

Cynulliad Cenedlaethol Cymru
Y Pwyllgor Materion Cyfansoddiadol a
Deddfwriaethol
Bil Senedd ac Etholiadau (Cymru)

National Assembly for Wales
Constitutional and Legislative Affairs
Committee
Senedd and Elections (Wales) Bill

CLA(5) SE07

Ymateb gan Comisiynydd Plant Cymru

Evidence from the Children's
Commissioner for Wales

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.

The Senedd and Elections (Wales) Bill has been introduced following extensive research and engagement work over a number of years. I understand that the proposed approach is a phased approach, so this Bill takes forward some key commitments in relation to the Senedd and the elections process, leaving aside some of the areas needing further refining, such as the size of the Assembly and number of members. I believe that this is a sensible and proportionate approach and I am particularly pleased that this means lowering the voting age to 16 for local and national elections in Wales can be taken forward as part of this first phase.

In this response I will primarily focus on the issue of extending the franchise, as this is the area most relevant to my remit.

Votes at 16

It is clear from the explanatory memorandum which accompanies the Bill that much work has preceded the introduction of this Bill. The Expert Panel recommended the extension of the voting age franchise following consideration of international comparisons, the ages at which other legal rights and responsibilities take effect, the potential impacts on participation

in elections and democracy, quality of decision making, public confidence and administration.

The 'Creating a Parliament for Wales' consultation asked about extending the vote to 16 and 17 year olds and 59 % of respondents considered that the voting age should be reduced to 16. Of those respondents aged under 18, this percentage rises to 83% so a clear view in favour of this change.

Young people aged 16 and 17 are able to live independently, to consent to sexual relationships and to work and pay taxes. Extending the voting franchise in Wales will strengthen the accountability of politicians to young people in those age groups.

My guide [The Right Way](#) which sets out five principles of a children's rights approach for public bodies, recognises the importance of accountability to the population that you serve.

Given that the voting age is to be lowered for local government elections in Wales, it makes complete sense to lower the voting age of Assembly elections. Whilst the Welsh Government cannot unilaterally change the voting age for UK Parliament elections, at least it gives clarity and a unified position for elections affecting Wales only.

10,375 young people from across Wales took part in the 2014/15 Votes@16 consultation. My office was also pleased to support this consultation's aims. Of the young people taking part, 53 per cent were in favour of lowering the voting age. 58 per cent also said they would vote at an election tomorrow if they were eligible, indicating a sizeable group of young people with an active interest in participating in the elections process. It is often said that young people are not interested or motivated to participate in democratic processes but this does not appear to be reflective of the current position.

Whilst I am aware that the creation of the Senedd leuenctid gives younger people, including those under the age of 16, a chance to vote in a democratic process and to participate through becoming a member, for the reasons of accountability noted above I strongly believe that lowering the voting age to 16 is important and should be commended.

It is notable that very few young people responded to the more formal consultation processes. Those who did were supportive of these proposals, but the low numbers indicate that there is more to be done in reaching children and young people with information and relevant material to enable them to participate in the process.

It is my view that lowering the voting age to 16 provides an excellent opportunity to strengthen the engagement of the population of Wales in their democratic rights. The vast majority of children will be in school when they have the first opportunity to vote. They will have the opportunity to learn about democracy in the period leading up to their first election where

they are able to vote. It is likely that candidates will ask to address hustings events in schools and colleges, which should also increase awareness.

This will likely make the citizenship curriculum feel more relevant to them and may increase participation. There may be peer encouragement to vote on the day of the election. Having voted once, they may be more likely to vote throughout their adulthood.

This brings me on to the next part of my response; political education.

Political education

The Expert Panel stated that alongside the reduction in the minimum voting age, children and young people should be provided with appropriate political and citizenship education, which would be part of a wider range of actions by the Assembly, the Welsh Government and others to increase political participation and youth engagement.

In my response to the Assembly Commission consultation I also recommended that:

“independent civic and democratic education should be provided as part of the curriculum reform process and enable children and young people to creatively and critically engage in political issues that matter to them”.

