

UNICEF, the United Nations Children's Fund, is mandated by the UN General Assembly to uphold the UN Convention on the Rights of the Child (UNCRC) and promote the rights and wellbeing of every child. Together with partners, UNICEF works in over 190 countries and territories around the world, including here in the UK, focusing special effort on reaching the most vulnerable and excluded children, to the benefit of children everywhere. UNICEF has a specific role in providing advice and assistance to governments around the world in matters relating to children's rights. Here in the UK, we work with two million children through our programmatic work with local authorities, hospitals and around 5,000 schools taking part in our Rights Respecting Schools Award (RRSA) network.

Unicef UK is submitting evidence to the Children, Young People and Education Committee with the aim of ensuring that the Government's continued response to the Coronavirus pandemic realises and protects children's rights. Where possible, our submission draws on direct consultation with children and young people.

SUMMARY

The outbreak of Coronavirus is having, and will continue to have, a profound impact on all of us. While children have, for the most part, been spared the medical impact of the virus, lockdown restrictions have had a hugely negative effect on their rights, lives, well-being and in some cases, their safety. Social distancing measures and the lockdown of schools, businesses and other critical services have meant that children are at risk of becoming the hidden victims of the pandemic.

In line with UNICEF's mandate, our submission will focus on the extent to which the Welsh Government has applied a child rights-based approach in their response to address the Coronavirus pandemic, including the impacts on children's right to education. It will consider the impact that specific measures taken in these areas have had and will outline key recommendations to ensure the ongoing response to Coronavirus places children's rights at the heart of action taken.

The UNCRC is embedded as a legal framework for policy development in Wales.¹ Whilst we recognise the critical and decisive action taken by the Welsh Government to protect the public's health, there remain challenges of consistent and systematic implementation of the UNCRC. **Unicef UK believes that the best interests of the child must be a primary consideration in all decisions and actions taken by the Welsh Government in the context of the pandemic. All current and future measures implemented by the Welsh Government in response to the pandemic must be temporary and restrictions lifted as soon as it is safe and practical to do so.**

A CHILD RIGHTS-BASED APPROACH TO THE CORONAVIRUS PANDEMIC

CHILD RIGHTS IMPACT ASSESSMENTS

The impacts of the Coronavirus are challenging the whole spectrum of rights enshrined in international human rights treaties, including the UNCRC. At the outset of the pandemic, human rights treaty bodies issued timely and specific recommendations to States to help ensure that emergency measures are grounded in a valid legal framework.² The UN Committee on the Rights of the Child further urged States to "consider the impact of measures on children's rights" and noted that restrictions to protect public health "must be imposed only when necessary...[be] proportionate and kept to an absolute minimum".³

¹ The Impact of Legal Integration of the United Nations Convention on Child Rights in Wales, Dr Simon Hoffman, 2018.

² "Compilation of statements by human rights treaty bodies in the context of the COVID-19 pandemic", OHCHR, 2020.

³ CRC Covid-19 Statement https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT/CRC/STA/9095&Lang=en

Following the introduction of the Coronavirus Act 2020, the Welsh Government moved quickly to introduce numerous emergency measures and issued evolving guidance to reduce the transmission of the virus. The Rights of Children and Young Persons (Wales) Measure 2011 brings into Welsh law the text contained in Part I of the UNCRC and places a duty on Welsh Ministers, whenever they exercise their functions, to have due regard to its requirements. Under Article 3 of the UNCRC, every policy, decision and piece of legislation must reflect the best interests of the child principle. This principle should be applied even in the case of emergency legislation, such as the Coronavirus Act 2020.

In Wales, the Children's Rights Scheme (an instrument made under the 2011 Measure) further commits the Welsh Government to undertake a Child Rights Impact Assessment (CRIA) on policy proposals. Under the Scheme, an initial assessment is made to determine whether a policy proposal is likely to have an impact on children and if so, a full CRIA is completed using a template set out in the Scheme. The due regard duty requires a balanced consideration of issues, in this instance, the Articles contained in the UNCRC.

Conducting CRIs is an effective mechanism to ensure that children's rights and the best interests principle are reflected in law and policy development. At a time of national emergency such as the outbreak of the Coronavirus pandemic, children's rights are at the greatest risk and Unicef UK believes that the interests of children, including those who are most vulnerable, must be a primary consideration in all decisions affecting them.

