



Ymateb i Ymgynghoriad / Consultation Response

Date / Dyddiad: 14/11/19

Subject / Pwnc: Draft National Development Framework

Background information about the Children's Commissioner for Wales

The Children's Commissioner for Wales' principal aim is to safeguard and promote the rights and welfare of children. In exercising their functions, the Commissioner must have regard to the United Nations Convention on the Rights of the Child (UNCRC). The Commissioner's remit covers all areas of the devolved powers of the National Assembly for Wales that affect children's rights and welfare.

The UNCRC is an international human rights treaty that applies to all children and young people up to the age of 18. The Welsh Government has adopted the UNCRC as the basis of all policy making for children and young people and the Rights of Children and Young Persons (Wales) Measure 2011 places a duty on Welsh Ministers, in exercising their functions, to have 'due regard' to the UNCRC.

This response is not confidential.

Introduction

The National Development Framework (NDF) sets out Welsh Government's twenty year vision for Wales' structural, environmental and technological development to support Wales' growth as a sustainable, prosperous and healthy nation. With its 11 NDF Outcomes, underpinned by the principle of The Well-being of Future Generations (Wales) Act 2015 *"to improv[e] the economic, social, environmental and cultural well-being of Wales"*, the proposals contained within the NDF will have a direct impact on the children and young people of Wales, now and in the future.

To ensure that NDF delivers for all, the NDF must recognise the unique needs of children and young people, as current citizens and members of our communities and as those likely to be affected by the Plan for many years to come. Therefore, children and young people must be fully involved and considered in the NDF's developments and decisions.

As stated by the Committee on the Rights of the Child (UNCRC), there is *"inextricable linkage between inclusive, equitable and sustainable development and the realisation of children's rights. Development can constitute an enabler for children's enjoyment of their rights by providing them with a safe and healthy environment"*.¹ Whilst I recognise that the NDF seeks to *"make sustainable places that work for everyone"* and to develop places that *"meet and suit the needs of a diverse population, with accessible community facilities and services"*, the NDF at present does not make the explicit connection between sustainable national planning and the potential advancement of children's rights.

Children and young people in Wales have specific rights which must be upheld by Welsh Ministers, as set out in the Rights of Children and Young Persons (Wales) Measure 2011. It is important that children and young people are recognised as unique stakeholders in this regard, which warrants an adapted approach that supports their meaningful participation and engagement. By taking a children's rights based-approach to the delivery of the NDF, the Welsh Government can further advance the realisation of children's of rights by recognising children and young people as active agents in national planning decisions and achieve inclusive, sustainable national development.

¹ Committee on the Rights of the Child (CRC), Contribution to the 2030 Agenda for Sustainable Development in response to a call for inputs by the High-Level Political Forum on Sustainable Development (HLPF), 15 March 2019. Available; <https://www.ohchr.org/Documents/HRBodies/CRC/HLPoliticalForumSustainableDevelopment.pdf>

This response will seek to demonstrate how this can be achieved when delivering against the National Development Framework, through the delivery of children's rights approach that aligns with Wales' Well-Being Goals and embeds children's rights into decision making. The response will cover;

- How the National Development Framework relates to children's rights; including their rights to protection from harm, to provision that meets their needs to develop and fulfil their potential and their rights to participate as citizens in planning and decision-making.
- How a children's rights approach can align with the Wales' Well-Being Goals;
- The importance of evidencing consideration of Children's Rights through consistent and thorough Children's Rights Impact Assessments;

How the National Development Framework relates to children's rights;

It is promising that the Framework has already sought to provide information for children and young people in an accessible format, with the publication of a Young People's Summary, recognising Article 13 — the right to seek, receive and impart information in an accessible format. It is important that similar resources are provided at each five year review point to support continued engagement and participation of children and young people. It is disappointing however that, despite having a young person's summary, there is no specific means for young people to respond to this consultation in an accessible or age appropriate way.

