

21 years of children and young people policy in Wales

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Introduction

This paper presents a critical review and evaluation of the last 21 years of policy making in Wales, a period that divides almost equally into the time before and after devolution and the establishment of the National Assembly for Wales in 1999. It attempts to make sense of why major policies and funding decisions seem to have been made in Wales over this period; to identify what have been the main drivers of policies and initiatives relating to children and young people; and to assess the impact of these policies and initiatives on children, young people and their families.

This is a long and varied period of time. Few would have predicted at the chronological starting point of this period, the height of Thatcherism, that within 21 years there would have been a devolved Assembly in Wales and a much greater divergence of policy within the UK. Looking ahead 21 years is therefore a dangerous business, but the report nevertheless (and perhaps bravely) concludes with predictions and recommendations for the next 21 years and reflects on where we will be by 2030.

Conservative years: 1987–97

Wales-specific policy in this period before devolution was developed and administered by the Welsh Office, a department of the UK government. Although the overall government administration did not change, there was significant alteration in the Wales Office during this period. Nicholas Edwards, who had served as Welsh Secretary since 1979, departed the Cabinet in 1987 and over the next 10 years the department was to be headed

by four different secretaries of state. This inevitably led to a churn in policies and funding decisions.

The Wales Office had a significant degree of freedom to develop and implement distinctive policies, although the personality and priorities of the individual secretaries of state defined to what extent this freedom was exercised and, most particularly, the direction in which that freedom was used. Peter Walker, who served as Welsh Secretary between 1987 and 1990, points to the agreement he reached with Margaret Thatcher when she appointed him to the post: ‘The big attraction of the Welsh Secretary’s job was that I was told I could do it my way.’¹ His three successors in post – David Hunt (1990–93), John Redwood (1993–95) and William Hague (1995–97) – were effectively granted the same freedom too. It is generally recognised that both Mr Walker and Mr Hunt used the Wales Office to run far ‘softer’ social and industrial policies than in England at the same time, while Mr Redwood’s period was arguably more ‘Thatcherite’ in the 1990s than the Conservatism practiced by most of the Major administration.

It is striking therefore that despite the licence to do things differently in Wales during the last decade of Conservative rule, there is precious little evidence of distinct policy innovation for Wales relating to children and young people. Only perhaps in relation to increasing the provision of Welsh-medium education was a major policy advance made that particularly affected children and which was sustained as a common theme in strategy over a number of years. Note should also be taken of the Support for Child and

Family Services Grant (1991), which offered a source of core funding for children’s voluntary organisations and funds to provide services for children in need and their families. It was an effective and well received grant system delivered under section 64 of the Health Services and Public Health Act 1968 and in accordance with the provisions of the Children Act 1989.² The grant is notable for having continued beyond the advent of devolution too. This was, however, a rare example of a specific Wales-only policy relating to children during this period. So while a separate Children Act for Scotland was passed in 1995 and The Children (Northern Ireland) Order was introduced in 1995, Wales continued to sit under the Children Act 1989, and it was broadly a case of ‘for children policy in Wales, see England’.

Yet there was much to be done and during the 1990s the media played a particular role in spotlighting failing children’s services. Vulnerable children and the whole concept of child protection came under the spotlight towards the end of this period, as allegations surfaced in the media of hundreds of cases of child abuse in care homes in north Wales between 1974 and 1990. The conviction of people in north Wales for sexual and other crimes against children in their care in 1996 led the then Secretary of State for Wales, William Hague, to order a full public inquiry by former High Court judge Sir Ronald Waterhouse QC. He began taking evidence in 1997. The inquiry would continue to gather evidence for the next three years and would have a significant impact on policy making for the next decade.

Early years of New Labour: 1997–99

The election of a Labour Government in May 1997 brought in a new team of ministers and a much more distinctively Welsh tone to the Welsh Office under Welsh Secretary Ron Davies. He made the devolution of political power to the National Assembly for Wales the number one policy of the new Labour Government in Wales. The personal political journey of Ron Davies from outright hostility to devolution in 1979 to its most passionate advocate 18 years later had been caused by a personal conversion that ‘made in Wales policies’ needed to be developed to meet specific social and political concerns. To facilitate this, Mr Davies opened a dialogue with other parties and Welsh civic society more broadly, and signalled that more robust Wales-specific policy making was required to ensure devolution was a success. For devolution to work, it was argued, new thinking was needed in order to drive forward more bespoke policies for Wales.

