

Children's Rights in Wales



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Children's
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for Wales

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October '18

Introduction

There are just over 550,000 children age 0 -15 living in Wales and a further 350,000 between the ages of 16-24.¹

As the Children's Commissioner for Wales my role is to promote and safeguard the rights and welfare of children up to the age of 18 or 25 in certain circumstances. My vision is for all children in Wales to have an equal chance to be the best they can be. At the heart of all my work is the UN Convention on the Rights of the Child (UNCRC), an international agreement that lists the rights all children and young people have. In 2011, the National Assembly for Wales passed a law relating to children's rights — the Rights of Children and Young Persons (Wales) measure, which requires Welsh Ministers to make sure they must consider, when making policies and Bills, the impact on children.

Every three years I publish a three-year plan, outlining what my 23-strong team and I will be working on to improve the life chances of children in Wales. For me it is important that this plan considers what we currently know about children and young people's lives and the extent to which their rights are being realised here in Wales.

My 'Beth Nawr/ I What Now?' survey is a big part of this work and from October 2018 I am asking children and young about the issues that are important to them, how they think some of these could be tackled and what they believe should be the focus of my work as their

¹ StatsWales.2018. National level population estimates by year, age and UK country Mid-Year 2017. Available at <https://statswales.gov.wales/Catalogue/Population-and->

Commissioner. I am also going to be asking for the views of adults who care for and support children and young people.

This year, to help inform the content of the survey and contribute towards having a broader picture of children's lives in Wales, I wanted to consider the national information which is already collected about children and young people. This consists of routine administrative data as well as quantitative and qualitative data which is self-reported by children and young people in surveys and research studies. I commissioned the Wales Institute of Social & Economic Research, Data & Methods (WISERD) at Cardiff University to undertake this work. The result of which is an extensive report which can be found on our website, under 'Publications'.

This briefing provides an overview of what has been learnt so far from this report and how I intend to use the information to inform my next three-year plan, for 2019 — 2021.

Executive Summary and Commentary

This briefing summarises the key points from the evidence review 'The Human Rights of Children in Wales' and comments on what this means for the

[Migration/Population/Estimates/nationallevelpopulationestimates-by-year-age-ukcountry](#)



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current state of children's rights, including prospects for the future. Under each section there is an analysis of whether the prospects for children are stable or are getting better or worse in Wales.

The evidence review shows that some aspects of children's lives in Wales are improving, including areas of health such as lower infant mortality, better dental health, less smoking and drinking and much lower rates of teenage pregnancy.

Other areas remain concerning, including persistently high rates of child poverty, high and rising rates of children looked after in care and continuing gaps in outcomes between different social groups.

Changing experiences and prospects for children involves action at a number of levels. While some legal changes would be beneficial, there is a need to ensure the proper implementation of existing legislation, targeted investment and a greater understanding of children's rights across Wales, including their right to be involved in decision-making.

Overall, there are some real positives relating to children's rights in the law and in policy, including a firm commitment to bring forward legislation for removal of the defence of 'reasonable punishment' and the inclusion of a Duty of Due Regard to children's rights in two important Acts in recent years: the Social Services and Well-being (Wales) Act 2014 and the Additional Learning Needs and Education Tribunal (Wales) Act 2018 ('the ALN Act'), which bring further incorporation of the UNCRC into Welsh law following the Rights of Children and Young Persons Measure (Wales) 2011. The establishment of the Youth Parliament, which will sit for the first time in February 2019 and new commitments for votes at age 16 in local government and Assembly elections are also significant steps forward for the democratic involvement of young people. Wales is also the only country in the UK to have a duty on local authorities to provide for children's rights to play.

Further gains for children's rights in law and policy yet to be seen would include a duty on all public bodies and professionals working with children to pay due regard to children's rights, full incorporation of the UNCRC into Welsh law, an overall children's strategy from the government and more transparency in relation to budget allocations for children. There is a real opportunity to increase children's knowledge of and experience of their rights in the new curriculum from 2022 by making the curriculum one that is built on, and incorporates learning about, children's rights.

