

National Assembly for Wales (NAfW) Review of NAfW standing orders: Submission by Keith Towler, Children's Commissioner for Wales

The Children's Commissioner for Wales (CCfW) is an independent children's rights institution, established in 2001. My principle aim is to safeguard and promote the rights and welfare of children. In exercising my functions, I must have regard to the United Nations Convention on the Rights of the Child (UNCRC).

My remit covers all areas of the devolved powers of the National Assembly for Wales (NAfW) insofar as they affect children's rights and welfare and I may also make representations to the National Assembly for Wales about any matter affecting the rights and welfare of children in Wales.

I very much welcome the opportunity to contribute to the review of National Assembly for Wales Standing Orders. I see this as an opportunity to increase the presence and participation of children and young people within in the political processes and for the NAfW to break new ground and be standard bearers in this regard.

I very much value the role and function of the Children and Young Person's Committee and its effectiveness in scrutinising Government policy and performance. This review also affords an opportunity to examine the role of the Children's Commissioner in relation to the legislature and the role that both institutions have in holding Welsh Government to account.

Holding Welsh Government to account:

Annual Report Process and timescales

The Children's Commissioner for Wales Regulations 2001 outlines the detail of the annual report procedures.¹ Whilst I appreciate that addressing the difficult issues inherent within the technicalities of the CCfW Annual Report process is not within the NAfW's gift, I believe that the standing orders may facilitate an enhanced and more robust scrutiny process of Welsh Government performance.

The CCfW'S Annual reporting cycle runs from the 1 April to the 31 March. The report is to be tabled no later than 1 October (with the NAfW typically in recess until deep into September).

¹ <http://www.opsi.gov.uk/legislation/wales/wsi2001/20012787e.htm>.

The relevant Welsh Minister welcomes the Children's Commissioner for Wales' annual report in plenary (usually in November) to allow Assembly Members an opportunity to debate the issues raised in the report (Standing Order 7.62).

A written response to the Report is then prepared by the Welsh Government alongside the Commissioner's Statement of Income and Expenditure for the forthcoming year. This is sent to the CCfW to arrive no later than 31 March of the following year to which the Report relates.

It is therefore possible that an issue which may, in the view of the CCfW merit attention, and identified in early April 2009, may not receive a Government response until March 2011.

- Timescale for responding to the CCfW report itself once published : 6 months
- Potential timescale for Welsh Government responding to issues contained within the annual report: 24 months.

In practice of course I would feel obligated to engage with the Government by other means to seek resolution of an issue.

Having said that, I don't believe that the current situation is conducive to effective scrutiny of Government and could also skew the policy landscape. The timescales involved can lead to an inaccurate picture of the policy implementation, legislation and resource landscape within my annual report, especially bearing in mind the enhanced legislative competency of the NAFW.

The fact that I am not obliged to present my annual report until 1 October presents a 6 month lapse in context (notwithstanding the option to publish my Annual Report earlier). The same could be said of the ability of others to scrutinise the effectiveness of my office in a timely, informed and accurate manner.

CCfW link to Committee structures:

Establishing a New Committee Modelled around the Public Accounts Committee

I think consideration should be given to establishing a Committee to deal with reports (and specifically annual reports) from bodies / institutions like the Children's Commissioner for Wales who have statutory functions relating to holding Welsh Government (and others) to account i.e. those bodies with compliance, examination or reviewing powers in legislation.

The possible wording could be:

“Institutions whose statutory functions include reviewing, monitoring and/or reporting on (1) the policies of the Welsh Ministers (2) the exercise by the Welsh Ministers of their functions (3) other matters relating to the Government of Wales.”

The primary function of this committee would be to consider the content and/ or recommendations within annual reports and other periodical reports and to hold Ministers to account. It would also have the effect of strengthening the scrutiny of organisations such as the Children’s Commissioner for Wales.

