



Ymateb i Ymgynghoriad / Consultation Response

Date / Dyddiad: 03.06.2020

Subject / Pwnc: Inquiry into COVID-19 and its impact on matters relating to the Equality, Local Government and Communities Committee's remit

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.

Dear Chair,

Thank you for the opportunity to contribute to this inquiry.

This current crisis presents a serious challenge to children's enjoyment of the Human Rights to which they are entitled under the United Nations Convention on the Rights of the Child (UNCRC).

There can be no doubt that the lives of every child living in Wales are being affected at this time. It is also absolutely paramount to recognise that their experiences will vary enormously, particularly but not solely as a result of the inequalities that were already present before the Coronavirus (COVID-19) outbreak.

This response will specifically focus on areas linked to the remit of this Committee:

- The significance of ensuring responses to Covid-19 take into account the human rights of children.
- Issues raised with my office by families and professionals to date including matters related to child poverty, children with disabilities and children experiencing domestic abuse. Throughout this period I have raised a range of these policy matters with officials across Government.
- Considering how to move forward – Along with the loss and challenges we have seen, more acknowledgement of the inequalities that exist, compassion, and new ways of supporting and working together. These should not be lost going forward. Nor should matters that were being explored before the pandemic through the child poverty review and the Committee's Benefits in Wales: Better Options for Delivery Inquiry.

I have also submitted a full response to the Senedd's Children, Young people and Education Committee (CYPE Committee) covering a range of areas that cut across all areas of children's lives.

For the purpose of clarity this response uses the term children and young people interchangeably to refer to anyone under the age of 18.

The Human Rights of Children

The UNCRC provides all children with a unique set of human rights. It identifies that children have different needs and vulnerabilities and that on this basis they should be distinctly recognised and protected.

All rights in the UNCRC are linked and ultimately it should be seen as a whole, although at times there will be those that appear particularly relevant to a specific issue or policy decisions.

In the case of this pandemic the impact on the rights of children is far reaching including, but not limited to, the right to the best possible health (Article 24), Protection (Articles 19 and 39), a good standard of living (Article 27), education (Articles 28 and 29), freedom to associate with friends (Article 16) and play (Article 31).

As the Committee will be aware Wales has made a specific commitment to children's rights under the Rights of Children and Young Persons (Wales) Measure 2011. This places a duty on Ministers to have due regard to the UNCRC when developing or reviewing legislation and policy. The Children's Rights Scheme and Children's Rights Impact Assessment (CRIA) provides the framework for implementing and evidencing that this duty has been fulfilled.

On this basis whilst the Coronavirus Act 2020 is UK Government legislation the decisions made to inform the Regulations in Wales should be subject to a CRIA. However, I am aware from the CYPE Committee's session on Tuesday 5th May 2020 that the Welsh Government had not completed any CRIA's around such decisions.

I understand that the urgency and the overriding public health emergency drove the initial phase of regulations. Nevertheless, the 3-weekly review process allows for impact assessments to be undertaken on a rolling basis. If it has not been possible to assess impact on children and young people or obtain their views prior to enacting the original Regulations, how will the ongoing impact be monitored in order to

inform ongoing policy development? This is also relevant as the Government moves into the 'recovery phase'; how will they know what to change and when, without understanding the impact the decisions they've taken have had and whether any particular groups are affected adversely, including groups that perhaps weren't originally considered when the Regulations were first made?

Whilst I do not necessarily expect to see lengthy written documents for all the areas of an impact assessment, I would expect impact assessments to be undertaken and published. My ongoing scrutiny role is difficult to undertake fully without understanding the considerations that the Government have gone through in reaching any decisions. It will also promote openness and transparency, and should reassure people that their circumstances are being considered, as I have had contacts from children and young people and their families who feel their particular circumstances are currently being forgotten or ignored.

These are aspects that my Head of Policy and Public Affairs has discussed with Welsh Government officials (12th May) following their request for advice on impact assessments in this period. I will be continuing to monitor this issue and have offered further engagement with my office should officials feel this will be beneficial at this unprecedented time.

Issues raised with my office by families and professionals

This section provides a summary of the issues raised with my office to date in relation to the committee's remit.

I would also welcome the opportunity to provide the Committee with the published findings of the nationwide survey of children and young people "Coronavirus and me," when they become available. The survey was developed by my office in partnership with; Youth Parliament/Senedd Ieuenctid Cymru, Welsh Government and Children in Wales. Open to children aged 7 to 18, it covers key children's rights themes and issues, including health and well-being, education, the impact on social aspects of their lives and the needs of specific groups. An accessible version was also provided which took into account the needs of children with additional learning needs and/or disabilities.