Unicef UK were concerned to note that no CRIA was conducted on the measures, policies and guidance introduced in the initial response to the pandemic - except on the School Admissions Appeals procedure. However, we were pleased at the Welsh Government's announcement in May that a full suite of impact assessments were being prepared including on increasing operations in schools and other public settings as well as those relating to temporary modifications to statutory duties pertaining to Special Educational Needs.

Unicef UK recommends that the best interests of the child principle must remain a primary consideration in all decisions and actions taken by the Welsh Government in the context of the pandemic. CRIs should be produced consistently across any and all future legislation and policy-making which directly impact children. This must include those measures affecting parents, care givers and family members which have an indirect impact on children.

CHILD PARTICIPATION IN DECISION MAKING

Under Articles 12 and 17 of the UNCRC, children have the right to information about, and participation in, matters that affect them. Children should have access to age-appropriate, accurate and regular information necessary for their physical and mental health in a language they are able to understand. They should be heard and able to safely share their views on issues concerning them, including through existing participation and consultative platforms online. This should extend to legislation and policy-making.

Procedural guidance accompanying the production of CRIs in Wales encourages consultation with stakeholders including children and young people. Unicef UK were pleased to be invited to engage in consultations informing this process. Moreover, we welcomed the introduction of the 'Coronavirus and Me' survey conducted by the Children's Commissioner for Wales which received over 23,700 responses from children aged 3-18. We are pleased to note this has been received positively by the Welsh Government who have already utilised these responses to help inform decision-making. **Unicef UK urges the Welsh Government to continue to engage children of all ages in the response to Covid-19 and other protection measures in order to ensure compliance, suitability and avoid harm. Their views should be taken into account in the preparedness, response and risk mitigation efforts to tackle Coronavirus, including the delivery of services and other decisions which have a direct or indirect impact on children's rights.**

THE RIGHT TO EDUCATION

All children have the right to a quality education, enshrined in Articles 28 and 29 of the UNCRC. As the first nation in the UK to adopt the UNCRC into domestic law, the Welsh Government holds an important role as duty bearer of this right. Though necessary for the health of children and their families, the measures taken by the Welsh Government to halt the spread of the Coronavirus have significantly impacted the realisation of this right. Following school closures, it has been the most disadvantaged pupils, children with additional learning needs and those already facing barriers in accessing education

- such as refugees and asylum-seekers - who have experienced the greatest challenges to learning during lockdown. Unicef UK is particularly concerned with the impact of the measures taken by the Welsh Government on children's right to education in three ways: mental health and wellbeing, inequity and learning loss, and the digital divide.

MENTAL HEALTH AND WELLBEING

In order to understand the challenges faced by children during this time, Unicef UK worked with partners to deliver three surveys, one each for children, parents of school-age children, and teachers. In all three of these surveys, the mental health and wellbeing of children came out strongly as a key concern. Among Welsh respondents to our schools survey, 82% said supporting pupil mental health wellbeing was one of their top five priorities, and 60% put supporting children who suffer trauma or abuse in this category.⁴ Echoing this, nearly two-thirds of children (62%) in a UK-wide Unicef UK poll conducted with First News were worried about the impact of the Covid-19 on their lives, and 46% reported experiencing anxiety or worry.⁵ In a third survey commissioned by Unicef UK for parents across the UK, more than half (57%) reported their child experiencing some kind of mental health problem.⁶

However, only 21% of Welsh teachers felt they had adequate support already in place to meet students' mental health needs, and only 24% felt they had adequate support for bereavement.⁷ The most prevalent answer given by Welsh teachers in relation to the additional support they would most like to see was in relation to mental health, with 40% of respondents highlighting this need. One secondary school teacher commented that their school needed, "Mental health counselling. We are lucky to have Councillors at the school but they were struggling to cope with workload before this started."⁸

Teachers in Wales are also worried about the impact social distancing measures could have on their pupil's wellbeing. One nursery/pre-school teacher noted, "Little children can't social distance and this would affect their emotional well being".⁹ One primary school teacher noted, "Schools are a social being and by taking the social aspect of schools away, my fear is that children will become disengaged in school which will have knock on effects to their mental wellbeing and ability to learn".¹⁰

