

Consultation on Proposed Playing Fields (Community Involvement in Disposal Decisions) (Wales) Measure



Written response on behalf of the Children's Commissioner for Wales

The Children's Commissioner for Wales is an independent children's human rights institution established in line with the Paris Principles. In exercising his functions, the Children's Commissioner for Wales must have regard to the United Nations Convention on the Rights of the Child (UNCRC).

The Commissioner's remit covers all areas of the devolved powers of the National Assembly for Wales insofar as they affect children's rights and welfare.

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We have no objection to this response being made publicly available.

Introductory comments

The work of the Children's Commissioner for Wales is underpinned by the United Nations Convention on the Rights of the Child (UNCRC).¹ The UNCRC was adopted as the basis of all policy making for children and young people by the Welsh Assembly Government and forms the basis of the Seven Core Aims for all children and young people. One of the many rights in the Convention is the right to play (article 31).

The Children's Commissioner for Wales along with his three fellow Commissioners across the United Kingdom provided both written² and oral evidence to the United Nations Committee on the Rights of the Child on 2008.

In relation to children's play and the impact of planning policies on play opportunities, the Commissioners reported that:

The use and availability of open space and sporting and recreational facilities are central to children's ability to take part in play and leisure opportunities. In

¹ Convention on the Rights of the Child <http://www.unhchr.ch/html/menu3/b/k2crc.htm>

² UK Children's Commissioners' Report to the UN Committee on the Rights of the Child (2008) Available from http://www.childcom.org.uk/publications/UNCRC_report_final_ENGLISH.pdf

Scotland, some school development programmes have reduced the availability of open spaces and outdoor facilities which has had a knock on effect on children's physical health and well-being. There is clear need for annual monitoring of changes in the local provision of green/open spaces. Without such monitoring, it would be impossible to determine the effect that such development is having on these spaces and, as a consequence, the impact this is having on the lives of children and young people.

Children and young people also play in spaces that are not officially designated for that purpose. **It is therefore essential to map out where children do play and to factor this into planning and development decisions. If this is not done, land may be identified as surplus to adult requirements when it is, in fact, significant to children and young people. There has been a steady reduction in play space, including playing fields, open spaces and playgrounds over the past 20 years.**(emphasis added) It has been estimated that today's children enjoy on average one-ninth of the space in which to freely roam compared to previous generations. A recent worrying development in England has been the building of new schools without playgrounds. This reflects not only the low priority given to play, but also a lack of recognition of the importance of play for children's learning, development, health and well-being.

The lack of play opportunities available for children and young people was also raised with the UN Committee on the Rights of the Child by Funky Dragon, the Children and Young People's Assembly for Wales. In their reports, *Our Rights, Our Story* and *Why do people's ages go up and not down?*³ Over twelve thousand children and young people expressed their views on their ability to exercise their rights as contained within the UNCRC.

The report from the research with 7 to 11 year olds, *Why do people's ages go up and not down?* highlighted that play and being able to access a variety of spaces to play was a major concern for those children. The report recommended that:

- All children should have access to a park that is safe to get to, is clean and has working apparatus.
- Attention needs to be given to providing more outdoor facilities for this age group such as an increase in outdoor sport and play centres. Where local facilities are available, such as leisure centres, adventure playgrounds and playschemes, attention is needed on encouraging this age group to utilise them and processes should be made as child-friendly as possible.

In their report, *Our Rights, Our Story* Funky Dragon reported that;

Another issue which young people highlighted was that of there being a lack of things to do for young people in Wales. Generally, there were a large number of participants who responded to the question by saying they would like to increase the number of shops, cinemas, restaurants, theme parks, playgrounds, swimming pools and sports facilities.

³ *Our Rights, Our Story and Why Do People's Ages go up and now down?*
Available from <http://www.funkydragon.org.uk/en/fe/page.asp?n1=1036>

1. Is there a need for an Assembly Measure in relation to community involvement in decisions by local authorities whether to dispose of playing fields?

Given the reported lack of priority given to children's play within planning processes, it appears logical to ensure community involvement in decisions as to whether to dispose of playing fields. Children under Article 12 of the UNCRC have the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child. It is therefore welcome that under the Proposed Measure, children through school councils and local youth fora would be consulted about the disposal of a local playing field which is an important issue in their lives.