The survey ran for 2 weeks, closed on the 27th May and over 23,000 children from across Wales have responded. As project lead, we have provided immediate findings to Welsh Government from the survey which should play a role in policy development for current and longer-term support needs of children. It will also provide me with a valuable insight into the lives of children here in Wales at this time and enable me to advocate for the issues which are important to them.

Child poverty

The latest statistical release identifies that children remain the most likely group to be living in relative income poverty (28%) here in Wales.¹ As the committee will be aware this often used as the measure of child poverty.² For the purpose of this section I refer to child poverty more broadly, for example children living in low income families. I have spoken out about concerns in respect of child poverty on a number of occasions and my [2018/2019 annual report](#) called on Welsh Government to publish a delivery plan setting out in detail how departments across Government will take practical steps to mitigate and tackle the impact of child poverty. It also recommended that this plan take into account the issues raised in [A Charter for Change: Protecting Welsh Children from the impact of poverty](#). A plan of this nature has not been developed to date but I believe this is now more important than ever. This would not only secure coordinated and tangible actions but also provide organisations and families with transparent information and reassurance that there is a plan in place at this worrying time. I am waiting with interest in respect of whether this call will be addressed as part of the Government's Child Poverty Review recommendations which I understand is due to be considered imminently.

Food and hunger including Local Authority responses - The pandemic has highlighted how many children rely on free school meals (FSM) and anecdotally I am aware that some Local Authorities (LA/s) have seen an increase in applications at this time. My office has received a number of contacts from parents, family members and professionals in respect of this matter.

I am pleased that the Welsh Government maintained provision of food for eligible families and expanded to include the school holiday periods to date. The confirmed daily allowance at present is £3.90 per pupil.

¹ <https://gov.wales/relative-income-poverty-april-2018-march-2019>

² <https://seneddresearch.blog/2018/03/16/poverty-in-wales-are-we-getting-the-full-picture/>

It is notable that this is the highest amount paid for a free school meal scheme in the UK at present and took into account that some children will also be missing their entitlement to free school breakfast or milk.

I also welcome that to date free school meals have continued to be provided during the school holidays and Welsh Government guidance directs local authorities to provide free school meals to children whose parent's/carers have no recourse to public funds. These are things should be seriously considered in terms of future Welsh Government policy.

In respect of implementation, local authorities were required to respond quickly to find ways to provide FSM whilst the Welsh Government arranged for a national payment/voucher scheme. However such a scheme is no longer being pursued.

I have since reviewed and analysed the provision from each local authority at present and the issues raised with my office. Key aspects are highlighted below but further information can be found in my submission to the CYPE Committee.

It is positive that most Local Authorities now have arrangements in place to offer direct payments. On balance direct payments are less stigmatising than a voucher scheme, and continue to provide the flexibility for families to shop wherever suits them, close to home, and to meet their child's individual needs and dietary requirements. These payments tend to be via bank transfer. However I understand that organisations working with asylum seeker and refugees have highlighted that some families may not have access to a bank account and have suggested an alternative payment option. This matter should be addressed as soon as possible, if it has not been done so already.

A number of Local Authorities have other FSM arrangements running alongside a direct payment option. For some families this may be a preferred choice and some local authorities are enabling families to choose an option. Professionals have shared that providing food parcels/boxes is a useful way to also keep in touch with the children to see if they need any support with their education or anything else. However, some families highlighted difficulties where they were required to collect parcels from school hub locations, particularly with limits on travel and public transport. My team has raised concerns with Welsh

Government about this and I understand practice is changing. Where food parcels/boxes are being provided these are now tending to be delivered.

The content of boxes has also been raised with my office. The intention of free school meals is for children to have a hot meal, so the provision of meals to heat up or money to purchase these items seems to be preferred by families that have contacted the office as opposed to loaves of bread, sandwich fillings and crisps. I recognise that some families are likely to be experiencing fuel poverty at this time that does present an issue if food parcel/boxes includes meals that are required to be heated but this is the feedback I've received from families so far.

In respect of local authority practice I would also like their websites to be clearer on how to access provision and how the entitlement operates; in undertaking my own review not all of the information was up to date, specific to the pandemic and/or particularly easy to locate. With new families potentially becoming eligible during this period due to job losses and the furlough scheme, it is important that families can access this provision swiftly and in a straightforward way. This should also be the case in respect of information about other forms of support that families may be entitled to at this time including; the Discretionary Assistance Fund, Discretionary Housing Payments and Healthy Start Vouchers. My office has also written to health boards asking for information about access to child and adolescent mental health services to be made clearer on their websites for families.

