



## Children’s Rights Impact Assessment (CRIA) Template

<b>Title / Piece of work:</b>	Social Services and Well-being (Wales) Act 2014  Policy to introduce a code of practice for directors of social services relating to their roles and accountabilities under Part 8 of the Social Services and Well-being (Wales) Act
<b>Name of Official:</b>	Tom Cleaver
<b>Department:</b>	Health and Social Services Group
<b>Date:</b>	01/2016
<b>Signature:</b>	<i>Tom Cleaver</i>

Please complete the CRIA and retain it for your records on iShare. You may be asked to provide this document at a later stage to evidence that you have complied with the duty to have due regard to children’s rights e.g. Freedom of Information access requests, monitoring purposes or to inform reporting to the NAFW.

Upon completion you should also forward a copy of the CRIA to the Measure Implementation Team for monitoring purposes using the dedicated mailbox [CRIA@wales.gsi.gov.uk](mailto:CRIA@wales.gsi.gov.uk)

If officials are not sure about whether to complete a CRIA, they should err on the side of caution and seek advice from the Measure Implementation Team by forwarding any questions to our mailbox [CRIA@wales.gsi.gov.uk](mailto:CRIA@wales.gsi.gov.uk)

You may wish to cross-reference with other impact assessments undertaken.

**NB. All CRIAs undertaken on legislation must be published alongside the relevant piece of work on the WG website. All other CRIAs must be listed in the WG CRIA newsletter and must be made available upon request. Ministers are however, encouraged to publish all completed CRIAs.**

## Six Steps to Due Regard



### Step 1. What's the piece of work and its objective(s)?

You may wish to include:

- Is it likely that the piece of work will specifically affect children?
- A brief description of the piece of work
- What the time frame for achieving it is?
- Will the piece of work have an effect on a particular group of children, if so, describe the group affected?
- Provide links to any supporting evidence, data or research which support your proposal.

This piece of work is to introduce a code of practice for directors of social services under Part 8 of the Social Services and Well-being (Wales) Act 2014 ("the Act").

The Act brings together local authorities' duties and functions in relation to improving the well-being of people who need care and support and carers who need support in a single Act. It provides the statutory framework to deliver the Welsh Government's commitment to focus on well-being, rights and responsibilities.

The Act is due to come into effect on 6 April 2016.

Section 144 within Part 8 of the Act consolidates the requirement that a local authority must appoint an officer, known as the director of social services, for the purposes of its social services functions as set out in Schedule 2 of the Act.

Section 144 states that the Welsh Ministers must specify, through a code issued under section 145 of the Act, the competencies which a person must demonstrate in order for a local authority to appoint them as the director of social services.

If agreed by the National Assembly for Wales, the director of social services code of practice should come into effect by April 2016.

The Act will benefit all people who need care and support and carers who need support. This will include children (defined in the Act as people who are aged under 18). By bringing together the mass of social care legislation that currently exists for adults, children and carers, the Act greatly simplifies eligibility and access for all people in need of care and support to allow a seamless transition of care and support across services and maintains the family model that has operated in Wales for many decades.

The *Equality Act 2010* provides for a ban on age discrimination in social care. The Act specifically changes the social care landscape by dispensing with the artificial barriers of age and instead providing for 'people'.

A strong voice and real control is central to the legislative framework. This optimises everyone's opportunity for well-being and an appropriate level of independence. Everyone, child or adult, can be given a voice – an opportunity – a right – to be heard as an individual, as a citizen, to have control over their day to day lives.

The directors of social services code of practice will have a positive effect on people of all ages, including children by ensuring that the director of social services retains accountability for key social services functions within the local authority, including those relating to children, young people and families.

The draft code was subject to a six week formal consultation between 23 October and 4 December 2015 including a presentation and Q&A session with Directors from across Wales. There were 17 substantive written responses received to the consultation from a wide range of statutory organisations, third sector groups and professional bodies including fourteen local authorities, SOLACE and ADSS Cymru/WLGA. Responses to the consultation were broadly supportive of all of the proposals with the suggestions made focussing on matters of detail, small additions and amendments to the text. The majority of these were accepted as they were judged to be in line with the broad policy position. The consultation summary report, which sets out the detail of the responses to each of the questions and how the Welsh Government has responded to them, is published at this location: <http://gov.wales/consultations/healthsocialcare/code-of-practice/?status=closed&lang=en>

## Step 2. Analysing the impact

- What positive impacts will this piece of work have on children, young people or their families?
- What are the negative impacts and what compensatory measures may be needed to mitigate them?
- How will you know if your piece of work is a success?
- Have you considered the short, medium and long term outcomes?
- Have you developed an outcomes framework to measure impact?
- Do you need to engage with children & young people and/or stakeholders to seek their views using consultation or participatory methods?
- If yes to above, how have their views influenced your work?
- Do you need to produce child friendly versions of proposals/consultations?
- Does the piece of work have any links to delivering the key objectives of the [Child Poverty Strategy for Wales](#)?
- If so, state how the work may impact on child poverty.

