

To: Janet Finch-
Saunders AM

Chair, Petitions
Committee

Via email only

12 July 2019

Dear Chair,

Re; Petition P-05-804 We need Welsh Government funding for play!!

A unique aspect of the human rights specifically given to children under the United Nations Convention on the Rights of the Child (UNCRC) and what makes it so special is that it values no individual right over another and that they are all linked.

Article 31 states:

"1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.

2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity."¹

In 2013 the United Nations Committee was concerned by the poor recognition given by States to the rights contained in Article 31² including investment.

"Poor recognition of their significance in the lives of children results in lack of investment in appropriate provisions, weak or non-existent protective legislation and the invisibility of children in national and local-level planning. In general, where investment is made, it is in the provision of structured and organized activities, but equally important is the need to create time and space for children to engage in spontaneous play, recreation and creativity, and to promote societal attitudes that support and encourage such activity."³

As a result the Committee created General Comment 17 which seeks to enhance the understanding of the importance of article 31 for children's well-being and development; to ensure respect for and strengthen the application

¹ Committee on the Rights of the Child, [United Nations Convention on the Rights of the Child](#), 1989.

² Committee on the Rights of the Child, [General Comment 17](#), 2013

³ Et al.



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of the rights under article 31. The Committee may wish to familiarise themselves with this document.

I am pleased that Wales introduced and fully implemented its play sufficiency duties in 2014 under the Child and Families (Wales) Measure 2010, providing a signal of the value of play and incorporating a specific requirement, through regulation, to consult with children and young people about play opportunities in their area. As a reminder this duty includes play and recreational activities for children of all ages.

In 2016 the UN Committee on the Rights of the Child published its Concluding Observations following its periodical examination of the UK and devolved government's adherence to the UNCRC. The Committee recognised and welcomed "the initiative of the government of Wales to adopt a play policy and integrate children's right to play systematically in relevant legislation and other relevant policies."⁴

In my discussions, even with younger children, about their right to be supported to grow up happy, healthy and safe, they raise that play makes them happy. Five to seven year olds told me as part of my [Beth Nesa](#) consultation 2015, which involved over 7000 children and young people in Wales, that play was important to them - their biggest priority was "more places to play." "Better places for young people to spend time in their local area" was ranked 6th priority for 7-11 year olds and 3rd for 11-18 year olds. My [Spot Light Report: Article 31 - the right for all children to have rest and leisure, to engage in play and recreational activities and to participate in cultural life and the arts \(Article 31 Report\)](#), published in 2018 also shone a spotlight on children's experiences here in Wales in terms of play, sport, leisure, cultural and heritage activities, particularly those whose voice are often less likely to be heard for example children with disabilities, whose families are on a low income and care experienced children. There was an overwhelming sense that children and young people want to play and spend free time in their own communities feeling safe, and having opportunities to take part with friends or other children

I strongly recognise the roles of all stakeholders in providing open access and targeted play provision including the voluntary sector and it is prudent of the Committee to have asked for further details to inform their view of the availability of different types of play provision available in Wales whilst deliberating this petition. I also understand that a small scale research project has been commissioned by Play Wales into perceptions of change since the commencement of the Play Sufficiency Duty.

Whilst the experiences shared in my [Article 31 report](#) cannot be considered representative they are valuable and suggest that children and young people, especially those with disabilities, those living in families with little money, and

⁴ Committee on the Rights of the Child, [Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland](#),* July 2016



other marginalised groups, experience some fundamental barriers to play, and children's other rights under Article 31. Barriers included sufficiency and locality of open-access free provision, costs of paid-for provision and transport, particularly in rural areas. Some children also faced cultural barriers.

The UN Committee's Concluding Observations in 2016 recommended the State party, **including the governments of the devolved administrations** (emphasis added):

" (a) Strengthen its efforts to guarantee the right of the child to rest and leisure and to engage in play and recreational activities appropriate to the age of the child, including by adopting and implementing play and leisure policies **with sufficient and sustainable resources**; (emphasis added)."⁵

I would ask the Petitions Committee to keep this and the guiding principles provided by General Comment 17 in mind when considering this matter. The UN Committee will of course be assessing progress against these recommendations.