Children from different social groups have different experiences and prospects

The report finds numerous examples of different outcomes for children in areas such as health and well-being and educational attainment, particularly for those from a lower socio-economic background. Children from areas with more socio-economic deprivation have higher rates of infant mortality, air pollution in their local areas, exclusion from school, tooth decay and obesity. They also have lower levels of educational attainment at each Key Stage, as do children looked after and children from Gypsy and Traveller backgrounds.

Prospects: concerning

Persistent income inequalities remain as a key underlying factor associated with different experiences and outcomes for children. Although there are a number of wide-scale initiatives to reduce inequalities in education, and educational outcomes for all groups have improved, the gap between groups remains persistent.

Direct discrimination and bullying

Both children and professionals report high levels of racist, sexist, homophobic and transphobic language and bullying in schools. However, there are no official monitoring data on this issue. There is also a major evidence gap in respect of disabled children's experiences of bullying.

Prospects: Mixed

New guidance on preventing and tackling bullying in schools is due, but there is currently no obligation on schools to record instances of bullying in school when they are related to someone's protected characteristics (e.g. their sex, sexual orientation, race, disability or religion). Without this information available at a school level, it cannot inform schools in evaluating and improving their approaches to direct discrimination and bullying. A new government commitment to developing a whole-school approach to wellbeing has the potential to incorporate stringer anti-bullying measures.



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Participation

Survey findings suggest that many children do not believe that their views are listened to or make a difference to policy in Wales at a national, school or community level. The potential impact of Brexit, and frustration amongst under-18s of not having had the opportunity to vote on this major issue has been highlighted in some research in Wales.

Prospects: potential for improvement

Every school in Wales must have a school council and every local authority has a youth forum. There is some evidence that the effectiveness of these are varied across Wales and greater understanding is needed of how to ensure that all children and young people feel that they can have a say in their school and community. We are working with a number of large public bodies to implement a children's rights approach, which includes more systematic involvement of children in their work. The Well-being of Future Generations (Wales) Act 2015 requires that citizens are involved in local decision-making and there is good potential for children and young people to be involved through this legislation. Along with the Future Generations Commissioner for Wales, we have published a toolkit to help Public Service Boards and other public bodies to involve children as citizens.

There is the positive prospect of the Youth Parliament which will be based at the National Assembly for Wales, with elections taking place in autumn 2018, and a commitment to a reduction in the voting age to 16.

The ALN Act also requires increased participation of children and young people in decision making that affects their lives.

Health and Well-being

There has been an improvement across a number of health indicators in Wales over the last decade, including child and infant mortality rates, dental health and accident statistics, although those from the highest areas of socio-economic deprivation continue to have the worst outcomes. Unhealthy behaviours amongst teenagers have reduced, with rates of smoking, drinking and teenage conceptions declining substantially over the last two decades.

However, those from the most deprived regions of Wales were least likely to report eating fruit and vegetables. They were also significantly more likely to be

overweight or obese. Rates of smoking and alcohol consumption were comparable in England and Wales. Girls in Wales were less likely to be physically active than girls in England, but physical activity amongst boys was comparable in the two countries.

Estimates of the prevalence of mental ill-health amongst children in Wales based on survey data is 11.6 per cent and demand for mental health services remain high. There is some evidence that children's use of social media is impacting on their sleep, concentration at school and general levels of well-being.

Prospects: mixed

Some of the most positive trends in children's lives in recent years have been in relation to health, as indicated in this report. There are, however, concerning trends in relation to obesity and fruit and vegetable consumption, with Wales's children more likely to be over-weight than those in England.

The impetus given to health and well-being in the new curriculum for schools from 2022, along with the Government's recent announcement of a Joint Ministerial Task and Finish Group on a whole school approach to health and well-being in Wales, may help at a preventative level.

Poverty and homelessness

Official figures show that 28 per cent of children in Wales live in relative income poverty. While this is a slight drop from previous years, the proportion of children living in relative income poverty in Wales is forecast to increase by around 8 per cent by 2022 due to tax and benefit changes being implemented across the UK.

The proportion of homeless households including children has dropped between 2005/6 and 2014/15. However, there remain a considerable number in Wales and in 2017/18 there were 882 such households.

Prospects: concerning

Unless changes are made to eligibility rules and implementation of Universal Credit the prospects for child poverty in Wales are very likely to worsen. The Welsh Government and local authorities, while limited by their overall financial settlement, have the ability to alleviate the impact of child poverty through measures such as direct grants to families, free school meal provision and provision of support services. The Welsh Government is required to publish a Child Poverty



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Strategy every three years. The most recent strategy was published in 2015 and there is currently no overarching child poverty action plan. The target to eradicate child poverty was abandoned in 2016.

