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A Report Summarising Consultation Responses and Conclusions

Should the Welsh Government apply the
'Articles' in the United Nations Convention on
the Rights of the Child (UNCRC) to young people
aged 18-24yrs?



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1. Introduction

A consultation asking “Should the Welsh Government apply the ‘Articles’ in the United Nations Convention on the Rights of the Child (UNCRC) ¹ to young people aged 18-24yrs?”² was launched by the Children, Young People’s and Families Division on 8 October 2012.

This document provides an analysis of those responses received by the Welsh Government and reports on its conclusions.

2. Background

The UNCRC outlines a set of minimum standards that all children and young people under the age of 18 have a right to expect, ensuring that they may grow and develop to help achieve their full potential.

Wales is the first of the UK nations to enshrine the UNCRC into domestic law by passing the Rights of Children and Young Persons (Wales) Measure 2011³. The Measure was passed by the National Assembly for Wales on 18 January 2011 and approved by Her Majesty in Council on 16 March 2011.

In the Measure, people aged under 18 are referred to as ‘children’ and those aged 18 to 24 (including those aged 24 years) are referred to as ‘young persons’. This approach has been adopted in order to be consistent with the UNCRC and with the Government of Wales Act 2006, from which the legislative competence for the Measure was derived. However, since 2000, policy in Wales has considered children and young people to be up to the age of 25⁴.

Section 7 of the Measure requires the Welsh Ministers to consider and consult on whether and (if so), to what extent and with what amendments:

- a. the requirements of the UNCRC and its Optional Protocols may be relevant to persons who have reached 18 but are not yet 25; and
- b. the proposed Measure may be applied to that group.

The purpose of this requirement was to allow consideration to be given to young people. At the time of proposing the Measure there was a range of views about the provisions in section 7, and it was felt that issues relating to

this older age group should be dealt with under a separate process rather than delay the putting in place of this new Measure.

¹ <http://wales.gov.uk/topics/childrenyoungpeople/rights/uncrc/?lang=en>

² [Welsh Government | The Rights of Children and Young Person’s \(Wales\) Measure 2011 – a consultation considering Section 7 ‘Application to Young Persons’](#)

³ [Rights of Children and Young Persons \(Wales\) Measure 2011](#)

⁴ [Welsh Government | Extending Entitlement](#)

The intent to consult on this element of the Measure is stated within the Welsh Government's Children's Rights Scheme 2012⁵. The Measure also requires that the Welsh Ministers publish a report of their conclusions on the above matters and lay a copy of the report before the National Assembly for Wales.

This consultation is now complete and this document summarises the main findings and conclusions.

3. Consultation

The consultation was launched on 8 October 2012 and was open for responses until 28 December 2012.

The consultation was issued electronically to a wide range of stakeholders and was also made available on the Welsh Government website. Three questions were set out in a pro forma style document providing an online form for ease of email return. A children and young people's version consultation document was also produced asking the same set of questions.

18 responses were received to the online consultation from organisations and stakeholders with an interest in children's rights and also from groups of 18-24 year olds themselves.

Some opportunities to interact with key stakeholders face-to-face were sought during the consultation period. The key events were:

- North Wales Children and Young People Practice Exchange Network on 17 September 2012; and
- Funky Dragon workshops on 1 November 2012.

It was important to ensure that a broad range of young people from across Wales were consulted and involved during the consultation period. Dynamix⁶, a company with a long track record of listening to and engaging with children and young people on issues that affect them, was contracted to undertake this work. Dynamix were able to run 9 workshops with over 60 young people, many of whom are marginalised or considered vulnerable, to seek their views on the consultation.

A particularly successful element of the above contract was the involvement of 5 members of a young people's group called Gwirforce⁷, who were trained to co-deliver the consultation workshops alongside Dynamix workers. The work with these young people consciously modelled the 7 Principles of Participation⁸ and received very positive feedback.

