



RAS 20

Ymchwiliad i ffoaduriaid a cheiswyr lloches yng Nghymru

Inquiry into refugees and asylum seekers in Wales

Ymateb gan: Plant yng Nghymru

Response from: Children in Wales

## Consultation Response - Equality, Local Government and Communities Committee Inquiry into Refugee and Asylum Seekers in Wales

Children in Wales<sup>1</sup> is the national umbrella organisation in Wales for children and young people's issues, bringing organisations and individuals from all disciplines and sectors together. One of our core aims is to make the United Nations Convention on the Rights of the Child (UNCRC) a reality in Wales. Children in Wales campaigns for sustainable quality services for all children and young people, with special attention for children in need and works to ensure children and young people have a voice in issues that affect them.

Children in Wales successfully developed and ran the Big Lottery Funded Including Families Project, producing resources to support professionals and community members - <http://www.includingfamilies.org.uk/en/> - and currently delivers training for professionals from a range of sectors on Cultural Awareness in Safeguarding Children - <http://www.childreninwales.org.uk/our-training/> . Children in Wales are inaugural members of the Welsh Refugee Coalition.

### 1. Overarching Comments

1.1 In our response to the Equality, Local Government and Communities Committee's call for priorities<sup>2</sup>, we expressed support for the Committee to conduct an inquiry into 'refugee and asylum seekers in Wales' during the Fifth Assembly Term. We are delighted that the Committee has recognised the need for such an inquiry, and for prioritising an inquiry early in the Assembly Term.

#### **Asylum seeker and refugee children are children first and foremost.**

1.2 Unaccompanied children, separated from parents and relatives, remain amongst the most vulnerable groups of children in Wales, often at greater risk of exploitation, abuse, gender based violence and trafficking. The safeguarding, non-discrimination and best interest of the child principles enshrined in the **United Nations Convention on the Rights of the Child** (UNCRC) and applied through legislation is applicable to all children and young people, including refugee and asylum seeking children, regardless of their country of birth or their current circumstances. Governments have an obligation to protect all children from violence and exploitation, to the maximum extent possible, which would jeopardize a child's right to life, survival and development.

1.3 The UN CRC General Comment No 6 (2005)<sup>3</sup> on the 'Treatment of unaccompanied and separated children outside their country of origin' provides timely guidance to support Governments in meeting their obligations under the UNCRC and to draw attention to the particularly vulnerable situation of unaccompanied and separated children.

1.4 The **United Nations Committee on the Rights of the Child** in June 2016 issued a series of Recommendations (Concluding Observations)<sup>4</sup> in respect of asylum seeking, refugee and migrant children (pp20-21). These

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<sup>1</sup> For further information on the work of Children in Wales, please see [www.childreninwales.org.uk](http://www.childreninwales.org.uk) and [www.youngwales.wales](http://www.youngwales.wales)

<sup>2</sup> <http://senedd.assembly.wales/documents/s52695/SP%2033%20-%20Children%20in%20Wales.pdf>

<sup>3</sup> <http://www2.ohchr.org/english/bodies/crc/docs/GC6.pdf>

<sup>4</sup> <http://gov.wales/docs/ds/jlg/publications/cyp/160727-final-concluding-observations-2016-en.pdf>

recommendations reflected a number of concerns put forward by non-government coalitions<sup>5</sup> as part of the monitoring process, and included the

- lack of reliable data on asylum seeking children
- lack of access to independent guardians
- problematic nature of the 'age assessment' process
- the lack of access to basic services, and the
- high risk of destitution.

1.5 Whilst it is accepted that immigration policy itself is a reserved matter, the provision of the majority of services that refugee and asylum seeker children receive in Wales is the responsibility of the Welsh Government and other public bodies. There are a number of significant barriers to inclusion that exist here in Wales that we would wish to draw the Committee's attention to in line with the Committee's areas of inquiry.