Children have a right for their voices to be heard (UNCRC Article 12) and to participate in decision making processes which are likely to impact their lives. Article 12 states that *"a child who is capable of forming his or her own views [has] the right to express those views freely in all matters affecting the child"*. The United Nations' Committee on the Rights of the Child has expressed concern that *"children are often denied the right to be heard, even though it is obvious that the matter under consideration is affecting them and they are capable of expressing their own views with regard to this matter"*. The Committee's General Comment on this Article specifically mentions that there should be explicit inclusion of children's views *"in community development plans that call for public consultation"*.²

The NDF is to have continued impact on the lives of children and young people in Wales and it is important that children's engagement is facilitated throughout its delivery. It is vital that the Welsh Government

² United Nations Committee on the Rights of the Child (2009) *General Comment no.12: the Right of the Child to be Heard*. Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=5&DocTypeID=11

recognises children as active agents in the progression of the plan and supports and facilitates their continued engagement. Numerous public bodies that I have supported to take a children's rights approach have found that the quality of their decision-making has improved when including those most directly affected by those decisions. I believe this requires further consideration from Welsh Government as the NDF progresses.

Below, I have sought to demonstrate how the eleven NDF outcomes are linked to the rights of children, as citizens, consumers, users and future employees and leaders of the cohesive, sustainable and prosperous Wales the National Development Framework sets out to achieve. The NDF has the potential to further recognise children's rights in its pursuit of a more prosperous, inclusive, greener and sustainable Wales. This is why it is vital that children and young people are fully engaged and involved in the delivery of the NDF.

NDF Outcomes; A Wales where people...	Links to Rights of The Child (UNCRC) & Potential Impact on Children
Live and work in connected, inclusive and healthy places;	<p>As active members of their communities, these collective objectives will have a significant impact on how children access services, live, play and potentially work in the future. In the pursuit of these objectives, Welsh Government must consider what impact subsequent developments of the NDF will have on children's rights. Whilst a significant focus of these objectives are to develop prosperous communities through sustainable, social-economic development, the pursuit of prosperity and improved wellbeing must be considered in the context of how this can be achieved for all, including children and young people.</p> <p>Every child has the right to a standard of living that is good enough to meet their physical and social needs and support their development (Article 27), a right to the best possible health and a clean environment (Article 24) and for their best interests to be given priority in any decision that affects them (Article 3). The NDF's vision is to support Wales' progress towards becoming a cleaner, greener, and more prosperous and healthier nation. However, despite much of its vision chiming with the ambitions of the UNCRC, there is no specific mention of how the NDF is linked with and can support children and their rights. Therefore, to ensure that communities are developed sustainably for <i>all</i> and effectively promote inclusivity and equality, decisions taken in regards to socio-economic development, as set out in the NDF,</p>
Live in vibrant rural places with access to homes, jobs and services;	
Live in distinctive regions that tackle health and socio-economic inequality through sustainable growth;	
Live and work in towns and cities which are a focus and spring board for sustainable growth;	

must take account of children's specific rights. If the Welsh Government were to make this linkage at a strategic level within the NDF, it would go some way to further embedding children's rights within planning decisions relating to the framework. For example, while it is very welcome that tackling health and socio-economic inequalities is an aim, it would be worth giving specific attention to the fact that children are the most likely population group to be living in poverty.

Article 12 states that *"Every child has the right to express their views, feelings and wishes in all matters affecting them, and to have their views considered and taken seriously. This right applies at all times, for example [in regards to]...housing decisions"*. This relates to wider issues about communities and services too. Whilst I recognise the messages of inclusivity within the NDF's objectives, Welsh Government must ensure that children are supported to meaningfully engage with any development proposals for their communities in an appropriate way.

One area where the needs of children and young people seemed to have been overlooked is in the NDF's vision for housing. The NDF sets out its vision for building more affordable homes, but this is framed in regards to the needs of Wales' "ageing society". Whilst I recognise this is a vital area for development, it is also important to recognise that younger and older people can have similar requirements for housing, such as safe, semi-independent and affordable accommodation, supporting full inclusion in communities with good access to local services. For example, young people who are living with disabilities, leaving care³, residential homes⁴, secure settings⁵ or youth justice institutions⁶ face significant barriers in this area, compounded by a lack of suitable housing options, such as a lack of smaller housing units and lack of availability of semi-independent living provision specific for young people. When framing the need for this type of housing solely as a requirement for ageing populations, we fail to recognise the vulnerabilities of individual, younger groups. Considering the housing needs of Wales as a population as a whole, with specific understanding of varying needs, the NDF can work towards achieving the well-being objective of developing a Wales of cohesive communities.

