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Equality and
Human Rights
Commission

Jayne Bryant MS

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Thursday 05 October 2023

Dear Chair,

Subject: Follow up from meeting with the EHRC Wales

I am writing to share with you a briefing prepared for the Children, Young People and Education Committee on the [Concluding Observations of the UN Committee on the Rights of the Child](#). The Committee's full report was published in June 2023 and contains a number of recommendations to improve the rights of children in the UK.

As you will know, the Concluding Observations were adopted following a detailed review of the UK's performance under the Convention of the Rights of the Child, which included the submission of [our report](#) to the Committee. This is the first set of recommendations from the Committee since the UK's last review in 2016.

Bydd y Comisiwn yn croesawu gohebiaeth yn y Gymraeg a'r Saesneg.

The Commission welcomes correspondence in Welsh or English.

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The full report includes over 200 recommendations. In the annex of this letter, I have included a briefing, which summarises some of the key recommendations and identifies areas that align with the priorities of the Children, Young People and Education Committee.

We would recommend that the Committee refer to these recommendations and use them in any relevant scrutiny of the Welsh Government to ensure they are fully implemented.

Yours sincerely,

Rev Ruth Coombs
Head of Wales
Wales | Cymru

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ANNEX – Briefing on the Concluding Observations of the United Nations Convention on the Rights of the Child

In June 2023 the United Nations Convention on the Rights of the Child (CRC) Committee published its [Concluding Observations](#), which includes an assessment of children’s rights in the UK and recommendations for improvement.

The Concluding Observations were adopted following a detailed review of the UKs performance under the Convention on the Rights of the Child, which included the submission of [our report](#) to the Committee.

The report includes more than 200 individual recommendations and is the first set of recommendations from the Committee since the UKs last review in 2016. This briefing summarises some of the recommendations and identifies areas that align with the priorities of the Children, Young People and Education Committee.

We would recommend that the Committee use the recommendations of the CRC Committee in any relevant scrutiny of the Welsh Government to help ensure the recommendations are implemented.

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Top Priorities

The CRC Committee welcomed the various measures taken to implement the Convention, including the prohibition of marriage under 18 years of age in England and Wales; the lowering of the voting age to 16 years in Wales and the abolition of the defence of reasonable punishment in Wales.

However, the report also highlighted certain areas, where urgent measures are needed. Some of the areas the Committee identified as top priorities were:

1. Non-discrimination (paragraph 20)
2. Abuse, neglect and sexual exploitation and abuse (paragraph 33)
3. Children deprived of a family environment (paragraph 38)
4. Mental health (paragraph 43)
5. Asylum-seeking, refugee and migrant children (paragraph 50)

Non-discrimination

The report highlights that the Committee remains deeply concerned about persistent discrimination, such as through expressions of racism and bullying, against children in disadvantaged situations, including children belonging to minority groups and lesbian, gay, bisexual, trans

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and intersex children; insufficient progress in ensuring the protection of all children under 18 years of age against discrimination on the grounds of their age; and the overrepresentation of children of Asian and African descent and Muslim, Roma, gypsy and traveller children in the criminal justice system and the large proportion of these groups of children who are living in poverty.

Recommendations on this priority include:

- **20(a):** Implement targeted policies and programmes to combat racist and xenophobic activities and to eliminate discrimination against children in disadvantaged situations, including children belonging to ethnic minority groups, asylum-seeking, refugee and migrant children, Roma, Gypsy and Traveller children, children with disabilities, children in alternative care, children of incarcerated parents, children of unmarried parents, lesbian, gay, bisexual, transgender and intersex children, socioeconomically disadvantaged children, and children in the justice system.
- **20(b):** Establish clear avenues for children to seek justice in cases of discrimination, and, where appropriate, ensure the access of children in

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disadvantaged situations to health services, education and a decent standard of living.

- **20(e)**: Ensure that children who experience discrimination, bullying or harassment in relation to their sexual orientation or gender identity receive protection and support, including through targeted anti-bullying measures.

Abuse, neglect and sexual exploitation and abuse

The Committee welcomed the various legislative and policy measures to combat violence against children. Nevertheless, they remain seriously concerned about the high prevalence of domestic abuse, sexual exploitation, gender-based violence and other forms of violence against children, including in alternative care, and insufficient measures to investigate such cases and bring perpetrators to justice, insufficient measures to identify and support children at risk of violence at home and inadequate resources allocated to related services for child victims.

Recommendations on this priority include:

- **33(a)**: Ensure that child protection systems take a child rights-based approach in preventing and addressing cases of abuse and neglect,

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including psychological violence; that social services and other mechanisms for identifying and supporting children at risk of violence as well as child victims of violence are adequately resourced; and that child victims are fully recognized as victims and have access to community-based, trauma care and child-sensitive support services.

- **33 (e):** Develop measures aimed at preventing violence against children in alternative care, children with disabilities, asylum-seeking, refugee and migrant children and children belonging to minority groups.
- **33(i):** Strengthen efforts to train professionals working with and for children, including social workers, law enforcement authorities and the judiciary, to identify and effectively respond to cases of violence, including sexual exploitation.

Children deprived of a family environment

The report highlights the Committee's appreciation for measures taken to support children deprived of a family environment. Nonetheless, the Committee is deeply concerned about the large number of children in alternative care, including in unregulated accommodations, such as hotels, and unnecessary or frequent transfers in alternative care or

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changes in social workers assigned to children. Other concerns were around the placement of children in secure care and residential care homes and insufficient support services for children living in and leaving alternative care.