⁵ [Welsh Government | The Children's Rights Scheme](#)

⁶ <http://www.dynamix.ltd.uk/index.php?lang=en>

⁷ <http://www.gwirvol.org/en/volunteers/about-us-volunteers/gwirforce-yp/>

⁸ <http://www.tpascymru.org.uk/partnerships-2/national-principles-for-public-engagement-in-wales/>

4. Summary of Responses

Of the 18 responses to the on-line consultation:

- 10 (56%) did not agree that the Welsh Government should apply the articles of the UNCRC to 18-24yr olds
- 4 (22%) agreed that that the Welsh Government should apply the articles of the UNCRC to 18-24yr olds
- 4 (22%) did not specify a preference.

A small number of respondents stated that they would have liked more information and detail in order to make a better informed decision.

A wide range of views were expressed in the consultation responses. The principle behind securing the rights of this age range was welcomed in most cases but respondents felt that there are better ways of achieving this than simply applying the articles of the UNCRC to this age group.

Feedback from the Dynamix workshops held with young people representing this age group also reflected those thoughts. It is widely accepted by the young people that there would be benefits from additional support and protection but many are uncomfortable with being classed as children or being labelled in any potentially patronising way.

The overall feedback was that while it would not be appropriate to apply the UNCRC to 18-24yr olds, many helpful suggestions were made in relation to further developments in establishing a rights based approach, as well as suggested alternatives to what is in place currently for this age range.

A full list of respondents is included in Section 8.

5. Key Themes and Responses

This document is intended to be a summary only of the views received however it does cover in some detail the range of feedback. Please note that not every comment is included.

As the responses received did not all utilise the provided consultation questions, comments have been grouped by the following themes:

- Young people face many of the same issues as children
- The UNCRC is specifically drafted for children below the age of 18
- Extending the articles of the UNCRC to 18-24yr olds would detract from the current age group
- Not all the articles are appropriate to young people
- Better ways of securing rights for young people
- Definition of 'Vulnerable'
- Extending the UNCRC will not address the transition problems.

Young people face many of the same issues as children

It was emphasised by a number of respondents that Welsh Government should avoid any action which may result in widening the gap between the under 18s and the over 18s, as often they face the same issues. Where respondents specified advantages of extending the UNCRC to 18-24yr olds, avoiding this scenario was commonly seen as one of them.

Respondents were clear that this age group should be considered within the development of policy and legislation in the same way that children are and inequality between the policy and provision of the services for young people, compared to children is not acceptable.

Some specific scenarios of where continued support from adolescence into early adulthood was seen as being significantly important were given eg, transition from foster care to self-supported living and people facing unemployment.

Responses

"Young people face many of the same issues faced by children aged 0-17, perhaps more especially older children 16/17 years, for example,,: media intolerance, economic disadvantage, employment discrimination..."

"It helps to avoid a sudden scary change from child to adult at 18."

The UNCRC is specifically drafted for children below the age of 18

Several respondents commented that Article 1 of the UNCRC is clear about the scope of the Convention and defines a 'child' for the purposes of the Convention as every human being below the age of 18.

UNICEF UK⁹ reported that recent research shows that integrating youth and children's policies is a common feature all over the world but there is no example of an attempt to extend the UNCRC to young people who are over 18 years old. In addition, the UN Committee on the Rights of the Child¹⁰ encourages States which have not done so to review and harmonise laws with the Convention's definition.

Responses

"Isn't the implicit strength of the [UN]CRC the fact that it is different to other human rights instruments and is exclusive to children?"

"One of the defining features and strengths of the [UN]CRC is that it recognises particular and specific rights that apply to children. To extend these rights beyond the period of childhood risks losing the essential essence of the [UN]CRC."

Extending the articles of the UNCRC to 18-24yr olds would detract from the current age group

It was felt by a number of respondents that extending the articles to 18-24 year olds may divert attention away from the proper implementation to children and that the unique standpoint of the UNCRC is that it recognises that children have particular rights that extend beyond existing Human Rights.

Concerns were also raised that extending the articles of the UNCRC would counteract the positive actions that organisations are taking to promote and raise awareness of children's rights in Wales and it was noted that there is still much to do.

Responses

"..to give children's human rights to adults also undermines the important principle that children need additional rights to adults."

"Protecting children under 18 is a considerable job....Should there not be a greater focus on getting it right for children and implementing the UNCRC fully first...."

