

Jenny Randerson  
Chair, Committee on the Standing Orders  
National Assembly for Wales  
Cardiff Bay  
Cardiff  
CF99 1NA

15<sup>th</sup> September 2006

Dear Ms Randerson,

### **Monitoring Implementation of the UNCRC in Wales**

As a non-governmental group, the UN Convention on the Rights of the Child (UNCRC) Monitoring Group seeks to work constructively with government and statutory bodies to promote implementation of the Convention on the Rights of the Child, at the same time as monitoring progress on implementation in Wales. The group comprises representatives of non-governmental children's organisations in Wales, academics in law and medicine from the University of Wales and observers from the Welsh Assembly Government and the office of the Children's Commissioner for Wales. The group is working towards the preparation of the Welsh non-governmental organisations' report to the UN Committee on the Rights of the Child in the current UK reporting round.

We resolved at our last meeting to approach you as the Chair of the Assembly's Committee on the Standing Orders to ask that the Committee consider whether a policy of routine 'UNCRC proofing' of relevant Assembly legislation could be built into the new Standing Orders.

As you know, in its plenary resolution of 14 January 2004, the National Assembly for Wales adopted the United Nations Convention on the Rights of the Child as its overarching policy framework in relation to children and young people.

Further to that resolution, the Welsh Assembly Government has applied the UNCRC in the development of various key strategies, for example in its '7 core aims' and in *Rights to Action*, which now form the basis for further legal and policy work including the production of Assembly legislation and guidance to implement the Children Act 2004 in Wales. The WAG has also included reference to the UNCRC in the guidance accompanying its policy integration tool.

(continued ...)

We consider that a further step to bolster this approach would be for the new Standing Orders to provide for all Assembly legislation (Assembly Measures and subordinate legislation) to be scrutinised for compatibility with the requirements of the UNCRC in a similar manner to the way in which there must be an examination of the compatibility of legislation with the Convention rights guaranteed under the Human Rights Act. We appreciate that there is no statutory requirement for the suggested approach; unlike the position of Convention Rights guaranteed by the Human Rights Act, the Government of Wales Act does not specifically make compliance with the UNCRC a matter of *vires*. However, it seems to us that there is also no statutory bar to routinely carrying out an audit of the compatibility of legislation with children's rights under the UNCRC when considering proposed Assembly legislation. In fact, since the European Convention on Human Rights, as it relates to children, is increasingly being interpreted in the light of the UNCRC, compatibility with the UN CRC is not totally divorced from the *vires* issue even as things stand. We believe that such auditing would provide a valuable mechanism to promote the Assembly's declared policy and to focus attention on the contribution of new legislation to furthering that policy.

In its 2002 Concluding Observations, the Committee on the Rights of the Child criticised the United Kingdom for its failure to incorporate the UNCRC into domestic law and for the absence of 'any formal process to ensure that new legislation fully complies with the Convention.' Clearly, it is beyond the power of the Assembly to incorporate the UNCRC into domestic law but it would be possible, through the Standing Orders, to adopt a process of examining all proposed legislation in Wales for its compatibility with the Convention on the Rights of the Child.

Naturally, we would be pleased to discuss this proposal with you and with the Committee should you find this helpful. As it happens, one of our members, Ann Sherlock, has already accepted an invitation to attend the Committee on 25<sup>th</sup> September, albeit in a different capacity, and is willing to answer any questions you may have regarding this proposal.

Yours sincerely,

Keith Towler  
Chair of the UNCRC Monitoring Group &  
Programme Director, Save the Children – Wales Programme

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