

Chapter Three

Guiding principles

Non-discrimination: looked after children

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Guiding principles: non-discrimination (Article 2)

Looked after children

CONCLUDING OBSERVATION para.22. The committee is concerned that the: Principle of non-discrimination is not fully implemented for all children in all parts of the State party and that unequal enjoyment of economic, social, cultural, civil and political rights still exist, in particular for children with disabilities, children from poor families, Irish and Roma travellers' children, asylum and refugee children, children of minority groups, **children in the care system**, detained children, and children aged between 16 and 18 years.

Relevant Articles of UNCRC: Article 20 of specific relevance.

Commentary on progress

“care leavers are 50 times more likely to go to prison, 60 times more likely to be homeless and 88 times more likely to be involved in drug use than children and young people who have not been ‘looked after’ by local authorities”¹

This section will give an overview to the legislation, policy and practice around looked after children in Wales since the UN Committee reported in 2002. Other articles in this report are concerned with issues that significantly impact on the lives of looked after children. For example: protecting children from abuse (Article 19), children's right to participate in matters that affect them (Article 12) access to services – in particular access to health care (Article 24) and access to a good quality of education (Article 28).

Statistical evidence (gaps in data availability)

Current statistical information on looked after children is available to March 2005.² In summary the data gathered reveals that looked after children and young people as a population are faring significantly worse than other children and young people. Notwithstanding a small drop in 2005, the number of looked after children in Wales has increased every year from 1997 (3290 children) to 2004 (4431 children). This upwards trend has caused strain on a generally struggling system and the continuing poor outcomes for looked after children remain of concern to a range of professional groups and children, young people and families themselves.

In examining the key performance indicator data, it is clear many authorities are under performing when in comparison with others. For example, for educational attainment at 16 the lowest scoring authority in Wales scored 0% GCSE/GNVQ qualification, with the highest scoring just over 80%. Similarly, the figures for having a care plan in place on entering the looked after system vary across Wales from 100% of children to just over 40%. This wide variation is a recurring theme with the 33 indicators that are collected on looked after children and young people in Wales. It seems that, even where there are effective policies they are sometimes ineffectively implemented. The Chief Inspector of Social Services in his most recent report on Social Services in Wales wrote that Social Services *“was good in parts but in too many parts was not good enough”*.³ This summary is especially relevant to looked after children and young people where practice varies widely in its quality and effectiveness.

The Welsh Assembly Government has carried out the following research since 2002:

- A study of advocacy services for children and young people in Wales (July 2005).
- Children in specialist placements – an all Wales study (July 2004).
- Review of fostering and residential care (June 2004).
- Fit to foster, a profile of foster care and foster carers in Wales (June 2004).

Overall, these reports tend to show the same picture as discussed above. Furthermore, although it is clear that some of the data collected is helpful, as yet no qualitative or quality of life data is collected and consequently there are huge gaps in our knowledge of the life experiences of looked after children and young people. None of the data collected provides information on ethnicity or disability issues for looked after children and young people. In terms of educational performance we know that many looked after children lack numeric and literacy skills yet we do not know how many or which local authorities are working to improve this situation.

Legislation – looked after children (2002 – 2005)

Recent relevant legislation and guidance includes:

- *Independent Reviewing Officers Guidance Wales, Adoption and Children Act 2002, The Review of Children's Cases (Amendment) (Wales) Regulations 2004.*
- *The Arrangements for Placement of Children (General) and the Review of Children's Cases (Amendment) (Wales) Regulations 2002. Welsh Statutory Instrument 2002 No. 3013 (W.285).*
- *The Review of Children's Cases (Amendment) (Wales) Regulations 2004. Welsh Statutory Instrument 2004 No. 1449 (W.149).*
- *The Children (Leaving Care) (Amendment) (Wales) Regulations 2002. Welsh Statutory Instrument 2002 No. 1855 (W.179).*
- *The Children (Leaving Care) (Wales) (Amendment) Regulations 2004. Welsh Statutory Instrument 2004 No. 1732 (W.175).*

Changes to the *Children Act 1989*, introduced in the *Adoption and Children Act 2002*, provided children in need and care leavers with a statutory right to advocacy when intending to make a complaint.

In addition the implementation of the relevant sections of the *Children Act 2004* will from 2006 affect the looked after population of children and young people in Wales. This Act is relevant as it will help improve the planning processes for looked after children. It will introduce a new requirement to promote the educational achievement of looked after children and it will regulate private fostering.

