

## **Introduction**

Since Save the Children was founded 100 years ago, we have been committed to ensuring all children's rights are recognised. Together with children, we work with both governments and other organisations to ensure children's rights are on the political agenda. We hold leaders to account for the commitments they have made, ensuring systems are in place to protect and provide for all children.

Save the Children welcomed the passing of the Rights of Children and Young Persons (Wales) Measure 2011 ('the Measure') and the Welsh Government's desire to give due regard to children's rights within their policymaking structures.

However, since its introduction there have been several significant social, policy and political changes including:

- The National Assembly has now acquired full legislative powers, as well as additional areas of responsibility, and limited tax powers.
- The introduction of the Wellbeing of Future Generations Act ('WBFGA') and the requirement on public bodies to produce wellbeing plans has changed the environment in which public bodies operate.
- The impact of the UK Government's austerity programme on children in Wales and possible future impact of Brexit on children.
- The Welsh Government's budget has reduced compared to increases in the relative need of the population in Wales.
- 8 years' experience of the Measure, as well as evidence from three compliance reports and a substantial review of the Children's Rights Impact Assessment process.

Consequently, Save the Children believes it is now appropriate for a review of the Measure in order to recognise the progress made to date but also establish whether it can be further strengthened. This will be especially important in the light of proposed legislation in Scotland and Jersey which could provide greater protection for the rights of children and young people than in Wales.

Save the Children is a member of the Wales UNCRC Monitoring Group and fully endorse the consultation response submitted by the Monitoring Group to this inquiry.

## **Questions asked by the Children, Young People and Education Committee**

### **1. The extent to which the Rights of Children and Young Persons (Wales) Measure 2011 has influenced the Welsh Government's decision making, including its financial allocations and whether it has fulfilled the Convention's 'general measures' of implementation;**

Save the Children believes that the Measure has had a positive impact on the way policy is made by the Welsh Government consistent with UN Committee recommendations on the General Measures of Implementation.

The subsequent introduction of Children's Rights Impact Assessments ('CRIA') has increased the visibility of children's rights in policy development in Wales offering opportunities to hold Government to account on policy decisions that affect children.

However, our belief is that the full potential of the Measure is yet to be realised as children's rights are not embedded across all areas of Government activity for example the failure to apply a CRIA to the Welsh Government budget meant that the Welsh Government failed to comply with its own Child Rights Scheme.

An essential aspect of implementation of the UNCRC is to have an independent human rights institution that can hold duty-bearers to account. Therefore, Save the Children reiterates its view that the responsibility for accountability and funding for the Children's Commissioner should be transferred to the National Assembly for Wales, in order to make the position consistent with the Paris Principles. This further independence would enhance scrutiny of the Measure and therefore support its implementation.

### **2. Evidence of whether the Measure has led to improved outcomes for children and young people**

It is worth noting that the Measure mainly acts as a mechanism to positively influence the culture of policy making within the Welsh Government.

There are examples of where the due regard duty has contributed to better policy outcomes for children including:

- Welsh Government's Right to Play policy.
- Child Poverty Action Plan
- The development of the Children (Abolition of Defence of Reasonable Punishment) (Wales) Bill.
- Well-being of Future Generations (Wales) Act 2015.

However, without a clear mechanism to continuously monitor outcomes for children it is difficult to always know the level of impact these policies have had.

There are also examples where we do not believe the due regard duty ensured that the rights of all children were upheld. The most recent example being changes to early childhood

education and care provision. The Childcare Offer for Wales has not, in our view, been consistent with upholding children's rights, especially articles 2 (non-discrimination) and 28 (education) as places have been limited to the children of working parents.

We feel that current housing policy does not reflect a children's rights-based approach. For example, children in Wales are not guaranteed access to adequate housing, as required by article 27.

Finally, it is worth re-iterating Save the Children's belief that child poverty represents a clear violation of children's rights in Wales. As we expect this problem to get worse in the short-term, we would urge Welsh Government to refresh its Child Poverty Strategy alongside producing a clear measurable Child Poverty Delivery Plan to reflect these changes in circumstances and ensure that no child is disadvantaged in realising their rights under the UNCRC because of family income.

### **3. Whether the duties within the Measure have been embedded effectively across Welsh Government cabinet portfolios and policy;**

Save the Children believes that the embedding of the duties across Welsh Government cabinet portfolios has been variable. That embedding has been the most evident in departments that are perceived as having a direct influence over children's lives.

However, other departments have not prioritised children's rights to the same extent for example there is no reference to children's rights in Welsh Government's National Economic Strategy - 'Prosperity for All' meaning policy resulting from this strategy will not necessarily be explicit in its reference to children's rights, as for example the Childcare Offer for Wales.

Save the Children believes that the Welsh Government should consider the re-establishment of the Cabinet Sub-Committee on Children and Young People, as this had proven in the past to be an effective driver of children's rights across Government.