The directors of social services code of practice will have a positive impact on children and young people by clearly specifying the responsibilities of the director of social services and lead director for children and young people's services posts when they are held separately within a local authority. Specifically, the code requires individuals undertaking these respective roles to liaise regularly and formally to ensure the requirements of both posts are being fulfilled in respect of children's well-being.

Within the code, chapter 3 sets out that whilst responsibility for the delivery of certain social services functions may, for example, be placed with heads of services for adults and heads of service for children and families; accountability for these functions still rests with the director of social services. This will have a positive impact by ensuring that accountability for children, young people and families still ultimately rests with the director of social services.

The code also specifies that the director of social services may simultaneously undertake other roles within the local authority, including lead director for children and young people. However, the code states that local authorities must be satisfied that additional responsibilities do not negatively affect the ability of an individual to discharge the functions of a director of social services. Including

this caveat in the code will have a positive impact as it ensures that the director of social services will still be required to fulfil all their functions relating to children, young people and families within the Act.

No specific negative impacts have been identified under this policy. As part of the consultation on the draft code, a general question was included which allowed stakeholders to feed back any other issues they wished to highlight, for example the potential negative impacts of the proposed code on children.

17 responses to the consultation were received, none of which raised any concerns or highlighted any negative impacts in respect of children.

If successful, the code will enable directors to provide the strategic leadership necessary to ensure the effective implementation of the Act.

Within the Act, well-being including the well-being of children will be measured nationally by the national outcomes framework. The national outcomes framework is made up of a well-being statement and national outcomes indicators. These national outcome indicators will be reported on by the Welsh Government and will provide evidence on whether care and support services are improving national well-being outcomes for children in Wales.

The code includes a requirement that directors of social services must prepare an annual report which should set out how the local authority has achieved the six quality standards of well-being outcomes as set out in the *code of practice in relation to measuring social services performance*, issued under section 145 of the Act.

One of these quality standards states that local authorities must work with people who need care and support and carers who need support to define and co-produce personal well-being outcomes that people wish to achieve. This includes ensuring decisions made have regard to the UN convention on the rights of children.

A young persons summary of the Social Services and Well-being (Wales) Act has been developed, this is available at:

<http://gov.wales/topics/health/socialcare/act/?lang=en>

### **Step 3. How does your piece of work support and promote children's rights?**

Dependant upon the impact of your piece of work, use balanced judgement to assess:

- Which UNCRC articles are **most** relevant to the piece of work? Consider the articles which your piece of work impacts upon. <http://childrensrights.wales/images/PDF/UNCRCRights.pdf>
- Explain why these articles are relevant and how the piece of work promotes them.
- How are you improving the way children and young people access their rights?
- What aspects of children's lives will be affected by the proposal?
- What are the main issues that the CRIA should focus on?
- Does the piece of work help to maximise the outcomes within the articles of the UNCRC?
- If no, have any alternatives to the current piece of work been considered?
- Include any evidence from consultation(s), if applicable, here.

As part of the Act, an assessment of relevant UNCRC articles took place as part of the Explanatory Memorandum process for the Social Services and Well-being (Wales) Bill. A link is attached (pages 91 to 93 within the linked document):

<http://www.assemblywales.org/bus-home/bus-business-fourth-assembly-laid-docs/pri-ld9181-em-e.pdf?langoption=3&ttl=PRI-LD9181-EM%20-%20Social%20Services%20and%20Well->

[being%20%28Wales%29%20Bill%20-%20Explanatory%20Memorandum](#)

The Act helps to maximise the outcomes within the articles of the UNCRC by requiring under section Section 7 (2) that a person exercising functions under the Act in relation to a child requiring care or support, or who is a carer, or who is a looked after child must have due regard to Part 1 of the United Nations Convention on the Rights of the Child.