## **2. The Support & Advocacy available to Unaccompanied Asylum Seeking Children**

### The Call for Change

2.1 The Welsh Government's vision for refugee inclusion was set out in the Refugee Inclusion Strategy which was published in 2008<sup>6</sup>. The Strategy, and subsequent action plan, recognised the need for a specialist independent service for separated children and committed to work with partners to develop such a service. The need for a 'specialist' service was underpinned by a recognition that supporting and speaking up for asylum seeking children going through the asylum process was a task which required expert and specialist knowledge and understanding

2.2 This recognition followed the comprehensive and ground breaking report 'Uncertain Futures' in 2005<sup>7</sup>, which advised Welsh Government to consider how best it can provide accessible, and well-funded independent advocacy support for UASC in Wales, in addition to establishing a specialist system of guardianship for separated children.

The report, published by Save the Children (Wales), recommended that:

**'The Welsh Assembly Government....should consider how best it can ensure the provision and availability of accessible, specialist and well-funded independent advocacy support for separated (unaccompanied) children living in Wales (rec 4.2, pp 70)**

**'The Welsh Assembly Government should also explore the possibility of establishing a system of guardianship to ensure that the best interest principle is maintained and that separated children are supported through the asylum process' (rec 4.3, pp 70)**

2.3 This report was significant in that it also recognised the clear distinction between '**advocacy**' and the role of an 'advocate', to that of a '**guardian**' or 'system of guardianship'. The role of an independent professional advocate is issue based and helps an individual to speak up for themselves, to access their rights and entitlements and get something stopped, started or changed<sup>8</sup>. Advocates will ensure that an individual's views are accurately conveyed irrespective of the views of the advocate or others as to what is in their best interests<sup>9</sup>. The role of a Guardian would include providing advice, support, assistance and information, working within the guiding principles of what is in the best interest of the child.

2.4 The Welsh Government's initial response and commitment to develop a specialist service was welcomed, and some initial time limited funding was provided to the Welsh Refugee Council to appoint a part-time Child Advocacy Officer (a post which has long since come to an end)

2.5 The Refugee Inclusion Strategy and action plan made a commitment to put in place sustainable advocacy provision to support UASC 0-25, which we were advised, through the bi-annual update in June 2013, was 'on schedule'. The consultation document released in 2015 for the current Refugee and Asylum Seeker Delivery Plan, noted that the '**Welsh Government will explore the need for a Guardianship model for Wales**'. However, the final revised Delivery Plan<sup>10</sup> issued in March 2016 makes no reference to any 'exploration' or commitment to an independent specialist service for vulnerable and at risk separated asylum seeking children.

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<sup>5</sup> All documents submitted to the UN Committee can be accessed via the website of the UN Human Rights Office of the High Commissioner - [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=987&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=987&Lang=en)

<sup>6</sup> <http://gov.wales/topics/people-and-communities/communities/communitycohesion/publications/refugeeinclusion/?lang=en>

<sup>7</sup> Summary Report - [https://www.savethechildren.org.uk/sites/default/files/docs/uncertain\\_futures\\_summary\\_1.pdf](https://www.savethechildren.org.uk/sites/default/files/docs/uncertain_futures_summary_1.pdf)

<sup>8</sup> Welsh Assembly Government (2009) A Guide to the Model for Delivering Advocacy Services to Children and Young People <http://prp.gov.wales/docs/prp/socialcare/sc130724modelfordeliveringadvocacyservices.pdf>

<sup>9</sup> Welsh Government: Social Services and Well-being (Wales) Act 2014 Part 10 Code of Practice (Advocacy) <http://gov.wales/docs/dhss/publications/151218part10en.pdf>

<sup>10</sup> <http://gov.wales/docs/dsjlg/publications/equality/160316-refugee-asylum-seeker-delivery-plan-en.pdf>

2.6 On the 3rd June 2016, the United Nations Committee on the Rights of the Child issued a new set of Concluding Observations to the UK and devolved Governments setting out ways in which they can better meet their obligations to children and young people in respect of implementing their rights. The UN Committee were concerned to learn that

***'Not all unaccompanied children have access to an independent guardian or legal advice in the course of immigration and asylum procedures'.***

They recommended that all Governments:

***'Establish statutory independent guardians for all unaccompanied and separated children throughout the state party'*** [Section I, 76(b)]<sup>11</sup>

2.7 Worryingly, despite almost identical recommendations being made by the UN Committee in their earlier Concluding Observations of **2002** and **2008**, Wales still remains without a statutory specialist national independent guardianship service for some of the most vulnerable children and young people.

