standards and Organisation (Wales) Act 2013 and the School Organisation Code including in respect of consultation. This includes producing a child friendly version of their consultation document and making suitable arrangements to consult with pupils of any affected school, including consultation with the school council. Under the presumption against closure children and young people along with anyone else with an interest, will be able to put forward alternatives to closure as part of the consultation process, which local authorities and other proposers must consider.

Step 3. How does your piece of work support and promote children's rights?

The introduction of a presumption against the closure of rural schools will help to ensure that the well-being of not only the children who attend these schools, but also their families and communities are conscientiously considered and consulted upon. This is because the proposer of the closure will have to consider and consult upon all viable options to keep a school open, which will necessitate the drafting of various impact assessments for all options – including an assessment of the impact on the community. Consideration of alternatives to closure will be a two stage process with the authority or other proposer having to do his before they even decide to consult on closure and for consultees including pupils, their parents and the community to come up with other viable alternatives to closure which the proposer must consider. When people are involved in decisions that affect them locally it improves their sense of wellbeing. There may even be longer term benefits in the form of increased prosperity for rural communities if the continuance of a rural school makes that community more attractive to families and inward investment from businesses. We believe that these proposals will maximise outcomes within the UNCRC articles discussed below.

Article 3

All organisations concerned with children should work towards what is best for each child.

Introducing a presumption against the closure of rural schools will ensure that all viable options to keep a school open are conscientiously considered and consulted upon along with the option to close a school, and the impact of all such options is appropriately assessed. This should mean that the well-being of the children who attend a rural school - as well as their families and wider community – is given appropriate weight whenever school closure is being considered.

Article 12

Children have the right to say what they think should happen when adults are making decisions that affect them, and to have their opinions taken into account

There is an existing duty on proposers to produce a child friendly version of their consultation document and make suitable arrangements to consult with pupils of any schools affected by their

proposals and where possible, with children who are likely to attend those schools. As a minimum this must include consultation with the school councils of the affected schools. This requirement remains unchanged in the second version of the Code. The Welsh Government has issued guidance to local authorities, school governing bodies and other proposers on school organisation consultations with children and young people.

Under the presumption against closure of rural schools the decision to consult and move to closure must not be taken until all viable alternatives to closure have been conscientiously considered, Under the new arrangements consideration of alternatives is a two-stage process, with the proposer doing this before they even decide to proceed to consultation and an opportunity for anyone with an interest, which includes children and young people and their parents to put forward suggestions for alternatives as part of the consultation, which the proposer must consider.

Article 27

Children have a right to a standard of living that is good enough to meet their physical and mental needs. The Government should help families who cannot afford to provide this.

Rural poverty is often hidden. Village schools can act as the lynchpin for extended services in a community through the provision of other public services. By doing this they give us the best chance of reaching all people, but particularly those most at risk of social exclusion. Based in isolated communities small schools may hold the key to engaging the most disadvantaged families. Village schools have a role to play in supporting individual families in need, or as a hub for activities that will promote learning economic well-being and social cohesion. Maintaining small village schools in rural areas and extending their provision of services and we tackle the problems of poverty, aspiration and lack of economic opportunities for these areas. Rural Schools are often critical in engaging pupils and families from the most disadvantaged backgrounds.

As rural schools often play a pivotal role in the life of their communities, having a presumption against their closure will result in fewer rural schools closing and may help to encourage families and businesses into rural areas. This may give rural communities a better chance to thrive, and to have improved facilities and job prospects which will benefit the children - and their families – who live in such communities.

Step 4. Advising the Minister and Ministerial decision

The advice to the Minister for Education & Skills confirms that this CRIA has been completed.

Step 5. Recording and communicating the outcome

This CRIA will be sent to the Measure Implementation Team for monitoring purposes, listed in the Welsh Government CRIA newsletter and made available on request. The final CRIA will be published once the revised School Organisation Code comes into force.

Step 6. Revisiting the piece of work as and when needed

The presumption against the closure of rural schools will be monitored on an ongoing basis and will be reviewed a year after implementation and as part of a wider review of the Code following three years of operation.

Budgets

<p>Does the piece of work have any associated allocation of budget?</p> <p>It is important that where any changes are made to spending plans, including where additional allocations or savings have been made, that this has been assessed and evidenced as part of the CRIA process.</p>	<p>No</p>
<p>Please give any details:</p> <p>The funding for the consultation on the school organisation code was met from DRCs within the BEL 5120 within the Education and Public Services MEG during 2017/18.</p>	

Monitoring & Review

<p>Do we need to monitor / review the proposal?</p>	<p>Yes</p>
<p>If applicable: set the review date</p>	<p>Month / Year November 2019 We expect that a review of the impact of the introduction of a presumption against the closure of rural schools will be undertaken following the first year in which this presumption has effect.</p>

Please forward a copy of this CRIA to CRIA@wales.gsi.gov.uk for monitoring purposes

THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD

www.uncrcletsgetitright.co.uk

The United Nations Convention on the Rights of the Child is an international agreement that protects the human rights of the children under the age of 18. On 16 December 1991, the United Kingdom of Great Britain and Northern Ireland formally agreed to make sure that every child in the UK has all the rights as listed in the convention. The Welsh Government has shown its commitment to the convention by adopting it as the basis for policy making for children in Wales.

