

Annex A – Rebalancing Care and Support Programme: Children’s Rights Impact Assessment

1. Policy objectives

1.1. What decision are you impact assessing?

This CRIA deals with the following elements of the Welsh Government’s Rebalancing Care and Support Programme:

- a) development of a National Framework for Commissioning Care and Support (the ‘National Framework’)
- b) revision of the Part 2 Code of Practice (General Functions)
- c) establishing a new National Office for Care and Support.

National Framework

Through the Rebalancing Care and Support Programme we aim to establish a National Framework for Commissioning Care and Support, strengthen regional partnership arrangements and create a National Care and Support Office that will oversee and support the implementation and management of the National Framework.

The National Framework has been co-produced by members of a National Technical Group and is to be established through a statutory Code of Practice that will apply to the commissioning of both children and adult care and support services by local authorities, local health boards and NHS Trusts. It therefore applies to the services of children and young people.

The National Framework seeks to rebalance the basis upon which the provision of care and support services are commissioned, by focusing on outcomes and social value and by shifting from price towards quality and focusing on outcomes.

It will set principles and standards for commissioning practice aimed at reducing complexity, facilitating national consistency of commissioning practices and rebalancing commissioning to focus on quality and outcomes. It provides for greater consistency and transparency within the commissioning cycle.

The development and implementation of the National Framework is an important part of our journey towards a National Care and Support Service and provides some of the necessary foundations for its implementation.

A draft version of the Code was consulted on in the 2023 [Rebalancing Care and Support Programme consultation](#)¹. The consultation responses received were positive about the National Framework and the consistency that it aims to bring into commissioning practices. The draft Code has been amended based on a comprehensive consideration of the consultation responses including the suggestions on how to further strengthen the principles and standards.

¹ <https://www.gov.wales/rebalancing-care-and-support-programme>

This CRIA, the Integrated Impact Assessment, Equalities Impact Assessment, Welsh Language Impact Assessment and the Codes Explanatory Memorandum were published alongside the Code which was laid before the Senedd on the 19 March 2024. On 18 April that draft code was withdrawn by the Minister for Social Care to be amended in light of the Legislation, Justice and Constitution Committees report. The amended draft code was re-laid on 11 June 2024.

Following a transitional implementation period consisting of training and awareness raising for local authority and NHS commissioners of care and support the Code is scheduled to come into force on 1 September 2024.

To support the implementation of the Framework we will put in place a national digital toolkit of good practice documents to support commissioners to deliver against the principles and standards set out in the code.

Welsh Government intends for the Code to be reviewed and updated approximately every 2 years to ensure it aligns with current commissioning practices with non-statutory guidance to be provided (if required) in between the formal 2-year review of the Code.

National Office for care and support

The National office is a new office which is being established within Welsh Government. The National office will encompass the current office of the Chief Social Care Officer and will have a national commissioning function as well as a key role in taking forward Steps Towards a National Care and Support Service for Wales.

2. Gathering evidence and engaging with children and young People

2.1. What existing research and data on children and young people is available to inform your specific policy? Your policy objective may impact on other policy areas – discussions with other policy teams will be an important part of the impact assessment process ensuring you have gathered a range of information and evidence.

National Framework / National Office for Care and Support

Evidence from a wide range of sources has been used to shape and inform the development of the National Framework and the proposed function, intent and aims of the National Office including:

- a) Analysis of the social care market and commissioning of care and support services that was carried out to inform the **Rebalancing Care and Support White Paper**².
- b) The **consultation**³ on the Rebalancing Care and Support White Paper.

² <https://www.gov.wales/sites/default/files/consultations/2021-01/consutation-document.pdf>

³ <https://www.gov.wales/improving-social-care-arrangements-and-partnership-working>

- c) The **evaluation**⁴ of the **Social Services and Well-Being (Wales) Act 2014**⁵ (“the Act”).
- d) Members of the National Framework Technical Group which included broad representation from a range of internal and external stakeholders including: Social Care Wales; ADSS Cymru; Local authorities; Independent Children’s Homes Association; Children’s Commissioning Consortium Cymru (4Cs); Health Boards; National Commissioning Board; National Provider Forum; The Fostering Network; National Collaborative Commissioning Unit (NCCU); Care Inspectorate Wales; CWMPAS; Equality and Human Rights Commission and Care Forum Wales. Members were expected to consider critical dependencies, the wider Programme for Government commitments and the Co-operation Agreement when providing advice and final recommendations on the National Framework. The critical dependencies identified were:
- Eliminate private profit from the care of looked after children programme board;
 - Transforming Children’s Social Care Oversight Board;
 - Social Care Fair Work Forum;
 - Social Partnership & Public Procurement (Wales) Bill;
 - UK GOV Public Procurement Bill;
 - Regional Task and Finish Groups; and
 - Funded Nursing Care and Continuing Health Care policy reviews (including the relationship with direct payments).
 - Engagement with policy officials leading on the Removing profit from the care of children programme.
- e) members of the National Framework Technical Group which included broad representation from a range of internal and external stakeholders including:
- Chief Social Care Office for Wales, Welsh Government
 - Deputy Director of Futures and Integration, Welsh Government
 - National Office policy leads, Welsh Government
 - NHS Executive programme
 - Director of Planning, Welsh Government
 - Director of Transformation (Children’s and Adult Social Care Services), Welsh Government
 - Care Inspectorate Wales
 - ADSS Cymru
 - WLGA
 - Welsh NHS Confederation
 - Social Care Wales
 - National Commissioning Board (Executive Board)
 - Care Forum Wales
 - CEO Solace
- f) Commissioning survey report: ADSS Cymru Business Unit invited every local authority and local health board in Wales to complete a survey on their commission and procurement arrangements. The survey sought to capture information including, where relevant, real-life examples of what is currently working well; what could be expanded, replicated or reduced and barriers to

⁴ <https://www.gov.wales/evaluation-social-services-and-well-being-wales-act-2014>

⁵ <https://www.legislation.gov.uk/anaw/2014/4>

preventing good commissioning (including planning, procurement and contract management). It also sought to find out significant issues or problems related to commissioning of care that may become important over the coming years and the procurement processes currently being used. Responses were received from children's social services departments.