The Housing (Wales) Act 2014 is thought to have increased the prevention of homelessness of families with children and other eligible groups and this is a positive framework unique to Wales that should be recognised. It is not possible to directly compare the figures with data gathered prior to the introduction of that Act however and the emerging picture in Wales will need to be kept under close observation.

Education

There are key attainment gaps across the Key Stages for children receiving care and support from social services, children in areas of socio-economic deprivation and children from a Gypsy or Gypsy Roma background. Surveys have found that despite girls having higher levels of attainment than boys, they are less happy at school.

The data suggest that a number of groups face barriers to learning and participating in school life, including children looked after, who report numerous school and placement changes, children from Gypsy and Traveller backgrounds, who sometimes feel that the values of statutory education conflict with those in their community. Disabled children have also noted that their educational experiences can be restricted by accessibility issues.

Permanent exclusions in Wales have remained consistent since 2011 and lower than in England. However fixed terms exclusions of 5 days or less have increased slightly in Wales. Pupils eligible for Free School Meals (FSM) are five times more likely to be excluded from school.

Prospects: some positive potential

There has been a steady rate of improvement in educational achievements at each key stage, but due to this rate of increase applying to all social groups, gaps in attainment between groups remain.

The new curriculum, which will be implemented from 2022, brings potential for a more inclusive and creative learning experience in schools, including the potential for all children to learn about their human rights. As with any significant change of this nature, it remains unknown whether the aspirations of the new curriculum will be met in its implementation.

The ALN Act 2018 includes a duty on local authorities and other bodies to pay due regard to children's rights when delivering services to children with additional learning needs. With a wider age range and an emphasis on meeting individual needs there is considerable potential for an improvement in the educational experiences of children with disabilities and other additional learning needs. There are, however, concerns about funding and workforce capacity being able to meet increased requirements brought about by this Act.

Play, arts and leisure activities

There are differences in participation in play and leisure activities by a number of characteristics. Survey results show that boys tend to be physically active while girls participate more in arts and cultural activities. Those who were eligible for Free School Meals were less likely to play instruments, take part in non-competitive sport and exercise outside of school, and attend arts events. Disabled children reported that accessibility was a barrier to play and leisure activities.

Over 44 per cent of the children surveyed at age 14 reported watching TV or videos on the computer for over three hours per weekday. Just under one in ten reported doing so for over seven hours. The majority of the participants also reported using the internet at home for over three hours a day, with just over one in five using it for over seven hours.

Prospects: mixed

Wales' legislation reflects the right to play on a statutory level and places Wales as an international leader in terms of commitment to play. There has been a steady increase in sports participation among children.

However, these positives are constantly under threat with local authority funding pressures leading to the closure of some play, youth and leisure services in Wales. The impact of screen time on children's physical and emotional health is also an emerging concern.

Family environment and alternative care

In March 2017 15,930 children were in receipt of care and support, 2,135 of which were on the Child Protection



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Register and 5,780 were looked after. There are a number of negative health and well-being outcomes associated with children who are looked after. Part of this is related to the frequency of changing placements. Ten per cent of children looked after had three or more placements in 2016/17. Wales has much higher rates of children looked after per 10,000 children than England. The likelihood of being a 'child looked after' between the most and least deprived communities is greatest in Wales than the rest of the UK.

Prospects: improving, with significant remaining challenges

The significant challenges facing Wales in this area have been recognised through the formation of an active Ministerial Advisory Group that engages local authorities, charities, government officials and others in a range of activities which aim to reduce numbers in care and improve the experiences of those in the care system.

Violence, abuse and neglect

There have been large increases in recorded cases of abuse and neglect over the last decade, but this is believed to be largely caused by better reporting and policing procedures and public awareness. Recorded cases include historic crimes. In terms of fatal crimes against children, the five-year average child homicide rate for the period ending 2016/17 has risen slightly. Recorded sexual offences against children under 16 years old are the highest level across all four UK nations this year, while recorded cruelty and neglect offences in Wales against children aged under 16 are currently the lowest rate in the UK.