A referendum was called on devolving powers to a National Assembly, and this was narrowly won in September 1997. The Government of Wales Act 1998³ ensued, which conferred on the Assembly policy making and secondary legislative powers. This was a very different settlement to the one in Scotland, however, and while most policy and subordinate legislative matters concerning children and young people were subsequently devolved under the Act, significant areas such as youth justice remained within the remit of departments such as the Home Office. The precise powers conferred were set out in a series of Transfer of Functions Orders, which identified specific powers under Acts of Parliament that were transferred by Parliament from the Welsh Office to the new Assembly in 1999. Again, unlike Scotland, Wales was permitted control over children’s policy, not as a fully devolved topic but only as far as the specific powers transferred went. For example, the National Assembly for Wales (Transfer of Functions) Order 1999 conferred powers to the Assembly to implement all of the Children’s Act 1989, but in respect of the Children and Young Persons Act 1969 (c. 54) the powers under sections 7, 19, 23(12), 30, 46, 65 and Schedule 3 were retained in Westminster.⁴ Such an approach created a complex and uneven power base for the new Assembly. Under the constitutional architecture of the Assembly as set out in the 1998 Act, these powers passed via the Assembly as a body corporate to the new secretaries (or ministers, as they were later designated), who could then deliver executive functions such as policy making and secondary legislation, although the Assembly as a whole was to retain strong powers of scrutiny and possible veto.

Further, the new Assembly did not have any form of primary law making powers, something that would prove to be a cause of some frustration for many Welsh politicians and policy makers in the following eight years. Indeed, this issue has provided a narrative to the politics of devolution since 1999 and has been discussed at length elsewhere.

It is to the credit of the Welsh Office in its twilight days between 1997 and 1999 that although steering the Government of Wales Act through Parliament took significant time and energy, it was also a period of considerable innovation in relation to children’s policy in Wales. Welsh Office Minister Win Griffiths MP (1997–98) was the first Minister for Children anywhere in the UK, and we see much more distinct policy development in this period, albeit within a UK-wide framework of government initiatives. A key example here is the National Childcare Strategy for Wales (1998), which was a trailblazer for the Sure Start programme in

England and shows that even prior to devolution, Wales-focused policy could provide a lead for similar initiatives elsewhere in the UK. Equally significant was the document *Shaping the future for special education strategy* (1999), launched at the same time as similar initiatives in England but with a clear Welsh focus.

In October 1998 Alun Michael MP was appointed Welsh Secretary, following the resignation of Ron Davies. He had a keen interest in children and young people policy due to his background as youth and community worker and as a minister in the Home Office. Under his stewardship the focus on children policy continued at the Welsh Office. Children and Youth Partnership Funds (1999) were created with the aim of lifting young people's educational achievements, improving health and encouraging children and young people to avoid crime, drugs, vandalism and truancy.

The north Wales child abuse cases also had a direct impact on policy during this period: Sir William Utting had been commissioned by the previous Conservative Government to review the adequacy of the safeguards against the abuse of children living away from home, and the Children First programme was developed in response to his recommendations to improve the quality and management of local authority children's social services in Wales. Originally a three-year programme, it continues to operate today and includes a number of objectives and national targets for children's services, with performance indicators related to outcomes for children.

First Assembly term: 1999–2003

The National Assembly for Wales was to have a rocky start after Labour fell three short of a clear majority in the first Assembly elections in 1999. Alun Michael AM MP made the switch from Welsh Office (then re-established as the much smaller Office of the Secretary of State for Wales) and, as the first First Secretary in the Assembly, he established a minority administration and set out to govern on a consensual basis with the support of the other parties. This created the need to find policy areas where cross-party support could be secured and also to secure early wins for the new institution. Children and young people policy fitted the bill, remained at the top of Mr Michael's political priorities, and was highly topical in early 2000 with the publication of *Lost in care*,⁵ Sir Ronald Waterhouse's report at the end of the inquiry into the north Wales child abuse cases. One of *Lost in care*'s key recommendations was that a Children's Commissioner for Wales should be appointed,

something children's organisations have lobbied for over a number of years. Therefore there was much support for this proposal across political parties and across Welsh civic society too. The UK Labour Government agreed very quickly that such a post should be created.