This would not negate the opportunity for other committees to engage with these bodies on policy issues throughout the Assembly term via inquiries etc. However, it would provide a structured focus, similar in structure to the Public Accounts Committee (formally audit committee), whereby the Committee would produce a report with recommendations, and for that report to be laid and subsequently debated in plenary. The Chair of that Committee would thereby represent the views of the Committee in plenary.

Having an allocated Committee session(s), with a contribution from representatives from the relevant organisation - for instance, I would be called in to discuss my Annual Report - would provide for greater examination and understanding of the issues consequently facilitating an informed and robust discussion in plenary.

The Committee would consequently have a more structured and formalised process of engaging with the Welsh Government in relation to the Committee recommendations and progress against those recommendations.

Whilst I appreciate the Public Accounts Committee (formerly Audit Committee) has a unique status within the legislature as a result of being named on the face of the Government of Wales Act 2006, if the principles and practices of that Committee were applied to the proposed committee, it would prove beneficial in terms of transparency and accountability in holding Government to account.

Establishing a Committee of this nature would also assist in addressing the requirements within 12.4 of Standing Orders. Namely:

12.4 in making determinations under Standing Order 12.2, or in tabling any motion under Standing Order 12.3, the Business Committee must ensure that every area of responsibility of the government and associated public bodies is subject to the scrutiny of a scrutiny committee.

To summarise, a proposal such as this would deeper embed the Commissioner’s role in holding Government to account within the legislature’s mechanisms. It would also provide for enhanced prominence in the positioning of the Commissioner’s role in holding Government to account as well as having a formalised engagement with the NAFW.

Current Standing Orders and the Children’s Commissioner for Wales:

Currently, the Standing Orders define the report of the Children’s Commissioner for Wales as ‘Government Business’ and states in 7.62 that:

“Time must be made available in each Assembly year for debates on the following items of Government business:

- (I) the policy objectives and legislative programme of the government; and*
- (II) the annual report of the Children’s Commissioner for Wales*

Establishing a Committee as suggested above would make the above provision more robust through a more systemic scrutiny of the CCfW’s Report.

Children and Young People engagement with NAFW committees:

This review states that it is considering changes to allow for innovation and improvement. I strongly believe that initiatives relating to the role of children and young people’s engagement with the legislature provide our young democracy with the potential for achieving the objectives stated and breaking new ground. There is a need to identify how to promote and facilitate the involvement of children and young people within the Committee process and the practical implications of this. There should be consideration of development of guidance

The UNCRC Committee made the following Concluding Observation relating to participation of children (paragraph 33):

“The Committee recommends that the State party...

c) continue to collaborate with civil society organizations to increase opportunities for children’s meaningful participation...”²

In my response to the All Wales Convention I noted:

‘As Article 13 of the UNCRC states, being able to access information about decision making processes is a child or young person’s right as citizens of Wales. The Welsh Assembly Government sees children as rights holders and states clearly that:

² Concluding Observations United Kingdom and Northern Ireland. Available from <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC.C.GBR.CO.4.pdf>

“Children and young people should be seen as 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 society³”.

Children are more likely to be aware of their rights if they can see, understand and participate in the decision making processes at work.

I also noted:

‘The petitions committee is an obvious example of how children can participate as citizens within the decision making process. Children and young people themselves can have direct engagement with the politicians. This relates to Article 12 of the UNCRC which states:

“1. State 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.”

Suggestion:

I believe in reviewing the Standing Orders, there is an opportunity for the NAFW to reflect the sentiments expressed above. Underpinning the revised Standing Orders with the UNCRC would show a true commitment to engaging with children and young people, with obvious yields in terms of future adult participation. It would also provide asymmetry with the commitments made by consecutive Welsh Governments.

I would also direct the Assembly Commission to the discussions regarding to a Proposed Child Rights Measure which has within its objectives a commitment to underpin the operations of Welsh Government with the UNCRC. It would be commendable if the legislature also expressed and implemented a similar commitment.

As well as a possible explicit statement in this regard, the Assembly Commission should also look at what the practical implications may be. I would gladly engage with you in examining how the standing orders can give effect to the UNCRC.

