



# Safeguarding & Protecting Children Core 2

## Cymru Additional Workbook

Barnardo's Registered Charity Nos. 216250 and SC037605

## Policy and Law Reform

The issue of rights and well-being of children has been significant on the Welsh political landscape for many years, not least because there have been strong links between government and non-governmental organisations. Since the devolution settlement and the establishment of the National Assembly in Wales in 1999, there has been a plethora of policy and strategy documents relating to children and young people. Devolution has heralded a new more inclusive approach to governance, and within this context children have assumed critical importance to the new governments of Wales.

### National government

The Welsh Government has been quoted as seeing children as rights bearers:

*"Children and young people should be seen as young citizens, with rights and opinions to be taken into account now. They are not a species apart, to be alternately demonised and sentimentalised, nor trainee adults who do not yet have a full place in society".* (Rights to Action)

In 2002, the UN Committee on the Rights of the Child welcomed the fact that the Welsh Government had used the Convention as the framework in its strategy for children and young people. In 2004, the emphasis on the importance of children's rights can most clearly be seen when the Welsh Government, within the limits of its powers, adopted the Convention as the basis of all its policy making for children and young people, positioning its overarching strategy for children within a rights-based framework linked to UNCRC implementation.

In 2004, the Welsh Government issued [Rights to Action](#), a policy document adopting [7 Core Aims for Children](#), which are presented as a direct translation of the UNCRC's articles into the following broad policy aims:

- A flying start in life: Articles 3, 29, 36
- A comprehensive range of education and learning opportunities: Articles 23, 28, 29, 32
- Enjoy the best possible health and freedom from abuse, victimisation and exploitation: Articles 6, 18-20, 24, 26-29, 32-35, 37 and 40.
- Access to play, leisure, sporting and cultural activities: Articles 15, 20, 29, 31
- Be listened to, treated with respect and have their race and cultural identity recognised: Articles 2, 7, 8, 12-17, 20.
- Have a safe home and community which supports physical and emotional well-being: Articles 19, 20, 25, 27, 32-35, 37 and 40.
- Are not disadvantaged by poverty: Articles 6, 26, 7, 28.

Specific national initiatives have followed which are based on these 7 Core Aims and cite the UNCRC as a basis:

[National Service Framework for Children, Young People and Maternity Services \(NSF\)](#)

[The All Wales Youth Offending Strategy](#)

[Sexual health and well-being strategy](#)

The first Child Poverty Strategy for Wales '[A Fair Future](#)' and the current [draft Child Poverty Strategy for Wales](#)

[Children and Young People Well-being monitor](#) has been developed with statistics that are explicitly linked to the UNCRC and can be seen as measures to implement the seven core aims.

[Extending Entitlement](#) is another national initiative that falls under the umbrella of the 7 Core Aims and is the Assembly's legal direction on youth services. It sets out universal basic entitlements for young people aged 11-25 years. The 10 entitlements are not explicitly linked to the UNCRC but are clearly consistent with it, the significant point being that the language of entitlement is adopted, making a shift in the conceptual approach towards a rights based approach.

### **National Action Plan on children's rights**

On November 20th 2009, the Welsh Assembly Government launched [Getting it right](#), an action plan for Wales developed in line with the principles as set out in the UN Committee's Concluding Observations 2008 and forming part of a wider UK-wide action plan across the State party which is underpinned by individual plans for each of the devolved administrations in the UK.

The Plan will be a living organic document and will be subject to regular review and updating to ensure that it keeps abreast of new developments in policy and strategy and remains relevant and timely. This will enable the Government to add any new priority areas if and when they emerge during the 5-year period, and remove from priority status any areas where the Welsh Government and partners may consider sufficient progress has been made during the course of the 5-year period.

By the time of reporting to the UN Committee in 2014, the Welsh Government aims to demonstrate significant progress across all of the priority domains for which Wales has legislative competence and devolved powers, in supporting all children and young people across Wales to know about, exercise and access their UNCRC and human rights. For further information on the National Action Plan click [here](#).

### **Local government**

Further to the Welsh Government's resolution of adopting the UNCRC in 2004, the [Children Act 2004](#) guidance for Wales requires local authorities and their partners to have regard to the UNCRC, enshrining regard for the Convention in secondary legislation:

*"The Welsh Government has adopted the UN Convention as the foundation for all its dealings with children and young people, and local authorities and their relevant partners should have regard to its principles in providing services".*

Strategic partnerships (known as children and young people partnerships) have been in place since 2002 and have been on a statutory footing since the above legislation in 2004. Local authorities and key partner agencies are required in law to cooperate to improve the well-being of children and young people in the local area. The Children Act 2004 placed a duty on every local authority in Wales to appoint a lead director and lead member for children and young people's services.