³ <https://www.childcomwales.org.uk/publications/hidden-ambitions/>

⁴ <https://www.childcomwales.org.uk/wp-content/uploads/2016/06/The-right-care.pdf>

⁵ <https://socialcare.wales/resources/report-about-the-experiences-and-outcomes-of-children-and-young-people-from-wales-receiving-secure-accommodation-orders>

⁶ <https://www.justiceinspectorates.gov.uk/cji/inspections/youthresettlementcommunity/>

The UN General comment No. 16 (2013) on State obligations regarding the impact of the business sector on children's rights recognises the impact that business can have on the realisation and advancement of children's rights, through the creation of decent jobs, investment, provision of services, technological advancements, production, and child supportive practices for employees — such as payment of sufficient wages, parental leave and family friendly workplace practices. However, it further states that *"the realisation of children's rights is not an automatic consequence of economic growth"*, which is why Government must implement mechanisms to ensure that businesses can contribute towards rights respecting, inclusive communities.⁷ The Welsh Government has many levers at its disposal to ensure that any businesses they seek to attract or support in pursuit of the NDF can contribute towards a rights respecting environment and *"encourage a business culture that understands and fully respects children's rights"*. This ability is further cemented with the Children's Rights Measure. Welsh Government can similarly put in place measures to ensure businesses pay due diligence to children's rights in their practices, and do not adversely impact children's enjoyment of their rights through their business activities. Therefore, the NDF could play an important role in further embedding children's rights by encouraging such a business culture as part of its vision for a prosperous, healthy and inclusive Wales by 2040.

Furthermore, the NDF places a specific focus on "retaining and attracting" young people to live and work in Wales. Young people in Wales are already taking significant positive steps in regards to this issue, with the Welsh Youth Parliament recently publishing their report on Life Skills⁸. The Youth Parliament and other participative platforms for children and young people should be involved significantly in any decision or process that asks *"what Wales would we like to create by 2040?"* and be supported to contribute towards achieving how best young people within Wales can be "retained" — or better termed — supported to remain within their communities through diverse opportunities. Therefore, the NDF should be shifted in its focus to pose the question *"how can we use this National Development Framework to create diverse opportunities that will promote the increased involvement, inclusion and engagement"*

⁷ Committee on the Rights of the Child (CRC), General Comment No. 16 (2013) On State Obligations Regarding the Impact of the Business Sector on Children's Rights. Available:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=5&DocTypeID=11

⁸ <https://static1.squarespace.com/static/58e7b1b717bffc1056c5949b/t/5daebdee5642ea5d1cf32684/1571732976510/WYP-life-skills-E.pdf>

	<i>of young people and make Wales a more attractive place to live and work for young people?"</i>
Live in places with world-class digital infrastructure;	<p>A significant focus of the NDF is to enhance Wales' digital connectivity and digital infrastructure, to support economic growth and global competitiveness. It is vitally important that the impact of such developments on the rights of children are considered. The Welsh Government must be committed to ensuring that any potential adverse impacts on the rights and protections of young people as a result of a more digitised and connected nation are addressed and mitigated.</p> <p>Digital technology plays a significant role in the lives of the majority of children and young. A review of evidence from UNICEF in 2017 suggests that moderate use of digital technology tends to be beneficial to children and young people's mental well-being, while excessive use can have a small negative impact.⁹ It is important that developments are cognisant of the impact that increased digital usage can have on children and young people's wellbeing.</p> <p>The Welsh Government must ensure that this objective is supported by aligning with existing strategies in this area, such as the Welsh Government's Online Safety Action Plan and Wales' new Curriculum. This will help to ensure children are well equipped with skills to support their contribution in an increasingly digitised world and are equally aware of their rights in a digital context to help keep themselves safe. It is equally important that regular reviews take place to ensure digital safeguards keep pace with advancements.</p> <p>The UN Committee on the Rights of the Child is currently drafting a General Comment on children's rights in relation to the digital environment.¹⁰ At the 2019 ENOC Conference the Commissioners and Ombudsmen for Children from across Europe agreed a joint statement on children's digital rights.¹¹ This was heavily influenced by the contributions of young people from across Europe; my office supported a group of Welsh young people to have input into this work and one member of that group represented them at the conference. The statement makes it clear that States should be making every effort to facilitate children's digital rights and that their views are</p>