I note from the explanatory memorandum that political education is not a part of the Bill itself, but that it is still anticipated that political education work will be forthcoming, as was recommended by the Expert Panel to ensure that 16 and 17 year olds are aware of the opportunity to vote in Assembly elections. This may include advertising, written material and face to face promotion in schools and other institutions. It is also anticipated that such work would be reviewed on an ongoing basis. I wouldn't necessarily expect political education to be included on the face of the Bill, particularly given the forthcoming changes planned to the contents and structure of the curriculum in Wales, but I am pleased to see this commitment being formally restated within the Bill documents.

The Explanatory Memorandum cites Personal and Social Education (PSE), Education for Sustainable Development and Global Citizenship and the new Welsh Baccalaureate as opportunities to study politics and current affairs. The “Active Citizenship” theme in the existing PSE framework frames the development of learners' knowledge on politics and their rights in a democratic society which reflects the United Nations Convention on the Rights of the Child (UNCRC). I welcome the fact that this commitment is grounded in children's rights.

The focus on the development of children and young people as ‘Ethical, informed citizens’ as one of the Four Purposes of the new curriculum will also provide opportunities for children and young people to develop the

skills and understanding to exercise their human rights and participate as active citizens.

I note that the Children, Young People and Education Committee has recently published a [report](#) following their inquiry into the operation of the Welsh Baccalaureate. Their report makes a number of recommendations which I am supportive of, including ensuring that the qualification is reviewed systematically alongside other reports, pieces of work and the developments of the new curriculum in Wales. I would agree entirely with this and would want to ensure that the opportunities for political education are included within this.

It is notable that the previous Welsh Baccalaureate (followed prior to the introduction of the new qualification from 2015) contained explicit reference to human rights education, enabling the development of understanding around social and democratic rights. It may be useful to consider reinstating this feature in any review processes.

The explanatory memorandum highlights that children from Gypsy and Romany traveller backgrounds may be less likely to be included in the proposals as drafted, which focus primarily around engagement via schools. I welcome that there is recognition of this within these proposals and that it is accepted that as part of the responsibilities to promote awareness of elections, the Welsh Government and the Electoral Commission will need to work with the Traveller Movement in order to ensure they are not excluded.

I would also note that the Explanatory Memorandum states that “every local authority will have a list of those who are home schooled and will be able to incorporate those who are ‘attainers’ or 16 and 17 years old into the annual canvass considerations”. Whilst local authorities have a duty to maintain a list of children educated otherwise than at school, it cannot be said that this list will be definitive at present as there is no requirement for parents to register their intention to educate their child at home if they have never attended a school. This will only be a small group of children as far as local authorities are aware, but it should be reflected that there may be children who currently fall outside of this group.

Balance of rights

Children and young people have the right to receive information in a suitable format, to allow them to make decisions and participate in decision making processes. This is recognised clearly within these proposals although there is a clear acceptance of the need to protect children’s data and privacy as appropriate. There is a safeguarding element to this for any young person under the age of 18.

In my view the proposals to allow young people to receive information related to the elections process via their inclusion on the electoral

register/database is proportionate and well thought through. Young people would be entitled to receive canvassing information to make informed decisions as is their right, but it is important that their contact details should not be shared or accessible more widely for other purposes. This applies both to 16 year olds acquiring the vote but also to those aged 14 and 15, classed as 'attainers' within these proposals.

Protections such as not publishing the dates of birth for under 16s and to make the unauthorised disclosure of information a criminal offence are in my view proportionate to that aim of child protection and protection of privacy, as this is not necessary in order for them to participate in election processes. These proposals mirror those that exist in Scotland, as reflected in the Bill documents.

I also welcome the proposals for a child in local authority care to be able to register to vote in the area to which they feel they have a local connection, which could be where they are living as opposed to where they were originally brought up. Young people that are living 'out of county' have frequently expressed to me that they want to feel part of the community in which they live, and they may often have very little connection to the area where they were born, particularly if they have been in local authority care from a young age. These proposals provide that flexibility for the young person. I note that young people are not required to "prove" their connection to the local area but that information "may be sought" from the local authority who is responsible for the young person's care. I wasn't entirely sure in what circumstances that would happen from my reading of the proposals and would welcome further clarity for practitioners in relation to this.