Local health boards have to designate lead officers and lead members of NHS Trust designate lead executive and non-executive directors with responsibilities mirroring those of the local authority lead director.

Each of the 22 Children and Young People Partnerships are required to produce a children and young people's plan setting out "how the well-being of children and young people will be improved".

### **Government of Wales Act 2006**

In 2006 the [Government of Wales Act](#) created the possibility of the development of further legislation to support children's rights. Although it is clear that the Welsh Government is not empowered to incorporate the UNCRC in the law of Wales by any general legislative measure, this being beyond the scope of devolved powers, there are opportunities for the National Assembly for Wales to make laws providing for better implementation of children's rights in policy areas within the Assembly's remit. [The Children and Families \(Wales\) Measure 2010](#) is an example of new legislation which takes the UNCRC through the 7 core aims and further promotes the rights of children through tackling poverty and placing a duty to provide for play and participation of children.

### **UNCRC legislative measure for Wales**

The political commitment expressed by the then First Minister, Rhodri Morgan, to explore further the possibility of introducing a measure to embed the principles of the United Nations Convention on the Rights of the Child into law on behalf of Welsh children in the National Assembly's debate on 14th July 2009 was seen as a continuation of a position consistently held both by the Welsh Government and by the National Assembly. It was one which enjoyed substantial cross-party support within the Assembly, as reflected in the contributions to that debate.

In early 2010 a consultation on a draft Proposed Rights of Children and Young Persons Measure was launched by the Welsh Government; a summary of the responses can be found [here](#) and the papers from the Children and Young People Committee who undertook some pre-legislative scrutiny can be found [here](#).

On the 14th of June 2010 Deputy Minister Huw Lewis introduced the Proposed Rights of Children and Young Persons (Wales) Measure and Legislation Committee 5 of the National Assembly for Wales have been taking the measure through the scrutiny process.

The Wales UNCRC Monitoring Group working with partners in 2010 successfully lobbied for a legal duty to be imposed on Welsh Ministers to have due regard to the rights and obligations in the United Nations Convention on the Rights of the Child (UNCRC) and its Optional Protocols in exercising any of their functions. To view the legislative timetable and the evidence submitted to the Legislation Committee during the scrutiny process click [here](#)

On January 18th 2011 this landmark piece of legislation, the Rights of Children and Young Persons (Wales) Measure was passed by the National Assembly for Wales with cross-party unanimous support. To access the measure click [here](#)

As of the 1<sup>st</sup> May 2012 under the new [Children's Rights Scheme](#), Ministers must show due regard to the rights in the UNCRC when making decisions about proposed new policies or legislation, or about reviewing or changing existing policies.

Read the written statement from 31st January 2013 on the Children's Scheme [here](#)

From the 1<sup>st</sup> May 2014, this will apply to all of Welsh Minister's functions. It will also bring in the duty to promote knowledge and understanding of the UNCRC. This ground breaking legislation is unique within the UK and goes a long way to incorporate the UNCRC within the limits of devolved powers in Wales.

### **Rights of Children and Young people (Wales) measure accepted with cross-party unanimous support**

The Wales UNCRC Monitoring Group working with partners in 2010 successfully lobbied for a legal duty to be imposed on Welsh Ministers to have due regard to the rights and obligations in the United Nations Convention on the Rights of the Child (UNCRC) and its Optional Protocols in exercising any of their functions. To view the proposed Measure together with the legislative timetable and the evidence submitted to the Legislation Committee during the scrutiny process click [here](#)

On January 18th 2011 this landmark piece of legislation was passed by the National Assembly for Wales with cross-party unanimous support.

The legislation will come in two stages: first, from May 1<sup>st</sup> 2012, applying to the making of new law or policy and review of existing policies and then from May 1<sup>st</sup> 2014 will apply to all of the Welsh Minister's functions. It will also bring in the duty to promote knowledge and understanding of the UNCRC.

This piece of legislation brings in a children's scheme which will set out the arrangements the Welsh Ministers must have in place in order that they comply with the UNCRC. This imposes an obligation to consult with external stakeholders including the Children's

Commissioner for Wales, the voluntary sector and children and young people themselves in the development of the children's scheme.

This ground breaking legislation is unique within the UK.

<http://www.childrenswales.org.uk/policy-law-reform.aspx>

## **Social Services and Well-being (Wales) Act 2014**

The Social Services and Well-being (Wales) Act received Royal Assent and became law on 1 May 2014. It came into force on 6 April 2016.

The Act provides the legal framework for improving the well-being of people who need care and support, and carers who need support, and for transforming social services in Wales.

Read the [Social Services and Well-being \(Wales\) Act](#).

