



## Children’s Rights Impact Assessment (CRIA) Template

<b>Title / Piece of work:</b>	Children’s Right to make a special educational needs appeal and a disability discrimination claim to the Special Educational Needs Tribunal for Wales (SENTW)
<b>Department:</b>	Education and Skills
<b>Date:</b>	05/01/2015

# Six Steps to Due Regard



## **Step 1. What's the piece of work and its objective(s)?**

This piece of work relates to the implementation of the rights and duties under the Education (Wales) Measure 2009 ("*Measure*") that gives children the right to make special educational needs (SEN) appeals and claims of disability discrimination to the SEN Tribunal for Wales (SENTW) themselves. The Measure also places a number of new duties on local authorities to give effect to the new rights and enables the Welsh Ministers to pilot these rights and duties for a period of up to 40 months following Royal Assent.

The Education (Wales) Measure 2009 (Commencement No.3 and Transitional Provisions) Order 2012 ("*the Commencement Order*") and the Education (Wales) Measure 2009 (Pilot) Regulations 2012 ("*the Pilot Regulations 2012*") came into force on 6 March 2012. The effect of this legislation when taken together was to bring into force the majority of the provisions in Part 1 of the Measure 2009 for the purposes of piloting only. The Pilot Regulations 2012 allow for the provisions to be evaluated and for the Welsh Ministers to make an order to amend the Measure if necessary.

The new rights and duties under the Measure were piloted in the local authority areas of Carmarthenshire and Wrexham, originally until 30 June 2015. Once the Pilot Regulations 2012 cease to have effect, the rights and duties will automatically apply to the whole of Wales.

On 26 June 2014, the Minister for Education and Skills announced in a Written Statement his intention to implement the Measure throughout Wales from the beginning of 2015. The decision came following the positive findings from the evaluation report into the pilots.

On 5 January 2015, the Education (Wales) Measure 2009 (Pilot) (Revocation) Regulations 2014 came into force. These Regulations revoke the Pilot Regulations 2012 in their entirety and also revoke article 4 of the Commencement Order. In doing so, these Regulations end the pilots and therefore bring forward the right and duties under the Measure across Wales.

The commencement of these Regulations will have a positive impact on children with SEN and/or a disability as it will allow them to exercise their new rights and duties under the Measure sooner than originally legislated for.

## Step 2. Analysing the impact

Bringing forward the rights under the Measure via the introduction of the Education (Wales) Measure 2009 (Pilot) (Revocation) Regulations 2014 will have a positive impact on children who have SEN and or a disability by giving children parity of rights currently available to their parents.

This rights and duties have been piloted for 2 years in the local authority areas of Carmarthenshire and Wrexham. The Welsh Government commissioned an evaluation of these pilots, a report from which has been published on the Welsh Government website: <http://wales.gov.uk/statistics-and-research/evaluation-pilot-young-peoples-rights-appeal-claim-sen-tribunal/?lang=en>. The evaluation report is generally very positive. It confirms that the systems and processes for informing children and young people of their rights within the two pilot authorities were considered to be well established and are generally regarded as working well.

The evaluation report does conclude that the local authorities' level of awareness of the rights and the duties the Measure imposes on them is generally higher than the level of preparedness. The Welsh Government has therefore developed statutory guidance for local authorities to assist them to understand and comply with their new duties. The statutory guidance sets out their responsibilities under the Measure and signposts to good practice developed through the pilots. As the statutory guidance is targeted for local authorities, there is no requirement to produce a child friendly version.

## Step 3. How does your piece of work support and promote children's rights?

The Education (Wales) Measure 2009 gives practical expression to the United Nations Convention on the Rights of the Child, in particular:

**Article 12 – Children have the right to say what they think should happen when adults are making decisions that affect them and to have their opinions taken into account. It also states the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.**

The Regulations will allow for children to access the rights under the Measure and sooner than originally legislated for. The rights to appeal and make a claim will go above and beyond article 12 by giving the same statutory rights that are available to adults (parents).