- g) **Towards a National Care and Support Service for Wales**⁶ - Report of the Expert Group
- h) The 2023 Rebalancing Care and Support Programme consultation events which included an online engagement event on 28 June and an in-person event on 11 July both of which were attended by a wide range of representatives from local government, NHS, third sector and independent sector organisations. Throughout the consultation officials also held meetings with Community Housing Cymru attended by key housing stakeholders and Age Cymru attended by members of their consultative forum and national older people's groups.
- i) The 2023 **Rebalancing Care and Support Programme consultation**⁷ responses. A total of 96 responses were received from the consultation from a wide range of organisations and individuals with the largest group categorised as coming from the Third/Voluntary sector. Responses were received from local government organisations, NHS bodies, all 7 Regional Partnership Boards, social care providers, representative bodies representing providers, other professional representative bodies, statutory commissioners, independent statutory bodies, trade unions, individuals and academic organisations. Detailed and comprehensive responses from social care providers, The Children's Commissioning Consortium Cymru (4Cs), Social Care Wales, Equality and Human Rights Commission, The Children's Commissioner for Wales, Barnardo's Cymru, Children in Wales and NSPCC were particularly helpful in relation to considering the impact of the National Framework on children's care and support services and children's rights.
- j) The Children's Commissioner for Wales guidance:
 - **THE RIGHT WAY - A Children's Rights Approach in Wales – A Children's Rights Approach is a principled and practical framework for working with children, grounded in the UN Convention on the Rights of the Child**⁸; and
 - **THE RIGHT WAY - A Children's Rights Approach for Social Care in Wales – A Children's Rights Approach is a principled and practical framework for working with children, grounded in the UN Convention on the Rights of the Child**⁹

Part 2 Code of Practice

The proposed revisions to the Part 2 Code focus on two main areas of policy:

- the promotion of social enterprises, co-operatives, user-led services and the third sector in the delivery of care and support and preventative services

⁶ <https://www.gov.wales/establishing-national-care-and-support-service>

⁷ <https://www.gov.wales/rebalancing-care-and-support-programme>

⁸ <https://www.childcomwales.org.uk/wp-content/uploads/2024/02/202402-Childrens-Commissioner-for-Wales-Right-Way-English.pdf>

⁹ <https://www.childcomwales.org.uk/wp-content/uploads/2024/02/202402-Childrens-Commissioner-for-Wales-Right-Way-Social-Care-English.pdf>

- citizen engagement, voice and co-production in the design and delivery of care and support and preventative services.

Both arise from the duty on local authorities in section 16 of the Act. The Code sets out what local authorities must and should do to fulfil their duty to promote these services and approaches.

The section 16 duty applies to care and support for both adults and children, and the requirements and guidelines in the Code must also apply to both. However, since the Senedd elections in 2021, Welsh Government policy with regard to the delivery of care and support for children has included a commitment to eliminate profit. This work is being taken forward as a separate programme which will involve new primary and secondary legislation. The impact of this policy on children and young people, their families and carers, and on the children's sector generally, will be considered under the Eliminating Profit from Children's Services programme, and does not therefore form part of this Impact Assessment.

This revision of the Part 2 Code also includes minor revisions to the chapter on undertaking population assessments, drawing on experience gained undertaking these assessments in 2017 and 2022; and to the chapter on integrated preventative and early intervention services.

2.2. Using this research, how do you anticipate your policy will affect different groups of children and young people, both positively and negatively?

National Framework

We do not expect the National Framework to have any adverse negative effects on any groups of children and young people. The National Framework is expected to have a positive impact on the following groups of children and young people; children and young people in need of or receipt of care and support; child or young person carers; disabled children and young people, children and young people living in poverty; Welsh-language speakers and LGBTQ+ children and young people. The National Framework sets national principles and standards which will ensure that commissioning practices across Wales become more consistent and by meeting the principles and standards set will ultimately improve the outcomes for children and young people.

Part 2 Code of Practice

The requirements and guidelines in the Part 2 Code of Practice have been in place since 2015, and a review by the two Task and Finish Groups (Rebalancing the Social Care Market / Engagement and Voice) concluded that they continue to be pertinent and appropriate in setting out the framework for local and regional implementation of this Part of the Act. The light-touch revisions made to the Code should have a positive impact on children and young people – for example, the insertion of babies into the priority population group alongside children and young people should prompt local authorities and health boards to consider the needs of the very youngest children and their parents when undertaking their population needs assessments. More generally, the greater prominence given to engagement,

voice and co-production, including the need to include seldom heard voices, should stimulate greater awareness of the need for activity in this area.

National Office for Care and Support

The National Office will apply for all age however, we do not expect the National Office to have any adverse negative effects on any groups of children and young people. The National Office is expected to have a positive impact on the following groups of children and young people; children and young people in need of or receipt of care and support; child or young person carers; disabled children and young people, children and young people living in poverty; Welsh-language speakers and LGBTQ+ children and young people. The National Office will have the voice of people within its core, including the voices of children, young people and their families. Mechanisms will be put in place to ensure that the voices of children are heard and shape national developments being led by the National Office.

2.3. What participatory work with children and young people have you used to inform your policy? If you have not engaged with children and young people, please explain why.