It may be of benefit to the Business Committee if I were to refer you to a letter I sent to the NAFW Petitions Committee in January 2009⁵ in which I suggest the issues which should be considered in engaging children and young people in the Committee processes. The correspondence did not by any means present an exhaustive list of considerations, but did include:

³ WAG (2004) Children and Young People: Rights to Action. p.4

⁴ <http://www2.ohchr.org/english/law/crc.htm>

⁵ http://www.assemblywales.org/bus-home/bus-committees/bus-committees-third1/bus-committees-third-pc-home/bus-committees-third-pc-agendas/pet_3_-03-09_p2a_-_annex_to_updates.pdf?langoption=3&ttl=PET%283%29-03-09%20%3A%20Paper%2002A%20%3A%20Annex%20to%20Paper%2002%20%28PDF%2C%204-79MB%29

- How to make the Committee process accessible to children and young people (across all committees)
- The Committee environment and the procedures to prepare children and young people for engagement
- Understanding of the level and appropriateness of public scrutiny (which may have safeguarding implications)
- Committee conformity with The National Standards for Children and Young People's Participation
- The possibility of good practice examples being replicated across committees?
- Consideration of producing good practice guidance and standards with a commitment to monitoring progress.

There are practical steps which may be taken, for example, examining the implications of engaging with children and young people in the section on Standing Orders dealing with documentation which accompany a proposed Measures (which could in fact extend to any committee activity).

Whether or not all of the issues raised are addressed on the face of the Standing Orders or not, I believe that relevant information should be available to all clerks and Committee Members and I would like to express my willingness to facilitate and contribute to these discussions and developments.

A handwritten signature in black ink that reads "Keith Towler". The signature is written in a cursive style and is positioned above a horizontal line that extends to the right.

Keith Towler
Children's Commissioner for Wales

July 2010



Annex 1

Excerpt from the Children's Commissioner for Wales Regulations 2001

<http://www.opsi.gov.uk/legislation/wales/wsi2001/20012787e.htm>

Annual Reports

15. - (1) *Subject to paragraph (3), the Commissioner shall make an annual report to the First Minister which shall contain -*

(a) *a summary of the action taken in the exercise of the Commissioner's functions under the Act during the previous financial year including a summary of the reports issued during that period and of such representations as the Commissioner may have made during that period pursuant to section 75A of the Act, including any representations made as to the range or effectiveness of the Commissioner's powers;*

(b) *a review of issues relevant to the rights and welfare of children in Wales; and*

(c) *a summary of the Commissioner's work programme for the financial year in which the report is made and of the Commissioner's proposals for a work programme for the financial year following that year.*

(2) *The Commissioner shall also produce a version of the annual report which is, so far as reasonably practicable, suitable for children.*

(3) The first reports referred to in paragraphs (1) and (2) shall be made in 2002.

(4) Subject to paragraph (3), the Commissioner shall, no later than 1st October in each year, send a copy of the reports referred to in paragraphs (1) and (2) to -

(a) The First Minister; and

(b) The libraries of the Assembly and of the Houses of Parliament

Annex 2

The Children's Commissioner for Wales' response to the All Wales Convention Consultation.

The Children's Commissioner for Wales is an independent children's rights institution established in line with the Paris Principles¹. 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 Convention defines a child as being someone under the age of 18. The United Kingdom government ratified the convention in 1991 and in doing so committed to bringing all domestic legislation and guidance into line with the Convention. The Welsh Assembly Government (WAG) has adopted this Convention as the basis for all its policy development in relation to children and young people. 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.

Understanding of current devolution settlement

Political Literacy and Awareness

All legislative bodies are complex by their very nature and it is questionable whether the majority of children and young people will have an understanding, for instance, of the separation of powers, the devolved policy areas, WAG's executive authority and the National Assembly for Wales' scrutiny roles. If a link were made between electoral turnout and understanding the political systems, it would suggest that this to be true also of adults; however we believe there are opportunities to educate children and young people about political institutions in Wales.