⁹ <https://www.unicef-irc.org/publications/pdf/Children-digital-technology-wellbeing.pdf>

¹⁰ <https://www.ohchr.org/EN/HRBodies/CRC/Pages/GCChildrensRightsRelationDigitalEnvironment.aspx>

¹¹ <http://enoc.eu/wp-content/uploads/2019/10/ENOC-2019-Statement-on-Childrens-Rights-in-the-Digital-Environment.pdf>

	highly influential in this area, as children and young people will continue to grow up with technology and the internet at the heart of their everyday lives.
Live in places with a thriving Welsh Language;	<p>Article 30 of the UNCRC states that every child has the right to learn and use the language, customs and religion of their family, whether or not these are shared by the majority of the people in the country where they live. This right requires states to pay specific attention to indigenous and minority languages. It therefore important to ensure that any developments delivered as a result of the NDF support children and young people to access these bilingually in line with the Welsh Language (Wales) Measure 2011.</p> <p>Article 31 of the UNCRC is the right of the child to <i>‘rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.’</i> It is vital that the NDF and subsequent developments recognise the importance of developing and protecting recreational spaces for the health, social and wider community benefits of play, sport and physical exercise, which is so important for children’s development at all ages. It is also important that children and young people are able to scrutinise these developments, and that developments fulfil their purpose of creating a space which maximises children and young people’s engagement.</p> <p>My office published a Spotlight Report last year on Article 31, which shares the views of over 450 children and young people, and 277 parents and carers¹². One of the key messages in our report is that the children and young people that we engaged with told us that the most common barriers they face to accessing play and leisure activities are financial, a lack of variety, and transport. Children have less economic power than adults, and households with children are those most likely to be living in poverty in Wales¹³. Children therefore need play and leisure facilities which they can access for free or, where this is not possible, affordably; which cover a range of interests, play activities and hobbies; and which are within the communities where they live. Planning can play an important part in improving facilities, if children and young people are able to participate effectively in the planning process. A further key message from our report is that children have the right to be involved in planning and</p>
Live in places where prosperity, innovation and culture are promoted;	

¹² Children’s Commissioner for Wales (2018) Spotlight Report – Article 31. Available at: <https://www.childcomwales.org.uk/wp-content/uploads/2018/04/Play-FINAL.pdf>

¹³ Welsh Government (2018) Analysis of HBAI, Family Resources Survey, DWP. Available at: <https://www.slideshare.net/StatisticsWales/relative-income-poverty-family-characteristics>

	<p>decision-making about public provision of facilities and activities. Organisations are likely to find that their decisions on facilities used by children and young people will be better informed by hearing the voices of the users of those facilities.</p>
Live in places where travel is sustainable;	<p>Article 24 of the UNCRC stated that every child has a right to the best possible health and a clean environment. It is welcomed that the NDF places such a focus on Wales' journey towards decarbonised areas, improved active travel opportunities and increased environmental protections which will contribute to a cleaner, healthier, greener Wales, which all generations can enjoy.</p> <p>The Committee on the Rights of the Child contribution to the 2030 Agenda for Sustainable Development states that <i>"All children should have access to a healthy and safe environment without discrimination. However, a number of emerging environmental issues such as the increasing negative impacts of global climate change and certain environmental chemicals expose children to environmental health risks"</i>. It further states how climate change and environmental damage disproportionately affects children¹⁴. It is welcomed that the Welsh Government are taking significant steps to address environmental concerns and ensure that the NDF is delivered in a way that develops, protects and nurtures Wales' environment. Its recognition of and alignment with the well-being objectives of the Wellbeing and Future Generations Act future cements the importance of protecting Wales' environment for our future generations. Welsh Government's Local Air Quality Management Policy Guidance recognises how babies and children are particularly vulnerable to suffering ill health as a result of exposure to air pollution, requiring local authorities to give special consideration to the long term risks posed to babies and children as a result.¹⁵ These risks must continue to be recognised in regards to any associated NDF developments in areas where children live, play and are educated.</p> <p>It is vital that children participate in decisions regarding environmental matters.¹⁶ Wales' Youth Parliament is already under taking work to propose changes to the way we consume plastics and better protect Wales' environment. Children and young</p>
Live in places that sustainably manage their natural resources and reduce pollution;	
Live in places with biodiverse, resilient and connected ecosystems;	
Live in places which are decarbonised.	