Without primary legislative powers in the Assembly, initially the post had to be introduced as an amendment to the Care Standards Act 2000,⁶ but there were significant limitations to the powers of the Commissioner in this legislation. As a consequence, in the following year the Children's Commissioner for Wales Act 2001⁷ was passed by Parliament, the very first Wales-specific Act to be passed at the request of the National Assembly, and this extended the Commissioner's powers to any matter affecting the rights and welfare of children in Wales. What followed was a very interesting new trend in British politics of policies initiated by one administration acting as a catalyst as a change elsewhere: so in 2003 a Children's Commissioner for Wales was introduced in Northern Ireland, followed by Scotland in 2004 and England in 2005.

The other key flagship policy on children and young people in the first year of the Assembly was Extending Entitlement (2000)⁸, which aimed to strengthen policy and practice for young people between the ages of 11 and 25 through a more positive focus on achievement and what young people have to contribute; a stronger focus on building the young person's capacity to become independent, make choices and participate; improvements in the quality and responsiveness of the services available; involving young people; and more effective co-ordination and partnership at local level. The policy framework of Extending Entitlement remains in force to this day.

Despite such advances on children's policy, however, the first year of the National Assembly was characterised by instability, with Alun Michael resigning in February 2000 after a vote of no confidence. His successor, Rhodri Morgan AM, sought to stabilise the situation by forming a coalition with the Liberal Democrats in the autumn of the same year. Ministerial responsibility for children and young people (which until then was split between the pre- and post-16 education portfolios) was now transferred to the Health and Social Services Minister, Jane Hutt AM. And while she in turn has moved posts twice, becoming Minister for Assembly Business in 2005 and Minister for Education in 2007, she has carried responsibility for children's policy with her to both posts, helping to ensure a degree of stability and continuity in children and young

people policy over a period of eight years. A Cabinet Sub-Committee for Children and Young People was also established at this point to co-ordinate policy and delivery across key government ministries. This continues to meet and acts as an important lever for children's policy within the Welsh Assembly Government.

The focus for the remainder of the first Assembly term was on developing simplified overarching strategies for children and young people. First came the Framework for Partnership⁹ in November 2000, which attempted to ensure a co-ordinated approach to service delivery at a local level across Wales by creating Children's Partnerships (for ages 0 to 10) and Young People's Partnerships (for ages 11 to 25) to deliver two sets of co-ordinated plans – Early Entitlement for under-11s and Extending Entitlement for over-11s. Next came Seven Core Aims for Children and Young People (October 2002),¹⁰ a set of seven core aims for all of its activities for children and young people. These continue to be the boundaries of the philosophy and delivery of services for children in Wales.

Finally, in April 2003 Cymorth – the Children and Youth Support Fund¹¹ was set up, replacing former programmes such as the National Childcare Strategy, Sure Start and various other funding streams with a single funding source to be administered through the local children and young people's framework partnerships within each local authority.

This was an impressive record of change and achievement, which was partly possible because organisations representing children and young people were particularly effective in their work with the National Assembly during its first four years, while many other sectors struggled to adjust. Therefore it was especially disappointing that the Children's Society decided to pull out of Wales in 2001 at a time when other equivalent bodies were increasing their capacity and input. This decision by the Children's Society raised eyebrows, questions and debate in both the Assembly¹² and in Westminster.¹³

Writing in the foreword of the 2004 review of the first year of operation of Cymorth, Education and Lifelong Learning Minister Jane Davidson said: 'The recent history of children and young people's policy in Wales is full of groundbreaking achievements and we can be proud of how far we've come.' Certainly in terms of priority and action, the first term of the National Assembly was indeed full of well-received, groundbreaking schemes and initiatives with policy for children and young people at the centre of the political stage. It was a period of strong, evidence-based

government matched to political leadership and policy consensus.

