

**Cyflwynwyd yr ymateb hwn i ymgynghoriad y [Pwyllgor Plant, Pobl Ifanc ac Addysg ar Flaenoriaethau'r Chweched Senedd](#)**

**This response was submitted to the [Children, Young People and Education Committee](#) consultation on [Sixth Senedd Priorities](#)**

**CYPE SP 83**

**Ymateb gan: Sean O'Neill, Cydlynnydd, Grŵp Monitro CCUHP Cymru**

**Response from: Sean O'Neill, Coordinator, Wales UNCRC Monitoring Group**

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Beth yn eich barn chi yw'r prif flaenoriaethau neu'r materion y dylai'r Pwyllgor eu hystyried yn ystod y Chweched Senedd? Os oes modd, nodwch eich barn o ran sut y gallai'r Pwyllgor fynd i'r afael â hyn.

What do you consider to be the main priorities or issues that the Committee should consider during the Sixth Senedd? Where possible, please set out your view about how the Committee could address them.

**Theme 1: School-age education**

**Theme 3: Health and well-being, including social care (as they relate to children and young people)**

**Theme 4: Children and young people**

The **Wales UNCRC Monitoring Group** (est. 2002) is a national alliance of non-governmental and academic agencies, tasked with monitoring and promoting the United Nations Convention on the Rights of the Child (UNCRC) in Wales and facilitated by Children in Wales. The Group has submitted civil society reports to inform successive UK State Party Examinations in 2002, 2008 and 2016, and is currently engaged in the 2020-23 reporting cycle.

Our submission has been drafted to complement responses from member organisations<sup>1</sup>

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<sup>1</sup> Members of the Wales UNCRC Monitoring Group are representatives from Barnardo's Cymru, Centre for Welsh Legal Affairs - Aberystwyth University, Children in Wales, Children's Commissioner for Wales (observers), Equality and Human Rights Commission Wales (observers), National Deaf Children's Society, NSPCC Wales/Cymru, Play Wales, Save the Children Wales, The Children's Society, The Observatory on Human Rights of Children, UNICEF and the Welsh Local Government Association (observers)

## Children's Rights

We call upon the Committee to include in their forward workplan a commitment to

- Undertake a follow-up review of the previous Committee's inquiry into 'Children's Rights in Wales' and the progress made by the Welsh Government (WG) to deliver the report's recommendations.
- As a core component for all future inquiries, to take account of the duty placed upon Welsh Ministers to have due regard to the UNCRC in all their actions, and ensure that effective and meaningful Child Rights Impact Assessments (CRIA) have been undertaken on all policy and legislation relevant to children.
- Work with other relevant Senedd Committees to ensure that mechanisms are in place for sharing issues impacting on children, and that consideration is given to all UN Treaty recommendations relevant to progressing their human rights.

The Committee will also wish to routinely and explicitly make reference to children's rights in all sessions, and to make use of the due regard duty to the UNCRC in their scrutiny of all Ministers (Hoffman/O'Neill 2018<sup>2</sup>)

### Rationale

The Wales UNCRC Monitoring Group (MG) was pleased to provide written<sup>3</sup> and oral evidence<sup>4</sup> to the previous Committee inquiry into 'Children's Rights in Wales' in 2019. We very much welcomed the 16 recommendations in the final report<sup>5</sup> and were delighted to see that our contribution had helped inform the Committee's conclusions. The previous WG accepted most of the recommendations, and members of the MG are presently tracking progress and engaging with lead officials to help support their full implementation.

The impact of COVID-19 has undoubtedly highlighted that now more than ever, that the rights of children, as underpinned by the UNCRC, must be at the forefront of decision making processes and prioritised in line with existing legislation. Members of the MG have been keen to ensure that there was no regression of children's rights throughout the period of the pandemic, and that key decisions taken to help protect the health of the population

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<sup>2</sup>[https://www.equalityhumanrights.com/sites/default/files/the\\_impact\\_of\\_legal\\_integration\\_of\\_the\\_un\\_convention\\_on\\_the\\_rights\\_of\\_the\\_child\\_in\\_wales\\_eng.pdf](https://www.equalityhumanrights.com/sites/default/files/the_impact_of_legal_integration_of_the_un_convention_on_the_rights_of_the_child_in_wales_eng.pdf)

<sup>3</sup> <https://business.senedd.wales/documents/s94618/CRW%2014%20Wales%20UNCRC%20Monitoring%20Group.pdf>

<sup>4</sup> <https://record.assembly.wales/Committee/5683>

<sup>5</sup> <https://senedd.wales/laid%20documents/cr-ld13405-r/cr-ld13405-r-e.pdf>

did not compromise or reduce existing rights protections children access under present laws.

