



Llywodraeth Cymru
Welsh Government

THE WELSH GOVERNMENT RESPONSE
TO THE ANNUAL REPORT OF THE
CHILDREN'S COMMISSIONER FOR
WALES 2014-15

November 2015

RESPONSE FROM THE WELSH GOVERNMENT TO THE ANNUAL REPORT OF THE CHILDREN'S COMMISSIONER FOR WALES 2014-15



Foreword by Rt Hon Carwyn Jones AM First Minister of Wales

I am pleased to have the opportunity to consider and respond to the issues and concerns raised by the Children's Commissioner in her Annual Report 2014-15. I am once again reminded of the ongoing importance and value of having a Commissioner to champion and safeguard the rights of our children and young people. I would like to thank the Commissioner and her office for the annual report and for continuing to raise with us all the issues which are important to children and young people.

This has been a busy year for the Commissioner's office. They have welcomed a new Commissioner who has, since her appointment, spent time looking at the current working practices of her organisation. She has also been working on the recommendations contained within Dr Shooter's independent review and I am pleased with the care she has clearly taken in considering each and every recommendation.

I understand the Commissioner will be setting out her strategic goals in January 2016, including the organisational structure and working methods which will enable her to fulfil those goals. We have offered the Commissioner our full support.

With these changes comes a time to reflect on our progress in realising the rights of children and young people during this Government term. Earlier this month, we published our Programme for Children and Young People, which reflects upon the progress of our Programme for Government in the context of children's rights, and continues to set out a vision for the future. It has always been our position, and will always be our position, that children and young people are full and active citizens in Wales and they have a valuable and unique contribution to make to our communities.

In terms of our ongoing work to raise awareness of children's rights, we have revisited our strategy and will continue to work with key stakeholders, including the Commissioner. We will also continue to hear the voices of children and young people to inform our work through 'Young Wales', the national independent participation platform for children and young people. I am pleased the Commissioner has welcomed Young Wales and offered them her support.

I hope in return the Commissioner will see, when considering our response, how we also value the work she and her office do and how we have acted, and continue to act, on the concerns she raises as we all work to create a better future for children and young people in Wales.

A handwritten signature in black ink, appearing to read 'Caryn Jones', written in a cursive style.

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1. Education and Additional Learning Needs

Background

In her annual report, the Commissioner states how improvements in educational experience for all children and young people in Wales continue to be a priority for her office. Our Programme for Government, published in 2011, contains a commitment to ‘reform the Additional Learning Needs process for the most vulnerable children and young people in either a school or Further Education (FE) setting’.

“It is important that the Welsh Government delivers the commitment set out within its Programme of Government to introduce new legislation, supported by a robust Code of Practice, meeting the education, welfare and wellbeing needs of children and young people with additional learning needs.”

CCfW annual report 2014/15

Welsh Government Response

We recognise the existing legislative frameworks, for supporting children and young people with special educational needs and young people in further education who have learning difficulties and/or disabilities, have become outdated and require reform. We remain committed to the introduction of a single legislative framework of support, which applies to all children and young people with additional learning needs from birth to 25.

To this end, we published for consultation in July 2015, our draft Additional Learning Needs and Education Tribunal (Wales) Bill and various supporting documents. These set out, in the clearest possible terms, our legislative intentions. In particular, the draft Bill proposes the introduction of a single education plan for children and young people with additional learning needs, to be known as the Individual Development Plan. This new plan, and the processes which support it, will replace the current assessment process, which the evidence suggests is inefficient, bureaucratic and costly, as well as insufficiently child-centred or user-friendly. Furthermore, it will remove the in-built inequity in relation to the statutory protection given to learners with different levels of need and the lack of continuity in the support given to learners in schools and those in further education.

We also published on 30 September, an initial working draft of a new Additional Learning Needs Code. This aims to provide those intending to respond to the consultation on the draft Bill with as full an understanding as possible of our proposed package of reforms.

Further development of the draft Bill will be undertaken in the light of the consultation responses which are received by the closing date of 18 December 2015. Potential legislation will of course be a matter for the next Government.

2. Advocacy

Background

'Missing Voices: Right to be Heard' was published in 2014 as the third in a series which looked at the provision of advocacy services for vulnerable children and young people in Wales.

“The Welsh Government should ensure that a national model for statutory advocacy services is agreed and implemented by April 2016 to coincide with the requirements under the Social Services and Wellbeing (Wales) Act 2014 coming into force.”

CCfW annual report 2014/15

Welsh Government Response

We are grateful for the continued support of the Commissioner's office in the development of the national approach for statutory advocacy. In response to the Commissioner's reports, we tasked Local Authorities to consider the findings and bring forward proposals to improve the awareness, understanding and delivery of statutory advocacy in Wales.

We understand that the WLGA led task and finish group (on which the Commissioners Office is represented) is progressing well with the development of the business case that will address the Commissioner's findings about statutory advocacy in Wales. The outcomes of this work are on schedule to be presented to the Minister for Health and Social Services consideration in November.

