



Righting the wrongs:

The reality of children's rights in Wales

Edited by Rhian Croke
and Anne Crowley



Save the Children

Achub y Plant

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Save the Children fights for children in the UK and around the world who suffer from poverty, disease, injustice and violence. We work with them to find lifelong answers to the problems they face.

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Preface

Righting the wrongs: The reality of children's rights in Wales uses the United Nations Convention on the Rights of the Child's reporting framework to provide an interim analysis of how far children's rights have been realised in Wales since the UN Committee on the Rights of the Child highlighted its areas of concern in its last report on the UK in 2002.

The process of preparing this report has presented the unique opportunity of including the expertise of a diverse section of the non-governmental and academic community working with and for children and young people. Using the lens of children's rights the different contributors provide detailed analyses on: Participation, Corporal Punishment, Child Protection, Child Poverty, Health Inequalities, Education and Citizenship, Asylum Seeker Children, Disabled Children, Looked After Children, Sexual Exploitation and Juvenile Justice as well as measures taken to implement the UNCRC in Wales.

The contributors identify gaps and weaknesses (as well as strengths) in the available information and make recommendations for action. In this context, we trust that Wales will be in a stronger position to assess the position of its children's rights as it approaches 2007 – the time for the UK's next periodic report to the UN Committee on the Rights of the Child.

The report will be of interest to policy makers, service managers, practitioners, young people and all concerned with promoting and realising children's rights in Wales.

Acknowledgements

Save the Children and the UNCRC Monitoring Group would like to thank all of the contributors who wrote articles for this report. We are extremely grateful to them for their expertise and making it possible to have a detailed as well as a collective understanding of how far we are succeeding in complying with the implementation of the UNCRC in Wales.

The Editors would like to thank June Vandamme for preparing the final manuscript and guiding the report through its production phase and Sara Drysdale and Tracy Wiggham for all of their administrative and practical support.

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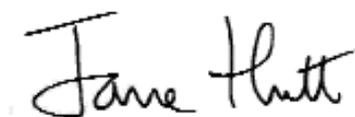
Sara Reid, Children's Commissioner for Wales Office

Foreword

Active, informed and positive citizenship is at the heart of the Welsh Assembly Government's approach to policy making. This commitment extends to all of our work around children and young people. I believe that the Assembly Government has been highly effective in delivering policies and programmes that protect and promote the rights and interests of the children and young people of Wales in the relatively short time since the last State party's Report in 2002.

Ours is an approach firmly grounded in the UN Convention on the Rights of the Child. Ours is an inclusive and a participative approach. Ours is an approach which aims to engage children and young people in the lives of their communities and which seeks to develop their capacity to understand and to play a part in the social and political processes that shape their lives.

I am proud of what has been achieved by the Assembly Government since 2002 although I recognise that there is always more still to be done. I welcome this report as part of a process of constructive engagement with many of the agencies, authorities and individuals with whom we share many ambitions for the future of Wales' children and young people. It is another example of a purposeful dialogue that has already produced a great deal but which has even more to yield in the future.

A handwritten signature in black ink that reads "Jane Hutt". The signature is written in a cursive, flowing style.

Minister for Assembly Business, Equalities and Children
Welsh Assembly Government

Foreword

Non-governmental and academic communities have a long and proud history of championing the rights of children and young people. This role has been formally recognised by the United Nations Committee on the Rights of the Child who routinely seek their views on how the States who have signed up to the UN Convention on the Rights of the Child are doing in furthering children's rights. In Wales we are particularly well-served by a range of dynamic and committed organisations and individuals working for and with children.

Righting the Wrongs is a thorough and well-researched analysis of how far children's rights have progressed in Wales since the last UNCRC report on the UK.

It will prove a real aid to those with children's interests at heart, whether they are professionals, service managers or even young people themselves.

A core part of my job is to further children's rights and I have found the document thought provoking and interesting. It has, for instance, reinforced my view that the Welsh Assembly Government should develop a tool to assess how all its activity affects children. The document is challenging as well – some of its recommendations suggest how I could be doing my job better!

That is what realising children's rights is all about – challenging ourselves, our colleagues and government to live up to the promises made to our children when we signed up for this UN Convention. This document is an important part of the process and I commend it to you.

A handwritten signature in black ink, appearing to be 'Peter Clarke', with a long horizontal line extending to the right.

Peter Clarke
Children's Commissioner for Wales

Chapter One

Introduction

United Nations Convention on the Rights of the Child (UNCRC)

The United Nations Convention on the Rights of the Child was adopted unanimously by the United Nations in 1989 and has achieved the highest level of acceptance of any human rights instrument. An almost universal ratification provides a powerful endorsement to the significance of children's rights. It has also been described as the most complete of the international human rights instruments as it includes civil and political, and economic, social and cultural rights. The substantive articles of the Convention as well as those identified as the 'guiding principles' aim to ensure, to the maximum extent possible, children's survival and development.

The United Kingdom ratified the Convention in 1991. Once a government signs the Convention, it is called a State party. State parties that have ratified the Convention are obligated to submit detailed reports within 2 years of ratification and thereafter every 5 years to the UN Committee on the Rights of the Child. The UK State party submitted their initial report in February 1994 and their second report in January 1999. The UK Department of Health co-ordinated the first two reports together with the appropriate departments in Northern Ireland, Scotland and Wales. The Children and Families Directorate in the Department for Education and Skills is responsible for co-ordinating the next State party submission. The UN Committee released the last UK Concluding Observations in October 2002. The UK has been asked to submit their 3rd and 4th consolidated report to the Committee in July 2007.

The UNCRC is one of the few Conventions that confers a formal role on non-governmental organisations (NGOs). This is in recognition of the expertise these groups have, to provide an alternative analysis of children's experiences as well as relevant and reliable information on areas which may be covered inaccurately or inadequately by the State party's report. The UN Committee invites the voluntary and NGO sector to prepare what is called an alternative report. The Committee encourages State parties and NGOs to include in their respective reports, the views of children and young people. The process of preparing the alternative report should provide an important occasion to include the expertise of a diverse section of the NGO community working with and for children and young people. The Committee *"welcomes the development of NGO coalitions and alliances committed to promoting, protecting and monitoring children's human rights and urges Governments to give them non-directive support and to develop positive formal as well as informal relationships with them"*.¹

The process of preparing both State party and alternative reports offers an invaluable opportunity to conduct a comprehensive review of the various measures that have been undertaken to harmonise national law and policy with the Convention. On receiving the State party and alternative report the Committee holds verbal hearings with the NGOs and relevant independent monitoring institutions.

On the basis of all of the evidence that is presented, the Committee then has an opportunity to cross-examine the government on the progress that is being made in realising children's rights. The UN Committee then issues its recommendations to the State party on how it can aim to achieve compliance with the UNCRC. The recommendations (known as the Concluding Observations) then become the starting point of the next reporting process.

As there is no individual court, sanctions are not available to the UN Committee but it is internationally shaming if the State party is found not to be progressing in its compliance with the UNCRC. The process of

achieving compliance with the UNCRC is seen to be an incremental one with State parties not expected by the Committee to have fully implemented each and every area of the Convention immediately. The ongoing dialogue between State party and Committee that the reporting process systematises is one of constructive criticism supported by advice on implementation. This encourages governments to make efforts to achieve positive changes for children and young people between reporting sessions.

A Wales perspective on the progress of the Concluding Observations 2002

The population of Wales is nearly 3 million, approximately 5% of the total population of the UK. There are nearly 700,000 children under the age of 18 accounting for 24% of the population. Wales is following the UK trend of having an ageing population. Over a quarter (28%) of households in Wales are made up of families with dependent children. Households with lone parents and dependent children have increased to 7.3% of the total (5% in 1991), as have households with cohabiting couples with dependent children.²

Wales is a country that includes areas experiencing pronounced deprivation and recorded levels of child poverty in Wales are higher than in other parts of Great Britain.³ The numbers of children living in poverty has fallen in Wales (and across the State party as a whole) but in 2003-4, twenty seven percent of children in Wales were still living in poverty.⁴ In Spring 2004, 19.4% of children in Wales lived in workless households compared to 16.4% in the UK as a whole.⁵

The population of Wales is overwhelmingly White as described by respondents' ethnicity in the 2001 Census. Only 2.1% of the population of Wales are from non-White ethnic backgrounds. This proportion has increased from 1.5% in 1991 and is largely as a result of increases in the proportion of Indian, Pakistani and Bangladeshi people. The 2001 Census figures indicate that about a half of the Black and Asian population of Wales lived in Cardiff, as did a third of the Mixed and Chinese groups.⁶

Wales is officially a bilingual country and the 2001 Census indicated an increase in the use of the Welsh language after many years of decline. In 2001, 21% said they could speak Welsh compared to 19% in 1991 (and 54% in 1891). This percentage increases amongst children with 39% of children aged 10 to 15 years able to speak, read and write Welsh.⁷

The issue of rights and well being of children has been significant on the Welsh political landscape for many years not least because there have been strong links between governmental and non-governmental organisations. Since the devolution settlement and the establishment of the National Assembly in Wales in 1999, there has been a plethora of policy and strategy documents relating to children and young people. The emphasis on the importance of children's rights can most clearly be seen when the Welsh Assembly Government within the limits of its powers⁸ adopted the Convention as the basis of all its policy making for children and young people, positioning its overarching strategy for children and young people within a rights based framework linked to UNCRC implementation.⁹

Children in Wales, the umbrella body for children's organisations in Wales has led the way in promoting the UNCRC in Wales and engaging in the UN reporting process. In 2002, the current UNCRC Monitoring Group was established. This is an alliance of agencies and academic institutions at the national level convened by Save the Children and tasked with monitoring the implementation of the UNCRC in Wales. The strengthening of the UNCRC Monitoring Group has meant that there is an increasing engagement of NGOs, and the academic sector in developing an understanding of the Convention and becoming involved in the monitoring and reporting process. It has also developed an important constructive yet critical collective voice that monitors the Welsh Assembly Government's obligation to realise the rights of children.

In preparing this report, the group is aiming to facilitate the involvement of Welsh NGOs, academics and civil society in a 'trial run' of monitoring compliance with the UNCRC in Wales. We hope the process will identify gaps and weaknesses (as well as strengths) in the available information and help to target resources on some of the identified violations or negligences of children's rights in Wales. In this context, we trust that Wales will be in a stronger position to assess the position of its children's rights as it approaches 2007 – the time for the UK's next periodic report to the UN Committee on the Rights of the Child.

The overall aim of this report is to provide an interim analysis of the extent to which law, policy and practice in Wales has progressed since 2002, when the United Nations Convention on the Rights of the Child issued their Concluding Observations on the UK State party's progress in achieving compliance with the principles and standards of the UNCRC.

We have adopted the Committee's guidelines with regards to the form and content of reports.¹⁰ According to these guidelines those rights most closely related are grouped together in a way that reinforces the indivisibility of the rights of the Convention and encourages consistency in the Committee's approach to monitoring implementation. In accordance with these guidelines, the UNCRC Monitoring group has identified key Concluding Observations to be considered under the UN Committee's recommended headings.

There has not been capacity to report on all of the UN Committee's Concluding Observations and the UNCRC Monitoring Group are aware that this interim report is not comprehensive. It does not provide consideration of policy and practice in respect of all of the key areas of children's lives or indeed some of the more innovative and refreshing approaches we have here in Wales. For example, the new Foundation Phase for 4-7 year olds or the Welsh Assembly Government's Play Policy – the first in the UK. Within the limitations imposed by time and resources, the UNCRC Monitoring Group has invited a number of agencies and academics with expertise in the different Concluding Observations to contribute their analysis and make recommendations for action. The willingness of different agencies to contribute their analyses reflects the commitment to children's rights in Wales.

The UN Committee on the Rights of the Child's reporting categories and the chosen areas of concern for this report are outlined below:

1. General measures of implementation

The general measures of implementation are intended to promote the full enjoyment of all rights in the Convention by all children, through legislation, the establishment of co-ordinating and monitoring bodies – governmental and independent – comprehensive data collection, awareness-raising and training, the monitoring of budgets and the development and implementation of appropriate policies, services and programmes. Jane Williams from Swansea University and Anne Crowley and Rhian Croke from Save the Children provide a detailed analysis in this section on how we have progressed in Wales since 2002 in incorporating the UNCRC into domestic legislation and developed institutions, structures and mechanisms to successfully implement the UNCRC.

2. Guiding principles

The development of a children's rights perspective throughout governmental structures is best achieved by designing strategies to implement the guiding principles of the Convention, non-discrimination (Article 2), best interests (Article 3), survival and development (Article 6) and participation (Article 12). The Guiding Principles are the backbone to the Convention and instrumental to achieving all of the other rights.

Non-discrimination

In this section we have chosen to use the guiding lens of non-discrimination to assess progress with regards to achieving positive changes in legislation, policy and practice to reduce the discrimination of two particular groups of children; looked after children and disabled children. Mike Lewis and Lynne Hill from Children in Wales provide an overview of progress since the Committee reported in 2002, to these two groups achieving their rights.

Best interests

Rhian Croke from Save the Children identifies child impact assessment as the most effective way of ensuring that the best interests of the child is respected in legislation, policy development and budgetary considerations at all levels of government.

Participation

Eleri Thomas from Save the Children and Chair of the Participation Consortium and Anna Skeels, Manager of the Participation Unit provide an overview to how far we have progressed in institutionalising participation for children and young people in Wales. They will comment on how far national and local government decision-making processes, are becoming more open to children and young people since the Committee reported in 2002.

3. Civil rights and freedoms

Corporal punishment

The Welsh Assembly Government has taken a principled stand on the issue of hitting children. Legal reform is not within its power but the Assembly Government is focusing its attention on how it can promote the no-smacking message in Wales. Jill Taylor for the 'Sdim Curo Plant!/Children are Unbeatable! Alliance reviews progress in Wales on promoting positive and non-violent forms of discipline and respect for children's equal right to protection.

4. Family and alternative care

Child protection

Simon Jones of NSPCC (Cymru) comments on the concluding observations relating to child protection. Article 19 of the Convention, requires children's protection from all forms of physical or mental violence, injury or abuse, negligent treatment/maltreatment/exploitation while in the care of their parent(s), legal guardian(s) or any other person who has care of the child. Simon Jones will analyse the legislative, administrative, and educational measures that have been taken in Wales to protect children from abuse since the UN Committee reported its Concluding Observations in 2002.

5. Basic health and welfare

Child poverty

All children have a right to an adequate standard of living (Article 27) to develop to their fullest potential and States should allocate to the maximum extent, available resources to achieve this (Article 4). Levels of child poverty have fallen in Wales since 2002 but 27% of children are still living in poverty, which is the highest level of child poverty in the UK. In this section Lucy Akhtar from End Child Poverty Network Cymru comments on how the Welsh Assembly Government is progressing in their challenge to tackle child poverty and levels of homelessness in Wales.

Health inequalities

According to the Convention, (in particular Article 24 and Article 2) States should recognise the right of all children without discrimination to “*the highest attainable standard of health*” as well as to “*facilities for the treatment of illness and the rehabilitation of health*”. State parties should also strive to ensure “*that no child is deprived of his or her right of access to such health care services*”. Dr Elspeth Webb, a Senior Lecturer in the Department of Child Health in Cardiff University College of Medicine offers a detailed analysis of the multiple barriers that children experience in accessing good health and health services due to socio-economic background and ethnic status. She reports on how a parent’s socio-economic background can affect levels of infant mortality and breast feeding rates and how socio-economic background can have a direct bearing on the level of teenage conception rates. Also included in her analysis is a discussion on the state of adolescent health services and mental health services in Wales.

6. Education, leisure and cultural life

Incorporating child and human rights into the school curricula

Rights are of little use to individuals unless they are aware of them. The Committee on the Rights of the Child has particularly focused attention on encouraging State parties to include teaching on the Convention and human rights into school curricula. This they argue would assist in embedding the principles of human rights in society. In this section, Eleanor White from Amnesty International Wales will report on how far child and human rights have been incorporated into the school curricula in Wales.

7. Special protection measures

Asylum seekers and refugees

According to the UNCRC, all decisions made about asylum seeking children should be in their best interests and applied without discrimination. Children who are asylum seekers are often vulnerable and in need of care and protection. In the UK today there is an increasing gulf between the rights of asylum seeking children as expressed in the UNCRC and the reality of immigration policy and practice. Sian Thomas of Save the Children reviews how far we have progressed with the Committee’s Observations on this issue, looking at what is happening in Wales whilst also making recommendations in respect of issues under the purview of the UK Government.

Sexual exploitation

Children have the right to be protected from all forms of sexual exploitation and sexual abuse (Article 34). This is an area that has until fairly recently gained little attention both nationally and internationally although it has been emphasised as having high importance within the UN system. Andy James of Barnardo’s Cymru provides an overview of what is happening in Wales with regards to sexual exploitation and reports on the policy, practice and research programmes that are responding to this problem.

Juvenile justice

Article 40 of the UNCRC covers the rights of children recognised as having infringed the law and argues for a juvenile justice system that has positive rather than punitive aims. Geoff Monaghan and Sue Thomas of Nacro, highlight that the Convention is not being used as the framework for juvenile justice in the UK. The Welsh Assembly Government does not have devolved responsibility for youth justice matters in Wales. Both these factors have serious implications for Welsh juvenile offenders. In response to the Concluding Observations 2002, Geoff Monaghan and Sue Thomas analyse current policy and legislation relating to: anti-social behaviour disorders; the system of detention; juvenile offenders in the court system and the current minimum age of responsibility; and their implications for children’s rights.

Concluding remarks

The Chair of the UNCRC Monitoring Group, Richard Powell of Save the Children provides some concluding remarks on the findings of the report.

Endnotes

- ¹ General Comment No 5 (2003) General Measures of Implementation of the Convention on the Rights of the Child. Committee on the Rights of the Child, 34th session. CRC/GC/2003/5 para. 59.
- ² <http://www.statistics.gov.uk/census2001/profiles/w.asp>
- ³ Bradshaw, J and Mayhew, E. (2005) *The Well-being of Children in Wales*.
- ⁴ Department of Work and Pensions (2005) Households Below Average Income (HBAI) statistics 1994/5-2003/4, Sixteenth Edition.
- ⁵ Department of Work and Pensions (2004) Opportunity for All, Sixth Annual Report.
- ⁶ Welsh Assembly Government (2005) A Statistical Focus on Ethnicity in Wales available from www.wales.gov.uk/keypubstatisticsforwales/
- ⁷ <http://www.statistics.gov.uk/census2001/profiles/w.asp>
- ⁸ The UNCRC is currently not incorporated into UK domestic law.
- ⁹ Welsh Assembly Government (2004) *Children and Young People: Rights to Action*.
- ¹⁰ General Guidelines Regarding the Form and Contents of Initial Reports to be Submitted to States parties under Article 44 Sec 1 a of the Convention (Geneva: UNCRC 1991).

Chapter Two

General measures of implementation

Jane Williams – School of Law, Swansea University

Anne Crowley – Save the Children

Rhian Croke – Save the Children

Introduction

Article 4 of the Convention requires States parties to take “*all appropriate legislative, administrative and other measures*” for implementation of the rights contained therein. The Committee on the Rights of the Child has advised that ensuring that all domestic legislation is fully compatible with the Convention and that the Convention’s principles and provisions can be directly applied and appropriately enforced is fundamental as are a wide range of other measures needed for effective implementation, including special structures, monitoring and training.¹

The Committee’s advice continues: “*In its periodic examination of States parties reports under the Convention, the Committee pays particular attention to what it has termed ‘general measures of implementation’. In its concluding observations issued following examination, the Committee provides specific recommendations relating to special measures. It expects the State party to describe action taken in response to these recommendations in its subsequent periodic report.*”²

This section of the report considers progress on seven Concluding Observations concerned with general measures of implementation within the UN Committee’s last periodic examination of the UK. These include legislation; resources; co-ordination; a plan of action; independent monitoring structures; data collection; and training and dissemination of the Convention.

There can be no doubt that the Welsh Assembly Government has made considerable progress on the Convention’s general measures of implementation. Devolution in Wales from 1999 has heralded a new, more inclusive approach to governance in Wales and within this context children have assumed critical importance to the new governments of Wales. Much has been done to establish more effective government structures for children within our new governance arrangements. In 2005, Wales has a Minister for Children, a crosscutting Cabinet Committee on children, an independent Children’s Commissioner and a government funded but peer-led young people’s assembly able to influence the shape of government policy as it affects children and young people. The emergence of these structures does genuinely indicate a willingness on the part of the government of Wales to give children a higher political priority and an increasing sensitivity to the impact of governance on children and their human rights. As we shall see, there are still challenges ahead for all those concerned with children’s rights in Wales but we can definitely conclude that a good start has been made.

General measures of implementation

Legislation

CONCLUDING OBSERVATION para.9. The Committee recommends that the State party:

Incorporate into domestic law the rights, principles and provisions of the Convention to ensure compliance of all legislation with the Convention, a more wide-spread application of the provisions and principles of the Convention in legal and administrative proceedings, and a better dissemination and training of the Convention.

Implementation of the UNCRC in the UK

The United Nations Convention on the Rights of the Child (UNCRC) is a legal document, binding in international law on its signatories. This is one of its great achievements. However, whilst it has legal effects at international level, at national level, the UK legal system limits its effects unless and until the Convention is incorporated in our own law in some way. The principal way is by legislation, as was done eventually in respect of the European Convention on Human Rights (ECHR) by the *Human Rights Act 1998 (HRA 1998)*. No attempt has yet been made to introduce legislation to give effect comprehensively to the UNCRC in the UK.

It is instructive to examine the process by which the ECHR was eventually incorporated into legislation in the UK and to consider the salient lessons for UNCRC incorporation. Almost 40 years elapsed from the time of the UK's ratification of the ECHR and the enactment of the *HRA 1998*. There is not the space in this report to consider this process in any detail but it is important to note that there are some key differences between ECHR implementation and UNCRC implementation. The necessary step-change in culture implied by UNCRC incorporation is even greater, and more complex, than that involved in ECHR incorporation. Traditionally, policy on children and young people in the UK has been driven by the twin aims of providing for their welfare and of regulating their behaviour, coupled with a consistent consensus amongst professionals and policy makers that there is a link between provision for children's welfare and their behaviour.

This has been the foundation of national and local government policy on children and young people for more than a century and, notwithstanding shifts in emphases between the so-called 'welfare', 'treatment' and 'justice' models, it is deeply embedded in the legislative framework. These twin aims provide the justification for state interference in the private sphere: for imposing requirements on parents such as compulsory school attendance, for intervening where necessary to protect children at risk of neglect and abuse and for restraining excessive parental discipline. Coupled with a perceived national interest in producing desirable **adult** citizens (the child being, in this view, the 'father of the man'), these aims also provide the conceptual bedrock for provision of children's health, education and welfare services. Children's rights as **children**, do not figure prominently, if at all, in this analysis.

This really is the crux of the issue: full incorporation of the UNCRC implies a big change in the way that the law, government and indeed society generally views children. Whether the current view is of childhood as a state of immanence, vulnerability, unruliness or innocence, it needs to change or at least develop to embrace the concept of children as rights holders whose rights must be respected and supported by the state in all its legislative, administrative and judicial manifestations. Such a change involves not only far greater support than ever before for children's **participation** in decision making on matters affecting them, but also a different approach to **provision** and **protection**. The potential of this latter aspect is captured with beguiling simplicity in a phrase used by the authors of a recent appraisal of 40 years of child and family policy in England and Wales: 'children's rights as the acceptable face of redistribution'.³ The significance of such a change is hard to overstate.

Furthermore, the drivers of the necessary political will to embark on this step change are not the same: there is no international court in which UK law and policy can be successfully challenged against the UNCRC standards, no growing collection of embarrassing and costly defeats in an international arena. We need to ask the question why (other than 'simply' to comply with international law) our governments should wish to fully integrate the UNCRC into our law and into the culture of our public institutions. Why should they not simply point to domestic provision for children and young people and argue, as was argued in relation to the ECHR before the *HRA 1998*, that this is adequate to meet the requirements of the UNCRC? In seeking to answer that question, we need to consider the position separately in relation to Wales and the other UK countries, because devolution allows for the development of different political priorities and the adoption of different underlying conceptual approaches.

This report is concerned with Wales, and it does not attempt a comparative analysis. The Welsh Assembly Government set out its stall in 2000 in favour of the UNCRC as the guiding set of principles for its law and policy on children and young people, and the Assembly has produced some policies, and a very small amount of law, which give some practical effect to that position. The purpose of this article is to summarise the steps that have been taken and those that could be taken towards general measures of implementation within Wales.

Implementation of the UNCRC in Wales: legislative, administrative and judicial

It is not possible for the National Assembly to pass legislation to incorporate the UNCRC comprehensively in the law of Wales. This would be beyond the limits of its powers. Questions of implementation of the UK's international obligations lie within the field of foreign policy and are non-devolved. However, this is not the end of the matter, for there are other, albeit less all-embracing, modes of implementation which can have effect at sub-national levels of governance.

First, devolved governments can use legislative powers within devolved fields such as health and education to produce law in those fields which is so far as possible compatible with the UNCRC. The use of such powers by the National Assembly to ban smacking in day care settings and to create a statutory link between the UNCRC and the remit of the Children's Commissioner for Wales were early examples of this. Second, devolved governments can issue statutory and non-statutory guidance which can have a significant impact on policy and practice. They have control or influence over training curricula for key bodies of professionals such as teachers, the health care and social care professions. In these respects there have been developments in Wales, building on early measures already noted by the UN Committee in its Concluding Observations on the UK's second periodic report.

However, a further mode of implementation is through court decisions. The courts can and should take account of the UNCRC, applying the rule of interpretation requiring judges when interpreting statutes to favour, in any case where there is ambiguity, the meaning which best gives effect to the UK's international obligations, and to take account of the UK's international obligations when developing the common law. Since the legal system of Wales remains fused with that of England, developments in this respect are not peculiar to Wales. In legal cases in England and Wales, the UNCRC is increasingly being cited in legal argument in cases concerning children, and this trend can be expected to continue as awareness of the Convention grows amongst professional and lay people. The box below gives a few examples from a much longer list of cases in which the courts have referred to the UNCRC in reaching their decision.

R v Secretary of State for the Home Department ex parte Thompson and Venables [1997] 2 FLR 471 (Articles 3 and 40) – obligation to take into account the best interests of the child and the requirement to promote reintegration, when implementing the sentence of detention during Her Majesty's pleasure

R on the application of P, Q and QB v Secretary of State for the Home Department and Others [2001] EWCA Civ 1151 (Articles 3, 9 and 18) – application of the welfare principle in relation to mothers and babies in prison

R on the application of the Howard League for Penal Reform v Secretary of State for the Home Department and Department of Health [2002] EWHC 2497 (Articles 3 and 37) – duty of Prison Service and the Secretary of State to give primary consideration to the best interests of detained children and to protect them from exploitation and abuse

Mabon v Mabon [2005] WLR 69 (Article 12) – in exercising discretion to permit separate representation of children in residence and contact disputes, courts must take into account Article 12 rights

The importance of this judicial recognition should not be forgotten, nor underestimated. The increasing influence of the ECHR in domestic court decisions in the years leading up to the *HRA 1998* was a factor in the mounting pressure for incorporation of the ECHR through legislation. Similarly it can be expected to carry weight in arguments for legislative incorporation of the UNCRC. A further important point is that the UNCRC is often cited in legal argument in conjunction with the ECHR, as evidence of common legal principles or standards shared amongst member States, guiding the courts as to the interpretation of ECHR obligations. The ECHR and the *HRA 1998* therefore constitute an important vehicle for UNCRC implementation.

Legislative and administrative measures: starting point

The starting point for consideration of legislative and administrative means of implementation is a commentary on the UN Committee's Concluding Observations on the UK's second periodic report.

The Committee noted with approval the following steps taken specifically in Wales towards implementation of the Convention:

1. ADOPTION OF THE CONVENTION AS THE FRAMEWORK FOR NATIONAL ASSEMBLY POLICY ON CHILDREN AND YOUNG PEOPLE.⁴

Since 2002, the position has been consolidated by the Assembly Resolution of 14 January 2004 in which the Assembly formally adopted the Convention as the overarching set of principles for Assembly policy on children and young people.

2. THE ESTABLISHMENT OF THE CHILDREN'S COMMISSIONER FOR WALES.⁵

Under the *Children's Commissioner for Wales Regulations 2001*, made by the National Assembly, the Commissioner is required to 'have regard to' the UNCRC in exercising his or her functions.

3. EXTENSION TO CHILD MINDING AND DAY CARE SETTINGS OF THE BAN ON CORPORAL PUNISHMENT IN EDUCATIONAL AND RESIDENTIAL ESTABLISHMENTS.⁶

This was done by the *Child Minding and Day Care Regulations (Wales) Regulations 2002*. The Welsh Assembly Government also made representations (unsuccessfully) to the UK Government arguing for the complete abolition of defence of reasonable chastisement when this was under consideration during the legislative passage of the *Children Act 2004*.

Having noted the good points mentioned about Wales, we must also note that the UN Committee's Concluding Observations included the following statements:

*"...the Committee is concerned that the provisions and principles of the Convention on the Rights of the Child - which are much broader than those contained in the[ECHR] - have not yet been incorporated into domestic law, nor is there any formal process to ensure that new legislation fully complies with the Convention..."*⁷

*"...the Committee remains concerned at the lack of a rights-based approach to policy development and at the fact that the Convention has not been recognized as the appropriate framework for the development of strategies at all levels of government throughout the State party."*⁸

The message is clear enough: the Committee expects that general measures of implementation will include a general legislative measure, systematic appraisal for Convention compliance of all new legislative proposals and mainstreaming of the Convention principles in strategic, policy, administrative and legal processes.

Against that background, we turn to examine progress in Wales in giving effect to the UNCRC in legislative and administrative measures.

Legislative measures

The Children's Commissioners

So far the only legislative references to the Convention are in the respective enactments about the four Children's Commissioners in the UK: in the case of Wales, Northern Ireland and Scotland this comprises a general obligation to have regard to the Convention in all that they do, coupled with a statutory duty to promote children's rights, whereas in the case of the English Commissioner it is merely an interpretative provision, requiring the English Commissioner to have regard to the Convention in deciding what constitutes 'children's interests'. There are issues about co-ordination of the work of the Commissioners' work generally and in relation to Convention implementation specifically. The establishment of the proposed Commission for Equalities and Human Rights under the Equalities Bill (see below) may further exacerbate the problems: at present there is a danger that in the third reporting round there will have emerged more rather than less reason for the UN Committee's concern about effective UK wide co-ordination of Convention implementation.⁹

The Children Act 2004

The Children Act 2004 offered an opportunity to begin to embed children's rights as recognised in the Convention within the statutory framework for children's services. The Act makes provision about services provided to and for children and young people by local authorities and other bodies. Unfortunately, in the Bill introduced to Parliament there was no mention of the UNCRC at all. During its parliamentary passage, Cross Party amendments to the Bill sought to introduce the Convention as a framework setting out the aims to which service provision should be directed. These amendments were resisted by the UK Government, which preferred its own list of 'outcomes' rather than a reference to the Convention rights. An amendment tabled in the House of Lords that would have imposed a general requirement on providers of children's services in Wales to have regard to the Convention (thus bringing them into line with the remit of the

Children's Commissioner for Wales) was not pursued. This rejection of explicit reference to children's rights either in the overall aims or in relation to service provision in Wales is a matter of considerable regret. It resulted in a missed opportunity to begin to introduce into the legislative framework the 'counter tradition' of children's rights, and suggests as yet lack of political will at UK government level to do so.

However, there remains an opportunity for the National Assembly to use subordinate legislative powers in implementing the *Children Act 2004* to retrieve the position to some extent. This would follow the precedent set by the *Children's Commissioner for Wales Regulations 2001* when the UNCRC was introduced into the statutory remit of the Commissioner by means of Welsh subordinate legislation.

The *Children Act 2004* confers powers on the National Assembly for Wales to implement the Act in Wales. This is to be done by building on the existing Children and Young People's Framework Partnerships (see further, below under 'Administrative Measures'). The Act puts these partnerships on a statutory footing and gives the Assembly powers to direct their work by prescribing matters to be included in the children's services plans that these partnerships must draw up. Using these powers, the Assembly Government could make considerable headway towards mainstreaming children's rights in children's service planning and delivery in Wales.

For example, the Assembly's regulations could stipulate, by analogy with the *Children's Commissioner for Wales Regulations 2001* that in carrying out their statutory functions the partnerships must have regard to the Convention. The regulations could also require specific matters to be included in the children's services plans such as:

- Arrangements to promote knowledge of the Convention on the part of service providers, children and adults (Article 42).
- Arrangements to annually monitor progress in achieving children's rights (Article 44).
- Arrangements to monitor the allocation of resources to children's services as a proportion of overall expenditure (Article 4).
- Arrangements to promote access by children to advice, assistance and advocacy in securing respect for their rights (Articles 2, 3, 9, 12, 25, 40).
- Arrangements to promote participation of children in decisions affecting them individually and collectively (Article 12).
- Arrangements for mainstreaming children's rights in policy making and in decisions by children's services authorities and their partners in Wales (Articles 3, 42).

As illustrated below (under 'Administrative Measures'), the Convention has a fairly low profile in current, non-statutory, local partnership documents. The statutory framework created by the 2004 Act gives the Assembly a real opportunity to change this, and to help follow through its commitment to the Convention as the overarching policy framework for children and young people in Wales. This would have the added advantage of bringing into line the statutory remit of the Children's Commissioner for Wales and the main public sector providers of children's services.

The Equalities Bill

A further legislative opportunity for general measures of implementation arises in the context of the establishment of a single Commission for Equalities and Human Rights. The Equalities Bill, if enacted, will give effect to UK government proposals to merge three existing equality commissions (Commission for Racial Equality, Disability Rights Commission and Equal Opportunities Commission) into a single body the functions of which will include promoting a culture of respect for human rights in relation to service provision and, more widely, in society. The Bill extends to England and Wales, and Scotland. The boundaries

of the devolution settlement dictate that the role of the National Assembly will be limited to making representations to the UK Government about what should go into the Equalities Bill, and, once it becomes an Act, exercising whatever functions, including subordinate legislative functions, are conferred on the Assembly to implement the Act in Wales.

