

City and County of Swansea



Draft Children and Young People's Rights Scheme 2014

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Introduction

In September 2013 it was agreed that the United Nations Convention on the Rights of the Child (1989) ('the UNCRC') be embedded and become part of the Council's Policy Framework and that a duty be placed on the Cabinet to have 'due regard' to the UNCRC when exercising its decision making functions in:

- The formulation of new policies or strategies for the Authority
- The review or amendment of existing policies or strategies of the Authority
- The development, confirmation, or amendment of operational decisions that rest within the remit of the Cabinet

What is a Children and Young People's Rights Scheme?

The Children and Young People's Rights Scheme sets out the arrangements the City and County of Swansea have to ensure compliance with their duty to have due regard to the UNCRC.

It provides transparency about the processes that are being followed to comply with the duty, and outlines monitoring procedures and builds on existing work, such the Local Authority duties under the Children Act 1989.

To embed Children's Rights into policy and practice the Children and Young People's Rights Scheme cannot be a standalone document. It has very close links to a number of key Council strategies and plans, for example;

- Strategic Equality Plan
- Improvement Objectives
- One Swansea Plan
- Local Development Plan
- Consultation and Engagement Strategy
- Social Inclusion Strategy
- Community Cohesion
- Domestic Abuse Strategy
- Health, Social Care and Well Being Strategy
- Welsh Language Scheme
- Sustainable Swansea – Fit for the Future

The Sustainable Swansea: Fit for the Future Programme works with our communities to look at how we can change what we do to address our budget pressures and ensure we are doing the right things to have a positive impact on all our citizens including children and young people.

Children's Rights are a key theme throughout all of this work and in developing this Scheme we have engaged with colleagues to ensure we build on current and planned work where appropriate.

Engagement with children and young people has been sought and their views on what a Children and Young People's Rights Scheme in Swansea should look like has been incorporated.

The development and publication of a Children and Young People's Rights Scheme will ensure the effective monitoring and oversight of the implementation of the 'due regard' duty.

After publication of the first Scheme it may be revised as appropriate, or it may be republished without revision.

A phased approach to implementing and embedding the Scheme will be taken over the next 2 years.

What is the UNCRC?

The UNCRC is an international convention setting out the human rights of children (i.e. those aged 17 and under). It includes civil, political, economic, social and cultural rights, as well as direction to government on how to safeguard the survival, well-being, and development of children.

The text of the Convention on the Rights of the Child was approved by the Member States of the United Nations on 20th November 1989. On the 16th December 1991, the Government of the United Kingdom of Great Britain and Northern Ireland ratified the UNCRC and it came into force in respect of the United Kingdom on 15th January 1992. Since that date it has been binding on the UK government. Although the Council is not under the same obligation as the UK government, it has made the decision to commit itself to embedding the Convention as part of its policy framework.

The approach adopted by the City and County of Swansea is consistent with that of the Welsh Government. The 'Rights of Children and Young Persons (Wales) Measure 2011', was passed by the National Assembly for Wales on 18th January 2011 and approved by Her Majesty in Council on 16th March 2011. The Measure embeds consideration of the United Nations Convention on the Rights of the Child (UNCRC), and the Optional Protocols, into Welsh law. This is the first time that any government in the United Kingdom has been under a duty to have due regard to Children's Rights.

What is the duty on the Local Authority?

- (1) The Local Authority will incorporate and embed the UNCRC (1989) into the Council's Policy Framework and will have due regard to the requirements of –
 - (a) Part I of the Convention,

(b) Articles 1 to 7 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, except article 6(2), and

(c) Articles 1 to 10 of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

- (2) The Cabinet will have 'due regard' to the UNCRC (1989)
- (3) The Council will publish a Children's Rights Scheme which may be revised from time to time; and will receive an Annual Report on the Children and Young People's Rights Scheme which will report on: [a] implementation of the due regard duty; and, [b] promoting children's rights in Swansea.

How will we make sure that we comply with the duty to have due regard to the UNCRC?

Members and officers of the City & County of Swansea will ensure that they give due regard to the UNCRC when exercising their functions as laid out in this Scheme. This means ensuring that they give fair consideration to children's rights in all their work.