#### Current provision (advocacy)

2.8 UASC under local authority care are entitled to care and support as outlined in the Children Act 1989, now restated in the Social Services and Well-Being (Wales) Act, and entitled to advocacy alongside other eligible children and young people subject to care and support arrangements. Statutory advocacy services for children and young people in Wales are provided by NYAS Cymru<sup>12</sup> and Tros Gynnal Plant<sup>13</sup> through commissioning arrangements with local authorities.

2.9 Both organisations provide advocacy support for UASC who have been accepted as 'children' by the local authority and eligible as having care and support status. For age disputed 'young people' however, there are gaps in the provision of advocacy services. Some services often play an important role within the age assessment process, despite the additional costs to consider, such as interpreters, and work with young people on a range of issues such as education, housing and legal matters including asylum claims, reunification with family and representation at LAC reviews.

2.10 It is recognised that there is a need for expert advice and training to support UASC which some current advocacy services and practitioners do not routinely have access to. More training should be made routinely available, and this training should be made available in Wales and tailored to the devolved policy context, to enable existing advocacy services and practitioners to access it.

#### The Case for Change (towards a complementary Guardianship Model)

2.11 Due to the circumstances within their country of origin and their often traumatic journey to Wales, asylum seeking children seeking a place of safety present with specific challenges on their arrival, which include identifiable significant physical, mental and emotional health needs<sup>14</sup>. Children who are separated from their parents are at heightened risk of sexual exploitation and they will require extra levels of care and protection due to trauma. They often face periods of uncertainty, isolation with little or no knowledge of their rights and entitlements.

2.12 Unaccompanied children in Wales have additional needs which can only be delivered by specialist intervention which would help to ensure that they receive accurate information, advice and support, and are properly safeguarded and not at risk of exploitation, trafficking or destitution.

**2.13 It is evident that separated children cannot be treated as though their needs and interests are the same as other children who are entitled to care and support arrangements under Part 10 of the Social Services and Well Being (Wales) Act 2014.**

2.14 The NAFW Children and Young People Committee, in their 2008 inquiry into 'Advocacy Services for Children and Young People in Wales' recognised this and considered there to be a need for **'commissioning (of) specialist advocacy services, for low incidence groups, such as children and young people seeking asylum, in addition to generic advocacy services'**

2.15 Until March 2016, Tros Gynnal Plant, ran the Fair and Square Project to create sustainable change in the approach to work with refugee and asylum seeking children and young people up to age 25<sup>15</sup>. The project, funded by the Big Lottery, served the Cardiff and Newport areas, and provided an independent service for a range of issues including helping asylum seeking young people to access legal services, help with age disputes, welfare advice,

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<sup>11</sup> <http://gov.wales/docs/dsjlg/publications/cyp/160727-final-concluding-observations-2016-en.pdf>

<sup>12</sup> <https://www.nyas.net/nyas-cymru>

<sup>13</sup> <http://www.trosgynnal.org.uk/>

<sup>14</sup> <http://welshrefugeecouncil.org.uk/resources/research/young-lives-in-limbo>

<sup>15</sup> <http://www.trosgynnal.org.uk/page.php?Plv=2&P1=2&P2=19&P3=&id=>

education and training, to challenge decisions and help in understanding the asylum process. The End of Project Report considered that through continued individual and collective advocacy and engagement, children had been able to develop their confidence, self-esteem and an understanding of their rights and entitlement as asylum seeking young people. The service helped provide asylum seeking children with an understanding of the systems, broke down barriers and empowered them to represent themselves. Subsequently, children were able to highlight issues important to them to key decision-makers and instigate change.

To our knowledge, there are no longer any services akin to this in Wales.

2.16 Effective guardianship systems are key in helping to prevent abuse, neglect and exploitation and in protecting child victims of trafficking. Separated children should therefore have access to specialist guardians who can work with them as a key part of their journey to ensure they have fair access to the asylum process and are linked in with other appropriate services.

This has been recognised in **Scotland**, and has been acted upon.

