

### **Chapter Synopsis**

***Inclusion is a core principle United Nations Convention on the Rights of the Child (1989). articles support non-discrimination, optimal development, best interest and the voice of the child, all of which are central to supporting inclusive pedagogies. This chapter will focus primarily on the children's rights approach in Wales and how this is translated into the policy context. According to the Rights of Children and Young Persons (Wales) Measure (2011), the UNCRC is placed centrally in children's educational experiences so that it is at the core of school planning, teaching, decision-making, policies and practice in Wales. This chapter explores the current educational context in Wales for young children as well as initiatives such as The Right Way: A Children's Rights Approach for Education in Wales (2017) and Rights Respecting Schools Award (UNICEF, 2021). Wales is in the midst of major reform of its education system and therefore the possible impact of Curriculum for Wales 2022 on children's rights and inclusion will also be examined.***

### **Introduction and background**

Inclusion and human rights are inextricably linked. In 1945 the United Nations adopted the Universal Declaration of Human Rights. This was the first time that a set of fundamental human rights had been set out. These rights were deemed as applicable to everyone (universal), interlinked, inalienable i.e. they cannot be sold or given away and are unconditional, that is, they are not subject to the behaviour of the individual. The European Convention on Human Rights (ECHR) was drawn up by the Council of Europe in Strasbourg in 1949. Over 100 members of parliament from across Europe (including the UK) gathered to compose the charter. The United Kingdom was the first nation to ratify the convention in March of 1951. However, it took until 1998 for the UK to enshrine these rights into domestic law. Prior to this time the UK was signed up to other human rights treaties, human rights were not protected by legislation. In the UK, the Human Rights Act (HRA, 1998) became law in the UK and has been operational since 2000. The devolved administrations in Scotland, Wales and Northern Ireland were required to adhere to the Act from their instigation in 1999. The UK government announced a review of the HRA in December 2020.

However, with the UK effectively leaving the European Union (EU) in 2021, there has been some debate around human rights and how this will be affected by 'Brexit': Britain's exit from the EU. According to Cowell (2021) the UK is still committed to the European Convention on Human Rights (ECHR) and subsequently the jurisdiction of the European Court on Human Rights as part of the EU-UK Trade and Cooperation Agreement. He goes on to discuss the challenges that exist regarding this 'locking in' to the ECHR and the possibilities of the introduction of UK law to limit the powers of the European Court of Human Rights in the UK. The European Court of Human Rights has been instrumental in advocating inclusion and supporting the rights of disabled people in the UK, therefore any erosion of their authority to act upon the erosion of these rights would be detrimental to inclusion and inclusive practice.

Alongside the HRA in the UK is the Equality Act of 2010, this was introduced to combine a number of existing pieces of legislation in order to strengthen the law which protects people from discrimination and disadvantage. This included the Sex Discrimination Act 1975, Race Relations Act 1976 and Disability Discrimination Act 1995. The Equality Act (2010) states that 'it is unlawful for any education provider, including a private or independent provider, to discriminate between pupils on

grounds of disability, race, sex, gender reassignment, pregnancy and maternity, religion or belief, or sex,'(Centre for Studies on Inclusive Practice, 2018) These “protected characteristics” make it unlawful to discriminate on these grounds regarding the admission of new pupils, pupils currently at the school (including absent or temporarily excluded pupils) and former pupils. The Equality and Human Rights Commission was set up in 2007 incorporating the work of the Equal Opportunities Commission, the Commission for Racial Equality and the Disability Rights Commission. The Commission also took on other aspects of equality including age, sexual orientation and religion or belief, as well as promoting an understanding of the HRA and the Equality Act. According to the Equality and Human Rights Commission (2020), they are a statutory non-departmental public body whose role is to safeguard and enforce laws to protect people’s rights.

The inception of United Nations Convention on the Rights of the Child (UNCRC) in 1989, was a milestone in the awakening of interest around children’s rights. The Convention, which incorporates 54 articles that cover all aspects of a child’s life, was ratified by the British government and enshrined in subsequent legislation such as the Children Act of 1989 and 2004. It outlines children’s civil, political, economic, social and cultural rights supporting the view that children should be involved in decisions which affect them individually and collectively. In 2016, the UN examined the UK government on their compliance with the UNCRC. The UN concluded that the UK needed to further develop inclusive education and prioritise this, making sure that mainstream schools are fully accessible to children with disabilities (UN Committee on the Rights of the Child, 2016). Concern was also expressed regarding how the opinions of children with disabilities were sought and how these views were incorporated into the decision-making process. Thus the participation rights of children with disabilities was seen as lacking and needing to be strengthened in UK government policies and subsequent practice.

Historically Wales has led the way on children’s rights in the UK, politicians have prioritised children’s rights since devolution in 1998 with a ‘children first’ approach. Wales was the first nation in the UK to establish a Children’s Commissioner, this was followed by the ground-breaking Rights of Children and Young Persons (Wales) Measure (2011). The latter reflected the Welsh Government’s commitments to supporting children’s rights through legislation and policy in Wales. The law requires all Welsh Ministers, whenever they exercise their functions, to have due regard to the UNCRC.

