

Senedd Cymru
Y Pwyllgor Plant, Pobl Ifanc ac Addysg

Ymchwiliad i effaith argyfwng Covid-19 ar blant
a phobl ifanc yng Nghymru

COV 78
Ymateb gan: Grŵp Monitro CCUHP Cymru

Welsh Parliament
Children, Young People and Education Committee

Inquiry into the impact of the Covid-19 outbreak on
children and young people in Wales

COV 78
Response from: Wales UNCRC Monitoring Group

About

The **Wales UNCRC Monitoring Group** is a national alliance of non-governmental and academic agencies, tasked with monitoring and promoting the United Nations Convention on the Rights of the Child (UNCRC) in Wales. The Wales UNCRC Monitoring Group was established in 2002 and since May 2016 has been facilitated by Children in Wales. The Group has worked with the UN Committee on the Rights of the Child and submitted civil society reports to inform successive UK State Party Examinations in 2002, 2008 and 2016, and is engaged in other opportunities to forward children's rights, through other UN treaty mechanisms, Welsh Government and National Assembly policy and legislative processes.

Members of the Wales UNCRC Monitoring Group are representatives of, and nominated by, non-governmental organisations and academics which are as follows - Barnardo's Cymru, Centre for Welsh Legal Affairs - Aberystwyth University, Children in Wales, Children's Commissioner for Wales (observers), Equality and Human Rights Commission Wales (observers), National Deaf Children's Society Cymru, NSPCC Wales/Cymru, Play Wales, Save the Children Wales, The Children's Society, The Observatory on Human Rights of Children, UNICEF and the Welsh Local Government Association (observers)

Further information on the work of the Wales UNCRC Monitoring Group can be found here <http://www.childreninwales.org.uk/our-work/rights/wales-uncrc-monitoring-group/>

1. Introduction

1.2 We welcome your inquiry into the impact of COVID-19 on children and young people, including vulnerable children who are facing additional challenges during this period.

1.3 In line with our mandate, our response is specifically concerned with Children's Rights, and the importance of Ministers observing existing duties in respect of due regard to the UNCRC when discharging all of their functions as prescribed by the Rights of Children and Young Persons (Wales) Measure 2011.

1.4 The UNCRC Monitoring Group has previously written to the Welsh Government, setting out our concerns that duties were not met when Covid-19 emergency regulations or guidance in Wales was drafted, alongside a series of recommendations including for CRIA to be published to cover all of the measures impacting on children. These are set out below.

1.5 The content of our letter to the Welsh Government has informed the basis of our submission set out below

2. Impact of COVID-19

2.1 As we are all aware, our nation is currently enduring a health crisis different from anything within our experience. Covid-19, and how this virus is managed as a public health emergency raises daily and unprecedented challenges at all levels of government. The Monitoring Group fully recognises that the Welsh Government are taking extraordinary measures to deal with exceptional circumstances, and are having to respond quickly in a fast paced environment

2.2 We have seen that following the introduction of the Coronavirus Act 2020, the Welsh Government moved quickly to introduce numerous emergency regulations, and issued evolving guidance in an effort to reduce transmission of the virus while balancing this against the desire to limit restrictions to only what is strictly necessary. These regulations and guidance have a direct and significant short and long-term impact on everyone in Wales, including children. Perhaps for children they will have the greatest impact as they impose restrictions on a population group undergoing unavoidable physical, social, and emotional development.

Social distancing and social isolation will have a particular effect on children, including vulnerable children, and we therefore consider that special attention should be given to all children in all decisions.

3. Children's Rights Impact Assessment (CRIA)

3.1 One important aspect of due regard is the requirement to undertake a Child Rights Impact Assessment (CRIA) of any legislation or policy which will have a direct or indirect impact on children as set out in the Children's Scheme 2014. The Monitoring Group is concerned that to date this obligation has not been met in the drafting of Covid-19 emergency regulations or guidance in Wales. While we fully appreciate the speed with which initial guidance, regulations and announcements were made may have limited the scope to undertake **Child Rights Impact Assessment (CRIA)** we believe that subsequent guidance and functions of Ministers, including any review of existing regulations, should be subject to the CRIA process

3.2 The value of CRIA may be demonstrated by the way in which there has been gradual recognition of the impact of the restrictions on movement imposed by the *Health Protection (Coronavirus Restrictions)(Wales) Regulations 2020* and concerns which have been raised about the disproportionate impact on disabled children, in particular autistic children. We note that recent guidance has to some extent mitigated this situation (para.12 of the *Guidance on regulation 8*). Had CRIA been carried out on the regulations we have no doubt that due regard to the UNCRC (and in particular Arts. 2, 3, 6(2), 12, 15, 23, 24, 28, and 31) would have led to earlier and better recognition of the disproportionate impact on this group of children, and sooner adoption of guidance to mitigate this effect.