In addition, the following core principles of the UNCRC apply to this policy:

**Articles 2 and 3 - respect for children's best interests and rights.**

The SENTW give full consideration of the child's 'voice' in any appeal or claim made by children.

**Article 13 - freedom of expression, which includes the right to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.**

All local authorities have a duty to provide advice and information about matters relating to a child's needs. The Measure also gives children the right to be referred to an Independent advocacy service.

**Article 23 - recognising a mentally or physically disabled child's right to enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.**

Children will have the opportunity to challenge the educational provision that they receive.

**Articles 28 and 29 - recognise the rights of every child to an education, on the basis of equal opportunity, which develops a child's personality, talents and mental and physical abilities to their fullest potential.**

Children have an equal opportunity to appeal or make a claim to the SENTW and have a say in the type of educational provision that they should receive.

**Step 4. Advising the Minister and Ministerial decision**

Ministerial advice was provided under The Education (Wales) Measure 2009 (Pilot) (Revocation) Regulations 2014 and Statutory Guidance on Children's Rights to Appeal and Make a Claim.

This confirms that that the CRIA has been considered in developing this policy and that this CRIA will be published upon the Education (Wales) Measure 2009 (Pilot) (Revocation) Regulations 2014 coming into force. No conflict with the UNCRC articles has been identified.

The Minister has approved the recommendation of the submission.

**Step 5. Recording and communicating the outcome**

This CRIA will be published on the Welsh Government website at the same time that the Education (Wales) Measure 2009 (Pilot) (Revocation) Regulations 2014 come into force on 5 January 2014.

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### Step 6. Revisiting the piece of work as and when needed

This impact assessment will be reviewed following the outcome of the legislative proposals to reform the statutory framework for SEN.

#### Budgets

<b>As a result of completing the CRIA, has there been any impact on budgets?</b> It is important that where any changes are made to spending plans, including where additional allocations have been made, that this has been assessed and evidenced as part of the CRIA process.	<b>No</b>
<b>Please give any details:</b>     	

#### Monitoring & Review

<b>Do we need to monitor / review the proposal?</b>	Yes
<b>If applicable: set the review date</b>	2016

**See next page for a  
Summary List of the  
UNCRC articles**



# THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD

[www.uncrcletsgetitright.co.uk](http://www.uncrcletsgetitright.co.uk)

The United Nations Convention on the Rights of the Child is an international agreement that protects the human rights of the children under the age of 18. On 16 December 1991, the United Kingdom of Great Britain and Northern Ireland formally agreed to make sure that every child in the UK has all the rights as listed in the convention. The Welsh Government has shown its commitment to the convention by adopting it as the basis for policy making for children in Wales.

Altogether there are 54 articles in the convention. Articles 43-54 are about how adults and governments should work together to make sure all children are entitled to their rights. The information contained here is about articles 1-42 which set out how children should be treated.



Llywodraeth Cymru  
Welsh Government

[www.cymru.gov.uk](http://www.cymru.gov.uk)

## Article 1

Everyone under 18 years of age has all the rights in this Convention.

## Article 2

The Convention applies to everyone whatever their race, religion, abilities, whatever they think or say and whatever type of family they come from.

## Article 3

All organisations concerned with children should work towards what is best for each child.

## Article 4

Governments should make these rights available to children.

## Article 5

Governments should respect the rights and responsibilities of families to direct and guide their children so that, as they grow, they learn to use their rights properly.

## Article 6

All children have the right of life. Governments should ensure that children survive and develop healthily.

## Article 7

All children have the right to a legally registered name, the right to a nationality and the right to know and, as far as possible, to be cared for by their parents.

## Article 8

Governments should respect children's right to a name, a nationality and family ties.

