



Ymateb i Ymgynghoriad / Consultation Response

Date / Dyddiad: 23rd December 2022

Subject / Pwnc: Statute Law (Repeals) (Wales) Bill

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 Senedd 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.

Thank you for the opportunity to respond to this consultation. My comments are only in relation to two aspects related to children and young people.

The first is related to the proposed repeal which specifically involves services for children and young people – the section within the consultation document relating to statements of special educational needs.

As the document sets out, under section 5 of the Disabled Persons (Services, Consultation and Representation) Act 1986 (the 1986 Act) there is a requirement on a local authority ‘which has been notified about the person’s departure from full-time education to assess the person’s need for services from the authority under “the welfare enactments”’.

However, the Social Services and Wellbeing (Wales) Act 2014 only states that an assessment should only take place ‘where it appears’ to a local authority they must assess. While this does mean that a broader range of young people might be assessed, our concern is that this proposed change could mean there will be less obligation on local authorities in Wales to assess individual need and that it will be easier for local authorities not to undertake assessments on the basis of their own judgement rather than assessing because of statutory duty. I hope that this potential unintended consequence has been fully considered in relation to children’s human rights under the UNCRC.

The second is to state that I feel very strongly that a Children’s Rights Impact Assessment (CRIA) must be carried out and published in relation to these proposals. Given the potential implications of these changes, I am unclear why such an impact assessment, and indeed other equalities impact assessments, have not been published alongside this consultation. A Children’s Rights Impact Assessment (CRIA) would allow Welsh Government to consider in detail whether any of the proposed changes would impact directly upon children’s human rights under individual articles of the United Nations Convention on the Rights of the Child (UNCRC).

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