

Barnardo's Cymru has been working with children, young people and families in Wales for over 100 years and is one of the largest children's charities working in Wales and across the UK. We currently run more than 90 diverse services across Wales, working in partnership with local authorities.

Every one of our services is different, but each believes that every child and young person deserves the best start in life, no matter who they are, what they have done or what they have been through. We use the knowledge gained from our direct work with children to campaign for better child and social care policy and to champion the human rights of every child. We aim to secure better wellbeing outcomes for more children by providing the support needed to ensure stronger families, safer childhoods and positive futures.

Consultation response

The Rights of Children and Young Persons (Wales) Measure was a development universally welcomed by Barnardo's Cymru and children's NGOs across Wales. Having struggled for some time with how the inclusion of the United Nations Convention on the Rights of the Child (UNCRC) in Welsh law could be applied within the evolving devolution settlement, the clarity brought by the duty of due regard approach appeared a simple pragmatic solution.

Notwithstanding other benefits of implementing the measure, it has been instrumental in shaping a policy and legislative environment where consideration of children's human rights is not only possible, but to be expected. It might be argued that the measure has also given light and space in policy and legislative processes to human rights issues more generally, particularly for disabled or older people beyond required equalities duties.

Due regard, CRIAs and the Children's Scheme

The duty of due regard process, ensuring consideration of the UNCRC in decision making across all portfolios, required a robust monitoring and analysis process to be developed. The required Children's Scheme, with its second iteration in place since 2014, and the Children's Rights Impact Assessments (CRIA/s) had the potential to deliver the required direction and analysis.

Evidence suggests that CRIA's have been applied with inconsistent degrees of quality and impact. Whilst the CRIAs produced have improved, they have been used in a limited way in analysing the potential effect on the lived experiences of children and young

people. They majority are largely a measure of regard to, and compliance with, articles of the UNCRC to support a decision rather than analysis of the effect of decision options.

A positive example of a CRIA that has provided inclusion of analysis is that of the Children (Abolition of Defence of Reasonable Punishment) (Wales) Bill currently in scrutiny by the National Assembly for Wales (NAfW).

Barnardo's Cymru hopes that other instruments particularly the Convention on the Rights of Disabled People (UNCRDP) will enjoy a similar inclusion into domestic law. In doing this a similar need to monitor and assess would be required. If the process, as it currently exists, of considering decisions against articles were to continue into the UNCRDP it will likely become too cumbersome needing to consider the 54 articles of the UNCRC and 50 articles of the UNCRDP.

Therefore, we would suggest that returning to basic human rights principles rather than articles, would better enable the current system to progress, providing analysis of the effect of decisions and enable a transferable process, knowledge and skill base for expansion to include other instruments in the future.

One of the hopes the government had of the measure and an argument used by Welsh Ministers, was that the effect of due regard on the Ministers would 'trickle down' from high level decision making into all levels of functions. This position was employed by Ministers and back benchers in scrutiny of the Social Services and Well-being Bill (SS&Wb), the Well-being of Future Generations Bill and the Violence Against Woman, Domestic Abuse and Sexual Violence Bill, when rights amendments were debated at both committee and plenary stages.

Barnardo's Cymru argues that this does not, and is unlikely to, happen and that it is entirely appropriate for such legislation to carry statutory duties of due regard on both individuals and bodies discharging functions under the legislation.

During the debate on the inclusion of such duties on the face of the Additional Learning Needs and Education Tribunal Bill, for example, the duty on individuals under the Social Services and Wellbeing (Wales) Act 2014 was considered too onerous and unrealistic an expectation by some, arguing instead for the duty to be placed solely on bodies delivering function rather than individuals.

While recognising that human rights amendments were made to legislation, it remains the case that some of the legislation listed does not carry these duties and others only partially. It is difficult to see how the Rights of Children and Young Persons Measure and the duty of due regard on Ministers has been applied when these appropriate duties for both individuals and bodies do not universally appear.

Knowledge and Awareness

At the onset of this inquiry Barnardo's Cymru would have suggested that improved but not comprehensive knowledge and understanding of the UNCRC had been achieved.

The results of a small survey undertaken with 18 staff to inform this response would suggest that much work remains to be done. The survey participants all work with children, parents or families with experience from one to 20 years.

94% felt they were familiar with the UNCRC and had been so from between three and 20 years.

When asked '*How aware of human rights is the children and families workforce across all sectors?*' on a scale of one to ten the average was five. As there were similar numbers of high or low scores, without asking the specific question, a number of variants might feature, from geography and service issue, to contract conditions.

It was surprising that given the high sense of familiarity with the UNCRC felt by this group, that nearly 90% were unaware of human rights training or awareness raising opportunities for themselves. Just over 80% were also unaware of opportunities for children and families to learn about the UNCRC.

When asked to judge how generally aware children and families are of human rights and the UNCRC more specifically, there was the same broad range of answers culminating in an average in the middle of the scale.

In relation to awareness raising opportunities for children and families, participants recognised that some schools, advocacy services and the Children's Commissioner were resources.

Barnardo's Cymru recognises that government has made considerable efforts in providing resources to progress this and further recognise that we have a role in supporting both our

workforce and service user development. However education and awareness should continue and increase in reach.

In Conclusion

The measure was and remains a positive element of the body of the Welsh law. It has been suggested by others responding to this consultation that the measure could have been better used in the scrutiny of government, a suggestion we agree with.

We would suggest that the time is right for a thorough review of the approach to protecting and promoting children's human rights through the measure. We would further argue that the limit of progress possible with current mechanisms and capacity might have been or might soon be reached. We therefore also suggest that a significant evolution of what is in place rather than wholesale change would be of benefit.

Significant progress has been made in Wales with mechanisms and systems to facilitate improved opportunities for influence of decision makers by children and young people such as specialist forums, local democratic structures and national bodies like Young Wales and the Welsh Youth Parliament.

Such developments cannot happen without the right environment and commitment. If nothing else, the measure clearly demonstrated the government commitment and its implementation helped shape the environment.

The measure has been viewed favourably elsewhere with the Welsh approach featuring in the debate about Scottish rights legislation. We feel sure this will be watched closely by government, the NAFW and civil society to see what we can learn from them and how we might consider improving the measure particularly as we are at a different stage of devolution from the time of the measures introduction.