National Framework

An easy Read version of the 2023 Rebalancing Care and Support consultation document was published to enable children and young people to access the consultation and provide a response. Further a number of organisations including the All-Wales forum of parents and carers, Children in Wales, Barnardo's Cymru, local authority children's services, NSPCC and the Children's Commissioning Consortium Cymru (4C's) submitted a response to the 2023 consultation which helped to ensure the views, thoughts and feelings of the children and young people that they champion and represent were included and considered in the consultation. These consultation responses were considered and played a critical part in the drafting of the final version of the National Framework.

Part 2 Code of Practice

The intention was to undertake a light-touch revision of the Part 2 Code, focusing on strengthening the key messages around the Section 16 duty (chapter 4) and co-production (new chapter 5). The messages in chapter 4 were considered by the Task and Finish Group on Rebalancing the Social Care Market, which had representation from the Children's Commissioning Consortium Cymru (4Cs). As explained above, work on moving to not-for-profit models of delivery in children's services is being taken forward through another programme, so the aim here was simply to ensure that the key messages in chapter 4 remained suitable across the range of care and support services (children's and adult).

The new chapter 5 on engagement, voice and co-production lifted material from chapter 4 of the old Code, with the aim of giving it more prominence. These messages were considered by the Task and Finish Group on Engagement and Voice, as part of its wider work around engagement and co-production within the regional partnerships and the work of the Regional Partnership Boards. The Task and Finish Group included representatives from Children in Wales, The All-Wales Forum of Parents and Carers, Voices from Care and other third sector organisations.

The Task and Finish Group's feedback was that the key messages, drawing as they did from the work of the Co-Production Network for Wales and other well-regarded sources, and including references to the National Participation Standards for Children and Young People, were the right ones; and that the real challenges would be around implementation rather than national policy direction and guidance. The Task and Finish Group will continue to meet during 2024, to consider the need for further resources to support the partnership bodies with implementation.

National Office

When consulting on the functions of a National Office, whilst no specific engagement was undertaken with children and young people an easy Read version of the consultation document was published to enable children and young people to access the consultation and provide a response. Several organisations including the All-Wales forum of parents and carers, Children in Wales, Barnardo's Cymru, local authority children's services, NSPCC and 4C's submitted a response to the 2023 consultation and many of these organisations will have engaged with children and young people thus ensuring their views, thoughts and feelings are represented in the consultation responses. Consultation responses were considered in the final remit and functions for the National Office.

3. Analysing the evidence and assessing the impact

3.1. Using the evidence you have gathered, what impact is your policy likely to have on children and young people? What steps will you take to mitigate and/or reduce any negative effects?

National Framework

The [Rebalancing Care and Support White Paper](#)¹⁰ established the case for change which has been actioned through the Rebalancing Care and Support Programme. The impact of the National Framework has been tested throughout the policy development process in particular through the two consultations¹¹ and during the detailed National Framework Technical Group meetings. This group included key representatives of children's services including commissioners of children's services and representation from the Children's Commissioning Consortium Cymru and National Commissioning Board. Further the suggestions and issues raised in the detailed consultation responses received from the following stakeholders in relation to the upholding and realisation of children's rights were given particular priority consideration in terms of how the draft Code, consulted on in 2023, should be amended to deliver its aims and support and promote and achieve as much of a positive impact as possible on children's rights:

- The Children's Commissioning Consortium Cymru (4Cs)
- Social Care Wales
- Equality and Human Rights Commission
- The Children's Commissioner for Wales,
- Barnardo's Cymru

¹⁰ <https://www.gov.wales/improving-social-care-arrangements-and-partnership-working>

- Children in Wales
- NSPCC

The summary of response report provides a detailed summary of the consultation responses.. There were a number of key themes raised by respondents including barriers that may inhibit or prevent the aims and objectives of the Framework to be delivered. These include challenges relating to funding and resources, workforce and implementation. However whilst respondents emphasised the critical importance of the successful implementation of the Code as a key factor in the delivery of its aims and objectives as well as postulating to what extent the Framework would deliver its aims and how much of a positive impact the code would have including on rebalancing care and support and the upholding and realisation of rights they did not raise any particular or significant negative impacts on children and young people.

Similarly whilst detailed discussions on the technical details of the Framework were held at the National Framework Technical Group meetings including on the impact on children's services the group generally concluded that the Framework would have a positive impact as intended. In particular the group noted the complexity and challenge of the current transformation of children's services and how over the medium to long term the Framework will need to adapt and change with those developments in the provider market to ensure it has the greatest positive impact.

The Framework has the same aims and objectives as the Act which is widely regarded as being the right legislation if implemented effectively. Some of the barriers to that implementation lie in the lack of consistency and complexity in the commissioning of care and support. Therefore, because the Framework aims to reduce complexity, increase consistency and rebalance care and support to focus on quality and outcomes instead of cost it is, if implemented effectively, expected to break down some of those barriers and help statutory partners realise the aims of the Act.

Some consultation respondents raised concerns about a statutory national framework inhibiting statutory partners flexibility to respond in the right way to the needs of their local populations which may have a negative impact on the services being delivered to children and young people. However the Code specifically emphasises the importance of understanding the need of local communities and populations and provides flexibility for statutory partners to implement the Codes principles and standards when responding to local needs and conditions.

Other consultation respondents cited the importance of understanding the unique specific needs of children and young people. By placing the 'What matters' principle at the heart of the Code it aims to ensure that children rights are embedded in all aspects of the commissioning process. The Codes requirements for statutory partners to understand should have a positive impact on outcomes for children and young people.