Second Assembly term: 2003–07

Labour won a technical majority of one in the second Assembly Election in 2003 and governed alone for the next four years, albeit as a minority government from 2005 after losing the Blaenau Gwent seat in a by-election. Survival was often the order of the day, and in many respects there was less groundbreaking progress on overarching policy frameworks. However, that is not to say that important steps were not taken during this period. Key developments during this term included formally adopting the United Nations Convention on the Rights of the Child as a foundation for dealings with children in January 2004; and the introduction of a National Service Framework for Children, Young People and Maternity Services in Wales in 2005¹⁴ to reduce variations in service delivery by setting national standards. Further, the Welsh Assembly Government also unveiled Flying Start,¹⁵ a new specific grant complementary to Cymorth for local authorities over four years to provide services such as childcare and health visitors for under-threes in deprived communities. From an educational perspective, it was also during the second term of the Assembly that the Foundation Phase was established as a basis for early years education.

However, during the second Assembly, a harder campaigning edge was introduced into the discussion on children's policy. Supported by the media and Assembly Members from all parties, the priority focus in terms of children turned to tackling child poverty. This followed a highly effective lobbying campaign by the End Child Poverty Network Cymru, and as a result A Fair Future for Children¹⁶ strategy was launched in February 2005 with a commitment to cut child poverty by half by 2010 and eliminate it completely by 2020 by focusing on income, participation and service poverty. However, there were questions from the start about the extent to which Wales could deliver on this commitment without having any control over the welfare and benefits system. These questions remain, especially since the UK as a whole does not seem to have made the great strides in eliminating child poverty that were hoped for and promised.

Frustration with the scope of the devolution settlement grew throughout the first two Assemblies as a consistent narrative, not least because the opportunity for the Assembly and Welsh Government to introduce primary legislation remained dependent on the availability of parliamentary time at Westminster.

This meant that only one or two Acts of Parliament specific to Wales were possible in each year. For every Children’s Commissioner for Wales Act 2001, there were plenty of organisations voicing disappointment that their distinctive policy responses for Wales could not be expressed in legislation. Assembly Members and Members of Parliament in general came to see the status quo as unsustainable. This ultimately led to the introduction of the Government of Wales Act 2006¹⁷ giving the Assembly powers to introduce its own Measures or laws in relation to specifically devolved matters. It also created a new mechanism for the Assembly to seek competence from Westminster to legislate over new matters, either through Legislative Competence Orders or through powers delegated through Westminster Acts of Parliament. This new process took legal effect after the Assembly election of May 2007.

Third Assembly term: 2007–

Labour performed badly in the third Assembly election in 2007 and were four seats short of an overall majority. Having failed to form a coalition with the Liberal Democrats, they turned to Plaid Cymru, who were by now in rival negotiations with the Liberal Democrats and Conservatives to create a ‘rainbow’ coalition. Under pressure, Labour formed a minority administration and again sought to find policy areas where it could secure cross-party support and demonstrate itself using the new powers under the 2006 Government of Wales Act. Its legislative programme included six bids for new powers, including a widely framed Order to seek powers to help tackle child poverty and deliver more effective services for vulnerable children. This policy was one that had been particularly highlighted during the launch of the party’s pre-manifesto in October 2006, and was especially shaped by the work of Labour member Huw Lewis AM. He had spent much of 2006 arguing that public bodies in Wales should have a statutory obligation to help and support vulnerable children. Welsh Labour recognised the popularity of this notion but also realised specific primary law making powers would need to be devolved to make it happen. Children and young people policy therefore returned again to the heart of the Welsh policy agenda.

As it turned out, Labour and Plaid Cymru were to form a coalition in July 2007 and the pledge to introduce a Legislative Competence Order (LCO) on Vulnerable Children was carried over into their joint One Wales programme of government. The LCO was introduced in

draft form in July 2007¹⁸ and completed its Assembly stages a year later.¹⁹ It is due to be passed into law in Autumn 2008. On the same day, 15 July 2008, First Minister Rhodri Morgan also pledged that in the 2008–09 Assembly programme that there would be a Measure utilising the powers of the LCO. He said: ‘The next rational step would be to develop a Measure – an Act in all but name – to provide greater support to children and families experiencing poverty. Under that Measure, each agency or public body will be required to show how they work to eradicate child poverty, for example, by providing free childcare and other services to assist children in the early years.’ We can expect the text of the draft Measure possibly by the end of 2008.

