Righting the wrongs: the reality of children’s rights in Wales uses the United Nations Convention on the Rights of the Child’s reporting framework to provide an analysis of how far children’s rights have been realised in Wales. The United Nations Convention on the Rights of the Child (UNCRC) has the highest level of acceptance of any human rights instrument and is the most complete, including civil, political as well as economic, social and cultural rights. Since ratification by the UK Government in 1991, the non-governmental sector has been using the Convention to drive forward the achievement of children’s rights.

In Wales, the UNCRC Monitoring Group, established in 2002, is a national alliance of agencies and academic institutions monitoring the implementation of the UNCRC. In preparing Righting the wrongs the UNCRC Monitoring Group invited a diverse section of non-governmental organisations (NGOs) and the academic community to comment on the extent to which law, policy and practice in Wales has progressed in achieving compliance with the Convention. Using the Concluding Observations of the last report (2002) by the UN Committee on the Rights of the Child each of the contributors provides detailed analyses on the diverse but indivisible domains of the Convention: Participation, Corporal Punishment, Child Protection, Child Poverty, Health Inequalities, Education and Citizenship, Asylum Seeker Children, Disabled Children, Looked after Children, Sexual Exploitation, Juvenile Justice; as well as general measures taken to implement the UNCRC in Wales.

Devolution has afforded Wales the opportunity to do things differently and the National Assembly for Wales and the Welsh Assembly Government have done much to promote a rights based agenda for children. The report notes areas of real progress, for instance in the field of participation, in the establishment of the Children’s Commissioner’s Office and in some policy frameworks (for example the National Service Framework and the Framework Partnerships). In many of these areas there is a sense of a real commitment to ‘getting it right’ for children in this country. However, the report also notes areas where the Welsh Assembly Government has yet to adequately develop its policy, for example in response to the sexual exploitation of children, child impact assessments, annual reports on the well-being of Wales’ children and the potential of children’s budgets analysis.

In other areas despite a commitment to ensuring that rights based entitlements exist at a policy level, the current reality of children’s experience falls well short of what they could expect in a prosperous and developed nation. The level of service in mental health and the poor outcomes for looked after children (compared with their non-looked after peers) fall into this category; that is where children’s rights are not yet a reality.
Finally, *Righting the wrongs* highlights where Westminster Government policy is purposely working against the grain of the Convention in areas such as the physical punishment of children, the status of children seeking asylum and juvenile justice.

Wales along with the other countries of the UK is due to be examined by the UN in 2007 on the progress it has made in implementing the Convention. We have a lot still to do but *Righting the wrongs* places Wales in a much stronger position as we approach the beginning of the next reporting phase. The report sets out a clear agenda for action which we hope will inform policy and practice development over the coming years.

### General measures of implementation

The general measures of implementation (Articles 4, 42, 44.6) are intended to promote the full enjoyment of all rights in the Convention by all children, through legislation, the establishment of coordinating and monitoring bodies – governmental and independent – comprehensive data collection, awareness raising and training, the monitoring of budgets and the development and implementation of appropriate policies, services and programmes. Jane Williams of Swansea University and Anne Crowley and Rhian Croke of *Save the Children* provide a detailed analysis on how we have progressed in Wales since 2002 in developing institutions, structures and mechanisms to successfully implement the UNCRC.

They report that the Welsh Assembly Government has made considerable progress on the Convention’s general measures of implementation. Devolution has heralded more inclusive and more effective governance for children and young people. The Convention has been adopted as the basis of all policy making for children and young people and Wales now has a Minister for Children, a cross-cutting Cabinet committee for children and young people, an independent Children’s Commissioner and a government funded but peer led young people's assembly.

The emergence of these structures does genuinely indicate a willingness on the part of government to give children a higher political authority and an increasing sensitivity to the impact of governance on children’s human rights. However, there is more to be done.