Some consultation respondents expressed concerns about the limited capacity or capability within statutory commissioning teams to accurately and meaningfully gather, analyse and interpret relevant evidence particularly in respect to children and young people commissioning. Data has been a critical factor of consideration

throughout the policy development of the Framework and data was a key theme raised by respondent in the 2023 consultation. Whilst recognising that there is a broader data agenda being progressed outside of the scope of the Framework the Code nevertheless contains provision for commissioners to pro-actively encourage their providers to complete and return the annual Social Care Wales workforce data collection undertaken by Social Care Wales and to use and keep up to date their information on the Care and Support Capacity Tracker. Further the Code requires statutory partners to work with providers to encourage and support their use of digital solutions and to ensure that those using services have access to the internet and digital devices as required. These provisions are important ways in which the Code is helping to strengthen and support the use of data to improve well-being outcomes and increase the access to information and services for children and young people which accords with their rights.

The Children's Commissioning Consortium Cymru viewed the Code's standards as positive, building on many of the existing standards commonly known and agreed amongst local authorities commissioners. They felt there would be a positive impact from setting these out on a national basis in a statutory code. One of the formative aims of the Code is to give the standards and principles already being used by many commissioners across Wales the legislative backing needed to embed them nationally in processes and practice to improve consistency.

The 4Cs felt that flexibility in implementation and allowing existing practice that delivers effectively at a local, regional, or national level is the preferred approach to reduce risk of duplication and unnecessary disruption to good quality commissioning arrangements.

The 4Cs expressed that caution should be taken in how the Code will apply and align with the transformation agenda in children's services and that a key factor in the successful implementation of the Code will be in the use of the lessons learned from the transformation in children's services to adapt and update future iterations of the Code and its principles and standards.

They further noted that most of their consortium stakeholders advised that funding and workforce challenges, integrated budgets and pooled resources were barriers to the effective and consistent delivery of standards and that the main area of complexity is the predominantly organisational led decision-making processes and resource availability.. They called for further strengthening of the Codes standards to support the commissioning of integrated care and support for children at the highest end of the spectrum of need.

The 4Cs felt the requirements in the Code are positive and aspirational from an all-age perspective and welcomed the ethos of taking a child's rights approach to commissioning care and support for children and young people which they felt provides a strong foundation for good practice. Further the consistency of commissioning practice they are achieving using training, toolkits, guidance and direct local authority support as required for commissioning services is a sound indication that the Toolkit should have a beneficial positive impact on how services are commissioned and in turn the well-being outcomes of children and young people.

Some respondents felt that the Codes focus and provisions on coproduction i.e. services that are co-designed, co-delivered and co-evaluated should result in more informed and improved decision making. They noted that models of coproduction with children and young people will differ from that of adult services. The Toolkit will therefore be a key factor in supporting commissioners to get this right and in doing so will have a positive impact on engagement with children and young people and in supporting them to achieve their well-being outcomes.

Commissioning provides care and support services which at the most fundamental level are designed and delivered to protect and safeguarded children and young people from abuse, neglect, discrimination, exploitation and other forms of harm.

Placing children and young people at the centre of service design is intended to empower children and young people to make decisions about their lives. Further the Code requires statutory partners to co-evaluate care and support services with children and young people and so further ensure their voices are heard by enabling any concerns or grievances to be raised and resolved.

Through its aims to rebalance care and support the National Framework will help to further realise the aims of the Act i.e. to improve well-being. Therefore we expect the National Framework to have a positive impact on children, young people and their families on the basis that it will bring about consistency in commissioning practices and therefore the aim of improving quality of care and support services.

Under the Social Services and Wellbeing Act 2014, all health and social services providers are required to undertake population needs assessments and publish area plans setting out how they meet the needs of particular priority groups including children and young people. The National Framework's overall objectives align with the Part 2 Code (General Functions) and **Part 9 Statutory Guidance on partnership**¹² which helps statutory partners to deliver these assessments and therefore the National Framework can be said to directly impact on children and young people.

The effectiveness of the National Framework will be evaluated to ensure it is delivering its objectives and having a positive impact on those who are receiving care and support. To help ensure its continued effectiveness the National Framework will be reviewed and amended as required every 2 years.

As set out in the Code care and support services are important for the promotion and fulfilment of equality and human rights and one of the aims of commissioning is to secure people's rights to be able to express their views, wishes and feelings, to participate in decisions and to be supported through advocacy to enable them to do so. Because commissioning is how statutory partners go about undertaking their duties under the Act including to have regard to the UNCRC the commissioning is already underpinned by rights. The Code aims to strengthen this in the context of commissioning and the standards and principles have been developed to help ensure that statutory partners can help realise children's rights and improve their well-being outcomes. By requiring statutory partners to embed these principles into

¹² <https://www.gov.wales/partnership-arrangements-care-and-support-guidance>

their commissioning practices and deliver and uphold these standards we expect the National Framework to have a positive impact on children and young people particularly with their voice and control by ensuring statutory partners develop accessible ways for children and young people to be at the centre of the design, delivery and evaluation of care and support services based on 'what matters' to them.

The National Framework contains the following principle for the commissioning of care and support:

'Value is "what matters"': Value is more than cost; it is good quality, safe, care and support that delivers outcomes that matter to people and enhances social value. Public value is derived from meeting all legal, procurement and regulatory responsibilities including, equalities, human rights, economic, social, technical and environmental considerations.'

The intention of this principle is that by requiring local authorities, health boards and NHS Trusts to procure services not just based on cost but in consideration of the other elements the principle (and the other principles and standards) will help to support the promotion of equalities and human rights including children's rights.