Guidance – looked after children (2001 – 2005)

- *Guidance on the education of children looked after by Local authorities (2001).*
- *Brief and standards for planning for permanence (2002).*
- *Development of national standards for advocacy February (2003).*
- *Guidance on complaints in the NHS and in Education.*
- *The arrangements for holistic health assessments for looked after children.*
- *Inspection of services for young people leaving care (2004).*
- *Inspection of child protection services overview report (2004).*
- *Inspection of educational provision for looked after children.*
- *Chief inspectors report 2001/2002/2003/2004.*
- *A Councillors guide to being a good corporate parent (2005).*

Guidance on private fostering and on improving the health of looked after children is due to be introduced.

Policy and practice

To improve the situation for looked after children and young people, the Welsh Assembly Government established its *Children First* programme in April 1999. The programme impacts upon all children in need, including looked after children and young people and care leavers.

Children First includes all-Wales objectives for children's services and associated key indicators related to outcomes for children. It is intended to foster a partnership between central and local government and encourages an important role for elected members as the 'corporate parent', who should ensure the delivery of the programme and of high quality services at a local level.

The main objectives of the programme in relation to looked after young people⁴ cover more effective planning, improvements in all relevant services, improved user involvement and achieving better outcomes for looked after children and young people. The grant in 2005-06 is £42.171 million and is due to rise to £44.709 million in 2006-07 and £46.297 million in 2007-08. Over these three years the *Children First* grant will move from hypothecated to non-hypothecated funding so that it is absorbed into the Revenue Support Grant by 2008. Many of the member organisations of Children in Wales feel that the programme should not cease until it has achieved outcomes for looked after children that are on a par with the non-care population. Some members therefore feel that the hypothecated funding may need to continue past 2008.

Welsh Assembly Government led policy activity in support of the *Children First* objectives over the last four years has included:

- Task and Finish Group on Advocacy (2004-2005).
- Working Group on Sexual Exploitation of Children and Young People in Wales.
- Working Group on Placement Choice and Stability.

It is difficult to comment on the progress on some of the *Children First* indicators, as some of the indicators used were not measured before the introduction of the programme. However they have been key in driving up standards and expectations for looked after children in Wales. The main concern is that the rate of progress in some authorities is very slow.

The *National Service Framework for Children, Young People and Maternity Services (NSF)* sets standards for health and social care provision and other local government services which have a strong influence on the health and well-being of children. The *NSF* was launched in September 2005. It contains 21 standards and specifies a range of key actions for meeting these standards, some of which are prioritised over others. Key provisions relating to looked after children and young people include effective health care planning and better co ordination of health care including better commissioning. The *NSF* is viewed by the Assembly Government and the voluntary and statutory sectors in Wales as a key driver for change over the next ten years and should help to drive up standards for services for all looked after children and young people.

In March 2005 a Safeguarding Review was established by the Welsh Assembly Government to evaluate the situation in relation to child protection including links to 'looked after' issues. The Welsh Assembly Government and the Welsh Local Government Association (WLGA) are currently developing a Joint Commissioning Strategy to ensure more effective placements for looked after children and young people.

Following the publication of its *Workforce Development Strategy*, the Welsh Assembly Government has raised another key concern. This report⁵ has recommended the need to develop and improve the quality of the workforce for looked after children and young people. In one promising development, some authorities have addressed this issue, leading to significant improvements in the capacity of childcare teams in terms of more

young people who are looked after having allocated social workers. However, this is still not the case in all local authorities.

There remains a high level of Cross Party concern within the National Assembly about the state of 'looked after' services in Wales as demonstrated in four debates in June and July 2005. At the political level the Welsh Assembly Government has indicated that it will support mandatory grants for looked after children into the Child Trust Funds and it is currently considering secondary legislation to do this.

The role of the Children's Commissioner

The Children's Commissioner was established in Wales on March 1st 2001 and has campaigned on issues relating to looked after children and young people since the inception of the Office. The development of the Office arose directly because of concerns raised about the abuse of children in public care within the Waterhouse Report.⁶ In 2003 the Children's Commissioner produced *Telling Concerns*, a review of the operation of complaints and representations and whistle blowing procedures and arrangements for the provision of children's advocacy services.⁷ The main conclusion of this report was that complaints and representation were at varying levels and many children and young people were unaware of their right to complain. The Welsh Assembly Government and local authorities are responding to its recommendations. In 2004, they commissioned Cardiff University to examine the provision of advocacy services for children and young people in the context of complaints. The report of this study⁸ identifies particular difficulties in advocacy services 'reaching' some of the most vulnerable children and difficulties in sustaining advocacy service provision in a climate of short term and often precarious, funding.

