



Children's Rights Impact Assessment (CRIA) Template

Title / Piece of work:	Code of Practice on the exercise of social services functions in relation to Advocacy under Part 10 and related parts of the Social Services and Well-being(Wales) Act 2014
Related SF / LF number (if applicable)	
Name of Official:	Rebecca Powell
Department:	Health and Social Services Group
Date:	November 2015
Signature:	

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. All non-legislative CRIAs will be listed on the WG website 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)?

The Social Services and Well-being (Wales) Act 2014 (the Act) received Royal Assent on 1 May 2014, and will come into effect in April 2016. The Act puts a duty on any persons exercising functions under the Act to seek to promote the well-being of people who need care and support and carers who need support. The Act also provides the statutory framework to deliver the Welsh Government's commitment to integrate social services to support people of all ages, and support people as part of families and communities.

Timeframe

The statutory framework will consist of three main elements:

- 1.the Social Services and Well-being (Wales) Act 2014);
- 2.regulations made under the Act; and
- 3.codes of practice/statutory guidance.

These three elements work together to form the framework within which Social Services will operate from April 2016.

8 May to 31 July 2015: Public consultation on code of practice in relation to Advocacy under Part 10 and related parts of the Act.

Autumn / November 2015: Code of Practice laid before the Assembly.

April 2016: Commencement of the Social Services and Well-being (Wales) Act 2014.

This assessment has been completed for the Code of Practice on the exercise of Social Services functions in relation to Advocacy under Part 10 and related parts of the Social Services and Well-being (Wales) Act 2014 (the Code). The Code is issued under section 145 of the Act and sets out the requirements for local authorities to provide people access to advocacy services and ensure support is available to enable individuals to engage and participate to achieve their well being outcomes.

The Code outlines the responsibility of local authorities to:

- ensure that access to advocacy services and support is available to enable individuals to engage and participate when local authorities are exercising statutory duties in relation to them and
- to arrange an independent advocate to facilitate the involvement of individuals in certain circumstances.

The Code recognises the over-arching duties under section 6 of the Act require that any person exercising functions under the Act must:

in so far as reasonably practicable, ascertain and have regard to people's views, wishes and feelings (including children, families of children, young people and carers) and

have regard to the importance of providing support to enable the individual (including children, families of children, young people and carers) to participate in decisions that affect him or her, to the extent that it is appropriate in the circumstances, particularly where the individual's ability to communicate is limited for any reason.

These over-arching duties, together with the United Nation Principles and Convention on the rights of a child under section 7 of the Act are integral in understanding and assessing people's well-being outcomes; what matters to people; and people's needs for care and support to enable them to achieve their personal well-being outcomes.

Advocacy should be considered as an inherent element of the Act to focus social care around people and their well-being. Advocacy helps individuals including children and young people, to understand how they can be involved, how they can contribute, and take part wherever possible to lead or direct the process.

Step 2. Analysing the impact

The Act takes forward Wales' distinctive and internationally regarded rights based approach to children's social care. The assessment of the impacts that the Act will have on children and young people confirms the rights based approach that is taken, reveals that many of the Articles are relevant and those listed below are being dealt with in the Act.

The rights conferred on children in the Act apply to all children regardless of any of their characteristics.

"Well-being" is a key concept throughout the Act. The definition of "well-being" in section 2(3) specifically ensures that it includes the physical, intellectual, emotional, social and behavioural development of children.

The Act creates a comprehensive framework of general duties for local authorities and other public bodies towards children in their area combined with specific entitlements for individual children or their carers following assessment of their well-being.

The positive impact for children and young people is that advocacy services and support is accessible. It will enable and empower them to express their views, wishes and feelings, and to give them a voice and control over their well-being outcomes.

The Code sets out the circumstances which individuals, including children and young people, may require advocacy services and when a local authority must provide advocacy. The need for advocacy for looked after and other specified children is set out as Section 178 of the Act re-states the existing entitlements of looked after children and to other children specified within section 178 (“entitled children”) to advocacy and comes into force from April 2016. The duties owed to those children remain extant.