Similarly several of the standards in the Framework aim to support and promote children's rights including:

- **Standard 1: Embed the values and principles of the Act into all commissioning activities** by supporting the aims of the Act is expected to have a positive impact on the promotion and realisation of fulfilling children's rights. The Code reiterates the importance of understanding population needs through population needs assessments (PNAs) and aligns with the codes which give specific and comprehensive guidance on PNAs which collectively are intended to promote children's rights.
- **Standard 2: Secure sufficient skills, resources and capacity** has a focus on preventative support services. Prevention is a care aspect of upholding children's rights. Reducing the future need for care and support directly contributes to the principles of keeping children safe and healthy.
- **Standard 3: Using data to deliver outcomes** is focussed on ensuring commissioning is based on accurate meaningful data. The intention is that by understanding current and future issues, needs and demands local authorities, health boards and NHS Trusts can take the right course of action to resolve issues and meet needs and demand. This standard links strongly to the **Part 2 Code of practice on General Functions**¹³. By understanding the needs of local population and the effective use of PNAs and Market Stability Reports (MSRs) then the right services can be developed. The ultimate intention is that by meeting need the Code will help partners adhere to their

¹³ <https://www.gov.wales/general-social-care-functions-local-authorities-code-practice>

duties under the [United National Convention on the Rights of the Child \(UNCRC\)](#)¹⁴ by keeping children safe and protected.

- **Standard 4: Selecting services** relates to decisions on delivering services in-house or through external providers. It builds on standard 3 as if partners can identify need then they are, under standard 4, better placed to procure the right service which includes supporting the use of third sector provision which has been demonstrated to have a positive impact as it directly links into the **'what matters'** principle and can offer more agile and varied services which in turn means children's needs can be met. Meeting children's needs (and by proxy their rights) and delivering what matters is dependent on partners having a range of services to call on and this includes the importunity of the third sector and the particular benefits that can bring. This tends to work well in areas of prevention and early intervention which if the intended aims are realised will directly impact positively on children's rights.
- **Standard 5: Measuring Value** requires statutory partners to consistently measure 'value' based on quality and people's experiences and outcomes from services in addition to the "exercising of rights". The intention of this standard is that statutory partners have a statutory duty (alongside their existing duties under other key equalities legislation) to consider specifically in the context of commissioning how children's rights are being realised.
- **Standard 10: Equalities and human rights** requires statutory partners to take a proactive approach to address inequalities and promotion and fulfilment of human rights. This standard specifically requires statutory partners when commissioning services relating to children, young people and families that to have regard to the UNCRC and United Nations Convention on the Rights of Persons with Disabilities¹⁵(UNCRPD). This is intended to strengthen the implementation of the UNCRC and UNCRPD in Welsh legislation by building on and reinforcing the overarching duty in the Act to have regard to the UNCRC. Further standard 10 requires statutory partners to undertake Equalities Impact Assessments for commissioning and procurement exercises which is intended to help test that all the relevant equality duties are being delivered and give the evidence and data needed to make the necessary changes to commissioning practices where there are gaps or areas for improvement. Further Standard 10 in response to key stakeholder consultation responses has now been amended to include a requirement for statutory partners to have regard to:
 - 'THE RIGHT WAY - A Children's Rights Approach for Social Care in Wales' which is expected to have a very positive impact on the promotion and realisation of children's rights given the detailed information it provides in terms of practical and operational ways in which children's rights can be embedded in and applied to the provision of care and support; and

¹⁴ <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

¹⁵ <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities>

- the **Corporate Parenting Charter**¹⁶ which is intended to further support ways in which care experienced children and young people to have the same opportunities in life as all children and young people in Wales to fulfil their full potential.

Finally Standard 10 requires statutory partners to find ways in which their statutory duties relating to equalities and human rights can be extended to providers through contracts and service specifications. This is an important way in which the framework can help drive the embedding and realisation of children's rights thought out the entire care and support system. The Toolkit will play an important part in delivering this through the provision of equalities contract clauses that have been developed which commissioners should use within their contracts with providers.

The National Framework also contains the following principle for the commissioning of care and support:

'Plan for current need and future generations: Commissioning for better outcomes is a medium to long term activity; planning requires forecasting, and delivery should focus on prevention (see section 15 of the Act) and sustainability (including carbon commitments).'

The intention of this principle is that by requiring commissioners to have a better understanding of future demand will help to support children's rights by making sure the right services are in place for future demand. Getting the provision of care and support services right for children should have the intended benefit of preventing future need for services.

UNCRC Articles

Care and support services commissioned by local authorities and the NHS help to support the survival and healthy development of children as per Article 6, medical and social support to children with disabilities as per Article 23, and the provision of healthcare to children as per Article 24.

In relation to Articles 12 and 13, the National Framework helps to ensure the adoption of a person-centred approach to care and support services, putting the requirements and preferences of the individual at the heart of the system to achieve the outcomes that they say are important to them, rather than fitting people to the services that are available as can often happen now.

The principles and standards in the National Framework will help to achieve this by placing further emphasis on providing individuals with a greater say in the services they receive and the different care options available to meet their care and support needs.

The National Framework emphasises the importance of the long-term sustainability of the social care sector including provisions relating to the social care workforce. It

¹⁶ <https://www.gov.wales/corporate-parenting-charter>

is intended to secure the sustainability of care and support services in Wales and in doing so will directly support the six Articles above.

Transformation of children's services

By setting principles and standards for commissioning practices the National Framework will align to work being undertaken in the **Removing profit from the care of children programme**¹⁷ by reinforcing the need to work both locally and regionally to develop new models of care and support services including social enterprises and co-operatives that can realise the aims of the Act.

