

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 87

Ymateb gan: Dr Rhian Croke, Cynghorydd Annibynnol ar Hawliau Plant ac Aelod o'r Arsyllfa ar Hawliau Dynol Plant

Response from: Dr Rhian Croke, Independent Children's Rights Adviser and Observatory Affiliate, Observatory on the Human Rights of Children

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.

Thema 1: Addysg oedran ysgol | Theme 1: School-age education

Thema 2: Addysg bellach ac addysg uwch | Theme 2: Further and higher education

Thema 3: Iechyd a lles, gan gynnwys gofal cymdeithasol (i'r graddau y maent yn ymwneud â phlant a phobl ifanc) | Theme 3: Health and well-being, including social care (as they relate to children and young people)

Thema 4: Plant a phobl Ifanc | Theme 4: Children and young people

Covid-19

**Observatory on Human Rights of Children
and
Children's Legal Centre Wales**

**Submission to the Committee on Children, Young People and Education
Consultation on Priorities for the 6th Senedd**



1. The Observatory on Human Rights of Children and the Children's Legal Centre Wales are established sources of knowledge and expertise on children's rights, and how these are given effect in law and policy in Wales and internationally. This submission focuses on areas falling within our sphere of expertise: in particular, general measures of implementation of the UN Convention on the Rights of the Child (UNCRC).
2. Now is a critical time to consider the priorities to be adopted by the Committee and by the Welsh Government to ensure children's rights are fully respected, protected and fulfilled: as the Covid-19 pandemic continues to impact on human rights globally, in the UK and in Wales. Wales is rightly admired on the international stage for progress to date on implementing children's rights through law and policy. But more could and should be done to realise children's rights through law and policy.
3. We ask the Committee to consider the following as priorities for law and policy on children in Wales.

Strengthen incorporation of the UNCRC to provide for legal enforceability of children's rights



4. We have witnessed advances in children's rights legislation in Wales, in particular the Rights of Children and Young Persons (Wales) Measure 2011 and the Children (Abolition of Defence of Reasonable Punishment) (Wales) Act 2020; as well as sectoral legislation emphasising children's rights in education¹ and social care.² These have been positive developments. However, research³ has highlighted the need for legislation to go further than the current 'indirect' approach to incorporation of the UNCRC which requires Welsh Ministers to have 'due regard' to children's rights when exercising their functions.⁴
5. We see the need for further incorporation of the UNCRC in Welsh law to provide for individual legal enforceability of children's rights, through full and direct incorporation; and to provide for legal enforceability against all public bodies in Wales. This is what is intended in Scotland,⁵ where legislation adopts a 'maximalist' approach to give effect to children's rights as directly enforceable claims in Scots law. It is time that children in Wales were similarly offered a direct route to a legal remedy in a court of law for breaches of their human rights.⁶
6. We support the recommendations made in research carried out for the Welsh Government on Advancing and Strengthening Equality and Human Rights in Wales 2021 (the '2021 SAEHR Report'),⁷ for a taskforce to consider how to achieve direct incorporation of international human rights in Welsh law (recommendation 1), so that they are enforceable before a court or tribunal (recommendation 25).

We urge the Committee to:

- **Support a maximalist (full and direct) approach to incorporation of the UNCRC in Wales.**
- **Call on the Welsh Government to take further steps to progress incorporation of the UNCRC in Wales so that it is made part of Welsh law in a way which permits children in Wales (or their representatives) to take action to enforce children's rights.**

A Child Rights Approach as part of National Strategy on Children



7. The Child Rights Measure, the Welsh Government's Children's Scheme, and its use of Child Rights Impact Assessment (CRIA) as part of an Integrated Impact Assessment provide a framework for a child rights approach to children's policy in Wales. This has been further enhanced through the adoption of a principled and modelled Child Rights Approach to frame the Children's Scheme. The Children's Rights Approach was developed by the Observatory on behalf of the Children's Commissioner for Wales (CCfW) and is based on extensive research into approaches to implementing children's rights in practice.⁸
8. In its National Inquiry on Children's Rights 2020,⁹ the Committee made a number of recommendations consistent with a Child Rights Approach to policy, these were: introduce a child-friendly complaints system for children, training for Welsh Government Ministers on children's rights, children's budgeting, monitoring of children's rights and more effective and early application of CRIA.
9. The 2021 SAEHR Report 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). Once again, these are consistent with a Child Rights Approach.