⁹ <http://www.unicef.org.uk/>

¹⁰ <http://www2.ohchr.org/english/bodies/crc/index.htm>

Not all the articles are appropriate to young people

Many respondents were clear in illustrating that a number of the articles within the UNCRC are not appropriate to the 18-24 yrs age group, quoting amongst others, articles 3, 9, 10, 31, 37; further suggesting that it may risk patronising this age group. It was noted that many of the articles would be problematic to apply and that young people would not recognise themselves within the same contexts.

Neither was it generally thought to be appropriate to extract certain articles from the UNCRC and apply them to this age group, as the UNCRC is intended to be treated as a whole and as indivisible.

A general point made was that the articles within the UNCRC that are perceived as being relevant to 18-24 yr olds have an equivalent in the Human Rights acts.

Some respondents raised concerns about the implications that extending the articles would have on services and funding to this age group.

Responses

“How can the Welsh Ministers apply the principle of ‘best interests’ (Article 3) to a 24 year old? Article 31 ‘the right to play’ to adults?”

“Extending the UNCRC to the 18-24 years age group could risk ‘infantilising’ and patronising this age group.”

“..there are some fundamental issues with the relevancy of the Articles to this age range and the application of this for non-devolved services within Wales.”

“It might have a negative impact on young soldiers in the army. What would it mean to have ‘special protection’ in a war zone for a 21 year old soldier?”

The young people who participated in the Dynamix workshops were particularly concerned about this and felt that the convention could be used in a restrictive way, to keep them as children rather than have the freedoms that they are entitled to as adults. There was a sense of feeling patronised by being subject to provisions within a children’s convention.

Responses

“I don’t want to be referred to as a child.”

“I am concerned that parents would still be able to tell us what to do after we’ve turned 18 or if we are living away from home.”

“It is hard to distinguish between rights and restraints and they need to be separated. “It is hard to distinguish between rights and restraints and they need to be separated.”

Better ways of securing rights for Young People

A number of respondents feel that the UNCRC is not the appropriate mechanism for Welsh Government to use as a framework for this age group and that there are better ways of securing the rights of 18-24yr olds e.g. supporting these young people to access their Human Rights. Respondents reiterated that young people are already rights holders and are protected by the nine core international Human Rights treaties; with a number raising concerns that extending the UNCRC would create confusion and cause misunderstandings.

Often these respondents elaborated to request that Welsh Ministers use this consultation as an opportunity to consider the Human Rights based approach and look at how this can be improved for young people in Wales.

Responses

"..... one overarching strategy for children and young people that is underpinned by human rights and follows the legislative framework of the UNCRC up to 17 years and follows the Human Rights Act 1998 and the relevant International Human Rights Instruments for the 18-24 years age group may be more meaningful and useful."

"...introduce a parallel duty under the Measure, requiring Welsh Ministers to have due regard to the social, cultural, economic and human rights of young people aged 18-24..."

"...utilise this consultation process as a means of ascertaining ways in which Ministers can more fully secure the human rights of young people and that they capitalise on the opportunity afforded by this discussion to focus efforts on an identified policy solution. This is of particular significance to those vulnerable young people whose families are unable or unwilling to provide them with continued support."

"A lot of problems this tries to address come from poor education. The resources could be spent improving this."

Definition of 'Vulnerable'

In response to the proposal of applying the articles of the UNCRC to vulnerable 18-24 yr olds, views were expressed that it would be difficult to define 'vulnerable'. It was questioned as to how Welsh Ministers would clearly outline 'vulnerable' groups so that everyone would understand, many suggesting that this categorisation would have a detrimental effect, even using the term 'positive discrimination'.

There appear to be moves away from the categorisation of individuals, particularly in relation to enabling access to services, which could mean that defining vulnerable becomes increasingly difficult eg, the Social Services and Wellbeing (Wales) Bill¹¹. The Bill will seek to ensure the delivery of social services in a coherent and integrated way to people of all ages and across all parts of Wales.

Responses

“Categorising young people as ‘vulnerable’ and ‘non-vulnerable’ is a diverse approach, creates gaps and risks conveying the message that rights are only available for specific groups. This would thus undermine the key principle of universality of human rights instruments and the non-discrimination standard.”

“Who will determine which groups of young people fall within this category? Some young people will be deemed ‘vulnerable’ whilst potentially others with greater needs and at greater risk of not having entitlements met being exclude.”