It was clear from the 2023 Rebalancing Consultation that the success of the National Framework will depend on how it is implemented. Some of the responses referred to the National Framework requiring more detail in relation to how commissioning practices can adhere to and meet the principles and standards. The National Framework has been designed so that the legislative requirements and guidance sit within the Code but the detail, notable practice etc. which will help commissioners implement those requirements will sit in the toolkit. This for instance is to include detailed guidance developed in collaboration with the **Equality and Human Rights Commission**¹⁸ as to how children's rights can be embedded and considered in all parts of the commissioning cycle. Development of the toolkit will also include consideration of how a Children's Rights Impact Assessment can be incorporated into tender evaluation documents etc.

The toolkit will play an important role in a key area of impact relating to limited capacity or capability within commissioning teams to gather, analyse and interpret relevant evidence in respect to children's services. The development of the toolkit and the 2 yearly review of the Code will align to wider developments in terms of data collection in the social care system.

The National Framework contains specific provisions designed to enhance and support the promotion and delivering of children's rights. This includes statutory guidance under standard 10 "to find ways in which their statutory duties relating to equalities and human rights can be extended to providers through contracts and service specifications" and to "undertake Equalities Impact Assessments for commissioning and procurement exercises. "

The National Office for care and support will play a key role in ensuring that the National Framework is helping to improve outcomes for those with the highest need including children and young people including vulnerable groups of children and young people including those with protected characteristics.

The key to the Code having a meaningful impact on rights and equalities lies in the effective implementation of the Code. The toolkit which will be an online resource for commissioners and awareness and training sessions will therefore play a critical role in helping to ensure commissioners can effectively embed children's rights into their commission practices which will support the adherence to their duties in the UNCRC to tackle inequalities and fulfil human rights. The toolkit will have a range of

¹⁷ <https://www.gov.wales/removing-profit-care-children-update-html>

¹⁸ <https://www.equalityhumanrights.com/>

resources for example guidance documents, good or notable practice examples and template contract clauses many of which will support the promotion and realisation of the rights of children.

Whilst commissioners, under the existing equalities and human rights legislation, will already be embedding children's rights into their practices the provisions in the Code and the guidance in the toolkit will help to support the delivery of these duties by contextualising what must be done specifically in relation to commissioning of care and support.

The Code also aims to strengthen the provision of Welsh language services which helps to support the rights in Article 30 for children to speak their own languages.

Part 2 Code of Practice

The key requirements and guidelines relating specifically to children and young people in the 2015 Part 2 Code have been carried over into the new Code. This includes, for example, the overarching duties and the duty to have due regard to the UN Convention on the Rights of the Child (Chapter 1); the need to engage directly with children, in appropriate ways, in preparing the population needs assessments (Chapter 2); the importance of preventative and early intervention services for children and families (Chapter 3); and involving children and young people in designing the information, advice and assistance service (Chapter 6).

In Chapter 1, the physical, intellectual, emotional, social and behavioural developmental needs of children are included among the national well-being outcomes; and it is made clear that (when assessing individual needs) children should be supported to identify what matters to them in ways that are appropriate to their age and understanding (further guidelines on this are in the Part 3 Code of Practice on Assessing Needs, published in 2015). The section on overarching duties sets out the duties that apply when persons are exercising functions under the 2014 Act in relation to looked after and accommodated children, including a couple of specific overarching duties relating to children. No changes have been made to the requirements and guidelines in this chapter of the Part 2 Code.

Some changes have been made to Chapter 2 on population needs assessments. In particular, the list of priority population groups (formerly referred to as specific core themes), whose needs must be specifically included in the population needs assessments, has been expanded to include babies. Health needs have also been added to care and support. Other requirements relating to children and young people have been retained: when drawing up their population needs assessments local authorities and health boards must have special arrangements in place to engage directly and successfully with children who have experience of using care and support services (and their parents and unpaid carers); and the assessments must also take account of the care and support needs of populations within the secure estate, including children in prison, youth detention accommodation, approved premises and bail accommodation.

Chapter 3 of the Part 2 Code sets out the requirements on local authorities and partners to provide or arrange a range of integrated preventative and early intervention services to achieve the purposes set out in section 15 of the 2014 Act

(which include purposes relating specially to children). Chapter 3 also contains a specific section on prevention and early intervention services for children and families. This has been updated to include the development of the six models of care under the Regional Integration Fund, in respect of preventing children in need from entering the care system and providing integrated care and support services across social care, health and education for care experienced children with complex emotional and behavioural needs.

Chapter 4 deals with the duty on local authorities to promote social enterprises, co-operatives, user-led services and the third sector, and this applies to both children's and adult services. As explained above, a key change affecting children and young people's services is the policy intention to eliminate profit from children's services. It is expected that this will have a major impact upon the children's social care sector, but this has not been explored in the revision of the Part 2 Code as it is being taken forward as a separate programme and will involve changes new primary and secondary legislation. The broad messages about the section 16 duty to promote co-operatives, social enterprises, user-led services and the third sector (Chapter 4) still apply across the board (children's and adult services), but the context for implementation will in future be different for children's care.

The newly focused Chapter 5 on engagement, voice and co-production aims to enable a greater range of people to be engaged in the design and delivery of care and support and preventative services, including children and young people. The requirements and guidelines apply across social care, encompassing engagement with adults, children and young people, and unpaid carers, both those who receive care and support and preventative services and those who will need them in the future. Co-production is seen as essential across all stages of the strategic commissioning cycle, from planning and design, to delivery, monitoring and evaluation. The requirements and guidelines in this chapter, including the importance of the Children and Young People's National Participation Standards, were generally considered to be robust and clear, although challenges remain particularly around resources.

No changes have been made to Chapter 6 on the information, advice and assistance service, which contains requirements relating to accessible information, advice and assistance for children, young people and others in need of additional support, as well as involving children in the design of the service.

National Office

As the initial operational functions of the National Office will primarily relate to implementation of the National Framework, policy impact is as outlined above.

