



1 July 2009

Helen Mary Jones AM  
Chair NAW Children & Young People Committee  
Welsh Assembly Government  
Cardiff Bay  
CARDIFF  
CF99 1NA

Dear Helen Mary

**Children and Young People Committee Focussed Inquiry on the Placement of Children Into Care in Wales.**

I very much welcome your Committee's focussed inquiry into the placement of children into care in Wales.

My staff team and I have reviewed the scope of your inquiry and the questions that are outlined in your letter. In doing so, I have decided not to provide oral evidence to the Committee on this occasion because I feel that you should hear from the practitioners and managers of services involved in placing children in care. Other questions require the detailed and in-depth perspectives of foster carers, children placed in care and independent reviewing officers. Organisations such as the British Association of Social Workers would provide greater weight of evidence for your inquiry.

The issue of children without parental care was discussed by the United Nations Committee on the Rights of the Child in 2005 at its day of general discussion.<sup>1</sup> I would urge your Committee to adopt a rights based approach in your inquiry and that the best interests of the children who may be placed into care are the primary consideration at all stages.

Attached to this letter are sections of comment from the day of General Discussion which I feel are relevant to the scope of your focused inquiry and also an extract from the United Nation's Committee on the Rights of the Child's concluding observations resulting from the latest reporting round.

---

<sup>1</sup><http://www2.ohchr.org/english/bodies/crc/docs/discussion/recommendations2005.doc>

As a signatory to the United Nations Convention on the Rights of the Child (UNCRC), the United Kingdom government is required to report periodically to Helen Mary Jones AM  
Chair NAW Children & Young People Committee  
Page 2  
2 July 2009

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, which incorporated responses from the devolved administrations, non-governmental organisations, young people's organisations and a joint report from the UK Children's Commissioners. You will also note recommendations made by the Committee which you may find relevant to your inquiry. I hope these extracts will be of use to the Children and Young People's Committee members in framing questions for witnesses.

I would also wish to raise a specific issue with the Committee in terms of the remit of the inquiry and one which you might like to clarify. Will this inquiry cover children living in Wales but who are placed in England as well as children living in Wales who are placed in care in Wales?

I look forward to studying the evidence which will be provided to your Committee and the resulting discussion and scrutiny in Committee sessions. This is an opportunity for a constructive examination of the current placement procedures which will lead to improvements in the experience of the vulnerable children and young people who find themselves in this complex system.

I would be very grateful to receive a copy of the findings of your focussed inquiry and will be asking my staff to keep me up to date with the inquiry as it progresses.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Keith Towner', with a horizontal line underneath it.

**Keith Towler**  
**Children's Commissioner for Wales**

**Appendix 1**

**Committee on the rights of the child**  
**Fortieth session**  
**Geneva, 12 - 30 September 2005**

**DAY OF GENERAL DISCUSSION**  
**CHILDREN WITHOUT PARENTAL CARE**

***Challenges of the out of home care and the State responsibility***

***Separation and alternative care***

654. *The Committee notes that in many States parties the number of children separated from their parents and placed in alternative care is increasing and at a high level. It is concerned that these placements are not always a measure of last resort and therefore not in the best interests of the child. The Committee recommends that the States parties ensure that the placement of children in alternative care (foster care, residential care, other forms of alternative care) is based on a carefully conducted assessment of the needs and best interest of the child by a competent and multidisciplinary group of experts and that a short- and long-term plan, including the goals of the placement and the measures to achieve these, is available at the time of the placement and is regularly adapted to the development of the child.*
655. *The Committee emphasizes and recommends that the States parties ensure that the decision to place the child in alternative care is taken by a competent authority and that it is based on the law and subject to judicial review to avoid arbitrary and discretionary placements. The States parties should also ensure that the placement is regularly reviewed in accordance with article 25 of the Convention.*
656. *In addition, the Committee encourages the development of adoption, kafalah and traditional foster care systems, such as family-based alternative care (e.g. extended family, grandparents) community-based care, paying particular attention to the rights recognized in the Convention, including the principle of the best interests of the child.*
657. *Last but not least, the Committee encourages States parties and other stakeholders to take appropriate measures to ensure that children in*

