

## **Legislation Committee No 5**

### **Proposed Rights of Children and Young Persons (Wales) Measure**

**Response from Cllr Alana Davies, Cabinet Member for Children  
and Young People, Bridgend County Borough Council**

#### **Annex 1**

#### **Answers to Consultation Questions**

1. Is there a need for legislation (by means of an Assembly Measure) to impose a duty upon the Welsh Ministers and the First Minister 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, when making decisions of a strategic nature about how to exercise any functions which are exercisable by them?

**Ans:**

**There is a need for such legislation. While we may assume that any responsible Assembly Minister would have regard for the these rights and obligations, it need to be enshrined in law to ensure that this is the case.**

2. The Welsh Ministers must make a Children Scheme as required under section 2(1), which will set out criteria for determining which decisions are decisions of a strategic nature. What do you consider is meant by 'a decision of a strategic nature' as identified in section 1(2)? Is this sufficiently clear and or sufficiently wide?

**Ans:**

- a) I consider 'a decision of a strategic nature' to mean a chosen alternative that affects outcomes which determine the successful implementation of a policy.
- b) The wording 'a decision of a strategic nature' is not sufficiently wide, and I feel will lead to a great deal of time being spent in deciding/agreeing what is, and what is not, a strategic decision. I would prefer to see a number of headings or examples which would be seen as strategic decisions, as well as some that would not.

3. Section 7 of the proposed Measure includes provision about consulting on the possible application of the proposed Measure to persons who have reached 18 years, but are not yet 25 years. Do you think this it is appropriate to apply a convention agreed for the

benefit of children to adults between 18 and 25 years? What might be the issues to be addressed?

**Ans:**

**I think it is appropriate, particularly for young adults (18-25) who have learning difficulties, or mental or physical disabilities. These young people need the protection of appropriate legislation in many of the same areas which are applied to children 0-18. .**

4. The proposed Measure includes a schedule, which is the Part I of the Convention and Optional Protocol 1-7 on the rights of children involved in armed conflict (except article 6(2)) and articles 1-10 on the rights of the child on the sale of children, child prostitution and child pornography.

Do you think that the text of these treaties needs to be included on the face of the Proposed Measure?

The Assembly does not have powers relating to armed conflict and has limited powers relevant to the second protocol. Do you think it is necessary for these protocols to be included in the Proposed Measure?

**Ans:**

**a) I think the text of these treaties needs to be appended, with a short summary included on the face of the Proposed Measure**

**b) It is necessary for these protocols to be included as it gives a steer and a clear indication as to what is tolerated by the Assembly and what is not.**

5. Are the sections of the proposed Measure appropriate in terms of meeting the stated objectives as detailed on page 10 of the Explanatory Memorandum. If not, how does the proposed Measure need to change?

**Ans:**

**The sections do seem appropriate.**

6. How will the proposed Measure impact on improving and strengthening the rights of the child?

**Ans:**

**They will be enshrined in law, and all organisations & individuals will need to comply.**

7. What are the potential barriers to implementing the provisions of the proposed Measure (if any) and does the proposed Measure take account of them?

**Ans:**

**Possible barriers may include:**

- **Lack of control/monitoring of implementation**
- **Lack of action to address issues arising from monitoring**
- **Lack of resources**

8. Are there any other comments you wish to make about specific sections of the proposed Measure?

**Ans:**  
**No**

9. In responding to this consultation the Committee would be grateful if you could indicate how you have gathered views of children and young people in forming your response.

**Ans: I have not had an opportunity to gather views of children & young people on this particular issue; however, in my roles as Cabinet Member for Children & Young People, Chair of Corporate Parenting Cabinet Committee, and member of the Bridgend Fostering Panel, I have regular contact with schools, children (including those who are looked after by the Local Authority), parents, foster carers, and school governors, as well as families with children in the constituency I represent.**

### **Financial provisions**

10. What are the financial implications of the proposed Measure for your organisation, if any? In answering this question you may wish to consider Part 2 of the Explanatory Memorandum (the Regulatory Impact Assessment), which estimates the costs and benefits of implementation of the proposed Measure.

**Ans:**

**Undoubtedly there will be financial implications to Local Authorities, and in a period of savage cuts to public services by central government, it is essential that the Assembly does all it can to redress to balance as far as is possible, and provide for some ring-fenced funding to implement this measure.**

### **Subordinate Legislation**

11. What are your views on powers in the proposed Measure for Welsh Ministers to make subordinate legislation? In particular do you consider it appropriate for Ministers to be able to amend the proposed Measure itself by subordinate legislation (by "Order" - sections 6 and 8)? Is it appropriate to use subordinate legislation to apply the Convention to adults between 18 and 25 years or should that be done by a further Assembly Measure (section 7)?

**Ans:**

- a) I do consider it appropriate for Ministers to be able to amend the proposed Measure by subordinate legislation**
- b) It is appropriate to use subordinate legislation to apply the Convention to adults between 18 and 25 years. There should not be any need for that to be done by a further Assembly Measure.**

12. Section 8(5), allows Welsh Ministers to amend the Measure where there has been a change to the Convention or protocols or where an additional protocol has been signed or agreed (but not ratified) by the UK Government. Section 8(7) requires the Welsh Ministers to make similar amendments to the Measure where changes or additions to the Convention and protocols have been ratified by the UK Government.

Although these powers are to be exercised by Statutory Instrument (SI), neither the affirmative or negative resolution procedure will apply, Ministers will simply be required to lay the SI before the Assembly. Do you have any views on whether this is a reasonable way for Ministers to update the Measure or should there be more Assembly control over the process?"

**Ans:**

**I would wish there to be further Assembly control via an appropriate committee who could look at any amendments and request a rationale and justification for the changes.**