The Code sets out principles of effective commissioning and publishing of advocacy which will ensure that children and young people will have access to support and are able to have information in a format that is suitable for them to ensure they are informed of what they are eligible for.

Specifically for looked after children and other specified children, the Code explicitly states: Local authorities must have robust communication and publicity mechanisms to ensure that children, including those with additional communication needs, are aware of their right to make a complaint and to have an advocate. This must include

- providing information for entitled children about advocacy and associated services which are available;
- informing entitled children about advocacy when they intend or wish to make a complaint; and
- providing help and assistance when entitled children want an advocate to speak for them.

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

The following UNCRC Articles have been identified as most relevant to the Code:

- **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 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 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 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 25** – Children who are looked after by their local authority and who have a care and support plan rather than their parents should have their situation reviewed regularly.
- **Article 39** - Children who have been neglected or abused should receive special help

to restore their self respect

Consistent with the commitments to secure strong voice and control, the Code supplemented by all relevant codes of practice issued under the Act, enable local authorities and individuals(including children and young people), in genuine partnership, to consider the range of advocacy support available and put the necessary arrangements in place. This will include the specific requirements on the local authority to arrange an independent advocate to support the child or young person wherever a local authority exercises a relevant function under the Act in relation to that person.

Specifically, local authorities must arrange for the provision of an independent advocate when a person can only overcome the barrier(s) to **participate fully in the assessment, care and support planning, review and safeguarding processes** with assistance from an appropriate individual, but there is no appropriate individual available and to support entitled children when making a complaint or representation.

Section 7 of the Act requires 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 to have due regard to Part 1 of the United Nations Convention on the Rights of the Child

The Code is therefore intended to improve outcomes referred to in the relevant articles of UNCRC.

Step 4. Advising the Minister and Ministerial decision

The advice to the Minister of Health and Social Services confirms that this CRIA has been completed. No conflict with UNCRC articles has been identified.

A 12 week consultation on the Code ran between 8 May and 31 July 2015. In addition a series of engagement events, in line with the formal consultation, were held which included representatives from the Association of Directors of Social Services Heads of Children's Services and representatives from the Office of the Children's Commissioner. As a result of comments received from the formal consultation and the engagement events amendments were incorporated into the Code of Practice.

A full report of the consultation and the analysis of responses can be accessed on the Welsh Government website:

<http://gov.wales/consultations/healthsocialcare/part10/?status=closed&lang=en>

Step 5. Recording and communicating the outcome

Final version to be retained on i-share

The overall intended effect of the Code is to ensure that children and young people can achieve their well-being outcomes by ensuring they have access to advocacy services and support is available to enable them to engage and participate when local authorities are exercising statutory duties in relation to them. To enable their views, wishes and feelings to be heard and enable them to make their own informed decisions.

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 addressed in drafting the Code.

A draft Code of Practice was produced for consultation. The consultation period ran from 8 May 2015 to 31 July 2015.

The draft Code was co-produced with a technical working group which included representations from children's groups such as the Office of the Children's Commissioner for Wales, Children in Wales, Barnardo's Cymru, local authorities and Advocacy providers.

As well as formal consultation, using various formats, officials gave presentations to groups, held discussions, attended one to one meetings, encouraged people to invite them to their existing meetings, and wrote articles and gave them to our partners to use within their networks. Stakeholders were asked to share information with their networks and feed back to Welsh Government.

As well as key contacts being encouraged to disseminate the consultation documents amongst their networks, to support wider engagement, easy read and children and young-people friendly versions were also produced and disseminated.

Once the Act comes into force in April 2016 child friendly literature on the Act will be developed.

Chris P- is this the case?

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

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 Code in relation to the UNCRC.

Budgets

<p>As a result of completing the CRIA, has there been any impact on budgets?</p> <p>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.</p>	<p>No</p>
<p>Please give any details:</p> <p>There has not been any impact on the budget as a result of this CRIA.</p>	

Monitoring & Review

<p>Do we need to monitor / review the proposal?</p>	<p>Yes / No</p>
<p>If applicable: set the review date</p>	<p>Month / Year</p>



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/