In relation to the code of practice for directors of social services, the following UNCRC Articles have been identified as being most relevant:

- **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. Helping children to understand their rights does not mean pushing them to make choices with consequences that they are too young to handle.
- **Article 6:** All children have the right of life. Governments should ensure that children Survive and develop healthily.
- **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 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 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 23:** Children who have any kind of disability should have special care and support so that they can lead full and independent lives.
- **Article 25:** Children who are looked after by their local authority rather than their parents should have their situation reviewed regularly.
- **Article 31:** All children have a right to relax and play, and join in a wide range of activities.

Section 6(4) of the Act states that a person exercising functions under the Act in relation to a child falling under subsection (1) who is:

- (a) An individual who has, or may have, needs for care and support,
- (b) A carer who has, or may have needs for support, or
- (c) An individual in respect of whom functions are exercisable under Part 6 of the Act (including a looked after or accommodated child)

must have regard to-

- (a) the importance of promoting the upbringing of the child by the child's family, in so far as doing so is consistent with promoting the well-being of the child, and
- (b) Where the child is under the age of 16, must ascertain and have regard to the views, wishes and feelings of the persons with parental responsibility for the child, in so far as doing so is-
  - i. Consistent with promoting the well-being of the child, and
  - ii. Reasonably practicable

This requirement is particularly relevant to Article 5 of the UNCRC.

The director of social services has ultimate accountability for ensuring that a person exercising functions in relation to a child falling under subsection 6(1) section of the Act within a local authority has regard to these requirements. Within the directors of social services code, chapter 3 sets out that whilst responsibility for the delivery of certain social services functions may, for example, be placed with heads of services for adults and heads of service for children and families;

accountability for these functions still rests with the director of social services.

The code is therefore intended to improve the outcomes referred to in the relevant articles of the UNCRC.

There were 17 substantive written responses received to the consultation on the draft code. None of these responses raised any specific issues or concerns in respect of children's rights or the UNCRC.

#### **Step 4. Advising the Minister and Ministerial decision**

When giving advice and making recommendations to the Minister, consider:

- Outlining the ways in which the piece of work helps to maximise the outcomes within the articles of the UNCRC?
- Has any conflict with the UNCRC articles within the proposal been identified?
- Outlining the wider impact; does the proposal affect any other policy areas?
- With regard to any negative impacts caused by the proposal; can Ministers evidence that they have allocated as much resources as possible?
- What options and advice should be provided to Ministers on the proposal?
- In relation to your advice on whether or not to proceed with the piece of work, is there any additional advice you should provide to the Minister?
- How undertaking this CRIA has influenced your advice to the Minister.
- Is it appropriate to advise the Minister to reconsider the decision in the future, in particular bearing in mind the availability of resources at this time and what resources may be available in the future?
- Have you provided advice to Ministers on a LF/SF and confirmed consideration of the UNCRC at the relevant paragraph i.e. statutory compliance?
- Is the advice supported by an explanation of the key issues?

Ministerial agreement has been sought throughout the entirety of this programme of work under the Act. The advice given to the Minister for Health and Social Services following the analysis of consultation responses for the directors of social services code of practice confirmed that a CRIA has been completed. No conflict with the UNCRC articles or negative impacts on children within the code, have been identified.

The proposal to develop a director of social services code of practice also links in with several other policy areas under the Act. As outlined in Step 2 of this CRIA, the code of practice for directors of social services includes a requirement that directors of social services must prepare an annual report which should set out how the local authority has achieved the six quality standards of well-being outcomes as set out in the *code of practice in relation to measuring social services performance*, issued under section 145 of the Act. This social services performance code of practice was subject to its own CRIA. This is available at:

<http://gov.wales/docs/dhss/publications/150716criaen.pdf>

Given a director of social services will provide strategic leadership in relation to the delivery of many functions in the Act, it was identified that this code must be informed by all the codes of practice that have developed in relation to other parts of the Act. Therefore the CRIA's developed for the other codes of practice also relate to this code. These are available at:

<http://gov.wales/topics/health/socialcare/act/?lang=en>

Confirmation that a CRIA would be required as part of this policy was included in LF/MD/0892/15 which sought agreement to consult on the draft code of practice on the role of the director of social services. This LF stated that a CRIA would be produced before the code is laid in the National Assembly for Wales to ensure the impact of the new code on children and their rights was fully considered in the context of UNCRC.

