



Children’s Rights Impact Assessment (CRIA) Template

Title / Piece of work:	Policy to introduce statutory guidance and regulations relating to the area plans required by Part 2, Section 14A of the Social Services and Well-being (Wales) Act 2014
Name of Official:	Tom Cleaver
Department:	Health and Social Services Group
Date:	January 2017
Signature:	<i>Tom Cleaver</i>

Please complete the CRIA and retain it for your records on iShare. You may be asked to provide this document at a later stage to evidence that you have complied with the duty to have due regard to children’s rights e.g. Freedom of Information access requests, monitoring purposes or to inform reporting to the NAFW.

Upon completion you should also forward a copy of the CRIA to the Measure Implementation Team for monitoring purposes using the dedicated mailbox CRIA@wales.gsi.gov.uk

If officials are not sure about whether to complete a CRIA, they should err on the side of caution and seek advice from the Measure Implementation Team by forwarding any questions to our mailbox CRIA@wales.gsi.gov.uk

You may wish to cross-reference with other impact assessments undertaken.

NB. All CRIAs undertaken on legislation must be published alongside the relevant piece of work on the WG website. All other CRIAs must be listed in the WG CRIA newsletter and must be made available upon request. Ministers are however, encouraged to publish all completed CRIAs.

Six Steps to Due Regard



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

You may wish to include:

- Is it likely that the piece of work will specifically affect children?
- A brief description of the piece of work
- What the time frame for achieving it is?
- Will the piece of work have an effect on a particular group of children, if so, describe the group affected?
- Provide links to any supporting evidence, data or research which support your proposal.

This piece of work is about the policy to introduce statutory guidance and supporting regulations on area plans required under the Social Services and Well-being (Wales) Act 2014 ("The 2014 Act"). This Children's Rights Impact Assessment (CRIA) stands as an addendum to the CRIA completed for Part 2 of the 2014 Act, available at:

<http://gov.wales/topics/health/socialcare/act/assessments?lang=en>

The 2014 Act brings together local authorities' and Local Health Board (LHB) duties and functions in relation to improving the well-being of people who need care and support, and carers who need support.

Section 14A of the 2014 Act requires local authorities and LHBs to each prepare and publish a plan following the carrying out of an assessment (known as a "population assessment") of needs under section 14 of the 2014 Act. This plan (known as an "area plan") must set out, amongst other things, the range and level of services the body proposes to provide, or arranges to be provided, in response to the population assessment, focusing on integration.

To support Section 14A, the following guidance and regulations have been developed:

- Statutory guidance in relation to area plans under section 14A ("the area planning guidance")
- the Care and Support (Area Planning) (Wales) Regulations 2017 ("the area planning regulations")
- the Partnership Arrangements (Amendment) (Wales) Regulations 2017 ("the 2017 partnership regulations")

Subject to approval by the National Assembly for Wales, the Regulations are due to come into force on 1 April 2017, alongside the statutory guidance. The first area plan must be published by 1 April 2018.

The Act will benefit all people who need care and support and carers who need support. This will include children (defined in the Act as people who are aged under 18). By bringing together the mass of social care legislation that currently exists for adults, children and carers, the Act greatly simplifies eligibility and access for all people in need of care and support to allow a seamless

transition of care and support across services and maintains the family model that has operated in Wales for many decades.

The *Equality Act 2010* provides for a ban on age discrimination in social care. The Act specifically changes the social care landscape by dispensing with the artificial barriers of age and instead providing for 'people'.

A strong voice and real control is central to the legislative framework. This optimises everyone's opportunity for well-being and an appropriate level of independence. Everyone, child or adult, can be given a voice – an opportunity – a right – to be heard as an individual, as a citizen, to have control over their day to day lives.

Area plans will have a positive effect all people, including children by clearly setting out the range and level of services to be provided or arranged in response to the needs identified in the population assessment reports. Area plans will therefore contribute to enabling the delivery of effective care and support services and support services for carers across each region.

The Welsh Government has committed to an approach of engaging with stakeholders in the process of developing regulations, codes of practice and guidance to support implementation of the 2014 Act. The aim was to deliver on the practice and culture change being driven forward by the Act.