¹ Additional Learning Needs and Educational Tribunal (Wales) Act 2018.

² Social Services and Wellbeing (Wales) Act 2014.

³ Hoffman, S.; Nason, S.; Beacock, R.; Hicks, E. (with contribution by Croke, R.) (2021). *Strengthening and advancing equality and human rights in Wales*. Cardiff: Welsh Government, GSR report number 54/2021: <https://gov.wales/strengthening-and-advancing-equality-and-human-rights-wales> (accessed September 2021).

⁴ S.1, Rights of Children and Young Persons (Wales) Measure 2011.

⁵ UNCRC (Incorporation) (Scotland) Bill.

⁶ Croke R (2020), *A case study investigation into a children's rights approach to health services*. Hillary Rodham Clinton School of Law. Swansea University, See Chapter 10.

⁷ Hoffman, S.; Nason, S.; Beacock, R.; Hicks, E. (with contribution by Croke, R.) (2021). *Strengthening and advancing equality and human rights in Wales*. Cardiff: Welsh Government, GSR report number 54/2021, <https://gov.wales/strengthening-and-advancing-equality-and-human-rights-wales> (accessed September 2021); Kilkelly, U., "The UN convention on the rights of the child: incremental and transformative approaches to legal implementation", *The International Journal of Human Rights*, 2019 (23(3)), 323–337.

⁸ Children's Commissioner for Wales. 2017. *The Right Way: A Children's Rights Approach*. Swansea: CCfW, Available online: <https://www.childcomwales.org.uk/wp-content/uploads/2017/04/The-Right-Way.pdf> (accessed on 2 March 2021).

⁹ Senedd Children and Young People and Education Committee. 2020. National Inquiry into Children's Rights. Available online: <https://senedd.wales/laid%20documents/cr-ld13405-r/cr-ld13405-r-e.pdf> (accessed on 10 December 2020).



10. We see a need to focus on a Child Rights Approach to law and policy in Wales, and in particular to promote this approach as the basis for a Welsh Government National Strategy for Children.¹⁰ Furthermore, specific to CRIA, we note that a number of research reports have commented on the need to improve CRIA, including the recent 2021 SAEHR Report.

11. CRIA is key to giving effect to children's rights in legislation and policy. For this reason we feel the Committee should pay particular attention to ensuring that CRIA is effective in Wales. The 2021 SAEHR makes a number of recommendations to improve the Welsh Government's Integrated Impact Assessment (IIA) (see in particular recommendations 18 and 19). We believe these recommendations should be applied to improve CRIA as part of IIA.

We urge the Committee to:

- **Promote the Child Rights Approach endorsed by the CCfW as a guiding framework for children's policy across the public sector in Wales.**
- **Call on the Welsh Government to develop a National Strategy for Children, deploying a Child Rights Approach as a guiding framework.**
- **Encourage improvement of CRIA by calling on the Welsh Government to implement the recommendations in the 2021 SAEHR Report on Impact Assessment.**

Raise Awareness of Children's Rights

12. We welcome the new duties on local authorities, head teachers and governing bodies to promote knowledge and understanding of the UNCRC and persons with disabilities through Part 6 of the Curriculum and Assessment (Wales) Act 2021. However, we agree with the findings set out in 2021 SAEHR Report that more needs to be done to strengthen human rights education in Wales.

13. We believe the curriculum should be more directive to require human rights education. We adopt the recommendation made in the 2021 SAEHR Report for guidance on the curriculum to mandate inclusion of human rights principles (see recommendation 34).