You can also read the content of the Act by using the [Easy Read version and Young Person's summary](#).

[The Essentials document](#) provides an overview of the Act and its wider legal framework.

Information about the [regulations](#) and [codes of practice and statutory guidance](#) that will support the Act can be found here. An overview of the legislative framework is also [available to download](#).

You can find details about [legislative and policy developments under the Act here](#).

The Minister for Health and Social Services issued a statement on the implementation of the Act on 1 April 2016. [You can read it here](#).

## **Changes to other legislation**

Guidance on repeals and transitions in relation to the Act [can be found here](#).

You can find a table that sets out the repeals and amendments to pre-existing legislation as a result of the Act [here](#).

[This table](#) details the relationship between the Act and the Children Act 1989.

Welsh Government delivered training to local authority lawyers on the Act early in 2016 and [you can find that presentation here](#).

## Background

The White Paper, [Sustainable Social Services for Wales: A Framework for Action](#), published in 2011, highlighted a number of challenges faced by public services in Wales.

These included demographic changes, increased expectations from those who access care and support as well as continuing hard economic realities.

The Act aims to address these issues and in doing so will give people greater freedom to decide which services they need while promoting consistent, high-quality services across the country.

It will transform the way social services are delivered, promoting people's independence to give them stronger voice and control.

You can find links to all the key primary legislation relating to social care in Wales on the [Law Wales website](#).

## Principles

The fundamental principles of the Act are:

**Voice and control** – putting the individual and their needs, at the centre of their care, and giving them a voice in, and control over reaching the outcomes that help them achieve well-being.

**Prevention and early intervention** – increasing preventative services within the community to minimise the escalation of critical need.

**Well-being** – supporting people to achieve their own well-being and measuring the success of care and support.

**Co-production** – encouraging individuals to become more involved in the design and delivery of services.

## How the Bill became an Act

Follow the progress of the Social Services and Well-being (Wales) Bill, from when it was introduced to the National Assembly on 28 January 2013 to when it became an Act after receiving Royal Assent on 1 May 2014. Here, you can also find the [Explanatory Memorandum, which provides a general explanation of the legislation, including all its different parts](#).

## Children and young people

On 30 June 2015, the Minister for Health and Social Services Mark Drakeford issued [a written statement](#) detailing how the Act will meet the needs of children and young people.



- More information and advice will be available
- Assessment will be simpler and proportionate
- Carers will have an equal right to be assessed for support
- There will be stronger powers to keep people safe from abuse and neglect

### What happens now?

If you receive care or support, you will take part in the new process during your next scheduled review date. Your local authority will be able to provide more information.

You can access the Social Services and Well-being (Wales) Act on the [legislation.gov website](#) (external link)

### DOCUMENT DOWNLOAD



[Social Services and Well-being \(Wales\) Act 2014: The Essentials](#) (File size: 213KB)



[Social Services and Well-being \(Wales\) Act - A young person's summary](#) (File size: 3.4MB)



[Social Services and Well-being \(Wales\) Act - Easy Read](#) (File size: 4.9MB)

<http://gov.wales/topics/health/socialcare/act/?lang=en>

### Education (Wales) Act 2014

Last updated 02 June 2014

This Act became law in Wales on 12 May 2014.

#### Purpose

The Act introduces a new, more robust registration system for the whole education workforce.

The Act will also legislate in the following areas:

- harmonise School term dates
- removal of the appointment of HM Chief Inspector and HM Inspectors of education and training in Wales under section 19 of the Education Act 2005.

## Benefits

The Act will bring greater coherence by changing the way that school term dates are set, so that they may be harmonised across all maintained schools in Wales.

## More information

Full details of the Act are available from the [National Assembly for Wales](#) (external website).

### DOCUMENT DOWNLOAD

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[Equality impact assessments](#) (File size: 1.7MB)

<http://gov.wales/legislation/programme/assemblybills/education-act/?lang=en>

## Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015

Last updated 29 April 2015

This act became law in Wales on 29 April 2015.

### Purpose

The act improves the public sector response in Wales to violence against women, domestic abuse and sexual violence. It provides a strategic focus and ensures consistent consideration of preventive, protective and supportive mechanisms in the delivery of services.

## Benefits

The act:

- raises the profile of violence against women, domestic abuse and sexual violence in Wales through the creation of strategies
- provides a strong strategic direction, promoting consistency and best practice
- ensures ownership of the issue at a strategic level with the appointment of a ministerial adviser.

## More information

Details the act are available on [National Assembly for Wales](#) (external link).

### DOCUMENT DOWNLOAD

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**Equality impact assessments** (File size: 974KB)

<http://gov.wales/legislation/programme/assemblybills/domestic-abuse/?lang=en>