Recommendations on this priority include:

- **38(a):** Invest in measures to prevent and reduce the number of children placed in alternative care, including by allocating sufficient resources for early intervention and preventive services, including for infants and toddlers, increasing and strengthening the number of trained social workers, and improving multiagency coordination.
- **38(c):** Prevent frequent or unnecessary transfers of children in alternative care settings, ensure that children are consistently supported through individualized care plans and by a social worker throughout their time in care, and conduct regular and substantive reviews of placements in care.
- **38(g):** Ensure that children are heard in decisions affecting them in alternative care placement throughout their stay, and that relevant authorities and professionals have the technical capacities required to guarantee respect for children's views in alternative care.

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Mental health

The report highlights that the Committee is deeply concerned about the long waiting lists for children seeking mental health services and the large number of children with mental health issues, learning disabilities and autism placed in detention and adult psychiatric wards under the Mental Health Act 1983.

Recommendations on this priority include:

- **43(c):** Develop or strengthen strategies, with sufficient resources, for ensuring the availability of community-based therapeutic mental health services and programmes for children of all ages, and for providing comprehensive mental health promotion, screening for mental health issues and early intervention services in schools.
- **43(e):** Develop adequately funded mental health services that are tailored to the specific needs of lesbian, gay, bisexual, transgender and intersex children, migrant children, children with disabilities and “young carers”, including through sufficient investments in specialist services.

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- **43(f)**: Address the overrepresentation of children belonging to minority groups, children with autism and children with learning disabilities in inpatient mental health care.

Asylum-seeking, refugee and migrant children

The report highlights the Committee's concern over the persistent use of unreliable methods for determining a child's age, the large number of children whose age has been disputed and the lack of data on the number of asylum-seekers claiming to be children who have been assessed and sometimes detained as adults by immigration officials.

Recommendations on this priority include:

- **50(d)**: Strengthen measures to ensure that all asylum-seeking, refugee and migrant children have equal and prompt access to education, health services, housing, psychosocial support, and social protection including benefit entitlements.
- **50(e)**: Put an end to the use of unreliable and invasive procedures for determining a child's age; develop an age determination procedure that is child- and gender-sensitive, includes multidisciplinary assessments conducted by relevant professionals of the child's maturity and level of

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development, and respects the legal principle of the benefit of the doubt; and ensure that children have access to legal advice throughout the process and, if necessary, can challenge the outcome of such assessments.

- **50(g):** Develop a consistent, statutory system of independent guardianship for all unaccompanied children, and ensure that all unaccompanied children throughout all jurisdictions of the State party are promptly identified and appointed a professionally trained guardian.

Other areas of interest

As well as these five priorities areas there are other themes within the report that align with the focus of the Children, Young People and Education Committee. These are set out below.

Education

The report notes with concern inequalities in educational attainment and outcomes for children in disadvantaged situations.

The recommendations include:

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- **47(a):** Strengthen measures to address inequalities in educational attainment and improve educational outcomes for children in disadvantaged situations, including children in socioeconomically disadvantaged situations, children belonging to ethnic minority groups, asylum-seeking, refugee and migrant children, children with disabilities and “young carers”, including by: (i) providing financial and other support for such children to finish school; (ii) developing guidelines for responding to cases of school absenteeism; and (iii) collecting and analysing data disaggregated by ethnic origin, educational outcomes and other relevant indicators on completion rates, educational outcomes and exclusions to inform policies and programmes.
- **47(b):** Ensure inclusive education in mainstream schools for all children with disabilities, including by adapting curricula and training and assigning specialized teachers and professionals in integrated classes, so that children with disabilities and learning difficulties receive individual support and due attention.
- **47(d):** Monitor the use of exclusions and ensure that they are prohibited in primary schools and used in secondary schools only as a measure of last

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resort; prohibit the use of informal exclusions and so-called “off-rolling” and provide for appropriate alternatives; and develop measures to address their overuse in general as well as their disproportionate use on children belonging to ethnic minority groups and children with disabilities.

- **47(f):** Increase efforts to eliminate discrimination and bullying, including cyberbullying, on the grounds of race, sexual orientation, gender identity or sex characteristics, disability, migration or other status in the school context, and ensure that such measures: (i) are adequately resourced and developed in consultation with children; (ii) address the root causes of bullying; and (iii) encompass prevention, early detection mechanisms, awareness-raising on its harmful effects, the empowerment of children, mandatory training for teachers, intervention protocols and consistent and robust recording and monitoring of bullying behaviour.

Restraint

The report highlights the Committee remains deeply concerned by the large number of children who continue to experience such treatment.

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- **12(c)**: Regularly collect, analyse and publish disaggregated data on the use of stop-and-search checks, harmful devices, seclusion, restraint, solitary confinement and isolation on children.
- **30(b)**: Develop statutory guidance on the use of restraint on children to ensure it is used only as a measure of last resort and exclusively to prevent harm to the child or others, and monitor its implementation.
- **47(j)**: Explicitly prohibit the use of restraint and seclusion in educational settings and adopt a child rights-based approach to addressing violence or other disturbances in schools, including by prohibiting the presence of police in schools and providing regular training for teachers on relevant guidance for addressing such disturbances in a child-sensitive manner.

In June 2022 we published our [inquiry report](#) into how schools are monitoring the use of restraint. This also included a number of recommendations for the Welsh Government.

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Human Rights Tracker

Our [Human Rights Tracker](#) is an online tool that can be used to track how well Welsh Government is putting their human rights duties into practice. It covers a range of topics including education, health and living standards. The status for the Welsh Government on these areas ranges from limited progress, no progress as well as regression.

We would also recommend that the Children, Young People and Education Committee use this tool when scrutinising the Welsh Government.

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