The new Commission will be empowered to exercise its functions in relation to 'human rights', defined as ECHR rights, plus 'other human rights'. This could include the UNCRC. The Commission could, for example, use its powers to offer advice and materials to support the promotion of children's human rights in planning and commissioning services for children and young people pursuant to the *Children Act 2004*. Furthermore, under the Bill, children and young people can be regarded as a 'community' defined by age, on behalf of which the Commission could make representations and challenge measures (including legislative measures) that have a particularly adverse effect on children and young people. Examples might include the impact of anti-social behaviour orders (*Crime and Disorder Act 1998*), of criminal offences regarding sexual behaviour (*Sexual Offences Act 2003*) or of the retention of the defence of reasonable chastisement for the offence of common assault (*Children Act 2004*).

A potential difficulty, which will need to be resolved, is how the work of the Commission will fit together with the existing remit of the Children's Commissioners for Wales, Scotland and England. It is unclear at present how the Commissioners will work with and complement the work of the new Commission and whether there may be some duplication of functions.

Public Audit

The *Public Audit (Wales) Act 2004* established a single public audit body for Wales, headed by the Auditor General for Wales. This is rightly seen as a step in post devolution institutional development, the functions having been previously carried out by a joint England and Wales body, the Audit Commission. The Auditor's office (known as the Wales Audit Office) has responsibility for financial and performance audit of the National Assembly, its sponsored bodies, health bodies, local government bodies and certain other publicly funded bodies in Wales. While the Auditor General's powers do not extend to questioning the merits of policy objectives of any relevant body, they do permit studies designed to produce recommendations for improving economy, efficiency and effectiveness in the discharge of public bodies' functions and 'other studies relating to the provision of services' by public bodies.

Public audit may not be the obvious vehicle for monitoring general measures of implementation of the UNCRC. However, in 2003 the Audit Commission for England and Wales published a report on human rights implementation in public bodies.¹⁰ The report analysed progress in public bodies, gathered together best practice examples and suggested methods by which the ECHR rights given effect by the Act could be used as a framework to improve service delivery. The UK Government commissioned further work to help give effect to some of these recommendations, and in this way, gradually, effective strategic models for implementation are emerging, building on good and best practice in some public bodies.¹¹ The establishment of a Wales Audit Office may offer an opportunity for such studies to be undertaken into UNCRC implementation in Wales. This would be especially appropriate if the Assembly adopts the approach to implementation of the *Children Act 2004* suggested above, since this would have introduced Convention compliance into the statutory requirements for Welsh local children's service planning and delivery, with the consequence that Convention implementation becomes a legitimate subject of public audit in Wales.

Other areas

The National Assembly has legislative powers in numerous fields, into the exercise of which it could inject greater prominence for the UNCRC. There is not space here to go into detail or to enumerate all the possibilities, but amongst the most obvious are powers in relation to school governance, the national curriculum and care standards. The National Assembly itself needs to develop better mainstreaming of the UNCRC in its own policy and decision making processes. Its Policy Integration Tool, developed largely for the purposes of sustainable development, should be adapted for this purpose. This would help to ensure that whenever proposals for new Assembly legislation are being drawn up, the need to further implementation of the UNCRC is automatically included as an overarching policy goal (see page 39 for further discussion on mainstreaming children's rights into legislation and policy making).

Administrative measures: guidance, policy and practice

Implementation at National Assembly level

Further to its Resolution of 14 January 2004, the National Assembly for Wales has adopted Convention principles as the basis of specific initiatives set out in statutory and non-statutory guidance and in consultation documents. The main initiatives are set out below.

CHILDREN AND YOUNG PEOPLE: A FRAMEWORK FOR PARTNERSHIP: 2002¹²

The Welsh Assembly Government's Planning Guidance reiterates the Assembly's commitment to the UNCRC and requires that local Children and Young People's Framework Partnerships should likewise set out their commitment to the Convention.

EXTENDING ENTITLEMENT: 2002¹³

This is the National Assembly's legal direction on youth services to local authorities under section 123 of the *Learning and Skills Act 2000*. It sets out a universal basic entitlement for young people aged 11-25 in Wales and requires local authorities to develop Young People's Plans to give effect to them. The 10 entitlements are not explicitly linked to the Convention but are clearly consistent with it. The significant point is that the language of **entitlement** is adopted, marking a shift in the conceptual basis towards a rights-based approach.

RIGHTS TO ACTION: 2004¹⁴

This is a policy document issued by the Welsh Assembly Government which provides the basis for initial consultation on implementation of the *Children Act 2004*. In it, the Assembly has adopted 7 core aims for children and young people. These are explicitly presented as a translation of the UNCRC into broad policy aims. Accordingly, each of the 7 core aims is linked to UNCRC articles:

1. A flying start in life: Articles 3, 29, 36.
2. Comprehensive range of education and learning opportunities: Articles 23, 28, 29, 32.
3. Enjoy the best possible health and freedom from abuse, victimisation and exploitation: Articles 6, 18-20, 24, 26-29, 32-35, 37 and 40.
4. Access to play, leisure, sporting and cultural activities: Articles 15, 20, 29, 31.
5. Be listened to, treated with respect and have their race and cultural identity recognised: Articles 2, 7, 8, 12-17, 20.
6. Have a safe home and community which supports physical and emotional well-being: Articles 19, 20, 25, 27, 32-35, 37, 40.
7. Are not disadvantaged by poverty: Articles 6, 26, 27, 28.

Specific initiatives such as Sure Start, the child poverty strategy and youth offending strategy are identified as measures to implement the 7 core aims. The documents setting out some of these measures have also adopted the approach of linking specific measures to Convention articles. Examples are the youth offending

and child poverty strategies. Both of those strategies are also interesting because they span devolved and non-devolved fields of governance and illustrate that the demarcation set down in 1998 is not necessarily a barrier to developing a distinct Welsh approach, at least at a policy level.

Implementation at local authority level

It is too early to assess the impact of these various strategies in terms of UNCRC implementation. *The Children Act 2004* generates a need for further reorganisation and refocusing at local authority level at a time when the non-statutory frameworks are only beginning to operate. Nonetheless some useful points can be made on the basis of such evidence as is available about the non-statutory frameworks.

All 22 local authorities in Wales have now established non-statutory Children and Young People Framework Partnerships. The partnerships' plans are produced in the context of a range of other strategies required at local authority level, such as health, social care and well being strategies and community strategies.

Most of the published local authority documents pertaining to the Framework Partnerships make explicit reference to the 7 core aims in *Rights to Action* and to *Extending Entitlement*. References to children's rights and to the UNCRC are much less prominent. There are several examples of a general statement of commitment to implementation of the UNCRC of a similar kind to the National Assembly's resolution (e.g. Caerphilly, Swansea). References to Convention articles in connection with any particular services or initiatives are rare. In this respect the documents reflect the Assembly Government's *Framework Planning Guidance*, which also does not make such connections, the reference to the Convention being limited to the general statement of commitment to its principles.

In some cases where there is reference to children's rights or the UNCRC, it is in the context only of children 'having a say' rather than a comprehensive rights based approach to children's interests generally. In general the language of rights appears to be much less prominent when describing provision of support and services. This no doubt flows logically both from the Assembly Government's planning guidance and from the established legislative framework for provision of support and services for children, principally the *Children Act 1989* (an England and Wales Act).

The legislative framework is predicated on child protection, needs assessment and community safety and makes no reference to children's rights (although there are provisions which facilitate children's agency in certain legal processes). The lack of 'rights-speak' in relation to the provision of services and support is a matter of concern since the UNCRC stakes an unambiguous claim for children to have a certain level of protection and to have both material and emotional support **as a matter of right**, all of this being facilitated and where necessary provided by the State. Furthermore, recent court decisions have shown that child protection and the provision of support can be the subject of rights claims under the ECHR and *HRA 1998*.

Conclusion: the way forward

While a truly general measure of implementation such as a 'Children's Rights Act' of the UK Parliament remains off the political agenda for the foreseeable future, there is scope within Wales for significant further progress in promoting "*the rights, principles and provisions of the Convention in order to ensure that all legislation complies with the Convention and that the provisions and principles of the Convention are widely applied in legal and administrative proceedings*".¹⁵ The National Assembly made an important commitment on 14 January 2004. Its task in following through this commitment is complicated by the complexities of devolution in Wales coupled with a degree of divergence from the position of the UK government as to the prominence to be given to the UNCRC, as reflected in the UK parliamentary debates on the *Children Act 2004*.

There are, nonetheless, possibilities for further legislative and administrative measures to be taken within Wales at the same time as seeking to promote full incorporation at UK level. To maximise the opportunities it will be necessary for the Assembly to show considerable ingenuity in operating within the confines of the devolution settlement, but the suggestions set out here illustrate that, with the requisite political will, there is scope for greater progress to be made within Wales than may seem obvious at first glance.

General measures of implementation

Resources

CONCLUDING OBSERVATION para.11. The Committee recommends that the State party: Ensures transparent analysis of sectoral and total budgets across the State party and in the devolved administrations to show the proportion spent on children, to identify priorities and to allocate resources “to the maximum extent of available resources”.

Commentary on progress

The Committee on the Rights of the Child acknowledges that a lack of resources (financial and other) can hamper full implementation of economic, social and cultural rights in some States and introduces the concept of “*progressive realisation*” of such rights. The Committee requires States to demonstrate that they have implemented the Convention “*to the maximum extent of available resources*”.¹⁶ To do that it is essential that budgets are clear about what exactly is spent on children.

The Welsh Assembly Government have not yet taken steps to ensure a transparent analysis of budgets at either a national or a local government level, to show the proportions spent on children. In 2002, Save the Children commissioned a review of public expenditure on children in Wales.¹⁷ The aim of the review was to identify trends in the national government’s spending on children and to assess to what extent the child-centred policy decisions of the Welsh Assembly Government were backed up by money to deliver improved services and address the obstacles faced by the most marginalised children in Wales.

The review showed some pleasing trends in the level of public expenditure on children in Wales. It illustrated a growth in spending on children over the period 1996-97 to 2000-01. As well as an increase in spending on education over the period, there had been a significant increase in the share of the social services budget spent on children in Wales. However, the study also raised more questions. It illustrated substantial variations in the levels of spending between local authorities and health authorities not all of which seem attributable to demographic and socio-economic factors. It also highlighted the difficulties in accessing information on public spending on children particularly in non-children specific services and in determining how much is spent on children. For example, some services are provided to whole areas (e.g. open spaces, economic development), or even whole countries (e.g. defence, national heritage), so it is difficult to apportion spending in the same way.

The recommendations from the UN Committee’s last examination of the UK to ensure transparent analysis of budgets have recently prompted the Welsh Assembly Government’s Minister for Children to state that she will explore the possibility of providing this analysis within the next Assembly Budget. Save the Children is also exploring opportunities to analyse government spending on children at the local level and to pilot mechanisms that enable children and young people to have a say in determining these allocations. Regulations covering what should be in the new three year Children and Young People’s Plan that the Framework Partnerships will be required to produce from April 2008 provide an opportunity for the Assembly Government to require budget analysis.

The challenge of bringing about the necessary budgetary shifts requires the NGO sector to develop its skills and competencies to better understand the budgetary process and to find ways to advocate for shifts to be effected. Developing an understanding of budgets and then making them accessible to a wider audience can be a potent form of advocacy.

Key recommendations

- The Welsh Assembly Government should require the Framework Partnerships to provide a budget analysis setting out the spending on children's services in their three year Children and Young People's Plans.
- The Welsh Assembly Government should include an analysis of its spending on children in its next and subsequent budgets.
- The children's NGO sector should work together with government and others in their sector to develop skills and competencies in budget analysis and improve literacy about government spending amongst children, young people and civil society.

General measures of implementation

Co-ordination

CONCLUDING OBSERVATION para.13. The Committee recommends that the State party: Assign co-ordination of the implementation of the Convention to a highly visible and easily identifiable permanent body with an adequate mandate and adequate resources. Co-ordination should be across the State party as among the various levels of governments in Northern Ireland, Scotland, England and Wales, as well as between Governments and local authorities.

The UN Committee notes that:

*“Effective implementation of the Convention requires visible cross-sectoral co-ordination to recognise and realise children's rights across Government, between different levels of government and between the Government and civil society – including in particular children and young people themselves”.*¹⁸

The Committee acknowledges that all government departments impact on children's lives and suggests that a special unit with high level authority can contribute to the overall purpose of making children more visible in government and to co-ordination to ensure respect for children's rights across government and at all levels of government. The responsibilities of such a unit, the Committee continues, could include:

*“developing the comprehensive children's strategy and monitoring of its implementation, as well as for co-ordinating reporting under the Convention”.*¹⁹

Commentary on progress

Co-ordination across the Welsh Assembly Government

The Assembly Government has taken a number of very positive steps to establish government structures that ensure children's issues are high up the political agenda and that there is effective co-ordination. One of the benefits for the children of Wales of having new devolved, governance arrangements has been the opportunity that has been provided for things to be done differently and in ways that are more responsive to the specific needs of Wales.

The notable structures established by the Welsh Assembly Government concerned with the co-ordination of the implementation of the Convention across national government are as follows:

- A Children's Minister who holds responsibility for UNCRC implementation and for championing the rights and interests of children across government.
- A Welsh Assembly Government Cabinet sub-committee for children and young people.
- Children and Young People: Officials' Group²⁰ – a more senior group of civil servants at the Welsh Assembly has recently been established to support the work of the Cabinet sub-committee for children and young people and to strengthen crosscutting policy development on children's issues.

There has been a Minister for Children in the Welsh Assembly Government for five years and there has only been one post holder. But it has really been in 2005 that the role of the Minister for Children has become visible and pro-active. The Minister chairs the Cabinet's sub-committee on children and young people bringing together four other Welsh Assembly Government Ministers including the First Minister; the Minister for Health and Social Services; the Minister for Culture, Sports and the Welsh Language; and the Minister for Education and Life-long Learning. Other Cabinet Ministers can be and often are, asked to attend the sub-committee's meetings for specific agenda items.

The terms of reference for the Cabinet sub-committee are as follows:

“to promote the health, well-being, educational, social and personal development of all children and young people in Wales, to combat social disadvantage arising from poverty, disability or lack of educational opportunity, and to help all young people in Wales to maximise their potential in adult life.

In so doing, the sub-committee will:

- *determine the policy priorities within the context of the Assembly's Framework for Children and Young People in Wales and Extending Entitlement and secure their implementation;*
- *identify and pursue cross-cutting policy initiatives which will contribute to the realization of these goals;*
- *ensure that the interests of children and young people are given due priority in all Cabinet and Assembly policy-making.”*²¹

Whilst the Welsh Assembly Government has formally endorsed the UNCRC there is no specific reference to the Cabinet sub-committee's or the Children's Minister's role in implementing the Convention.

In October 2002, the Cabinet sub-committee formally considered the UN Committee's Concluding Observations on the UK State party report. The report prepared by Officials advised Ministers that the UN Committee would be looking for progress on addressing these Observations when it considered the next UK State party report. The report continues:

*“Officials are...beginning to consider at this stage how the [UN] Committee's recommendations can be embedded in the Assembly Government's developing policy agenda for children and young people, including giving a higher profile to the Convention itself. Further reports will be made to the [Cabinet sub] Committee on progress.”*²²

To our knowledge, further reports specifically referring to progress in respect of the UN Committee's 2002 Observations have not yet been considered by the Assembly Government's Cabinet sub-committee on children and young people.

For successful implementation of the Convention there needs to be better collaborative relationships between the different Divisions in the Assembly Government. It is too soon to evaluate the recent changes to the Welsh Assembly Government Children and Young People: Officials' Group, but one can hope that it will be pivotal in developing an Assembly Government wide response to UNCRC monitoring and implementation. The impact of the Children's Minister will again have to be fully assessed at a later point but the current concerns rest on the fact that the Minister for Children brings no dedicated budget. This is likely to compromise her/his ability to influence strongly the political agenda towards the interests of children.

Co-ordination across local government and between local government and national government

Co-ordination across local government, public health services and other partners with regard to children and young people has been improved via the Children and Young People's Framework Partnerships which have been required since 2002.²³ However, there is still some way to go in establishing effective co-ordination at this level of governance.

The Children Act 2004 places a duty on every local authority in Wales to appoint a lead director and lead member for children and young people's services.²⁴ Local Health Boards will designate lead officers and members and NHS Trusts will designate lead executive and non-executive directors with responsibilities mirroring those of the local authority lead director. These requirements come into force in April 2006.

Part of the lead role as set out in the Assembly Government's draft guidance, *Stronger Partnerships for Better Outcomes*, is as *"caretakers of children's rights ensuring that action is taken to implement commitments to the UN Convention on the Rights of the Child"*.²⁵ This is a very welcome development that will assist with embedding and implementing the UNCRC at local authority level and within Local Health Boards and NHS Trusts. However, the draft guidance fails to articulate what this responsibility means operationally. The guidance is not clear what the lead director's role involves, other than ensuring consultation and complaints procedures are in place.

Co-ordination between local and national government occurs via a number of formal and informal structures for example, the Partnership Council, Policy Agreements, the Welsh Local Government Association (WLGA).²⁶ However there are no dedicated structures for co-ordinating policy and service development for **children** between national and local government. There is no officer for instance, at the WLGA who has responsibility for children; rather responsibility for children's policy is divided amongst a number of officers mirroring the substantive Ministries in the Assembly Government.

Co-ordination across civil society including with children and young people

In Wales, there are comparatively strong links between governmental and non-governmental organisations in the field of child welfare and children's rights.²⁷ Under the auspices of Children in Wales, the NGO sector was instrumental in persuading government to establish a Children's Commissioner and the post of a cross-cutting, Minister for Children. The Welsh Assembly Government frequently cite the valuable contributions made to its policy development by children's NGOs.

The UNCRC Monitoring Group is building on these foundations, developing an important, constructive yet critical collective voice to monitoring the Welsh Assembly Government's obligation to implement the Convention. Children in Wales and Funky Dragon are key members of the UNCRC Monitoring Group and the Children's Commissioner and the Welsh Assembly Government attend as observers. The establishment and recent strengthening of the UNCRC Monitoring Group has meant that there is an increasing engagement of NGOs, agencies working with and for children and the academic sector in developing an understanding of the Convention and becoming involved in the monitoring and reporting process.

Funky Dragon is the children and young people's assembly for Wales. It was set up in 2002 with funding from the Welsh Assembly Government and other sources. It is a peer-led organisation whose main aim is to make sure that the views of children and young people are heard, particularly by the Assembly Government, and to support participation in decision-making at national level. Funky Dragon provides young people from across Wales with the opportunity to influence matters of government through regularly attending formal meetings with Assembly Government Ministers and Officials. They have a particular emphasis in engaging marginalised or 'special interest' young people and are exploring ways of engaging younger children in influencing matters of government.²⁸ For more information on Funky Dragon, please see Chapter 3 and the section on children's participation (page 44).

The Welsh Assembly Government have also recently announced their intention to establish an open forum for young people from minority ethnic communities. This follows a recommendation from the Wales Resilience Forum meeting shortly after the London bombings in July 2005. The Assembly Government intend that the new forum will *"provide a platform from which issues such as education, health, employment, racial harassment and extremism could be aired with a view to ensuring that Assembly Government is listening and acting with the best interest of the child at heart."*²⁹

The Welsh Assembly Government regularly consults with children and young people on policy development, through Funky Dragon, through NGOs and also directly through its own efforts. The Welsh Assembly Government Participation Project (see page 45) expressly aims to develop such practice across all the Assembly Government's functions. The impact of this project is already being felt with the Welsh Assembly Government increasingly issuing child friendly versions of key policy documents and inviting children and young people to respond directly.³⁰

There has not yet been an evaluation of Funky Dragon's or children and young people's influence over policy making and the development of government structures but it is very encouraging that children and young people are being given a voice in how policies are developed and implemented. It will be important to evaluate how far these voices are being heard and acted upon at the heart of government in preparation for the next report to the UN Committee due in 2007.

Co-ordination across the State party

The UN Committee also recommended that the State party *"assign co-ordination of the implementation of the Convention to a highly visible and easily identifiable body working across the UK"*.³¹ They expressed concern at the absence of a central mechanism to co-ordinate the implementation of the UNCRC across the UK. For a short period the Children and Young People's Unit³² held this responsibility but this Unit was disbanded in the autumn of 2003 and UK co-ordination of the UNCRC has been put on hold for over two years. Recently, the Department for Education and Skills has discussed the possibility of again setting up UK wide seminars dedicated to looking at UNCRC monitoring and reporting, beginning in spring 2006. This is certainly welcomed, as the Committee themselves note, devolution *"intensifies the need for effective co-ordination of implementation of the Convention across the State party"*.³³

Conclusion

There are many positive developments in respect of establishing a more co-ordinated response to implementing the UNCRC in Wales. What is apparent however is that we still need to do more to establish a coherent and consistent approach to UNCRC monitoring and implementation across and between national and local government.

General measures of implementation

Plan of action

CONCLUDING OBSERVATION para.15. The Committee, recommends the State party to: Expedite the adoption and implementation of a comprehensive plan of action for the implementation of the Convention in all parts of the State party, taking into account the World Fit For Children (WFFC) and paying special attention to children belonging to the most vulnerable group (e.g. poor households, minority groups, disabled children, homeless children, out of care children and children between 16-18 years, Irish and Roma travellers, asylum seekers) through an open and consultative process.

Commentary on progress

In 2002, the UN Committee welcomed the fact that the National Assembly for Wales had used the Convention as a framework in its strategy for children and young people.³⁴ The Assembly has adopted 7 core aims for children which are presented as a translation of the UNCRC into broad policy aims. This has been widely welcomed, however, despite a promise in October 2002 that “*work is now starting on developing the more detailed objectives and targets to support these aims*”³⁵ and an announcement that “*all Assembly programmes that have an effect on children are now being considered under these headings*”³⁶ the Welsh Assembly Government have not yet published a comprehensive plan of action to realise these aims for children.

It is also the case that in practice, the strategy for children and young people has not been over-arching rather it often appears to compete with other government strategies and plans. The 7 core aims for children need to have greater prominence and be reflected in the Assembly Government’s overall plan or strategy for Wales.³⁷ As the UN Committee advises in their *General Comment No. 5* the strategy should be endorsed at the highest level of government and explicitly linked to national development planning and national budgeting, otherwise the strategy may remain marginalised outside key decision-making processes.³⁸

Key recommendation

- The Welsh Assembly Government’s 7 core aims for children should be reflected in its strategic plan for Wales. The realisation of these core aims needs to be supported by a plan of action detailing how these aims will be taken forward and setting out mechanisms for measuring progress.

General measures of implementation

Independent monitoring structures

CONCLUDING OBSERVATION para.17. The Committee recommends that the State party:

- a) Establish independent human rights institutions with broad mandate and appropriate powers and resources all across the State party and at the national level, in accordance with the Paris Principles (General Assembly resolution 48/134), to monitor protect and promote all the rights of the Convention for all children. They should be easily accessible to children; able to determine their own agenda; empowered to investigate violations of children's rights in a child-sensitive manner; and ensure that children have an effective remedy for violation of their rights.
- b) Ensure that all human rights institutions have formal advisory functions with the respective legislative bodies and that they establish formal links, including of cooperation, with each other.
- c) Provide national human rights institutions with adequate resources and appropriate staff.
- d) Ensure that children and children's organisations are effectively involved in their establishment and activities.

Commentary on progress

The Office of the Children's Commissioner for Wales was established in 2001.³⁹ Wales is rightly proud of being the first administration in the UK to have a Children's Commissioner who is central to promoting and safeguarding the rights of children and the implementation of the UNCRC.

Since 2002, the Children's Commissioner for Wales has made a number of recommendations "to changes in policies and practice designed to promote and protect children's rights and welfare in relation to such issues as bullying, provision of health and social services, asylum, spatial planning and child poverty".⁴⁰ He has produced three annual reports which along with the Assembly Government's response have been considered by the National Assembly for Wales.⁴¹ The Children's Commissioner's annual reports have served to highlight particular concerns to government and civil society and set in train some distinct improvements to policy and practice developments as they affect children in Wales. Child poverty is possibly the best example as it has explicit reference to the UNCRC.

In addition, the Children's Commissioner for Wales has undertaken a number of important inquiries and reviews. The impact of his examination of a particular case concerning allegations of abuse against children in a school setting and his subsequent report (the *Clywch Report*⁴²) with its many recommendations for improvements to procedures and practice around the safeguarding of children in school settings is still reverberating around government offices and school governing bodies across Wales. *Telling Concerns*,⁴³ the Children's Commissioner for Wales' report on the operation of local authority social services complaints and whistle blowing procedures and the provision of advocacy services and *Children Don't Complain...*⁴⁴ his report on the mirror arrangements within local education authorities have been very influential in terms of focusing the attention of the relevant duty bearers on the need to improve policy and practice.

In policy matters devolved to the National Assembly of Wales the Children's Commissioner for Wales has wide ranging powers to review the effects of policies, proposed policies and the delivery of services to children. He can make representation to the National Assembly for Wales on any matter affecting the rights and welfare of children in Wales including non-devolved matters but he cannot make representations to the accountable departments of the UK government on non-devolved matters such as youth justice, immigration or tax and benefit policies.

During the recent passage of the Children Bill (now the *Children Act 2004*), the Welsh Assembly Government, NGOs and the Commissioner himself, made representation to the UK Government to give the Children's Commissioner for Wales additional powers in respect of non-devolved matters but the UK government chose instead to give any formal responsibility for non-devolved policy areas to the new Children's Commissioner it is establishing in England. This Commissioner has weaker powers in law – promoting awareness of children's views and interests rather than promoting or safeguarding their rights and the Office is not independent of Government.⁴⁵

The Children's Commissioner for Wales is actively working on arrangements to involve children and young people in shaping the work of his Office. An 'ambassador' scheme in primary schools across Wales has been piloted and in 2005 the Commissioner ran a number of events to gather the views of children and young people and to establish a number of children and young people advisory groups.

Swansea University is working with the Children's Commissioner for Wales (in partnership with Funky Dragon and Save the Children) to conduct a participatory evaluation of the work of the Commissioner's Office. Children and young people are actively engaged in developing the methodology for the evaluation which in its first year will focus on the extent to which children and young people across Wales are aware of the Commissioner's Office and his role.

Key questions

- What mechanisms are needed to monitor the effectiveness of the Offices of Children's Commissioners across the UK in monitoring, protecting and promoting the rights in the Convention for all children in the State party?
- What explicit role is the Children's Commissioner for Wales preparing to take in monitoring progress on the UN Committee's Concluding Observations of 2002 and in reporting to the UN Committee on that progress in 2007? How are the four Children's Commissioners across the State party proposing to co-ordinate their input while ensuring that progress in each of the four nations of the UK is fairly reflected?

General measures of implementation

Data collection

CONCLUDING OBSERVATION para. 19. The Committee recommends that the State party: Establish a nation-wide system such that disaggregated data are collected on all persons under the age of 18 years for all areas covered by the Convention, including the most vulnerable groups, that these data are used to assess progress and design policies to implement the Convention. The Committee encourages development of regular reports in England, Northern Ireland, Scotland and Wales and for the whole State party and the promotion of wide public and parliamentary debate on them in the United Kingdom and Scottish Parliaments and Northern Ireland and the Wales Assemblies.

Commentary on progress

There is as yet no system in Wales or across the UK for collection of data on children for all areas covered by the Convention. The Office of National Statistics, the Welsh Assembly Government, the UK Government and others collect a range of data on children but they do not cover all areas of the Convention. The data gathered is rarely used to assess progress and shape services and there have been no regular reports in Wales on the 'state of children' in Wales to promote public debate and debate within the National Assembly. Neither the Welsh Assembly Government nor the Children's Commissioner has fulfilled this function.

The Welsh Assembly Government did embark on a process of consultation to determine a national approach to measuring progress and evaluating outcomes for children and young people with the launch of *Children and Young people: Rights to Action* in 2004.⁴⁶ However, over a year later these have not been agreed and progress is slow. The Assembly Government is working with local authorities and others to develop a framework to measure performance with core indicator sets and it has recently announced that it is to establish a children and young people's reference group to contribute to these developments. A *Self Assessment and Audit Tool (SAAT)* has been developed to assist health services and their partners to monitor and improve their performance in implementing the standards contained in *The National Service Framework for Children, Young People and Maternity Services in Wales (NSF)*.

The UNCRC Monitoring Group is working to develop a framework for monitoring the implementation of the Convention in Wales and has been invited to participate in the children and young people's reference group to advise the Welsh Assembly Government on the core set of indicators that it will use to measure progress against its 7 aims for children.

Conclusion

The mechanisms for monitoring outcomes for children in Wales (and across the UK) remain woefully inadequate.⁴⁷ Neither Wales nor the other nations of the UK publish an annual report on the state of the country's children. In a recent review Bradshaw and Mayhew note that there are "*entire areas of child well-being for which data is simply not available or where data is not comparable across the UK*".⁴⁸ This makes it very difficult to assess progress towards improving children's well-being and therefore to evaluate the impact of policies. In some areas of children's lives, the lack of data on children in Wales is particularly acute. For example, there is little Wales-specific data on health and wellbeing, in particular mental health.

Key recommendation

- The Welsh Assembly Government should collate, analyse and publish data on the well-being of children in Wales, monitoring progress across the country in achieving its 7 core aims for children. It should report on an annual basis to the National Assembly on the 'state of children in Wales' to enable debate and reflection. The data collected in Wales should be capable of measuring progress over time and allow comparisons with countries within the UK and Europe.

General measures of implementation

Training/Dissemination of the Convention (Article 42)

CONCLUDING OBSERVATION para.21. The Committee recommends that the State party:

- a) Substantially expand dissemination of information on the Convention and its implementation among children and parents, civil society, and all sectors and levels of government, including initiatives to reach vulnerable groups.
- b) Develop systematic and ongoing training programmes on human rights including children's rights, for all professional groups working for and with children (e.g. judges, lawyers, law enforcement officials, civil servants, local government officials, personnel working in institutions and places of detention for children, teaching and health personnel).

Commentary on progress

- a) **Substantially expand dissemination of information on the Convention and its implementation among children and parents, civil society, and all sectors and levels of government, including initiatives to reach vulnerable groups.**

Apart from the literature connected to *Children and Young People: Rights to Action*, there has been very limited distribution of information directly related to developing an understanding of the Convention. The Convention is not referenced or explained on the Welsh Assembly Government website (although there is a link to the Convention on the Department of Health site – available in English only). The Centre for Education in World Citizenship and Save the Children have funded bilingual children-friendly leaflets of the Convention that the Assembly Government should themselves be funding and distributing across institutions working with and for children and young people, as a part of their Article 42 obligation.⁴⁹

The Convention should also be translated and made available in the minority languages of the country as well as making it accessible to people with disabilities. This is currently not the case in Wales. The Convention is not referenced or explained on the Children's Commissioner's own website even though the Commissioner is supposed to have regard to the Convention. These are simple actions that the two key institutions responsible for promoting children's rights in Wales can take to advertise and promote an understanding of the Convention.

The challenges of joined up government have resulted in a public awareness strategy being formulated by the Welsh Assembly Government to raise young people's awareness of their 10 'Entitlements'⁵⁰ but we understand that no resources have yet been identified for a strategy to raise children's awareness of their full set of rights under the Convention.

- b) **Develop systematic and ongoing training programmes on human rights including children's rights, for all professional groups working for and with children (e.g. judges, lawyers, law enforcement officials, civil servants, local government officials, personnel working in institutions and places of detention for children, teaching and health personnel).**

The UN Committee notes that if the adults around children do not understand the implications of the Convention, it is unlikely that the rights set out in the Convention will be realised for many children.⁵¹

It is beyond the scope of this report to attempt a comprehensive evaluation of how far the UNCRC has been incorporated into the training curricula for the different professionals working with children; this requires a further more extensive study for the 'official report' due in 2007.

The Welsh Assembly Government should ensure that training on the Convention is mandatory for all government officials in all departments and personnel working with or delivering a service to children and young people. In its *General Comment No 5* the UN Committee on the Rights of the Child has indicated that the overall purpose of such training should be “to emphasise the status of the child as a holder of human rights, to increase knowledge and understanding of the Convention and to encourage active respect for all its provisions”.⁵² This factor is particularly relevant with respect to the yet to be finalised, guidance for the *Children Act 2004* that is arguing for lead directors and lead members to be recruited and elected to become “caretakers of children’s rights” at local authority level and within Local Health Boards and NHS Trusts.⁵³ If they are to be effective in this role it should be mandatory that they receive training in the UNCRC and the *Human Rights Act 1998*.

Another obligation (Article 44.6) of the State party and therefore of the Welsh Assembly Government is to ensure that the public and professionals have access to information on the progress (or lack of) on the Concluding Observations coming from the UN Committee on the Rights of the Child. This is something that has not been very well achieved up to now but with the Welsh Assembly Government supporting the conference that will launch this report, we are witnessing an increasing commitment by the Assembly Government to be a part of the process of encouraging dialogue in Welsh society on the UN Committee’s Concluding Observations.

Conclusion

The Committee on the Rights of the Child proposes that each State party should develop a comprehensive strategy for disseminating knowledge of the Convention throughout society.⁵⁴ It is clear that the State party has certainly not succeeded in meeting this obligation and the Welsh Assembly Government needs to dedicate further resources, commitment and energy to supporting a co-ordinated and effective dissemination strategy in Wales.

Key recommendations

- The Welsh Assembly Government should develop and resource a strategy for disseminating knowledge of the Convention throughout society. This should include material to inform children, young people, parents/carers and adults working with children and young people of their rights under the Convention.
- Research should be conducted to identify the level of knowledge on the UNCRC amongst professionals working with children and young people and the level of incorporation into the professional training of teachers, social workers, youth workers and others working with children.