¹⁴ Committee on the Rights of the Child (CRC), Contribution to the 2030 Agenda for Sustainable Development in response to a call for inputs by the High-Level Political Forum on Sustainable Development (HLPF), 15 March 2019. Available; <https://www.ohchr.org/Documents/HRBodies/CRC/HLPoliticalForumSustainableDevelopment.pdf>

¹⁵ <https://gov.wales/sites/default/files/publications/2019-04/local-air-quality-management-in-wales.pdf>

¹⁶ Committee on the Rights of the Child (CRC), (2016) Children's Rights and the Environment. Available: <https://www.ohchr.org/Documents/HRBodies/CRC/Discussions/2016/DGOutcomereport-May2017.pdf>

	people have led the way in campaigning for action on climate change, in Wales and globally. Young people must be recognised as valuable change makers in regards to our behaviours and consumerism in pursuit of these NDF objectives.
--	--

How a children's rights approach can align with the Wales' Well-Being Goals;

In 2017, the Future Generations Commissioner and I jointly developed The Right Way — a Wales Future Fit for Children. The guide has been specifically designed to help organisations take account of the economic, social, cultural, and civil circumstances specific to children and young people. The guide takes account of the requirements laid down by the Well-being of Future Generations (WFG) (Wales) Act 2015 and aims to support bodies — those in the public, third or private sector - to maximise their contribution to securing the long-term well-being of children and young people in Wales.

The guide has been developed to demonstrate this and to provide practical guidance on how a children's rights approach can support public bodies to improve the economic, social, environmental and cultural well-being of Wales. Children's rights and the Well-Being of Future Generations (Wales) Act 2015 have common interests and can mutually support one another, through recognising children's rights to be safe, healthy and to flourish, and to ensure we plan for the long-term. This aligned approach brings fresh impetus to building prosperous, resilient and inclusive communities.

As this is the overwhelming objective of the National Development Framework, it is important that the Welsh Government consider this approach and ensure that any developments delivered by the NDF are done so with this aligned rights-based approach. By adopting this approach, Welsh Government can have greater assurances that the NDF is able to achieve its vision of a sustainable, prosperous and inclusive Wales by 2040.

By recognising children's rights within the context of well-being objectives, organisations can adopt an integrated approach to sustainable development. For example, decisions taken to improve air quality, promote public transport and decarbonisation can make a direct contribution to the goal "A Resilient Wales" by improving children's health and environment (Articles 6 and 24 of the UNCRC). Such a decision could also contribute to children's rights to live in safer communities (A More Cohesive Wales), promote active travel (A Healthier Wales) and might promote economic well-being by improving access to jobs and cheaper fares (A Prosperous Wales). By taking this approach, the NDF can be seen to further embed children's rights into sustainable, socio-economic developments.

This can be achieved by ensuring any developments of the NDF apply the principles of the five ways of working to developments. The five ways of working are designed to achieve sustainable development in a way that is closely aligned to children's rights and a rights based approach. These are:

- Working to the long term: The importance of balancing short-term needs with the need to safeguard the ability to also meet long-term needs
- Prevention; How acting to prevent problems occurring or getting worse may help public bodies meet their objectives
- Integration; Considering how the public bodies' well-being objectives may impact upon each of the well-being goals, on their objectives, or on the objectives of other public bodies
- Collaboration; Acting in collaboration with any other person (or different parts of the body itself) that could help that body to meet its well-being objectives
- Involvement; The importance of involving people with an interest in achieving the well-being goals, and ensuring that those people reflect the diversity of the area which the body services.