### Key recommendations

The Welsh Assembly Government should:

- Stipulate that all Children and Young People Framework Partnerships through the development of sub-ordinate legislation must “have regard” to the United Nations Convention on the Rights of the Child.
- Include an analysis of its spending on children in its budgets and encourage Children and Young People Framework Partnerships to provide a budget analysis setting out its spending on children and young people.
- Develop a coherent and consistent Welsh Assembly wide response to monitoring the implementation of the Convention and report annually on the state of children’s rights.
- Ensure that the 7 Core Aims for children and young people are adequately reflected in the Welsh Assembly Government’s Strategic Plan, *Better Wales.com*
- Ensure the curricula of all professional training courses include the United Nations Convention on the Rights of the Child.
Guiding principles

The development of a children’s rights perspective throughout governmental structures is best achieved by designing strategies to implement the guiding principles of the Convention; non-discrimination (Article 2), best interests (Article 3), survival and development (Article 6) and participation (Article 12). The guiding principles are the backbone to the Convention and instrumental to achieving all of the other rights.

Non-discrimination – looked after children

Mike Lewis of Children in Wales examines whether changes in legislation, policy and practice since 2002 have reduced the discrimination that looked after children experience. He notes that due to the systematic physical and sexual abuse experienced by children in care during the 1970s and 80s, there has been considerable energy put by policy makers and practitioners into improving the outcomes of this group of children and young people. Nevertheless according to recent statistics it is clear that there is a long way to go before looked after children achieve the same outcomes as children in the non-care population. There are also ongoing challenges to the provision of independent advocacy services for looked after children, with services often being piecemeal or reliant on short term funding.

Key recommendations

The Welsh Assembly Government working with local authorities should ensure:

• A continued and increasing emphasis on offering a range of quality placements to meet children and young people’s needs.
• Basic improvements in frontline services in health (especially mental health), education and social services for looked after children.
• An all Wales advocacy strategy for all looked after children and young people.
• Ambitious targets for looked after children and young people are set.
• Local authorities are better corporate parents for looked after children.
• Increased accommodation options for care leavers, including extending the use of supported lodgings and enabling more young people to stay in foster placements.
• Children and young people in care are able to maintain secure and enjoyable placements.

Non-discrimination – disabled children

Lynne Hill of Children in Wales assesses whether changes in legislation, policy and practice have reduced the discrimination that disabled children experience. She reports that while there are some examples of good practice in relation to service delivery and participation, this picture is certainly not consistent across Wales. Children who are disabled are still being denied their rights to be involved in decision-making, access to information and equal access to services. A full picture of disabled children’s experience of their rights is still not clear due to the lack of disaggregated data collected on this group of children.
Key recommendations
The Welsh Assembly Government working with local authorities, Local Health Boards and NHS Trusts should ensure:

- Service commissioners and providers give priority to implementing the *National Service Framework for Children, Young People and Maternity Services*.
- Statistical data pertinent to disabled children and young people, particularly in relation to safeguarding is collated and analysed.
- Support is provided to ensure that disabled children and young people are able to participate in a range of opportunities and that their views are fully taken into account at both national and local levels.

Best Interests
Rhian Croke of Save the Children identifies child impact assessment as the most effective way of ensuring that the best interests of the child is respected in legislation, policy development and budgetary considerations at all levels of government. Proofing all policy development for its compliance with the UNCRC and the Human Rights Act 1998 is the most effective way for the Convention to become the foundation of policy making for children and young people in Wales.

The Convention must be given sufficient prominence in the Assembly Government’s own overarching strategic plan and local and national officials assisted to fully understand the principles of the Convention. Child impact assessments are the most effective tool that will assist in the mainstreaming of children’s rights giving children’s issues better visibility, coherence and significance across government structures and making government more effective for children and young people.

Key recommendations
The Welsh Assembly Government should:

- Include indicators in their Policy Integration Tool that proof compliance with the UNCRC and the *Human Rights Act 1998*.
- Failing this, through secondary legislation, the National Assembly for Wales and local government should be obliged to use child impact assessments to proof all policy that directly or indirectly affects children and young people for compliance with the UNCRC and the *Human Rights Act 1998*.
- National and local government officials should receive training in the use of child impact assessments and the principles of the UNCRC.
- The Children’s Commissioner for Wales as part of the Office’s scrutiny function should use child impact assessments to proof all policy that directly or indirectly affects children and young people for compliance with the UNCRC and *Human Rights Act 1998*.