Consideration of the provision of free school meals has re-raised the concerns I highlighted in my Charter for Change report on children's experiences of poverty in Wales. I would like to see;

- auto enrolment of children eligible for free school meals and the PDG Access grant when applying for other benefits such as housing benefit or council tax reduction and
- that each child or young person has sufficient free school meal allowance for a nutritious, balanced meal.

I have asked the Welsh Government and WLGA to look at how this can be achieved across Wales and had the opportunity to meet with the Minister for Local Government and the Chief Executive of the WLGA earlier this month to discuss this.

The pandemic has also highlighted the issue of food security for children and families many of whom will be struggling but not eligible for free school meals. The Trussell Trust have highlighted that 122% more food parcels have been going to children in the UK compared to the same period in the previous year.³ I am pleased to see that at this time some local authorities are providing additional food parcels for families that are particularly vulnerable. I have also heard how some local authorities are now working more closely with the third sector to coordinate efforts to reach more people in the most effective way possible. Many local authorities also provide additional information about what is available on their free school meal webpages. However this is not a long term solution.

Education inequalities - Concerns about the impact that living in poverty has on children and young people's attainment is well documented.

Schools have continued to set work and tasks, and offer support online, with the HWB platform being extremely useful, but I have raised concerns with Government about those without access to the technology they would need. Government issued some guidance following steps taken in England; initially this wasn't clear but now all families should be advised to contact their local authority if they are having any difficulties and additional funding has been provided to local authorities. I have made sure groups like young carers and care leavers are being specifically thought about in these discussions. These are not new issues and going forward I would like Welsh Government to explore how they can ensure that bridging the digital divide becomes normal practice for all children's education. I have also highlighted the fact that some children will not have somewhere quiet to work with a desk and a chair to use. I've spoken out on this issue in the Welsh media and on Radio 4's Today programme and in one of my [blogs](#).

Lack of advice for schools in respect of direct contact with teachers and the use of virtual lessons to support learning is a matter that I have also asked to be addressed. Such opportunities are especially valuable for children and young people living in poverty. However they are not the only group that is likely to benefit from this form of support. For example, I am aware that those working with asylum seeking and refugee families have highlighted the challenges around supporting home schooling for parents who speak English as a second language.

³ <https://www.trusselltrust.org/2020/05/01/coalition-call/>

Lastly attending good quality childcare provision can have a positive impact on a child's development, particularly in their early years. The poorest children already start school 10 months behind children from families with more money.⁴ Childcare, whether this is term time in a nursery, child minding or a kids' club during the school holidays, has an important role in the lives of children and families. Parents and carers choose to use childcare for a number of reasons including while they go out for work. I am aware of a range of concerns regarding the sustainability of the childcare sector in Wales. On the 3rd April I was copied in to correspondence from CWLWM Partnership raising their concerns about the Job Retention Scheme and various sources of funding. I raised this with the Welsh Government to ensure it was being considered as childcare will be needed as restrictions are lifted. Whilst the childcare offer has temporarily been replaced by the coronavirus childcare assistance scheme I will continue to advocate⁵ for a childcare offer here in Wales which will see children of non-working parents being able to access free/government supplemented places so that they have an opportunity to benefit from good quality childcare. In some economically disadvantaged areas of Wales this is already provided through flying start childcare for 2 to 3 year olds. It will be important that as restrictions are lifted these and other open access community groups offering valuable opportunities to young children irrespective of their parents economic situation are supported to reopen as soon as it is safe to do so.

Housing and the surrounding environment

I have been made aware that Llamau have seen a 50% increase in the number of calls to their youth homelessness helpline, with some partner organisations for the End Youth Homelessness Campaign seeing a significant increase in the number of young people being referred for support due to family breakdown. Welsh Government have taken a number of measures to enable Local Authorities and their stakeholders to provide accommodation to homeless people at this time, the likes of which have not been seen before. Going forward serious consideration should be given to what has been learnt during this time in terms of addressing homelessness here in the short, medium and long term.

⁴ [Children's Commissioner for Wales, Position Paper – Childcare](#)

⁵ [Children's Commissioner for Wales, Position Paper – Childcare](#)

In respect of housing and the surrounding environment, I am acutely aware that housing stock varies greatly in Wales. Some children and their families will be living in properties that provide little or no outdoor space. I've listened to concerns about the impact of the decisions of some local authorities to close their parks and managed green spaces in terms of the right to play and recreational activity (Article 31). Play is important for play's sake although it also benefits learning, wellbeing and physical health. It also comes with no or little cost as demonstrated by the videos posted by my participation team over this period and the work of Play Wales. I've passed these concerns about green spaces on to Welsh Government but this could be something that the committee may wish to explore further when considering local authority responses during this pandemic. In the longer term I believe that housing and planning, along with other policy areas, should not forget the value we have placed on outdoor space during this crisis and consider how we can secure this for current and future generations, regardless of where you live in Wales.