It is vital that the duty to have 'due regard' to the UNCRC is rooted alongside the wider arrangements of all impact assessments within the City and County of Swansea.

The UNCRC has been embedded within the existing Equality Impact Assessment (EIA) process. All reports presented to the Executive Group, Cabinet and Council undergo the Equality Impact Assessment process. This process is embedded into the corporate reporting protocol; therefore the most practicable way to embed the UNCRC (1989) due regard duty to ensure compliance with:

- The formulation of new policies or strategies for the Authority
- The review or amendment of existing policies or strategies for the Authority
- The development, confirmation, or amendment of operational decisions that rest within the remit of the Cabinet.

The Children and Young People's Rights Impact Assessment (CRIA)

The existing EIA process is a legal requirement and there are clear links between the UNCRC and the Equality Act 2010. A robust infrastructure has been developed internally within the City and County of Swansea, which includes a clear and concise EIA process together with guidance, advice and support and quality assurance mechanisms.

The process is co-ordinated by Access to Services Team.

The existing Equality Impact Assessment Screening and Report Forms has been amended to include specific reference to the following:

- Specific age groups to identify whether any proposal will impact upon those under the age of 18
- A new section within the EIA report form, specifically asking for details of:
 - how the proposal might impact on children and young people
 - how the proposal is designed or planned in the best interest of children and young people
 - any actions which will be taken to mitigate impact or to address identified gaps in knowledge.
- New guidance on both the UNCRC and how to approach the new report section

A point of central co-ordination has been established to deal with matters relating to the UNCRC.

This unit will screen and monitor the number of Impact Assessments processed and the actions taken to mitigate or address identified gaps in knowledge by providing support and guidance for departments.

Who is involved in ensuring the Local Authority complies with this duty?

In this section the specific arrangements to make sure that the Local Authority complies with the duty to have due regard to the UNCRC when exercising any of their functions, and the roles and responsibilities and set out below:

Cabinet Members

- They must have due regard to the UNCRC when exercising any of their functions and must be fully aware of the duty when they make their decisions; they are responsible for making sure that the City and County of Swansea comply with the duty
- They are responsible for the agreeing and monitoring the Children and Young People's Rights Scheme
- They will consider the progress made on the implementation of the Scheme as outlined in an annual progress report
- A Lead Member of the Cabinet has been identified who will exercise political leadership for the promotion of children and young people's rights under the UNCRC (1989)

Executive Board

- They must also have due regard to the UNCRC when exercising any of their functions and must be fully aware of the duty when they make their decisions; their work includes developing internal processes that will make sure staff comply with the duty
- This includes providing information and advice, developing tools and recording mechanisms to help staff to consider the UNCRC in their work and in their options and advice to Cabinet Members
- They will receive the annual progress report on the implementation of the Scheme and monitor progress as detailed in the action plan
- The Lead Director of People has been identified to work with the Lead Member to ensure that effective Member/Officer dialogue occurs to embed and promote children's rights and embed the UNCRC into policy and practice

Heads of Service

- Their responsibility includes ensuring that all staff, including themselves, have a suitable level of knowledge of the UNCRC and the implications of the Scheme on their area of work
- They will Act as 'Champions' of children's rights and to promote and raise awareness of the UNCRC in their service area to enhance rights based practice
- They will be responsible for ensuring that the options and advice that their staff include in the corporate reporting process is of good quality and has paid due regard to the UNCRC
- They will contribute to the annual progress report on the implementation of the Scheme and monitor progress as detailed in the action plan.

Local Authority Staff

- The City and County of Swansea staff support Cabinet and Council in having due regard to the UNCRC when make decisions, as they provide options and advice in relation to Council functions
- It is very important that staff give balanced consideration to the UNCRC, before they begin to develop policies or other pieces of work through the Equality Impact Assessment Process
- Training and awareness raising information will be given to staff to help them understand the UNCRC and how it impact upon their role

Promoting knowledge and understanding of the UNCRC

The City & County of Swansea is committed to continuing to educate and train staff, Councilors and Cabinet Members along with partner stakeholders. We will use the resources that we have developed via a suite of training to provide colleagues with knowledge and understanding of the UNCRC. We will help them understand the process they need to follow to comply with the due regard duty and to raise awareness and promote children's rights.