As a signatory to the UNCRC, the United Kingdom government is required to report periodically to the United Nations Committee on the Rights of the Child on the progress made in implementing the Convention across the UK. In October 2008, the most recent reporting round was completed when the United Nations Committee on the Rights of the Child published its Concluding Observations to the United Kingdom government.

Those Concluding Observations followed the submission of reports from the United Kingdom government incorporating responses from the devolved administrations, non

¹ <http://www2.ohchr.org/english/law/parisprinciples.htm>

governmental organisations, young people’s organisations and a joint report from the UK Children’s Commissioners².

The UNCRC Monitoring Committee made the following Concluding Observation³ relating to participation of children (paragraph 33):

“The Committee recommends that the State party...

a) promote, facilitate and implement, in legislation as well as in practice, within the family, schools, and the community...

b) support forums for children’s participation, such as the UK Youth Parliament, Funky Dragon in Wales and Youth Parliament in Scotland;

c) continue to collaborate with civil society organizations to increase opportunities for children’s meaningful participation, including in the media.”

The Committee make it clear in its Concluding Observations that it believes children’s participation in the democratic process should be strengthened, and that it is a government’s obligation to facilitate this.

We would suggest that the National Assembly for Wales also has a duty to inform children and young people about the current devolution settlement and any constitutional changes under Article 13 of the UNCRC:

- 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 .*

Under the *Government of Wales Act 2006*⁵ the Assembly Commission has specific powers to promote public awareness of elections and devolved government in Wales and may carry out programmes of education or information. Positive steps have been taken such as the expansion of the Assembly Education team; however this awareness needs to permeate into other areas of life which are relevant to children and young people.

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

³ Concluding Observations United Kingdom and Northern Ireland. Available from

<http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC.C.GBR.CO.4.pdf>

⁴ <http://www2.ohchr.org/english/law/crc.htm>

⁵ http://www.opsi.gov.uk/acts/acts2006/ukpga_20060032_en_1

As Article 13 of the UNCRC states, being able to access information about decision making processes is a child or young person's right as citizens of Wales. The Welsh Assembly Government sees children as rights holders and states clearly that:

"Children and young people should be seen as 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 society⁶".

Some questions may be asked in relation to the effectiveness of the delivery of citizenship elements within the PSE curriculum due to its non statutory status... The Local Government and Public Services Committee report on Electoral Arrangements in Wales was laid before the Assembly in January 2007. Whilst the report concentrates on the issues related to the electoral arrangements and turnout, one cannot separate the knock-on effect of political illiteracy of children and young people on future turnout at elections.

In their evidence submitted to the Committee, the Commissioner's office raised concerns about the patchy provision of political education in Welsh schools due to the non-statutory status of the PSE curriculum. The final report stated:

"2.3.16 The Children's Commissioner for Wales commented on the current mechanism for political education in Wales as follows:

Awareness of political structures and the voting process is included within Personal and Social Education (PSE) and as this area of study is not statutorily assessed there is no measure as to how successfully and consistently these areas are taught within schools. Where PSE is delivered by non-specialist teachers the success of teaching these quite complex matters may depend greatly on the skills and personal knowledge of individual teachers. Therefore, the delivery of political education may be inconsistent across Wales and young people may have varying levels of knowledge in relation to the political process. ... The young people in the advisory groups said that learning about voting in schools would be useful as it would help them to make informed choices, give them more confidence and encourage them to vote. However concerns were raised about PSE lessons and their effectiveness, with the young people stating that lessons about voting should be fun and interactive"

Appendix A notes the recommendations made by the Committee which relate to children and young people and may be of use during the Convention's deliberations.

This is a complex issue which demands more attention than we can include as part of this consultation, however it is key, as children are more likely to be aware of their rights if they can see, understand and participate in the decision making processes at work.

What have been the practical outcomes of devolution in Wales?