Domestic Abuse and Sexual Violence – Child victims/survivors

Domestic abuse and sexual violence can be mistaken for abuse concerning only adults. However as highlighted by the [Impact On Children Of Experiencing Domestic Abuse](#) children living in a household where domestic abuse takes place are victims of abuse. Sexual violence against children is more commonly referred to as child sexual abuse and exploitation.

Prior to the outbreak children who were suffering from abuse at home but attending school and taking part in other activities away from home will have had some physical distance from their abuser. This may have provided a small amount of respite in the child's day, although it is important to remember that the impact of the abuse will still be present. However this time away from home also provides a very valuable opportunity for other adults in the child's life to pick up on signs of abuse or for the child to tell them they are being abused.

I therefore have very real concerns over the impact of this period on vulnerable children and young people who are now spending all their time in their home environment. Now more than ever there is a very real risk that they may be going "under the radar" of universal services. I am also concerned that families who previously hadn't experienced difficulties at home may begin to as a result of strains related to Covid-19.

It is important that children are seen as part of domestic abuse and sexual violence agenda and consideration given to whether there are necessary supports in place at this time and as restrictions are lifted. This concerns both the support provided by the public and third sector.

It is welcome that Wales has chosen not to relax any of the statutory requirements in relation to children's social care and safeguarding, unlike changes brought forward in England. However many children will not be known to children's social services. The Police and Social Services have both raised concerns about the reduction in referrals/reports in respect of all forms of abuse.

On this basis through my regular engagement with Welsh Government officials I have repeatedly sought assurances on how local authorities and schools are keeping in touch with children known to social services but also children identified as vulnerable. It has been reported to me verbally and in writing by government that local authorities are assessing every individual case using a RAG rating system in terms of face to face contact. I have asked the Welsh Government to share more detailed data that they are gathering from local authorities, so that I can look at this from an independent standpoint. I have not received this yet but expect to receive it soon.

I have written to Wales' Police Forces to seek assurances that if they are coming across children and young people outside of their homes, they will act in a trauma-informed way to determine why it may be that children are not at home. A young person could for example be outside during lockdown because they are being sexually exploited. A trauma informed approach when coming across a young person on the street, which could be as simple as "hello, is everything ok" could open a conversation about what is really going on in that young person's life. I have received written reassurances that a trauma informed approach is being taken. I have also been provided with examples of other key practices and innovative working at this time. I understand that all 4 forces continue, with local variation, to work within the framework of Operation Encompass. "Operation Encompass directly connects the police with schools to ensure better outcomes for children who are subject or witness to police-attended incidents of domestic abuse."⁶ On the 28th April the Home Office announced £3.1 million additional funding to go towards specialist services for children affected by domestic abuse. It was reported that this new funding is to be split between local

⁶ <https://www.operationencompass.org/>

authorities, children's charities and Police and Crime Commissioners across England and Wales. As the information about how this money will be used to help children here in Wales in a timely and effective way has not yet been made public this may be information the committee would like to request.

Lastly, I have raised the profile about the importance of children being able to speak out and get support if they are experiencing domestic abuse and violence at this time through social media. My [Coronavirus Information Hub](#) for children, young people and adults also contains information online safety and concerns about abuse, neglect and other forms of harm.

Children with disabilities

All children's rights under the UNCRC are equal and applicable to all children. However, the convention itself recognises the vulnerability of disabled children providing not only a reminder that they should live as full as lives as possible but a requirement for governments to do all they can to support disabled children and their families([Article 23](#)).

I have raised a number of matters through my conversations with Welsh Government officials as a result of issues raised with my office. Some of these, along with aspects I wish to make the committee aware of can be found below.

In the first week of lockdown, some families of children with disabilities were alarmed by the NICE rapid COVID-19 guidelines on critical care which seemed to indicate that people with disabilities may not be given priority to access ventilators and treatment. Following a legal letter before action in England, the guidelines were swiftly amended and we were able to add this to our Information Hub FAQs to reassure those families who had contacted us.