Prospects: mixed

Prevention and intervention in neglect and abuse cases requires both a general public health approach to improve parenting overall, as well as direct child protection interventions where abuse and neglect are present. In terms of universal culture change, the commitment by the Welsh Government to underpin this social change with a legal change that will remove the defence of 'reasonable punishment' thereby giving children the same rights as adults in common assault cases is very welcome. Survey results demonstrate that physical punishment is declining as a practice in Wales. Comparative legal changes in other nations has shown that this can accelerate change towards more positive parenting practices.

The rise in sexual abuse involving online exploitation is a concerning phenomenon in Wales and internationally.

Asylum-seeking and refugee children

Most recent official estimates suggest there are around 27 unaccompanied, asylum-seeking children in Wales. There is a major gap in data on asylum-seeking and refugee children in Wales and the numbers who are in Wales but accompanied by their parents or other adult carers is unknown.

Prospects: unknown due to lack of information and data

Children in the youth justice system

There has been a major reduction in the number of children serving custodial sentences in Wales over the last decade. However, concerns have been raised due to a lack of facilities in Wales for young offenders: 45 per cent of Welsh children in custody are currently incarcerated in institutions in England, with some reporting increased loneliness and isolation as a result. In addition, inspection reports raise serious concerns about the safety of children held in custodial institutions. While a disproportionate number of child prisoners sentenced in England are black, Asian, and minority ethnic (BAME), in Wales, the proportion of BAME child prisoners is only slightly higher than the proportion in the general population.

Prospects: improving, with significant challenges

There are very positive trends relating to the decline in children under the age of 18 sentenced to custody. The numbers suggest that it should be possible for all to remain in Wales in smaller units that give a better prospect for rehabilitation. The age of criminal responsibility in England and Wales is very low by international standards at ten years of age.

Data availability and quality

Our evidence review suggests that the Government needs to collect more information on some areas of children's lives in Wales in order to understand more about their experiences of accessing their rights. This includes the prevalence of mental illness amongst children and young people and better understanding of the situation of child refugees and asylum seekers. We



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also need better understanding of instances of bullying in schools, including that experienced by those with protected characteristics under the Equality Act. The National Survey for Wales only includes people aged 16+ and although there are a number of school surveys, few of the questions ask about children's views and experiences, rather than measuring their behaviours.

Nonetheless, the recent release of a child-focused Government report *Well-being of Wales 2017-18: what do we know about children's well-being?* whilst not plugging these data gaps, gave a welcome overview.

Conclusion

Since the last scrutiny of the UK by the UN Committee on the rights of the child in 2016, there have been some gains for children as are clearly outlined in this report. This includes legal and policy changes, as well as changing experiences for children on some health and education indicators. In order to build upon this and reach the lives of all children in Wales, the gain in giving legal weight to the duty of Due Regard to children's rights in the ALN Act should be extended to all professionals working with children. Serious consideration should also be given to fully incorporating the UNCRC into Welsh law, as is the case in Norway and Sweden and is being actively explored by the Scottish Government.

Significant challenges remain. My concerns are particularly focused on two challenging areas. Firstly, the income and social inequalities that significantly affect children's life experiences, and secondly the mental health and well-being of children and young people, both in and out of the school environment.

Austerity, including direct grants to Welsh and, in turn, local governments, and the impact of tax and benefits changes is a significant challenge originating at a UK level. However, there are steps that the Welsh Government can take to ensure that the available resource is maximised towards tackling the challenges identified in this report. The remaining term of the current government should be focused on these areas in order to deliver for children now, and the whole Welsh population of the future.

Beth Nawr? | What Now?

As children's champion, what I speak out about publicly and with decision makers, and what I work on, must be shaped by what children and young people tell me.

Following the success of my Beth Nesa? | What Next? Consultation in 2016, where we gathered the views of over 7000 children and young people and adults to create my first three-year plan, I want to ensure that the work we'll undertake for my remaining three years in post has the same robust evidence base as the first half of my term as Commissioner.

From 9 October until 11 November 2018 surveys — based on key areas of concerns noted above - will be available to gather the views of children, young people and adults who care for and work with them. The results of which will be used to create a three-year work plan for the Commissioner's office, based on the real needs of children and young people in Wales.



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