⁶ WAG (2004) Children and Young People: Rights to Action. p.4

⁷ <http://www.assemblywales.org/bus-home/bus-guide-docs-pub/bus-business-documents/bus-business-documents-doc-laid.htm?act=dis&id=44239&ds=1/2007>

Devolution has heralded a new more inclusive approach to governance and children and young people have assumed an eminent⁸ position in Welsh policy making and, since the Government of Wales Act 2006, of Welsh law making⁹.

Since devolution the Welsh Assembly Government has adopted the UNCRC as the guiding principle for policy development for children and young people. Appendix 2 lists good and bad things about being a child in Wales, taken from the UK Children's Commissioners' Report to the UN Committee of the Rights of the Child¹⁰. It is clear that there are issues listed in both good and bad which relate to reserved and devolved key areas of policy.

How well, in your view, does the current devolution settlement work?

The Legislative Competency Orders (LCO) process:

As with all levels of governance, we would like to see the decision making processes facilitating the participation of as many citizens as possible.

Whilst we would not claim that the complexities of the LCO process are no less accessible than the passage of a Bill into a Westminster Act at Westminster, we don't believe that this is a constructive comparison as the Westminster model is not the bar we need to reach in Wales. It is questionable whether or not the process has been as expedient as expected in relation to processing the LCOs.

Participation

Example: National Assembly for Wales (Legislative Competence) (No.3) Order 2007 (Relating to Vulnerable Children)

If we take the above LCO, and as we will qualify below, it is difficult not to conclude that the most crucial part of the LCO process deliberation was held behind closed doors between WAG and Whitehall. It was in these inter-governmental negotiations that the true scope of the LCO was really decided. Indeed, the Welsh Affairs Select Committee scrutinised an LCO which differed from the version reported on by the relevant Assembly Committee.

As Nerys Evans AM noted in the plenary debate when the LCO was approved, this had implications for those who would have wished to input into the deliberations as time scales dictated that it would not have been possible for civic society to submit further evidence or

⁸ http://www.funkydragon.org/en/fe/fileloader/load_docs.asp?filePathPrefix=8951&fileLanguagee

⁹ Examples include The National Assembly for Wales (Legislative Competence) (Social Welfare and Other Fields) Order 2008.

¹⁰ <http://www.childcom.org.uk/uploads/publications/61.pdf>

recommendations¹¹. It could be argued, therefore, that this example shows the system lacks transparency which affects engagement.

Process

It appears that there is inconsistency between the various LCO deliberations and it seems that this is down in a large part, ‘...to significant differences of opinion between the key players over the scoping of LCOs¹²’.

As a result of the above, there is no doubt that defining any scope of competencies is difficult and as the Wales Devolution Monitoring Report, January 2008 states:

“A balance has to be found between clarity and practicality, where matters have to be broad enough to give the Assembly some space for manoeuvring without giving the Assembly undefined legislative powers¹³”.

This would hopefully lead to greater clarity in the processes and address some of the questions such as the appropriateness of the seeming necessity for Whitehall clearance prior to the development of an LCO in Cardiff Bay. What we would certainly hope to see is that the questions raised in the Welsh Affairs Select Committee’s scrutiny of the Additional Learning Needs LCO and the apparent tensions be resolved¹⁴.

This is of great importance because those who wish to contribute to the development of Welsh legislation and policy have do not wish to be embroiled in constitutional controversies. Our interest lies in seeing legislation brought forward in a timely manner that can lead to improved and positive outcomes for the children and young people of Wales.

We hope that the Devolution Guidance Note 16¹⁵ and other guidance, from Westminster and Cardiff Bay produced following an assessment of processes will facilitate greater consistency and clarity to the LCO process . Whilst some may believe that developing the 7 principles of what needs to be measured to gain Whitehall approval is unwieldy and that efforts would be best spend developing measures and policies, it at least offers a way forward in how the process should proceed.