By working in this manner, developments and responsible authorities can have greater assurances that they have considered children's rights in their work. For example, paying due regard to children's rights could create the economic and social case to prioritise long-term investment in early intervention services for children and young people, identify opportunities for integration and collaboration across sectors and create opportunities for children and young people to be involved in creating the solutions for change.

This approach ensures that children's rights are embedded in the planning stages, without discrimination. This will enable children and young people to be empowered through greater recognition of their rights and can lead to greater participation of young people in decision making or community design. Through this approach, developments and organisations can become more accountable to children for the actions they take that impact children and their lives. To do so, organisations should consider:

- **Well-being assessments consider what is important to children** and that well-being planning ensures children's rights and well-being needs have a high-level of prominence in priority setting, including the needs of vulnerable groups.

- **Financial planning and budgets are appropriately analysed and assessed for their long-term impact on children's rights.** Children and young people are involved in budget setting, procurement and commissioning processes.
- **Listen to children and take account of their views and be open, honest and transparent with children.** Appropriate arrangements are in place to support children's active involvement in decision-making that might affect them and appropriate arrangements are in place to provide feedback to children and tell them what has happened as a result of their involvement.
- **Integrate and Take Action together:** Children's rights and well-being needs have been considered across each of the Well-being Goals. Working arrangements maximise contributions to improving children's well-being within and between organisations. There is coherence between organisational objectives and plans. Partnership arrangements give a clear focus to children and clearly set out responsibility for how organisations will work together to improve children's rights and well-being.
- **Review and improve together:** Appropriate monitoring arrangements are in place to clearly identify progress made/outcomes achieved on children's rights and well-being. This monitoring information is regularly used to provide an up-to-date picture on the state of children's well-being and informs the reviewing of well-being objectives and plans. This is clearly communicated to children in a way that is appropriate to their needs.

The importance of evidencing consideration of Children's Rights through consistent and thorough Children's Rights Impact Assessments;

The realisation and consideration of children's rights can be effectively monitored and evidenced through consistent and thorough undertaking of Children's Rights Impact Assessments. The NDF states how it will align with Habitat Regulation Assessments and fit with Strategic and Local Development Plans. However, it fails to demonstrate how developments made as a result of the plan will fit with wider impact assessments, for example, Children's Rights Impact Assessments (CRIAs). I raised similar concerns in my response to the Draft Planning Policy Wales Consultation.

These specific impact assessments can support Welsh Ministers to evidence their statutory duties under the Children's Rights Measure and ensure that due regard to children's rights is given in policy decisions. As stated by UNICEF, "*most policies do have some level of impact on the lives of children, and child rights*

*impact assessments (CRIA) provide a systematic, flexible way to ensure children are placed at the forefront of national decision-making”.*¹⁷

The Welsh Government is making progress in its use of CRIA to evidence how consideration has been given to children’s rights, however, they often vary in timeliness and quality. Often, CRIAs are produced in regards to policies which have a clear and direct impact on children, and decisions such as those relating to planning and development proposals, do not publish CRIAs as part of their Impact Assessments. I am not confident that the use of CRIAs are fully embedded within the practice of Welsh Government decision making, despite their benefit for understanding, protecting and promoting children’s rights. I believe the NDF would benefit from a commitment from Welsh Government to play consistent and evidenced consideration to children’s rights through the use of CRIAs as part of any NDF project impact assessments. The use of CRIAs has also been suggested by the UN Committee on the Rights of the Child as being used to understand the impact of business activities and business related policies on the rights of children and young people. Considering the objective of the NDF to create a more prosperous Wales through sustainable socio-economic development, the Welsh Government should give consideration to routine completion and publication of CRIAs to ensure the NDF is progressing in a fully inclusive way and that sustainable development is aligned with a rights-respecting approach. This would further contribute to embedding children’s rights within Wales and ensuring that the NDF achieves its positive vision for all. I am due to publish guidance notes for those undertaking CRIA to support thorough consideration in line with a children’s rights approach.

Submitted by:



Professor Sally Holland
Children’s Commissioner for Wales

¹⁷ https://www.unicef.org.uk/wp-content/uploads/2017/09/Unicef-UK-Briefing_Child-Rights-Impact-Assessment_Wales_September-2017.pdf