As children return to the classroom following the pandemic, schools must be given the space and freedom to focus on mental health and wellbeing, recognising this is a prerequisite for learning. As one Welsh primary teacher stated, "Our school will need to ensure the wellbeing and emotional needs of our children are met before any 'catching up' can take place".¹¹ **Unicef UK welcomes the Welsh Government's continuing commitment to mental health, recognising that the new curriculum for Wales is designed with health and wellbeing as one of the six areas of learning.**

INEQUITY AND LEARNING LOSS

The Covid-19 pandemic and necessary health responses will have a disproportionately negative impact on children in the most vulnerable situations, including those with disabilities, living in poverty, or with other additional needs. Particular groups of children, such as refugees and asylum-seekers, are at risk of both going without their existing needs met and experiencing additional challenges to realising their right to education, on top of the barriers they already face.¹²

Inequity in learning during the pandemic is reflected in the evidence, with the Office for National Statistics (ONS) reporting that 30.7% of parents who had not worked in the past seven days (24 April to 3 May 2020) had not home-schooled their

⁴ Unicef UK conducted a poll of more than 1500 individual school staff across the four nations of the UK. We received 121 responses from Welsh schools. Among other questions, teachers were asked to select up to five top priorities from a set list.

⁵ Unicef UK worked with First News and Opinion Matters to conduct a poll of 755 children aged 6-16 (inclusive).

⁶ Unicef UK conducted a Censuswide poll of more than 750 parents of school aged children based on how the response to the Covid-19 has affected their children.

⁷ Unicef UK polling (see footnote 5).

⁸ Ibid.

⁹ Ibid.

¹⁰ Ibid.

¹¹ Ibid.

¹² Unicef UK has produced two reports on access to education for refugee and asylum-seeking children in the UK. These are available at <https://www.unicef.org.uk/publications/access-to-education-refugee-asylum-seeking-children/> and <https://www.unicef.org.uk/policy/education-transitions-refugees-report/>.

child, compared to 39.8% of those who had worked.¹³ Furthermore, the Institute for Fiscal Studies reported that “school closures are almost certain to increase educational inequalities”, given the significant differences in support received by better-off and poorer students.¹⁴ It is clear that children did not realise their right to education equally during term time.

Despite this, 92% of Welsh respondents to our school survey reported feeling confident in identifying pupils who need support to catch up with learning, and 76% felt confident in supporting these learners. However, less than half (39%) reported having adequate support for 1:1 or small group catch up support, and only 3% had adequate support for tuition outside school hours.¹⁵ We note that Welsh schools in general were more confident than the wider UK group that they would receive the support they needed from the national or local government.

Welsh teachers also highlighted the need to address issues outside of academics in order to facilitate learning. One secondary school teacher noted, “With so many people struggling with the ongoing issues related to lockdown, Covid-19, being out of work it’s going to be an uphill struggle to support everyone who needs it. And with the low engagement numbers, I wonder how many year 10 and 12 pupils will be able to catch up, and how many will end up dropping subjects”.¹⁶ Another secondary school teacher made an impassioned plea, stating “Vulnerable children have been so let down in this crisis. Please help them urgently before any other pupil, they are desperately in need”.¹⁷

Given the gap in learning, it is critical that significant efforts are made – and at the earliest stages – to support learners who are taking exams next year. We heard from Welsh teachers about exams in our survey, with one secondary school teacher noting, “The school is providing as much work as possible for the pupils but it will be difficult initially to plug the gaps in learning due to some pupils not engaging with the work and the exam boards should consider making alterations to next year’s exams to account for this”.¹⁸ Whilst Unicef UK recognises the cancellation of this year’s exams was necessary in order to best protect public health, we are concerned that this caused great anxiety for many children and young people. It is critical that this is minimised for the 2021 cohort. **Unicef UK recommends that the Welsh Government provide clear and consistent information regarding next year’s exams, starting as soon as possible and continuing throughout the school year, and utilises a child rights-based approach as outlined above. The Welsh Government should consider producing additional child friendly information on the 2021 examination procedures.**