A 12 week consultation on both sets of draft Regulations and the draft area plan guidance, ran between 11 July 2016 and 3 October 2016.

There were 27 substantive written responses received to the consultation from a wide range of statutory organisations, third sector groups and professional bodies. This included regional partnership boards, individual health boards, the Children's and Older People's Commissioners and the ADSS Cymru / Welsh Local Government Association (WLGA) who produced a joint response.

Responses to the consultation were broadly supportive with suggestions focussing on matters of detail, small additions and amendments to the text. The majority of these suggestions were accepted as they were judged to be in line with the broad policy position.

To ensure a sufficient emphasis on engagement with children within the guidance, in response to various points made by the Children's Commissioner, the guidance has been amended. It now makes clear that in keeping with the process for population assessments, in preparing the area plans, local authorities and LHBs must ensure that reasonable steps are taken and a procedure established to engage with people in the area, **including children** who have or may have needs for care and support.

The consultation summary report and a list of respondents to the consultation can be found at:

<https://consultations.gov.wales/consultations/regulations-and-statutory-guidance-area-plans-following-population-assessment>

In addition to the consultation, representatives from each regional partnership board in Wales were invited to an event in Cardiff on 9 September 2016 to discuss the contents of the area plan consultation in detail and highlight any issues requiring clarification before the consultation closed. Comments from this event broadly reflected comments received in the consultation responses.

Step 2. Analysing the impact

- What positive impacts will this piece of work have on children, young people or their families?
- What are the negative impacts and what compensatory measures may be needed to mitigate them?
- How will you know if your piece of work is a success?
- Have you considered the short, medium and long term outcomes?
- Have you developed an outcomes framework to measure impact?
- Do you need to engage with children & young people and/or stakeholders to seek their views using consultation or participatory methods?
- If yes to above, how have their views influenced your work?
- Do you need to produce child friendly versions of proposals/consultations?
- Does the piece of work have any links to delivering the key objectives of the [Child Poverty Strategy for Wales](#)?
- If so, state how the work may impact on child poverty.

The introduction of area plans will have a positive impact on children and young people by clearly specifying the range and level of services to be provided or arranged for children and young people in response to the needs identified in the population assessment reports, focusing on integration.

No specific negative impacts have been identified under this policy. To mitigate against the risk of not adequately specifying the range and level of services to be provided for children and young people, it is important that area plans are based a strong body of evidence. To support this, the area planning regulations state that in preparing an area plan, a relevant body must take reasonable steps to engage with people in the area with parental responsibility for children who have or may have needs for care and support. This will ensure the needs of younger people will be adequately covered as part of the planning process.

In addition, the statutory guidance sets out that area plans should set out the services planned by local authorities and LHBs in response to the core themes within the population assessment. One of these core themes is 'children and young people'. This should further ensure the needs of children and young people are fully considered in plans.

If successful, area plans will provide local authorities and health boards with a clear description of the range and level of services they need to provide or arrange in response to the needs identified in the population assessment reports, with a focus on prevention. Area plans should also provide members of the public with a clear picture of the services being provided in their area.

Within the Act, well-being including the well-being of children will be measured nationally by the national outcomes framework. The national outcomes framework is made up of a well-being statement and national outcomes indicators. These national outcome indicators will be reported on by the Welsh Government and will provide evidence on whether care and support services are improving national well-being outcomes for children in Wales.

The area plan guidance includes a requirement that in planning the range and level of services necessary to meet need, local authorities and LHBs should ensure the joint area plans describe a range and level of services which support the achievement of well-being in line with the national outcomes

A 12 week consultation on both sets of draft Regulations and the draft area plan guidance, ran between 11 July 2016 and 3 October 2016.

There were 27 substantive written responses received to the consultation from a wide range of statutory organisations, third sector groups and professional bodies. This included regional partnership boards, individual health boards and the Children's Commissioner for Wales.

As set out in Step 1, the draft guidance was amended following the consultation to make clear that

in preparing the area plans, local authorities and LHBs must ensure that reasonable steps are taken and a procedure established to engage with people in the area, **including children** who have or may have needs for care and support.