I also understand the reasons for excluding young offenders from the voting franchise, on the basis that anyone serving a sentence beyond the age of 17 would then 'lose' the right to vote and have that privilege withdrawn. This appears logical to me and it would seemingly be more damaging and disempowering to have the vote withdrawn than to have the rules for existing elections mirrored from a younger age. Should the right to vote for adult prisoners change I would expect consideration of similar voting rights to be introduced for young offenders. I make no comments here about broader policy issues in relation to young offenders. I am pleased to note that young people in custody would not be excluded from the political education aspect of the proposals.

Finally in relation to the balancing of rights, for the reasons outlined above in relation to young offenders, I also understand the rationale for not extending the vote to non-European or Commonwealth Citizens.

Participation and engagement within secondary schools

All schools in Wales are required to have a school council with representatives from across the pupil population. Those school councils

should work to strengthen the engagement of pupils in the decision making across the school. However some school councils don't effectively enable this.

In April 2019 I published my [three year work plan](#) for the remainder of my term as Children's Commissioner for Wales. Within the first year of this plan I will be undertaking a review of the quality of participation in secondary school councils. The aim is to draw attention to the importance of participation at a school level and highlight the positive and negative experiences of pupils currently in schools in Wales. The project work aims to increase the numbers of young people able to experience their participatory rights in secondary schools and strengthen the quality of that participation.

In 2018 I undertook a [survey of schools across Wales](#) which found that secondary school pupils report that they currently do not experience their participatory rights to the same extent as children in primary schools or those in special educational needs settings. Given that political education will be a key element to helping young people understand and participate in democratic processes in the future, this work will be vital to help create a platform where young people have a voice in what and how they learn and how their school is run and how information is shared with them. The benefits of this work should extend to ensuring that young people from across the school population can engage in democratic processes, including elections for school council members, and to see this as part of the wider democratic processes that exist here in Wales.

Children's Rights Impact Assessment (CRIA)

Despite the fact that this is not a Government Bill, I am very pleased to note that a full and thorough

CRIA has been published as part of the Bill documentation. Although the duties under the Rights of Children and Young Persons (Wales) Measure 2011 only apply directly to Ministers, it is important for non-government Bills to fully consider the impact of proposals against the UNCRC.

A member of my team did meet with the Bill team during the preparation phase, as noted in the CRIA itself, for informal discussions on how the Bill's policies would impact on children and young people. It was important in my view to support this process for a Bill that was not being introduced by the Government. I did not have sight of the CRIA itself however until it was published, as it is a document that should remain open to consideration and scrutiny during the passage of the Bill.

The Bill is relevant to a number of articles of the UNCRC and these are referenced clearly within the CRIA. The main area which impacts significantly on children's rights is lowering the voting age.

Article 2 ensures that children's rights apply to all children under the age of 18 without any discrimination of any kind based on their own status or that of their parents. It is one of the guiding principles of the UNCRC. However, all rights need to be balanced against each other with the end product being more positive in terms of impact on children's rights than negative; it would be extremely rare for any proposal to solely have a positive impact on all of children's rights. The CRIA recognises that this is the case in a number of areas.

The law in the UK is not straightforward in relation to age entitlements, with no single age threshold by which a young person gains access to adult entitlements; this was noted by the Expert Panel in considering lowering the voting age. However, there are entitlements that arise at age 16 which are affected by decisions of politicians here in Wales, including housing provision and some aspects of tax. It therefore follows that age 16 is one of the first key 'milestones' in the transition period towards adulthood.

According to the research carried out for this Bill, no country in the world currently has a voting age lower than 16.

As noted above, the CRIA recognises the importance of providing information to young people via the electoral register contact information, but with suitable safeguards in place. This use of private data is 'significantly outweighed' by the right of young people to information and to enable them to participate fully in the election process.

Overall I believe that the CRIA sets out clearly the balancing exercise that has been undertaken throughout this process in relation to children's rights, and I support its conclusions and the Bill that has been produced as a result.

Submitted by

A handwritten signature in black ink, appearing to read 'Sally Holland', written in a cursive style.

Sally Holland

Children's Commissioner for Wales