Raising Awareness and Training

The corporate training and development team brings together the different training tools and methods, and prioritises groups of staff for the training. This will include;

- Online training for staff
- Face to face training
- Expert training for targeted staff
- Training and awareness raising for other stakeholders

The Corporate Training Programme has identified a need for a whole authority approach around Safeguarding Children and Young People training. As there is a cross over with the 'best interests' principle articles of the UNCRC this training programme has been developed to cross reference the safeguarding principles with these articles.

Alongside this a training programme will run for key members of staff looking at how to complete the revised Equality Impact Assessment forms and an update on the Equality Act 2010 as again there is a vast cross over with the 'non-discrimination' articles of the UNCRC.

A dedicated UNCRC web resource will be available on the intranet for colleagues to access; this includes Frequently Asked Questions (FAQs), information sheets, the full legislation documentation and the full articles of the UNCRC, alongside a variety of external children's rights websites.

Promotion and understanding of the UNCRC for children, young people and their parents/carers will be delivered through existing mechanisms such as the Big Conversation, Swansea's Youth Forum and the Rights Respecting Schools Award, Children and Young People's Disability Strategy group. This will include raising awareness of actions they can take if they think the City & County of Swansea has not paid due regard to the UNCRC and where they can go for help and support in such matters.

Accountability and Compliance

To ensure the effective monitoring and oversight of the implementation of the 'due regard' duty, the development and publication of an annual progress report on the phased implementation of the Children and Young People's Rights Scheme is required, this will include an action plan outlining training and development activities for the year informed by the annual progress report.

A children and young people monitoring group will work with officers to produce the annual progress report looking at the activity that has been undertaken to ensure the Council pays due regard to the UNCRC.

The annual progress report will be submitted to Cabinet, the Programme Scrutiny Board, and Council prior to publication.

From an external perspective, a partnership between the City and County of Swansea and Wales Observatory has been established.

The remit of this external monitoring process has been developed and a protocol of understanding established to ensure that this relationship is based on mutual trust, co-operation and that of a 'constructive partner for change'.

The Observatory have a clear role in assessing the application of the UNCRC due regard duty within the City and County of Swansea and is able to make representation to relevant parties both within and outside the City & County of Swansea within this context.

Reporting on Compliance with the duty

Under the Scheme the Council is committed to publishing an annual progress report on Children and Young People's Rights outlining the following in two main sections:

- (A) Implementation of the Due Regard Duty - In this section progress of the implementation action plan shall be reported on including;
- Actions taken a political level to respond to the challenges of children and young people's rights in Swansea
 - Actions taken by Chief Officers to support their colleagues as they seek to ensure compliance with children and young people's rights, as set out in the Policy Framework
 - Reviews and revisions to existing policies and strategies to make them compliant with the provisions of the UNCRC (1989)
 - Outputs and outcomes of the Authority's efforts to develop more fully and promote the concept of children's and young people's rights and responsibilities
 - Development of relevant Officer structures to promote and embed children and young people's rights
 - Examples of projects, programmes and initiatives which are promoting: participation; the engagement of children and young people in service development and delivery; and processes to enable children and young people to query the Authority should they

consider that the rights to which they are entitled under the UNCRC (1989) are not being met

(B) Promoting Children and Young People's Rights in Swansea – In this section of the following shall be reported;

- Processes and actions which enable the Council to promote knowledge and understanding amongst children and young people, and the general public in Swansea, of the UNCRC (1989)
- Participation processes and structures that enable children and young people's voices to be heard by the Authority
- Educational and awareness raising initiatives focused upon developing and promoting children and young people's understanding of the relationships between rights and responsibilities
- Action taken within the Authority at Chief Officer, managerial, and operational levels to ensure that planning, policy development and service provision is compliant with the UNCRC (1989)
- Action taken to foster greater co-operation with agencies, partnerships and networks beyond the Authority to promote knowledge and understanding of the UNCRC (1989)
- Resources identified to support, and arrangements for the provision of a pan-Authority children and young people's rights awareness raising programme.

Outcomes and Evidence

Performance measures incorporating the points above have been developed, with key milestones identified that clearly identify progress targets, responsible Officers and Departments/Directorates which require further development to raise awareness of children and young people's rights in Swansea.