A young persons summary of the Social Services and Well-being (Wales) Act has been developed, this is available at:

<http://gov.wales/topics/health/socialcare/act/?lang=en>

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

Dependant upon the impact of your piece of work, use balanced judgement to assess:

- Which UNCRC articles are **most** relevant to the piece of work? Consider the articles which your piece of work impacts upon. <http://childrensrights.wales/images/PDF/UNCRCRights.pdf>
- Explain why these articles are relevant and how the piece of work promotes them.
- How are you improving the way children and young people access their rights?
- What aspects of children's lives will be affected by the proposal?
- What are the main issues that the CRIA should focus on?
- Does the piece of work help to maximise the outcomes within the articles of the UNCRC?
- If no, have any alternatives to the current piece of work been considered?
- Include any evidence from consultation(s), if applicable, here.

As part of the Act, an assessment of relevant UNCRC articles took place as part of the Explanatory Memorandum process for the Social Services and Well-being (Wales) Bill. A link is attached (pages 91 to 93 within the linked document):

<http://www.assemblywales.org/bus-home/bus-business-fourth-assembly-laid-docs/pri-ld9181-em-e.pdf?langoption=3&ttl=PRI-LD9181-EM%20-%20Social%20Services%20and%20Well-being%20%28Wales%29%20Bill%20-%20Explanatory%20Memorandum>

The Act helps to maximise the outcomes within the articles of the UNCRC by requiring under section Section 7 (2) that a person exercising functions under the Act in relation to a child requiring care or support, or who is a carer, or who is a looked after child must have due regard to Part 1 of the United Nations Convention on the Rights of the Child.

In relation to area plans, the following UNCRC Articles have been identified as being most relevant:

- **Article 3:** All organisations concerned with children should work towards what is best for each child.
- **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. Helping children to understand their rights does not mean pushing them to make choices with consequences that they are too young to handle.
- **Article 6:** All children have the right of life. Governments should ensure that children survive and develop healthily.
- **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 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 23:** Children who have any kind of disability should have special care and support so that they can lead full and independent lives.
- **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.

Section 6(4) of the Act states that a person exercising functions under the Act in relation to a child falling under subsection (1) who is:

- (a) An individual who has, or may have, needs for care and support,
- (b) A carer who has, or may have needs for support, or
- (c) An individual in respect of whom functions are exercisable under Part 6 of the Act (including a looked after or accommodated child)

must have regard to-

- (a) the importance of promoting the upbringing of the child by the child's family, in so far as doing so is consistent with promoting the well-being of the child, and
- (b) Where the child is under the age of 16, must ascertain and have regard to the views, wishes and feelings of the persons with parental responsibility for the child, in so far as doing so is-
 - i. Consistent with promoting the well-being of the child, and
 - ii. Reasonably practicable

This requirement is particularly relevant to Article 5 of the UNCRC.

Area plans will promote the above articles by providing a clear description of the range and level of services to be provided or arranged in respect of children and young people. Plans are also required to be published, providing members of the public, including children and young people with a clearer picture of the services being provided in their area. This should improve children and young people's knowledge of the services available, better enabling them to access the UN rights listed above.

Step 4. Advising the Minister and Ministerial decision

When giving advice and making recommendations to the Minister, consider:

- Outlining the ways in which the piece of work helps to maximise the outcomes within the articles of the UNCRC?
- Has any conflict with the UNCRC articles within the proposal been identified?
- Outlining the wider impact; does the proposal affect any other policy areas?
- With regard to any negative impacts caused by the proposal; can Ministers evidence that they have allocated as much resources as possible?
- What options and advice should be provided to Ministers on the proposal?
- In relation to your advice on whether or not to proceed with the piece of work, is there any additional advice you should provide to the Minister?
- How undertaking this CRIA has influenced your advice to the Minister.
- Is it appropriate to advise the Minister to reconsider the decision in the future, in particular bearing in mind the availability of resources at this time and what resources may be available in the future?
- Have you provided advice to Ministers on a LF/SF and confirmed consideration of the UNCRC at the relevant paragraph i.e. statutory compliance?
- Is the advice supported by an explanation of the key issues?

Ministerial agreement has been sought throughout the entirety of this programme of work under the Act. The advice given to the Minister for Social Services and Public Health following the analysis of consultation responses for the draft area plan guidance and supporting regulations confirmed that a CRIA was being completed as part of the work programme. No conflict with the UNCRC articles or negative impacts on children within the code, have been identified.