As restrictions are eased and the WG delivers its Programme for Government within the context of Covid-19 recovery, the 'due regard' duty prescribed through the Rights of Children and Young Persons (Wales) Measure 2011 (Measure), including the production and publication of timely CRIA on all policy decisions which impact directly, and non-direct on children must be observed. The Committee will wish to ensure, throughout all future scrutiny inquiries, that compliance is observed.

Since the publication of the Committee's report, the WG have begun progressing a number of key actions, including consulting on their Draft Children's Rights Scheme (under Section 2 of the 'Measure') and have published a summary report which commits to a series of future priorities. The revised Scheme sets out a number of positive proposals, including a training offer for Ministers and officials, and is expected to be published in the autumn. The Committee will understandably wish to give consideration to its content and to monitor delivery of the proposals in light of the previous Committee's recommendations. The WG have also published a report which maps progress against the 2016 UN Concluding Observation.

The UN are presently re-examining progress made by the UK and devolved governments to implement the UNCRC and the steps taken to comply with the last set of Concluding Observation. In 2020, as a core component of the UN's evidence gathering processes, the MG undertook a comprehensive consultation and engagement exercise with civil society organisations which captured the emerging issues, barriers and challenges facing children in accessing and realising their rights across all Articles of the UNCRC in Wales.

In December 2020, the MG published its report - the 'State of Children's Rights in Wales'<sup>6</sup> - and engaged widely with stakeholders, Senedd members and the WG to promote the findings. This report, compiled during the pandemic, was submitted to the UN to help inform their considerations when developing their 'List of Issues', as a series of questions and priorities to governments for response. The UN published their 'List of Issues' in February 2021, and governments are now required to submit a detailed combined response by June 2022. The Committee will wish to consider this report once published which will inform the focus and deliberations at the State Party Hearing in Geneva in 2023 and the next set of Concluding Observations for governments to implement.

The State of Children's Rights report, with contributions from 90 organisations and key stakeholders in Wales, provides the Committee with a comprehensive insight into the challenges and barriers children continue to face in accessing and realising their rights in Wales, and will be an invaluable resource throughout this Senedd term. The report sets out

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<sup>6</sup> <https://www.childreninwales.org.uk/professionals/our-work/state-childrens-rights/>

30 priority areas and 70 recommendations for WG across the whole CRC to fulfil their obligations for children. The Committee will wish to take account of this report when determining their future priorities.

## 1. General Measure of Implementation

We have called upon the WG to fully and directly incorporate the CRC into Welsh law, and to take steps to incorporate other relevant Conventions which impact on children. Whilst we welcome the Programme of Government commitment to incorporate the UNCRPD and the UNCERD into Welsh law, we remain frustrated that there is no equivalent commitment to directly incorporate the UNCRC, and thus strengthen the existing legal duty under the aforementioned Measure.

The Measure does not provide direct legal accountability for children who consider their rights to have been breached. The example from Scotland, which has recently introduced legislation which will enhance judicial accountability and confer a legal remedy on a child where their rights have been violated, demonstrates the potential of a reserved model of devolution to enable incorporation in a manner which provides for directly enforceable rights at a devolved level. We fully support the recommendation from Hoffman, S. et al (August 2021) in the WG commissioned report 'Strengthening and advancing equality and human rights in Wales'<sup>7</sup> for existing legal duties in this regard to be strengthened. In particular, recommendations 1 and 25 which, if adopted, will ensure that Welsh Law develops so that children's human rights become directly enforceable in Wales

The 'State of Children's Rights' report has also called for there to be

- a comprehensive and fully resourced national strategy for children, with achievable and measureable actions subject to robust monitoring, evaluation and scrutiny arrangements<sup>8</sup>

In the continued absence of a national strategy for children or a rolling plan for the implementation of the UNCRC, the Committee will wish to raise this with relevant ministers, and ensure that future actions which impact on children and sit within the separate portfolios of several different ministers are fully joined-up, appropriately resourced and sufficiently ambitious to deliver maximise impact.

- that CRIA are systematically completed and published on all legislative proposals which are likely to directly or indirectly affect children, and to make CRIA a statutory requirement

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<sup>7</sup> <https://gov.wales/strengthening-and-advancing-equality-and-human-rights-wales>

<sup>8</sup> The report by Hoffman et al (2021) includes a number of recommendations to improve planning, mainstreaming, monitoring and scrutiny of progress on human rights (see in particular 1-4, and 24-33). We believe these recommendations should be fully integrated into a national strategy for children.