Participation
Eleri Thomas of Save the Children and Chair of the Participation Consortium and Anna Skeels Manager of the Participation Unit provide an overview of how far we have progressed in institutionalising participation for children and young people in Wales. They comment that national and local government decision-making processes have become more open to children and young people since the UN Committee reported in 2002.
The Welsh Assembly Government has established: a Participation Project to promote and develop children's participation, policy and practice within the Assembly and public bodies, voluntary organisations and umbrella bodies; a Children and Young People’s Participation Consortium to promote and support the diverse range of children and young people’s participation across Wales; and a Participation Unit to support the work of the Consortium. In conjunction with Funky Dragon (young people’s assembly for Wales) there are currently well-established national structures to build on policy, practice and opportunities for children and young people’s participation.

The implementation of these national structures is certainly a step in the right direction but more needs to be done to change adult’s attitudes towards children. To fully implement Article 12 of the UNCRC, adults across Wales need to respect children as rights holders, supporting their right to participate in the family, at school, in their community and local and national structures. Children and young people must be respected as valuable members of communities and active citizens.

**Key recommendations**

The Welsh Assembly Government working with its partners should:

- Ensure children and young people are provided with information about their rights under the Convention, in particular about Article 12 – their right to participate.
- Consider developing legislation that secures national and local participation structures including the children and young people’s assembly for Wales.
- Ensure that all its policies and initiatives promote and support children and young people’s participation in decision-making. In particular, the Welsh Assembly Government should provide dedicated support and clear direction to ensure that children and young people are enabled to actively participate in the regeneration of their own communities.
- Ensure that participation of children and young people is included in all training courses for professionals working with children and young people and in Continuing Professional Development training programmes.

**Civil rights and freedoms**

**Corporal punishment**

Jill Taylor for the ‘Sdim Curo Plant!/Children are Unbeatable! Alliance reviews progress in Wales on promoting positive and non-violent forms of discipline and respect for children’s equal protection. She welcomes the Welsh Assembly Government’s principled stand on the issue of hitting children. Legal reform is not within its power but the Assembly Government is focusing attention on how it can promote the no-smacking message in Wales.

**Key recommendations**

The Welsh Assembly Government should:

- Continue to press the UK Government for legal reform to give equal protection to children.
- Establish a campaign of public education supported by an increased level of parenting support.
Family and alternative care

Child protection

Article 19 of the Convention requires children’s protection from all forms of physical or mental violence, injury or abuse, negligent treatment/maltreatment/exploitation while in the care of their parent(s), legal guardian(s) or any other person who has care of the child. Simon Jones of NSPCC Cymru examines the legislative, administrative, and educational measures that have been taken in Wales to protect children from abuse since 2002. He reports that there has been progress with regards to policy and legislation. However, more needs to be done to provide the general public, with information of what to do if they are worried about a child and whom they can contact for support. A recent NSPCC study indicated that two thirds of children who had been sexually abused did not tell anyone at the time. The Welsh Assembly Government recently announcing that they will pilot a school counselling strategy, is a positive move towards children having someone to turn to if they are worried or are experiencing abuse. While recognising that the general public and children need more information it is also critical that professionals receive training on how to recognise abuse and how to act on their concerns appropriately.

Key recommendations

The Welsh Assembly Government should:

• Amend the Children Act 2004 draft guidance to allow for any child death to be eligible for review by the Local Safeguarding Children’s Board Review Panels.
• Clarify its overarching strategy for safeguarding and protecting children. In particular, it needs to be clear how the different strategies that impact on children’s rights and welfare, link together.
• Urgently develop a strategy for providing children and young people with information about who to contact if they are worried about abuse.
• Resource a public information campaign to empower communities to recognise and act to stop abuse against children and young people.
• Take steps to ensure that children and young people who have experienced abuse can access therapeutic services as required.

The Welsh Assembly Government and the Welsh Local Government Association (WLGA) should:

• Closely monitor the implementation of regulations relating to private fostering to ensure that the arrangements are proving effective in identifying and supporting children and young people in these situations.