Children and young people regularly tell the Children's Commissioner for Wales and his team that a lack of play facilities and opportunities to play are among their main concerns. Children often wish that the Commissioner could resolve this issue for them. It is therefore important that children and young people are able to participate in key local decision making processes. However, without clear information as to the proposed disposal of a playing field, children and young people would be unable to participate in the consultation process. A further important right within the UNCRC is Article 13 which ensures children the right to seek and receive information in a variety of formats.

The United Nations Committee on the Rights of the Child made the following comment on the right to leisure and play for children and young people in their Concluding Observations in 2008.⁴

Right to leisure and play

68. The Committee, while appreciating that the England Children's Plan provides for the largest ever central Government investment in children's play, is concerned that, with the sole exception of Wales, the right to play and leisure is not fully enjoyed by all children in the State party, especially due to poor play infrastructures, notably for those children with disabilities. The Committee is also concerned that the steady reduction in playgrounds occurred in recent years has the effect to push children into gathering in public open spaces, a behaviour that – however – may be seen as anti-social according to the ASBOs.

69. The Committee recommends that the State party strengthen its efforts to guarantee the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts. The State party should pay particular attention to provide children, including those with disabilities, with adequate and accessible playground spaces to exercise their play and leisure activities.

It is clear that both national bodies, including Play Wales and Funky Dragon and international bodies, including the United Nations Committee on the Rights of the

⁴ Concluding Observations United Kingdom and Northern Ireland Available from <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC.C.GBR.CO.4.pdf>

Child recognise the great importance of play for children's development. The involvement of communities including children in discussions around disposing of playing fields may help to address some of the concerns that the Children's Commissioners expressed in 2008.

However it is clear that a methodology for the participation of school councils, youth fora and other children will need to be developed to ensure that their engagement is meaningful and in line with the National Participation Standards. A working group would need to be established to look at developing accessible methodologies for children and young people of all ages to engage with such proposals.

2. What are your views on the key provisions set out in the proposed Measure, i.e. the duty on local authorities to consider the impact that selling off playing fields would have on local communities before deciding whether to dispose;

- **the principal definitions (Section 2);**

We would question how playing fields will be defined – would the definition also include children's play areas and parks – which may not include a delineated sports pitch but may provide vital play areas for the children of the local community.

The inclusion of town and community councils is in our view an important inclusion as these bodies are at the heart of their communities and therefore need to engage effectively with all potential users of the playing fields that they own.

- **the duty on local authorities to prepare and consult on impact statements before deciding whether to dispose (in particular, the method and scale of consultation, and content of impact statements)(Section 3);**

- **the statutory consultees as set out in the Schedule to the proposed Measure; and**

Would there be scope for including Funky Dragon, the Children and Young People's Assembly for Wales within the list of consultees. Their reports *Our Rights, Our Story and Why do People's Ages go up and not down?* prepared for the United Nations Committee on the Rights of the Child highlighted play as one of the most important issues for children.

3. What are the practical and financial implications of putting these provisions in place?

There would be a practical and possible financial implication of enacting the proposed Measure for the Children's Commissioner for Wales. We may be unable to respond to each disposal put forward by local authorities due to other workload commitments of staff. However we would still wish to receive all such proposals for disposal so that we would be able to monitor the number of such proposed disposals across all local authorities in Wales.

4. Will the proposed Measure achieve its overall purpose and aim?

The Proposed Measure could achieve its overall purpose and aim to ensure that the impact of the disposal of a playing field is considered by the local authority in consultation with the local community. However, without the full and meaningful participation of the children and young people in any community, the full impact of such a disposal could not be calculated. We therefore welcome the Proposed Measure's inclusion of children as statutory consultees but would stress the need for robust and effective methodologies to be developed to ensure their participation in the process.

Children's Commissioner for Wales
Date: February 2009

Relevant Articles of the United Nations Convention on the Rights of the Child

Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Article 13

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.
2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - (a) For respect of the rights or reputations of others; or
 - (b) For the protection of national security or of public order (ordre public), or of public health or morals.

Article 31

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.
2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.