

## **Legislation Committee No 5**

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

#### **Response from The Welsh Local Government Association**

##### **Introduction**

1. The Welsh Local Government Association (WLGA) represents the 22 local authorities in Wales, and the three national park authorities, the three fire and rescue authorities, and four police authorities are associate members.
2. It seeks to provide representation to local authorities within an emerging policy framework that satisfies the key priorities of our members and delivers a broad range of services that add value to Welsh Local Government and the communities they serve.
3. The WLGA welcomes the opportunity to provide evidence to the Legislative committee No 5 on the Proposals for a Rights of Children and Young Persons (Wales) Measure. The WLGA also welcomes the recognition of the need for a measure in Wales to reflect the importance on the United Nations Convention on the Rights of the Child (UNCRC).

##### **Response**

4. The WLGA strongly endorses the approach taken by the Welsh Assembly Government (WAG) to date and welcomes the seven core aims as a basis for policy development and service delivery in Wales. The WLGA also welcomes the intention of WAG 'to embed the principles of the United Nations Convention on the Rights of the Child into law' as set out by Rhodri Morgan, then First Minister for Wales, in July 2009. The WLGA welcomes the changes that have been made to the Measure since the consultation in April/May 2010. However, the WLGA would have liked to have seen further amendments to the measure to ensure that the rights of children and young people in Wales are fully protected.
5. This paper sets out the WLGA response to the measure as laid before the Assembly on 14<sup>th</sup> June 2010.

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6. The amendment in section 1 of the measure from 'relevant functions' to 'relevant decisions' which are strategic in nature is to be welcomed. This change to the measure demonstrates that WAG has recognised that there is a need for a more pervasive approach. However, the WLGA feels that this change has still not gone far enough. With reference to 'relevant decisions' and the UNCRC, the WLGA would advocate that all decisions of the Assembly relating to children and young people are relevant. Children and young people can be directly or indirectly affected by all decisions made by the Assembly, ranging from housing, finance, transport, community development, planning, health and education.
  7. The WLGA also has some concern that the Welsh Ministers have the power in section 2 to set out the criteria that will apply when determining which of their decisions are strategic. The WLGA would have welcomed a clear definition on what decisions are classed as strategic. The Welsh Ministers should not be able to set these criteria themselves. The WLGA believes that it would be increasingly difficult for policies to be developed, services to be designed and delivered if not there was not a clear definition of what decisions were included in the duty.
  8. The WLGA welcomes section 2(1)(b) of the children's scheme and the requirement to set out the arrangements Welsh Ministers have made for the purpose of securing compliance with the duty under section 1 and the requirement to publish reports.
  9. The UNCRC applies to children and young people under 18 years of age. It relates to those in society who are vulnerable and deemed to require additional support and protection as they are not yet afforded human rights. Young people aged 19 to 25 will not be covered by the provisions of the UNCRC as they have reached the age of majority and are protected by human rights.
  10. The measure places a duty on Welsh Ministers to consider whether and (if so) to what extent the requirements of the UNCRC may be relevant to young people and how the provisions of this measure may be applied in relation to young people. The policy context for young people in Wales covers ages 11-25 and current policy and strategic documents in Wales cover this age range. It is clear that the inclusion of young people would greater align policy with the measure. However, the WLGA would recommend that this element of the measure be removed as it aims to expand the age range beyond the application of the UNCRC. This may also cause confusion when Welsh

Minister have to have due regard to the UNCRC and to fulfil their duties under section 5 of the measure to promote knowledge and understanding of the convention.

11. The schedule of the measure contains Part 1 of the UNCRC 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. The WLGA believes that it is imperative that the UNCRC and the Optional Protocols are contained within the schedule of the measure and that it is clear that this is what the duty within section 1 applies to. Although the Assembly has limited powers in relation to the second protocol it is still important that this is contained within the measure. The WLGA believes that this sets out a clear message that the Assembly intends to recognise and protect the rights of children in Wales within its power to do so.
12. The explanatory memorandum sets out the intended effect of the measure and states that 'the proposed measure will embed consideration of the requirements of the UNCRC and its optional protocols into strategic decision making by the Welsh ministers and the First Minister across all areas of the Welsh Assembly Government's work'. It goes on to state that 'the objective is to ensure that those requirements will have even greater prominence in respect of devolved matters in Wales than has so far been the case'. The WLGA considers that the measure will fulfil the intended effect and will meet the objective should there be further clarity as to the nature of the strategic decisions. However the WLGA would recommend, as previously stated, that the duty to have due regard to the UNCRC applies to all functions and decisions of the Welsh Ministers and the First Minister.
13. The explanatory memorandum also sets out the regulatory impact assessment of the proposed options. It states that option 2 as set out in this measure requires a holistic approach to consideration of all the substantive rights and obligations in the UNCRC in strategic decision making. The memorandum makes it clear that in order to do this there will have to be a programme of training and development in WAG in order to raise the level of knowledge and expertise in relation to the UNCRC within WAG. The WLGA welcomes this approach and the recognition that there will need to be training in order to improve understanding of the UNCRC and its application.
14. The WLGA does not envisage that there will be any major additional burdens on local government as the duty stands at the moment. The Children and

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Young People's Partnerships plan and deliver services for children and young people under the Children and Young People's Plan (CYPP) which is based on the seven core aims. Through the CYPP local authorities in Wales and partner agencies are already working hard to promote and secure children and young people's rights. The addition of the duty to have due regard to the UNCRC for Welsh ministers will ensure that this commitment to securing rights starts at the very top.

15. The WLGA believes that in any process to amend or alter the measure the Welsh Ministers should follow process and scrutiny to ensure that the objectives of the measure are maintained in future.

## **Conclusion**

16. The WLGA welcomes the intention to embed the UNCRC in law in Wales and sees this as a great opportunity to mainstream the agenda across local government. Whilst the WLGA recognises that some substantial changes have been made to the measure in its current form it would still like to see the duty to have due regard apply to all functions and decisions of the Welsh Ministers and First Minister in Wales. This will ensure that the ethos of rights is protected in Wales and that the development and delivery of services for children and young people continues to take an all encompassing approach to the UNCRC.

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## **For further information please contact:**

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