During my time as Commissioner and in my [Article 31 report](#) I have championed children's right to play and called for Local Authorities not to see play 'as a nice thing to have' whilst acknowledging the balancing act that Local Authorities have to make with their budgets, and due to the annual spend for play falling largely within local authorities core unhypothecated funding. I have also and will always remain adamant that the best use of resources for provision to children and young people will be achieved where they and their families are involved in their design and delivery. In relation to play this should not only be as part of the three year play sufficiency planning process but on individual works and programmes, an example of which can be found towards the end of my report.

I have of course welcomed Welsh Government play funding when it has been made available, as outlined to the Committee by the former Minister for Children, Social Care and Older People and the current Deputy Minister for Health and Social Care.

However as recently as March of this year and as result of conversations with over 500 children and young people and 300 parents/carers my report [A Charter for Change: Protecting Welsh Children from the impact of poverty](#) recommended "further investment from Welsh Government should be made in youth services and play opportunities in Wales, to ensure that these services are available to as many children and young people as possible."

The Welsh Government's All Wales Play Opportunities Grant (AWPOG) should be recognised as a positive source of funding but it is important to note that it comes with short timescales and uncertainty in terms of when and if it is to be

⁵ Committee on the Rights of the Child, [Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland](#),* July 2016.



made available. I note Play Wales suggest in their submission to the Committee that this grant has been largely responsible for assisting local authorities with their delivery of their sufficiency plans in the last 2 years. In examining a random small selection of Local Authority's recent play sufficiency assessments the AWPOG can be seen to have been highlighted as a positive resource for supporting play, however uncertainty of funding was highlighted as a barrier. One Local Authority described how they prepare 'off the shelf' projects for discussion with stakeholders should grant funds become available, to ensure it is utilised.

The uncertainty of funding arrangements has been highlighted by the Deputy Minister for Health and Social Services letter to committee with the phrase "at times when funding has become available."⁶

The importance of the right to play should not be overlooked and as a minimum I would expect the following:

- Government should:
 - Continuously be working to assess, review and evidence how and what resources it makes available or could make available to help local authorities to secure sustainable as well as sufficient arrangements. In doing so it should consider whether this is done in the most effective way possible, considering feedback from those concerned. This should be the case irrespective of whether at the time the policy and legislation was introduced there was designated funding committed from Welsh Government.
 - Ensure that guidance to Local Authorities is clear around stakeholder involvement, including the voluntary sector.
- Local Authorities:
 - Must recognise the right to play under Article 31, not see it as a 'nice to have' and evidence that they have taken this into consideration in respect of spending decisions, maximising opportunities wherever possible.
 - Involve children and young people in the play sufficiency process but also in individual projects and provision. Views from children and young people in my Article 31 Spotlight Report suggest that this is far from being a widespread experience.
 - Have arrangements in place which help maximise opportunities for funding that become available throughout the year.

⁶ Deputy Minister Health and Social Services, [Letter to petitions committee 09/05/2019](#).



- Have accountability arrangements in place, including for children and young people, regarding decisions about play.

I would not want the current, valuable grant arrangements that are in place, particularly the All Wales Play Opportunities Grant, to be jeopardised in the short or medium term through any review of arrangements or policy arising from this discussion or wider Welsh Government reviews without assessing the impact this will have.

On a final note regarding decisions in relation to play policy, including funding, I would remind all concerned of the following from General Comment 17.

"While the International Covenant on Economic, Social and Cultural Rights provides for the progressive realization of economic, social and cultural rights and recognizes the problems arising from limited resources, it imposes on States parties the specific and continuing obligation, even where resources are inadequate, to "strive to ensure the widest possible enjoyment of the relevant rights under the prevailing circumstances"⁷. As such, no regressive measures in relation to the rights under article 31 are permitted. Should any such deliberate measure be taken, the State would have to prove that it has carefully considered all the alternatives, including giving due weight to children's expressed views on the issue, and that the decision was justified, bearing in mind all other rights provided for in the Convention."⁸

Yours sincerely,



Sally

Sally Holland
Comisiynydd Plant Cymru
Children's Commissioner for Wales

⁷Committee on Economic, Social and Cultural Rights, general comment No. 3 (1990) on the nature of States parties obligations, para. 11.

⁸ Committee on the Rights of the Child, [General Comment 17](#), 2013.