Endnotes

- ¹ General Comment No 5 (2003) General Measures of Implementation of the Convention on the Rights of the Child. Committee on the Rights of the Child, 34th session. CRC/GC/2003/5.
- ² CRC/GC/2003/5 para. 2.
- ³ Clem Henricson and Andrew Bainham, 2005, *The child and family policy divide: tensions, convergence and rights*, Joseph Rowntree Foundation.
- ⁴ CRC/C/15/Add.188 (October 2002), para. 14.
- ⁵ Ibid, para. 16.
- ⁶ Ibid, para. 8.
- ⁷ CRC/C/15/Add.188 (October 2002), para. 8.
- ⁸ Ibid, para. 14
- ⁹ Ibid, paras.12 and 13.
- ¹⁰ Audit Commission, 2003. *Human Rights, Improving Public Service Delivery*.
- ¹¹ Frances Butler, 2005, *Improving Public Services: Using a Human Rights Approach. Strategies for Wider Implementation of the Human Rights Act Within Public Authorities*, Institute for Public Policy Research.
- ¹² Welsh Assembly Government (July 2002) *Children and Young People: A Framework for Partnership*.
- ¹³ Welsh Assembly Government (2001) *Extending Entitlement*.
- ¹⁴ Welsh Assembly Government (January 2004) *Children and Young People: Rights to Action*.
- ¹⁵ CRC/C/15/Add.188 (October 2002), para. 8.
- ¹⁶ CRC/GC/2003/5 para. 7.
- ¹⁷ Sefton, T. (2002) *A Child's Portion? Public Spending on Children in Wales*. Save the Children.
- ¹⁸ CRC/GC/2003/5 para. 27.
- ¹⁹ CRC/GC/2003/5 para. 39.
- ²⁰ Cabinet sub-committee on Children and Young People – (CYP 04/05) 33.
- ²¹ Welsh Assembly Government Cabinet Sub-Committee on Children and Young People Membership and Terms of Reference <http://www.wales.gov.uk/organicabinet/SubCmteeMeetings/children/tor.htm>
- ²² Welsh Assembly Government (October 2002) *UN Committee on the Rights of the Child Concluding Observations. A report to the Cabinets sub-committee on children and young people*. CSCCY(02-02)5.
- ²³ Welsh Assembly Government (July 2002) *Children and Young People's Framework Planning Guidance*.
- ²⁴ The Children Act, 2004 (Section 27) (1).
- ²⁵ Welsh Assembly Government (2005) Draft Guidance – Children Act 2004. *Stronger Partnerships for Better Outcomes*.
- ²⁶ M. Laffin, G.Taylor and Thomas, A. (2002) *A new partnership?* The National Assembly for Wales and local government. Accessed at: JRF <http://www.jrf.org.uk/bookshop>
- ²⁷ Thomas, N and Crowley, A (forthcoming) *The State of Children's Welfare and Rights in Wales in Contemporary Wales*.
- ²⁸ See website: www.funkydragon.org
- ²⁹ Welsh Assembly Government Press Release (August 22, 2005) New voice for minority ethnic young people.
- ³⁰ See for example: Young People's Guides to the draft (2004) *National Service Framework for Children, Young People and Maternity Services in Wales* and draft (2005) *Guidance on Pupil Inclusion*.
- ³¹ CRC/C/15/Add.188, para. 13.
- ³² The UN Committee commended the establishment of the Children and Young People's Unit in 2002. Most of its responsibilities were to prepare the UK's periodic reports to the Committee. This responsibility now sits with the Children and Families Directorate in DfES.
- ³³ CRC/C/15/Add. 188, para. 12.

³⁴CRC/C/15/Add.188.

³⁵Welsh Assembly Government Children and Young People's Strategy update – October 2002.

³⁶Children and Young People's Strategy Update, October 2002.

³⁷Welsh Assembly Government (September 2003) *Wales: A Better Country. The strategic agenda of the Welsh Assembly Government.*

³⁸CRC/GC/2003/5.

³⁹Regulation 22 of the Children's Commissioner for Wales Regulation 2002 (SI 2001/2787) (W237) (the 2001 Regulations).

⁴⁰Williams, J (2005) Effective government structures for children? The UK's four Children's Commissioners. *Family Law Quarterly* Volume 17 Issue 1, 2005 pp. 37-53.

⁴¹Downloadable from: www.childcom.org.uk

⁴²Children's Commissioner for Wales (2004) *Clywch Report of the Examination of the Children's Commissioner for Wales into allegations of sexual abuse in a school setting.*

⁴³Children's Commissioner for Wales (2003) *Telling Concerns.* Downloadable from: www.childcom.org.uk

⁴⁴Children's Commissioner for Wales (2005) *Children Don't Complain....* Downloadable from: www.childcom.org.uk

⁴⁵Children's Rights Alliance for England (2004) *State of Children's Rights in England in 2004: Annual review of UK Government action on 2002 Concluding Observations of the United Nations Committee on the Rights of the Child.* London, Children's Rights Alliance for England.

⁴⁶Welsh Assembly Government (January 2004) *Children and Young People: Rights to Action.*

⁴⁷Bradshaw, J. and Mayhew, E. *The Well-being of Children in the UK.* Second Edition (2005). Save the Children and University of York.

⁴⁸Ibid, page 5.

⁴⁹Article 42 of the UNCRC: *States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.*

⁵⁰Welsh Assembly Government (2005) Scoping Paper: *What's in it for me? An Awareness Raising Strategy for Extending Entitlement.*

⁵¹CRC/GC/2003/5 – para. 66.

⁵²CRC/GC/2003/5 – para. 53.

⁵³Welsh Assembly Government (2004) Draft Guidance on the Children Act, *Children and Young People: Rights to Action – Stronger Partnerships for better Outcomes.*

⁵⁴CRC/GC/2003/5 – para.67.

Chapter Three

Guiding principles

Non-discrimination: looked after children

Mike Lewis – Children in Wales

Guiding principles: non-discrimination (Article 2)

Looked after children

CONCLUDING OBSERVATION para.22. The committee is concerned that the: Principle of non-discrimination is not fully implemented for all children in all parts of the State party and that unequal enjoyment of economic, social, cultural, civil and political rights still exist, in particular for children with disabilities, children from poor families, Irish and Roma travellers' children, asylum and refugee children, children of minority groups, **children in the care system**, detained children, and children aged between 16 and 18 years.

Relevant Articles of UNCRC: Article 20 of specific relevance.

Commentary on progress

“care leavers are 50 times more likely to go to prison, 60 times more likely to be homeless and 88 times more likely to be involved in drug use than children and young people who have not been ‘looked after’ by local authorities”¹

This section will give an overview to the legislation, policy and practice around looked after children in Wales since the UN Committee reported in 2002. Other articles in this report are concerned with issues that significantly impact on the lives of looked after children. For example: protecting children from abuse (Article 19), children's right to participate in matters that affect them (Article 12) access to services – in particular access to health care (Article 24) and access to a good quality of education (Article 28).

Statistical evidence (gaps in data availability)

Current statistical information on looked after children is available to March 2005.² In summary the data gathered reveals that looked after children and young people as a population are faring significantly worse than other children and young people. Notwithstanding a small drop in 2005, the number of looked after children in Wales has increased every year from 1997 (3290 children) to 2004 (4431 children). This upwards trend has caused strain on a generally struggling system and the continuing poor outcomes for looked after children remain of concern to a range of professional groups and children, young people and families themselves.

In examining the key performance indicator data, it is clear many authorities are under performing when in comparison with others. For example, for educational attainment at 16 the lowest scoring authority in Wales scored 0% GCSE/GNVQ qualification, with the highest scoring just over 80%. Similarly, the figures for having a care plan in place on entering the looked after system vary across Wales from 100% of children to just over 40%. This wide variation is a recurring theme with the 33 indicators that are collected on looked after children and young people in Wales. It seems that, even where there are effective policies they are sometimes ineffectively implemented. The Chief Inspector of Social Services in his most recent report on Social Services in Wales wrote that Social Services *“was good in parts but in too many parts was not good enough”*.³ This summary is especially relevant to looked after children and young people where practice varies widely in its quality and effectiveness.

The Welsh Assembly Government has carried out the following research since 2002:

- A study of advocacy services for children and young people in Wales (July 2005).
- Children in specialist placements – an all Wales study (July 2004).
- Review of fostering and residential care (June 2004).
- Fit to foster, a profile of foster care and foster carers in Wales (June 2004).

Overall, these reports tend to show the same picture as discussed above. Furthermore, although it is clear that some of the data collected is helpful, as yet no qualitative or quality of life data is collected and consequently there are huge gaps in our knowledge of the life experiences of looked after children and young people. None of the data collected provides information on ethnicity or disability issues for looked after children and young people. In terms of educational performance we know that many looked after children lack numeric and literacy skills yet we do not know how many or which local authorities are working to improve this situation.

Legislation – looked after children (2002 – 2005)

Recent relevant legislation and guidance includes:

- *Independent Reviewing Officers Guidance Wales, Adoption and Children Act 2002, The Review of Children's Cases (Amendment) (Wales) Regulations 2004.*
- *The Arrangements for Placement of Children (General) and the Review of Children's Cases (Amendment) (Wales) Regulations 2002. Welsh Statutory Instrument 2002 No. 3013 (W.285).*
- *The Review of Children's Cases (Amendment) (Wales) Regulations 2004. Welsh Statutory Instrument 2004 No. 1449 (W.149).*
- *The Children (Leaving Care) (Amendment) (Wales) Regulations 2002. Welsh Statutory Instrument 2002 No. 1855 (W.179).*
- *The Children (Leaving Care) (Wales) (Amendment) Regulations 2004. Welsh Statutory Instrument 2004 No. 1732 (W.175).*

Changes to the *Children Act 1989*, introduced in the *Adoption and Children Act 2002*, provided children in need and care leavers with a statutory right to advocacy when intending to make a complaint.

In addition the implementation of the relevant sections of the *Children Act 2004* will from 2006 affect the looked after population of children and young people in Wales. This Act is relevant as it will help improve the planning processes for looked after children. It will introduce a new requirement to promote the educational achievement of looked after children and it will regulate private fostering.

Guidance – looked after children (2001 – 2005)

- *Guidance on the education of children looked after by Local authorities (2001).*
- *Brief and standards for planning for permanence (2002).*
- *Development of national standards for advocacy February (2003).*
- *Guidance on complaints in the NHS and in Education.*
- *The arrangements for holistic health assessments for looked after children.*
- *Inspection of services for young people leaving care (2004).*
- *Inspection of child protection services overview report (2004).*
- *Inspection of educational provision for looked after children.*
- *Chief inspectors report 2001/2002/2003/2004.*
- *A Councillors guide to being a good corporate parent (2005).*

Guidance on private fostering and on improving the health of looked after children is due to be introduced.

Policy and practice

To improve the situation for looked after children and young people, the Welsh Assembly Government established its *Children First* programme in April 1999. The programme impacts upon all children in need, including looked after children and young people and care leavers.

Children First includes all-Wales objectives for children's services and associated key indicators related to outcomes for children. It is intended to foster a partnership between central and local government and encourages an important role for elected members as the 'corporate parent', who should ensure the delivery of the programme and of high quality services at a local level.

The main objectives of the programme in relation to looked after young people⁴ cover more effective planning, improvements in all relevant services, improved user involvement and achieving better outcomes for looked after children and young people. The grant in 2005-06 is £42.171 million and is due to rise to £44.709 million in 2006-07 and £46.297 million in 2007-08. Over these three years the *Children First* grant will move from hypothecated to non-hypothecated funding so that it is absorbed into the Revenue Support Grant by 2008. Many of the member organisations of Children in Wales feel that the programme should not cease until it has achieved outcomes for looked after children that are on a par with the non-care population. Some members therefore feel that the hypothecated funding may need to continue past 2008.

Welsh Assembly Government led policy activity in support of the *Children First* objectives over the last four years has included:

- Task and Finish Group on Advocacy (2004-2005).
- Working Group on Sexual Exploitation of Children and Young People in Wales.
- Working Group on Placement Choice and Stability.

It is difficult to comment on the progress on some of the *Children First* indicators, as some of the indicators used were not measured before the introduction of the programme. However they have been key in driving up standards and expectations for looked after children in Wales. The main concern is that the rate of progress in some authorities is very slow.

The *National Service Framework for Children, Young People and Maternity Services (NSF)* sets standards for health and social care provision and other local government services which have a strong influence on the health and well-being of children. The *NSF* was launched in September 2005. It contains 21 standards and specifies a range of key actions for meeting these standards, some of which are prioritised over others. Key provisions relating to looked after children and young people include effective health care planning and better co ordination of health care including better commissioning. The *NSF* is viewed by the Assembly Government and the voluntary and statutory sectors in Wales as a key driver for change over the next ten years and should help to drive up standards for services for all looked after children and young people.

In March 2005 a Safeguarding Review was established by the Welsh Assembly Government to evaluate the situation in relation to child protection including links to 'looked after' issues. The Welsh Assembly Government and the Welsh Local Government Association (WLGA) are currently developing a Joint Commissioning Strategy to ensure more effective placements for looked after children and young people.

Following the publication of its *Workforce Development Strategy*, the Welsh Assembly Government has raised another key concern. This report⁵ has recommended the need to develop and improve the quality of the workforce for looked after children and young people. In one promising development, some authorities have addressed this issue, leading to significant improvements in the capacity of childcare teams in terms of more

young people who are looked after having allocated social workers. However, this is still not the case in all local authorities.

There remains a high level of Cross Party concern within the National Assembly about the state of 'looked after' services in Wales as demonstrated in four debates in June and July 2005. At the political level the Welsh Assembly Government has indicated that it will support mandatory grants for looked after children into the Child Trust Funds and it is currently considering secondary legislation to do this.

The role of the Children's Commissioner

The Children's Commissioner was established in Wales on March 1st 2001 and has campaigned on issues relating to looked after children and young people since the inception of the Office. The development of the Office arose directly because of concerns raised about the abuse of children in public care within the Waterhouse Report.⁶ In 2003 the Children's Commissioner produced *Telling Concerns*, a review of the operation of complaints and representations and whistle blowing procedures and arrangements for the provision of children's advocacy services.⁷ The main conclusion of this report was that complaints and representation were at varying levels and many children and young people were unaware of their right to complain. The Welsh Assembly Government and local authorities are responding to its recommendations. In 2004, they commissioned Cardiff University to examine the provision of advocacy services for children and young people in the context of complaints. The report of this study⁸ identifies particular difficulties in advocacy services 'reaching' some of the most vulnerable children and difficulties in sustaining advocacy service provision in a climate of short term and often precarious, funding.

Work of NGOs

There are a wide range of NGOs who campaign on 'looked after' issues. These include a group of advocacy providers – Tros Gynnal, NSPCC, Spurgeons and the National Youth Advocacy Service (NYAS). The organisation Voices from Care continues to campaign on looked after children's issues. Voices from Care is the only peer led 'looked after' organisation in Wales. In addition BAAF, the British Agency for Adoption and Fostering, and the Fostering Network provide research, consultancy and campaigning to improve services for looked after children and young people. Children in Wales also facilitate a Looked After Health Network and have campaigned on a number of 'looked after' issues over the last few years.

Since the UN Committee's Concluding Observations were released in 2002, some of the larger children's NGOs⁹ have been jointly campaigning on a range of policy issues relating to looked after children and young people. These campaign objectives continue to be relevant and it is still of concern that none of the called for actions have been met yet in Wales (see recommendations below). Whilst there is ongoing work to achieve some of them it remains of concern that the rate of change within services for looked after children is generally very slow.

Conclusion

The historical legacy within Wales in relation to looked after children and young people has been outlined in previous NGO reports. Although there has not been the space to go into detail here, it is important to acknowledge the systematic physical and sexual abuse of children in care from the 1960s to the mid 1990s.^{10 11} It is sufficient to say that because of historical abuse and low expectations for looked after children and young people there has been considerable energy put to improving the outcomes for this group of children and young people. Nevertheless, there is still a long way to go before looked after children and young people achieve the same outcomes as children who are not looked after. In terms of the educational experiences of looked after children, recent research^{12 13} still demonstrates significant concerns for this group of children. Whilst outcomes for some looked after children and young people have improved dramatically, for others

they have hardly changed at all. There are ongoing concerns too about the provision of independent advocacy services for looked after children. Whilst on paper at least such services are provided in just about all local authorities in Wales, the services continue to rely on short term funding and piecemeal commissioning arrangements. Since the UN Committee reported in 2002, the situation still remains one of concern with many looked after children and young people continuing to wait for the full range of their rights to be met.

Key recommendations

The Welsh Assembly Government working with local authorities should ensure:

- A continued and increasing emphasis on offering a range of quality placements to meet children and young people's needs.
- Basic improvements in frontline services in health (especially mental health) education and social services for looked after children and young people.
- An all Wales advocacy strategy for all looked after children and young people in Wales.
- Ambitious targets for looked after children and young people are set.
- Local authorities are encouraged to be better corporate parents for looked after children and young people.
- Increased accommodation options for care leavers, including extending the use of supported lodgings and enabling more young people to stay in foster placements.
- Children and young people in care are able to maintain secure and enjoyable placements.

Endnotes

¹ Barnardo's, Child Poverty Action Group, Children in Wales, the Children Society, NSPCC, SCF. (2000) *Wales' children, our future – A manifesto*.

² See www.lgdu-wales.org.uk

³ The report of the Chief Inspector, Social Services in Wales 2003-2004, SSIW, November 2004.

⁴ Welsh Assembly Government Circular 05/2005. Children First programme in Wales: Guidance for 2005-2006.

⁵ Report of the task and finish group on workforce issues in social care Sep. 2001 Welsh Assembly Government.

⁶ Waterhouse, R. Clough, M. and Le Fleming, M. (2000) *Lost in Care: Report of the Tribunal of inquiry into the abuse of children in care in the former County Council areas of Gwynedd and Clwyd since 1974*, HC21, London HMSO.

⁷ Children's Commissioner (2003) *Telling Concerns*. Downloadable at www.childcom.org.uk

⁸ Pithouse, A. et al (2005) *A Study of Advocacy Services for Children and Young People in Wales*. Cardiff University & NEWI.

⁹ Barnardo's, Child Poverty Action Group, Children in Wales, the Children Society, NSPCC, NCH.

¹⁰ Utting, W. (1997) *People Like us : the report of the Review of Safeguards for children living away from home*, London Department of Health.

¹¹ Waterhouse, R. Clough, M. and Le Fleming, M. (2000) *Lost in Care: report of the Tribunal of inquiry into the abuse of children in care in the former County Council areas of Gwynedd and Clwyd since 1974*, HC21, London HMSO.

¹² Social Exclusion Unit (2003) *A better education for children in care*, London. Social Exclusion unit.

¹³ S. Jackson, S. Ajayi and M. Quigley, (2005) *Going to Care from University*. Frank Buttle Trust.

Non-discrimination: disability

Lynne Hill – Children in Wales

Guiding principles: non-discrimination (Article 2)

Disability

CONCLUDING OBSERVATIONS para.22. The committee is concerned that the:

Principle of non-discrimination is not fully implemented for all children in all parts of the State party and that unequal enjoyment of economic, social, cultural, civil and political rights still exist, in particular for **children with disabilities**, children from poor families, Irish and Roma travellers' children, asylum and refugee children, children of minority groups, children in the care system, detained children, and children aged between 16 and 18 years.

Relevant Articles of UNCRC: Article 23 of specific relevance.

Commentary on progress

Legislation

The UK Parliament has enacted both specific legislation relating to disabled people, and generic legislation, which incorporates the needs of disabled people. Children and young people are included within disability specific legislation by virtue of their disability; there has been no children and young people specific legislation in relation to disability. The overall aim of the legislation is to reduce the discrimination experienced by disabled people, including, by implication, disabled children and thus enable disabled people to access their rights, and have a positive impact on disabled people's life chances.

The *Disability Discrimination Act (DDA) 1995* was the first anti-discrimination legislation relating specifically to disabled people, and enshrined in law, disabled people's rights to participate in civil society. *The Disability Discrimination Act* is an acknowledgement that disabled people face discrimination for reasons related to their disability, which prevents them fulfilling their potential as individuals.

The *Disability Discrimination Act (DDA) 2005* amends and extends existing provisions in the *DDA 1995* by ensuring that anti discrimination law covers all the activities of the public sector and requires public bodies to promote equality of opportunity for disabled people.

Key elements of the 2005 Act for children and young people include:

- Making it unlawful for operators of transport vehicles to discriminate against disabled people, thus increasing the opportunities for children and young people to access public transport.
- Making it easier for disabled people to rent property and for tenants to make disability related adaptations, thus ensuring that disabled children can have access to appropriate equipment and adaptations.
- Ensuring that discrimination law covers all activities of the public sector.
- A duty on the public sector, including schools, to promote equality of opportunity for disabled people and to eliminate discrimination. The duty is anticipatory and public bodies will have to produce Action Plans to show how they intend to meet their new duties.

The sixth session of the ad hoc committee on the *International Convention on the Protection and Promotion of the Rights and Dignities of Persons with Disabilities* was held in August 2005. This draft Convention includes an article, on the rights of disabled children. In discussion, there was general agreement that draft article 16 did not add much substance to what was already contained in Article 23 of the Convention on the Rights of the Child. There was also agreement in the Committee that some specific references to children with disabilities were needed in the draft Convention, but views varied on how to achieve this. However it is important that the rights of disabled children are clearly identified within this new Convention, and that this document serves to underpin the rights enshrined in the UNCRC.

The main provision of the Equality Bill currently going through the UK Parliament that relates to disabled children will be the establishment of the Commission for Equality and Human Rights (CEHR). The CEHR will take on the work of the existing equality Commissions (the Equal Opportunities Commission (EOC), the Commission for Racial Equality (CRE), and the Disability Rights Commission (DRC) and will additionally assume responsibility for promoting equality and combating unlawful discrimination in three new strands, namely sexual orientation, religion or belief, and age. The CEHR will also have responsibility for the promotion of human rights. There have been concerns voiced within the disability arena that without the Disability Rights Commission there will be less focus on the rights of disabled people, both children and adults.

Policy and practice

In 1999 the Welsh Assembly Government introduced the *Children First* Programme, a generic plan that addresses the needs of all children, including disabled children. Of the 11 objectives in the Programme, objective 6 relates specifically to disabled children and is broken down into four sub-objectives.

- To maintain an accurate and up to date record of the numbers and circumstances of children with special needs and the services being provided for them.
- To increase the number of disabled children in receipt of family support services – including short term breaks and domiciliary services – and the numbers of hours of service provided in order to enable disabled children and their families to lead as ordinary a life as possible.
- To increase the numbers of disabled children who use inclusive play and leisure services, including holiday play schemes, after school clubs and pre-school provision with appropriate support if necessary.
- To ensure that parents with disabled children are provided with information about services from the statutory and voluntary sector on an inter-agency basis.

In practice there remains a high degree of variation in the availability and quality of services. In some areas the experience of service users shows little of the progress aimed for in the initiatives identified above. It is hoped that the Welsh Assembly Government's *Children First* initiative will be paying particular attention to the needs of disabled children in the immediate future.

The *National Services Framework for Children and Young People and Maternity Services in Wales (NSF)* was launched on September 20th 2005. It focuses strongly on disabled children and young people, identifying standards to be achieved through key actions in relation to:

- Child and family centred services
- Access to services
- Quality of services
- Transitions.

Outcomes will be monitored through the development of a *Self-Assessment Audit Tool (SAAT)*, which all local authorities will return.

Statistical evidence (gaps in data availability)

The Welsh Assembly Government *Children First* team collates the figures on a Wales wide basis in relation to all its indicators, including those relating to disabled children; however this information is not in the public domain. Data relating to children, gathered by the Local Government Data Unit (LGDU), gives information relating to children who are on child protection registers or within the looked after system, but does not categorise children by disability.¹ Thus it is impossible to monitor changes in the number of disabled children identified as 'at risk' or within the looked after system.

All local authorities should hold a disability register, to assist the planning of services; however this data is not available publicly. As registration is voluntary, any data would be indicative rather than comprehensive. There are additional barriers to data collection, in that each local authority has its own individual eligibility criteria for access to services. This could lead to difficulties when comparing the numbers of disabled children known to each individual local authority social services team.

Views of children and young people

In 2003 the Welsh Assembly Government commissioned a report entitled *Are you listening? What disabled children and young people in Wales think about the services they use.*² This report, which surveyed 105 children and young people, identifies a number of key issues and messages to decision makers.

The key messages that came from the report were:

1. Respect. Disabled children and young people valued being listened to, talked to and treated with respect. They want to be treated in the same way as non-disabled children. They were frustrated and distressed when this did not happen.
2. Provision of information. *"Many disabled children and young people receive information 'second hand' via parents and carers, not directly"*³
3. Access and availability. There are many challenges and barriers to disabled children and young people being able to access services. The barriers were physical e.g. transport, and attitudinal e.g. not having a choice of locally available services and provision.
4. Participation. Disabled children and young people want to be involved in making decisions about services and issues that affect them. The report found that while there are examples of good practice, this is not a consistent picture across Wales, with very little evidence of disabled children and young people being involved in shaping services.
5. Transition services are not meeting the needs of many disabled children and young people, and they are not having the same opportunities and choices as non-disabled young people.⁴
6. Bullying is a very significant issue for disabled children and occurs in all school settings. Bullying caused both distress and frustration for those involved. Disabled children and young people had differing levels of confidence that schools and other settings would deal effectively with bullying. Many disabled children and young people felt that they would not be listened to or supported and felt that they would not report bullying for fear of worsening the situation.

In June 2005 the Young Disabled Person's Network, facilitated by Children in Wales undertook a consultation exercise with a group of disabled young people to ascertain their views on what would help in relation to anti-bullying information for children and young people. The results of this exercise echo those noted above.

Wales celebrated the *European Year of Disabled People* by hosting an international conference of young disabled people in June 2003. Ninety-five young people between the ages of 14 and 24 from 35 countries ranging from Kazakhstan to Mongolia, gathered together for a week at Swansea University. The timetable of the week and the issues discussed were determined by the participants themselves, making Wales a world leader in empowering young disabled people and serving as a role model for future events of this sort.

Delegates drew up a manifesto entitled *'Local, National and Global Priorities for Young Disabled People'* demanding that young disabled people be included in decisions affecting all areas of their lives. The manifesto was presented to a panel of key international decision makers in a plenary session. A list of actions was drawn up for all the delegates to carry out on their return to their respective countries, intended to be the first building blocks of an international peer-led network of young disabled people. Wales continues to support young disabled people, through the continuing Young Disabled Persons Network which meets three times a year, and which has given evidence to the National Assembly in relation to issues of safeguarding children and bullying. Members of this Network are also currently involved in a young disabled persons steering group to advise the National Assembly's Equality of Opportunity Committee.

Other qualitative evidence

In 2003, the Audit Commission published a report entitled *'Services for disabled children. A review of services for disabled children and their families'*. The study spoke to 240 disabled children and young people, in five different areas of England and Wales.⁵ The report concluded:

- Service provision varied across different areas. While there was evidence of good practice, services were still seen as a postcode lottery with service provision sometimes depending on how hard parents are able to push;
- Service provision and equipment, and adaptations are often delivered after a long wait, thus denying disabled children and young people opportunities to develop and integrate within their society;
- Before getting access to the appropriate services, disabled children and young people and their families have to be prepared to fight their way through a confusing array of information, and a range of assessments processes;
- The care demands on parents, multiple appointments with services and lack of suitable childcare affects parents' ability to work. Mothers of disabled children are less likely to have paid employment than other mothers, and in many situations fathers' employment opportunities and earnings are reduced. Where families are claiming benefits, they find the forms complex and frustrating to complete, and also can be unaware of the full range of benefits open to them. These factors can effectively exclude families from ordinary activities and an acceptable quality of life;
- Disabled children and young people face significant barriers to participation in play, sport and youth activities. There were difficulties in finding information about services, meeting eligibility criteria, being confident that the child's needs would be met, and being able to access a service due to transport problems. Many disabled children and young people had to travel significant distances to access a specialist provision. Families in rural areas found transport a particular challenge when carrying out day-to-day activities and attending distant locations for services.⁶

Conclusion

The evidence gathered for this report presents a mixed picture for disabled children in Wales. While there are examples of good practice in relation to participation and service delivery, there is no consistent practice across Wales. The rights expressed in the UNCRC are still not being fully met for disabled children in relation to access to information, equal access to services, and participation. The monitoring of progress is difficult to track due to significant shortfalls in data collection.

Key recommendations

The Welsh Assembly Government working with local authorities, local health boards and NHS Trusts should ensure:

- Service commissioners and providers give priority to implementing the *National Service Framework for Children, Young People and Maternity Services*.
- Statistical data pertinent to disabled children and young people, particularly in relation to safeguarding, is collected and analysed.
- Provision of support to ensure that disabled children and young people are able to participate in a range of opportunities and that their views are fully taken into account at both national and local levels.

Endnotes

¹ See www.lgdu-wales.org.uk

² Claire Turner (2003) *Are you listening? What disabled children and young people in Wales think about the services they use*. Welsh Assembly Government.

³ Ibid p.6.

⁴ This point was echoed in a piece of work undertaken by Children in Wales in 2004, when 20 young disabled people held a one day meeting with the Children's Commissioner for Wales. All participants reported concerns, unhappiness and frustration about the transition process they had experienced.

⁵ Audit Commission Public Sector Briefing, Services for disabled children. A review of services for disabled children and their families. Audit Commission p.2.

⁶ Ibid. p.29.

Best interests

Rhian Croke – Save the Children

Guiding principles: best interests (Article 3)

CONCLUDING OBSERVATION para.26. The UN Committee recommends that the State party should: Establish throughout the State party the best interests of the child as a paramount consideration in all legislation and policy affecting children.

The ‘best interests’ principle should be incorporated in a visible way into all legislation and policy affecting children and young people.¹ The best interests of the child as a paramount consideration needs to be consistently reflected in legislation impacting on children and young people and legislation amended accordingly.² At present it is noticeably absent from both our youth justice and asylum legislation. Geoff Monaghan and Sue Thomas from Nacro make comment regarding ‘best interests’ in youth justice and Sian Thomas from Save the Children makes comment regarding ‘best interests’ in asylum legislation.

This section considers child impact assessments as a structured and effective tool for ‘operationalising’ the Convention and its guiding principle of best interests.³ A child impact assessment involves examining proposed policies, legislation, budgets and changes in administrative services to determine their potential impact on children and whether they effectively protect and implement the rights expressed in the Convention on the Rights of the Child.⁴

The Committee on the Rights of the Child has declared that:

*“The implementation of the principles and the provisions of the Convention requires that priority be given to children’s issues, particularly in the light of the principle of the best interests of the child. It is recommended therefore, that in the foundation of policy options and proposals there should be an accompanying assessment of its impact on children so that the decision makers can be better advised when formulating policy as to its effects on the rights of the child”.*⁵

Children are especially vulnerable and are arguably the group most affected by government policy. They may represent nearly one quarter of the population of Wales but they are disenfranchised and do not have the same access to channels of political participation as adults. Children’s issues are often fragmented across government departments and as referred to in the General Measures section of this report; their management can often be unco-ordinated and conflicting, falling short of reflecting the ‘whole child’.⁶ Consequently children are often in a weaker position compared to the rest of the population and their rights and welfare may not receive the same prominence as other political agendas. Therefore it is clearly apparent that structures need to be put in place so that children’s best interests are given prominence. Child impact assessments are one way of ensuring this.⁷

The best interests of the child have been described as the “*sum total of all the norms in the Convention*”.⁸ The entire Convention informs us what are in the best interests of the child such as: to receive an education (Article 28); to be cared for by parents (Article 8); to be heard in matters that affect him/her (Article 12); as well as informing us what are not in a child’s best interests such as to be abused or exposed to violence (Article 19); or separated from parents (Article 9).

Taking the principle of ‘best interests’ with the other guiding principles of non-discrimination (Article 2); survival and development (Article 6); and participation (Article 12); provides the basis of a rights-based approach that can usefully guide the proofing of all policy and legislation to be in compliance with the

Convention. The non-discrimination Article emphasises the importance of considering the impact of policy and legislation on children as a distinct group as well as the most disadvantaged and marginalised children. Article 12 highlights the importance of ensuring the child's perspective in policy making, arguing that it is fundamental to first consult with children and young people who may be affected directly or indirectly before implementing a piece of policy or legislation. Giving full consideration to children's survival and development needs in the development of policy or legislation ensures that the realisation of this range of rights is not impeded.

The UNCRC is a comprehensive human rights instrument that covers the most diverse domains of the life of the child, social, economic and cultural rights, and civil and political rights. The Convention therefore advocates that **all** government policy is proofed with regards to its impact on children. As well as the more traditional policy areas associated with children, for example education and health, the Convention advocates that policies not directly or obviously concerned with children, such as those on transport and the environment, should also be assessed for their impact on children. A child impact assessment tool is best used by a range of assessors who have expertise in the subject under consideration and understand children's affairs. Assessors should be internal to the government machine with a degree of control over the measure, as well as those who are independent of government with sufficient independence to be objective. Using such a tool assists in the mainstreaming of children's rights giving children's issues better visibility, coherence and significance across government structures, making government more effective for children and young people.

The UN Committee recommends that child impact assessments be undertaken, e.g. in the adoption of:

- “ - *Any form of new policy or guidelines in different activities*
- *New legislation or regulations*
- *An annual budget, at both national, regional, and local level*
- *Organisational or administrative changes at all levels of society.*”⁹

The most critical component to any child impact assessment is that it must use the Convention as its yardstick for measuring the impact of policy and/or legislation on children. This can be supported by obtaining evidence from what is stated in national legislation, research, studies of children's needs and interests, an understanding of the child/children's own network/family and last but not least, the child's own views and opinions.¹⁰ Different countries around the world are currently developing models that are most appropriate to their own policy and legislative environments.¹¹

The box below outlines what a child impact assessment may include.

- A description of the proposed measure (legislation/policy/project)
 - including how the measure affects (or might affect) children and young people.
 - including how the proposed measure is affected by, or affects, other current government activities/policy.
- An analysis of how the measure promotes or impedes the implementation of the guiding principles of the UNCRC and other relevant human rights instruments (clause by clause analysis).
- Identification of problems/gaps in information/expertise/conflicts of interest that the proposal may entail.
- Children and young people's viewpoints on the measure/proposal.
- Proposed steps to ameliorate or compensate for any adverse effects.
- Guidelines on how the measure should be monitored.
- Evaluation (afterwards) of the effects the decision actually had.

Source: Drawn from Hodgkin, R (1989), Sylwander (2001) and Munro & Paton (2005).

Implementing effective child impact assessments requires that all officials who are employed to use the tool are offered in-service training on the background, content and legal status of the UNCRC and helped to understand the benefits for children and young people if they use a child perspective in their own decision making processes. The Convention may well be the foundation of policy making for children and young people in Wales but as has been expressed in the General Measures section of this report there is still more to be done in Wales to help national and local government to fully understand the principles of the Convention and how it should and could be applied.

Child impact assessments in England, Scotland and Northern Ireland

The Joint Committee on Human Rights in its Tenth¹² report and reinforced in its Eighteenth¹³ have argued that the UNCRC should function as a set of child-centred considerations to be used by all departments of government when evaluating legislation and policy with all policy initiatives and legislation being subjected to a child impact assessment.