The code of practice on advocacy under the Social Services and Well-being (Wales) Act 2014, which reinforces children's rights and entitlements to statutory advocacy, was laid before the National Assembly for Wales on 3 November in advance of implementation in April 2016.

3. Child and Adolescent Mental Health (CAMHS)

Background

Improving mental health and mental wellbeing should help address health and other inequalities, increase levels of education, increase qualifications and employment opportunities, tackle poverty, drug and alcohol misuse, and homelessness and reduce the number of young people entering the youth justice system. It can have an effect on all areas of life including life expectancy.

“The Welsh Government and relevant key partners, including Local Health Boards, education and other services that have an effect upon the mental health and wellbeing of children and young people must deliver their improvement programme on CAMHS as a matter of urgency. The engagement of children and young people within developments is critical to this. It is important that the focus is on achieving change and seeing clear progress in children and young people’s experiences of mental health services.”

CCfW annual report 2014/15

Welsh Government Response

We recognise the engagement of children and young people in the development of future emotional and mental health services is an important step to ensure that these services meet their needs.

To this end, the NHS led Together for Children and Young People Programme (T4CYP), launched earlier in the year, aims to move CAMHS forward to make it fit for the future needs of children and young people. T4CYP is a multi-agency, multi-professional programme aimed at improving the emotional and mental health services provided for children and young people in Wales. The programme was launched at the end of February 2015 and is being led by the NHS in Wales with our support. We support this work and we have invested an additional £7.65m of new money into CAMHS from 2015-16 onwards. We have also commissioned the internationally renowned child psychiatrist, Professor Dame Sue Bailey, to provide external advice and scrutiny to the NHS and its partners in this work. The Children’s Commissioner is engaged in this work.

We will continue to work closely with the Children’s Commissioner’s Office, Children in Wales and the third sector ‘High Needs Collaborative’ to ensure ongoing input from children and young people.

The Commissioner's 'Beth Nesa/What Next' survey, Children in Wales' 'Young Wales' project and Hafal's 'Making Sense' survey will be used as the key mechanisms for engagement and to enable the T4CYP Programme Board to assure its priorities with children and young people directly. It has been agreed the key messages from these initiatives should be collated into a compendium of common themes which would be shared with the T4CYP focused workstreams to ensure their actions are addressing the issues which are important to children and young people themselves. A 'You Said / We Did' report will be developed to highlight the action taken to respond to these issues. This will demonstrate clearly, how the T4CYP programme is listening and acting upon the issues raised by children and young people.

4. Child Sexual Exploitation (CSE)

Background

Child Sexual Exploitation (CSE) is a recognised form of abuse by which children and young people are coerced or manipulated to participate in exploitative sexual activities in exchange for a gift or reward.

“I call on the Welsh Government to ensure that a national action plan is published by the end of 2015, accompanied by a directive to all Regional Safeguarding Boards outlining the data that must be collected and recorded in relation to CSE. Collating this data will assist the Welsh Government to create a national picture of CSE in Wales. The Welsh Government should assess the levels of resource needed to deliver this action plan, to ensure real and sustainable change for those children and young people at risk of or who have been victims of CSE.”

CCfW annual report 2014/15

Welsh Government Response

We have taken the lead in developing a CSE National Action Plan and are using the cross-sector group chaired by the Commissioner to ensure full engagement and participation of safeguarding partners. The plan builds upon the national, regional and local actions partners are taking, which in turn reflect their individual and collective audits.

The Plan will be informed by data which will support safeguarding partners to better understand the prevalence of the risks and vulnerabilities of children and utilise intelligence to target threats from individuals and settings.

Since 2011, a specific multi-agency protocol on CSE has been embedded into the all-Wales child protection procedures and supported through statutory guidance and the Sexual Exploitation Risk Assessment Framework (SERAF) Service. This has provided safeguarding partners with the confidence of a coherent approach across Wales

We have commissioned Barnardo's to deliver 2 programmes of dedicated training to practitioners during the last year on the protocol, as an integral part of recognising and responding to the CSE and its risks.

5. Looked After Children and Young People

Background

'When I'm Ready' is a Welsh Government scheme which supports care leavers who want to continue living with their foster carers once they turn 18. It was introduced across Wales in March 2015. Local Authorities are expected to develop local schemes in line with national guidelines.

"I call on the Welsh Government to extend the "When I'm Ready" Scheme to all young people in care, including those in residential placements. I urge Welsh Government to provide adequate funding to Local Authorities to ensure that their scheme is implemented effectively across Wales."

CCfW annual report 2014/15

Welsh Government Response

We are grateful to the Children's Commissioner's office for supporting the development of 'When I am Ready'. It was launched in March 2015, when we published guidance to Local Authorities on setting up and running their local 'When I am Ready' schemes. Local Authorities will have new duties to facilitate 'When I am Ready' when the Social Services and Well-being (Wales) Act comes into force in April 2016.

The initial focus of 'When I am Ready' has been on enabling young people in foster care to remain with their former foster carers when they turn 18. This was the focus of the 'Chance to Stay' campaign led by Save the Children, and is also the focus of the 'Staying Put' scheme in England.