In addition:

• A consistent approach to supporting young people giving evidence in court needs to be developed.
• A basic standard package of training on child protection should be developed and used across professions, ensuring that all professionals develop the same awareness and are provided with the tools to safeguard children and young people.
Basic health and welfare

Child poverty

All children have a right to an adequate standard of living (Article 27 of the UNCRC) and to develop to their fullest potential and States should allocate to the maximum extent, available resources to achieve this (Article 4 of the UNCRC). Levels of poverty have fallen in Wales since 2002 but 27% of children are still living in poverty (defined as living in households with incomes below 60% of the median income). Lucy Akhtar from End Child Poverty Network Cymru comments that there has been a considerable amount of progress since 2002 in moving child poverty up the political agenda in Wales and indeed across the UK. However, there is a gap between the Welsh Assembly Government’s high aspirations and the experience of children and young people living in poverty. Lucy Akhtar calls on the Welsh Assembly Government to ensure that sufficient resources are assigned to tackling child poverty, that its child poverty strategy is given higher priority and that more urgency is given to developing its action plan which has been slow to materialise. In particular, the Welsh Assembly Government must engage with delivery partners and gain their commitment and be explicit about their role in tackling child poverty.

Key recommendations

The Welsh Assembly Government should:

- Give priority to regular monitoring of child well-being in Wales.
- Develop mechanisms for the measurement of severe and persistent poverty.
- Ensure that its Child Poverty Strategy:
  - contains specific targets and milestones
  - that it is recognised in other strategies and other Welsh Assembly Government Directorates
  - that it is made a priority for action by local government
  - that sufficient resources are given to implement it.
- Address the lack of affordable housing in Wales through the provision of adequate resources to support the strategy it is currently developing to address these concerns.

In addition:

- Recommendations made in “Narrowing the Gap in the Performance of Schools” (2002) should be implemented urgently.
- Gathering and analysing data at a local level should take place to improve understanding of local housing markets and current and possible future causes of homelessness.

Health inequalities

According to the Convention (in particular Article 24 and Article 2 of the UNCRC) States should recognise the right of all children without discrimination to “the highest attainable standard of health” as well as to “facilities for the treatment of illness and the rehabilitation of health”. State parties should also strive to ensure “that no child is deprived of his or her right of access to such health care services”. Dr Elspeth Webb, of the Department of Child Health, Cardiff University College of Medicine offers a detailed analysis of the multiple barriers that children experience in accessing good health and health services due to socio-economic background and ethnic status. She reports on how a parent’s socio-economic background can affect levels of infant mortality and breastfeeding rates and can have a direct bearing on the level of teenage conception rates. Also included in her analysis is a discussion on the poor state of adolescent health and mental health services in Wales.
Dr Webb reports that there have been some pockets of good practice and some excellent developments in relation to data collection and the development of the National Service Framework for Children, Young People and Maternity Services. However, there are still many areas of concern, not least the low prioritisation of children’s services in budget allocations and target setting.

**Key recommendations**

There is a pressing need for research in a number of areas including:

- Children’s mental health status. A more accurate picture is required by which progress in improving children’s mental health can be monitored.
- Welsh data on infant feeding. Disaggregated data should be made available from the ONS Infant Feeding Survey.
- The health status and needs of children from Black Minority Ethnic (BME) Communities and a review of health care services for children from BME communities and refugee and asylum seekers.
- How much true participation do pregnant girls under 16 years have in making treatment options and how supported they feel in making a decision that has a lifelong implications.
- The proportions of younger pregnant teenagers falling pregnant as a result of abuse or coercive sexual experiences.
- The needs of teenage fathers.

In addition:

- There needs to be a process of planned resourcing of core health services to children in need, using proper well validated health needs assessment approaches.
- Steps should be taken to ensure that multi-agency partnerships for children have knowledgeable and trained child health professionals representing health services.
- Urgent consideration needs to be given to the adequate resourcing of Child and Adolescent Mental Health Services in Wales in line with the recommendations of the Children’s Commissioner.
- Intervention to improve breast-feeding should be targeted at the most poorly resourced families, including fiscal policies to improve maternity provision for low paid mothers.
- The National Service Framework for Children, Young People and Maternity Services needs investment to ensure that it is adequately resourced, to meet the standards, particularly in those areas of need that are currently poorly met. For example, the health care needs of adolescents, including those in transition to adult services; marginalised groups and children with mental health problems.