In England the National Children's Bureau (NCB) and the Children's Legal Centre (CLC)¹⁴ have received funding from the Nuffield Foundation to carry out child impact assessments of up to four related consultative papers, draft legislation and Government Bills over a two-year period.¹⁵ They are using the framework of the UNCRC and the *Human Rights Act 1998*, the *Children Act 1989* and the five outcomes for children (set out in *Every Child Matters*¹⁶) to proof the bills. The NCB and the CLC are drawing up the child impact statement, with support from a reference group of representatives from the academic sector, children, parent/family organisations, civil servants and parliamentarians. They are hoping to extend the tool of child impact assessment to proof government policy and more recently, the new Children's Commissioner for England has begun a dialogue with the NCB and the CLC to consider working with these partners to incorporate the tool of child impact assessments into the scrutiny function of the new Commissioner's Office in England.

In Scotland, the Scottish Commissioner for Children and Young People¹⁷ has drawn up their own child impact assessment tool, which they are piloting. It is their intention to proof legislation and policy that either directly or indirectly affects children and young people in Scotland. In time, resource considerations may alter this approach.

In Northern Ireland, under Section 75 of the *Northern Ireland Act 1998* designated public authorities have to conduct *Equality Impact Assessments (EQIAs)*¹⁸ on all new and existing policies. The primary function of *Equality Impact Assessments* is to determine the differential impact of a policy on nine equality categories: religious belief, political opinion, racial group, age, marital status, sexual orientation, gender, disability and dependency. The impact of policies on children should be assessed as part of this. In practice this process has not been particularly successful, and the impact of policies on children is often overlooked.¹⁹

Child impact assessments: What's happening in Wales?

Turning now to Wales, over the last three years the Welsh Assembly Government has been working in partnership with Forums for the Future²⁰ to develop an Assembly wide Policy Integration Tool. The tool is based on the National Assembly's Guiding Principles – sustainable development, equalities and social inclusion. The tool, which has received Cabinet endorsement, "*can be used for: developing policies and strategies, and action plans; ensuring actions don't duplicate and do interrelate, inform integrated decision-making and appraising delivery against intention*".²¹ It has been used to proof a number of strategies such as "Winning Wales" (Economic Development) and to appraise the Wales Spatial Plan. The Children and Young People: Officials Group of the Welsh Assembly Government also applied the Policy Integration Tool to the development of the Assembly Government's Child Poverty Strategy²². The group thought it was a worthwhile exercise but recommended that the tool be applied to policies much earlier, as policies are being developed rather than being used as a checklist exercise at the end.²³

This is truly a groundbreaking development in reaching the aim of integrated policy development in Wales. However, it misses an important trick - to proof policy for its impact on children and young people and for its compliance with the UNCRC and the *Human Rights Act 1998*. The UNCRC and its translation into the Assembly Government's 7 Core Aims have not been given sufficient prominence in the Assembly Government's own, overarching strategic plan for Wales entitled '*Wales: A Better Country*'.²⁴ When this strategy is revised and reformulated in 2007, the Welsh Assembly Government are urged to consider how the UNCRC (through its own 7 core aims for children) can be better reflected as core aims for the Welsh Assembly Government as a whole and not just for its Children and Families Division.

The UNCRC Monitoring Group encouraged the Strategic Policy Unit of the Welsh Assembly to integrate indicators into the tool that would achieve the aim of impact assessing policy for children's rights. The Unit decided they were unable to amend the tool itself but they have placed UNCRC related guidance on their Policy Intranet Gateway.²⁵ It is a key recommendation of the UNCRC Monitoring Group to integrate relevant children's rights' related indicators into the Policy Integration Tool when the tool is next revised. If this is not possible there is a need to enshrine in secondary legislation a requirement to use a separate tool for child impact assessments when assessing all policy and budgets.

Child impact assessments should also be used at local authority level. In their response to the *Children Act 2004* draft guidance, Better Partnerships – Stronger Outcomes, the UNCRC Monitoring Group have recommended that as a part of the Children and Young People Plans, arrangements should be made to mainstream children's rights in policy making. If policy makers in local and national government used child impact assessments it would implicitly further the implementation of the UNCRC as an overarching policy goal in Wales and mainstream children's rights in all policy making that directly or indirectly affects children and young people.

Finally, the UNCRC Monitoring Group would like to see the Children's Commissioner for Wales (as in Scotland and England) develop a child impact assessment tool and apply it routinely, adopting a more consistent approach to proofing government policy for compliance with the provisions of the UNCRC as part of the Commissioner's monitoring and scrutiny function.

Key recommendations

- The UNCRC and the 7 Core Aims for children and young people should be better incorporated into the Welsh Assembly Government's overall strategic plan for Wales, *Wales: A Better Country*.
- The Welsh Assembly Government should include indicators in their Policy Integration Tool that proof policy for compliance with the UNCRC and the *Human Rights Act 1998*.
- Failing this, through secondary legislation, the National Assembly for Wales and local government should be obliged to use child impact assessments to proof all policy that directly or indirectly affects children and young people for compliance with the UNCRC and the *Human Rights Act 1998*.
- National and local government officials should receive training in the use of child impact assessments and the principles of the UNCRC.
- The Children's Commissioner for Wales as a part of the Office's scrutiny function should use the tool of child impact assessments to proof all policy that directly or indirectly affects children and young people for compliance with the UNCRC and the *Human Rights Act 1998*.

Endnotes

- ¹ CRC/GC/2003/5 - para. 47.
- ² CRC/C/15/Add.188 4 October 2002 – para. 25 & 26.
- ³ Article 3: In all actions concerning children whether undertaken by public or private social welfare institutions, court of law, administrative authorities, or legislative bodies, the best interests of the child shall be a primary consideration.
- ⁴ See Sylwander (2001) *Child Impact Assessments – Swedish Experience of Child Impact Analyses as a tool for implementing the UN Convention on the Rights of the Child*. Ministry of Health and Social Affairs, Sweden & Ministry of Foreign Affairs Sweden.
- ⁵ United Kingdom dependent territory: Hong Kong IRCO. Add. 63. para.20 and also General Comment No. 5 CRC/GC/2003/5 para. 45.
- ⁶ Hodgkin, R (1989) *Child Impact Statements 1997/98: an experiment in child policy proofing UK Parliamentary Bills*, UNICEF and National Children's Bureau.
- ⁷ Ibid.
- ⁸ Petren A, & Himes J (eds) (2000) *Children's rights – Turning Principles into Practice*. Save the Children Sweden, United Nations Children's Fund.
- ⁹ See Sylwander (2001) *Child Impact Assessments – Swedish Experience of Child Impact Analyses as a tool for implementing the UN Convention on the Rights of the Child*.
- ¹⁰ Ibid.
- ¹¹ For further information on the different child impact assessments tools that countries have developed see a Comparative Table of Child Impact Assessments Compiled by Gillian Munro & Laura Paton, Scotland's Commissioner for Children and Young People (July 2005).
- ¹² Joint Committee on Human Rights 10th Report, The UN Convention on the Rights of the Child HL 117/HC81.
- ¹³ Joint Committee on Human Rights 18th Report, Government's Response to the Committee's Tenth Report of Session 2002-03 on the UN Convention on the Rights of the Child HL 187/HC 1279.
- ¹⁴ For further information on the process of child impact assessments in England see <http://www.ncb.org.uk/> and <http://www.childrenslegalcentre.com/>
- ¹⁵ So far they have proofed the Identity Cards Bill produced for second reading in the House of Commons (June 2005). They have also carried out a Child Impact Statement on the Equality Bill produced for second reading in the House of Lords (15/06/2005) and one on the Clean Neighbourhoods and Environment Bill for second reading in the House of Commons (Jan 2005).
- ¹⁶ Department for Education and Skills (September 2003) *Every Child Matters*.
- ¹⁷ Information received on the progress of the Scottish Children and Young People Commissioner using Child Impact Assessments, Gillian Munro, Information Officer 15/08/2005.
- ¹⁸ For further information on the Equality Impact Assessment see Section 75 of the Northern Ireland Act Practical Guidance on Equality Impact Assessment February 2005.
- ¹⁹ For further information see Sara Boyce (2004) *Closing the Gap: Child Rights Standards and Local Realities*, Northern Ireland Children's Law Centre.
- ²⁰ Forum for the Future is recognised as the UK's leading sustainable development charity.
- ²¹ Powell, E (2004) Policy Integration within the National Assembly and Local Government – Joined up thinking for joined up working. Crosscutting Policy Issues, *National Centre for Wales Public Policy and Journal of Law and Policy Seminar*.
- ²² Welsh Assembly Government (February 2005) A Fair Future for our children a strategy of the Welsh Assembly Government to tackle poverty.
- ²³ Cabinet sub-committee on Children and Young People – (CYP 04/05) 33.
- ²⁴ Welsh Assembly Government (September 2003) Wales: A Better Country. *The strategic agenda of the Welsh Assembly Government*.
- ²⁵ The tool forms the basis of the Assembly's "Policy Gateway process" which is a system of tools and guidance aimed at improving the policy-making process. Strategic Policy Unit are currently designing a series of training events and developing guidance for staff on how to use the tool and analyse the results.

Participation

Eleri Thomas – Save the Children

Chair of the Children and Young People's Participation Consortium for Wales

Anna Skeels – The Wales Children and Young People's Participation Unit

Guiding principles: respect for the view of the child (Article 12)

CONCLUDING OBSERVATION para.30. The Committee recommends that the State party:

In accordance with articles 12-17, take further steps to promote, facilitate and monitor systematic, meaningful and effective participation of all groups of children in society, including in schools, like school councils. Furthermore, it recommends that the State party take further steps to consistently reflect the obligations of both paragraphs of Article 12 in legislation, and that legislation governing procedure in courts and administrative proceedings (including divorce and separation proceedings) ensure that a child capable of forming his/her own views has the right to express those views and that they are given due weight. The Committee further recommends that procedures be formed to acknowledge publicly the views expressed by children and the impact they have on developing programmes and policies, and reflect how they were taken into consideration.

Commentary on progress

Children and young people's right to participate in all matters affecting them is instrumental to achieving all of the other rights as expressed in the Convention on the Rights of the Child. Children and young people have a right to be heard in decision making that affects them or has an impact on their lives. This gives adults both a better understanding of the realities of children's lives and is also a means of engaging with them as social actors. This instrumental right requires duty bearers to take into account children's opinions in decision making and is complemented by the other participation rights such as freedom of expression (Article 13); thought conscience and religion (Article 14); of association (Article 15); the right to privacy (Article 16); and to access information (Article 17). The right to participation gives children and young people the capacity to claim all the other rights as expressed in the UNCRC.

The Welsh Assembly Government has made a commitment to promote and support children and young people's participation through formally adopting the United Nation's Convention on the Rights of the Child (UNCRC) and to implementing children and young people's right to participate as stated in Article 12. There is a commitment to developing a national strategic approach to participation by government and partners. Structures have been put in place and opportunities for children and young people's participation in decision making have increased since 2002.

Legislation

The *Children Act 1989* and *Children Act 2004* place a duty on courts and local authorities to take children and young people's views into account when decisions are made that affect them. The *Adoption and Children Act 2002* includes provision for the separate representation of children in family proceedings. Legislation focuses less on the need to involve children and young people in the planning, implementation or monitoring of the legal or statutory systems, which have an impact on their lives.

The Welsh Assembly Government is currently undertaking a Review of Safeguards for Vulnerable Children and is including evidence from children and young people. This will provide a more detailed perception of the actual level of children and young people's participation in child protection and safeguard systems.¹ There is a need to continue to monitor and gather evidence from children and young people about their participation in statutory and legal systems.

Section 2.8 in the draft guidance on the *Children Act 2004*² states that children, young people and their families should have an opportunity to have their voices heard on the Framework Partnerships, the mechanism for implementing the policy strategy for children and young people *Children and Young People: A Framework for Partnership*.³ Section 3 of the draft guidance identifies children and young people's participation as an underlying principle and theme for local co-operation between agencies to deliver stronger and more effective partnerships.

Policy and practice

There is an increased commitment in government policy to children's and young people's right to participate and in particular to involving children and young people in policy and service planning and development. This reflects a commitment to children and young people as active citizens who have valuable contributions to make in society. The Welsh Assembly Government states in *BetterWales.com*⁴ that

“Every young person in Wales has the right to be consulted, to participate in decision making, to be heard on all matters that concern them or have an impact on their lives.”

The Welsh Assembly Government has demonstrated its commitment to participation in a number of key policy documents for children and young people including: *Children and Young People: A Framework for Partnership (2002)*, *Children and Young People: Rights into Action (2004)*⁵ and *Extending Entitlement (2001)*.⁶

A strategic co-ordinated approach has been adopted to developing participation within Wales. The Minister for Education and Life Long Learning, supported by the Youth and Pupil Participation (YaPP) Division of the Assembly Government, has the lead responsibility for developing children and young people's participation aged 0-25 years. YaPP has established the Welsh Assembly Government's Participation Project to promote and develop participation, and policy and practice within the Welsh Assembly and public bodies. A Children and Young People's Participation Consortium for Wales which is made up of key statutory and voluntary organisations and umbrella bodies working on children and young people's participation in Wales, has been established to reflect and promote the diversity and range of children and young people's participation. A Participation Unit has been set up to support the work of the Consortium. In conjunction with Funky Dragon there are currently well established national structures to develop policy and practice on participation and opportunities for children and young people's participation.

There is now a firm expectation placed on local government, health agencies and other partners to involve children and young people in policy and service planning, development and monitoring. *Extending Entitlement*, the Welsh Assembly's strategy for supporting young people sets out 10 entitlements for young people and includes young people's entitlement or right to participate.

The first evaluation of *Extending Entitlement*, *‘Extending Entitlement – Making it Real’*⁷ identifies the challenge in implementing the policy commitment to participation. In accessing their entitlements, young people ranked the ‘opportunity to be asked what young people think and want’ lowest of the 10 entitlements. Young people involved in the evaluation did not feel that they can always access their entitlement to have a say and do not feel that they can participate in decisions about their lives to the same extent as they can access their other entitlements. It is crucial that children and young people are given information about their right to participate in all decisions that affect their lives.

The Assembly Government has involved children and young people in developing the *National Service Framework for Children, Young People and Maternity Services in Wales (NSF)*⁸ which establishes standards for health, social care, education, housing and leisure. A young person friendly version of the draft NSF was developed to assist young people to give their views.⁹ The Assembly Government has subsequently produced other key consultation documents in child friendly formats.

The draft consultation document *Pupil Involvement in Decisions that affect them and the Establishment of School Councils in Primary, Secondary and Special Schools (2003)*¹⁰ outlines the expectation that all schools in Wales will be required to have a school council by September 2006. The development of school councils will need to ensure a whole school approach to participation and be inclusive to all pupils. The process for establishing school councils should include a commitment that all children and young people should have the opportunity to be involved regardless of their ability or attainment. Processes to select children and young people to be on councils should be open, accountable and inclusive and should be regularly re-assessed against the principle of non-discrimination.

The Participation Unit has recently been commissioned by the Welsh Assembly Government to undertake a scoping exercise on developing pupil participation in schools in Wales. The key elements of the project have been to provide advice to the Welsh Assembly Government on how best to support the development of school councils, pupil's involvement in school inspections, advocacy support for children in school, aspects of participation in the PSE Framework and raising awareness of young people's rights and entitlements with pupils and adults in school (see also Eleanor White's article on page 79).

Children and young people's participation in policy development is of direct relevance to their lives and is being taken more seriously with the recent developments in Wales. Their participation in influencing policy relating to children and young people's services is increasing but must continue to be embedded and mainstreamed. The extent of children and young people's participation or influence in indirect policy and service development is less developed. For example, children and young people's involvement in influencing the *Making the Connections*¹¹ agenda, which aims to drive up quality and efficiency of sustainable public services has, so far, been questionable.

Children and young people are not always considered within policy and service developments that are not seen as direct children's services or initiatives. For example, the implementation of the government initiative to regenerate Wales' poorest communities, *Communities First*¹², has not focused strongly enough on children and young people's active engagement as partners in local developments. Most areas of family, community, regional, national or even international decision making affect children and there is therefore a need to ensure that children and young people are included in all policy development and implementation at all levels.

Children and young people's opportunities to participate

Under the direction of the Children and Young People's Participation Consortium for Wales a shared understanding of children and young people's participation has been developed.¹³ A definition has been adopted, developed through a national competition involving young people:

"Participation means that it is my right to be involved in making decisions, planning and reviewing an action that might affect me. Having a voice, having a choice."

The Participation Consortium and Unit are working to develop national standards, to agree core training competencies on participation, to develop and pilot an impact assessment framework and are involving children and young people in developing the participation agenda and capacity in Wales. Training on participation must be included in all training courses for professionals working with children and young people and in Continuing Professional Development programmes. The impact assessment framework, currently under development, should assist in the collating of evidence on the impact of children and young people's participation. There is a need to demonstrate the benefits of participation for children, young people and communities in order to encourage an increased commitment by all government sectors and organisations.

Funky Dragon provides a national mechanism for children and young people to engage with the Assembly Government. Funky Dragon is the first organisation in the UK to have trustees under 18 years old. It has representation from young people from every local authority in Wales and from young people's special interest groups including young people in care, young people with disabilities, young carers, and Black and Minority Ethnic young people. Funky Dragon is working to identify appropriate mechanisms for the involvement of younger children. Funky Dragon is a key young people led organisation working to promote the participation of children and young people at a national level. Its success should encourage all duty bearers to support the development of more children and young people led initiatives, especially those involving marginalised and excluded groups.

A steering group has recently been established by the UNCRC Monitoring Group to identify mechanisms to facilitate children and young people's involvement in UNCRC monitoring and reporting. The Committee on the Rights of the Child:

“encourages State parties, non-governmental organisations and others in preparing reports, to include the views of children, in particular on the status of children's rights and the impact of the Convention on their lives”¹⁴

National participation structures in Wales engage with UK-wide government and non-government initiatives to ensure that Welsh children and young people can be involved in and benefit from decisions made and initiatives set up outside of Wales. The Children and Young People's Participation Consortium for Wales has close links with its counterpart in England. Funky Dragon members represent Wales at the UK Youth Parliament and the Consortium has links with numerous UK-wide (and some international) networks in its quest to further develop best practice in Wales. There is a continuing need to ensure that children and young people in Wales can appropriately influence the UK Government in particular on decisions made about non devolved matters.

Several national funding streams in Wales are targeting resources at the participation of children and young people.¹⁵ A Wales-wide European Social Fund bid has participation as one of its key components and a large number of agencies are delivering against this across the country. Funding from Carnegie Young People's Initiative has been drawn into Wales to support the development of a participation practitioners' network.

Young people's active engagement with the media remains an area of concern. Save the Children is increasingly concerned at how the media demonises young people as negative forces in communities. Young people are predominantly portrayed as responsible for anti-social behaviour and their positive contribution to communities is most often overlooked. A task group was convened by Children in Wales to explore establishing a Children's Express¹⁶ initiative in Wales and a feasibility study has been undertaken of opportunities for children and young people to influence the media. The task group and study identified the need for strategic development on a national level. There is a need to revisit progress of the task group and follow up work on involving children and young people in the media.

A Wales-wide participation mapping study recently undertaken by the Welsh Assembly Government, the Children and Young People's Participation Consortium for Wales and Save the Children highlights that local authorities, Children and Young People's Framework Partnerships, national and local organisations and government divisions are all developing children and young people's participation. However they are all at very different stages requiring different levels of support and resources. The report identifies key requirements to ensure that participation develops further including support for cultural change by decision makers; staff and financial resources; child friendly documents; dissemination of good practice; and synergy across government policy initiatives.

Some mechanisms for the involvement of marginalised children and young people are in place but the mapping study identified the need for further development in this regard to ensure the involvement of all children and young people. Cardiff Black Youth Network, supported by the Wales-wide Black Voluntary Sector Network, and the Children and Young People's Participation Consortium for Wales is currently mapping the participation of children and young people from Black and Minority Ethnic communities.

All local authorities in Wales have a mechanism for involving young people in decision making at a county level and most have established youth forums. Many local authorities have employed a participation officer or worker to facilitate young people's participation and participation strategies but there is a need to provide more support and direction to local authorities that are failing to develop strategies and action plans. Some of the Children and Young People's Framework Partnerships have set up participation task groups to move this agenda forward.

The main criticisms concerning children and young people's engagement identified by the mapping report were that: children and young people are involved increasingly in consultations, being asked their views, but the agenda remains set by adults and organisations and there is less documented evidence of the impact of their involvement on influencing policy and services.

Conclusion

There have been positive developments on children and young people's participation in Wales. National and local structures have been established to develop policy, practice and opportunities for children and young people's participation. Examples of children and young people's participation are evident at local and national levels in statutory and voluntary organisations. There is a range and diversity of ways that children and young people are involved in decision making which must be celebrated.

However, there is still a long way to go before the principle of Article 12 is respected. We need to continue work (at both national and local levels) on embedding and mainstreaming participation opportunities to further children and young people's influence on all policies that affect them. In many parts of Wales, children are still not perceived as persons entitled to rights. Adult's interests very often undermine the rights of the child. Further efforts still need to be made to change adult's attitudes to ensure the effective implementation of Article 12, with children's right to participate in the family, at school, in communities and local and national governmental structures fully supported. Children and young people must be respected as valuable members of communities and active citizens.

There is a need to move away from seeing participation as consulting with children and young people on matters which interest government or organisations to real participation and engagement where children and young people are involved in setting the agenda. The real challenge is to ensure that adults and organisations listen, hear and act on children and young people's recommendations and ensure they are more accountable to them. The implication of not doing so is grave as it will lead to the further disillusionment and disengagement of children and young people.

Key recommendations

The Welsh Assembly Government working with its partners should:

- Ensure children and young people are provided with information about their rights under the Convention, in particular about Article 12, their right to participate.

- Consider developing legislation, which secures national and local participation structures including the children and young people's assembly for Wales.
- Ensure that all its policies and initiatives promote and support children and young people's participation in decision making. In particular, the Welsh Assembly Government should provide dedicated support and clear direction to ensure that children and young people are enabled to actively participate in the regeneration of their own communities.
- Ensure that participation is included in all training courses for professionals working with children and young people and in Continuing Professional Development training programmes.

Key questions

- How can we achieve cultural and organisational change in Wales which values children and young people's participation routinely in all matters affecting their lives?
- What further steps need to be taken and by whom to promote and support children and young people's involvement in legal and statutory processes including child protection?
- What mechanisms should be put in place to ensure opportunities to participate are accessible to all including children under 11 years and marginalised children and young people?
- How can we best encourage and support the development of more child and young people led initiatives and organisations?
- How can we encourage and support the development of more children and young people led initiatives in Wales, especially those involving marginalised and excluded groups?
- What further steps can the Welsh Assembly Government and its partners take to ensure that children and young people in Wales have opportunity to influence the UK Government, in particular on decisions made about policy on non-devolved matters?
- How can government (Wales and UK), NGOs and the Children's Commissioner for Wales best support children and young people's involvement in the 'official' UNCRC monitoring and reporting process in 2007? What is the role of Funky Dragon? The Children and Young People's Participation Consortium for Wales? The Children's Commissioner? What resources are available and when is planning going to start?

Endnotes

- ¹ Welsh Assembly Government 'Safeguarding Vulnerable Children Review' launched 2003 is currently underway.
- ² Draft Guidance on Local Co-operation under the Children Act 2004. *Children and Young People: Rights into Action, Stronger Partnerships for Better Outcomes*.
- ³ Welsh Assembly Government Framework for Partnership 2002.
- ⁴ Welsh Assembly Government Betterwales.com – The Strategic Plan.
<http://www.wales.gov.uk/themesbetterwales/content/strategicplan/toc-e.htm>
- ⁵ Welsh Assembly Government (2004) *Children and Young People: Rights into Action*.
- ⁶ The Policy Unit, The National Assembly for Wales 2000. *Extending Entitlement: supporting young people in Wales*.
- ⁷ Welsh Assembly Government (2004) *Extending Entitlement, Making it Real, An evaluation of Extending Entitlement*.
- ⁸ Welsh Assembly Government, National Service Framework for Children, Young People and Maternity Services in Wales (Children's NSF) <http://www.wales.nhs.uk/nsf>
- ⁹ Welsh Assembly Government, National Service Framework for Children, Young People and Maternity Services in Wales, *Young People's Consultation Document*.
- ¹⁰ Welsh Assembly Government draft consultation document (2003) *Pupil Involvement in Decisions that affect them and the Establishment of School Councils in Primary, Secondary and Special Schools*.
- ¹¹ Welsh Assembly Government (2004) *Making the Connections: Delivering Better services in Wales*. Accessed at <http://www.wales.gov.uk/themesmakingconnection>.
- ¹² Welsh Assembly Government community regeneration policy launch in 2000.
- ¹³ Children and Young People's Participation Consortium for Wales: A Discussion Paper (2004).
- ¹⁴ Report on the 22nd session, September/October 1999, CRC/C/90, para. 291.
- ¹⁵ Welsh Assembly Government Cymorth funding and Children and Families Organisations Grants have been used to fund national and local participation projects across Wales.
- ¹⁶ Children's Express is a UK wide news agency producing news and features by young people.

Chapter Four

Civil rights and freedoms

Corporal punishment

Jill Taylor – ‘Sdim Curo Plant!/Children are Unbeatable

Civil rights and freedoms

Corporal punishment

CONCLUDING OBSERVATION para.36. The Committee recommends that the State party:

- a) With urgency adopt legislation throughout the State party to remove the “reasonable chastisement” defence and prohibit all corporal punishment in the family and in any other contexts not covered by existing legislation;
- b) Promote positive, participatory and non-violent forms of discipline and respect for children’s equal right to human dignity and physical integrity, engaging with children and parents and all those who work with and for them, and carry out public education programmes on the negative consequences of corporal punishment.

Relevant Articles of UNCRC: Article 19 of specific relevance.

Commentary on progress

- a) **With urgency adopt legislation throughout the State party to remove the ‘reasonable chastisement’ defence and prohibit all corporal punishment in the family and in any other contexts not covered by existing legislation.**

Legislation

The power to remove the ‘reasonable chastisement’ defence lies with the UK Parliament in Westminster not with the National Assembly for Wales. Where the Assembly has power it has demonstrated its strong commitment to ending the corporal punishment of children, for example, it was the first administration in the UK to ban corporal punishment in child minding and day care settings.¹

To the Welsh Assembly Government’s credit in October 2002 (in response to the UN Committee’s Concluding Observations) they issued a Cabinet Statement indicating that it was intent on making representation to the UK Government to change the law to remove the defence of reasonable chastisement:

“The recent observations of the UN Committee on the Rights of the Child concluded that current legislation in the UK does not comply with the principles of the UN Convention. It recommended that corporal punishment in families and all other contexts should be prohibited in law, concluding that action should be taken to promote non-violent forms of discipline, respect for children’s rights to human dignity, including through public education programmes. I shall write to John Denham expressing the support of the Welsh Assembly Government for these views.”²

The UK Government refused to re-consider the case for legal reform. Then in 2004, a vigorous and high profile campaign took place, co-ordinated by the Children are Unbeatable! Alliance, to add a new clause to the Children Bill. This clause would remove the common law defence of ‘reasonable chastisement’ and give children ‘equal protection’. The UK Government rejected this opportunity to legislate on the matter from the outset and consistently briefed against the campaign, emphasising parents’ right to discipline their children and raising the spectre of parents being criminalised and brought before the courts.

At the final vote in the House of Commons on November 2nd 2004 the Government refused to allow its own MPs a 'free vote' i.e. to vote according to their personal conscience, as is traditional in the UK in such matters. The proposed new clause (Clause 12) was defeated by 423 votes to 75. The Government instead threw its weight behind another clause (Clause 56), which was presented as a compromise but which in fact endorsed the corporal punishment of children and introduced a new statutory defence of 'reasonable punishment'. Clause 56 was strenuously opposed by the campaign but was approved by 284 votes to 208. It was enacted as Section 58 of the *Children Act 2004*) and came into force in England and Wales on January 15th 2005.

Sir William Utting, spokesperson for the Children are Unbeatable! Alliance, said:

*"Section 58 of the Children Act perpetuates the archaic defence that allows children to be legally hit and hurt. It is unjust and does not satisfy our human rights obligations to children under UN and European agreements."*³

In the concluding debate on the Children Bill the UK Government Minister for Children gave an undertaking to review the operation of Section 58 after 2 years.

Welsh Members of the House of Lords and Welsh MPs made a notable contribution to the 2004 campaign providing the lead sponsor for the 'equal protection' clause in the House of Lords (Baroness Finlay)⁴ and two of the four sponsors in the House of Commons (Julie Morgan and Hywel Williams).⁵ Six other Welsh Parliamentarians spoke in favour of the 'equal protection' clause and over a quarter of the 40 MPs in Wales voted for it.⁶

Although the campaign for legal change did not succeed there is a general acknowledgement that it raised awareness of the issue of physical punishment and generated some high quality debate and media coverage. This has helped shift the consensus further towards reform. A number of key agencies notably the Association of Chief Police Officers (ACPO) and the Association of Directors of Social Services (ADSS) made public both their opposition to Section 58 and their belief that 'equal protection' would not lead to the criminalising of parents.

In contrast to the UK Government, in October 2002 the Welsh Assembly Government with the Cross Party support of a majority of the National Assembly's 60 Members, became the first government in the UK to take a principled stand against the physical punishment of children.⁷ Since then it has consistently urged the UK Government to act to remove the 'reasonable chastisement' defence. In January 2004 during a debate on the Children's Green Paper, over two thirds of the National Assembly for Wales voted to signal its regret that the UK Government had failed to take action:

"The National Assembly regrets that the UK Government continues to retain the defence of reasonable chastisement and has taken no significant action towards prohibiting the physical punishment of children in the family" (In favour 41, Abstain 3, Against 9)⁸

In May 2004 during a debate on the Children Bill in the National Assembly for Wales, the Minister stated:

*"...I am pleased that Members have ... raised the issue of the opportunity that we hope this forthcoming legislation will offer the Government to take a stand, as the Welsh Assembly Government has taken a stand, in favour of children's rights by removing the defence of reasonable chastisement. . . . This is not about criminalising parents; this is about ensuring that children have the same rights as adults regarding physical punishment and ensuring that this opportunity is used. I hope that the Government will support an amendment to the Bill and that there will be a free vote to take this forward."*⁹

b) Promote positive, participatory and non-violent forms of discipline and respect for children's equal right to human dignity and physical integrity, engaging with children and parents and all those who work with and for them, and carry out public education programmes on the negative consequences of corporal punishment.

The Welsh Assembly Government stance against physical punishment was expressed within the context of providing support to parents as well as a child's right to be protected. In the Cabinet Statement of October 2002 the Minister said:

*"Whatever the legal position, I believe that our approach needs to be based on support for positive parenting. The key is to support parents and others who care for children and to promote positive relationships in families. We must seek to change social attitudes so that physical punishment of children is no longer considered acceptable, no matter what context"*¹⁰

Since January 2004 the Welsh Assembly Government has funded 'Sdim Curo Plant!/Children are Unbeatable! in Wales'¹¹ to provide them with advice and guidance on what forward measures can be taken using the powers of the Assembly to act, primarily in the fields of health, child protection, domestic abuse, parenting support and community regeneration.

The Welsh Assembly Government has so far published four key documents¹², which expressly underline its commitment:

CHILDREN AND YOUNG PEOPLE: RIGHTS TO ACTION (FEBRUARY 2004)

"The Assembly Government believes that the current legal defence of 'reasonable chastisement' should be ended. We wish to encourage respect for children's rights to human dignity and nonviolent forms of discipline, including through public education programmes. We have made representations to the UK Government about this.

We do not accept that smacking teaches children how to behave as they grow up. Children who are smacked are more likely to believe that the strong get their own way and that violence is an acceptable manner of expressing a view or dealing with anger or frustration.

We believe that we must respect what children themselves have told us: that a smack serves to create distrust, fear and dislike, but is not the best way to instill respect for the adult or acceptance of their values.

The Assembly Government has banned smacking in every form of public and regulated care in Wales. We want to make sure that parents and carers have the information and advice they need on effective ways of dealing with children's behaviour, including alternatives to physical discipline. We are funding a public education programme including the production of information leaflets and the provision of advice."

NATIONAL SERVICE FRAMEWORK FOR CHILDREN, YOUNG PEOPLE AND MATERNITY SERVICES (SEPTEMBER 2005)

"Children and Young People's Framework Partnership Plans [to] include joint working arrangements to promote and deliver parenting education that includes:Suggesting appropriate methods for managing children's behaviour that supports the Welsh Assembly government's views that physical punishment of children is unacceptable"

PARENTING ACTION PLAN (MARCH 2005 PUBLISHED FOR CONSULTATION)

"The Welsh Assembly Government believes that smacking children is wrong. We do not think it encourages adults, children and young people to respect each other. We believe that there are better ways of dealing with difficult behaviour and teaching children right and wrong. We know that many parents would like advice on how to get this right. We think that one of the booklets given out to parents should include tips on how to bring children up without using smacking."

The final Parenting Action Plan will be published in autumn 2005 and the booklet about 'Alternatives to Smacking' is likely to be distributed through the universal Health Visitor service from 2006 onwards.

TACKLING DOMESTIC ABUSE: THE ALL WALES NATIONAL STRATEGY (MARCH 2005)

"This strategy aims to increase the safety of women and children/young people by recognising the need for...Encouraging policies that oppose the smacking of children and seeking to promote alternatives to physical discipline.."

Wales is the only part of the UK where physical punishment of children is accepted as being part of the spectrum of domestic abuse.

In January 2004 a group of Assembly Members and Welsh MPs went on an official fact finding visit to Sweden organised by 'Sdim Curo Plant!/Children are Unbeatable! and Radda Barnen (Save the Children, Sweden). This proved to be extremely valuable in informing politicians about how legal change can be introduced and public education undertaken.

'Sdim Curo Plant!/Children are Unbeatable! has regular meetings with the Minister for Children and the Welsh Assembly Government's Cabinet sub Committee for Children and Young People is due to review progress in October 2005. The Alliance continues to press for a properly funded campaign of public education supported by an increased level of parenting support.

'Sdim Curo Plant!/Children are Unbeatable! has also met civil servants in the Welsh Assembly Government to discuss ways to translate ideas into operational planning and delivery at a local level. 'Sdim Curo Plant!/Children are Unbeatable! is currently working to develop public awareness initiatives at a community level in partnership with NGOs, local authorities and health agencies in order to demonstrate what can be achieved. These can then be adapted or replicated by others. We are seeking funding to evaluate these initiatives so that we can show what works best to change public attitudes and parental behaviour for the benefit of Welsh children and young people. All relevant information will be submitted to the review of section 58 of the *Children Act 2004* in the autumn of 2006.