Also, without a strong body of knowledge about children's rights amongst all officials and Ministers, it will be difficult to ensure that the due regard duty will be effective across Welsh Government cabinet portfolios and policy. We are particularly concerned that training for Ministers and civil servants is not compulsory. Our belief is that such training should be a requirement at both induction and at a change of role.

Alongside UNCRC training for the Government and civil service we also strongly recommend that the National Assembly should introduce a children's rights training programme for all Assembly Members and Committee staff in order for them to be able to properly scrutinise and hold Welsh Government to account on its application of the due regard duty and its commitments to children in Wales.

**4. The extent to which the Welsh Government has sought to ensure that its duties within the Measure are translated into the work of the public bodies it provides funding to, including local authorities and NHS bodies;**

Many children receive services through a range of public bodies, however there is no due regard duty applicable to all public bodies in Wales. We recognise that there are some examples of where the Welsh Government have ensured that due regard duties are translated into the work of public bodies. Although the Play Sufficiency Duty predates the measure, it has operated as part of the wider children's rights framework and has been relatively successful at engaging local authorities in the right to play agenda for example the School Holidays Enrichment Programme where local authorities offers access to leisure activities outside of school terms.

However as within the Welsh Government there is not a consistent pattern across all public bodies. We believe consideration should be given to amending the Measure to ensure that all public bodies are given a statutory requirement to have due regard to the UNCRC in the exercise of all their functions. We believe that this would increase awareness of the UNCRC and lead to the greater realisation of children rights. We would argue that 'The Right Way' practical guides for public bodies produced by the Children's Commissioners Office to support them to implement a children's rights approach in their work should be promoted by the Welsh Government to all public bodies.

We also want to draw the Committee's attention to the opportunity to include a due regard duty in the forthcoming Curriculum and Assessment (Wales) Bill. This would bring it in line with the Additional Learning Needs and Education Tribunal (Wales) Act 2018, therefore ensuring that all children and young people have the same provisions of the UNCRC in domestic legislation regarding their education.

In relation to article 12 (respect for the views of the child) we believe that there is considerable scope for this to be further developed in order to ensure that children's participation in public services is consistent across the range of Welsh Government services.

**5. The extent to which the Welsh Government has implemented its duty to promote knowledge and understanding of the UNCRC amongst the public, including children and young people;**

There have clearly been examples of areas where the Welsh Government has implemented this duty. For example, the prioritisation of children's rights as a cross-cutting theme within the draft new curriculum. In order that this be effective, Save the Children believes that the Welsh Government must ensure that sufficient educational resources are available to schools to meet their requirements in the draft curriculum. We also believe that the Welsh Government should ensure that training is available for educators to ensure that the school's workforce is adequately skilled to meet schools' requirements under the new curriculum.

In the broader context Save the Children would urge the Welsh Government to examine the areas where the duty to promote is not being fully realised, and what mechanisms can be used to promote it. We believe a new comprehensive National Communication Strategy

would assist the Welsh Government in meeting its duty to raise awareness and understanding of the UNCRC.

**6. How the duty to have ‘due regard’ to the Convention on the Rights of the Child is being implemented in practice and whether Child Rights Impact Assessments are being used as a meaningful tool;**

Save the Children recognises that the CRIA is not the exercise of the due regard duty, it simply draws together the ways in which officials and Ministers have paid due regard through their work.

We acknowledge that the Welsh Government undertakes CRIAs across a wide range of its policy areas however we have some concerns that due to a lack of staff training and expertise (as covered in section 3) the CRIAs are not as effective as they could be. This is supported by the 2015 compliance report which stated that “limited knowledge and awareness of children’s rights amongst officials undertaking CRIA [is] a weakness in CRIA processes”<sup>1</sup>.

We believe that this had led to some CRIAs not being adequate. For example, the CRIA drawn up for the Childcare Funding (Wales) Act was deeply flawed as it did not consider the effects of the policy on those children who were not eligible for the scheme; and therefore, did not meet the Welsh Government’s obligations under the UNCRC.

We also note that the CRIA process fails to directly engage with children and young people.

**7. The effectiveness of the Children’s Right’s Scheme and the most recent Welsh Government compliance report, and the extent to which they evidence sufficient action on the part of Welsh Government to ensure full implementation of the Measure;**

Save the Children endorses the submission of the Wales UNCRC Monitoring Group.

**8. How effectively the Welsh Government responds on a strategic basis to the Concluding Observations of the UN Committee on the Rights of the Child.**

Save the Children endorses the submission of the Wales UNCRC Monitoring Group.

## **Conclusion**

Save the Children is proud that Wales has led the way in children’s rights in the UK. However, while we recognise the significance of the Measure, we now feel that the time is right for the reasons outlined in our introduction for this inquiry into its impact and time to be given to consideration the ways in which it can be further strengthened.

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<sup>1</sup> Hoffman, Simon (2015) [\*Evaluation of the Welsh Government’s Child Rights Impact Assessment procedure under the Children’s Rights Scheme pursuant to the Rights of Children and Young Persons \(Wales\) Measure 2011\*](#) (page 4, paragraph 9)