Altogether there are 54 articles in the convention. Articles 43-54 are about how adults and governments should work together to make sure all children are entitled to their rights. The information contained here is about articles 1-42 which set out how children should be treated.



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www.cymru.gov.uk

Article 1

Everyone under 18 years of age has all the rights in this Convention.

Article 2

The Convention applies to everyone whatever their race, religion, abilities, whatever they think or say and whatever type of family they come from.

Article 3

All organisations concerned with children should work towards what is best for each child.

Article 4

Governments should make these rights available to children.

Article 5

Governments should respect the rights and responsibilities of families to direct and guide their children so that, as they grow, they learn to use their rights properly.

Article 6

All children have the right to life. Governments should ensure that children survive and develop healthily.

Article 7

All children have the right to a legally registered name, the right to a nationality and the right to know and, as far as possible, to be cared for by their parents.

Article 8

Governments should respect children's right to a name, a nationality and family ties.

Article 9

Children should not be separated from their parents unless it is for their own good, for example if a parent is mistreating or neglecting a child. Children whose parents have separated have the right to stay in contact with both parents, unless this might hurt the child.

Article 10

Families who live in different countries should be allowed to move between those countries so that parents and children can stay in contact or get back together as a family.

Article 11

Governments should take steps to stop children being taken out of their own country illegally.

Article 12

Children have the right to say what they think should happen, when adults are making

decisions that affect them, and to have their opinions taken into account.

Article 13

Children have the right to get and to share information as long as the information is not damaging to them or to others.

Article 14

Children have the right to think and believe what they want and to practise their religion, as long as they are not stopping other people from enjoying their rights. Parents should guide their children on these matters.

Article 15

Children have the right to meet together and to join groups and organisations, as long as this does not stop other people from enjoying their rights.

Article 16

Children have a right to privacy. The law should protect them from attacks against their way of life, their good name, their families and their homes.

Article 17

Children have the right to reliable information from the mass media. Television, radio and newspapers should provide information that children can understand, and should not promote materials that could harm children.

Article 18

Both parents share responsibility for bringing up their children, and should always consider what is best for each child. Governments should help parents by providing services to support them, especially if both parents work.

Article 19

Governments should ensure that children are properly cared for, and protect them from violence, abuse and neglect by their parents or anyone else who looks after them.

Article 20

Children who cannot be looked after by their own family must be looked after properly, by people who respect their religion, culture and language.

Article 21

When children are adopted the first concern must be what is best for them. The same rules should apply whether the children are adopted in the country where they were born or taken to live in another country.

Article 22

Children who come into a country as refugees should have the same rights as children born in that country.

Article 23

Children who have any kind of disability should have special care and support so that they can lead full and independent lives.

Article 24

Children have the right to good quality health care and to clean water, nutritious food and a clean environment so that they will stay healthy. Rich countries should help poorer countries achieve this.

Article 25

Children who are looked after by their local authority rather than their parents should have their situation reviewed regularly.

Article 26

The Government should provide extra money for the children of families in need.

Article 27

Children have a right to a standard of living that is good enough to meet their physical and mental needs. The Government should help families who cannot afford to provide this.

Article 28

Children have a right to an education. Discipline in schools should respect children's human dignity. Primary education should be free. Wealthy countries should help poorer countries achieve this.

Article 29

Education should develop each child's personality and talents to the full. It should encourage children to respect their parents, and their own and other cultures.

Article 30

Children have a right to learn and use the language and customs of their families, whether these are shared by the majority of people in the country or not.

Article 31

All children have a right to relax and play, and to join in a wide range of activities.

Article 32

The Government should protect children from work that is dangerous or might harm their health or their education.

Article 33

The Government should provide ways of protecting children from dangerous drugs.

Article 34

The Government should protect children from sexual abuse.

Article 35

The Government should make sure that children are not abducted or sold.

Article 36

Children should be protected from any activities that could harm their development.

Article 37

Children who break the law should not be treated cruelly. They should not be put in prison with adults and should be able to keep in contact with their families.

Article 38

Governments should not allow children under 15 to join the army. Children in war zones should receive special protection.

Article 39

Children who have been neglected or abused should receive special help to restore their self respect.

Article 40

Children who are accused of breaking the law should receive legal help. Prison sentences for children should only be used for the most serious offences.

Article 41

If the laws of a particular country protect children better than the articles of the Convention, then those laws should stay.

Article 42

The Government should make the Convention known to all parents and children.

For further information on the United Nations Convention on the Rights of the Child please visit: The Welsh Government's UNCRC Website: www.uncrcletsgetitright.co.uk/

Cic - The National Information and Advice Service for Young People www.ciconline.co.uk/news/