Conclusion

Wales is acknowledged to be leading the way on the issue of physical punishment within the UK. However the mixed messages coming from the two Governments (UK and the Welsh Assembly) are confusing for parents, public and young people. Whilst the political commitment from the Welsh Assembly Government is genuine, there is a lack of resources to fund both public education and an adequate level of support for parents and this, combined with the continued existence of the legal justification for hitting children, remains a serious difficulty in making further progress.

Key recommendations

The Welsh Assembly Government should:

- Continue to press the UK Government for legal reform to give children equal protection.
- Establish a campaign of public education supported by an increased level of parenting support.

Endnotes

- ¹ National Assembly for Wales. Child Minding and Day Care Regulations (Wales) 2002.
- ² Jane Hutt, Minister for Children (NAfW Record of Proceedings/Cofnod for October 23rd 2002).
- ³ Children are Unbeatable! Alliance press release (November 2004) *Unjust law fails children* at www.childrenareunbeatable.org.uk
- ⁴ Hansard, March 30, May 20, July 5 2004.
- ⁵ Hansard September 13 2004.
- ⁶ Hansard November 2 2004.
- ⁷ Jane Hutt, Minister for Children (NAfW Record of Proceedings/Cofnod for October 23rd 2002).
- ⁸ NAfW Record of Proceedings/Cofnod for January 14th 2004.
- ⁹ Jane Hutt, Minister for Children (NAfW Record of Proceedings/Cofnod for May 4th 2004).
- ¹⁰ NAfW Record of Proceedings/Cofnod for October 23rd 2002.
- ¹¹ Sdim Curo Plant!/Children are Unbeatable! was set up in September 2000. It works in alliance with sister groups in England, Northern Ireland and Scotland. Its work is directed by a Strategy Group comprising Barnardos Cymru, Children's Commissioner's Office, Children in Wales, Cymdeithas Tai Hafan, NCH Cymru, National Childminding Association Cymru, National Family & Parenting Institute, NSPCC Cymru, Royal College of Paediatrics & Child Health, Save the Children/Achub y Plant.
- ¹² All these documents are downloadable from the National Assembly website: www.wales.gov.uk

Chapter Five

Family and alternative care

Child protection

Simon Jones – NSPCC Cymru

Family environment and alternative care

Violence, abuse, neglect/maltreatment

CONCLUDING OBSERVATION para.38. The UN Committee on the Rights of the Child urged the State party to:

- a) Introduce a system of statutory child death inquiries;
- b) Develop a strategy for the reduction of child deaths as a result of violence and the reduction of all forms of violence against children;
- c) Ensure consistent legislative safeguards for all children in alternative care, including those who are privately fostered;
- d) Carry out large scale public education campaigns and programmes (including through schools) on reducing child death and child abuse with information on the role of statutory and other services in protecting children;
- e) Establish effective procedures and mechanisms to receive, monitor and investigate and prosecute instances of abuses, ill treatment and neglect, ensuring the abused child is not victimised in legal proceedings and that his/her privacy is protected;
- f) Record in the British Crime Survey all crimes committed against children;
- g) Provide for the care, recovery and integration for victims; and
- h) Strengthen the reporting system, through full support of the confidential centres for abused children, and train teachers, law enforcement officials, care workers, judges and health professionals in the identification, reporting and management of cases of ill treatment.

Relevant Articles of UNCRC: Articles 9, 19, 20, 25, 39 of specific relevance.

Commentary on progress

a) Introduce a system of statutory child death inquiries.

The *Children Act 2004* contained a number of positive aspects for protecting children and young people in Wales. One such development is the placing of Area Child Protection Committees (ACPCs) on a statutory footing and their re-naming as Local Safeguarding Children's Boards (LSCBs), which will provide them with greater authority.

The Act contains provisions for these new structures to create Child Death Review Panels, which will have responsibility for enquiring into and evaluating all unexpected child deaths, as recommended by the UN Committee. Despite this positive move the guidance in Wales indicates that an LSCB "*will not be expected to undertake a review where the cause of death is readily apparent and does not give rise to concern*"¹, e.g. road traffic accidents, which means that not **all** child deaths will be eligible for review.

The review of all child deaths, as well as the investigation of all unexpected deaths, is crucial for learning why children die and for developing prevention strategies across a range of child protection and public health issues. It not only provides a complete picture of why children are dying in an area but also acts as

a further 'safety net' so that child deaths, which have maltreatment as a previously unidentified factor, can be picked up. The guidance needs to be amended to allow for **any** child death to be eligible for a review.

b) Develop a strategy for the reduction of child deaths as a result of violence and the reduction of all forms of violence against children.

The Welsh Assembly Government and the National Assembly of Wales should be commended for their continuing opposition to the use of physical punishment and their ongoing support for '*Sdim Curo Plant! Children Are Unbeatable!*' Gradually the Welsh Assembly Government are looking to promote the anti-physical punishment message throughout all their policies for children and young people as has been documented in Jill Taylor's article on page 51.

The Welsh Assembly Government should also be commended for the development of its domestic abuse strategy, *Tackling Domestic Abuse: The All Wales Strategy*.² This strategy includes children and young people in the definition of domestic abuse and also recognises that domestic abuse is a child protection issue. The strategy provides a good framework for supporting victims of domestic abuse and their children. This is a key strategy in reducing violence against children in Wales.

The other key strategy document is *Children and Young People: Rights to Action*.³ This is often viewed as the Welsh equivalent of *Every Child Matters*⁴, as both lay out the respective administrations' underlying principles for policy for children; what has been achieved and the forward direction for children's policy.

As the *Every Child Matters* agenda in England and the equivalent in Wales, have developed, both during the passage of the *Children Act 2004* and after with subsequent guidance, there is greater clarity and a better sense of a clear strategy in England than is evident in Wales. Whilst in Wales much of the same guidance has been issued for consultation, this has appeared in an ad hoc manner, which has been confusing for practitioners. Colleagues working in England can access the *Every Child Matters* website and clearly see how the UK Government's programmes link together. In Wales, the overall strategy for safeguarding and protecting the rights and welfare of children is less clearly defined. More work needs to be done in Wales to link up the *Rights to Action* programme with other strategies, including the domestic abuse strategy and the *National Service Framework for Children, Young People and Maternity Services*.⁵ The way in which all these Welsh Assembly Government strategies link together is not always clear.

c) Ensure consistent legislative safeguards for all children in alternative care, including those who are privately fostered.

The Children's Commissioner for Wales plays a key role in ensuring there are consistent legislative safeguards for all children in alternative care (including safeguards from abuse by professionals working with children). The appointment of a Children's Commissioner in Wales arose directly from the Waterhouse Inquiry which was concerned with the abuse of children in public care.⁶ Since 2002, the Commissioner has undertaken a number of reviews and inquiries to examine arrangements for safeguarding vulnerable children including those in alternative care. The Commissioner's report on his review of local authority social services complaints and whistle blowing procedures and the arrangements for children's advocacy was published in 2003.⁷ Many of his recommendations were directed at local authorities and were for the most part accepted.⁸ Following that Review, practice guides were published which highlighted good practice examples throughout Wales and work continues to improve the operation of systems designed to protect children in alternative care from abuse.

The *Children Act 2004* provides for the Welsh Assembly Government to issue regulations and guidance to improve the safeguarding arrangements for children who are privately fostered. The Welsh Assembly Government has consulted on these regulations, with a view to them coming into force in November 2005. The draft regulations recognise the under-reporting of private fostering arrangements and are to be welcomed but the Welsh Assembly Government and the Welsh Local Government Association will need to ensure that implementation of the new arrangements is closely monitored.

d) Carry out large scale public education campaigns and programmes (including through schools) on reducing child death and child abuse with information on the role of statutory and other services in protecting children.

There has not yet been a Welsh Assembly Government led public education campaign to improve knowledge amongst the general public about child abuse and what to do if they are worried about a child. Most public awareness campaigning is initiated and delivered through the campaigns of voluntary sector organisations.

There has been some recognition of the need to provide children and young people with information. The Children's Commissioner for Wales' *Clywch Inquiry*⁹ made the following recommendation:

"I recommend that the Welsh Assembly Government within 3 months of the publication of this report require all school governing bodies to ensure that children are informed in their school of the availability and purpose of relevant services, including ChildLine, the NSPCC Child Protection Helpline, social services, the Children's Commissioner for Wales and advocacy services."

The last statement on the Welsh Assembly Government's response to this report in June 2005 indicated that *"the decision to make information available to pupils about particular organisations or services is a matter for individual schools"*.¹⁰ The Cabinet statement does go on to recognise that the new guidance on pupil involvement in complaints procedures will recommend that schools provide information to pupils about advocacy and child protection services. This demonstrates that the Welsh Assembly Government are making some effort to ensure children and young people are provided with some information, although there is no co-ordinated strategy across Wales which could mean that some children and young people are getting more information than others.

The Welsh Assembly Government needs to urgently develop a strategy for providing the public, including children and young people, with information about who they can contact if they are worried about abuse. The Welsh Assembly Government consultation document *Safeguarding Children Together*¹¹ recognises in the chapter on 'Roles and Responsibilities' that:

"We all share responsibility for promoting the welfare of children and young people.....Members of the community can help safeguard children and young people if they are mindful of their needs, and willing and able to act if they have concerns about a child or young person's welfare."

This is a statement to be welcomed and the guidance goes on to recognise the need to provide information for people locally. It is our hope that a framework can be developed quickly to empower communities to recognise and act to stop abuse against children and young people.

e) Establish effective procedures and mechanisms to receive, monitor and investigate and prosecute instances of abuses, ill treatment and neglect, ensuring the abused child is not victimised in legal proceedings and that his/her privacy is protected.

The NSPCC and Victim Support publication *In Their Own Words: The experiences of 50 young witnesses in criminal proceedings*¹², which examined the experiences of fifty young witnesses who gave evidence in fifteen of the forty two criminal justice areas in England, Wales and Northern Ireland, highlights that the protection and provision of support for young people giving evidence in court is not consistent. The report highlights some of the distressing situations that children or young people are still exposed to whilst giving evidence in court.

In Wales despite services provided by Victim Support Witness Services and NSPCC Cymru/Wales, various strategies and guidance, and improvement in the use of special measures, such as giving evidence via video link, there is still not a consistent approach to young witness support.

f) Record in the British Crime Survey all crimes committed against children.

To our knowledge this has not yet occurred, it is the responsibility of the UK Government, which administers the British Crime Survey.

g) Provide for the care, recovery and integration for victims.

Through NSPCC Cymru/Wales' Young Witness Support Service, and our other services, we note with concern the waiting time for children and young people who have experienced abuse in accessing therapeutic support. Accessibility is patchy and we believe that it is vital that these vulnerable children and young people can access support as early and quickly as possible to help them through their experience.

The problems associated with Child and Adolescent Mental Health Services (CAMHS) have been well documented by the Children's Commissioner for Wales in his annual reports. Too many vulnerable children and young people are waiting too long for the vital help that they need. The Welsh Assembly Government needs to look again at services for children and young people who have experienced abuse and ensure that this vulnerable group are receiving the services they desperately need.

h) Strengthen the reporting system, through full support of the confidential centres for abused children, and train teachers, law enforcement officials, care workers, judges and health professionals in the identification, reporting and management of cases of ill treatment.

Training and support for professionals to be able to recognise the signs of abuse and refer appropriately is of key importance to safeguarding children and young people. There are considerable differences in the standard of training both within professions and between professions. There is no standard package of training on child protection, which could be used across professions, ensuring that all professionals develop the same awareness and are provided with the tools to safeguard children and young people. The training needs to ensure that there is a common understanding of terminology and also a shared understanding of thresholds. The development by the Welsh Assembly Government of a Common Assessment Framework for professionals may advance the use of a common language and a common approach to training.

Within professions there are those who have specific child protection responsibilities and there is a need to ensure that these professionals receive ongoing training that updates them on legislative changes and refreshes their knowledge. Further to this there is a need to ensure that all professionals have adequate training, which is updated regularly and to an appropriate standard, not simply those with special responsibilities.

The *Children Act 2004* does provide for the Welsh Assembly Government to develop information-sharing databases and they plan to consult on these proposals. Information sharing, particularly issues relating to confidentiality and data protection, need to be covered thoroughly in all training to ensure that professionals are aware of when to share information and with whom.

Conclusion

Progress has been made in Wales since the 2002 report. The provisions in the *Children Act 2004* should improve the protection of children and young people in Wales. More needs to be done to provide the general public with information about what to do if they are worried about a child and who they can contact for support. The same is true for children and young people. Research carried out by NSPCC indicated that two thirds of children who have been sexually abused did not tell anyone at the time. The Welsh Assembly Government's announcement that they will look at developing and initially piloting a school counselling strategy in Wales, is a positive move towards providing children and young people with someone to turn to if they are worried or are experiencing abuse.

Whilst recognising that the public need more information it is also vital that professionals receive the training that they need in order to feel confident in recognising abuse and acting on their concerns appropriately. The publication of *Good Practice on Domestic Abuse*, which accompanied the domestic abuse strategy and is aimed at education professionals, is an example of how the Welsh Assembly Government can ensure that professionals receive information about best practice in particular circumstances.

There are a number of areas that the Welsh Assembly Government need to ensure that the strategies that they have produced are delivering better and safer outcomes for children and young people in Wales.

Key recommendations

The Welsh Assembly Government should:

- Amend the *Children Act 2004* draft guidance to allow for **any** child death to be eligible for a review by the LSCB Review Panels.
- Clarify its overarching strategy for safeguarding and protecting children. In particular, it needs to be clearer how the different strategies that impact on children's rights and welfare, link together.
- Urgently develop a strategy for providing children and young people with information about who to contact if they are worried about abuse.
- Resource a public education campaign to empower communities to recognise and act to stop abuse against children and young people.
- Take steps to ensure that children and young people who have experienced abuse can access therapeutic services as required.

The Welsh Assembly Government and the Welsh Local Government Association (WLGA) should:

- Closely monitor the implementation of regulations relating to private fostering to ensure that the new arrangements are proving effective in identifying and supporting children and young people in these situations.

In addition:

- A consistent approach to supporting young people giving evidence in court needs to be developed.
- A basic standard package of training on child protection should be developed and used across professions, ensuring that **all** professionals develop the same awareness and are provided with the tools to safeguard children and young people.

Endnotes

- ¹ Welsh Assembly Government (June 2005) *Safeguarding Children Together: Safeguarding and promoting the welfare of children in Wales*, p. 104.
- ² Welsh Assembly Government (March 2005) *Tackling Domestic Abuse: The All Wales Strategy*.
- ³ Welsh Assembly Government (January 2004) *Children and Young People: Rights to Action*.
- ⁴ Department for Education and Skills (September 2003) *Every Child Matters*.
- ⁵ Welsh Assembly Government (October 2004) National Service Framework for Children, Young People and Maternity Services in Wales.
- ⁶ Waterhouse, R. Clough, M. and Le Fleming, M. (2000) *Lost in Care: Report of the Tribunal of inquiry into the abuse of children in care in the former County Council areas of Gwynedd and Clwyd since 1974*, HC21, London HMSO.
- ⁷ Children's Commissioner (2003) *Telling Concerns*. Downloadable at www.childcom.org.uk
- ⁸ Children's Commissioner (2005) *Children don't complain.....*. Downloadable at www.childcom.org.uk
- ⁹ Children's Commissioner for Wales (June 2004) *Clywch: Report of the Examination of the Children's Commissioner for Wales into allegations of child sexual abuse in a school setting*.
- ¹⁰ Welsh Assembly Government, *Cabinet Written Statement by Jane Davidson AM, Minister for Education and Lifelong Learning, Clywch Inquiry*, 30th June 2005.
- ¹¹ Welsh Assembly Government (June 2005) *Safeguarding Children Together*, p. 35.
- ¹² Plontnikoff, J and Woolfson, R. (2004) *In Their Own Words: The experiences of 50 young witnesses in criminal proceedings*, NSPCC 2004.

Chapter Six

Basic health and welfare

Child poverty

Lucy Akhtar – End Child Poverty Network Cymru

Basic health and welfare

Standard of living

CONCLUDING OBSERVATION para.44. The UN Committee recommended the State party to:

- a) Undertake all necessary measures to the “maximum extent of available resources” to accelerate the elimination of child poverty;
- b) Better co-ordinate and reinforce its efforts to address the causes of youth homelessness and its consequences; and
- c) Review its legislation and policies concerning benefits and social security allowances for 16 to 18 year olds

Relevant Articles of UNCRC: Articles 4, 6, 18, 26, 27.

Commentary on progress

- a) **State party should undertake all necessary measures to the “maximum extent of available resources” to accelerate the elimination of child poverty.**

Levels of child poverty have fallen in Wales since 2002 but 27% of children are still living in poverty.¹ This equates to approximately 190,000 children. Although not recorded in the UK Government’s income poverty statistics, children of asylum seekers and migrant workers are living on incomes far below subsistence levels.² The odds of a baby being poor in Wales are significantly higher than in England and children in Wales have the worst well-being in the UK.³ Families in rural areas report limited access to services and feeling isolated.⁴ Comparing child poverty across the UK is not easy; data is not always available at a national level and is not always comparable.⁵ The Welsh Assembly Government should give priority to regular monitoring of child well-being in Wales, which measures progress over time and can be compared across the UK. It should develop mechanisms for the measurement of severe and persistent poverty⁶ and a more detailed profile of children most vulnerable.

Tax and benefits are non-devolved issues but the Welsh Assembly Government has made representations to the UK Government in relation to Child Benefit, Child Tax Credit and the abolishment of Single Room Rent. Representations should also be made in relation to giving an amnesty on overpayments of Tax Credit; and replacing the current system of Social Fund loans.

It is difficult to discern whether or not the Welsh Assembly Government (or indeed the UK Government) are undertaking all necessary measures to accelerate the elimination of child poverty to the “maximum extent of available resources” because the detail of monies spent on achieving this objective and the detail of the ‘available’ resources are not made clear. Earlier in this report (see page 16) it is argued that in line with Article 4 of the UN Convention, the Welsh Assembly Government should produce a ‘children’s budget’ setting out estimates of the proportions and amounts that it is spending on the children of Wales. The Welsh Assembly Government could also usefully provide additional analysis of what is actually being directed towards poor children in Wales, i.e. children living in households with below 60% of the median income.

There is no doubt that the Welsh Assembly Government has begun to take the high levels of child poverty in Wales very seriously and is now directing attention to combat what our Children's Commissioner has referred to as our 'national disgrace'.⁷ The Welsh Assembly Government working alongside the UK Government in a joint pledge to end child poverty by the year 2020 is a very welcome development.

A child poverty strategy for Wales?

After campaigning by the End Child Poverty Network Cymru,⁸ the Welsh Assembly Government set up an independent Child Poverty Task Group in 2003 to inform the development of a child poverty strategy for Wales. The Task Group⁹ included government officials, NGOs and academics and their deliberations were informed by consultations with children and young people. The Task Group's report made a number of recommendations on key devolved policy areas that impact on child poverty including education, health, housing and the environment and skills and employment. Evidence provided to the Task Group indicated that poor children in Wales can feel isolated, left out at school and generally stigmatised by their socio-economic status. Poor children reported being bullied because of their 'difference' from other children accentuated by their receipt of free school meals and by not having the proper school uniform. These findings echo those of the Children's Commissioner for Wales¹⁰ and a study by Save the Children.¹¹

In February 2005, the Welsh Assembly Government published its child poverty strategy *A Fair Future for Our Children*.¹² The strategy gives a commitment to eradicating child poverty in Wales by 2020 and (building on a set of core values in line with the UNCRC) sets out key action in policy areas where the Assembly Government has devolved responsibility. Encouragingly, the strategy recognises the importance of a public education campaign to dispel myths about child poverty and sets out action to try to reduce the stigma and shame felt by poor children. The strategy includes an additional £50 million targeted on early years, in the most deprived areas of Wales with at least one integrated centre in each local authority area. This will need to be extended if these services are to be available to children in poverty wherever they live.

Recognising the crosscutting nature of child poverty, the Assembly Government's Cabinet Subcommittee on Children and Young People has been given responsibility for driving and monitoring progress in taking forward the strategy. Implementation of the strategy will also form part of the annual discussions between Ministers and Funky Dragon, the children and young people's assembly in Wales. The Deputy Minister for Social Justice and Regeneration in the Assembly Government has been tasked with turning the strategy into an Action Plan.

End Child Poverty Network Cymru believes it is essential that the action plan contains specific targets and milestones by which to measure progress. The Assembly Government will need to ensure that the strategy is a priority for action by local government and that there are sufficient resources to deliver on the strategic objectives. They need to re-consider the stature of the child poverty strategy with regard to funding and cross-departmental focus and support. To achieve results, the child poverty strategy needs to be recognised in all relevant Assembly Government strategies. All Assembly Government Directorates and local government need to have a greater awareness of it and its implications. It is important that monitoring is followed through both in terms of delivering on the child poverty strategy but also 'proofing' new policy developments to identify the likely impact, positive or negative, on child poverty.

Related Welsh Assembly Government initiatives

Communities First, a Welsh Assembly Government flagship programme provides targeted support to aid the regeneration of the most deprived communities in Wales. The programme aspires to increase the level of participation of local people, although existing Assembly Government guidance is weak on the participation of children and young people. Save the Children has made representation to the Assembly Government about the need to strengthen the guidance and to identify some dedicated support and training to increase children and young people's participation in *Communities First*. A paper on this was considered by the Welsh Assembly Government's Cabinet sub-committee in April, 2005¹³ and new guidance is expected in 2006.

One of the Welsh Assembly Government's core aims for children states that children should not be disadvantaged by poverty. *Cymorth*, a unified fund, provides a mechanism for promoting this core aim by providing targeted support for children and their families in disadvantaged areas (via local authority led Partnerships). In 2003-4, *the Cymorth Fund* was nearly £40 million. The Assembly Government has agreed an additional £29 million for *Cymorth* over the period 2005-8 in addition to a share of the early years' initiative announced with the child poverty strategy.¹⁴

A Welsh Assembly Government report¹⁵ outlines some of the projects supported by *Cymorth* during its first year. It is important to recognise that many children living in poverty do not live in the targeted (Communities First) areas¹⁶ (which are the priority for the *Cymorth fund*) and will miss out on the benefits of this additional support. This makes the role of mainstream services crucial. There should be a focus on early intervention to support children and their families and further provision of this kind should be made more widely available.

Since March 2003, the Welsh Assembly Government has financed free swimming for children in the school holidays. Younger children however must be accompanied by a paying adult which may impact on low-income families' ability to participate. In November 2004 the Welsh Assembly Government gave a commitment to provide all primary school children with free school breakfasts by January 2007. While this is welcome, the Welsh Assembly Government's initiative will need to put sufficient focus on the nutritional content of the breakfasts and ensure that sufficient funds are available to meet demand.

Education

There are clear links between poverty and educational attainment. Social mobility has declined, rather than improved in Britain since 1997¹⁷ and the link between educational attainment and social mobility is central to this. The percentage of children in Wales leaving school without any qualification has fallen but the rate for both boys and girls in Wales is still the highest in the UK.¹⁸ A joint task group¹⁹ examined the factors which contribute to the gap in performance between schools in prosperous and deprived areas and found that successful outcomes could be achieved even where school circumstances are challenging and demonstrated that deprivation does not necessarily lead to poor performance. Recommendations made in the report should be implemented urgently.

The average cost of school per year for one child is £563 in primary and £948 in secondary school.²⁰ Disadvantaged children feel stigmatised because they cannot afford to take part in school trips or buy proper school uniform.^{21 22} There are wide variations in availability and eligibility of local education authority financial help towards the cost of a school uniform. In July 2005 the Welsh Assembly Government introduced a grant of £85, under section 14 of the Education Act 2002, to help families pay for school uniform. All pupils eligible for free school meals entering secondary school in Autumn 2005 are eligible for the grant. While welcome this is insufficient to cover the average £185 cost of a school uniform at secondary level.²³ The Welsh Assembly Government has issued guidance to school

governing bodies recommending that the cost implications be considered before choosing a particular uniform and has also encouraged schools to provide free meals in non-stigmatising ways. In order to ensure these guidelines have some impact on policy in individual schools however, they need to be widely publicised and monitored. Current guidance is not adequately monitored and individual school policies vary widely.

Health

Health inequalities are considered in Dr Elspeth Webb's paper on page 70. The *National Service Framework for Children, Young People and Maternity Services (NSF)*²⁴ launched in September 2005 recognises the inequity of health outcomes for children living in poverty. It contains action points in relation to participation in planning and evaluating services, advocacy and information on benefit entitlement. The *NSF* will only be effective if there is a detailed timetable for implementation. The Welsh Assembly Government itself acknowledges that key actions within the *NSF* will only have any real impact on health inequality if properly resourced and monitored.

b) State party should better co-ordinate and reinforce its efforts to address the causes of youth homelessness and its consequences.

Homelessness in Wales has risen since 2002 and between 1997 and 2003 there has been a 47% increase in homeless presentations, a 100% increase in homeless acceptances, and a 486% increase in the use of Bed and Breakfast accommodation.²⁵ According to the Welsh Assembly Government statistics for the period 2003-4, 178 young people 18-21 years old at risk and 937 young people 16 or 17 years old at risk were homeless. This number is only a proportion of those who are actually homeless as numbers of young people sleep rough on the streets and end up sleeping on sofas or floors in the homes of friends and relatives.

One of the first pieces of secondary legislation passed by the National Assembly for Wales was the *Homeless Persons (Priority Need) (Wales) Order 2001* which came into force on March 1st 2001 to extend statutory protection to a range of new vulnerable groups including 16 and 17 year olds and care leavers aged 18-21 years. The Welsh Assembly Government was the first administration in the UK to extend the duties of local authorities to these groups.

The *Homelessness Act 2002* requires local authorities to carry out reviews of homelessness, and formulate strategies for preventing and tackling homelessness in their areas. In 2004-05 the Welsh Assembly Government made £4.917 million available for voluntary sector schemes aimed at tackling homelessness in Wales (compared with £60 million in England and £20 million in Scotland).²⁶

The Welsh Assembly Government launched its National Homelessness Strategy²⁷ in March 2003 and reviewed it in January 2005. The key issues to emerge were that the Strategy should focus more on preventative approaches and address contradictory policies and practices that undermine anti-homelessness strategies such as anti-social behaviour policies and practices that seek to reduce arrears without considering the consequences of possession and eviction. To improve understanding of local housing markets and of current and possible future causes of homelessness, more work gathering and analysing data at a local level should take place. There is a need to address the lack of affordable housing in Wales and for the provision of adequate resources at all levels to support the strategy. The Welsh Assembly Government is currently developing a new strategy which will need to address these concerns.

c) State party should review its legislation and policies concerning benefits and social security allowances for 16 to 18 year olds.

Benefits and social security allowances for 16 and 17 year olds are non-devolved. There is no evidence to support the claim that living costs are lower for young people who cannot rely on their families for financial support and the current benefit system still fails to offer protection to vulnerable 16 and 17 year olds. A report from the Social Exclusion Unit²⁸ identified the complexity and accessibility of financial support as a major barrier to participation in education and training for young people. The recommendations in this report were examined by a cross-Government Review of Financial Support for 16-19 year olds²⁹ which was published alongside the Budget in March 2004. Over the next 3 years, the proposals centre round the intention to amend Child Benefit and Child Tax Credit rules for the families of 16-19 year olds, to support young people to finish their courses. There are also plans starting April 2006 to improve and simplify the processing of claims for Job Seekers Allowance by 16 and 17 year olds under the estrangement criteria and improved guidance for parents and young people on financial support. The review also sets out a long-term plan for financial support beyond 2007 of a single, coherent system that supports and gives incentives for young people to remain in post-compulsory education and unwaged training, by building on the current Education Maintenance Allowance/Child Tax Credit model of support.

Some benefits have recently been introduced by the Welsh Assembly Government to support young people to stay on in education. From September 2004 the Education Maintenance Allowance (EMA), a weekly grant has been available to help young people from low-income families stay on in education after 16. The Welsh Assembly Government is also funding the Welsh Assembly Learning Grant (ALG), which provides extra money for students from low-income families when undertaking further education (FE) or higher education (HE). School activity funds should also be made available. Transport has been identified by young people as a key issue³⁰ when accessing education and training. The Welsh Assembly Government are developing a scheme to guarantee half-fare travel for all 16-18 year olds on bus services which will be piloted in one or two local authorities in winter 2005.

Conclusion

There has been a considerable amount of progress since 2002 in moving child poverty up the political agenda in Wales and indeed across the UK. However, there is currently a gap between the Welsh Assembly Government's high aspirations and the experiences of children and young people living in poverty. The Welsh Assembly Government must ensure that sufficient resources are assigned to tackling child poverty, that its child poverty strategy is given higher priority and that more urgency is given to developing its action plan which has been slow to materialise. In particular it must engage with delivery partners and gain their commitment and be explicit about their role in tackling child poverty.

Key recommendations

The Welsh Assembly Government should:

- Give priority to regular monitoring of child well-being in Wales, which measures progress over time and can be compared across the UK.
- Develop mechanisms for the measurement of severe and persistent poverty and extract a more detailed profile of children most vulnerable so it can target its resources on those most in need.

- Ensure that its Child Poverty Strategy:
 - contains specific targets and milestones,
 - that it is recognised in other strategies, and other Welsh Assembly Government Directorates,
 - that it is made a priority for action by local government,
 - that sufficient resources are given to implement it.
- Address the lack of affordable housing in Wales through the provision of adequate resources to support the strategy that it is currently developing to address these concerns.

In addition:

- Recommendations made in “*Narrowing the Gap in the Performance of Schools*” (2002) should be implemented urgently.
- Gathering and analysing data at a local level should take place to improve understanding of local housing markets and of current and possible future causes of homelessness.

Endnotes

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³ Bradshaw, J. and Mayhew, E. (2005) *The Wellbeing of Children in the UK*, Save the Children.

⁴ Sharpe, T. (2003) *The good life? The impact of rural poverty on family life in Wales*, NCH Cymru and Barnardo's Cymru.

⁵ Bradshaw, J. and Mayhew, E. (2005) *The Wellbeing of Children in the UK*, Save the Children.

⁶ Children in severe poverty are defined as those living in households with income below 27% of median income, while persistent poverty is defined as three or more years in households with income below 60% median income. See Adleman L., Middleton S. and Ashworth K (2003) *Britain's Poorest Children: Severe and persistent poverty and social exclusion*. Save the Children.

⁷ Children's Commissioner for Wales (2002) *First Annual Report 2001-2*.

⁸ The members of the network are: Children in Wales, Barnardos Cymru, Save the Children Wales, NCH Cymru, NSPCC Cymru, Childline Cymru/Wales, Child Poverty Action Group, National Public Health Service for Wales, Fairbridge Cymru, Citizens Advice Bureau, Frank Buttle Trust, Shelter Cymru, Children's Commissioner for Wales.

⁹ Welsh Assembly Government (2004) *Child Poverty Task Group Consultation*.

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- ¹⁹ Welsh Assembly Government (2002) *Narrowing The Gap In the Performance of Schools*.
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- ²³ Department for Education and Skills (2004) *The Cost of Schooling*.
- ²⁴ Welsh Assembly Government (2004) *National Service Framework for Children, Young People and Maternity Services, Consultation*, October 2004.
- ²⁵ Chartered Institute of Housing Cymru (2004) *No Place Like home.... Homelessness in Wales*, CIH Cymru Policy Briefing Papers.
- ²⁶ Chartered Institute of Housing Cymru (2004) *No Place Like home.... Homelessness in Wales*. CIH Cymru Policy Briefing Papers.
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- ²⁹ HM Treasury/Department for Work and Pensions/Department for Education and Skills (2004) *Supporting Young People to Achieve – towards a new deal for skills*, HMSO.
- ³⁰ Welsh Assembly Government (2004) *Child Poverty Task Group Consultation*, June 2004.

Health inequalities

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Basic health and welfare

CONCLUDING OBSERVATION para.40. The Committee recommends that the State party:
Takes all appropriate measures to reduce inequalities in health and access to health services, to promote breastfeeding and to adopt the International Code for Marketing of Breast-milk Substitutes.

Adolescent health

CONCLUDING OBSERVATION para.42. The Committee recommends that the State party:

- a) Undertake further necessary measures to reduce the rate of teenage pregnancies, through, inter alia, making health education part of the school curricula, ensuring the inclusion of sex education to all children and the availability of free protection measures; and improving access to confidential and adolescent-sensitive advice and information and other appropriate support (as recommended by the independent Advisory Group on Teenage Pregnancy).
- b) Review its differential policies for young mothers under the age of 16 years with regard to allowance entitlements and parenting courses; and
- c) Take all necessary measures to strengthen its mental health and counselling services, ensuring that these are accessible and sensitive to adolescents.

Relevant Articles of UNCRC: Articles 2, 6, 12, 17, 18, 24, 27 of specific relevance.

Commentary on progress

Wales is one of the poorest countries of the UK as the previous article has illustrated. This is reflected in child health measures associated with poverty and social disadvantage, including some of those highlighted as specific areas of concern in the last report; namely, higher teenage conception rates, higher infant mortality rates, low breast feeding rates, and poor adolescent mental health. This section will examine the following areas of concern raised by the UN Committee on the Rights of the Child:

- Socio-economic status and health.
- Infant mortality rates.
- Mental health and health services.
- Low breast feeding rates.
- Ethnicity and health.
- High teenage conception rates.
- The lack of appropriate services for adolescents.

Socio-economic status and health

The links between poor health and poverty in childhood are well established, and apply broadly across almost all areas from injury rates (both accidental and non-accidental) and disability through to rates of acute illness. Children are particularly vulnerable to the impact of poverty given that they are growing and developing, so that disadvantage is cumulative. Addressing socio-economic health gradients requires long term interventions at three levels:

- Reducing income inequalities.
- Reducing the impact of poverty.
- Providing effective and accessible health interventions to manage health problems resulting from poverty.

Reducing income inequalities would have more impact than at other levels but tax and benefits are non-devolved areas and are outside the scope of this paper.

