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Llywodraeth Cynulliad Cymru
Welsh Assembly Government

Ein cyf/Our ref: LF/HL/14/10

Mark Isherwood AM
Chair
Legislation Committee 5
National Assembly for Wales
Cardiff
CF90 1NA

2 August 2010

Dear Mark

Proposed Rights of Children and Young Person (Wales) Measure

I am writing to you in response to a number of questions raised by the Committee Members when I appeared to give evidence on the 24 June 2010.

I was asked to provide examples of how the proposed Measure would strengthen the rights of children and young persons.

The proposed Measure will place specific duties on Welsh Ministers in relation to the United Nations Convention on the Rights of the Child and its Optional Protocols ("the UNCRC"). It will require Welsh Ministers, when making *any* strategic decision about how to exercise their functions, to consider whether and how they can use those functions to give greater effect to the substantive rights and obligations in the UNCRC.

It is important to stress that the proposed Measure imposes the due regard duty in respect of strategic decisions *about how to exercise functions*. Ministers will make a strategic decision about how to exercise a function, having due regard to the UNCRC when doing so. It follows that, *when they actually carry out the function which that strategic decision concerned*, they will do so against the background of having given full and proper consideration to the UNCRC.

For example, if we were considering developing or amending a Children and Young People's Workforce Development Strategy a specific focus would be given to how this could give greater effect to the UNCRC in its content and direction. In turn this will influence the training available for the workforce, its culture and the way in which support and services are provided to children.

It is also important to stress that *all* functions exercisable by Welsh Ministers fall within scope of the duty's effects. There is no scope in the proposed Measure for particular functional areas (e.g. planning or housing) to be excluded or for particular strategic priorities to be cherry picked.

A rights-based approach introduces a fundamentally different way of working for and with children, which sets it quite distinctly apart from welfare or needs based approaches. In

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practice, it means that Welsh Ministers' strategic decisions about how to exercise functions will start from a recognition that every child in Wales has, because of their youth and vulnerability, rights under the UNCRC to help ensure their development.

A rights based approach also recognises that children are rights holders. It recognises that government and society more broadly have a duty to support children to realise and enjoy all of their rights. This also recognises that by accepting these rights for themselves, each child also accepts these rights for others and should respect the rights of others. It is clear that a main emphasis within a rights based approach is empowering the individual. In turn, we anticipate that all children, by claiming and enjoying their rights, will be in a stronger position to:

- improve their outcomes
- achieve wellbeing,
- fulfil their full potential as citizens of human society and
- ultimately contribute to the social and economic prosperity of Wales

We anticipate that children will also gain increased confidence in their ability to fully engage within their communities. Indications from international research (e.g. Innocenti Research - The Impact of Rights Based Approaches to Development¹) and from specific initiatives (e.g. the evaluation of Rights Respecting Schools²) demonstrates the potential benefits of a rights based approach. This includes the potential to significantly add value in improving accountability, autonomy and ownership, achieving sustainable positive change, addressing causes rather than symptoms and enhancing social inclusion.

As you know the UNCRC applies in relation to those who are under 18 and, at the moment, the proposed Measure does the same. However, section 7 contains a power for the Welsh Ministers to apply the Measure to young people aged 18 to 24, following consultation and Assembly approval. Therefore, the potential is there for benefits arising from the proposed Measure for children to be extended to young people.

I was also asked questions about the duty on the Welsh Ministers to promote knowledge and understanding among the public of the UNCRC and its Optional Protocols. I was asked how we hoped to be able to address the lack of knowledge and understanding, how we will measure how effective we have been in doing so, and what success will look like.

At Committee, reference was made to evidence submitted by Funky Dragon to the UN Committee in 2008 from its "Our Rights Our Story" and "Why do ages go up not down?" reports. Those reports found that only 8% of those surveyed had been taught about the UNCRC in schools. I also referred to work by the Children's Commissioner which reported that of the children and young people he had sampled in a similar timeframe, only 30% had heard of the UNCRC with 13.5% reporting that they found out about it through school. Although these surveys have provided an initial indication of the low baseline in this area, it is clear that a range of different findings have resulted from asking similar but different questions.

In terms of the knowledge and awareness among adults (including families and the children and young people's workforce), an initial baseline will be established through questions in the National Survey for Wales. However, indicative information undertaken across Wales has

¹ UK Interagency Group on Human Rights Based Approaches (2007) The Impact of Rights-Based Approaches to Development http://www.crin.org/docs/Inter_Agency_rba.pdf

² Sebba, J. and Robinson, C. (2009) Evaluation of UNICEF UK's Rights Respecting Schools Award http://www.unicef.org.uk/publications/pdf/sussex_interim_summary.pdf

supported the view that the baseline is low. Similarly we had hoped that the young person's module of this survey would provide some further information; however this has not been possible due to operational difficulties.

Much work has already commenced to address the lack of knowledge and understanding of the UNCRC. Given the importance of the need to raise awareness of the UNCRC, it is a specific priority within "Getting it Right", our UNCRC Action Plan for Wales and has five broad actions listed against it. Activity so far, has included the development of awareness raising materials and resources for children, young people and adults. Similarly we are commencing work to set in place training modules for professionals which will support the future development of the Children and Young People's Workforce Development Strategy with an emphasis on the UNCRC.

We intend to continue to develop ways of monitoring change in levels of knowledge and understanding, using both quantitative and qualitative approaches over time as part of the arrangements put in place under this proposed Measure, and as outlined in "Getting it Right". This may include a range of options which are currently being scoped.

However, it is clear that such an evaluation should be capable of assessing impact and change at a number of levels. Although I am not in a position to provide the detail of this at present, as it is too early to do so, I would anticipate that this would be likely to include assessing:

- what happens or changes following the implementation of arrangements to comply with the duty in section 5 of the proposed Measure
- changes in activity/support/provision for children and young people
- changes in the focus of training delivered, including a cultural shift towards rights-based provision over time
- changes in levels of knowledge and understanding of the UNCRC of the public, professionals and children and young people
- the longer term changes in outcomes achieved and the wellbeing of children and young people.

This evaluative element of the work programme will require more detailed consideration once the proposed Measure becomes law. However, this will need to be considered in tandem with the development and content of the Children's Scheme.

I would also like to advise you that it is my intention, in good time before my next appearance before the Committee on 30 September 2010, to provide a written submission aiming to clarify a number of issues which have arisen before the Committee. This will, in particular, provide further explanation about the concept of a "decision of a strategic nature about how to exercise any function exercisable by the Welsh Ministers". I recognise that a number of Members, as well as a number of stakeholders who have given evidence to the Committee, have expressed a strong wish to receive further clarification on this issue.

I hope that the Committee finds this information to be of assistance.

Bobt Wicher,
Huw

Huw Lewis AM/AC