

FRAGILITY, RESILIENCE AND DETERMINATION? CHILDREN'S RIGHTS AND THE FUTURE

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HOW FAR HAVE WE REALLY GOT?

- 32 years post UNCRC – 30 years since the UK became a signatory. **However, Concluding Comments in 2016** recommended that the UK:
- 31 (a) *Establish structures for the active and meaningful participation of children and give due weight to their views in designing laws, policies, programmes and services at the local and national levels, including in relation to discrimination, violence, sexual exploitation and abuse, harmful practices, alternative care, sexual and reproductive education, leisure and play. Particular attention should be paid to involving younger children and children in vulnerable situations, such as children with disabilities;*
- 31 (d) *Ensure that children are not only heard but also listened to and their views given due weight by all professionals working with children.*
- 79 (a) *Raise the minimum age of criminal responsibility in accordance with acceptable international standards;*
- 79 (b) *Ensure that children in conflict with the law are always dealt with within the juvenile justice system up to the age of 18 years, and that diversion measures do not appear in children’s criminal records;*
- 79 (d) *Establish the statutory principle that detention should be used as a measure of last resort and for the shortest possible period of time and ensure that detention is not used discriminatorily against certain groups of children;*

ENDURING CHALLENGES



- Definitions and understandings of critical concepts, e.g. participation and, in the context of children's views are, what 'fairness' might mean
- Focus on 'criminal justice', when there is evidence that what is sometimes seen as criminality might be a symptom of underlying issues
- The use of custody and considerations of appropriateness
- Deeds not needs
- Continuing inequalities and the legacy of austerity
- Inconsistency in meaningfully asking children how we can work together to create positive change



ESPECIALLY AFTER
THE PAST YEAR, WE
HAVE TO TAKE STOCK

STRIPPING BARE THE UNDERLYING PROBLEMS

“... children’s rights are not driving the Welsh Government’s decision-making as the legislation intended... when we heard from children and young people it is clear that there is no systematic approach to telling them about their rights. Similarly evidence revealed a gap in the knowledge and understanding of children’s rights amongst the public. Children and young people cannot claim their rights if they do not know what they are.”

(Children, Young People and Education Committee, 2020: 6)

“the secretary of state acted unlawfully by failing to consult the children’s commissioner and other bodies representing the rights of children in care before introducing the [legal changes]”.

(High Court, November 2020)

REVISITING FRAGILITY

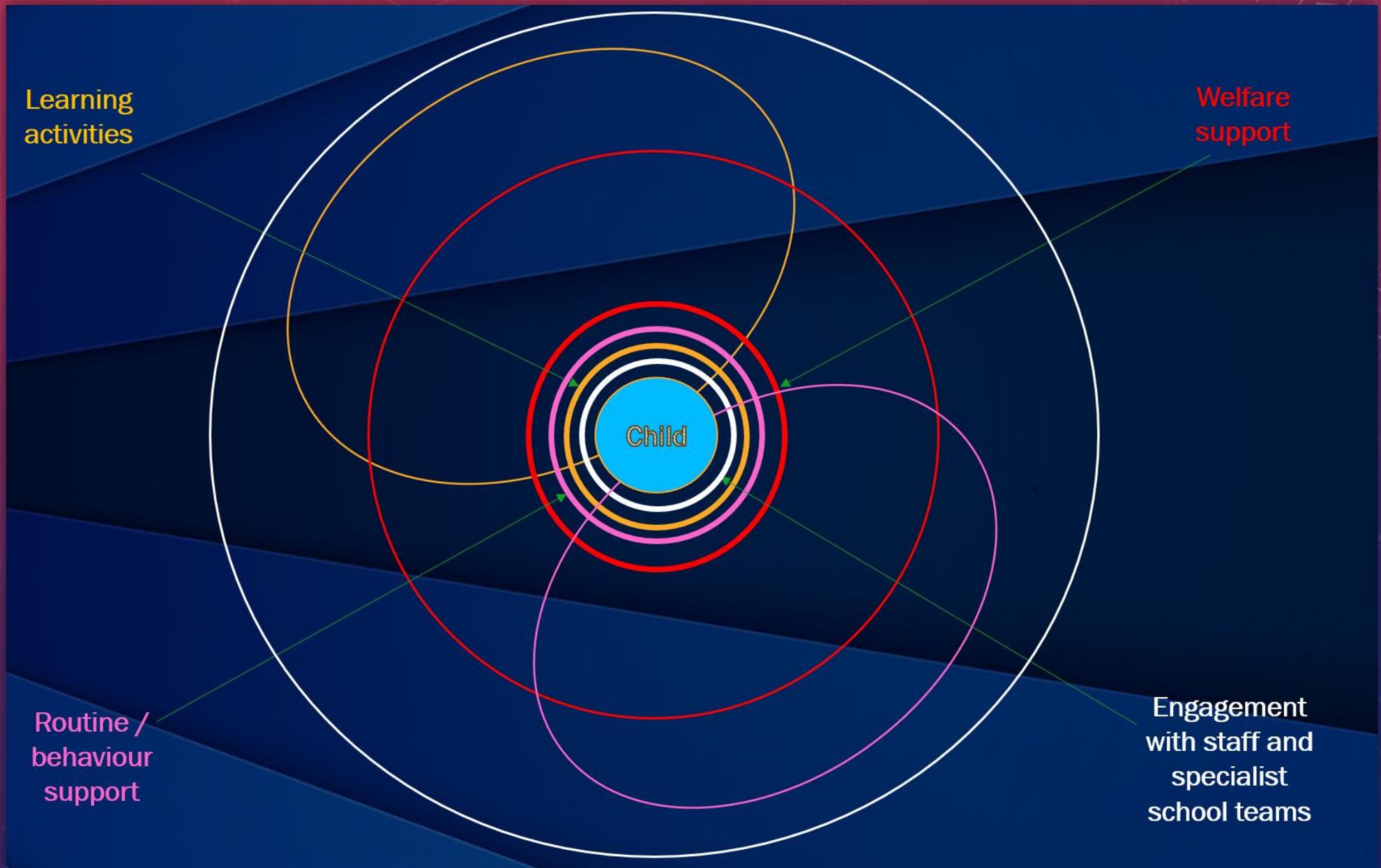
COVID has created serious challenges in terms of:

- Engagement in education
- Safeguarding of especially vulnerable children
- Mental health and well being
- Socialisation and peer engagement
- Stress on families and communities

Yet...

“18. Moreover, while the Convention has not been incorporated into UK law and is therefore not directly justiciable in UK courts — that is to say, an individual cannot go to a UK court to complain about a breach of any of the rights in the Convention — the conclusions and recommendations of the UN Committee, while strictly speaking not legally binding, do provide an authoritative interpretation of the individual treaty obligations which are themselves legally binding on the UK.”

(Joint Committee on Human Rights, 2015: 8)



WHY THIS MAY MATTER... WHOLE SCHOOL / SYSTEM AND EIP – WELFARE SUPPORT APPROACHES?

Rights as foundational assets, entitlements and practices

Marrying culture, educational, environmental and learning needs

Early intervention and prevention

Focus on well-being and wrap around support



Restoration



Behaviour



Participation



STRAIN UPON POSITIVE ACTIVITIES

Participatory processes disrupted

Positive work suspended e.g. concerning behaviour improvement and innovative practice

Reduced opportunities to optimise deployment of family support, emotional and well-being interventions and other appropriate interventions

The danger of children losing understandings of rights, social codes and engagement knowledge

In Wales, this has come at a time when preparation for the new Welsh Curriculum is on-going – Wales Curriculum 2022 creates expectations around human rights

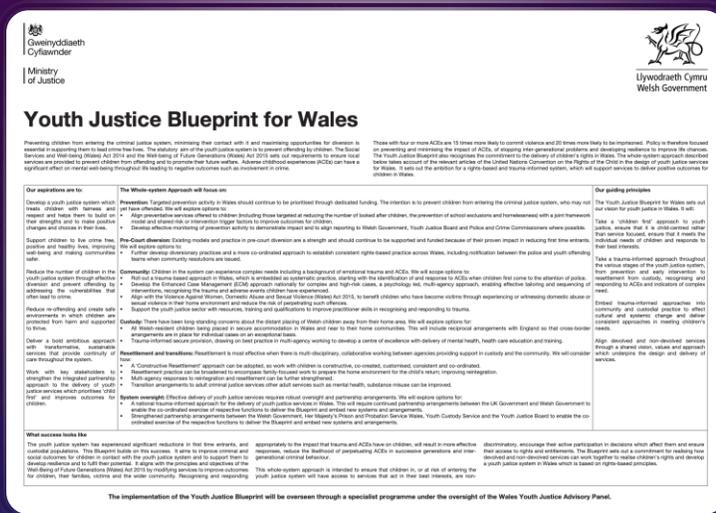


IS IT ALL DOOM
AND GLOOM?

POSITIVE RESPONSES

1. Youth Justice is dynamic. We have seen:

- Dedicated staff adapting to support young people
- Staff focusing on ‘what matters’ – not always ‘what works’
- Processes implemented that actually may be more appropriate for children and their families
- Continuing progress with the development of whole system and trauma informed approaches, e.g. the Wales Blueprint – in fact, these may now be more important than ever and the blending of Devolved/Reserved approaches could be very constructive



2. Agencies have learnt and reflected about:

- The critical nature of whole system approaches and cross-agency action
- More acute understandings of the relationships between health, well being and social activity – in other words, appropriate interventions for children
- Greater recognition of neo-welfarism and undoing harm
- Acknowledging the fragility not just of the rights rhetoric, but public services

POSITIVE RESPONSES

3. A pathway from COVID to rejuvenation:

- COVID has shown that although services may be fragile, they are also resilient, e.g. community-based youth work-style YOT engagement and greater partnership with parents/carers and home visits and also greater contact between children and their support workers
- Space has been created for reflection on our next steps. There is no hiding from poverty, social inequality and the reality that creative options exist to support children
- Innovation can keep moving forward. We have seen this at local level through teacher/child neighbourhood interaction, to support from local authorities and nationally, COVID has not prevented action, for example, by the Devolved Administrations – arguably, aspects of our trajectories are aligned
- A range of research is progressing to understand what is happening – and children are (and should be!) at the heart of that



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A COMMON VISION?

- The transformative power of children's rights – and understanding the holistic nature of rights contained within the UNCRC (there are great possibilities for whole system approaches to be augmented)
- Creating just approaches and more just society – there are long term consequences for civic society and, critically, those who are often the most vulnerable in society
- **'Build back better?' - is this missing the point? Things may be much simpler. We need to be better at:**
 - **Supporting children, families and communities**
 - **Investing in understanding what children need**
 - **Challenging orthodoxies**
 - **Acknowledging children's rights as a shield – but not just defensive!**

REFLECTIONS

There is hope in 'youth justice'

Fragility still exists, yet resilience in youth support services has grown and we now need to be better at protecting rights and supporting children who come into conflict with the law

Opportunity for Devolved Administrations to work more closely together and develop a complementary vision of children's rights



THANK YOU!

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