**Education, leisure and cultural life**

**Incorporating child rights into school curricula**

Rights are of little use to individuals unless they are aware of them. The Committee on the Rights of the Child has particularly focused attention on encouraging State parties to include teaching on the Convention and human rights into school curricula. This they argue would assist in embedding the principles of human rights in society. Eleanor White of Amnesty International Wales reports on how far child and human rights have been incorporated into the school curricula in Wales.
In her analysis she indicates that significant progress has been made towards the delivery of Education for Sustainable Development and Global Citizenship through the curriculum but little emphasis on rights education as an end in itself. She argues that time is ripe for the development of a cross-sectoral strategic approach towards rights learning in Wales that will contribute to established and growing mechanisms of implementation within curriculum delivery.

**Key recommendations**

- The UNCRC and United Nations Declaration of Human Rights (UNDHR) should be made explicit and included as fundamental building blocks for learning about rights and responsibilities in the Community and Moral Aspects of the PSE Curriculum.
- Guidance for Global Citizenship and curriculum mapping for Rights should include reference to the UNCRC and the UNDHR.
- Learning about individual Child Rights and Human Rights should be made explicit within guidance for Global Citizenship and within the programme to embed Education for Sustainable Development and Global Citizenship (ESDG).
- Secondary school teachers should be given a grounding in PSE in their training or as a part of Continuing Professional Development.
- Appropriate sub-groups or networks should be established within the existing structures to focus on strategy and inter-agency working for inclusion of UNCRC and Rights Education.
- Child and Human Rights Education should be included in any research commissioned as a result of Welsh Assembly Government ESDGC Strategy Consultation and Documentation.

**Special protection**

**Asylum**

According to the UNCRC, all decisions made about asylum seeking children should be in their best interests (Article 3 of the UNCRC) and applied without discrimination (Article 2 of the UNCRC). In the UK today there is an increasing gulf between the rights of asylum seeking children as expressed in the UNCRC and the reality of immigration policy and practice; children who are asylum seekers are often vulnerable and in need of care and protection. Sian Thomas of Save the Children reviews progress. She criticises the UK Government for entering a reservation on Article 22 of the UNCRC, this Article commits the Government to giving refugee children the same rights as children born in the UK. In practice this reservation means that asylum seeker children are not afforded the same universal rights as ‘citizen’ children. The detention of asylum seeker children continues to be the policy of the UK government – a clear example of the discriminatory treatment afforded to this group of children.

Sian Thomas reports that basic services for asylum seeker children are still varied and often inadequate. There is a lack of availability for post-16 education for separated children and although there is evidence of specialist health services for asylum seeker children they lack secure, permanent funding streams. Lack of access to appropriate mental health provision is a major concern as these children consistently report feelings of anxiety related to leaving their country of origin, arriving in Wales and awaiting the result of their asylum application. There are continuing concerns that separated children living in Wales do not have a ‘guardian’ or even access to basic, appropriate, independent advocacy. Due to the way that legal advice is funded, there are significant concerns that asylum seeker children and their families find it increasingly difficult to access specialist legal advice. Sian Thomas concludes that asylum seeker children’s rights as expressed in the UNCRC are consistently being breached and makes a number of recommendations to the Welsh Assembly and UK Governments.
Key recommendations

Press the UK government to:

- Withdraw its reservation to the UNCRC and review compliance of all immigration law with Convention principles.
- End the detention of asylum-seeking children.

The Welsh Assembly Government working with the UK Government should:

- Ensure that in respect of both policy and practice, the best interest principle in Article 3 of the UNCRC applies to all asylum-seeking children.
- Undertake a review of access to legal representation in Wales and put measures in place to ensure families and young people in Wales can access specialist legal advice.
- Negotiate a commitment for Immigration & Nationality Directorate (IND) screenings to be undertaken in Cardiff and for new arrivals in South Wales, both unaccompanied children and children who arrived unaccompanied who then join parents.

The Welsh Assembly Government, local authorities, Local Health Boards and NHS Trusts should:

- Ensure that robust mechanisms are in place to collect statistics on both children in families and separated children.
- Review the funding arrangements for health and education services in Wales for asylum seeking children and their families.
- Ensure a specialist programme to promote equity and entry into mainstream health services.
- Explore the possibility of establishing a system of guardianship to ensure the best interest principle is maintained. Consider the availability of accessible and specialist independent advocacy support.
- Establish an all-Wales information post to provide specialist information for practitioners, keeping them up to date on changing legislation and guidance.