## Article 9

Children should not be separated from their parents unless it is for their own good, for example if a parent is mistreating or neglecting a child. Children whose parents have separated have the right to stay in contact with both parents, unless this might hurt the child.

## Article 10

Families who live in different countries should be allowed to move between those countries so that parents and children can stay in contact or get back together as a family.

## Article 11

Governments should take steps to stop children being taken out of their own country illegally.

## Article 12

Children have the right to say what they think should happen, when adults are making

decisions that affect them, and to have their opinions taken into account.

## Article 13

Children have the right to get and to share information as long as the information is not damaging to them or to others.

## Article 14

Children have the right to think and believe what they want and to practise their religion, as long as they are not stopping other people from enjoying their rights. Parents should guide their children on these matters.

## Article 15

Children have the right to meet together and to join groups and organisations, as long as this does not stop other people from enjoying their rights.

## Article 16

Children have a right to privacy. The law should protect them from attacks against their way of life, their good name, their families and their homes.

## Article 17

Children have the right to reliable information from the mass media. Television, radio and newspapers should provide information that children can understand, and should not promote materials that could harm children.

## Article 18

Both parents share responsibility for bringing up their children, and should always consider what is best for each child. Governments should help parents by providing services to support them, especially if both parents work.

## Article 19

Governments should ensure that children are properly cared for, and protect them from violence, abuse and neglect by their parents or anyone else who looks after them.

## Article 20

Children who cannot be looked after by their own family must be looked after properly, by people who respect their religion, culture and language.

## Article 21

When children are adopted the first concern must be what is best for them. The same rules should apply whether the children are adopted in the country where they were born or taken to live in another country.

## Article 22

Children who come into a country as refugees should have the same rights as children born in that country.

## Article 23

Children who have any kind of disability should have special care and support so that they can lead full and independent lives.

## Article 24

Children have the right to good quality health care and to clean water, nutritious food and a clean environment so that they will stay healthy. Rich countries should help poorer countries achieve this.

## Article 25

Children who are looked after by their local authority rather than their parents should have their situation reviewed regularly.

## Article 26

The Government should provide extra money for the children of families in need.

## Article 27

Children have a right to a standard of living that is good enough to meet their physical and mental needs. The Government should help families who cannot afford to provide this.

## Article 28

Children have a right to an education. Discipline in schools should respect children's human dignity. Primary education should be free. Wealthy countries should help poorer countries achieve this.

## Article 29

Education should develop each child's personality and talents to the full. It should encourage children to respect their parents, and their own and other cultures.

## Article 30

Children have a right to learn and use the language and customs of their families, whether these are shared by the majority of people in the country or not.

## Article 31

All children have a right to relax and play, and to join in a wide range of activities.

## Article 32

The Government should protect children from work that is dangerous or might harm their health or their education.

## Article 33

The Government should provide ways of protecting children from dangerous drugs.

## Article 34

The Government should protect children from sexual abuse.

## Article 35

The Government should make sure that children are not abducted or sold.

## Article 36

Children should be protected from any activities that could harm their development.

## Article 37

Children who break the law should not be treated cruelly. They should not be put in prison with adults and should be able to keep in contact with their families.

## Article 38

Governments should not allow children under 15 to join the army. Children in war zones should receive special protection.

## Article 39

Children who have been neglected or abused should receive special help to restore their self respect.

## Article 40

Children who are accused of breaking the law should receive legal help. Prison sentences for children should only be used for the most serious offences.

## Article 41

If the laws of a particular country protect children better than the articles of the Convention, then those laws should stay.

## Article 42

The Government should make the Convention known to all parents and children.

For further information on the United Nations Convention on the Rights of the Child please visit: The Welsh Government's UNCRC Website: [www.uncrcletsgetitright.co.uk/](http://www.uncrcletsgetitright.co.uk/)

Cic - The National Information and Advice Service for Young People [www.ciconline.co.uk/news/](http://www.ciconline.co.uk/news/)