2.17 The Scottish Guardianship Service<sup>16</sup>, is an award winning service run by the Scottish Refugee Council and Aberlour children charity, working with children and young people who arrive in Scotland unaccompanied and separated from their families<sup>17</sup>. Each child is allocated a 'Guardian' who provides dedicated and specialist help and support, empowering them to navigate their way through the asylum process. A guardian will speak up for the child, help them to address their immediate needs and situation, and help them make informed decisions about their future. The service was part funded by the Scottish Government and began as an initial 30 month pilot and subject to independent evaluation<sup>18</sup>. In 2015, it has been reported that the service was placed into legislation (Human Trafficking and Exploitation (Scotland) Act with a duty placed on public bodies to refer to the scheme<sup>19</sup>.

2.18 The Scottish Guardianship scheme is in place to help and support local authorities with the specific issues that separated children present with. If a similar service was adopted in Wales, such a service would play an important **complimentary role** to the more holistic functions currently provided by or commissioned by local authorities and other public bodies. The service should be at a pan-Wales level to help ensure there is consistency of provision and would help ensure that any children dispersed to other parts of Wales have continuity of service and engagement. Finally, whilst we recognise the problematic nature of accessing reliable data on asylum seeking children and age-disputed children, there is a consensus that the numbers will be relatively small. The cost therefore of meeting the UN Committee's recommendation and in providing an effective independent guardianship service to improve the outcomes for all unaccompanied asylum seeking children throughout Wales should not be too great.

**Our Recommendation:** Children in Wales call upon the Welsh Government to urgently implement the UN Committee on the Rights of the Child recommendation and provide dedicated and sufficient funding which secures a specialist independent guardianship service with statutory guardians provided for all asylum seeking children and young people on a pan-Wales basis.

**Our Recommendation:** Once established, for all unaccompanied asylum seeking children and young people to be automatically referred to the specialist independent guardianship service at the point of arrival in Wales, or as early as possible upon becoming known.

### 3. **The Pace & Effectiveness of the Welsh Government Approach to Resettling Refugees Through the UK Government's Syrian Vulnerable Persons Relocation Scheme (SVPRS)**

3.1 We welcome the commitment to resettle Syrian refugees in Wales through the Syrian Vulnerable Persons Relocation Scheme, and the progress made to date in resettling 112 refugees by the end of June 2016. We understand that by October 2016, 17 local authorities had resettled Syrian refugees through the scheme. Children in Wales have been an active member of the Children's Task and Finish Group, supporting and providing advice on the effective integration of children and their families.

<sup>16</sup> <http://www.gov.scot/Topics/People/Young-People/protecting/lac/guardianship>

<sup>17</sup> [http://www.aberlour.org.uk/news/596\\_herald\\_society\\_award\\_for\\_aberlours\\_scottish\\_guardianship\\_service](http://www.aberlour.org.uk/news/596_herald_society_award_for_aberlours_scottish_guardianship_service)

<sup>18</sup> The pilot phase ended on 31 March 2013 and was evaluated independently by Profs Ravi Kohli and Heaven Crawley, both highly respected in the field of immigration issues surrounding children

<sup>19</sup> [http://www.scottishrefugeecouncil.org.uk/how\\_we\\_can\\_help/advice\\_services/the\\_scottish\\_guardianship\\_service](http://www.scottishrefugeecouncil.org.uk/how_we_can_help/advice_services/the_scottish_guardianship_service)

3.2 Whilst we welcome the leadership shown by Welsh Government and local authorities in Wales in responding to change, these developments will have significant implications for our communities and services, including health, education, housing, social services as well as in the successful delivery of overarching policy frameworks such as community cohesion. It is essential that the infrastructure is in place to aid integration given the expectation that Syrian refugees will be dispersed across all 22 local authorities, some of whom will be better placed and have more experience than others of resettling new arrivals. Earlier research has highlighted significant differences in knowledge and understanding between practitioners in dispersal and non-dispersal areas<sup>20</sup>. Long term planning and community cohesion has to be suitably considered and properly managed as more refugees arrive and are dispersed throughout Wales. Integration has to work effectively for the receiving community as well as for the arriving children, young people and their families.

3.3 Successful integration demands that new arrivals receive the welcome, support and quality services they deserve and are entitled to, which will enable them to be safe and to flourish, and to have their human rights secured. Local authorities and public bodies will need sufficient time to plan and prepare for new arrivals, to ensure that children and their families are properly safeguarded and receive access to essential health, housing, education, support and advice services to aid the transition and further the journey towards positive integration. There is also a need to ensure that those working in the public sector, including frontline professionals such as teachers, are properly equipped and have a full understanding of the care and protection issues as they relate to asylum seeking children and are able to access training and other professional development opportunities.