¹⁰Croke R (2020), *A case study investigation into a children's rights approach to health services*. Hillary Rodham Clinton School of Law. Swansea University, See Chapter 10.



We urge the Committee to:

- **Call on the Welsh Government to make human rights education a mandatory requirement in the Welsh Curriculum.**

Children's rights in a public health emergency

14. Evidence establishes that the pandemic has had a negative impact on children's health, mental health, children's right to play and freedom of assembly, children's right to a quality education, children's right to an adequate standard of living and children's right to be protected from violence. For example, the NSPCC reported an unprecedented demand across the UK for their Child Line Service during lockdown, with child abuse calls to NSPCC rising by 20%.¹¹ Research for the European Network of Ombudspersons for Children (ENOC) in 2021 shows that the pandemic, and Emergency Measures taken in response to the pandemic, have had a broadly negative impact on children across Europe (including in Wales).¹²

15. ENOC will publish a position statement on Emergency Measures during a pandemic, with recommendations for future action in the event of a further public health emergency. The Observatory has been closely involved developing the recommendations to be put forward by ENOC (not currently in the public domain, due for publication late September 2021). We suggest that the Committee review the ENOC recommendations in due course with a view to ensuring they are adopted by the Welsh Government as principles to guide law and policy in Wales in the event of future public health emergencies.

We urge the Committee to:

- **Call on the Welsh Government to ensure that children's rights are properly protected and respected during any public health emergency.**

End Child Poverty

¹¹ NSPCC, <https://www.nspcc.org.uk/about-us/news-opinion/2020/report-risk-abuse-teenagers-children/> (accessed April 26 2021).

¹² Croke R and Hoffman S, *Mapping the Impact of Emergency Measures Introduced in Response to the Covid-19 Pandemic on Children's Rights in ENOC Member States*, Observatory on the Human Rights of Children 2021 (due to be published September 2021).



16. 29% of children were already living in relative poverty in Wales pre the pandemic.¹³

The impact of the pandemic means the number of children living in poverty has increased.¹⁴ Alongside and as an aspect of poverty, many children are experiencing food poverty.¹⁵ This is a violation of Article 27 of the UNCRC (the right to an adequate standard of living) it is unacceptable that any child in Wales should not be fully benefiting from this right, including adequate food.

17. In collaboration with Food Sense Wales and the CPAG, and with input from a Young Food Ambassador we held a webinar on food poverty earlier this year. Amongst the outcomes of the webinar was recognition of the importance of the Children's Right to Food Charter. We urge the Committee to take account of the Charter, and the five principles it sets out:

- A right to food commission;
- A nutritious start in life for every child;
- A healthy lunch every day;
- Stop the stigma (of food poverty);
- Health before profits.¹⁶

18. We ask the Committee to endorse the Charter and to revisit the Welsh Government's obligations under the Children and Families (Measure) 2010 and their commitment to end child poverty by 2020.¹⁷ While action in Wales is limited by the UK Government's control over tax and benefits, we do not see this as good reason for not prioritising ending poverty in Wales and setting ambitious targets.

¹³Welsh Government, Child Poverty Progress report (Welsh Government 2019). <https://gov.wales/sites/default/files/publications/2020-01/child-poverty-strategy-2019-progress-report.pdf> (accessed September 8 2021)

¹⁴Resolution Foundation (2021) *Long Covid in the Labour market, The impact on the labour market of Covid-19 a year into the crisis and how to secure a strong recovery*, <https://www.resolutionfoundation.org/app/uploads/2021/02/Long-covid-in-the-labour-market.pdf> (accessed September 8 2021); Bevan Foundation (2020) *A snapshot of poverty in Winter 2020*, <https://www.bevanfoundation.org/wp-content/uploads/2020/12/A-snapshot-of-poverty-in-winter-2020.pdf> (accessed September 8 2021);