There are two opposing approaches to **poverty impact reduction** in health.²

- a) A *behaviourist approach* continues to be dominant, despite evidence for it being relatively ineffective in socio-economically disadvantaged communities. This approach concentrates on promoting behavioural change.
- b) A *structuralist approach*, in which public health measures change the context and environments in which people live. It is important to provide information to allow informed choice, but if the context of people's lives is such that they are unable to change behaviours, behaviourist approaches amount to victim blaming.³ Other factors, particularly political and fiscal, feed into policy decisions in this area, as is well illustrated by the example of child pedestrian injuries. Welsh rates remain high for Northern Europe, with children from the most deprived quintile being over twice as likely to be admitted to hospital following a pedestrian injury⁴ and three times as likely to be involved in a pedestrian injury according to police statistics.⁵ In the UK, as is also the case in the USA, children are blamed. Child behaviours are stressed, rather than addressing necessary and more effective changes in the structure of transport systems.⁶

Poverty impact reduction measures for Welsh children have included many and various approaches, which sometimes combine these two approaches. For example the Welsh Network of Healthy School Schemes (WNHSS) aims to promote healthier diets through combining changes in the foods available, as well as attempting to influence choices. This health initiative successfully involves over half of the schools in Wales. All 22 local healthy school schemes have been accredited by the Welsh Assembly Government as part of the WNHSS.⁷

The largest poverty impact reduction approach adopted in the last few years is the Sure Start initiative, one whose central aim has been to get children from poor communities ready for school. This is an initiative that has been hugely successful for individual families, and has had a positive impact on communities. However, it is area based, targeted in Wales on *Communities First* wards which exclude approximately 40% of poor families not living in socio-economically deprived wards.⁸

The third level of intervention is to **provide effective and accessible health interventions to manage health problems resulting from poverty.**

Given that hospitalisation rates are higher for socio-economically deprived children, any initiative to improve in-patient services will, in theory, benefit sick children from these groups. For example, critical care for children in South Wales has improved following the establishment of a Paediatric Intensive Care Unit (PICU) in Cardiff. This was commissioned in 1999-2000, formally opened in 2001 and has had a full complement of medical staff at consultant level since 2003. One disadvantage is the movement of sick children and their families many miles from home, but the improved care offsets this, while inter-hospital morbidity is minimised with a dedicated retrieval team. Local teams, initially fearful of losing vital resuscitation skills, have been supported with educational programmes and regular feedback. Indeed, it is apparent to the staff in the PICU that local practice has improved over time.

Core health services to children in need are provided by departments of community child health. With a few exceptions core funding for these services across Wales has had little investment for many years. This is against a backdrop of a much increased workload, arising from:

EPIDEMIOLOGICAL FACTORS:

There has been an increase in prevalence (partly in some cases from better recognition and in others from an actual increase in cases) of a number of paediatric conditions of which the assessment, diagnosis and management are part of core community child health; for example attention deficit hyperactivity disorder, autistic spectrum disorder, severe and profound intellectual disabilities, complex disabilities.

LEGISLATIVE AND STATUTORY FACTORS:

Several recent Acts of Parliament and national enquiries have a bearing on the obligations of these services. These include: *The Children Act 1989, 2000 and 2004; The Waterhouse Inquiry; The Carlisle Report 2002; European working time directives; The National Service Framework for Children, Young People and Maternity Services* and many more.

Funding has been piecemeal and politically driven through a variety of funding streams focussed on local authorities. Accessing these monies has required formal bidding, but the commissioner/provider split in health has often excluded those with the skills and knowledge to identify population priorities until late in the bidding process, with provider services sidelined, and children having a weak voice within Local Health Boards (LHBs). When provider services have been successful there has been confusion as to who provides long term core funding, with no long term guarantees for well evaluated projects showing clear health benefits for children in need to receive ongoing funding. For example: the Vale of Glamorgan Children First Project has the objective of improving the statutory health assessment of looked-after children. It has been extremely successful, moving towards a nurse-led model, with an increase in coverage from below 46% to above 98% in children aged 11 and over, an increase in client satisfaction and freeing-up of medical officer time to concentrate on those children with complex health needs.⁹ Despite these impressive results both the Local Health Board and Local Authority have denied responsibility for continued commissioning. It was scheduled to end on the 30th September 2005. The overall impact of these factors is of community child health services in Wales being, in general, very parlous.

Data Collection

The advent of the National Public Health Service in Wales has resulted in the collection and open publication of a wide selection of health and health outcomes data on Welsh children. These excellent publications include details of basic statistics; in addition the quality of the data is graded, and gaps acknowledged. The collection and publication of good quality data are essential tools in addressing health inequalities and working towards equity; thus these statistical resources are crucial. What makes some of the data particularly valuable is the presentation of data including an equity ratio.¹⁰ It is hoped that this will be an ongoing process which will allow for audit of progress in achieving health equity for Welsh children.

Infant mortality rates

The All Wales Perinatal Survey (AWPS) publishes annually perinatal and infant mortality statistics of mothers normally resident in Wales and has been reporting for the last 12 years. Analysis of the AWPS data has reported a fall in infant mortality rate (IMR) in Wales. IMR has fallen from about 6.2/1000 live births in 1994 to 4.1/1000 live births in 2003. This suggests that there are about 60 less infant deaths in 2003 when compared to 1994. The main reason seems to be less death due to prematurity and a smaller decline in death due to congenital anomaly.

However this overall trend may be offset in Wales by recent concerning data from England (Welsh statistics not yet published), which shows that the class gap in IMR has widened.¹¹

The introduction of the *Confidential Enquiries into Sudden Death in Infancy (CESDI)* programme in the mid nineties has provided an evidence base on which to improve antenatal care and reduce IMR. However, the most important predictor of IMR is income inequality, which remains little changed.

Mental health and health services

Although the National Public Health Service for Wales (NPHS) has recently published up-to-date data on the mental health of adults in Wales, there is no separate information on the state of the mental health of children. The paper produced by the NPHS to support the *National Service Framework (NSF)* in this area uses as sources an ONS¹² survey from 1999, and the current NPHS profile of the health of children in Wales does not include mental health.¹³ The publication of *“Children and Young People with Mental Health Problems and Disorders”*¹⁴ does provide an excellent evidence base for practice and sets standards. The Welsh Assembly Government acknowledges the lack of data for Welsh children and expresses its intention to rectify this:

*“Although mental health disorders are common in childhood, there are very little data to describe their nature and extent in Wales.....Further work is required to build up a more accurate picture against which progress in improving child mental health status can be monitored.”*¹⁵

There are concerns with regard to services. The Department of Health in England has allocated £440,000,000 to Child and Adolescent Mental Health Services (CAMHS) since 2000. If Wales was to spend an equivalent amount of money per capita this would be £26,400,000. What has been allocated over the same period is £1.7m to a limited tertiary centre (includes in-patient and forensic adolescent services but not tertiary learning disabled or autism provision). The impact of such a lack of investment in core CAMHS services can be seen by the following comparison: Liverpool city (pop. 440,000) – 8 whole time equivalent (WTE) generic child psychiatrists; Cardiff and Vale (pop. 420,000) – 3 (soon to be 4) WTE generic child psychiatrists. These workforce realities are at odds with the Royal College of Psychiatry recommendations of 1.5 whole-time equivalents child psychiatrists per 100,000 total population for a core service that is adequately resourced with other professionals and has an age range of 0-16 years.

Despite the fact that the Children’s Commissioner for Wales has highlighted the poor state of CAMHS in his last two annual reports,¹⁶ there remains a huge shortfall in the investment required to bring these services up to an acceptable level. At a time when Welsh Assembly Government has announced its intention to spend £30m on free prescription for adults aged 18-65, it is timely to ask how children’s issues are lost in the prioritization and allocation of health service spending in the face of obvious and demonstrated need.

Low breastfeeding rates

The Office for National Statistics (ONS) performs its Infant Feeding Survey every five years, with England and Wales grouped as one country. The figures from the 2000 survey were published in May 2002 and show little difference from the 1995 survey, with only a 2% increase seen in England and Wales.¹⁷

The Welsh Assembly Government has outlined targets to improve breast-feeding rates in Wales by 2005.¹⁸ However without a commitment to the collection of local data it is hard to see how progress can be assessed. Ideally, the next ONS survey should provide disaggregated data on Wales.

The lowest rates for breast feeding are found in socio-economically deprived households, thus it follows that *“the greatest health gains could therefore result from raising...prevalence in the most poorly resourced families”*.¹⁹ Many communities in Wales are heavily dependent on the earnings of part-time women workers in poorly paid jobs. Such women depend on free extended-family childcare, and cannot afford to stay on at home once their full rate of maternity pay ends. Most women will take at least three to six weeks before they are feeding confidently and comfortably, but then a few weeks later need to return to work. Part of the

campaign to improve breast-feeding rates in the most poorly resourced families must include a dramatic improvement in maternity provision. This is one area where joined-up government would be very welcome.

Ethnicity and health

There is very little information on the health status and welfare of Black and Minority Ethnic (BME) populations resident in Wales, and particularly on that of children, although it can be inferred from more general UK data²⁰ that these children, particularly from certain ethnic groups, are as a population more likely than their White ethnic majority peers to be:

- Growing up in poverty (especially Somali, Bangladeshi, Pakistani, and any asylum seeking or refugee population).
- Disabled (true of Pakistani, Somali and Bangladeshi and Arabic among others).
- Attending inner city schools.
- Have a parent who does not speak English.
- Have a parent who does not read in any language (especially Somali and Bangladeshi).
- Be excluded from school (especially African Caribbean and dual heritage).

Many BME communities in the UK are at risk of poverty with some, notably the Pakistani and Bangladeshi communities, in “*serious poverty*”.²¹ Many adults in BME communities are either unemployed or in low-paid work with their children more likely to attend poorly resourced inner-city schools, be they in the public care and/or excluded from school. All these factors are linked with adverse health outcomes.

Many parents in BME populations, particularly mothers, do not have a working knowledge of English, and may not read. Without adequate provision of interpreters these parents are unable to access information crucial to their ability to make informed choices, to liaise with health, welfare and education, and to advocate for their children when they are in need. Their situation is somewhat analogous to that of an illiterate mother in the developing world, a factor long known to be linked to high infant mortality.²² It would seem reasonable to hypothesise that the language status of unsupported migrant parents is likely to impact on the health of their children.

BME communities do not have equality of access to services.²³ There are examples of institutional racism: for example, services are dependent on postal addresses, which disadvantages asylum seekers and travellers; services are often planned using whole population data. For BME populations there is a mean age shift to the left with 39% of Welsh Bangladeshi populations aged under 16, over 40% of those of dual or mixed heritage being under 16, compared to 20% of White Welsh populations.²⁴ Using whole population data to plan services ensures that areas with high BME populations are understaffed and under-resourced for children’s services, despite the increased needs of these communities as a result of poverty.

With the introduction of the ‘dispersal scheme’ there has been a rise in the number of refugees and asylum seekers coming to Wales, especially in the conurbations in the South (for more information on the ‘dispersal scheme’ as it affects Wales and on young asylum seekers please see Chapter 8 and the section on Asylum, page 87). Health services for these extremely disadvantaged children have been funded only at primary care level, and then only for responsive services, despite the complex nature of many of the children’s needs, many of whom are disabled or ill, and others being at risk of harm. The result has been that these children do not have the same health promotion services as other children, and that secondary services are stretched trying to meet their needs.

There is a pressing need for research and accurate data into the health status and needs of children from BME and refugee communities in Wales. Above all, they must be seen as children first, and their needs not marginalised within core child health services.

High teenage conception rates

The Maternity Report informing the Welsh *NSF* provides an excellent overview of the epidemiology of teenage conception.²⁵ In brief, teenage conception rates are far higher in the most socially deprived groups; girls whose families are in social class V (unskilled manual) are ten times more likely to become teenage mothers than girls from professional backgrounds, and are also less likely to have an abortion if they do become pregnant. Teenage mothers have in general poorer social, economic and health outcomes and, if these pregnancies proceed, the babies of these mothers face high risks of low birth weight, infant death, prematurity and congenital abnormality. Girls in the UK care system are at high risk of pregnancy: 25% of care leavers have had a child by the age of 16; almost half of care leavers are mothers within 18-24 months of leaving care.²⁶

Given these poor outcomes, the high rates of teenage pregnancies in Wales prompted the development of the *Strategic Framework for Promoting Sexual Health in Wales*.²⁷ A key objective of this was to reduce the rate of teenage conception. As a result of the strategy a number of national and local initiatives are in place which focus on ensuring that young people have appropriate information about sexual health issues, access to good sex and relationships education and access to sexual health advice services. Teenage conception rates in Wales for girls under the age of 18, fell from 55 per 1000 women aged 15-17 in 1998 to 45.7 per 1000 in 2003.²⁸

Although definite progress has been made, the rates in Wales, as in the rest of the UK, remain high relative to other Northern European countries.²⁹ Both focussed programmes, and initiatives to reduce income inequality, are required.

Lack of appropriate services for adolescents

There has been some progress in this area, with the continued development of in-patient facilities tailored for adolescents in many Welsh hospitals, although not all adolescents (in particular those admitted for terminations or with antenatal problems) are admitted to these units. Reasons given for these exclusionary policies are the needs of pregnant teenagers for specialist care, but these perhaps need to be challenged. Such individuals are in general, vulnerable girls in highly vulnerable situations, whose need for a targeted adolescent service may be even greater than that of many of their peers.

The current shortage of consultants available to develop specialist services for older teenagers and young adults has implications for the types of clinics older teenagers are seen in within adult services. Older teenagers are often placed with large numbers of geriatric patients with whom they share little in common. It is not surprising that many of these teenagers then fail to make a successful transition; choosing not to attend further follow up appointments, with often disastrous longer term consequences for their future health.

The National Service Framework (NSF)

The *NSF for Children, Young People and Maternity Services* is a welcome development. Launched in September 2005, the Wales *NSF* is wide ranging and allows for a broad constituency to feed into the process of evidence gathering and content. Importantly, the *NSF* includes service standards for children in special circumstances, i.e. profoundly socially excluded children such as homeless, refugees, and children looked after etc. They provide practitioners with evidence-based guidelines to inform practice and cite a wide selection of primary evidence. It is hoped that the *NSF* will lead to improvements in the quality of health and healthcare for Welsh children. Unfortunately, as in England, the *NSF for Children, Young People and Maternity Services* is not accompanied by any additional resources.

Although information, training and commitment can lead to improvements, the impact of the *NSF* is likely to be severely impaired by the lack of investment. Especially given that the marginalisation of children's needs within policy, planning and resource allocation makes it likely that they will lose out against a

backdrop of a resource-poor NHS with unmet needs within the adult (voting) population.³⁰ Indeed such marginalisation is evident in the Welsh Assembly Government health targets, which are almost exclusively focused on adult health, and in the priorities imposed on local health boards in Wales (waiting list initiatives, orthopaedic surgery, and adult mental health) again almost exclusively adult in focus.

Conclusion

Although there have been pockets of good practice, not all of them presented here, and some excellent developments in relation to data collection and the *NSF*, there are still many areas of concern, not least a gap between rhetoric and policy, and the low prioritisation of children's services in budget allocation and target setting.

Key recommendations

There is a pressing need for more research or monitoring in a number of areas including:

- Children's mental health status. A more accurate picture is required by which progress in improving children's mental health can be monitored.
- Welsh data on infant feeding. Disaggregated data should be made available from the ONS Infant Feeding Survey.
- The health status and needs of children from BME communities in Wales and a review of funding for health care services for children from BME communities and refugee and asylum seekers.
- How much true participation do pregnant girls under 16 years have in making decisions about their treatment options and how supported they feel in making a decision that has lifelong implications for them.
- The proportions of younger pregnant teenagers falling pregnant as a result of abuse or coercive sexual experiences.
- The needs of teenage fathers.

In addition:

- There needs to be a process of planned resourcing of core health services to children in need using proper and well validated health needs assessment approaches.
- Steps should be taken to ensure that multi-agency partnerships for children have appropriately knowledgeable and trained child health professionals representing health services.
- Urgent consideration needs to be given to the adequate resourcing of CAMHS in Wales in line with the recommendations of the Children's Commissioner.
- Intervention to improve breast feeding should be targeted at the most poorly resourced families, including fiscal policies to improve maternity provision for low paid mothers.
- The *NSF for Children, Young People and Maternity Services* needs investment to ensure that services are adequately resourced to meet the standards, particularly in those areas of need that are currently poorly met. For example, the healthcare needs of: adolescents, including those in transition to adult services; marginalised groups and children with mental health problems.

Endnotes

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Chapter Seven

Education, leisure and cultural life

Incorporating child rights into school curricula

Eleanor White – Amnesty International Wales¹

Education, leisure and cultural life

UNCRC and Human Rights Education in the curricula

CONCLUDING OBSERVATION para.46. The UN Committee recommends that:

- f) Taking into consideration the Committee's general comment on the aims of education, include the Convention and human rights education in the curricula in all primary and secondary schools and teacher's training.

Relevant Articles of UNCRC: Articles 12, 28, 29, 42.

Commentary on progress

The 2002 Concluding Observations welcomed the development of “*broad citizenship programmes*” in the UK. Incorporating the Convention and Human Rights into the curricula would most commonly fall into the Citizenship Programme of curricula in the UK. Schools with exemplary records in Rights Education go beyond curricula requirements and incorporate a ‘cross-curricula rights based approach’ to learning.

The UN Committee on the Rights of the Child also expressed concerns that guidelines are insufficient measures to implement Article 12 of the Convention and that legislation should be put in place to provide the proper framework for participation. This had taken place in Scotland but remained lacking in England, Wales and Northern Ireland at the time of reporting.

Now, in 2005, the Welsh Assembly Government have announced their intention to issue statutory guidance for local education authorities and school governing bodies to establish school councils in all primary, secondary and special schools in Wales. Draft guidance was issued for consultation in 2003² with a view to implementation by September 2005. This direction has been inexplicably delayed but many schools in Wales have nevertheless moved to establish school councils ahead of the revised date for implementation – expected to be September 2006.

Estyn, the body responsible for school inspections in Wales has begun to inspect the effectiveness of arrangements in schools to enable students to participate meaningfully in decisions which affect their lives. The Welsh Assembly Government's commitment to supporting children and young people's participation in line with Article 12 of the Convention has been described in more detail in Chapter 3 of this report, in the section on Participation (see page 44). To its credit, the Welsh Assembly Government is actively seeking to ensure that local education authorities, school governing bodies and head teachers embrace this agenda.

“Article 12 indicates that children need to be involved in the process of realizing their rights. As a fundamental right of the child, the right to participation stands on its own; it requires a clear commitment and effective actions to become a living reality and therefore is much more than a simple strategy.”³

Learning about rights and responsibilities is a pre-requisite to and a key element in enabling participation.

Other concerns highlighted by the UN Committee were the high rate of exclusions of children of “*specific groups (ethnic minorities inter alia black children, Irish and Roma travellers, children with disabilities, asylum seekers etc.*”⁴ and widespread bullying in schools. Learning about and understanding discrimination is a fundamental principle of the Convention on the Rights of the Child and Human Rights.

We have been unable to include in this report details of progress in addressing rates of exclusion amongst specific groups and the widespread bullying in our schools. The total number of permanent exclusions in Wales, has declined from 445 in 2001-2 to 420 in 2003-4.⁵ New data collection arrangements mean that data on exclusions can now be analysed by ethnic group and other categories. The Welsh Assembly Government is actively engaged in promoting school engagement and attainment amongst excluded groups, for example, with new guidance on pupil inclusion, which includes a section on support for specific groups.⁶ The Welsh Assembly Government has indicated that Estyn will review the school curriculum to ensure its relevance to Gypsy Traveller pupils in 2005 and guidance will be issued for teachers of pupils aged 3-19 from Minority Ethnic Groups.

In 2003, the Welsh Assembly Government issued anti-bullying guidance⁷ to local education authorities and school governing bodies but it not yet clear how effective this has been. The Children’s Commissioner for Wales has recently announced that he is to enquire into bullying. His conclusions should be available to inform consideration of the next UK periodic report in 2007.

Legislation

The United Nations Convention on the Rights of the Child and the UN Declaration of Human Rights (UNDHR) are not yet included in the Welsh curriculum.

In September 2003, Personal and Social Education (PSE) became a statutory element within the basic curriculum for pupils aged 5 to 16. This is a welcome change. ACCAC, the Qualifications, Curriculum and Assessment Authority for Wales, published the *PSE Framework Key Stages 1-4* in 2000 to help schools develop their PSE provision. This is still used as the principal guiding document.

In the Community Aspect of PSE, “*Pupils can be encouraged to become active citizens in local to global contexts [and] explore rights and responsibilities in a democratic society under the rule of law.*”⁸ In the Moral Aspect, pupils can be helped “*to develop a personal code of morality [and to]make reasoned and responsible moral judgements.*”⁹

In Key Stage 1 & 2: The language of rights is not explicit in the PSE Framework for five to 11 year olds, but the concept of ‘responsibility’ is; as are ‘right and wrong’; and ‘injustice and inequality’. For example, pupils at Key Stage 1 should “*Know what is fair and unfair and what they believe to be right and wrong.*”¹⁰ In Key Stage 2, (Attitudes and Values,) PSE provision should enable pupils to “*Take increasing responsibility for their actions.*”¹¹

In Key Stage 3 & 4: At secondary PSE levels, learning about ‘injustice, exploitation and denial of human rights’ is explicit and international in scope.¹² By the end of Key Stage 4, young people should be able to “*identify a set of values and principles by which to live.*”¹³

Knowledge of both the United Nations Declaration of Human Rights (UNDHR) and the UNCRC are not mentioned as specific to acquiring such attitudes, values, knowledge and understanding. It is generally accepted in the field of Human and Child Rights Education that learning about these two key documents is crucial towards an understanding of different rights and where they come from.

The *Clywch Report*¹⁴ by the Children's Commissioner for Wales recommends that ACCAC review the PSE Framework and decide whether changes or additions need to be made regarding children's and young people's rights and in particular child protection issues.

In the ACCAC report *The review of the school curriculum and assessment arrangements 5-16*¹⁵ there is a recognition that the current PSE Framework needs to be evaluated and updated to reflect Assembly Government policies. The recommendation is that the PSE Framework is updated and published as part of the revised school curriculum in September 2008. As part of this review, consideration is being given to the addition of the UN Convention on the Rights of the Child to the current Framework.

Policy and practice

It is to be noted that the recommendation from the 2002 report cited "*the Convention and Human Rights Education...*" as necessary for introduction to the curricula. Rights Education should include, but not be limited to, its defining documents. Child and Human rights education is a deliberate, participatory practice aimed at empowering individuals, groups and communities through fostering knowledge, skills and attitudes consistent with internationally recognised human rights principles. As a medium to long-term process, rights education seeks to develop and integrate people's cognitive, affective and attitudinal dimensions, including critical thinking, in relation to human rights. Its goal is to build a culture of respect and action in the defence and promotion of human rights for all.

EDUCATION FOR SUSTAINABLE DEVELOPMENT AND GLOBAL CITIZENSHIP (ESDGC)

In 2002 a Welsh Assembly Government Advisory Panel was set up for Education for Sustainable Development (ESD) and Global Citizenship (GC). The Panel's remit is to ensure effective delivery of ESDGC in primary and secondary education and lifelong learning and to provide specialist advice on policy and practice regarding ESDGC. It is the principal source for recommendations to enhance educational activity in all aspects of the curriculum which include Education for Sustainable Development and/or Global Citizenship and as such, is the key driver for change in the delivery of Rights Education in Wales.¹⁶

Notable progress has been made in the guidance and promotion of Global Citizenship and some examples are outlined below. The connection between Children's Rights and Human Rights within Global Citizenship programmes is not always made explicit and is sometimes lacking in the equivalent detail attributed to programmes for sustainable development. The following examples are intended as evidence of the positive direction and development of Global Citizenship in Wales. Only an indication is possible as there is insufficient space in this report to describe all the new projects and developments.

In 2002, ACCAC published guidance for '*Education for Sustainable Development and Global Citizenship*'¹⁷ on behalf of the Panel to help schools plan and deliver activities and for use in teacher training and related fields.

"The Welsh Assembly Government is (also) committed to fostering a more outward-looking and internationalist Wales and to promoting global citizenship...Education for sustainable development and global citizenship is part of the existing school curriculum and of school life. It is not an additional requirement. Relevant learning opportunities are found in National Curriculum subjects, religious education, personal and social education and as part of other aspects of school life."

ESDGC is seen to be about "*the needs and rights of both present and future generations*" and "*the relationships between power, resources and human rights.*"¹⁸ Needs and Rights are listed as one of the nine key concepts of ESDGC. A notable example of good practice in Rights Education is outlined in the Manod and Maenofferyn Primary Schools project in Blaenau Ffestiniog, where:

*"Pupils worked with staff from the World Education Centre and investigated the right to education and how children in the past and today have been, and are being, denied this right because they are made to work."*¹⁹

The guidance includes Estyn guidelines for inspecting and evaluating education for sustainable development and global citizenship and questions to ask in relation to standards in Sustainable Development and Global Citizenship. Since then Estyn have published *Inspection Matters*²⁰ in January 2005 which focuses on ESDGC and contains a fuller set of questions. Other guidance published includes *Global Citizenship: a map for curriculum planners* (2003).

The Welsh Assembly Government Advisory Panel administers grants worth £150,000 per annum to “assist with the piloting of innovative actions within the education sector”.²¹ The World Education Centre in Bangor also produced *Educating for Global Citizenship – an INSET video resource for teachers in Wales* in 2003, showcasing good practice in the delivery of global citizenship in Welsh schools.

The Department for International Development (DFID) funded the UK wide *Enabling Effective Support programme (EES)*, to resource and support the delivery of ESDGC throughout the formal sector in Wales. It is in its second year of a five-year implementation phase. EES is also funded by the Welsh Assembly Government and is managed by Cyfanfyd (the Development Education Association for Wales).²² It is steered by the ESDGC Advisory Panel and has a project management group that includes representatives from ACCAC, ESTYN, NGOs and schools.

The Council for Education in World Citizenship (CEWC) run eight annual inter-school Model United Nations conferences, experiential for rights education in a global context. Every participant receives a briefing on both the UNCRC and the UNDHR and a bilingual copy of both.

EMBEDDING ESDG INTO ITET (INITIAL TEACHER EDUCATION AND TRAINING)

In September 2004 the World Education Centre in Bangor completed a joint 3-year project with the School of Education at the University of Wales, Bangor to embed ESDGC within the training programmes of institutions providing ITET in Wales. Cyfanfyd and its member NGOs working in the field were key stakeholders in the project.²³ The aim of the project was to “develop an effective, sustainable and replicable model for embedding education for global citizenship in ITET courses”.

One important result was the agreement for the Welsh Assembly Government to fund two days ESDGC training per year for each institution. In practice within the institutions, ESDGC, including Rights Education, competes for space with well-established curriculum subjects and receives inconsistent attention, though the project has gone some way towards addressing this. The inclusion of the UNCRC and specific Human Rights modules in the training relies on input from NGOs with relevant expertise.

NETWORKS

No network or group yet exists in Wales for the exchange of good practice and information relating to Child Rights and Human Rights Education, though this occurs on an ad-hoc basis within existing structures such as Cyfanfyd (the Development Education Association for Wales), the PSE Network²⁴ the PSE Advisers' Network²⁵ and the Wales Regional Professional Development Network (WRPDN).²⁶

SCHOOL RESOURCES

The main Child Rights and Human Rights resources in Wales are those produced by Amnesty, Save the Children and Centre for Education in World Citizenship (CEWC). Both CEWC and Save the Children have translated some of their resources into Welsh and Amnesty has a programme for the publication of Welsh language educational resources in process. *Citizenship Today* online also has bi-lingual resources. There are also many ESD/GC resources, including those mentioned above and a wealth of NGO produced resources that include Rights learning as an element of GC.²⁷ There is certainly a need for further mapping and research into the rights related resources that are available in Wales and how accessible and how well used they are.

The ESDGC Panel have also agreed that there is a need for research to be undertaken in relation to ESDGC as a whole. The forthcoming consultation on the Welsh Assembly's ESDGC Strategy will be expected to identify what these needs are.²⁸

Statistical evidence (gaps in data availability)

In *'Citizens All?'* the UNICEF Citizenship Education Monitoring Project (CEMP) reports that it:

*"is confident that teaching and learning about the UNCRC has a firm foothold in many schools (in the UK). What seemed impossible in 1999 has indeed proved possible – a quiet revolution in the nations' approach to child rights is taking place."*²⁹

Key findings were that school assemblies, particularly at primary level, were perceived to be important in informing pupils about the UNCRC and there was an emphasis on participatory learning. However, information about teaching on the UNCRC is 'patchy' and that time, followed by money, are the two main challenges to dissemination of training on the UNCRC.

Several specific findings relating to Wales showed that secondary schools lagged behind primary schools in teaching about the UNCRC and rights education, for example:

*"Primary schools are much more likely to view active/participatory learning as a means of teaching about the UNCRC than secondary schools"*³⁰

and

*"Primary schools are the most likely to have completed dissemination of citizenship training amongst staff."*³¹

The numbers of respondents highlighted these findings: 29 primary schools responded compared to just nine secondary schools in Wales. (A similar pattern was reflected throughout the survey.) Secondary schools identified time and money as obstacles to disseminating citizenship training.

Amnesty International UK has recently researched the extent to which schools incorporate Human Rights into their delivery of the curricula in the UK, through a questionnaire to teachers across the UK.³² A low proportion of teachers in Wales responded.³³ As part of the research, a focus group for teachers and stakeholders in delivery of Rights Education was held in Wales (22nd September 2005) to gain more insight into both the needs specific to delivery of rights education in Welsh schools, including delivery through the Welsh language. Across the UK the two main barriers limiting the effectiveness of Human Rights Education were seen to be 'not enough space in the curriculum' and 'teachers have other priorities' (50% and 57% respectively). In Wales a higher percentage of respondents cited 'lack of good resources' as a barrier. Half of Welsh respondents also stated: lack of funding; lack of teacher confidence; not enough government support; and senior management not placing rights education as a priority within the curriculum (a higher proportion than in the UK as a whole); as key challenges to effective Human Rights Education.

Views of children and young people

There is a need for more research into the views of children and young people in Wales on Children's Rights and Human Rights and on the education that they might receive about them. The Children's Commissioner in Wales, in the course of their discussions with young people do collate some information on what they think about global issues and what they see as being important.

Conclusion

Significant progress has been made towards the delivery of Education for Sustainable Development and Global Citizenship through the curriculum in Wales and the plethora of guidelines and resources continues to grow, as do examples of schools, particularly in the primary sector, addressing the issues and questions raised in this area of education. On the ground, there is a noticeable increase in rights learning as symptomatic through projects relating to sustainable development – environmental awareness, or Fair Trade, for example, but little emphasis on rights education as an end in itself, or projects which focus on exploring and understanding the rights enshrined in the UNCRC and UNDHR. The time is ripe for the development of a cross-sectoral, strategic approach towards rights learning in Wales that will contribute to established and growing mechanisms of implementation within curriculum delivery.

Key recommendations

- United Nations Convention of the Rights of the Child (UNCRC) and the UN Declaration of Human Rights (UNDHR) should be made explicit and included as fundamental starting blocks to learning about rights and responsibilities in the Community and Moral Aspects of the PSE curriculum.
- Guidance for Global Citizenship and curriculum mapping for Rights should include reference to the UNCRC and UNDHR.
- Learning about individual Child Rights and Human Rights should be made explicit within guidance and delivery for Global Citizenship and within the programme to embed ESDGC.
- Secondary school teachers should be given a grounding in PSE in their training or as part of Continuing Professional Development (CPD).
- Appropriate sub-groups or networks are established within the existing structures for delivering ESDGC, to focus on strategy and inter-agency working for inclusion of UNCRC and Rights Education in Wales.
- Child and Human Rights Education should be included in any research commissioned as a result of the Welsh Assembly Government ESDGC Strategy Consultation and Documentation.

Key questions

- Is there sufficient profile within the Global Citizenship aspect of the ESDGC Advisory panel to advise on human and child rights learning within Wales?
- Is enough being done to support children and young people's participation in decision making in schools and in their education?
- Do we know children's views in relation to their education about rights?
- Existing research into the scope and depth of Child and Human Rights in schools in Wales is limited. Is there room for more research into the extent to which the UNCRC and Human Rights are being taught in schools in Wales and into teachers' needs in relation to delivery? Or research to map the rights related resources that are available in Wales and how accessible and how well used they are?
- Can the Welsh Assembly Government sponsor capacity building within the formal sector, and particularly in secondary schools, for implementation of the UNCRC, UNDHR and Rights Education?

Endnotes

- ¹ Acknowledgements: Thanks to Don Harrison, Colette Pitts, Kate Wolstenholme, Catherine Hester and Isobel Mitchell for their comments and suggestions.
- ² Welsh Assembly Government (2003) *Draft Guidance on Pupil Involvement in Decisions that affect them and Establishment of school councils in Primary, Secondary and Special Schools*.
- ³ <http://www.unicef.org/crc/crc.htm>
- ⁴ CRC/C/15/Add.188 (October 2002), para.46.
- ⁵ www.gov.uk/keypubstatisticsforwales/content/publication/schools-teaching/Exclusions from schools in Wales 2003/4.
- ⁶ Welsh Assembly Government (April 2005) *Pupil Inclusion and Support Consultation Document*.
- ⁷ Welsh Assembly Government Circular 23/2003 *Respecting Others: Anti-bullying guidance*.
- ⁸ ACCAC (2000) Personal and Social Education Framework Key Stages 1-4. para.4.3.
- ⁹ Ibid. para. 4.8.
- ¹⁰ ACCAC PSE Framework (2000) Knowledge and Understanding, Moral Aspect.
- ¹¹ Ibid.
- ¹² ACCAC PSE Framework (2000) Attitudes and Values, Key Stage 3.
- ¹³ ACCAC PSE Framework (2000) Knowledge and Understanding, Moral Aspect, Key Stage 4.
- ¹⁴ Children's Commissioner for Wales (June 2004) *Clywch: Report of the Examination of the Children's Commissioner for Wales into allegations of child sexual abuse in a school setting*.
- ¹⁵ ACCAC (April 2004) *The review of the school curriculum and assessment arrangements 5-16*.
- ¹⁶ Welsh Assembly Government (2004) Sustainable Development Action Plan, 2004 – 2007.
- ¹⁷ ACCAC, Personal and Social Education Framework Key Stages 1-4, 2000.
- ¹⁸ Ibid. p.6.
- ¹⁹ Ibid.
- ²⁰ For further information see www.estyn.gov.uk/publications.asp
- ²¹ Welsh Assembly Government Sustainable Development Action Plan 2004-2007, 'Education for a Sustainable Future' pp. 23.
- ²² Cyfanfyd is a national membership organisation working to promote education for global citizenship in Wales. They support organisations working in all fields of education helping them to incorporate a global dimension into their work. Its aim is the creation of a confident and outward looking Wales in which all have an understanding of their rights and responsibilities as global citizens. See <http://www.cyfanfyd.org.uk/>
- ²³ The project's final report can be downloaded from: <http://www.bangor.ac.uk/addysgbyd/eng/itet.htm>
- ²⁴ The PSE network was set up with the backing of Welsh Assembly Government and the Welsh Joint Education Committee (WJEC) for the exchange of good practice for practitioners and teachers.
- ²⁵ The PSE Advisors' Network is an LEA funded Wales wide association for Country PSE Advisors to meet regularly to further the effective delivery of PSE in Welsh schools.
- ²⁶ The Wales Regional Professional Development Network (WRPDN) is a British Council managed body of LEA, PSE and Modern Language Advisors, Inspectors and NGO representatives. It offers training to teachers who are setting up an international dimension to their school curriculum. See <http://www.britishcouncil.org/learning-regional-professional-development-network.htm>
- ²⁷ For further information see website <http://www.esdgc-wales.org.uk/>
- ²⁸ Consultation Document on Education for Sustainable Development – A Strategy for Wales. Date of 19th Sep. 2005. Action required. December 1st 2005. Welsh Assembly Government. Accessed at: www.learning.wales.gov.uk
- ²⁹ UNICEF UK (2004) Citizens All? Children's Rights and Citizenship Education – An endline survey of curriculum and practice in a sample of UK schools. Citizenship Education Monitoring Project. Accessed at www.unicef.org.uk
- ³⁰ Ibid.
- ³¹ Ibid.