“Vulnerability can be interpreted in so many ways, can take so many forms and change day by day. You might feel vulnerable one day but not the next, it can depend on lots of things from your state of mind to icy conditions.”

However, extending the duty to vulnerable groups was also welcomed in some cases. Many responses identified a strong case for additional continued support for ‘vulnerable’ people in this age group, emphasising that organisations should be supported in being able to offer suitable provision for 18-24 year olds.

“..ensuring that the needs of disabled young people are thoroughly considered within the development of policies and legislation is particularly important due to the challenges and barriers disabled young people face.”

“No one is looking out for them.”

The Additional Learning Needs¹² review was also referenced as being a recent policy development which considers children and young people aged 0-25 and that an extension of the UNCRC would be consistent with this approach. It was also noted that currently within local authorities, a young person is considered to be someone between the ages of 11 and 25.

¹¹ [Welsh Government | Social Services and Well-being \(Wales\) Bill](#)

¹² [Welsh Government | Programme of Action Research to Inform the Evaluation of the Additional Learning Needs Pilot Developmental Phase: final report](#)

Extending the UNCRC will not address the transition problems

It was widely recognised within the responses that the period of transition from child to adult can be extremely difficult and challenging, particularly for vulnerable groups eg, care leavers. However, many respondents did not agree that application of the UNCRC articles would address the transitional issues.

Numerous concerns were raised about the ability of some young people in this age group to access their rights.

Responses

“I feel having been in care and leaving that we get dropped at 18 but everyone 18-24 should have/be protected under these rights”.

“An added difficulty experienced by young people...is that services are not generally tailored to provide good support for young people but are frequently generic – ie for ‘children’ under 18s or ‘adults’..”

Recognition was given to some of the policies and schemes that have been produced and implemented to help secure adequate protection for the more vulnerable in this age group eg, the ‘When I am Ready’¹³ scheme. One respondent noted this as an example of the best way forward.

However, the young people highlighted childcare costs, low wages, housing, travel costs and the cost of getting back into education or employment as the most challenging issues that they face. They were unsure as to how extending the UNCRC would impact on these but were clear that these were the areas that should be prioritised for improvement.

Concerns were raised about the potential impact that extending the articles of the UNCRC would have on services, in terms of finances and staffing resources.

Lack of continuity of support was an issue raised by the young people who took part in the Dynamix workshops. Whilst it was clear that most of the participants recognised additional support as a clear advantage, particularly those considered vulnerable, they reported that they often had to start over again with new people once they reached a certain age.

Responses

“It can take years to trust a worker you don’t want to lose that just because you turn 18.”

“You need to know where to go to get continued support, having support from people outside of your friends and family is important.”

“It is not so much an age issue, it should be decided on an individual basis.”

¹³ http://www.voicesfromcarecymru.org.uk/.../when_i_am_ready_young_per...

6. Conclusion and Next Steps

We welcome the responses to the consultation from a broad range of stakeholders and young people from across Wales.

Differing views were offered to the question proposed by the consultation resulting in convincing argument and analysis from both sides.

The overall conclusion from the groups of young people who were consulted as part of this process, many of whom are marginalised or considered vulnerable, was that the UNCRC is not fully appropriate for 18-24yr olds and for this reason Welsh Ministers should “probably not” extend the UNCRC to this age group.

Although they recognise that many young people may benefit from additional support and protection, they also consider that this support already exists. They did however, state that it could be improved in some cases and continuity of support was important. It was clear from seeking the opinions of the young people that there are a number of specific issues that they consider more of a priority than extending the UNCRC e.g. finding employment.

We received 18 responses to the online consultation and 10 (56%) did not agree that the Welsh Government should apply the articles of the UNCRC to 18-24yr olds.

Although applying an additional rights based convention to any group could be seen as a positive step and not necessarily weakening the rights of the 18-24 age group, the Welsh Government has noted that respondents have stated that they are not clear as to what the overall benefits would be.

Whilst respondents are concerned about the ability of some young people in this age group to access their rights, we noted that respondents clearly highlighted that the UNCRC is not the appropriate mechanism and framework for this age group.

The Welsh Government has taken account of the responses and has concluded that applying the UNCRC is not the best way to move forward and secure the rights of young people in this age group. We will therefore not be applying the articles of the UNCRC to 18-24yr olds.