3.2. How does your proposal enhance or challenge children's rights, as stipulated by the UNCRC articles and its Optional Protocols? Please refer to the [articles](#) to see which ones apply to your own policy.

The National Framework aims to improve the consistency of commissioning of care and support which will result in standardisation of approach and improving the well-being outcomes of individuals. Therefore the National Framework will help to enhance children's rights as stipulated by the UNCRC articles by contributing to the

way, through the provision of care and support, children's right and needs are met including to be safe, healthy and happy; not discriminated against; have their best interests protected; have the things they need to survive and develop and have a say in decisions that affect their lives.

The Rights of Children and Young Persons (Wales) Measure 2011 requires Welsh ministers to have due regard to the UNCRC when exercising its functions. This duty can be seen in action with the overarching duties the Act contains to have due regard to the United Nations Convention on the Rights of the Child. There was broad consensus from consultation respondents that if the Framework is implemented effectively then it will help contribute to the realisation of the aims of the Act.

The following UNCRC articles have been identified as most relevant to the National Framework:

Article Title and description:	Enhance and promote / challenge and inhibit
<p>Article 3: All organisations concerned with children should work towards what is best for each child.</p>	<p>Enhances: The National Framework’s principal aim is to provide care and support services that meet children and young people’s needs to improve and meet their well-being outcomes. The intended aim of this article of working towards what is best for each child is fully embedded in the Codes provisions including the principles and standards it sets for commissioning practices.</p>
<p>Article 6: All children have the right of life. Governments should ensure that children survive and develop healthily.</p> <p>Article 23: Children who have any kind of disability should have special care and support so that they can lead full and independent lives.</p> <p>Article 24: Children have the right to good quality health care and to clean water, nutritious food and a clean environment so that they will stay healthy. Rich countries should help poorer countries achieve this.</p>	<p>Enhances: Care and support services commissioned by local authorities and the NHS help to support the survival and healthy development of children as per Article 6, medical and social support to children with disabilities as per Article 23, and the provision of healthcare to children as per Article 24.</p> <p>The National Framework emphasises the importance of the long-term sustainability of the social care sector including provisions relating to the social care workforce. It is intended to secure the sustainability of care and support services in Wales and in doing so will directly support this article.</p>
<p>Article 12: Children have the right to say what they think should happen, when adults are making decisions that affect them, and to have their opinions taken into account.</p> <p>Article 13: Children have the right to get and to share information as long as the information is not damaging to them or to others.</p>	<p>Enhances: The National Framework helps to ensure the adoption of a person-centred approach to care and support services, putting the requirements and preferences of the individual at the heart of the system to achieve the outcomes that they say are important to them, rather than fitting people to the services that are available as can often happen now.</p> <p>Standard 1 of the Code requires statutory partners to evidence that the commissioning of care and support services is coproduced [co-designed, co-delivered and co-evaluated] with individuals in need of care and support. This fundamental principle to include children and young people is at the heart of</p>

Article Title and description:	Enhance and promote / challenge and inhibit
	<p>the Code and demonstrates how the Code seeks to uphold children and young people's right including those in this article.</p> <p>The National Framework emphasises the importance of the long-term sustainability of the social care sector including provisions relating to the social care workforce. It is intended to secure the sustainability of care and support services in Wales and in doing so will directly support this article.</p>
<p>Article 19: Governments should ensure that children are properly cared for, and protect them from violence, abuse and neglect by their parents or anyone else who looks after them.</p> <p>Article 20: Children who cannot be looked after by their own family must be looked after properly, by people who respect their religion, culture and language.</p> <p>Article 32: The Government should protect children from work that is dangerous or might harm their health or their education.</p> <p>Article 33: The Government should provide ways of protecting children from dangerous drugs.</p> <p>Article 34: The Government should protect children from sexual abuse.</p> <p>Article 35: The Government should make sure that children are not abducted or sold.</p> <p>Article 36: Children should be protected from any activities that could harm their development</p>	<p>Enhances: By aiming to improve the effectiveness and consistency of commissioning the Framework is expected to contribute to the realisation of the Act's aims to deliver care and support services which meet children and young peoples needs and improve and meet well-being outcomes. The Code therefore will directly contribute to the provision of care and support services that keep children safe, protected and free from harm. The preventative services that the Code will apply too are another critical element of keeping children and young people safe from harm. The rights and what matters principle embedded in the Code align will help to support article 20 by ensuring that this part of their care is accounted for.</p>

Article Title and description:	Enhance and promote / challenge and inhibit
<p>Article 30: Children have a right to learn and use the language and customs of their families, whether these are shared by the majority of people in the country or not.</p>	<p>Enhances: The Welsh Government’s commitment to upholding the rights of Welsh speakers to receive care and support services through the medium of Welsh is clearly set out in the Social Services and Well-Being (Wales) Act 2014 and the suite of Codes made under the Act. The Framework requires statutory partners to treat the Welsh Language no less favourably than the English and to take all reasonable steps to provide local/community-based Welsh Language care and support services. This builds on the existing provisions in the Part 2 Code of Practice: General Functions that brings to life the overarching duty in the Act to have regard to the characteristics, culture and beliefs of an individual including language. By setting these rights out clearly in the specific context of the commissioning of care and support we aim to ensure that Welsh language provision can meet the needs of current and future generations.</p>
<p>Article 31: All children have a right to relax and play, and to join in a wide range of activities.</p>	<p>Enhances: By aiming to improve the effectiveness and consistency of commissioning the Framework is expected to contribute to the realisation of the Act’s aims to deliver care and support services which meet children and young people’s needs and improve and meet well-being outcomes. At the heart of the provision of care and support is the principle of ‘what matters’ and relaxing, playing and enjoying as many activities as possible is a core aim of supporting children and young people to live their lives as fully as possible. The Code therefore directly contributes to this article by helping to ensure care and support services are delivered flexibly and effectively to meet people’s individuals need wants and wishes.</p>
<p>Article 42: The Government should make the Convention known to all parents and children.</p>	<p>Enhances: Implementation of the Framework will involve awareness raising including to inform children of their rights and how the Framework will impact and benefit them.</p>