This will formulate the annual progress report on the due regard duty for embedding the UNCRC into the local authority policy framework and inform objectives which will be measured annually within the annual action plan.

Work will be evidenced by the introduction of new processes such as the Children's Rights Impact Assessment for new policies and initiatives, but operational process will in most cases remain. Qualitative evidence in the form of case studies will be gathered from different areas across the council on the work they have carried out to embed the UNCRC. This will be reviewed on a rolling basis as it is not practical to apply this to all Council services at once, therefore a phased approach will be taken.

Feedback and Complaints

What can children and young people (or their representatives) do if they think the Local Authority has not paid due regard to the UNCRRC?

The City and County of Swansea recognises that in order to meet local needs and concerns the monitoring of complaints is a valuable resource in its requirement to continually improve services. Complaints arise for varying reasons; some simply require an explanation, others are keen to ensure that problems encountered are not repeated. Full details of the Complaints Policy and Procedure can be found at <http://www.swansea.gov.uk/complaints>

If children and young people feel that the City and County of Swansea has not considered children's rights when making decisions that affect their lives, they may, individually or in a group, wish to contact the City and County of Swansea to raise the issue.

Support for children and young people who want to complain about or challenge the Local Authority

When children and young people, as an individual or as a group, want to challenge the City & County of Swansea, they can be supported by:

- Any adult that they trust and who is able to spend time supporting them. This could be a relation, a friend or a professional who works with them
- One of the local advocacy providers who could provide support and advice to children and young people. In the main these tend to focus on providing information and advocacy for children and young people who are considered to be vulnerable
- The Children's Commissioner for Wales who can provide advice, representation and assistance to children and young people who may wish to challenge decisions. <http://www.childcom.org.uk/>
- CLIC, the National Information and Advice service for Young People (11-25) in Wales which is an online channel offering information, news and advice for all young people aged 11 to 25 <http://www.cliconline.co.uk/en/info/law-rights/your-rights/>
- Meic an Advocacy and Advice helpline for children and young people in Wales. <http://www.meiccymru.org/about.php>

Glossary of Terms

Advocacy – Advocacy is speaking up for children and young people. Advocacy works by empowering children and young people to make sure that their rights are respected and their views and wishes heard at all times, representing the views, wishes and needs of children and young people to decision makers, and helping them navigate the system.

Due Regard - This means to give a fair consideration to and give sufficient attention to all of the facts.

Legislation – Laws

Optional Protocols – These are called “optional” because it is optional for States who have agreed to be bound by the UNCRC to agree to be also bound by the rights and obligations in the Protocols. The first of these relates to the involvement of children in armed conflict, and the second relates to the sale of children, child prostitution and child pornography. The UK has agreed to be bound by both of these.

Policy – A plan or course of action intended to influence and determine decisions, actions, and other matters.

Seven Core Aims – The Welsh Government’s seven core aims for children and young people summarise the United Nations Convention on the Rights of the Child (UNCRC) and form the basis for decisions on priorities and objectives nationally. They should also form the basis for decisions on strategy and service provision locally. The seven core aims state that all children and young people:

- (1) Have a flying start in life;
- (2) Have a comprehensive range of education and learning opportunities;
- (3) Enjoy the best possible health and are free from abuse, victimisation and exploitation;
- (4) Have access to play, leisure, sporting and cultural activities;
- (5) Are listened to, treated with respect, and have their race and cultural identity recognised;
- (6) Have a safe home and a community which supports physical and emotional wellbeing;
- (7) Are not disadvantaged by poverty.

UN Committee – The Committee is established under article 43(1) of the Convention for the purpose of examining the progress made by State Parties towards its implementation. The Committee is composed of ten experts in the areas covered by the Convention, who are elected to the Committee by the States which are parties to the Convention.

UNCRC – The United Nations Convention on the Rights of the Child is an International Convention developed and agreed by the United Nations. 190 out of 192 states have ratified it, making it very important internationally. It has two Optional Protocols which have also been ratified by the UK. In the convention and the two protocols there are approximately 58 rights of children and obligations placed on Government and others. It recognises the development and vulnerabilities of children and places obligations on states and their agents to enable children to realise their rights. A full list of the articles is listed on page 13.