A key change to the text during the process of the LCO was the dropping of a plan to make smacking children unlawful, because of the non-devolved aspects of criminal justice connected to enforcing such a policy. During the consideration of the LCO, all the witnesses questioned on this matter strongly argued for the proposed Order to be drafted to enable the Assembly to legislate in this policy area. However, this issue could not be resolved, and the best account as to why can be found in the report of the Assembly Committee which examined the LCO.²⁰

The One Wales programme²¹ also includes a number of other pledges in relation to child poverty, including the creation of extra children bonds and credit unions. The government has also pledged to review the effectiveness of existing anti-poverty programmes, and the target of halving child poverty by 2010 and eradicating it completely by 2020 has been retained, being if anything even more politically significant than in the second term. The programme also commits the government to prioritise preventative intervention and non-custodial solutions in relation to youth offending and youth justice matters, and to considering the possibility of seeking the devolution of the criminal justice system to the Assembly.

The focus has shifted over the last year from developing new policy to measuring whether the plethora of made-in-Wales policies and initiatives introduced over the last decade have actually produced better outcomes for children. Child poverty for example actually rose in Wales in 2006–07 for the first time in a decade, raising serious questions about the effectiveness of the Welsh and UK government policies in this area. An audit of the Children and Young People’s National Service Framework (NSF) in

2006–07 also showed that services for children and young people are nowhere near meeting the targets originally set, and that services for disabled children and young people in particular are consistently the weakest area of service delivery across Wales. Powerful umbrella lobbies such as the End Child Poverty Network Cymru and Disabled Children Matter Wales are increasingly calling for policies and principles set out over the last decade to be turned into reality on the ground. The media has played a significant role in giving their concerns voice during the third Assembly.

In December 2007, all 44 Assembly Members outside the Welsh Assembly Government made history when they signed a Statement of Opinion²² calling for urgent action to support disabled children in Wales through improved funding and greater opportunities. Their key concern was that ‘This Assembly therefore calls on the Welsh Assembly Government to guarantee that the £21 million consequential from *Aiming High for Disabled Children: Better Support for Families* is ring fenced to support disabled children and their families in Wales.’ In this instance, therefore, it was felt Wales was not putting children as the top of the political agenda in the same way in which England was. The situation was only resolved when the Welsh Assembly Government pledged more money in the future and agreed to establish a Task and Finish Group to examine the matter in more detail. The Cabinet Committee on Children and Young People held on 14 January 2008 shows how the Welsh Assembly Government has been pushed to engage more directly with the representatives of Disabled Children Matter Wales in order to meet their concerns.²³

On a different level, children’s organisations successfully secured the establishment of a Children and Young People Scrutiny Committee in October 2007, with a remit to assess the impact of Assembly Government policies on children and young people. It has already conducted several policy reviews and is now an established part of the Assembly political architecture.

Recommendations for the next 21 years

The period 1987 to 2008 has been one of unprecedented policy development in Wales in relation to children and young people, particularly since the establishment of the National Assembly in 1999. The new institution has had more time to consider policy in this area than would ever have been possible at Westminster and greater scope to introduce legislative

and policy changes as a result. It has also proved to be an open and inclusive body, with ministers, Assembly Members and policy makers working much more closely with outside bodies, particularly the voluntary sector, to develop policies. The readiness of the sector to engage from day one of the Assembly has been an important impetus for bringing about such change and focus.

One of the main criticisms of governments is that they are reactive, short-termist and too prone to be driven by events and tragedies. Although the revelations in the 1990s about child abuse in north Wales certainly forced attention on vulnerable children and contributed to the eventual establishment of a Children’s Commissioner for Wales, on the whole the Welsh Assembly Government has taken a longer view and has concentrated on trying to tackle deep-rooted problems in the most deprived communities of Wales. The fact that a single minister, Jane Hutt AM, has held responsibility for children and young people for the last eight years has also helped ensure a degree of continuity in policy in Wales, despite changes in Assembly Government departments and the political make-up of the Assembly and government. This eight-year commitment may well be a record in the UK.