Participation in the policy process

Example: Learner Travel Measure

¹¹ <http://www.assemblywales.org/bus-home/bus-chamber/bus-chamber/bus-chamber-third-assembly-rop.htm?act=dis&id=93189&ds=7/2008#rhif4>

¹² Hill, Edwards, Jeffes. *The Evolution of Devolution – Reflections on the Operation of Our Legislative system* (Bevan Foundation, 2008) .

¹³ http://www.ucl.ac.uk/constitution-unit/files/research/devolution/dmr/Wales_Jan08.pdf

¹⁴ Evidence from Huw Irranca-Davies MP, Parliamentary Under-Secretary of State and Jane Hutt AM, Minister for Children, Education, Lifelong Learning and Skills at www.publications.parliament.uk/pa/cm200708/cmselect/cmwelaf/uc44-i/uc4401.htm

¹⁵ <http://www.justice.gov.uk/docs/dgn16.pdf>

As already noted, law and policy making isn't the most accessible of disciplines. The National Assembly for Wales (NAfW) has made efforts in the Measure Making and LCO process to give opportunities for interested parties opportunities to take part via the committee system. This is an ongoing learning process which still needs improving and one which we believe the Assembly Commission is aware of, as evidenced by the Presiding Officer's outreach tour¹⁶.

One of the difficulties facing the promotion of this engagement is the complex nature of the legislative settlement which makes it difficult for NGOs and charitable groups to understand the decision making process, let alone people who are not experienced in this field of policy making. Without specialist legal advice, it could prove difficult to know who should be lobbied and where the powers and accountability lie.

During the Proposed Learner Travel Measure Committee deliberations, the complexities were plain to see as differing legal opinions were raised¹⁷. The LCO's Scrutiny Committee's lawyers were of the view that the Assembly had powers over vehicle standard and safety whilst the Minister for Economy and Transport was advised by WAG lawyers otherwise. To add to the confusion, the Assembly's opinion was based on non-legislative methods. These kinds of discussions has the potential to lead to confusion which has implications for transparency and clarity in understanding the processes.

A different example was seen in the National Assembly for Wales (Legislative Competence) (No.3) Order 2007 which reflected the tensions over the scope of LCOs¹⁸. We were very disappointed, as were Assembly Members of all parties, that a general competence was not granted by the UK Government which would have conferred powers enabling a complete ban on the physical punishment of children. The explanation from Whitehall was that such a policy step would infringe on criminal justice matters and that criminal justice was not a Field under schedule 5 and therefore not permissible.

We are aware that moving to Part 4 of the GoWA 2006 would not resolve this specific policy issue in Wales and therefore not be relevant to the All Wales Convention consultation process, however I believed it to be a useful example of the complexities of Part 3 of the GoWA 2006. .

There are issues of how people are able to hold politicians to account if it is unclear who has responsibility for decisions. This is where there is a blurring of the lines between policy issues and constitutional issues, which are invariably political, all of which creates difficulties for civil society to engage.

Use of 'framework' powers and scrutiny of subordinate legislation

Since the GoWA 2006, the majority of Measures conferred onto the NAfW, adding to schedule 5, have come via acts of Parliament. This is not necessarily a negative thing as it's a quicker

¹⁶ <http://www.assemblywales.org/newhome/po-outreach-tour.htm>

¹⁷ <http://www.assemblywales.org/bus-home/bus-committees/bus-committees-third1/bus-committees-third-ltm-home/bus-committees-third-ltm-agendas.htm?act=dis&id=91997&ds=7/2008>

¹⁸ <http://www.assemblywales.org/bus-home/bus-chamber/bus-chamber-third-assembly-rop.htm?act=dis&id=93189&ds=7/2008#rhif4>

process than the LCO system and the tools afforded by the GoWA 2006 should all be used, however we have some of concerns which relate to the opportunities to influence policy.

We don't believe the process of scrutinising proposed devolved powers within UK Bills is accessible as it could be. One issue is that the only dialogue is between the two governments, which means that the legislature has little input into the Matters which are inserted into schedule 5 of the GoWA 2006 Act, and this sits a little uneasily.