We agree with the Commissioner that young people in residential care also have a particular need for stability as they make the transition from care to adult life and more independent living. These are often the children with the most chaotic care histories, and as such their need for stability is at least as great as for their peers who are in foster placements. At present, young people in residential care can access 'When I am Ready' only if they can be found a foster placement before their 18th birthday, which can be converted to a 'When I am Ready' arrangement when they turn 18. For some this will be a positive change, but others will wish to retain their links with the home they have been living in and with the staff who have supported them through their teenage years.

There are various ways in which this could be done, as the recent scoping study in England has shown. In deciding on the best way forward, we will want to learn from the experience in Scotland, which has already introduced new legislation in this area, and also from the pilot schemes in England. There are also practical and financial issues which we will need to consider very carefully.

We are committed to working through these issues with all relevant stakeholders, including young people in residential care, and the Children's Commissioner's office. As a first step, we will be reconvening the 'When I am Ready' Monitoring Group, to evaluate progress to date and to consider the future development of the scheme.

We appreciate implementing 'When I am Ready' will have financial implications for Local Authorities, young people and their carers. However, the experience of the pilot authorities showed that it was difficult to identify exactly what additional implementation costs there will be for Local Authorities, given the fluctuating and unpredictable nature of the costs of supporting young people leaving care generally. We believe that, over time, the costs of implementing 'When I am Ready' will be off-set by savings elsewhere in the costs of leaving care, as young people will have been supported to move to more independent living only when they are ready to do so. Implementation of the Social Services and Well-being (Wales) Act as a whole is being supported by implementation funding provided to the regional collaboratives. It will be for the regions to determine how they use this funding to support implementation.

6. Poverty

Background

Child poverty is unacceptable and levels in Wales remain stubbornly high. Our most recent data show us almost one in three children are currently living in low income households.

“I call on the Welsh Government to publish a specific child poverty action plan to sit alongside the Child Poverty Strategy and the Welsh Government’s Poverty Action Plan setting out practically how it intends meet its targets and objectives.”

CCfW annual report 2014/15

Welsh Government Response

In light of the strong emphasis on child poverty within our all-age Tackling Poverty Action Plan, we do not consider a separate Child Poverty Action Plan is needed.

Our Tackling Poverty Action Plan sets out key milestones and targets and major commitments which specifically focus on children and young people. These targets and commitments are directly linked to the objectives of our Child Poverty Strategy. For example, there are targets for improving the health and cognitive outcomes of children in the early years, breaking the link between poverty and educational attainment, reducing the number of young people who are not in employment, education or training, and reducing the number of families living in workless households.

The Annual Report on the Tackling Poverty Action Plan is the means by which we measure progress on tackling child poverty in Wales. It also provides the mechanism for refreshing the poverty agenda and setting out new commitments to improve the outcomes of low income households.

This year, the Annual Report on the Tackling Poverty Action Plan included new actions and commitments to deliver the priorities of the Revised Child Poverty Strategy, which we published in March 2015. This includes commitments which will contribute to increasing the availability and affordability of childcare, reducing food poverty, mitigating the impacts of welfare reform, reducing in-work poverty, and housing and regeneration.

Delivering the targets in the Tackling Poverty Action Plan will make an important contribution to improving the outcomes of children and families living in low income households. Crucially, it will also enable and support children and young people from low income households to access their rights.

We have identified the delivery of our Child Poverty Strategy as a priority commitment, in relation to the children's rights agenda. Poverty is a fundamental barrier to children and young people realising their rights. By tackling poverty, we can make a major contribution to improving outcomes, a principle which is at the heart of the UNCRC.

7. Social Services

Background

The Regulation and Inspection of Social Care (Wales) Bill was introduced on 23 February 2015. The Bill aims to improve the quality of care and support in Wales and strengthen protection for citizens.

“I call on the Welsh Government to ensure that the duty of due regard for the UNCRC is included on the face of the Regulation and Inspection Bill.”

CCfW annual report 2014/15

Welsh Government Response

The Minister for Health and Social Services has on a number of occasions set out his position whereby the protection of vulnerable individuals' rights is best achieved through the creation of a framework of regulation which ensures regulators have appropriate functions at their disposal to promote and maintain high standards in the provision of social care services and, where necessary, intervene to safeguard vulnerable individuals from harm.

The Regulation and Inspection of Social Care (Wales) Bill itself creates this framework. The Bill is designed to ensure the interests of vulnerable individuals are protected; this will occur through the imposition of detailed duties on providers of social care services and the conferral of tailored powers upon regulators established for the purposes of safeguarding the interests of the vulnerable. I am confident the system of regulation created by the Bill has been informed by the UNCRC and other conventions and principles.

The Minister for Health and Social Services believes the approach taken in this Bill is better suited to afford protection to the vulnerable. By enshrining children's rights into the Rights of Children and Young Persons (Wales) Measure 2011, Welsh Ministers are already required to pay due regard to the UNCRC when using their powers and making decisions. In this way, when developing the statutory standards using the regulatory powers in the Regulation and Inspection of Social Care (Wales) Bill, the UNCRC duties will be fully considered.