## **Step 5. Recording and communicating the outcome**

**Final version to be retained on i-share**

Evidence should be retained that supports:

- How the duty has been complied with **(Steps 1-3 above)**
- The analysis that was carried out **(Steps 1-3 above)**
- The options that were developed and explored **(Steps 1- 3 above)**
- How have the findings / outcomes been communicated? **(Step 4 above)**
- ‘Tells the story’ of how the assessment has been undertaken and the results **(Step 4 above)**
- Include any hyperlinks to additional background information which may be of relevance.
- All CRIAs undertaken on legislation must be published alongside the relevant piece of work on the WG website. All other CRIAs must be listed in the WG website CRIA newsletter and must be made available upon request. Ministers are however, encouraged to publish all completed CRIAs.

The evidence provided in Steps 1-3 above sets out in more detail the way in which rights of children and young people have been considered in the code and how the duty has been complied with.

As set out in Steps 1-3, the draft code was subject to a six week formal consultation between 23 October and 4 December 2015. There were 17 substantive written responses received to the consultation from a wide range of individuals, third sector groups and professional organisations.

Prior to consultation, the Welsh Government established a reference group comprising key senior stakeholders in the summer of 2015 to consider explore options for developing a draft directors of social services code of practice. This group comprised a range of internal and external stakeholders who worked with officials to consider the existing *Statutory Guidance on the Role and Accountabilities of the Director of Social Services*, published in 2009 and develop options for updating this guidance in line with the new requirements within the Act. The conclusions of the reference group significantly informed the development of the draft code.

This CRIA will be published on the Welsh Government website.

## **Step 6. Revisiting the piece of work as and when needed**

In revisiting the piece of work, consider any monitoring, evaluation or data collection that has been undertaken:

- Has your piece of work has had the intended impact as set out in Step 2.
- Have you engaged with stakeholders to discuss how the policy or practice is working.
- If not, are changes required.
- Identify where improvements can be made to reduce any negative impact.
- Identify any opportunities to promote children’s rights, bearing in mind any additional availability of resources at this time.

The Act contains provision to allow for Ministers to monitor functions of the Act carried out by local authorities and other bodies. Ministers may require these bodies to report on their duties in

implementing these regulations.

Officials will continue to monitor the impact of the code in relation to the UNCRC once it comes into effect in April 2016.

**Budgets**

<p><b>Does the piece of work have any associated allocation of budget?</b></p> <p><b>Can you identify how much of this budget will be used for children and young people?</b></p> <p>It is important that where any changes are made to spending plans, including where additional allocations or savings have been made, that this has been assessed and evidenced as part of the CRIA process.</p> <p><b>Has any additional spend been identified to ensure children and young people have been given an opportunity to contribute to the piece of work and have their opinions heard? If so, how much?</b></p>	<p><b>No</b></p> <p><b>N/A</b></p> <p><b>No</b></p>
<p><b>Please give any details:</b></p> <p>There has not been any impact on budgets as a result as this CRIA. An Explanatory Memorandum has been completed which includes a consideration of the cost implications of introducing the directors of social services code of practice.</p>	

**Monitoring & Review**

<p><b>Do we need to monitor / review the proposal?</b></p>	<p><b>No</b></p>
<p><b>If applicable: set the review date</b></p>	<p><b>N/A</b></p>

Please forward a copy of this CRIA to [CRIA@wales.gsi.gov.uk](mailto:CRIA@wales.gsi.gov.uk) for monitoring purposes



# THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD

[www.uncrcletsgetitright.co.uk](http://www.uncrcletsgetitright.co.uk)

The United Nations Convention on the Rights of the Child is an international agreement that protects the human rights of the children under the age of 18. On 16 December 1991, the United Kingdom of Great Britain and Northern Ireland formally agreed to make sure that every child in the UK has all the rights as listed in the convention. The Welsh Government has shown its commitment to the convention by adopting it as the basis for policy making for children in Wales.

Altogether there are 54 articles in the convention. Articles 43-54 are about how adults and governments should work together to make sure all children are entitled to their rights. The information contained here is about articles 1-42 which set out how children should be treated.



**Llywodraeth Cymru  
Welsh Government**

[www.cymru.gov.uk](http://www.cymru.gov.uk)

## 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 to 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 practise 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.

For further information on the United Nations Convention on the Rights of the Child please visit: The Welsh Government's UNCRC Website: [www.uncrcletsgetitright.co.uk/](http://www.uncrcletsgetitright.co.uk/)

Cic - The National Information and Advice Service for Young People [www.ciconline.co.uk/news/](http://www.ciconline.co.uk/news/)