Sexual exploitation

Children have the right to be protected from all forms of sexual exploitation and sexual abuse (Article 34 of the UNCRC). Andy James of Barnardo’s Cymru highlights that this is a growing area of concern in Wales that requires further research. Barnardo’s Cymru on behalf of the Wales Advisory Group on Child Sexual Exploitation have undertaken the only scoping exercise that revealed that the number of children who are sexually exploited is likely to be significantly underestimated. There are currently no specialist services in Wales to support these children and professional awareness of protocols and government guidance and key indicators of child sexual exploitation is worryingly low. There is also a lack of a systematic approach to multi-agency working to combat child sexual exploitation.

The continued existence of legal provisions to arrest and prosecute young people under the age of 18 for “persistent and voluntary return” to prostitution serves to undermine approaches that offer persistent and long term support to help young people disengage from abusive networks. Andy James argues that according to the available evidence, the recommendations of the UN Committee on the Rights of the Child regarding child sexual exploitation are not being adequately addressed in Wales.
Key recommendations

The Welsh Assembly Government should:

• Undertake a comprehensive scoping of the prevalence and nature of child sexual exploitation in Wales (using the ‘multiple indicator method’ recently developed for a pan-London study) so that it may plan an informed strategic response to the problem. Children and young people involved in sexual exploitation should be consulted so their views and experiences can inform this study.

• Provide ring fenced resources to assist services in Wales to take forward the measures outlined in the Safeguarding Children involved in Prostitution guidance issued in 2000.

• Fund and promote the setting up of specialist evaluated and sustainable child sexual exploitation services across Wales in response to accurately defined need.

• Take steps to raise the professional and public awareness of child sexual exploitation in Wales and promote up to date training for policy makers, commissioners of services and practitioners on the nature of the problem and the known key indicators.

• Advise local authorities on the need to have effective and integrated monitoring systems for children who are at risk of being sexually exploited.

• Ensure that local protocols are in line with government guidance, are shared and understood across agencies and are rigorously applied.

• Ensure that child protection procedures across Wales are updated in line with current best practice around sexual exploitation. This could help Welsh public authorities to develop updated protocols (which, where appropriate, could be shared and co-terminus with neighbouring authorities) and to improve their work in line with best practice.

• Ensure that PSE curricula in schools in Wales promote children’s rights, pay attention to issues of violence against women and equip young people with the knowledge and skills to enjoy more equal relationships.

Press the UK Government to:

• Remove provisions to arrest and prosecute young people who are considered to “persistently and voluntarily return” to prostitution.

Juvenile justice

Article 40 of the UNCRC covers the rights of children recognised as having infringed the law and argues for a juvenile justice system that has positive rather than punitive aims. Geoff Monaghan and Sue Thomas of Nacro, highlight that the Convention is not being used as the framework for youth justice matters and the Welsh Assembly Government does not have devolved responsibility for youth justice matters in Wales. Both of these factors have serious implications for Welsh juvenile offenders.

The contributors argue that children in receipt of Anti-social Behaviour Orders are being punished disproportionately and publicly; that children are detained at younger ages, for lesser offences and in greater numbers and that custody is not being used as a measure of last resort or for the shortest appropriate period. The best interests of the child are not given due weight or primacy. Too many children are being criminalised and responses to children in trouble have become more centrally controlled and reflect a punitive ethos. There is a significant lack of harmony between the youth justice, welfare and health law, reflected at the policy level. Courts, trials and sentencing procedures are still not appropriate for children. The contributors conclude that compliance with the Convention has worsened since 2002 and call on the Welsh Assembly Government to press the UK government to make appropriate changes to policy and legislation.
Key recommendations

The Welsh Assembly Government should:

Press the UK government to:

• Review youth justice law to incorporate the Convention and harmonise with mainstream welfare, education and health law.
• Provide a system of juvenile justice that is more distinct from the adult system (courts, guidance, sentences, offences etc).
• Give the best interests of the child primacy in law and policy.
• Raise the age of criminal responsibility substantially.
• Abolish prison custody for children (with secure children’s homes available for those few who need to be detained).

Rhian Croke, UNCRC Monitoring Officer
Save the Children UK

Wales UNCRC Monitoring Group
January 2006

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