3.3 We feel that consideration of the full impact of the Covid-19 on all children's rights is likely to be a long-term and ongoing iterative process and that in the short term CRIA should address some immediate challenges. We are not aware of any judicial review underway in Wales at present, but know this may be an option that may be taken up in the near future by children or adults acting on their behalf.

3.4 From our engagement we have identified the following as issues of concern

a) The restrictions placed on children's right to assembly (Art.15) and to engage in play and recreational activities (Art.31). These rights are directly linked to the right to development (Art.6(2)) as a fundamental principle of the UNCRC. Whilst current restrictions on movement and exercise represent a curtailment of these rights, CRIA would help the Welsh Government better appreciate the extent to which restrictions may (or may not) be necessary, including as emergency measures are gradually lifted. This should help address the situation of those children where there is no proximate access to facilities where exercise may be taken or whose carers lack means to transport them to such facilities.

We would wish to draw your attention to the submission from Play Wales, member of the Monitoring Group in respect of the implications of COVID-19 on Play

b) The impact of digital exclusion including the barriers some children face engaging in new on-line teaching practices. A CRIA of the Welsh Government's response and its impact on the child's right to access education would need to take account of Art.28 (right to education), including how this links to Art.15 of the Covenant on Economic, Social and Cultural Rights (the right of everyone to benefit from scientific progress and its applications). Particular attention would need to be given to children most vulnerable and disadvantaged through low income/poverty; or groups with protected characteristics (e.g. disabled children) or current status (looked after children/care leavers). Consideration will also need to be given to how these same children will be affected if the recent use of new technologies to support teaching becomes embedded when the Covid-19 restrictions are lifted.

c) Further consideration should be given to the consequences of limiting contact with family members who form part of a wider carer network available to some children and their immediate carers. While some allowance in guidance is made for shared parenting, there is no recognition of the role of other family members in caring for children, including children whose physical or mental health needs may be particularly challenging, or supporting parents who themselves may have physical or mental health support needs. In some circumstances not only do extended caring networks provide support for a child or their immediate carers, but they also provide the first layer of protection for children who may be at risk

of abuse. Prohibiting children access to extended carer networks may deprive some families of essential levels of support, and may put some children at increased risk. CRIA would help the Welsh Government better understand the extent to which restrictions may (or may not) be necessary, including as emergency measures are gradually lifted.

4. Recommendations

4.1 During the recent CYPE Committee scrutiny sessions with Welsh Government (05/05), we were encouraged by the announcement that a full suite of impact assessments are now being prepared. We share the CYPE Committee's view that the Welsh Government should now publish the CRIA and for this to be released as soon as possible, as a basis for scrutiny and accountability.

4.2 We do however recognise the limitation of any exercise which involves developing a CRIA retrospectively on decisions having been taken and guidance already published. CRIA should be developed at the earliest possible stage of policy development to **inform decisions** rather than to **communicate decisions**¹ or to **justify decisions** already made. CRIA should always be kept under review and revised as required.

4.3 We also wish to seek clarity on the process for developing CRIA now and moving forward to ensure that this is effectively **coordinated** across all WG departments and Ministerial portfolios, and that there is a recognised and robust **structure** in place to manage this process in line with the requirements set out in the Children's Scheme 2014 and the General Measures of Implementation.

4.4 Given that CRIA is an ongoing requirement, we would invite the Welsh Government to

1. Introduce an ongoing and iterative CRIA to all measures taken in response to the Covid-19 situation, and future proposals for emerging from the pandemic
2. Undertake and publish a consolidated CRIA to cover all of the measures impacting on children.

¹ <https://www.unicef.org.uk/publications/unicef-uk-cria-2017/>

3. In carrying out CRIA, to adopt the recent [guidance](#) issued by the UN Committee on the Rights of the Child, including providing opportunities for children's views to be heard and taken into account in decision-making processes
4. In accordance with good CRIA practice we would suggest that this should include input from children themselves and in line with the First Ministers Pledge at the 30th Anniversary event in November, and those who represent children in Wales.

We appreciate that in these difficult times it may be especially challenging to fully engage with rights-holders and stakeholders, but the Monitoring Group is ready and willing to support the Welsh Government in this endeavour

Submitted by Children in Wales, with and on behalf of the Wales UNCRC Monitoring Group

May 2020