*alternative care, particularly placed in residential care, are not stigmatized during or after this child protection measure*

**Best interests of the child**

662. *As regards the drafting of international standards on the protection and alternative care of children without parental care, the Committee emphasizes the principle of the best interests of the child. It is of the view that the standards to be drafted should be based on this leading basic principle and that the standards should aim at better ensuring the best interests of the child. These standards must not be a checklist or a mechanical function, but a practical tool which requires interaction with all parties involved. Last but not least, the standards should not exclude “humane aspects” which can serve as innovative and inspirational tools.*

**Respect for the views of the child**

663. *The Committee is concerned at the fact that children are not often heard in the separation and placement processes. It is also concerned that decision-making processes do not attach enough weight to children as partners even though these decisions have a far-reaching impact on the child’s life and future. It also emphasizes the need to take into account the views of biological parents.*

664. *In the light of article 12 of the Convention, the Committee recommends that all stakeholders continue and strengthen their efforts to take into consideration the views of the child and facilitate their participation in all matters affecting them within the evaluation, separation and placement process, in the out-of-home care and during the transition process. It recommends that children should be heard throughout the protection measure process, before making the decision, while it is implemented and also after its implementation. For this purpose, the Committee recommends an establishment of a special mechanism which values children as partners. The family group conferencing is one model to ensure that the child’s view is considered. It also recommends that States parties undertake a regular review of the extent to which children’s views are taken into consideration and of their impact on policy-making and court decisions and on programme implementation*

## Appendix 2

In 2008, the United Nations Committee on the Rights of the Child made the following comments and recommendations to the United Kingdom state party including the Welsh Assembly Government in relation to children in alternative care.

### **5. Family environment and alternative care (arts. 5, 18 (paras. 1-2), 9-11, 19-21, 25, 27 (para. 4) and 39 of the Convention)**

44. *The Committee notes the State party's indication that foster care is preferred over institutional care. The Committee also welcomes the State party's efforts to improve outcomes for children in care as well as the establishment of Independent Reviewing Officers in England. The Committee is concerned that many families lack appropriate assistance in the performance of their child-rearing responsibilities, and notably those families in a crisis situation due to poverty. Furthermore, the Committee is concerned at:*

- a) the insufficient investment in the staff and facilities to support children deprived of parental care;*
- b) the fact that children may be taken in alternative care as a result of parental low income;*
- c) the situation of children with one or both parents in prison;*
- d) the increased numbers of children in alternative care and in particular the high percentage of children of African descent, children with disabilities and children from ethnic minorities therein;*
- e) the inadequate monitoring, including concerning the review of the treatment, for children in alternative care;*
- f) the too frequent move between places for children in alternative care as well as the scarce possibility of contact between them and their parents and siblings;*
- g) the limited number of children in alternative care who have access to complaint mechanisms.*

45. **The Committee recommends that the State party:**

- a.) intensify its efforts to render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities;*

- b.) avoid that children are taken in alternative care as a result of parental low income;*
- c.) take into account in all measures the views of the children, and providing them with child accessible complaint mechanisms in all parts of the country;*
- d.) ensure support to children with one or both parents in prison, in particular to maintain contact with the parent(s) (unless this is contrary to their best interests) and prevent their stigmatization and discrimination;*
- e.) monitor the status of children placed in kinship homes, foster care, pre-adoptive homes and other care institutions, inter alia by regular visitations;*
- f.) assess why so many children with disabilities are in long term institutional care and review their care and treatment in these settings;*
- g.) facilitate the initiation of contact proceedings for all children separated from their parents and siblings, including those in long term residential care;*
- h.) provide training and education programs to prepare children for adult life;*
- i.) take into account the Committee's recommendations issued at the day of general discussion on Children without parental care, held on 16 September 2005.*