³² Accessed at http://www.amnesty.org.uk/images/ul/t/teacher_s_network_survey_web_2.pdf

³³ Amnesty's survey was limited in scope in that it was mostly completed by teachers with some existing contact with the organisation and went to c. 200. There were only 7 responses from Wales, though some trends that were notably different in the Welsh responses to other parts of the UK are worth mentioning for the purpose of this report.

Chapter Eight

Special protection

Asylum

Sian Thomas – Save the Children

Special protection measures

Rights of refugee and asylum seeker children

CONCLUDING OBSERVATION para.49. In accordance with the principles and provisions of the Convention, especially Articles 2, 3, 22 and 37 and with respect to children, whether seeking asylum or not, the Committee recommends that the State party:

- a) Refrain as a matter of policy from detaining unaccompanied minors and ensure the right to speedily challenge the legality of the detention in compliance with Article 37 of the Convention. In any case detention must always be a measure of last resort and for the shortest period of time.
- b) Ensure that refugee and asylum seeker children have access to basic services, such as education and health and that there is no discrimination in benefit entitlements for asylum seeking families which could affect children.
- c) Consider the appointment of guardians to unaccompanied asylum seekers and refugee children.
- d) Take all necessary measures to prevent the dispersal of children who have settled in a particular area when they reach 18.
- e) Undertake efforts to expedite the procedure for asylum applications and to avoid the placements of children in temporary accommodation which are not foreseen for such children and rather accommodate them as 'children in need' under childcare legislation.
- f) Carry out a review of the availability and effectiveness of legal representation and other forms of independent advocacy to unaccompanied minors and other children in the immigration and asylum systems.
- g) Address thoroughly the particular situation of children in the ongoing reforms of the immigration and asylum system to bring it in line with the principles and provisions of the convention.

Relevant Articles of UNCRC: Articles 2, 3, 22 and 37 of specific relevance.

Commentary on progress

- a) **Refrain as a matter of policy from detaining unaccompanied minors and ensure the right to speedily challenge the legality of the detention in compliance with article 37 of the Convention. In any case detention must always be a measure of last resort and for the shortest period of time.**

The detention of asylum seeker children for immigration purposes continues to be the policy of the UK Government and is a clear example of the discriminatory treatment afforded to this group of children. Although there are no specific facilities to detain asylum seeker children in Wales, there is a growing use of detention centres in England and Scotland to meet the objectives of UK asylum and immigration policy. Recent policy changes such as the fast track processing of asylum applications and an increased emphasis on removals coupled with failures in practice relating to age disputed asylum seekers means that both children in families and those who are separated from their parents or other carers are increasingly liable to be detained.¹ The 2005 Save the Children report *'No place for a Child'* was based on research which estimated that around 2,000 children are detained with their families each year for the

purpose of immigration control. There is no government data on the number of cases in which the age of an asylum seeking applicant is disputed and detained.² The report highlights the negative physical, mental and educational consequences of detention and concludes with a number of recommendations, primarily calling on the UK Government to develop alternatives to its policy of detaining asylum seeker children.

b) Ensure that refugee and asylum seeker children have access to basic services, such as education and health and that there is no discrimination in benefit entitlements for asylum seeking families which could affect children.

Immigration and asylum are policy areas that are non-devolved; however, provision of the majority of services that asylum-seekers in Wales receive is the responsibility of the Welsh Assembly Government, local authorities and other public bodies in Wales. The *Immigration and Asylum Act 1999* sought to reform and streamline the asylum system in the UK. One of its effects was to 'disperse' families across the UK. Support to these families is provided through the National Asylum Support Service ('NASS'), which was a newly created department of the Home Office. As such asylum seeker children living in Wales reside primarily in the current dispersal areas within the Local Authorities of Newport, Wrexham, Swansea and Cardiff. The responsibility for the provision of support and basic services to separated children³ under the age of 18 who do not have a relative or guardian in the UK remains with the local authority in whose geographical area they first seek help.

General progress

Progress in this area is varied both in terms of the service provision 'type' and also in terms of the geographical area of Wales children reside in. The four dispersal areas are reported to have good multi-agency partnerships working to co-ordinate provision to asylum-seeker families. Both professionals and young people alike have commended some aspects of service provision in the specific dispersal areas. For example, the specialist mental health provision provided by the Haven Project in Cardiff. Examples of good practice whether funded by statutory or the non-statutory sector are accompanied by concerns about the short term and vulnerable nature of funding.

In February 2005, Save the Children launched *Uncertain Futures*,⁴ a report on the views and experiences of asylum-seeking children in Wales and of the professionals working with them. This report identifies and details gaps in services provision in areas such as health, appropriate accommodation for separated children, housing for families, education, protection systems including mechanisms to detect trafficking and also the lack of youth, leisure and community provision for asylum-seeker and refugee children.

In 2006 the Welsh Assembly Government will launch its *Refugee Inclusion Strategy*. The content and implementation of this strategy as it relates to children and young people will be a key yardstick by which to measure progress. Whilst to date the Welsh Assembly Government have shown an active interest in issues relating to asylum seeker and refugee children, the reality of improvements to frontline services in line with the recommendations of the *Uncertain Futures* report have yet to be delivered.

Gaps in data

One of the key issues which has not been addressed to date is the gap in the availability of key statistical data which would enable service providers to adequately plan and deliver services for this group of children. Recent figures indicate that as of October 2004 there were 2,232 asylum-seekers dispersed to Wales. The number of children is not identified, although it is known that among this population there are 510 families with 1,435 dependants, some of whom will be under 18. In 2003 it was estimated that 70 separated children were being looked after in Wales.⁵ However the number of asylum-seekers in Wales fluctuates weekly and this poses particular difficulties for service providers trying to plan services.

There are additional difficulties with regard to children, because the available data does not identify the numbers and ages of children being dispersed to Wales.

Education provision

Research with young asylum seeker and refugee children has consistently evidenced the importance of access to education.⁶ For younger children, the school environment is able to provide them with a stable environment to integrate with other children. For older asylum seeker and refugee young people they are in general reported to be dedicated to their education and work hard at school. The lack of availability for post-16 education for separated children continues to be a concern due to limited educational opportunities for this age group.

Health provision

A relatively small number of asylum seeker children live in Wales and there is limited provision of specialist services. Those specialist health services that do exist are commended. There are some current multi-agency working groups in Wales and additionally the *National Service Framework for Children, Young People and Maternity Services (NSF)* includes some standards relating to asylum seeker children's health and well-being but none of the related actions are 'flagged' or prioritised and there are concerns that the *NSF* will not address the major health issues relating to this group of children as outlined below.⁷

Asylum seekers have diverse racial, linguistic and educational backgrounds and diverse health needs. Their health is determined by past experiences in the mother country and present circumstances of living in poverty, homelessness and uncertainty. Particular health needs related to children include special needs, often unmet in country of origin; previously undiagnosed disease or untreated disease; medical assessment/screening not undertaken in country of origin; incomplete immunisation status; poor dental health; lack of access to a health visitor during pre-dispersal.^{8 9 10}

One of the main barriers to the ensuring asylum seeker children get their rights to health care met under Article 24 is the current dispersal system (see page 88) where children in families are 'dispersed' via the NASS system. Although the recent Scott Review¹¹ has gone some way towards addressing these issues, children's health is affected by being dispersed from areas where they had good contacts with health care provision and were already on waiting lists. On being 'dispersed' to other areas, children are required to start this process all over again.

In Wales, the lack of secure, permanent, funding streams for asylum seeker health presents a major challenge in delivering health provision. This uncertainty results in difficulties in planning future provision. The specialist service provision, which has been commended, is vulnerable to the fact that nurses working in these services are all on short-term contracts or secondments due to the lack of secure funding.

In order to ensure equity with the 'citizen children', all arriving children should be given a health assessment from an experienced nurse or health visitor. There should be 'catch up' medical examinations, screening and immunisation programmes and language support should be provided at all levels of the NHS.

Mental Health provision

Children and young people's lack of access to appropriate mental health provision is a major barrier to their rights being met under Article 24 and Article 26. Asylum seeker and refugee young people interviewed as part of the *Uncertain Futures* report talked openly about their feelings of anxiety related to their current circumstances compounded for many by the trauma they suffered before arriving in Wales.

Subsequent work with young people has highlighted that the uncertainty associated with waiting for a decision on an asylum claim is having a big impact on their lives leading to feelings of being in limbo, not able to plan for the future or see the past as being in the past. Many young people were anxious they would be sent back to their countries of origin. Some young people have stated that parent's anxiety has had a knock on impact on them and that they look at the front door everyday waiting for a decision letter. Uncertainty was reported as impacting upon young people emotionally, resulting in feelings of constant anxiety, feeling down, not being able to sleep, worrying about their parent(s) or people left behind or missing and getting upset. Being able to off load anxieties or talk about issues was seen as important, but it was understood that there are few services around, other than the Haven Project in Cardiff.¹²

Health professionals and other frontline children and refugee workers continue to express grave concerns at the lack of specialist mental health provision available in Wales.

Poverty

Asylum-seeker families continue to receive less financial support than other benefit claimants do. The reduced benefit's rates can be significant in money terms with adult asylum seekers getting 70% of the benefit rates given to non-asylum seeking claimants. Research has shown that both children living in families and separated children in Wales report the negative effects of living in poverty.¹³ This area is a non-devolved policy area.

At present Section 9 of the *Asylum and Immigration Act 2004* is being piloted in certain local authorities in England. This removes all financial safeguards to failed asylum seeker families including the removal of any support under Section 17 of the *Children Act 1989*. There are a number of examples in England where all this support has been withdrawn resulting in children living in circumstances of severe hardship. The only other option to secure basic standards of provision for children living in these families is for them to be accommodated under Section 20 of the *Children Act 1989*, removing them from parental care. This is clearly in breach of the best interest principle in Article 3 of the UNCRC.

It is crucial that the Welsh Assembly Government and Welsh local authorities monitor the situation carefully in order to be fully prepared to respond should this pilot be rolled out to the rest of the UK.

Specialist advice

Asylum policy and practice is complex and fast changing. In the dispersal areas in Wales, there is acknowledged staff expertise within some aspects of service provision. This is not the case however for staff within all provision and even experienced professionals find it hard to keep up with constant changes in policy and practice. There are concerns that the lack of knowledge in respect of asylum issues in the other 18 Local Authorities can and does impact negatively on separated children who seek assistance.

c) Consider the appointment of guardians to unaccompanied asylum seekers and refugee children

There has been no progress on this issue. There are continuing concerns that separated asylum seeker children living in Wales do not have a 'guardian' or even access to basic, appropriate, independent advocacy. The lack of progress on this recommendation is a breach of Article 12 and Article 3 of the UNCRC. There are no mechanisms to ensure this disempowered and vulnerable group of children has their wishes and feelings taken into account or their rights and best interests championed or represented. Children's charities and refugee agencies have expressed grave concerns that the planned forced returns of separated children under 18 is but one example where the best interest principle in Article 3 of the UNCRC will not be upheld.

Most children in Wales have an adult in their life, someone that can represent them, make decisions on their behalf and champion their best interests. Where there is no parent or other carer the local authority may assume parental responsibility to take over this role, and a net of services is immediately placed around the child. This is not the case for most unaccompanied asylum seeker children. The provision of social services support and care for the majority of separated children is through sections of legislation that do not confer parental responsibility.¹⁴

In addition, substantial gaps exist in the system of support for separated children. The level of support for separated children has been an issue of concern for many years. The Welsh Assembly Government has recently issued guidance drawing local authority attention to social services responsibilities to the appropriate use of Section 17 and Section 20 of the *Children Act 1989*.¹⁵ This is a long awaited and welcome confirmation that local authorities need to ordinarily accommodate separated asylum-seekers under Section 20 of the *Children Act 1989*.

Anecdotal evidence from our practice on the ground confirms that accessing support can be a lottery. The quality of services varies across the country, many separated children have to deal with barriers that make it difficult for them to locate support, and accessing services often calls for individuals to have a thorough understanding of their rights and strong self-advocacy skills. There is a shortage of quality advocacy services across the breadth of the country, and those advocacy services that do exist are often under resourced and struggle to deliver detailed quality advice.

d) Take all necessary measures to prevent the dispersal of children who have settled in a particular area when they reach 18.

This is a non-devolved area of policy. Separated children accommodated by the local authority are not subject to dispersal. The Assembly Government guidance¹⁶ of 2005 is based on the 2003 'Hillingdon Judgement' which ruled that unaccompanied asylum-seeker young people were entitled to support when they turned 18. The Welsh Assembly Government must ensure that the resources to appropriately implement this new guidance are in place.

e) Undertake efforts to expedite the procedure for asylum applications and to avoid the placements of children in temporary accommodation which are not foreseen for such children and rather accommodate them as 'children in need' under childcare legislation.

This is a non-devolved area of policy. The UK Government has sought to speed up the procedure for asylum application under Section 26 of the *Asylum and Immigration Act 2004*. Refugee and children's charities have expressed concern that these changes will further disadvantage asylum seeker children.¹⁷ As the UK Government is seeking to pilot a returns programme for separated children under 18, it is crucial that the asylum process is fair and equitable:

"Restricted access to legal advice, poor initial decisions and inadequate appeals systems all contribute to the very real risk that people will be wrongly returned to their country of origin to face persecution, torture and even death".¹⁸

In Wales there are specific issues relating to how children and young people are 'processed' through the asylum system. These relate both to separated children and to children in families. All asylum claims need to be screened (processed) by the Immigration and Nationality Directorate (IND). This applies to all children in families and separated children. Despite IND staff being located in Cardiff, screenings are currently undertaken primarily in Croydon and on occasion in Liverpool. This issue is a grave concern

for practitioners and young people alike. Extensive lobbying and recent meetings between key agencies and IND have not (as of September 2005) secured a commitment to undertake screenings in Cardiff. IND have stated that they are intending to screen new arrivals locally but cannot fully commit due to lack of resources.

The effects of this are that applicants, including children and young people, often make three or four visits to Croydon before their initial claim is dealt with, resulting in the stress of long travelling times and long waiting times in Croydon; excessive costs of travelling to Croydon and difficulties in making travel arrangements. Families sometimes end up meeting the costs themselves, as NASS will not provide funding for visits to Croydon for children who have joined families. This causes considerable hardship for families. The cost for parents to accompany children may be prohibitive. They can apply to the Welsh Refugee Council hardship fund, but this fund is depleted and money is not always available. Social workers travel to Croydon with separated children and young people, resulting in significant 'wasted' staff hours for frontline staff. There have been some instances of pre-planned screening where interpreters were not, after all, available in Croydon rendering the whole journey wasted.

f) Carry out a review of the availability and effectiveness of legal representation and other forms of independent advocacy to unaccompanied minors and other children in the immigration and asylum systems.

There has been no review undertaken and due to changes in the way legal advice is funded, there are significant concerns regarding the reduction in specialist legal advice being provided in Wales. This is due to the reduction in hours that a lawyer can now bill as legal aid to prepare an asylum appeal. Fewer solicitors are willing to take on asylum work leaving a reduced chance of adequate quality legal representation.¹⁹ This affects both children in families and separated children who are left without legal advice when their entitlement to legal aid has run out.

The current system results in separated children receiving less favourable asylum status than adults do.²⁰ Within this context and also in light of the UK Government planned returns of separated children, young people's access to specialist legal advice is essential.

The Office of the Children's Commissioner for Wales has an active interest in the issues facing asylum seeker children and has taken up some individual cases. There is concern that the appointment of the Children's Commissioner in England – with a remit for non-devolved issues but with weaker powers than the Children's Commissioner for Wales – will weaken this as an advocacy mechanism for asylum-seeker children and young people in Wales. We need increased awareness of how young people are impacted by the asylum system in Wales and measures put in place to try and ensure families and young people in Wales access specialist legal advice.

g) Address thoroughly the particular situation of children in the ongoing reforms of the immigration and asylum system to bring it in line with the principles and provisions of the convention.

These are non-devolved areas of policy. Since the last report there has been negative progress in implementing this recommendation and a clear breach of Article 2 of the Convention where legislation is clearly discriminating against asylum-seeker children. There is an increasing gulf between the legislation designed to protect children such as the *Children Act 2004* and the reality of immigration policy and practice as it affects children in Wales. The Welsh Assembly Government should ask the UK Government to address these issues in respect of asylum-seeker children living in Wales.

The *Asylum and Immigration Act 2004* introduces a number of clauses which demonstrably moves the system further away from the principles and provisions of the Convention²¹ including Section 9 which removes all financial assistance from families with children whose asylum claim has failed.

The UK Government has entered a reservation on Article 22 of the Convention. In summary this Article commits the Government to giving refugee children the same rights as children born in the UK. In practice the reservation means that refugee and asylum seeker children are not afforded the same universal rights as ‘citizen’ children. This reservation to the UNCRC is clearly not compatible with the guiding principles and provisions of the Convention. Legal opinion commissioned by Save the Children argues that the reservation contravenes Article 4 and Article 22 of the UNCRC as well as the special protection clauses within the UNCRC for refugee children. The legal opinion argues that the removal of this reservation would not interfere with UK Government immigration policy.²² The UK Government has repeatedly refused to remove the reservation, more recently stating *“the UK ratified the UNCRC subject to a reservation which the government believes necessary to maintain effective immigration control. We have no plans to withdraw this reservation”*.²³

Key recommendations

Press the UK government to:

- Withdraw its reservation to the UNCRC, and review compliance of all immigration law with Convention principles.
- End the detention of asylum-seeking children.

The Welsh Assembly Government working with the UK Government should:

- Ensure that in respect of both policy and practice, the best interest principle in Article 3 of the UNCRC applies to all asylum-seeking children.
- Undertake a review of access to legal representation in Wales and put measures in place to ensure families and young people in Wales access specialist legal advice.
- Negotiate a commitment for IND screenings to be undertaken in Cardiff for new arrivals in South Wales, both unaccompanied children and children who arrived unaccompanied who then join parents.

The Welsh Assembly Government, local authorities, local health boards and NHS Trusts should:

- Ensure that robust mechanisms are in place to collect statistics on both children in families and separated children. The data should contain the relevant information in order to provide service providers with the key information required to plan service provision.
- Review funding arrangements for health and education services in Wales for asylum seeking children and their families.
- Ensure specialist provision to promote equity and entry into mainstream health services; secure longer-term funding streams for services and ensure the availability of specialist culturally acceptable mental health services for traumatised children.

- Explore the possibility of establishing a system of guardianship to ensure the best interest principle is maintained and the rights and welfare of separated children are fully represented. Within this context the Welsh Assembly Government should be considering the availability of accessible and specialist independent advocacy support.
- Ensure that frontline staff are kept up to date with changing legislation and guidance and should establish an all-Wales information post to provide specialist information for practitioners, not least to assist and support staff working outside the dispersal areas.

Endnotes

¹ Crawley, H and Lester, T (2005), *No Place for a Child*, Save the Children.

² Ibid.

³ Save the Children's preferred term for unaccompanied minors (in line with *Separated Children in Europe's* best practice).

⁴ Save the Children (2005) *Uncertain Futures: Children seeking asylum in Wales*.

⁵ Figures supplied by the Welsh Local Authorities Consortium for Refugees and Asylum Seekers.

⁶ Save the Children (2001) *Cold Comfort*, Save the Children and Glasgow City Council Education Services (2002) *Starting Again. Young asylum-seekers views on life in Glasgow*. Glasgow: Save the Children and Glasgow City Education Services, Save the Children (2005) *Uncertain Futures*.

⁷ Ryan, A. (2005) *Asylum seeker health issues in Wales* (unpublished).

⁸ Ibid.

⁹ Davies M, Webb E (2000) 'Promoting the psychological well being of refugee children'. *Clinical Child Psychology & Psychiatry*; 5(4): 541-54.

¹⁰ Webb E, Ryan A, O'Hare B (2005) 'The needs of children newly arrived from abroad'. *Current Paediatrics*; 15: 339-346.

¹¹ Hilary Scott (2004) *Meeting the health care needs of people seeking asylum – a review*, NASS.

¹² Ryan, A. (2005) *Asylum seeker health issues in Wales* (unpublished).

¹³ Save the Children (2005), *Uncertain Futures – Children Seeking Asylum in Wales*.

¹⁴ Save the Children (2005) *Briefing on Guardianship for Separated Children*.

¹⁵ National Assembly for Wales Circular 23/2005 – *Guidance on support for asylum seeking families and unaccompanied asylum seeking children*.

¹⁶ Ibid.

¹⁷ Refugee Children's Consortium.

¹⁸ Children's Rights Alliance England (2004), *State of Children's Rights in England 2004 – Annual review of UK Government action on the 2002 Concluding Observations of the United Nations Committee on the Rights of the Child*, London 2004.

¹⁹ Tickle, Louise (2005), *Crossroads*, Community Care issue 1580, London, July 2005.

²⁰ In 2002, UK figures show that 5% of applicants under 18 were granted asylum compared to 27% of adult applicants aged 25-29.

²¹ Children's Rights Alliance England (2004), *State of Children's Rights in England 2004 – Annual review of UK Government action on the 2002 Concluding Observations of the United Nations Committee on the Rights of the Child*, London 2004.

²² QC Nicholas Blake, Matrix Chambers, *Legal Opinion on the Reservation to the UNCRC*, Save the Children UK, (2001).

²³ Baroness Scotland of Asthal, response to a Parliamentary Question, 28th October 2004.

Sexual exploitation and trafficking

Andy James – Barnardo's Cymru.

Special protection measures

Sexual exploitation and trafficking

CONCLUDING RECOMMENDATION para.56. The UN Committee recommends that the State party:

- a) Undertake a study of the scope, causes and background of child prostitution;
- b) Review its legislation not to criminalise children who are sexually exploited;
- c) Continue to implement policies and programmes in accordance with the Declaration and Agenda for Action, and the Global Commitment adopted at the 1996 and 2001 World Congress against Commercial Sexual Exploitation of Children.
- d) Ensure that adequate resources (human and financial) are allocated to policies and programmes in this area.

Relevant Articles of UNCRC: Articles 19, 34, 39 of specific relevance.

Commentary on progress

a) State party undertake a study of the scope, causes and background of child prostitution.

To date there has been no Welsh Assembly Government funded study on the prevalence and nature of child sexual exploitation in Wales. The children's voluntary organisation Barnardo's Cymru on behalf of the Wales Advisory Group on Child Sexual Exploitation has recently undertaken the only scoping exercise of this nature. This group was established in January 2004, is chaired by the Children's Commissioner for Wales and has representation from across the statutory and voluntary sectors including the Welsh Assembly Government and the police. Its objectives are:

- To promote co-ordinated and integrated responses to the needs of children and young people who are at risk of being sexually exploited.
- To develop an All-Wales wide influencing and lobbying strategy.
- To commission research to assess prevalence and to scope current needs and services, enabling the development of appropriate resources to meet the identified needs.¹

The scoping exercise carried out on behalf of the Advisory Group maps the service needs of sexually exploited children and young people in Wales. The aims of the exercise were to identify the level and nature of the sexual exploitation of children and young people across Wales, the level of service provision for those at risk of sexual exploitation across Welsh local authority areas, and the mapping of any specialist services in Wales working with this group of young people.

The report of the findings from the scoping exercise² highlights a number of areas of concern which include:

- The number of children and young people identified in the report as being sexually exploited in Wales (184) is likely to be a significant underestimate.
- There are currently no specialist services in Wales to support children and young people abused through sexual exploitation.

- Very little scoping work has been undertaken at national or local levels to gauge the scale and nature of child sexual exploitation and trafficking.
- Local protocols, in line with government guidance, exist in only 8 of the 22 Welsh local authorities and are not rigorously adhered to.
- Professional awareness of protocols, government guidance and key indicators of child sexual exploitation (such as children going missing) is worryingly low.
- A lack of a consistent, systematic approach to multi-agency working to combat child sexual exploitation.

b) State party should review its legislation not to criminalise children who are sexually exploited.

In May 2004, the *Sexual Offences Act* replaced its 1956 equivalent and introduced a range of provisions across England and Wales, specifically in relation to the sexual exploitation of children and young people. These include:

- Legal definitions to the terms 'consent' and 'touching' (Sections 74, 76 and 78).
- Any penetrative sex with a child under 13 now being automatically classified as rape (Sections 5 to 8).
- Clarification that the age of consent to any form of sexual activity is 16 for both males and females (the Act does not change the age of consent but is not intended as a means to prosecute mutually agreed teenage sexual activity between young people of a similar age, unless it involves abuse, coercion or exploitation) (Section 9).
- New offences of:
 - (a) Causing or inciting a young person to engage in sexual activity (Section 10).
 - (b) Engaging in sexual activity in the presence of a child (Section 11).
 - (c) Causing a child to watch a sexual act (Section 12).
 - (d) Arranging or facilitating commission of a child sex offence (Section 14).
 - (e) 'Grooming' and meeting children for the purposes of sex (Section 15).
 - (f) Abusing a position of trust (Sections 16 to 24).
 - (g) Measures to deal with familial sexual abuse (Sections 25 to 29).
 - (h) Taking or permitting to be taken, owning, showing or distributing indecent images of children (Sections 45 and 46).
 - (i) Paying for the sexual services of a child (Section 47).
 - (j) Causing or inciting child prostitution or pornography (Section 48).

(k) Controlling a child prostitute or child involved in pornography (Section 49).

(l) Arranging or facilitating child prostitution or pornography (Section 50).³

All of these provisions and new offences have been welcomed by the agencies supporting children and young people involved in child sexual exploitation across England and Wales. However, it is with regret that the Westminster Government did not take the opportunity presented by the *Sexual Offences Act* to decriminalise prostitution as an offence for children as recommended by the UN Committee on the Rights of the Child in 2002. In England and Wales, under 18s may still be charged with soliciting if they are deemed to have “*voluntarily and persistently returned*” to prostitution.

Until relatively recently, children and young people involved in prostitution were seen to have made a ‘choice’ about their activities and, if apprehended, treated as offenders under criminal law. A number of high profile campaigns by Barnardo’s and other organisations over the last ten years, however, have led to changes in the approach taken with such young people. They are now predominantly viewed and treated as ‘children in need’ who do not ‘consent’ to their abuse and across the UK, legislation and guidance encourages this approach. However, we know that sexual exploitation primarily occurs as a result of young people making constrained choices against a background of social, economical and emotional vulnerability. Where children and young people are making constrained choices in relation to their circumstances, there exists the danger that service providers and the criminal justice system may misinterpret this as ‘free choice’ leading to a lack of protective action and, in some cases, prosecution. The continued existence of legal provisions to arrest, and prosecute young people under 18 for “*persistent and voluntary return*” to prostitution will undoubtedly contribute to this perception and undermine approaches which acknowledge the vulnerability of young people and the need to offer persistent and long term support to help them to disengage from abusive networks.

c) State party should continue to implement policies and programmes in accordance with the Declaration and Agenda for Action, and the Global Commitment adopted at the 1996 and 2001 World Congress against Commercial Sexual Exploitation of Children.

The *Yokohama Global Commitment of 2001* identified specific areas, which needed to be addressed for progress to be made on combating child sexual exploitation. These included:

- Ensuring adequate resource allocation to counter child sexual exploitation and to promote education and information to protect children from this form of abuse.
- The need to address the root causes that place children at risk of sexual exploitation such as poverty, inequality, discrimination, etc.
- The need for greater multi-agency working, more information sharing and closer networking of the ‘key actors’ involved in providing protective services and support.
- The need to develop and maintain more effective monitoring systems, clear strategies and protocols.
- The need to raise professional awareness of the issues, including known risk indicators and the threats posed by the internet and new technologies.⁴

From the evidence gathered for this report, however, it would appear that many of these issues are going unaddressed and the Welsh Assembly Government is failing to offer a strategic lead on tackling child

sexual exploitation in Wales. The poor levels of awareness of the issues associated with child sexual exploitation, combined with a lack of strategic direction and oversight from the Welsh Assembly Government, leaves Wales having to tackle the problem from a low base starting point. In addition, this position may be further compounded by the recent restructuring of ministerial portfolios at the Welsh Assembly Government, where responsibility for various aspects of the lives of children and young people involved in sexual exploitation could legitimately cross the desks of four separate Ministers (i.e. Minister for Social Justice and Regeneration, Minister for Health and Social Services, Minister for Education and Lifelong Learning and Minister for Children).

d) State party should ensure that adequate resources (human and financial) are allocated to policies and programmes in this area.

Responses to young people at risk of sexual exploitation in Wales are undermined by severe resource constraints. For example, there was no additional funding in Wales to implement the National Assembly for Wales's guidance *Safeguarding Children involved in Prostitution* of 2000.⁵ This is a major problem for already over-stretched local authority resources.

Similarly, there are no ring-fenced Welsh Assembly Government monies to establish specialist services in relation to sexual exploitation to offer direct support to children and young people, and advice to fellow professionals and parents/carers. This invariably means that children and young people being sexually exploited in Wales are not being provided with support to escape abusive networks or with the appropriate help to aid their physical and psychological recovery.

There is now a sound body of research and practice evidence to clearly identify risk indicators and the most effective forms of supportive interventions for both young men and young women involved in sexual exploitation. Many effective protocols and specialist services operate in areas of England, Scotland and Northern Ireland. Should adequate resourcing be made available, there is no reason why successful models could not be applied here in Wales.

Conclusion

The available evidence suggests that the United Nations Committee on the Rights of the Child's concerns, as expressed through its recommendations regarding child sexual exploitation, are not being adequately addressed in Wales, with the result that many children and young people involved in this form of abuse are not being identified or being offered the necessary protective support.

Some progress is being made, particularly via the work of the Wales Advisory Group on Child Sexual Exploitation that commissioned a 'first steps' scoping study and planned an awareness raising conference (November 2005). However, this group is primarily NGO driven and whilst the group has had meetings with Ministers, the Welsh Assembly Government is yet to take a lead on addressing child sexual exploitation in Wales.

A possible vehicle for change is the *Safeguarding Vulnerable Children Review* currently being undertaken by the Welsh Assembly Government. Representatives from the Wales Advisory Group have submitted many of the concerns and deficits outlined in this report as evidence to the review. The review group is due to report its findings and recommendations.

In gathering information and evidence for this report, it became apparent that very little work has been done to collate the views and experiences of those children and young people involved in sexual exploitation in

Wales. Despite the secretive and taboo nature of this form of abuse however, we need to actively seek the views of the children and young people concerned, as this will inform the nature of the protective support we need to develop and our overall approach to this problem.

Key recommendations

The Welsh Assembly Government should:

- Undertake a comprehensive scoping of the prevalence and nature of child sexual exploitation in Wales (using the ‘multiple indicator method’ recently developed for a pan-London study⁶), so that it may plan an informed strategic response to the problem. Children and young people involved in sexual exploitation should be consulted so their views and experiences can inform this study.
- Provide ring-fenced resources to assist services in Wales to take forward the measures outlined in the *Safeguarding Children involved in Prostitution*⁷ guidance issued in 2000.
- Fund and promote the setting up of specialist evaluated and sustainable child sexual exploitation services across Wales in response to accurately defined need.
- Take steps to raise the professional and public awareness of child sexual exploitation in Wales and promote up to date training for policy makers, commissioners of services and practitioners on the nature of the problem and the known key indicators.
- Advise local authorities on the need to have effective and integrated monitoring systems for children who are at risk of being sexually exploited.
- Ensure that local protocols are in line with government guidance, are shared and understood across agencies and are rigorously applied.
- Ensure that child protection procedures across Wales are updated in line with current best practice around child sexual exploitation. This could help Welsh public authorities to develop updated protocols (which, where appropriate, could be shared and co-terminus with neighbouring authorities) and to improve their work in line with best practice.
- Ensure that PSE curricula in schools in Wales promote children’s rights, pay attention to issues of violence against women and equip young people with the knowledge and skills to enjoy more equal relationships.

And press the UK Government to:

- Remove provisions to arrest and prosecute young people who are considered to “*persistently and voluntarily return*” to prostitution.

Endnotes

- ¹ Children's Commissioner for Wales (2004) Wales Advisory Group on Child Sexual Exploitation: *Terms of Reference*, CCFW, Swansea.
- ² Barnardo's Cymru (2005) *Out of Sight, Out of Mind*, Barnardo's Cymru, Cardiff.
- ³ Home Office (2004) *The Sexual Offences Act 2004*, HMSO, London.
- ⁴ UNICEF (2001) *2nd World Congress against Commercial Sexual Exploitation of Children: The Yokohama Global Commitment 2001*, UNICEF, Geneva.
- ⁵ Welsh Assembly Government (2000) *Safeguarding Children involved in Prostitution: Supplementary Guidance to Working Together to Safeguard Children*, Welsh Assembly Government, Cardiff.
- ⁶ Barnardo's (2005) *Meeting the Needs of Sexually Exploited Young People in London*. Barnardo's, London.
- ⁷ Assembly Government (2000) *Safeguarding Children involved in Prostitution: Supplementary Guidance to Working Together to Safeguard Children*, Welsh Assembly Government, Cardiff.