We would like to thank individuals and groups for taking the time to consider this issue and provide the comments which have informed our conclusion.

7. Suggested Initiatives from Responses

Many suggestions were made in the consultation responses as to how to support the 18-24 age range, other than extending the articles of the UNCRC.

These suggestions will be forwarded for consideration to the relevant Welsh Government departments who have lead responsibility within their area of work. Some examples are:

- To ensure that the UNCRC is more widely known and understood by the under 18s and those who work with and for them. That it continues to be upheld throughout Wales therefore being more likely to improve the situation of future 18-24yr olds.
- At Welsh Government level there needs to be more effective transition planning and utilisation of the expansive international Human Rights framework to support and protect the Human Rights of the 18-24 age group. It is therefore recommended that the Welsh Government consider the Human Rights Act 1998 and other international Human Rights treaties, when considering the rights of the 18-24 age group.
- The existence of two overarching policies that overlap with regards to age criteria ie, the 7 Core Aims (0-18years) and Extending Entitlement (11-25 years) can be confusing for those attempting to implement policy for children and young people in Wales. Instead of two separate policies there could be one overarching strategy for children and young people that is underpinned by Human Rights and follows the legislative framework of the UNCRC up to the age of 18 and follows the Human Rights Act 1998 and the relevant International Human Rights Instruments for the 18-24 age group.
- The Welsh Government should consider which areas need more support and funding in order to meet the needs of young people of this age, including continued consistent support and signposting to relevant services. This could happen either instead of or alongside applying the UNCRC to 18-24 yr olds.
- Some young people within this age group do have particular issues and vulnerabilities which may not be comprehensively covered by the universal Human Rights instruments, for example, regarding their education, leaving public care or young people with disabilities. Welsh Ministers are encouraged to give careful consideration to how their rights can be strengthened. Indeed the development of an action plan to achieve this would be welcomed.
- Many young people aged 18-24 need additional continued support and/or protection. Whether or not consideration of the UNCRC is given for this age group, organisations should be supported in being able to offer suitable provision where possible.

- Map what is currently available for 18-24 yr olds. There needs to be appropriate service planning that takes into account the diverse needs of a broader clientele.
- Could advocacy services take on a role for linking with the 18-24 age group and signposting relevant services?
- The most challenging issues for young people are childcare costs, low wages, housing, travel costs and the costs of getting back into education, training and employment. Implementing something to make positive changes in these areas is more of a priority.
- Development of effective outcome frameworks to structure a configuration of services with the aim of securing the six wellbeing domains identified in the Social Services and Wellbeing (Wales) Bill.
- Additional support and protection should be decided on an individual basis rather than based on age.
- Breakdown the categories in order to simplify access to services.
- Further develop social protection frameworks for young people, to assist with their lack of economic independence.

8. Full List of Respondents

The Welsh Government would like to take this opportunity to thank all those who responded to this consultation exercise.

List of consultation workshops with 18-24 year olds

Organisation	Venue
Cardiff Prison remand prisoners	Cardiff Prison
Bangor University Student Union	Bangor University
Action for Children Young Parents Group	Newtown
Torfaen Youth Group	Torfaen
Mid Powys Young Adult Carers	Llandrindod Wells
Torfaen Disability Inclusion Group	Torfaen
Ceredigion Looked After Children	Ceredigion
Urdd Youth Group	Conwy
Monkton Gypsy Travellers	South West

List of individual organisation consultation workshops

Organisation	Venue
North Wales Children and Young People Practice	Llanrwst
Exchange Network	
Funky Dragon	Cardiff

Website consultation responses

Organisation	Venue
Caerphilly County Borough Council	
Cardiff Council	
Children and Young People's Partnership in Conwy	
Children in Wales	
Children's Commissioner	
Cwm Taf Local Health Board	
Healthcare Inspectorate Wales	
Merthyr Tydfil Borough Wide Youth Forum	
National Deaf Children's Society Cymru	
NIAB	
Play Wales	
UNICEF UK	
Wales Observatory on Human Rights of Children and Young People	
Wales UNCRC Monitoring Group	
Wrexham County Borough Council	
YMCA Wales	