However, as we survey what has been done, the key question remains – to what extent have the admirable policies and initiatives of the last decade actually led to better outcomes for children and young people in Wales? On this matter, and especially in relation to services and opportunities for the most vulnerable children through either poverty or disability or both, in the eyes of those organisations representing such groups there is clearly much left to do.

This year (2008) is set to become another milestone in terms of children’s policy in Wales, as the National Assembly is set to gain fairly broad powers to introduce primary legislation on matters affecting vulnerable children in the autumn. The Assembly Government hopes this will enable it to deliver its commitment to end child poverty and direct organisations in Wales to tackle key problems facing children and young people at a local level. The vulnerable children LCO is one of the broadest and most enabling which the National Assembly for Wales has been asked to consider, and we can expect other Measures too to flow from its source during the next few years.

Further devolution in the fields of crime and justice are likely to follow in the not too distant future, and we can expect there will be growing calls for wider control

of the welfare and benefits system over the next 21 years to bring powers in Wales in line with Scotland. We would anticipate this inevitably leading to wider divergence in policies and funding relating to children and young people in Wales, compared to the rest of the UK. Critics of devolution warn that such divergence will heighten inequality, and organisations representing children and young people will certainly have a key role to play over the next two decades in ensuring no area of the UK falls behind. However, experience over the last decade would suggest that the benefits of devolution outweigh the problems, as the devolved administrations have proved more responsive than their predecessors and much more focused on the distinctive needs of their populations.

The other key development is that best practice from one administration is increasingly replicated elsewhere, as was seen with the establishment of Children and Young People Commissioners across the UK, following the lead from Wales. In contrast though, as is the case with the Disabled Children Matter Wales campaign, such comparisons can work both ways and a key argument over the past year has been that services for disabled children and their families look to be far better funded and supported in England than in Wales. In short, Wales can still learn as well as teach.

Major event timeline over the last 21 years

	External developments of influence	Policy developments and initiatives on children and young people
1987	General Election – Conservatives re-elected Peter Walker appointed Secretary of State for Wales	
1988		
1989		UK Ratification of the UNCRC Children Act 1989
1990	David Hunt appointed Secretary of State for Wales	
1991		Support for Child and Family Services Grant introduced in Wales
1992	General Election – Conservatives re-elected	
1993	John Redwood appointed Secretary of State for Wales	
1994		
1995	William Hague appointed Secretary of State for Wales	
1996	Convictions in north Wales child abuse case Waterhouse Inquiry ordered	
1997	General Election – Labour elected Ron Davies appointed Secretary of State for Wales 'Yes' vote in the devolution referendum	Welsh Office creates post of Minister for Children
1998	Ron Davies resigns, succeeded by Alun Michael as Secretary of State for Wales	National Childcare Strategy for Wales introduced
1999	First Assembly Election – Labour fail to win a majority Alun Michael appointed Wales First Secretary Paul Murphy appointed Secretary of State for Wales	Shaping the Future for Special Education Strategy launched Children and Youth Partnership Funds created Children First programme introduced
2000	Alun Michael resigns. Replaced by Rhodri Morgan Labour and Liberal Democrats Coalition in the Welsh Assembly Jane Hutt given ministerial responsibility for children and young people	Extending Entitlement strategy launched Children's Commissioner for Wales established under the Care Standards Bill 2000 Cabinet Sub-Committee on Children and Young People established Framework for Partnership launched
2001		Children's Commissioner Bill for Wales 2001 passed First Children's Commissioner appointed (Children's Society pulls out of Wales)
2002		<i>Seven core aims for children and young people</i> published by the Assembly Government
2003	2nd Assembly Election – Labour win overall majority	Cymorth Fund established
2004		Assembly formally adopts United Nations Convention on the Rights of the Child
2005		A Fair Future for Children strategy launched
2006	Government of Wales Act devolving further powers to the Assembly	Children and Young People NSF introduced Flying Start grant introduced for 0–3 year olds
2007	3rd Assembly Election – Labour minority administration One Wales partnership government between Labour and Plaid Cymru	One Wales Programme of Government publishes commitments on child poverty and youth justice Vulnerable Children LCO introduced
2008		Vulnerable Children LCO passes Assembly and is likely to get Parliamentary approval soon

Endnotes

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as long as it takes