3.4 We recognise the investment and support that is being made available to new arrivals through the SVPRS and would welcome the learning from this response to be shared so as to inform any future crises. This should also include on-going engagement with new arrivals (including children), to help capture their thoughts and experiences of the process, as part of an inclusive participatory framework.

'Key to achieving inclusion is the participation of refugees in decisions about services and their delivery'<sup>21</sup>

3.5 We do however recognise the concerns raised by the professional community in respect of the contrast between the response to this group of arrivals to that of other asylum seeking children and families travelling independently, which is believed to be creating a 'two-tier system'. Asylum seeking children and families experience a number of barriers, often reliant on third and community sector projects who work tirelessly in supporting very vulnerable and traumatised families with legal, welfare, accommodation, health and financial matters. Separated and unaccompanied children seeking asylum are especially vulnerable and at risk of exploitation, abuse and trafficking. The Committee may wish to seek commitments from the Welsh Government to respond to the claims that a 'two-tier system' has emerged and seek assurances that all children and families seeking asylum, regardless of their country of origin, have access to advice, support and essential services, and for this to be available in all parts of Wales.

#### **4. The Effectiveness of the Refugee & Asylum Seeker Delivery Plan.**

4.1 Children in Wales welcomed the opportunity to inform and respond to the consultation on the revised Refugee and Asylum Seeker Delivery Plan in December 2015 and its subsequent release in March 2016. The timing of this consultation was unfortunate given its publication on the same day as the First Minister's Summit in response to the refugee crisis hitting Europe. We called for the Delivery Plan to take account of this and to ensure that there was reference to the actions which Welsh Government and public bodies as partners would be delivering as a consequence of these unprecedented developments. The SVPRS and the actions undertaken were not included in the published Delivery Plan, thus reinforcing a sense of a two-tier response to supporting and integrating Syrian refugees from that of other refugees and asylum seekers.

4.2 We expressed hope that the Delivery Plan, if effectively implemented and supported by adequate resources with sufficient capacity within existing services at an operational level led to an improvement in the lives of asylum seekers and refugees throughout Wales. However, we are yet to be reassured that there is indeed sufficient capacity and resources in place at a national level to ensure that the Plan is delivered equitably and consistently across Wales to a standard that we would all expect and which is required. Whilst we welcome the Welsh Government proposed budget for priorities they would wish to see undertaken through the Refugee, Asylum Seeker & Migrant component of the Inclusion Fund from April 2017, the sufficiency of funding being made available to deliver the objectives, continue to cause some concern amongst the professional community. We are unclear if a Child Rights Impact Assessment has been undertaken on this budget in line with existing duties placed on Ministers<sup>22</sup>.

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<sup>20</sup> Save the Children, Agenda for Action

<http://www.wsmg.org.uk/documents/wsmg/Asylum%20Seeking%20Children/Reports/Agenda%20for%20Action.eng.Dec.08.pdf>

<sup>21</sup> Ministerial Forward - <http://gov.wales/dsjlg/publications/communityregendevlop/refugeeinclusionstrategy/strategye.pdf?lang=en>

<sup>22</sup> <http://www.legislation.gov.uk/mwa/2011/2/contents>

4.3 Whilst there are some excellent services being delivered locally by dedicated, passionate and specialist individuals and agencies, the picture across Wales is patchy with there being a danger that vulnerable groups will continue to fall through gaps in service provision or become wholly reliant on grassroots services where demand outstrips supply. The financial climate suggests that Wales may well continue to lose many vital face to face services in the immediate future. There is a requirement to meet the UN Committee's recommendation that Welsh Government 'provide sufficient support to migrant, refugee and asylum-seeking children to access basic services' [(f)]<sup>23</sup>, and that there is fair and equitable access to services<sup>24</sup>.

4.4 We noted the absence of any performance measures, milestones or timescales for completion of actions and suggested that an Outcome Measurement Framework was produced alongside Performance Indicators to help provide the necessary evidence base for Welsh Government to be able to determine if lives and well-being outcomes have improved and the impact this Plan has had in achieving this. Unlike previous action plans and recent Welsh Government delivery plans in other policy areas, there is no end date for the Plan or commitment to report progress on an annual or bi-annual basis. We are unclear how the Plan is being monitored and actions evaluated. Whilst there is reference in the Ministerial Forward to the Well-Being of Future Generations Act, it is not apparent how the actions in the Plan map across to the wellbeing goals of the Act.