¹⁵ UK Children's Commissioner's Report., *Children's rights in the UK in the context of the COVID-19 pandemic, Annex to Report of the UK Children's Commissioners to the United Nations Committee on the Rights of the Child: Examination of the Combined Sixth and Seventh Periodic Reports of the United Kingdom of Great Britain and Northern Ireland*, December 2020 <https://www.childrenscommissioner.gov.uk/wp-content/uploads/2020/12/cco-uncrc-report-covid-annex.pdf.pdf> (accessed September 10 2021)

¹⁶ Children's Legal Centre for Wales, Information and recommendations on food poverty <https://childrenslegalcentre.wales/child-food-poverty/>

¹⁷ Croke R & Crowley A (2013) *Child poverty and human rights*, In Williams J (eds) *The United Nations Convention on the Rights of the Child in Wales*. (University of Wales Press).



We support the Bevan Foundation and the Joseph Rowntree Foundation's call for the Welsh Government to create a 'Welsh Benefits System'.¹⁸

We urge the Committee to:

- **Endorse the Children's Right to Food Charter.**
- **Recognise ending child poverty in Wales as a priority for law and policy in Wales.**
- **Call on the Welsh Government to develop a new strategy and plan of action to end child poverty.**

Sustainable development and climate change

19. We note that the Welsh Government is committed to sustainable development and tackling climate change. There is a clear link between children's rights and sustainable development,¹⁹ as noted by the CCfW and the Future Generations Commissioner.²⁰ The UN Committee on the Rights of the Child emphasises that climate change is the 'biggest threat to children's health and exacerbates health disparities'²¹ and the Office of the High Commissioner on Human Rights acknowledges, climate change has a disproportionate impact on children.²² The UN Committee on the Rights of the Child is currently drafting a new General Comment on Children's Rights and the Environment.²³

¹⁸ Bevan Foundation (N.D) Welsh Benefits System, how it can help solve poverty, <https://www.bevanfoundation.org/resources/a-welsh-benefits-system/> (accessed September 8 2021)

¹⁹Croke R, Dale H, Dunhill A, Roberts A, Unnithan M, William J, 'Integrating Sustainable Development and Children's Rights: A Case Study on Wales'. *Soc. Sci.* 2021, 10, 100. <https://www.mdpi.com/2076-0760/10/3/100> (accessed April 6 2021)

²⁰ Children's Commissioner for Wales and Future Generations Commissioner. 2017. The Right Way: A Wales Future Fit for Children, https://www.childrensrightsplanning.wales/wp-content/uploads/2018/06/CCFW-FGCW-Report-English_01.pdf (accessed on 21 December 2020).

²¹Committee on the Rights of the Child. General Comment No. 15 on the Rights of the Child to the Enjoyment of the Highest Attainable Standard of Health. CRC/C/15/2013, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f15&Lang=en (accessed on 2 March 2021).

²² Office of the High Commissioner. 2016. Report of the Office of the High Commissioner on Human Rights. 2016. Analytical Study on the Relationship between Climate Change and the Human Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health. A/HRC/32/23 (UN General Assembly) Paras 26–27 <https://digitallibrary.un.org/record/841798?ln=en> (accessed on 2 March 2021).

²³ The UN Committee on the Rights of the Child commits to a new General Comment on Children's Right and the Environment with a special focus on Climate Change. <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27139&LangID=E> (accessed September 8 2021)



20. The 2021 SAEHR Report sets out a number of recommendations to promote better alignment between the well-being (sustainable development) agenda and human rights agenda in Wales (see recommendations 9-16). We feel these recommendations, if implemented by the Welsh Government, would contribute toward stronger alignment between children's rights and sustainable development in Wales.

We urge the Committee to:

- **Promote the better integration of the children's rights and sustainable development agendas in Wales.**
- **Call on the Welsh Government to implement the recommendations in the 2021 SAEHR Report to align human rights and sustainable development agendas in Wales.**