The proposal to develop guidance and legislation in relation to area plans also links in with several other policy areas. Specifically, the statutory guidance sets out the expectation that area plans will contribute to assessments of local well-being and local well-being plans, required under the Well-being of Future Generations (Wales) Act 2015. They will also contribute important information and data about care and support needs and support needs for carers to the preparation of the Integrated Medium Term Plans required to be produced by LHBs and provided for under the NHS Finance (Wales) Act 2014.

Several options were considered in respect of the supporting legislation developed to support the 14A area plan requirements in the Act. These options are listed as part of the regulatory impact assessments completed for the area planning regulations and the 2017 partnership regulations. Copies can be obtained from the Department of Health and Social Services, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

Confirmation that a CRIA would be required as part of this policy was included in MA-L/RE/5038/16 which sought agreement to consult on the draft guidance and supporting legislation on area plans. This ensures the impact of the new code on children and their rights will be fully considered in the context of UNCRC before guidance and regulations are finalised.

Step 5. Recording and communicating the outcome

Final version to be retained on i-share

Evidence should be retained that supports:

- How the duty has been complied with **(Steps 1-3 above)**
- The analysis that was carried out **(Steps 1-3 above)**
- The options that were developed and explored **(Steps 1- 3 above)**
- How have the findings / outcomes been communicated? **(Step 4 above)**
- 'Tells the story' of how the assessment has been undertaken and the results **(Step 4 above)**
- Include any hyperlinks to additional background information which may be of relevance.
- All CRIAs undertaken on legislation must be published alongside the relevant piece of work on the WG website. All other CRIAs must be listed in the WG website CRIA newsletter and must be made available upon request. Ministers are however, encouraged to publish all completed CRIAs.

The evidence provided in Steps 1-3 above sets out in more detail the way in which rights of children and young people have been considered in the code and how the duty has been complied with.

As set out in Steps 1-3, the draft guidance and regulations were subject to a twelve week formal consultation between 11 July 2016 and 3 October 2016. There were 27 substantive written responses received to the consultation from a wide range of individuals, third sector groups and professional organisations.

In addition to the consultation , representatives from each regional partnership board in Wales were invited to an event in Cardiff on 9 September 2016 to discuss the contents of the area plan consultation in detail and highlight any issues requiring clarification before the consultation closed. Comments from this event broadly reflected comments received in the consultation responses and also informed the re-drafting of the post-consultation guidance and legislation.

This CRIA will be published on the Welsh Government website.

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

In revisiting the piece of work, consider any monitoring, evaluation or data collection that has been undertaken:

- Has your piece of work has had the intended impact as set out in Step 2.
- Have you engaged with stakeholders to discuss how the policy or practice is working.
- If not, are changes required.
- Identify where improvements can be made to reduce any negative impact.
- Identify any opportunities to promote children’s rights, bearing in mind any additional availability of resources at this time.

The Act contains provision to allow for Ministers to monitor functions of the Act carried out by local authorities and other bodies. Ministers may require these bodies to report on their duties in implementing these regulations.

Officials will continue to monitor the impact of the regulations and guidance in relation to the UNCRC once the first area plans are due to be submitted in April 2018.

Budgets

Does the piece of work have any associated allocation of budget?

No

Can you identify how much of this budget will be used for children and young people?

N/A

It is important that where any changes are made to spending plans, including where additional allocations or savings have been made, that this has been assessed and evidenced as part of the CRIA process.

Has any additional spend been identified to ensure children and young people have been given an opportunity to contribute to the piece of work and have their opinions heard? If so, how much?

No

Please give any details:

There has not been any impact on budgets as a result as this CRIA. Explanatory Memoranda and Regulatory Impact Assessments have been completed which include a consideration of the cost implications of introducing the regulations in relation to area plans.

Monitoring & Review

Do we need to monitor / review the proposal?	No
If applicable: set the review date	N/A

Please forward a copy of this CRIA to CRIA@wales.gsi.gov.uk for monitoring purposes



THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD

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

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 to 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/

Cic - The National Information and Advice Service for Young People www.ciconline.co.uk/news/

