

By email

12/03/2019

RE: P-05-825 Correspondence from the Chair of the Petitions Committee

Dear Petitions Committee,

Thank you for your letter dated 1 February 2019 regarding the Petition to protect children's lungs from harmful pollution whilst at school.

As this issue relates to the rights of children, we believe that it also falls within the remit of the Children's Commissioner for Wales. Therefore, after discussions between our two teams, we have decided to issue a joint response to your letter dated 1 February 2019.

We recognise the importance of this topic and the health impacts air quality has on the well-being of current and future generations in Wales and we welcome the Petitions Committee's consideration of the issue. You might like to know we recently issued a [joint statement](#) supporting the school children strike for climate change - an issue closely linked to air quality.

We would like to start by explaining our main duties and powers. The duty of the Future Generations Commissioner for Wales is to promote the sustainable development principle (acting in a way that ensures that the needs of the present are met without compromising the ability of future generations to meet their needs). The principal aim of the Children's Commissioner is to safeguard and promote the rights and welfare of children in Wales, and she is required to have regard to the United Nations Convention on the Rights of the Child (UNCRC) in doing so.

We do not currently have the legal powers to enforce any policy or regulations around air quality. Should the actions called for in the petition be accepted by the Welsh Government however, this may change.

Both Commissioners set their work plans in response to consultation with members of the public and professionals in Wales and have a duty to deliver against those plans. Unfortunately, neither Commissioner has the level or expertise or resources to carry out detailed research on this topic.

The Future Generations Commissioner for Wales' office participated in workshops with the third sector and Welsh Government to challenge Welsh Government to use the Well-being of Future Generations Act fully in the design of their new Air Quality Strategy following on the court case from Friends of the Earth.

In terms of alternative levers for addressing the effects of air pollution on children, the Commissioners have the powers to provide advice or assistance to public bodies. The Future Generations Commissioner for Wales can also encourage best practice, promote awareness of the Act, encourage collaboration. However, such advice is not mandatory for public bodies to follow. She can also conduct statutory reviews and provide recommendations to public bodies on how to improve the way in which they look at the long-term impact of the things they do in line with their well-being duty. However, these recommendations can only be for the future and would not affect the decisions reviewed.

Given the huge remit of The Well-being of Future Generations Act, the Future Generations Commissioner for Wales has carried out a consultation exercise and determined six areas to focus her work on. These are planning, transport, housing stock, adverse childhood experiences, alternative health models, and skills for the future.

Air quality is clearly closely linked to her focus on transport. The Commissioner's recent report, [Transport Fit for Future Generations](#), calls for a modal shift to sustainable transport in order to address a plethora of issues, including air quality.

The call for sustainable transport to improve air quality was also included in the new [Planning Policy Wales](#), where the Future Generations Commissioner for Wales worked with Welsh Government to ensure the policy contributed to the well-being goals and that the Well-being of Future Generations Act was fully embedded in it.

As part of her duty to promote the sustainable development principle, the Future Generations Commissioner for Wales also has to monitor and assess the extent to which the public bodies listed in the Well-being of Future Generations Act are meeting the well-being objectives they have set for themselves. There are 10 local authorities and 7 public services boards which reference air quality in either the steps they plan to take to achieve their well-being objectives or as a measurement of their progress. The Future Generations Commissioner for Wales is currently in the process of reviewing the first set of annual reports public bodies have published on the progress of meeting their well-being objectives. This work will conclude shortly, and we will publish an overview report this summer. Advice on setting and meeting well-being objectives will also be set out in the Future Generations Report that the Future Generations Commissioner for Wales must publish in 2020.

Welsh Ministers have a duty to have due regard to the UNCRC in the exercise of their functions under the Rights of Children and Young Persons (Wales) Measure 2011. There are no 'set' criteria in respect of how to give due regard to the UNCRC, but it requires more than just a passing thought. On a practical level the Children's Commissioner would expect children's rights to be integrated into every aspect of decision making and for there to be evidence of this having taken place.

The Children's Commissioner has published [The Right Way](#) which is a practical guide to taking a children's rights approach to the work of any public bodies including the Welsh Government and local authorities. There are five principles of a children's rights approach: embedding, equality and non-discrimination, empowerment, participation and accountability.

In addition, the Commissioners have jointly published a [range of materials](#) including a self-assessment toolkit that allows public bodies to consider how their work upholds both the Future Generations legislation and children's rights. These points do not have to be mutually exclusive provided there is a thorough and careful consideration of the issues. Done well, an integrated assessment in whatever format can consider issues such as air quality and children's health in the context of both. A child's right to be healthy and active and to be kept safe is also compatible with cohesive communities and a healthier Wales, and the expectations for involvement and participation can also be closely aligned, just as examples.

The Children's Commissioner's legal remit allows her to review the exercise of functions of specific public bodies including local authorities. As noted above local authorities are not currently required to undertake air quality assessments near schools, but if this action was supported, the Children's Commissioner would be able to review the actions of any local authority in respect of this. The legal power is worded such that she would have to produce a report of findings and recommendations, and then if the relevant body had not responded within 3 months, she may enquire further as regards compliance with the report and advise that should they not respond within a further 3 months she can publish such failure as deemed appropriate.

Research by UNICEF in 2018 led to the publication of the paper '[A breath of toxic air: UK children in danger](#)'. This states that "[c]hildren are particularly vulnerable to the health impacts of toxic air.....The youngest and poorest children are carrying the weight of this burden." They make a number of recommendations including child friendly urban areas and a network of clean air zones, the expansion of air quality monitoring and data collection to better reflect children's exposure, ensuring that children's rights are at the centre of policy making, and that all information is disseminated in an accessible and child-friendly way, and detailed research into the health impacts and risk for all children – broken down by age, disability, gender, ethnicity and socio-economic background.

We are in regular contact with Friends of the Earth Cymru who are conducting work on air quality in Wales and they have advised us that there are local groups that use air pollution monitoring tubes to get a snapshot of the air quality in their local area. This is also available to schools with a pack and there is more information about it [here](#). However, Friends of the Earth said that these are just samples and there is no available data providing a full picture of air quality around schools. Their recommendation is that more monitoring and information are necessary to assess the situation.

The Royal College of Physicians has produced a report called '[Every breath we take: the lifelong impact of air pollution](#)'. One of the recommendations in this report calls for local government to monitor air pollution effectively, especially in major urban areas and near schools.

King's College London has produced a report that explores the effects that air pollution can have on children's health. You can find more information on that [here](#).

We believe it would also be beneficial to hear the views of Natural Resources Wales, Public Health Wales and the Health & Safety Executive on air quality and its effect on children in Wales and also to find out what work they may be doing to improve the situation.

Finally, we believe that monitoring air quality around school would be only the first step towards improving this issue and protecting children from suffering the impacts of air pollution. We need to think long-term and safeguard the current and future generations of Wales and we cannot do that without getting a full picture of what air quality is like around schools. Therefore, we urge the Committee to act now to ensure that we are aware of the quality of air children in Welsh schools are breathing.

Thank you again for seeking our views on this very important issue. We hope you find this letter useful. We would be grateful if you could let us know about any action you decide to take as a result of this petition.

Yours sincerely,



Sophie Howe
Future Generations Commissioner for Wales



Sally Holland
Children's Commissioner for Wales