Part 2 Code of Practice

The Part 2 Code of Practice will particularly enhance the following Convention Rights:

- **Article 12** – respect for the views of the child: the clearer focus on engagement, voice and co-production (chapter 5) will enhance children and young people’s participation in the design and delivery of care and support.
- **Article 13** – express thoughts and opinions, and access to range of information: the clearer focus on engagement, voice and co-production (chapter 5), and also the chapter on information, advice and assistance (chapter 6).
- **Article 18** – parental responsibilities: the inclusion of early intervention alongside preventative services (chapter 3) should particularly help children and families who need support.
- **Articles 20-24 and 39** – the requirements around population needs assessment (Chapter 2), identifying the care and support needs of the population and the range and level of services that need to be provided, especially for priority groups (including babies, children and young people) will help enhance a number of rights around health and social care, including Article 20 (children unable to live with their parents), Article 21 (adoption), Article 22 (refugee children), Article 23 (disabled children), Article 24 (health and health services), and Article 39 (recovery from trauma).

National Office

As above for the National Framework, and also:

UNCRC Articles or Optional Protocol	Enhance and promote / challenge and inhibit
Article 12	Enhances: The Chief Social Care Officer has the role of strengthening the voice of the social care sector, this will include young people who are directly, or indirectly, a part of the sector.
Article 13	Enhances: Children and young people will have access to the same information as adults in regard to the National Office. All information made publicly available will be accessible by anyone. No age group will have information withheld from them, where publicly available, in relation to the National Office.
Articles 19; 20; 21; 22; 23; 25; 39	Enhances: The National Office seeks to promote and ensure the provision of care and support to all citizens in Wales who need it. The development of a National Care Service will enhance these rights, and the National Office will work with Welsh Government policy leads (and other relevant stakeholders) to ensure children receive the care and support they need and have a right to.
Article 30	Enhances: In relation to Welsh language, the National Office will support and champion the Welsh language strategy (Mwy na geiriau) for health and social care.

3.3. Consider whether any EU Citizens Rights (as referenced in the Equality Impact Assessment) relate to young people up to the age of 18.

National Framework & National Office

No specific impact has been identified on EU, EEA or Swiss citizens whose rights including in relation to the National Framework **access to public services, benefits and social security systems** including healthcare and **equal treatment** are protected by the Citizens Rights Agreements.

4. Ministerial advice and decision

4.1. How will your analysis of these impacts inform your ministerial advice?

This CRIA has been agreed by the relevant Director within the Social Services & Integration Directorate and the CRIA conclusions incorporated into the relevant Ministerial advice have been agreed by the Deputy Minister for Social Services and Minister for Health and Social Services.

5. Publication of the CRIA

A version of this CRIA was published on 19 March 2024 on the Welsh Government website alongside the Integrated Impact Assessment, Welsh Language Impact Assessment, Equalities Impact Assessment and the Regulatory Impact Assessment contained with the Explanatory Memorandum. On 18 April the National Framework and Part 2 codes were withdrawn by the Minister for Social Care to be amended in light of the reports from the Legislation, Justice and Constitution Committee in April. This latest version of this CRIA was published alongside the laying of the amended draft codes on 11 June 2024. Subject to completion of the forty-day annulment period and following a transitional implementation period consisting of training and awareness raising for local authority and NHS commissioners of care and support these Code are scheduled to come into force on 1 September 2024.

6. Communicating with Children and Young People

6.1. If you have sought children and young people's views on your proposal, how will you inform them of the outcome?

National Framework

Subject to Senedd approval of the National Framework in May, there will be a subsequent initial implementation period which will include awareness and training for commissioners of services.

The National Office for Care and Support will be established in April 2024 and will have a key role in implementation of the National Framework including its review every 2 years. The National Office will also support commissioners to work in line with the principles and standards within the National Framework. The role of the National Office will include engagement with the social care sector in Wales which will include with those who receive social care services which includes children and young people. The development of a citizen's forum as part of the National Office will

also provide the opportunity for children and young people, and/or their carers, to have ongoing engagement.

7. Monitoring and Review

7.1. Please outline what monitoring and review mechanism you will put in place to review this CRIA. Following this review, are there any revisions required to the policy or its implementation?

The National Office for Care and Support will have a role to engage with the social care sector and people who receive services which will enable people who receive services to have input into the work of the National Office. As part of its function the National Office will also have a role to support commissioners to work in line with the principles and standards and to keep up to date the national toolkit of resources. It will also review and as necessary update the National Framework on a 2 yearly basis.

There are various sources of intelligence which will help the Welsh Government to review whether the National Framework Code of practice and revisions to the Part 2 Code are supporting local authorities in fulfilling their general duties under the Act. These are set out in the Explanatory Memorandum / Regulatory Impact Assessment (Section 8), which is being published separately. In line with established good practice on secondary legislation, the Welsh Government will undertake a review of how the revised Part 2 Code is being implemented in three years' time (by June 2027).

The reviewing of the effectiveness of the National Framework will include an on-going assessment of testing whether the conclusions that have been made on the expected impact were correct. This CRIA and the other relevant impact assessments will be revised and updated accordingly in line with this monitoring and an updated version will be published at a minimum every 2 years in line with when the Code is considered for amendments.