There is also a similar question to be asked regarding the participation of civic society around the scrutiny of subordinate legislation. Many of these points have been raised in the NAFW Subordinate Legislation Committee's Inquiry into the scrutiny of subordinate legislation and delegated powers and we look forward to seeing their report published.

As Marie Navarro stated in the September Devolution Monitoring Report by the constitution unit :

"There is no machinery available whereby the Assembly can liaise directly with either the Wales Office, Whitehall or Parliament in the formulation of proposals in draft Bills giving powers to WAG ."

We also note that there are more bills devolving executive powers to the WAG than Bills devolving legislative powers to the National Assembly for Wales.

The ability of civil society's ability to influence is not as obvious under these circumstances as when the legislature is developing and scrutinising policy and legislation.

Institutional Mechanisms

Petitions Committee:

Institutional mechanisms that allow those from outside the executive to have an input into the policy process is very much welcomed. The petitions committee is an obvious example of how children can participate as citizens within the decision making process. Children and young people themselves can have direct engagement with the politicians. This relates to Article 12 of the UNCRC which states:

"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."

Again, there is more to do and this is referred to in a letter sent to by the Commissioner's office to the Petitions Committee following a request for advice regarding how to promote participation and the appropriate practices relating to children and young people .

¹⁹ <http://www.assemblywales.org/bus-home/bus-committees/bus-committees-third1/bus-committees-third-sleg-home/bus-committees-third-sleg-cons-response.htm>

²⁰ http://www.ucl.ac.uk/constitution-unit/files/research/devolution/dmr/Wales_Sept08.pdf

²¹ <http://www2.ohchr.org/english/law/crc.htm>

²² http://www.assemblywales.org/bus-home/bus-committees/bus-committees-third1/bus-committees-third-pc-home/bus-committees-third-pc-agendas/pet_3_-03-09_p2a_-

It is also good to see how the mechanisms have been utilised to feed into policy development affecting children and young people. Examples include a petition on school reorganisations which led to a Rural Development sub committee report and recommendations as well as a petition on developing traffic free routes which has been discussed by the Enterprise and Learning Committee .

The way in which consultation is embedded throughout the policy and legislative processes also affords the potential for children and young people to have an opportunity to influence. In terms of avenues of influence, notwithstanding the issues connected to the complicated settlement to which we referred, the Measure making process and structure is transparent and the model is to be commended. We would however argue that more work can be done around how the Assembly Commission can help make the committee processes more accessible for children and young people.

Conclusion

The office of the Children's Commissioner for Wales would stress the importance of the participation of children and young people as full citizens in the political processes in Wales in line with Article 12 of the UNCRC. To facilitate this, it is imperative that children and young people can access relevant and appropriate information on any discussions relating to governance in Wales which directly relates to Article 12.

Whilst welcoming the new opportunities afforded to policy and legislation makers in Wales to safeguard and promote the rights and welfare of children and young people by the GoWA 2006, we also note some of the difficulties which include:

- The potential politicisation of the LCO process which could make it difficult for civil society to engage in the political and legislative process. This is further complicated by a lack of consistency of the LCO process
- The complex legislative settlement making accountability and transparency difficult in relation to NAFW competencies, again, with the potential of affecting wide participation
- The ability of stakeholders outside the executive to influence the use of 'framework' powers and subordinate legislation

Nonetheless, there is great potential in the structures and institutional mechanisms that have been established. It is clear, however, that much more needs to be done to ensure that the decision making processes, at all levels, guarantee the participation of children and young people as well as result in positive outcomes for those without a vote in Wales.

End

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²³ <http://www.assemblywales.org/bus-home/bus-committees/bus-committees-third1/bus-committees-third-rd-home/bus-committees-third-rd-reports.htm>

²⁴ <http://www.assemblywales.org/bus-home/bus-committees/bus-committees-third1/bus-committees-third-els-home/bus-committees-third-els-agendas.htm?act=dis&id=121726&ds=4/2009>