Juvenile justice

Geoff Monaghan and Sue Thomas – Nacro Cymru

Special protection measures

The administration of juvenile justice

CONCLUDING OBSERVATION para.58. The Committee recommends that the State party:

- a) Establish a system of juvenile justice that fully integrates into its legislation, policies and practice the provisions and principles of the Convention, in particular Articles 3, 37, 39 and 40, and other relevant international standards in this area, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, and the Vienna Guidelines for Action on Children in the Criminal Justice System.

In particular, the Committee recommends that the State party:

- b) Considerably raise the age of criminal responsibility.
- c) Review the new Orders introduced by the Crime and Disorder Act 1998 and make them compatible with the principles and provision of the Convention.
- d) Ensure that no child can be tried as an adult irrespective of the circumstances or the gravity of his/her offence.
- e) Ensure the privacy of all children in conflict with the law is fully protected in line with Article 40 (2)(b)(vii) of the Convention.
- f) Ensure that the detention of children is used as a measure of last resort and for the shortest appropriate period of time and that children are separated from adults in detention, and encourage the use of alternative measures to the deprivation of liberty.
- g) Ensure that every child deprived of liberty have access to independent advocacy services and an independent child sensitive and accessible complaint procedure.
- h) Take all necessary measures, as a matter of urgency, to review the conditions of detention and ensure that all children deprived of their liberty have an equal statutory right to education, health, and child protection as other children.
- i) Review the status of young people of 17 years of age for the purpose of remand with the view of giving special protection to all children under the age of 18 years.
- j) (Relevant specifically to Scotland).

Relevant Articles of UNCRC: Articles 40, 37, 3 and 39 are of specific relevance. Also of direct relevance are Articles 2, 9, 12, 16, 20 and 28.¹

Commentary on progress

- a) **Establish a juvenile justice system that fully complies with the provisions and principles of the Convention and other international standards.**

The Convention has not been used as a framework for juvenile justice in the UK. The Welsh Assembly Government does not have devolved responsibility for youth justice matters in Wales, meaning that the structure of the current youth justice system is determined by central government and as such the provisions that apply in England apply equally in Wales. The ability of the Welsh Assembly Government to directly influence and develop a system that is more sympathetic to the needs of young people in

Wales is therefore limited. The *All Wales Youth Offending Strategy*² is the product of the Welsh Assembly Government, the Youth Justice Board and local agencies coming together to develop a policy that “provides a national framework for preventing offending and re-offending among children and young people in Wales”. Consideration has been given to the UN Convention on the Rights of the Child in developing the strategy. One of the key underpinnings of the UN Convention relates to the use of custody and it is relevant to note that the Children’s Commissioner lacks statutory power with regard to Welsh children who are detained.

The following issues are symptomatic:

- The boundaries of the system are blurred, particularly regarding anti-social behaviour, prevention and children around the age of 8-10.
- There are too many children being criminalised.
- Responses to children in trouble have become more centrally controlled and prescribed and often reflect a punitive ethos.
- Children are detained at younger ages, for lesser offences and in greater numbers – custody is not used as a measure of last resort or for the shortest appropriate period.
- Courts, trials and sentencing procedures are not appropriate for children.
- Compliance with the Convention has continued to ‘worsen’, particularly with regard to new anti-social behaviour measures and erosion of privacy safeguards.

In law, the principles and provisions of the Convention are lacking. Thus, the best interests of the child, privacy and custody as a last resort are not given due weight or primacy. Further, there is a lack of harmony between youth justice, welfare and health law, which is reflected at policy level.³

b) Considerably raise the age of criminal responsibility.

In the Concluding Observations of 2002, the Committee observed that the age of criminal responsibility was set at 10 (in England and Wales) and also expressed concern about the abolition of the principle of *doli incapax*.⁴

There continue to be representations made by children’s charities and penal affairs groups for the age of criminal responsibility to be raised.⁵ The Joint Committee on Human Rights has also recommended that it be raised.⁶ However, in 2004, central government confirmed that the age of criminal responsibility would not be raised⁷ and to date this is not an area for which there has been any significant evidence of lobbying in Wales.

The youth justice system has become increasingly involved with children under the age of 10. This is largely under the prevention of offending agenda, notably in the context of junior youth inclusion programmes and youth inclusion and support panels, both of which feature youth offending teams as the lead agency.

- c) Review new orders introduced by the Crime and Disorder Act 1998.**
and
e) Ensure privacy is protected.

The Committee did not refer to specific orders. Particular attention might be given to the arrangements put in place for diversion (from prosecution) and anti-social behaviour legislation. Subsequently, the referral order has been introduced as the standard sentence for those pleading guilty on first conviction (*Youth Justice and Criminal Evidence Act 1999*).

Reprimands and warnings

The *Crime and Disorder Act 1998* introduced reprimands and final warnings as ‘pre-court’ disposals, replacing the police caution, which had been the key to diversion activities through the 1980s and 1990s. The new system is proscriptive in nature with only one reprimand being allowed and, normally, one final warning before prosecution. This is dependent on the seriousness of the offending and it is often the case that prosecution is pursued for a first offence (also the case where there is no clear admission of guilt to the police). Where there has been a conviction, any further offence must result in prosecution, regardless of the trivial nature of the offence or any other consideration.

This system stands in tension with the Convention and the Beijing Rules as it does not ensure that diversion is pursued wherever possible and appropriate. In practice, it has been found that there is a significant proportion of cases before the court with no previous reprimand or warning, many for minor offences. The lack of diversion options for those who have previously been convicted is also in tension with the Convention. For example, the Audit Commission reported that over half of those in court who are eligible for a referral order had not previously been reprimanded or warned.⁸ The rate of diversion has been falling with consequent higher numbers of prosecutions and less focus of services on more serious offenders.⁹ Issues arise about the proportionality of disposal and interventions (for example, the minimum length of a referral order is three months) and for those who have a final warning, the use of conditional discharge is restricted.

The new diversion arrangements are more interventionist than was previously the case. The final warning can be administered with an intervention programme. This is not enforceable although failure to comply can be cited in court proceedings. The Youth Justice Board for England and Wales has set a target for youth offending teams for 80% of final warnings to have a programme, adding to concerns about proportionality. In 2003-4, 46% of disposals in Wales were pre-court relating to reprimands and warnings and of the final warnings administered 80% had an intervention attached, indicating this target was being met in Wales.¹⁰

Anti-Social Behaviour

The anti-social behaviour measures give rise to considerable concerns that were not yet apparent when the Committee considered the last UK report. The extended period before the next report is due to be submitted aggravates concerns. It is beyond the scope of this report to describe all of the detail of the UK Government’s agenda but the following measures all appear to infringe the Convention and/or other international standards:

ANTI-SOCIAL BEHAVIOUR ORDERS.

These are civil orders that do not need the same standard of evidence as criminal orders. They apply to children and adults from the age of 10. The conditions specified are restrictive in nature (there can be no positive requirements) and can include curfews, restrictions on specific behaviour or clothing and can ban movement in certain areas. There is essentially no restriction that is not allowed. The minimum

length of the order is two years (even for a 10 year old). A large proportion are made on children and there are increasing numbers made where the child is already subject to a custodial sentence.¹¹ There are tensions with the Convention with regard to proportionality both with regard to punishment as well as infringements of rights to, for example, family life and freedom of association. There are particular concerns about privacy resulting from a presumption towards allowing the media to report on cases involving children. This often results in children's photographs and details being published prominently in newspapers. More recent legislation (*Anti-social Behaviour Act 2003*) has allowed for publicity in more cases than was previously the case. This stands in contrast to, for example, criminal proceedings where publicity remains subject to stronger (but not absolute) restrictions. The same Act allows for anti-social behaviour orders to be made in the criminal (youth) court when sentencing for a criminal offence (even where the behaviour that is said to be anti-social is unrelated to the original charge).

There are significant numbers of children receiving custodial sentences for breach of anti-social behaviour orders, even where the associated behaviour would not, of itself, justify consideration of such a sentence (breach of the order is a criminal offence).

CURFEWS AND DISPERSAL ORDERS.

Local child curfews may be put in place across specified areas. They effectively place a curfew on all children under the specified age, regardless of behaviour (*Crime and Disorder Act 1998*). The dispersal powers may be adopted by the police to allow children under 16 to be dispersed (groups of two or more) and taken home where it is perceived that the public have been intimidated etc (*Anti-social Behaviour Act 2003*). This power applies to all children in the area regardless of whether there is evidence of poor behaviour.

Central government has established an anti-social behaviour unit and continues to publicly state a commitment to the measures. There have been concerns about ministerial and media use of inappropriate language (references to 'yobs' for example). The position of the Welsh Assembly Government in relation to anti-social behaviour orders is that they should be used as a measure of last resort, which concurs with the Youth Justice Board's position that there should be a graduated response to any complaints. There is however variation across Wales in terms of local area responses to anti-social behaviour, ranging from those areas that do not take a staged approach, compared with those that have very clear policies and guidelines indicating that the application for an anti-social behaviour order would only occur at the end of a process that has explored and implemented a range of other measures as first and diversionary stages.

d) No child to be tried as an adult.

Children are routinely brought before the adult magistrates' court when co-accused with an adult or when there is no youth court sitting (including at weekends). Children may be committed to the crown court when with an adult for less serious offences than would be possible from the youth court.

Children continue to be tried in the adult (crown) court, although a practice direction was issued by the Lord Chief Justice of England and Wales in 2000 to improve the arrangements for young children (for example, to visit the court room in advance). The legislation providing for children to be committed or transferred to the crown court is complex and difficult for most adults to understand. The more recent *Criminal Justice Act 2003* has added complexity and has allowed for more, and less serious, cases to be dealt with in the crown court.

Proposals in the *Auld Report* for a reconstituted youth court to deal with all child defendants have not been implemented and do not feature in current government proposals.¹²

f) Detention to be used as a last resort.

Children continue to be detained on remand and sentenced in greater numbers, at lower ages and for less serious offences than was the case prior to the last UK report to the Committee.¹³ The recent history of the use of custody, changes in legislation and public perceptions are described in detail in a recent series of reports from Nacro.¹⁴ The reports confirm, for example, that the relative level of custody in England and Wales is 10 times that in Spain, that the remanded population rose by 142% in the ten years to 2002, that the number of children aged under 15 rose by 800% between 1992 and 2001, that there was a disproportionate rise in custody levels for girls and BME young people and that there is unacceptable 'justice by geography' (ranging from over 21% to 1.8% of the court population receiving custodial sentences in different parts of England and Wales). The Youth Justice Board for England and Wales has set a target to reduce the use of custody but this would not achieve the levels of the early 1990s. The intensive supervision and surveillance programme has been introduced (not yet in statute) which can be made a requirement on supervision orders or as a bail condition to help to bring down the custodial population.

However, the *Criminal Justice Act 2003* introduced new custodial sentences for 'dangerous' young offenders who have committed sexual or violent offences. The offences that apply include those less serious ones that could not previously be sent to the crown court (for example, actual bodily harm). These sentences are essentially preventive in nature (so defined in the Act) and depend upon a prediction of further sexual or violent offending. Where the court forms the necessary opinion of future risk, the making of the custodial sentence is mandatory. Of two custodial options, one is an indeterminate sentence (potentially for life).

There is a policy trend to sentence on the basis of the offender, rather than the offence, which could result in more custodial sentences arising from the offending history (perhaps repeated minor offending) rather than the seriousness of the offence before the court. There are numerous organisations that have called for the abolition of the use of prison for children.

It is of note that the *All Wales Youth Offending Strategy* does not call for the abolition of custody, but states that the most effective way of avoiding young people being placed in custody is through the use of effective community sentences that act as alternatives to custody.

g) Detained children to have access to advocacy services and complaints systems.

The Youth Justice Board has commissioned independent advocacy services for secure training centres and young offender institutions. There are low numbers of children in detention making complaints (a matter for concern). The Board (with the Prison Service) is putting in place revised complaints procedures following consultation in 2005.

h) Review conditions of detention.

The majority of children and young people in Wales who lose their liberty are held in England; currently estimated to be between 180 and 190 per year¹⁵ (Youth Justice Board 2005). There is a secure children's home in Neath (South Wales) and Parc is a young offender institution in Bridgend (South Wales) that has places for 18 remanded and 18 sentenced young males. There is no provision in North Wales and no provision for young females in Wales as a whole. This means that the majority of young people from Wales are held more than 50 miles away from their home, which can result in travel distances being lengthy for visitors and potential problems in terms of maintaining family contact. Additionally those

whose first language is Welsh are unlikely to have their needs met in establishments based in England. The Youth Justice Board and Welsh Assembly Government has established a working group to consider how the needs of Welsh children and young people in custody can be met and are likely to report on findings in Autumn 2005.¹⁶

The relevant recommendation of the Committee in 2002 has been comprehensively reviewed with regard to the juvenile secure estate in England by the Children's Rights Alliance for England (CRAE) in consultation with NGOs and others. CRAE has produced a report reviewing government action on the 2002 Concluding Observations, which is applicable to children from Wales held in England.¹⁷ The CRAE report concludes that action has been insufficient and that progress has been negative.

The Youth Justice Board is responsible for commissioning (and making) placements across the 'juvenile secure estate'. The Youth Justice Board spends over two thirds of its budget on purchasing secure accommodation. Most children are held in prison service youth offender institutions and others (usually younger) in privately run secure training centres or local authority secure children's homes. Young offender institutions are the cheaper by unit cost and feature lower staff:child ratios etc. The number of local authority secure children's homes places purchased has been reduced.

The Youth Justice Board has a strategy (updated in 2005) for the secure estate, which has, or should, bring about improvements in conditions, health care, education etc. However, progress has not been sufficient and, particularly in some young offender institutions, remains well below what is acceptable (see numerous reports of HM Inspector of Prisons). Bullying, staff restraint, complaints procedures, leisure and fresh air, family contact, solitary confinement (segregation) and numerous other issues remain problematic. More seriously, self harm and suicide, as well as deaths following assault or staff restraint, are a matter of concern.¹⁸ The system is at near capacity. Youth Justice Board objectives to remove females from adult prisons are still to be fully met. Children who are from Black and Minority Ethnic backgrounds are over-represented in custody (and under-represented at the 'lower' end of the system). Children in young offender institutions and secure training centres are still discriminated against with regard to the incomplete application of child welfare/protection and education legislation.

i) Those aged 17 to have status of child for remand.

Children aged 17 continue to be treated the same as adults for remand purposes in most circumstances (there are some relatively unknown anomalies in law) and similarly with regard to treatment and safeguards when in police detention. Central government has indicated an intention to include them in remand arrangements for children¹⁹ but there has been no significant development to date. Youth Justice Board statistics for the period 2003-4 indicate that in Wales there were 175 remands in custody relating to 17 year olds (58% of all remands in custody in Wales), which suggests that if there were developments in this area, any progress would need to be supported by an allocation of resources to ensure there were options in place to fully support and address the needs of this particular age group.

Key recommendations

Press the UK government to:

- Review youth justice law to incorporate the Convention and harmonise with mainstream welfare, education and health law.
- Provide a system of juvenile justice that is more distinct from the adult system (courts, guidance, sentences, offences etc).

- Give the best interests of the child primacy in law and policy.
- Raise the age of criminal responsibility substantially.
- Abolish prison custody for children (with secure children's homes available for those few who need to be detained).

Key questions

- The Welsh Assembly Government has a greater visible commitment to incorporating children's rights frameworks than the UK government. How can that tension be resolved?
- What research can be conducted in Wales with a view to supporting the case for raising the age of criminal responsibility, using custody as a last resort and countering punitive approaches and cultures?
- How can the Welsh Assembly Government ensure that the prevention agenda is the responsibility of mainstream children's services (as opposed to criminal justice agencies)?
- Do the National Assembly and others agree that anti-social behaviour measures infringe children's rights? How can the Welsh Assembly Government reverse the anti-social behaviour agenda?

Endnotes

- ¹ For a further discussion of importance of the Convention to juvenile justice see, for example, Monaghan, G. (2005) Children's Human Rights and Youth Justice. In Bateman, T. and Pitts, J. (Eds.) *The RHP Companion to Youth Justice*. Lyme Regis. Russell House Publishing.
- ² Welsh Assembly Government (July 2004) *All Wales Youth Offending Strategy*. Cardiff. Welsh Assembly Government.
- ³ Hibbert, P., Monaghan, G. and Moore, S. (2003) *Children in Trouble: Time for Change*. London, Barnardo's.
- ⁴ Doli Incapax was abolished by the Crime and Disorder Act 1998, this means that children from the age of 10 are treated essentially the same as adults with regard to culpability and criminal responsibility.
- ⁵ Hibbert, P., Monaghan, G. and Moore, S. (2003) *Children in Trouble: Time for Change*. London, Barnardo's.
- ⁶ Joint Committee on Human Rights (2003) *Points and Recommendations relating to Youth Justice*. Joint Committee on Human Rights, The United Nations Convention on the Rights of the Child, Tenth Report of Session 2002-03. London. The Stationery Office.
- ⁷ Home Office (2004) *Youth Justice – the next steps: summary of responses and the Government's proposals*. London. Home Office.
- ⁸ Audit Commission (2004) *Youth Justice 2004: A review of the reformed youth justice system*. London. Audit Commission.
- ⁹ Nacro (2005a) *Out of Court: making the most of diversion for young people*, Nacro Briefing Paper. London. Nacro.
- ¹⁰ Youth Justice Board (2004) *Youth Justice Annual Statistics 2003/4*. London. Youth Justice Board.
- ¹¹ Nacro (2003a) *Anti-social Behaviour Orders and Associated Measures (part one)*, Nacro Briefing Paper. London. Nacro.
Nacro (2004) *Anti-social Behaviour Orders and Associated Measures (part two)*, Nacro Briefing Paper. London. Nacro.
- ¹² Auld, L (2002) *Review of criminal courts in England and Wales*. London. TSO.
- ¹³ The types of establishments that young people can be placed in if they have been denied their liberty are young offender institutions, a secure training centre or a local authority secure children's home. Where they are placed largely depends on their age and gender.
- ¹⁴ Nacro (2003b) *A failure of justice: Reducing child imprisonment*. London, Nacro.
Nacro (2003c) *Counting the cost: Reducing child imprisonment*. London, Nacro.
Nacro (2005b) *A better alternative: Reducing child imprisonment*. London. Nacro.
- ¹⁵ Youth Justice Board (2005) *Strategy for the Secure Estate for Children and Young People*. London. Youth Justice Board.

¹⁶ Ibid.

¹⁷ Children's Rights Alliance for England (2004) *State of Children's Rights in England in 2004: Annual review of UK Government action on 2002 Concluding Observations of the United Nations Committee on the Rights of the Child*. London, Children's Rights Alliance for England.

¹⁸ Goldson, B. and Coles, D. (2004) *In the Care of the State?* London. Inquest.

¹⁹ Home Office (2004) *Youth Justice – the next steps: summary of responses and the Government's proposals*. London. Home Office.

Concluding remarks

Richard Powell – Chair of the UNCRC Monitoring Group for Wales

Since the ratification of the UNCRC by the UK Government, the NGO sector in Wales has striven to develop the potential of the monitoring and reporting element of the Convention as a mechanism for driving the achievement of children's rights. This report marks a significant landmark in the sector's understanding of the process and our ability to respond to this opportunity in a practical and focussed way. The first alternative report in 1994 was prepared by Children in Wales, the umbrella body in Wales, whilst the second (in 1999) was the outcome of a partnership between Children in Wales and Save the Children. This interim report prepared as a genuine collaborative act by a range of agencies and disciplines identified by the UNCRC Monitoring Group in Wales therefore represents a significant achievement. It provides for the first time the scope and depth of analysis that this process deserves.

It is no coincidence that this development occurred alongside the rights based agenda of devolved Government in Wales. Government policy as regards children has increasingly diverged from the approach of the Westminster Government during much of this period as far as a rights based agenda is concerned. There is much agreement between government in Wales and the NGO sector on the aspiration of turning children's rights into a reality and about using the Convention as the guiding light to achieve this goal. The debate has been around the question of how best to achieve this rather than whether this approach has any validity. The challenge nevertheless remains to ensure that those rights are realised at the point where children experience the outcome of policies, structures and services.

Using the Concluding Observations of the latest report by the UN Committee on the Rights of the Child as its starting point, this report is a valuable tool in assessing the extent to which the aspirations noted above have been realised. It highlights areas where government policy is purposely working against the grain of the Convention particularly in areas of the physical punishment of children, the status of children seeking asylum and in areas of juvenile justice. These are policy areas, which are not devolved and yet the report provides creative recommendations on how the Welsh Assembly Government could assert influence and maximise its role in these areas. It also highlights the long-term issue of the incorporation of the Convention into law and a potentially proactive role for the Welsh Assembly Government in this regard.

In other areas the report highlights areas where government has yet to adequately develop its policy. The areas of response to the sexual exploitation of children, child impact assessments, annual reports on the well-being of Wales' children and the potential of children's budgets analysis fall within this category.

In other areas despite a commitment to ensuring that rights based entitlements exist at a policy level, the current reality of children's experience falls well short of what they could expect in a prosperous and developed nation. The level of service in mental health and the poor outcomes for looked after children (compared with their non-looked after peers) fall into this category; that is where children's rights are not yet a reality.

The report quite rightly reminds us of areas of real progress, where the commitment to establishing systems, structures and services based on children's rights has achieved real change for the better for children in Wales. For instance this can be seen in the field of participation, in the establishment of the Children's Commissioner's Office and on the policy frameworks (for example the National Service Framework and the Framework Partnerships). In many of these areas there is a sense of a real commitment to 'getting it right' for children in this country.

This work is produced as the key input into a landmark conference, which effectively launches the round of monitoring which will provide the input into the next UNCRC reporting phase. On the last such occasion the input of children and young people into the reporting process was undertaken on an almost experimental basis. The UK was only the second State party to have this element included in the process of monitoring, NGO and State presentations. Of course the field of children's participation here has progressed greatly during the intervening period and the role of children and young people in the process will be another area where both the government and the NGO sector will need to ensure that they have built wisely on the experience of the past.

The report offers a valuable insight into how far we have travelled over a comparatively short period. It offers some sound but sometimes challenging recommendations that would maximise the potential offered by the State ratification of this critical human rights instrument. The report makes a key contribution to the development of the understanding of a rights based approach here in Wales. I would like to thank all those who have worked on the report and all those who have supported the production of the report through their membership of the UNCRC Monitoring Group. We have here I believe a document, which provides a firm foundation for the future.

List of contributors

Lucy Akhtar

After moving to Cardiff from Reading in 1999, Lucy Akhtar worked initially for Diabetes UK on an Assembly funded health-promotion project to help people with diabetes in Black and Minority Ethnic communities manage their diabetes better.

For the last 4 years she has been working for Children in Wales. Initially she worked as Policy Information Officer on the 4 Nations Child Policy Network, a project developed with the National Children's Bureau, Children in Northern Ireland, Children in Scotland and Children in Wales providing comprehensive child policy information through a website and e-briefing service. Currently she is co-ordinating the End Child Poverty Network Cymru based at Children in Wales. The Network is a coalition of charities and statutory agencies with a focus on child and family poverty. The Network's vision is that no child in Wales should be living in poverty by 2020 and it works to achieve:

- Increased public and professional understanding of child poverty in Wales.
- Public and professional support for measures to end child poverty.
- Policies in place at all levels of government (local, Welsh Assembly and Westminster) which contribute to ending child poverty in Wales.

Outside of work Lucy is Chair of her local school governing body and is married with two children.

Rhian Croke

Rhian Croke has been the United Nations Convention on the Rights of the Child (UNCRC) Monitoring Officer for Save the Children since April 2004. In this capacity she co-ordinates the work of the Wales UNCRC Monitoring Group in developing a national mechanism for monitoring the UNCRC, raising awareness of children's rights and ensuring that children and young people are partners in this process. She is the co-editor of *Righting the wrongs. The reality of children's rights in Wales* and is co-ordinator of the conference to launch this publication. She previously worked for the University of Cape Town Children's Institute in South Africa as a Senior Researcher on a national research project commissioned by the South African HIV/AIDS Directorate, to develop policy recommendations for orphans and vulnerable children living in a context of HIV/AIDS. Prior to this she set up a centre for orphans and vulnerable children in Malawi. She has a law degree from Edinburgh University and a MPhil in Development Studies from the University of Cape Town.

Anne Crowley

Anne Crowley is Senior Policy Adviser (Wales) with Save the Children and co-editor of this report. She co-ordinates Save the Children's advocacy and public policy work aimed at influencing decision-makers and duty bearers for the rights of children in Wales.

Anne has worked with marginalised young people in both the statutory and voluntary sector in Wales. She took up her current post with Save the Children in 1999, seeing the creation of the National Assembly for Wales as a key opportunity to develop made for Wales policies of benefit to its youngest citizens. In 2003-4 she was an adviser to the Parliamentary Welsh Affairs Select Committee for their enquiry into *Empowering Children and Young People in Wales* and is currently chair of the 'Sdim Curo Plant/Children are Unbeatable! Strategy Group in Wales.

Lynne Hill

Lynne Hill is a Policy Director at Children in Wales. Her areas of responsibility include early years and childcare, young carers, disabled children including the Young Disabled Persons Network, parenting, including the Children are Unbeatable campaign, and information services. Lynne gained a degree in education and worked in the voluntary sector in both play and youth settings before gaining a professional social work qualification. She then worked for a local authority, in mental health and physical disability, first as a social worker and then as a team manager, before moving to a strategic post, focusing on developing services for disabled children.

Lynne has been at Children in Wales for three years, where her work has included the International Congress for young disabled people, in Swansea during July 2003, and the ongoing development of the Young Disabled Persons Network, and the re-establishment of the Early Years and Childcare advisory group. Lynne currently chairs the Children in Wales' disability forum, the Cychwyn Cadarn Cymru network and the Early Years and Childcare advisory group. Lynne is also a trustee of ABCD and Clybiau Plant Cymru. Lynne has represented Children in Wales on the development of the Play Policy, the Childcare advisory group, the National Service Framework for Children and the Parenting Action plan. Lynne represents young carers on the Young Carers Review panel and the Carers Strategy review group.

Andy James

Andy James is currently Assistant Director, Policy, for Barnardo's Cymru. Born in Aberdare, South Wales, Andy attended Aberdare Boys Grammar school and gained an honours degree in Social Policy and Administration at Leeds University in 1980. Andy qualified as a Social Worker at Hull University in 1982 and worked for Humberside County Council for three years, firstly as a generic child and family social worker and then as an Intermediate Treatment Officer working with children and young people in the youth justice system. He has worked for Barnardo's Cymru since 1985, managing two youth justice teams in Swansea and Neath Port Talbot between 1991 and 1999.

Andy took up his current post in 1999 and is responsible for managing Barnardo's Cymru's influencing and policy work in Wales. He has collated and edited a number of reports, which have included two NGO Children's Manifestos for Wales, and a report on rural poverty and its impact on low-income families in Wales (*The Good Life?*). Andy was a member of the Welsh Assembly Government's Child Poverty Task Group and is a steering/campaign group member of both the End Child Poverty Network in Wales and the Children are Unbeatable Alliance (Cymru). Andy is currently the chair of the Children's NGO Policy Group for Wales and has a specific interest in promoting greater service provision across Wales for children who are sexually exploited and for children and young people with sexually harmful behaviours.

Simon Jones

Simon Jones has been Policy Advisor for NSPCC Cymru/Wales since March 2003. His role includes developing NSPCC Cymru/Wales public policy and influencing external decision makers responsible for the rights and protection of children and the prevention of significant harm in Wales. Previous to this he worked as Parliamentary Assistant to Julie Morgan MP and has a degree in Political Studies from University of Wales, Aberystwyth.

Mike Lewis

Mike Lewis is Policy Director at Children in Wales. He qualified as a social worker in 1986 and has held a range of childcare social work posts. In addition to this he has taught on the Social Work training course at UWIC, been a Project Manager with NCH and Assistant Director with Save the Children. His current policy responsibilities include Child Protection, Looked After Children and Young People, Child Poverty and Ethnicity. He is a trustee of the Welsh Refugee Council and Funky Dragon – the young people’s assembly for Wales. He has a degree in psychology and postgraduate qualifications in management and in social policy.

Geoff Monaghan

Geoff Monaghan has been with Nacro since 1998. Prior to that he had 23 years experience in local authority work, qualifying as a social worker in 1983. He enjoyed a substantial period of residential work with children and young people before developing a specialism in juvenile/youth justice from 1984. Geoff is based in Sheffield and his role for Nacro includes responsibility for the Youth Crime Section’s work in the North of England. He has been involved in a number of projects recently including the YJB National Development Agent for Diversity contract, a project focused on Looked After Children and Reducing Offending and the enquiry into Health and Education Staff Roles in youth offending teams. Geoff has written widely in the area of youth justice including on children’s human rights, leaving care and reducing offending by looked after children. He is currently the chair of the National Association for Youth Justice and is a member of the editorial board of the journal, *Youth Justice*.

Richard Powell

Richard Powell currently works as Head of Global Child Protection for Save The Children UK. Until recently however he led their Wales Programme where he established a team with a commitment to child’s rights based change for children. The Programme is learning from and contributing to the experiences of children’s rights globally. In addition he has developed Save the Children’s Saying Power – an innovative UK wide youth participation project. He chairs the management group of Funky Dragon and retains close links with the media. Until recently he chaired the BBC Children in Need and Wales Appeals Advisory Committees. Through his work with Save the Children he has experience of the issues facing children in numerous countries. Most recently he was seconded to Save the Children’s Emergency Response Team during the Indian Ocean tsunami emergency.

Anna Skeels

Anna Skeels gained a first class degree in Geography at Oxford University in 1990 and then went on to do a two-year Masters degree in Human Geography at the University of British Columbia in Vancouver, Canada. In between, Anna worked for the United Nations Association of the USA in New York and researched and wrote a chapter on North American foreign policy for their Model U.N Handbook. Since then, Anna has worked directly with children and young people ‘at risk’ in Cardiff, initially within the development training field and then later within community safety. Throughout, Anna has remained strongly committed to the principle of inclusion, participation and children’s rights and is currently employed at Save the Children in Wales as the Participation Unit Manager for Wales.

Jill Taylor

Jill Taylor has been the campaign co-ordinator of 'Sdim Curo Plant/Children are Unbeatable! in Wales since 2001. Prior to this she worked for the Frank Buttle Trust in Wales and held various posts in the field of housing and community development.

The UK-wide Children are Unbeatable! Alliance campaigns to change the law for children to have the same protection from being hit that all adults have, and also to promote non-violent ways of managing children's behaviour. The members of the Alliance include more than 350 child health, care, welfare, crime prevention and church organisations across the UK. 'Sdim Curo Plant!/Children are Unbeatable! ('SCP!/CAU!') was launched in September 2000 to co-ordinate and promote the campaign in Wales. The Strategy Group has representatives from Children in Wales, Save the Children, NSPCC, NCH, Barnardo's and the Royal College of Paediatrics and Child Health.

Eleri Thomas

Eleri Thomas is the Assistant Programme Director for North and Mid Wales with Save the Children and has lead responsibility for work on citizenship and participation. Eleri has facilitated establishing The Children and Young People's Participation Consortium for Wales to develop a nationally co-ordinated and strategic approach to children and young people's participation in decision making. She is currently the Chair of the Children and Young People's Participation Consortium. Eleri has worked in the voluntary sector for over 10 years developing policy and service initiatives for children and young people across Wales including young carers and children and young people in care with Carers Natin, Barnardo's and the Children's Society.

Sian Thomas

Sian Thomas is currently the Assistant Director (South Wales) in Save the Children's Wales Programme. Her current responsibilities include work on child poverty, community regeneration and refugee and asylum seeker children. Prior to this Sian has worked in various roles within the housing sector, managing a youth homelessness project for Barnardo's in Swansea from 1996-2002. She has a degree in International Politics from University of Wales, Aberystwyth and a Postgraduate Qualification in Housing.

Sue Thomas

Since joining Nacro in 1995 Sue has been responsible for providing training and consultancy services to youth offending teams in England and Wales. This has broadly covered all aspects of youth justice with the aim of assisting practitioners and managers to develop practice, policies and strategies to reduce youth crime. Sue has produced a range of published work including briefing papers, publications, evaluation reports for the Youth Justice Board and articles in journals on a range of subjects. She has twice visited China to participate in conferences to explore how the use of bail might be extended to juveniles within the criminal justice system and is currently undertaking research for the Welsh Assembly Government on housing and accommodation issues for young people in Wales.

Dr Elspeth Webb

Elspeth Webb was raised on a farm in North Wales, trained in St. George's Hospital Medical School, London, and subsequently worked in a variety of settings across the UK and also in Africa. Her most memorable post was as a registrar in General Practice in the Isle of Skye, Scotland.

She has 2 children, so has worked for the last 13 years as a part-time senior lecturer in the Department of Child Health in the College of Medicine, Cardiff University, Wales, UK. Her clinical work includes autism, child protection, and improving service access for marginalised communities. She has a longstanding commitment to the promotion of children's rights and to combating discrimination, particularly against children who are socially marginalised. These interests are reflected in her clinical commitments, teaching, research, and publication record.

When not at work she enjoys reading, art galleries, walks that take in a medieval castle or other suitable ruin, and singing in any choir that will have her.

Eleanor White

Eleanor White has worked in the capacity of Programme Director, Wales for Amnesty International UK for four years. She has overall responsibility for the strategic planning and implementation of Amnesty's programmes in Campaigns, Media Relations and Human Rights Education across Wales. She has extensive fieldwork experience in community development in India, Southern Africa and the Middle East.

Prior to her position with Amnesty International UK, she created and managed the Cardiff Mindworks project for rehabilitation of people experiencing mental illness back in to education, training and work and was Area Fundraising Manager for Cancer Research UK. She currently sits on the Management Board for Cyfanfyd, the Development Education Association for Wales and is Chair of Refugee Week Wales and a trustee for the Welsh Refugee Council.

Born in 1968 and brought up in Yorkshire, Eleanor was educated at Reading University and moved to Cardiff in 1993. She is now a fluent Welsh speaker and a regular visitor to Snowdonia and Gwynedd.

Jane Williams

Jane Williams is a lecturer at the School of Law, University of Wales, Swansea. Prior to joining the University in 2000, Jane was a government lawyer working in the Home Office, Civil Service College, the former Welsh Office and the National Assembly for Wales. Her research interests include law making in Wales and the UK with an emphasis on the impact of devolution, as well as children's rights and implementation of the UNCRC and other human rights instruments. She is co-editor of the *Wales Journal of Law and Policy*.