The CRIA process remains an important mechanism by which to inform and improve policy and legislative developments, and to ensure that 'due regard' is consistently applied in practice (Hoffman/O'Neill 2018); and through CRIs being made public, as a basis for scrutiny and accountability. The Committee inquiry reported on the inconsistencies with the current approach, and the Committee will wish to ensure that the CRIA process is enhanced and sufficiently robust<sup>9</sup>.

- legislation which ensures there is a due regard duty to the CRC placed upon all Welsh devolved public bodies, with robust monitoring, accountability and reporting arrangements in place to ensure compliance

The role of public bodies is pivotal in delivering services which enhance the promotion of children's rights and help children achieve better outcomes. Whilst we have previously welcomed the inclusion of the 'due regard' duties to the UNCRC on some public bodies in Wales<sup>10</sup>, there is neither a reporting nor accountability framework in place to help public bodies evidence their compliance nor a general public sector duty of 'due regard' applying to all public bodies and those delivering public functions. In this continued absence, the Community can play a key role in ensuring that compliance by public bodies is secured.

We also welcome new duties placed upon local authorities, head teachers and governing bodies to promote knowledge and understanding of the UNCRC and UNCRPD through the Curriculum and Assessment (Wales) Act 2021, but there is a need for the curriculum to be directive and require human rights education to be taught. The Committee will wish to ensure that compliance is secured, which complement existing duties placed upon WG under Part 6 of the 'Measure'<sup>11</sup>.

- Comprehensive child budgeting analyses, which ensures that a CRIA is undertaken on the WG annual budget

The current presentation of budget expenditure on children across all ministerial portfolios does not aid any assessment as to whether the maximum level of available resources to fulfil UNCRC obligations are being used. The recommendation from the previous Committee for a CRIA of the draft budget was rejected.

- Fully resourced national strategy for prompting knowledge and understanding of the UNCRC subject to monitoring and scrutiny arrangements

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<sup>9</sup> The report (above) includes a number of recommendations to improve the WG's Integrated Impact Assessment (IIA) (see in particular 18 and 19). We believe these recommendations should be applied to improve CRIA as part of IIA.

<sup>10</sup> through the Social Services and Wellbeing (Wales) Act 2014 and the Additional Learning Needs and Education Tribunal (Wales) Act 2018

<sup>11</sup> Hoffman et al (2021) identified a need to strengthen human rights education in Wales. We believe the curriculum should be more directive to require human rights education. We adopt the recommendation made in the research report for guidance on the curriculum to mandate inclusion of human rights principles (see recommendation 34).

The WG accepted the previous Committee's recommendation and encouragingly, the draft Children's Right Scheme confirms that a national strategy is being developed. The Committee will wish to give consideration to the robustness of this strategy.

## 2. Thematic priorities

The State of Children's Rights in Wales highlights challenges and pressures children face in realising their rights, despite progress being made in many policy areas. The impact of the pandemic on children lives, especially for those most vulnerable, has been profound and unprecedented, as the evidence received to inform our report demonstrated.

However, many of the issues highlighted throughout our report didn't emerge back in March 2020 when Wales first went into lockdown. What the pandemic did was to expose pre-existing and often growing levels of inequalities, disadvantage and vulnerabilities amongst many children, and exacerbated rights violations which were already present.

Our report highlights that

- **Child poverty** was already unacceptably high and predicted to increase further prior to the pandemic. We support calls from ECPN Cymru for there to be a revised Child Poverty Strategy and Action Plan; a review and extension of Free School Meal entitlement and the creation of a Welsh Benefit System which provides a single point of access for assistance.
- The number of **children in care** is increasing each year, with concerns around placement stability; an ability to maintain relationships; mental health challenges and transition arrangements from care to safe and stable accommodation.
- Socio-economic disadvantage has a huge impact across a range of **health indicators**, and indeed across the whole report.
- Particular groups of children are facing greater challenges and vulnerabilities in respect of disruption to their **education**, and the potential impact on key developmental milestones, especially amongst younger children.
- The impact of isolation and lasting separation from friends, family and support networks on **children's mental health and wellbeing**,
- Many children live in less than ideal home environments (including abuse and neglect), with growing anxieties amongst the social care workforce of the increase in need for accessible support and social work intervention to help address some of the **safeguarding** concerns children have experienced.
- The lack of access to **play and recreational** opportunities, and the impact this will have on health, social interaction and development.

We look forward to working with members of the Committee again during this Senedd term and happy to be contacted on any aspect of our work.

### **Other links**

Children's Commissioner for Wales [The Right Way](#)

Equality and Human Rights Committee [Human Rights Tracker](#)

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