4.5 Our preference would be for the Delivery Plan to be reviewed and brought in line with more recent legislation and refreshed to take account of the points made above and to ensure full compliance with the United Nations Committee on the Rights of the Child Concluding Observations. The revised Delivery Plan should be forward looking and set out a programme of action for the next 5 years, with clear actions, timescales, outcomes, monitoring framework and appropriately resourced.

#### Other issues to raise

- There is a lack of reliable data on separated children (UASC and age-disputed children) living in Wales.
- There is a lack of access to legal support from solicitors and legal representation in respect of the age assessment process for children and young people. There are also calls for a thorough review of the age assessment process in Wales, which leads to actions and positive outcomes for young people going through the process.
- The All Wales Child Protection Procedures are presently being reviewed to take account of recent legislative changes and to ensure they are aligned to the Social Services and Wellbeing (Wales) Act. There will be a requirement for Welsh Government to ensure that as part of the review, that Safeguarding Childrens Boards include a refresh of the All Wales Protocol on Unaccompanied Asylum Seeking Children.
- Whilst asylum accommodation is a non-devolved matter, concerns have previously and repeatedly been raised, most recently by MPs, in respect of the quality and standard of initial accommodation services. What is the role of Welsh Government and local authorities in helping to ensure that new arrivals are safe, secure and living in accommodation which is in line with expected housing quality standards?
- Good access to free, quality ESOL provision in aiding the learning of a new language is essential to drive forward integration, progression and help improve education and employability outcomes. We are aware that there continues to be barriers which can frustrate take up of provision where this exists, including transport and childcare availability. We need to ensure that existing provision is in the right place, at the right time and is sufficient to meet current and future need. Given the importance of ESOL to enable asylum seekers and refugees to access FE, employment or training, this should continue to be a priority area for Welsh Government
- Mental health support, tailored for the specific challenges and additional needs often presented by asylum seeking children, has to be in place as a matter of priority across all parts of Wales. The Welsh Government has recently issued their 'Together for Mental Health Delivery Plan 2016-19', and significant attention is being invested in this policy area which children and young people, including those we work with through our Young Wales project, repeatedly identify as a key priority. It has been reported that waiting lists are too long, and access to more specialist provision being particularly problematic.
- Echoing the concerns raised in the response of the Wales Refugee Coalition, we would wish the Committee to consider the implications and potential impact of the **Immigration Act 2016** in Wales.

#### **5. The Role & Effectiveness of the Welsh Government's Community Cohesion Delivery Plan in ensuring the Integration of Refugees & Asylum Seekers in Welsh communities.**

<sup>23</sup> <http://gov.wales/docs/dsjlg/publications/cyp/160727-final-concluding-observations-2016-en.pdf>

<sup>24</sup> <http://www.wsmg.org.uk/documents/wsmg/Asylum%20Seekers/Manifesto%20eng.pdf>

5.1 Further consideration should be given to how Wales responds to incidences of hate crime as they impact on children, young people and their families in Wales. We were particularly concerned to learn from our member organisations of a rise in incidences of hate crime on children and young people following the outcome of the EU Referendum in June this year. Solutions should focus on helping people to recognise and report hate crime, ensuring that all professionals, particularly teachers and other school based staff who work with vulnerable children, including asylum seekers and refugees, have the necessary knowledge and tools to properly listen, hear and respond appropriately, taking into account the wishes and feelings of the child and their right to be safeguarded and protected.

Hate crime is a crime and should always be recognised as such.

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**‘Breaking the cycle of disadvantage and inequality will continue to underpin everything we do, so that the way we govern has the most effective impact on making society fairer and more inclusive’** Welsh Government – November 2016 – Taking Wales Forward (2.7)

Children in Wales would wish to acknowledge the contribution of NYAS Cymru and Tros Gynnal Plant in informing our response to existing provision of advocacy services for UASC.

We would also wish to draw the Committee’s attention to the submission of the **Welsh Refugee Coalition**.