THE DIGITAL DIVIDE

The move to online schooling has been critical to ensure continuity of learning during lockdown. However, this form of learning necessitates a high degree of connectivity and skills. Indeed, in 2018 nearly 1 in 5 (19%) of people in Wales lacked basic digital skills – the highest proportion in the UK¹⁹ – and 2% of households with children under 16 had no access to the internet.²⁰ Unicef UK therefore welcomes the Welsh Government’s commitment of £3 million to support digitally excluded learners. Similarly, we heard positive feedback from teachers about the Welsh Government’s Hwb platform, with one primary school teacher stating, “Using the hwb website has allowed teachers to set lessons and involve parents in their children’s education”.²¹

It is important to note that the digital divide is not a product of the Coronavirus pandemic, but rather a phenomenon which has been exacerbated by it. As such, Unicef UK believes long-term solutions should be implemented to ensure all children have access to online resources at home. The focus on digital skills, as with mental health and wellbeing, in the new Welsh curriculum is therefore welcome.

¹³ Covid-19 and the social impacts on Great Britain: 14 May 2020, Office of National Statistics, 14 May 2020. Available at:

<https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/healthandwellbeing/datasets/Covid-19andthesocialimpactsongreatbritaindata/current>

¹⁴ A. Andrew et al, ‘Learning during the lockdown: real-time data on children’s experiences during home learning’, Institute for Fiscal Studies, 18 May 2020, <https://www.ifs.org.uk/publications/14848>.

¹⁵ Unicef UK polling (see footnote 5).

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ Office for National Statistics, ‘Exploring the UK’s digital divide’, 4 March 2019. Available at:

<https://www.ons.gov.uk/peoplepopulationandcommunity/householdcharacteristics/homeinternetandsocialmediausage/articles/exploringtheuksdigitaldivide/2019-03-04#the-scale-of-digital-exclusion-in-the-uk>

²⁰ Statistics for Wales and Welsh Government, *National Survey for Wales, 2018-19: Internet use and digital skills*, 11 Sept 2019. Available at:

<https://gov.wales/sites/default/files/statistics-and-research/2019-09/internet-use-and-digital-skills-national-survey-wales-april-2018-march-2019-207.pdf>

²¹ Unicef UK polling (see footnote 5).

This must be supported by child rights approaches to online learning platforms and EdTech, including in relation to privacy, accessibility and empowerment. As a duty bearer of the UNCRC, the Welsh Government is responsible for ensuring that all children have access to education. If this education is delivered online, it follows therefore that the Welsh Government must ensure all children have adequate access to technology and the internet. **Unicef UK recommends that the Welsh Government undertakes a mapping exercise to understand the number of digitally disconnected children in Wales and the adequacy of children's technology and internet connection, and subsequently implements a long term strategy for providing these children with the resources to effectively learn online. This will be important for improving the resilience of the Welsh education system, particularly in the event of a second spike or other future disruption to learning.**

The lockdown measures implemented as a result of the outbreak of the pandemic have seen some examples of great learning and innovation. One secondary school teacher noted, "Every member of staff has been forced into embracing setting homework online which I think some were reluctant to doing before".²² Another stated, "The use of Google Classroom could continue to be used once we are back in the actual classroom. No need for photocopying as the resource is there on a screen".²³ However, this has not been the same experience for everyone with one secondary teacher noting, "Students have had to be more independent and responsible for their own learning. HOWEVER, not all have been able to do this for a variety of reasons and haven't responded. they will find themselves behind those who have followed instructions".²⁴ **Unicef UK believes that the lessons learned during the pandemic should be used by the Welsh Government and built on in order to improve children's digital skills and innovative education practices. This must be done inclusively, recognising that children are not receiving a uniform experience of online learning.**

CONCLUSION

Frequently, the impact of the Coronavirus pandemic is viewed as having a secondary impact on children. However, both the immediate responses to - and long-term effects of - the pandemic will have a lasting effect on children and their futures, and a direct impact on the realisation of some of their most fundamental rights. **The Welsh Government has taken critical and decisive action so far in response to the outbreak, but as lockdown measures begin to ease, Unicef UK believes it to be vitally important that children and their rights are placed at the heart of the recovery phase and beyond.**

²² Ibid.

²³ Ibid.

²⁴ Ibid.