Article 1 Everyone under 18 years of age has all the rights in this Convention.

Article 2 The Convention applies to everyone whatever their race, religion, abilities, whatever they think or say and whatever type of family they come from.

Article 3 All organisations concerned with children should work towards what is best for each child.

Article 4 Governments should make these rights available to children.

Article 5 Governments should respect the rights and responsibilities of families to direct and guide their children so that, as they grow, they learn to use their rights properly.

Article 6 All children have the right of life. Governments should ensure that children survive and develop healthily.

Article 7 All children have the right to a legally registered name, the right to a nationality and the right to know and, as far as possible, to be cared for by their parents.

Article 8 Governments should respect children's right to a name, a nationality and family ties.

Article 9 Children should not be separated from their parents unless it is for their own good, for example if a parent is mistreating or neglecting a child. Children whose parents have separated have the right to stay in contact with both parents, unless this might hurt the child.

Article 10 Families who live in different countries should be allowed to move between those countries so that parents and children can stay in contact or get back together as a family.

Article 11 Governments should take steps to stop children being taken out of their own country illegally.

Article 12 Children have the right to say what they think should happen, when adults are making decisions that affect them, and to have their opinions taken into account.

Article 13 Children have the right to get and to share information as long as the information is not damaging to them or to others.

Article 14 Children have the right to think and believe what they want and to practice their religion, as long as they are not stopping other people from enjoying their rights. Parents should guide their children on these matters.

Article 15 Children have the right to meet together and to join groups and organisations, as long as this does not stop other people from enjoying their rights.

Article 16 Children have a right to privacy. The law should protect them from attacks against their way of life, their good name, their families and their homes.

Article 17 Children have the right to reliable information from the mass media. Television, radio and newspapers should provide information that children can understand, and should not promote materials that could harm children.

Article 18 Both parents share responsibility for bringing up their children, and should always consider what is best for each child. Governments should help parents by providing services to support them, especially if both parents work.

Article 19 Governments should ensure that children are properly cared for, and protect them from violence, abuse and neglect by their parents or anyone else who looks after them.

Article 20 Children who cannot be looked after by their own family must be looked after properly, by people who respect their religion, culture and language.

Article 21 When children are adopted the first concern must be what is best for them. The same rules should apply whether the children are adopted in the country where they were born or taken to live in another country.

Article 22 Children who come into a country as refugees should have the same rights as children born in that country.

Article 23 Children who have any kind of disability should have special care and support so that they can lead full and independent lives.

Article 24 Children have the right to good quality health care and to clean water, nutritious food and a clean environment so that they will stay healthy. Rich countries should help poorer countries achieve this.

Article 25 Children who are looked after by their local authority rather than their parents should have their situation reviewed regularly.

Article 26 The Government should provide extra money for the children of families in need.

Article 27 Children have a right to a standard of living that is good enough to meet their physical and mental needs. The Government should help families who cannot afford to provide this.

Article 28 Children have a right to an education. Discipline in schools should respect children's human dignity. Primary education should be free. Wealthy countries should help poorer countries achieve this.

Article 29 Education should develop each child's personality and talents to the full. It should encourage children to respect their parents, and their own and other cultures

Article 30 Children have a right to learn and use the language and customs of their families, whether these are shared by the majority of people in the country or not.

Article 31 All children have a right to relax and play, and to join in a wide range of activities.

Article 32 The Government should protect children from work that is dangerous or might harm their health or their education.

Article 33 The Government should provide ways of protecting children from dangerous drugs.

Article 34 The Government should protect children from sexual abuse.

Article 35 The Government should make sure that children are not abducted or sold.

Article 36 Children should be protected from any activities that could harm their development.

Article 37 Children who break the law should not be treated cruelly. They should not be put in prison with adults and should be able to keep in contact with their families.

Article 38 Governments should not allow children under 15 to join the army. Children in war zones should receive special protection.

Article 39 Children who have been neglected or abused should receive special help to restore their self respect.

Article 40 Children who are accused of breaking the law should receive legal help. Prison sentences for children should only be used for the most serious offences.

Article 41 If the laws of a particular country protect children better than the articles of the Convention, then those laws should stay.

Article 42 The Government should make the Convention known to all parents and children.