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## May 2018 Update

### Wales

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#### Incorporation

Wales has set out its commitment to the UNCRC through a form of incorporation in legislation. The Rights of Children and Young Persons (Wales) Measure 2011 came into full effect in May 2014, with the Children's Rights Scheme, published under Section 2 of the Measure, setting out the arrangements to implement the Measure. Welsh Ministers must have 'due regard' to the requirements of the Convention and Optional Protocols, when exercising any of their functions. Their adherence with the 'due regard' duty is scrutinised by the National Assembly for Wales, both in Assembly Committee hearings and in plenary debates. To date, it remains the only general legislative measure of incorporation of the UNCRC in UK law.

Section 4 of the Measure places a duty on Welsh Ministers to publish a report on how they have complied with the due regard duty prescribed by Section 1 of the Measure. The most recent 'Compliance Report' was published in March 2018 and covers the period from June 2015 to January 2018. This report is structured in accordance with the five principles of a children's rights approach as set out in the Children's Commissioner for Wales 'The Right Way' guide published in March 2017. The 'Compliance Report' outlines the Welsh Government's internal structures in place to support the due regard duty, and the engagement mechanisms established with external stakeholders, including the newly formed Children's Rights Advisory Group (CRAG). The CRAG includes representatives from the Wales UNCRC Monitoring Group, which is the national civil society children's rights alliance in Wales.

The 'Compliance Report' also details the effectiveness of the Children's Rights Impact Assessment (CRIA) process which is regarded as an intrinsic part of the policy making process within the Welsh Government, as well as reporting on the child rights training of staff and for practitioners working with children and young people.

A similar 'due regard' duty has also been put in place on persons exercising functions in relation to children through the Social Services and Well-being (Wales) Act 2014, which includes personnel operating within local authorities, health boards and regional safeguarding boards. In January 2018, a 'due regard' duty was placed on organisations exercising strategic functions under the Additional Learning Needs and Education Tribunal (Wales) Act 2018, legislation designed to improve educational provision for children and young people with additional learning needs in Wales. Some public bodies have also adopted organisational policy commitments to the UNCRC.

While these legislative measures do not create legal remedies for individual rights violations, they are significant advancements towards incorporation of the UNCRC in Wales and the promotion and protection of children's human rights in legislation, policy development, and practice.

## Reporting & Responding

The Wales UNCRC Monitoring Group submitted a shadow report to the UN Committee on the Rights of the Child in 2015 with members in attendance at the UK pre-session meeting in Geneva later that year and as part of the UK delegation at the 2 day State Party examination in May 2016. The UN Committee's Concluding Observations to the UK and devolved governments provided a series of recommendations applicable in the context of the devolved settlement in Wales.

The Welsh Government, in their initial statement in response to the 2016 Concluding Observations reasserted their commitment to putting children's rights at the centre of policy making. Notable developments included the appointment of a Minister for Children and reaffirming their commitment to the Human Rights Act in response to a degree of uncertainty surrounding its future at a UK level. A further statement to mark the first anniversary of the Concluding Observations was issued to identify where progress had been made, released alongside separate and independent briefings by the Wales UNCRC Monitoring Group and the Children's Commissioner for Wales.

In particular, recognition should be given to the following

- Welsh Youth Parliament – an independent mechanism is being established by the National Assembly for Wales which should be in place in 2019, thus giving further affect to children's participatory rights and scrutiny of the democratic process.
- Votes for 16 and 17 yr. olds – The Welsh Government have commitment to lowering the voting age to 16 for local elections, whilst the National Assembly for Wales are currently consulting to replicate this change at a national level following new provisions in the Wales Act 2017
- Removing the Defence of Reasonable Punishment – The consultation proposing to legislate to remove the defence of reasonable punishment has recently closed, with the Welsh Government fully committed to prohibit physical punishment in the home.

The UN Committee also identified a number of areas where urgent attention is needed if children's rights in Wales is to be further realised. Of particular concern is the comparatively high levels of child poverty in Wales; increasing concerns around the mental health of children and young people, and the rising number of children entering care. This is in addition to non-devolved political decisions in respect of the negative and disproportionate impact of welfare reform on children and families in Wales, and the adverse impact of changes to legal aid.

Finally, there is still significant uncertainty surrounding the impact of the UK's decision to leave the European Union. The Wales UNCRC Monitoring Group have called for assurances that there is no diminution of children's rights protections in the law from the Brexit process, and that mechanisms are in place for young people to have their voices heard as part of the decision process.

The Wales UNCRC Monitoring Group will continue to promote the positive steps being taken in Wales towards the full incorporation of the UNCRC, and will press for actions to implement the UN Concluding Observations and the recommendations of the Wales 'Shadow Report' within the parameters set through the devolved settlement to be accelerated.

**Sean O'Neill**

**Coordinator, Wales UNCRC Monitoring Group**

**@Children in Wales**