Work of NGOs

There are a wide range of NGOs who campaign on 'looked after' issues. These include a group of advocacy providers – Tros Gynnal, NSPCC, Spurgeons and the National Youth Advocacy Service (NYAS). The organisation Voices from Care continues to campaign on looked after children's issues. Voices from Care is the only peer led 'looked after' organisation in Wales. In addition BAAF, the British Agency for Adoption and Fostering, and the Fostering Network provide research, consultancy and campaigning to improve services for looked after children and young people. Children in Wales also facilitate a Looked After Health Network and have campaigned on a number of 'looked after' issues over the last few years.

Since the UN Committee's Concluding Observations were released in 2002, some of the larger children's NGOs⁹ have been jointly campaigning on a range of policy issues relating to looked after children and young people. These campaign objectives continue to be relevant and it is still of concern that none of the called for actions have been met yet in Wales (see recommendations below). Whilst there is ongoing work to achieve some of them it remains of concern that the rate of change within services for looked after children is generally very slow.

Conclusion

The historical legacy within Wales in relation to looked after children and young people has been outlined in previous NGO reports. Although there has not been the space to go into detail here, it is important to acknowledge the systematic physical and sexual abuse of children in care from the 1960s to the mid 1990s.^{10 11} It is sufficient to say that because of historical abuse and low expectations for looked after children and young people there has been considerable energy put to improving the outcomes for this group of children and young people. Nevertheless, there is still a long way to go before looked after children and young people achieve the same outcomes as children who are not looked after. In terms of the educational experiences of looked after children, recent research^{12 13} still demonstrates significant concerns for this group of children. Whilst outcomes for some looked after children and young people have improved dramatically, for others

they have hardly changed at all. There are ongoing concerns too about the provision of independent advocacy services for looked after children. Whilst on paper at least such services are provided in just about all local authorities in Wales, the services continue to rely on short term funding and piecemeal commissioning arrangements. Since the UN Committee reported in 2002, the situation still remains one of concern with many looked after children and young people continuing to wait for the full range of their rights to be met.

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 and young people.
- An all Wales advocacy strategy for all looked after children and young people in Wales.
- Ambitious targets for looked after children and young people are set.
- Local authorities are encouraged to be better corporate parents for looked after children and young people.
- 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.

Endnotes

¹ Barnardo's, Child Poverty Action Group, Children in Wales, the Children Society, NSPCC, SCF. (2000) *Wales' children, our future – A manifesto*.

² See www.lgdu-wales.org.uk

³ The report of the Chief Inspector, Social Services in Wales 2003-2004, SSIW, November 2004.

⁴ Welsh Assembly Government Circular 05/2005. Children First programme in Wales: Guidance for 2005-2006.

⁵ Report of the task and finish group on workforce issues in social care Sep. 2001 Welsh Assembly Government.

⁶ Waterhouse, R. Clough, M. and Le Fleming, M. (2000) *Lost in Care: Report of the Tribunal of inquiry into the abuse of children in care in the former County Council areas of Gwynedd and Clwyd since 1974*, HC21, London HMSO.

⁷ Children's Commissioner (2003) *Telling Concerns*. Downloadable at www.childcom.org.uk

⁸ Pithouse, A. et al (2005) *A Study of Advocacy Services for Children and Young People in Wales*. Cardiff University & NEWI.

⁹ Barnardo's, Child Poverty Action Group, Children in Wales, the Children Society, NSPCC, NCH.

¹⁰ Utting, W. (1997) *People Like us : the report of the Review of Safeguards for children living away from home*, London Department of Health.

¹¹ Waterhouse, R. Clough, M. and Le Fleming, M. (2000) *Lost in Care: report of the Tribunal of inquiry into the abuse of children in care in the former County Council areas of Gwynedd and Clwyd since 1974*, HC21, London HMSO.

¹² Social Exclusion Unit (2003) *A better education for children in care*, London. Social Exclusion unit.

¹³ S. Jackson, S. Ajayi and M. Quigley, (2005) *Going to Care from University*. Frank Buttle Trust.