There has been some confusion during this period about the situation whereby shielding letters have been distributed by the Chief Medical Officer, with GPs then compiling their own shielding lists from their records. There has been particular confusion for families of children with relevant medical needs who have been issued shielding letters by their GP but were not on the original Welsh Government issued list. Many of these children are likely to have a disability. On a practical basis, where the shielding person is a

child, the parents may also need to isolate as they cannot put the child in a separate room for mealtimes, for example, as suggested by Public Health Wales' guidance. A parent contacted us concerned as they were unable to access priority supermarket delivery despite receiving a shielding letter from their GP. This issue was eventually resolved, but the parent was unable to find any answers to her questions until our office eventually received updated information. Further information around this and issues raised in respect of access to health services is provided in my submission to Health, Social Care and Sport Committee.

My office was also made aware that parents of children with disabilities and health conditions were becoming increasingly concerned about the impact that the leaving home restrictions were having on their child's health and wellbeing. Whilst the changes were not introduced at the same time as in England I am pleased that the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020 and related guidance have been amended.

Children with disabilities may also have special educational needs/additional learning needs. My office has received a number of queries about children who have these needs including access to education facilities that are familiar to them, and continuity of support at home such as therapies or tuition. In line with Welsh Government advice my Investigation and Advice service have advised parents that if they wish to find out more about the support available to them and their children they should get in touch with their local education authority.

In respect of entitlements to additional support some children with disabilities may be in receipt of care and support from children's social services. As highlighted in the previous section I am pleased that unlike England the statutory duties to support children under the Social Services and Well-being (Wales) Act 2014 has remained unchanged, although the support may look different due to social distancing and other restrictions.

Lastly my report [The Human Rights of Children in Wales: An Evidence Review](#) identified that there is a lack of disaggregated national data in respect of children with disabilities, the exception to which is information statistics related to education and attainment. During my time as Commissioner children with disabilities have raised on a number occasions that they feel they are given few opportunities to give their views

(Article 12 UNCRC).⁷ It will be even more important for Welsh Government and public services to encourage and support children with disabilities to give their views in respect of their individual needs and policy decisions affecting them. Views shared through the recent nationwide survey can provide a starting point for this but in the longer term it would be positive to secure longer term arrangements for a national picture and response.

Moving forward

The outbreak has put a spotlight on the inequalities that were already present for our children and in many cases exacerbated them. It has also likely to have resulted in some children and families experiencing such inequalities for the first time for example as a result of being in receipt of low or no income.⁸

However, it has been inspiring to see many schools, youth services, charities, local authorities and other public bodies adapting quickly to find new ways to support children and families. I would like to thank them for their tremendous efforts. The previous sections of this response also acknowledges a number of steps taken by the Welsh Government. Whilst we cannot yet know how successful all of this will have been and the public purse will be tight, Welsh Government should enter this new period with a renewed focus on reducing the inequalities for children and families. As part of this, Children's Rights Impact Assessments should be undertaken to help ensure that the rights of children are taken into account from the outset of decision-making.

During this response I have highlighted policy and practice that I believe should be considered going forward including free school meal provision during the holiday period and addressing the digital divide. I am sure there will be many other examples of innovative practice at a national, regional and local level and it is important that these are recorded and considered. I understand Welsh Government has arranged to support the collection of such information and it is essential that examples that specifically address inequalities for children and young people are not overlooked.

⁷ Examples: Children's Commissioner for Wales, [Full Lives: Equal Access Making rights a reality for all children in Wales: A follow up report on wheelchair accessibility in schools in Wales \(2018\)](#) and [Don't Hold back Transitions to adulthood for young people with learning disabilities](#)

⁸ <https://www.parliament.uk/business/committees/committees-a-z/commons-select/welsh-affairs-committee/news-parliament-2017/universal-credit-claims-correspondence-chairs-statement-19-21/>

I would also like to reiterate my call for Welsh Government to publish a child poverty delivery plan setting out in detail how departments across Government will take practical steps to mitigate and tackle the impact of child poverty. As part of my child poverty work I have also called for Welsh Government to explore all available levers to alleviate child poverty. It was on this basis that [I wrote to you last year](#) welcoming the Committee's Inquiry into *Benefits in Wales: options for better delivery*. I hope that on the part of Welsh Government this avenue of inquiry will not be lost in the wake of the pandemic. Meanwhile on a UK Government level I believe it is essential that Welsh Government press for an increase in the level of Universal Credit⁹, an end to the two-child limit, removal of the benefits cap and an end to year-on-year freezes. I will also continue to raise these matters with UK Government as part of my joint work with the other UK Children's Commissioners.

Submitted by:



Professor Sally Holland
Children's Commissioner for Wales

⁹ Although I recognise that an increase has been made during the current crisis.