Since the Rights of Children and Young Persons (Wales) Measure in 2011, a number of policies have been developed to support children’s rights in Wales. In 2016, Young Wales developed the Children and Young People’s National Participation Standards. These standards were designed to help organisations and individuals who work with children and young people to make sure that participation is central to the work that they do. The Standards are underpinned by the United Nations Convention on the Rights of the Child, and the Well-being of Future Generations (Wales) Act 2015, which puts the involvement of children at the centre of improving well-being (Children in Wales, 2016).

The Additional Learning Needs and Education Tribunal (Wales) Bill was passed by the National Assembly for Wales in 2017 and became law in January 2018 after receiving Royal Assent. The Bill aims to create a new unified statutory framework for children and young people with additional learning needs (ALN) aged 0-25. It will replace the current system which involves the statementing of children with special educational needs (SEN), this has been in place for over 30 years. Some of the key features of the Bill include the change in terminology (from SEN to ALN) and the extension of support for young people up to the age of 25. Statements and Individual Education Plans (IEP) and Learning Support Plans will be replaced by the new support plan called an Individual Development Plan (IDP). In terms of inclusion, the Bill commits to actively including learners in person centred

planning approaches. The Welsh Government (2020a:3) states that 'It is imperative that children and young people see the planning process as something which is done with them rather than to them.' Learners and their parents/carers should be participants in all aspects of the process.

There has been a significant delay in the implementation of the Bill due to the Covid pandemic and as such the phased implementation will not begin until September 2021. The ALN Code for Wales (2021) which replaces the previous code of practice will also come into force at this time. Initial feedback from the Children's Commissioner for Wales (CCW) (CCW, 2019) regarding the draft Code recognised the acknowledgement of the five principles of The Right Way: A Children's Rights Approach for Education in Wales (2017) within the Code and the call for local education authorities to consider these as part of the Bill. She also expresses concerns about whether the Code is doing enough to promote and protect children's rights of children/young people with additional learning needs on an everyday basis. The transition to the new system will involve major changes for local authorities, schools and further education colleges and the voice of pupils and parents needs to be central to the implementation process in order to allay stress and anxiety as well ensuring continuous provision of support for children and people with ALN during the transitional period.

Acknowledging the changing landscape of statutory guidance in Wales and the UN report of 2016 which expressed concerns regarding the participation rights of children with disabilities and the challenges they face in terms of being able to express their views and have these views taken into account, this chapter will explore how participation rights have been enacted in Wales. We will examine participation rights in terms of existing early years curriculum and the proposed new curriculum as well as exploring initiatives such as The Right Way: A Children's Rights Approach for Education in Wales (2017) which is a guide that was developed for education settings in Wales and the Rights Respecting Schools Award (UNICEF, 2021)

## **2. Early years education in Wales**

Education policy for the first decade of Welsh devolution was informed by the vision document The Learning Country (NAfW, 2001 2001a), which set out the intention to 'build stronger foundations for learning in primary schools with a radical improvement for early years provision' (2001 p. 12). The vision subsequent consultation document, *The Learning Country: Foundation Phase 3-7 Years* (NAfW, 2003), set out the proposals for a Foundation Phase curriculum framework for children aged 3-7 years to 'create a rich curriculum under seven Areas of Learning for children in the Foundation Phase' (WAG, 2008: 3). This radical overhaul of early childhood education and care in Wales signalled a shift away from UK central government education policy. It was also predicated upon a concern, supported by research literature, about the 'detrimental' (NAfW, 2001a: 8) effect of an overly formal approach to early childhood education and care for children below 6 years of age.

Wales is in the midst of major reform of its education system as this chapter is in development (WG 2017b, 2021a). The Foundation Phase remains the statutory curriculum document for children aged 3-7 years until 2022, when it will be superseded by the Curriculum for Wales (CfW; WG 2021b) which is designed for learners aged from 3-16 years.

The Foundation Phase Framework (WAG, 2008) was introduced for school children aged 3-7 years (Nursery, Reception, Year 1 and Year 2 classes) and those children aged 3 and over in maintained and non-maintained settings, in an annual roll-out over the period from 2008 to 2011. The statutory curriculum document was updated in 2015 and still advocates the adoption of a play-based, experiential approach to early childhood education within the context of a balance of adult-directed and child-directed activity. Educational settings are required to provide children with access to 'indoor and outdoor environments that are fun, exciting, stimulating and safe' and to 'promote children's development and natural curiosity to explore and learn through first-hand experiences' (WG 2015 p.3 ). In addition, children are to interact with adults with whom they should share episodes of sustained

and shared thinking and adults are to 'build on what they [children] already know and can do, their interests and what they understand' (WG 2015 p.4). The Foundation Phase Framework requires, therefore, that practitioners, in part at least, engage flexibly and contingently with child-initiated activity in order to support learning indoors and outdoors. This requirement is situated within the broader context of the Welsh Government's overall vision for children and young people which is based around seven core aims developed from the United Nations Convention on the Rights of the Child (see WAG, 2006, 2008: 3). The Foundation Phase sits within this overarching and emancipatory vision for children with an emphasis on the personal development and well-being of the child:

Children learn through first-hand experiential activities with the serious business of 'play' providing the vehicle. Through their play, children practice and consolidate their learning, play with ideas, experiment, take risks, solve problems, and make decisions individually, in small and in large groups. First-hand experiences allow children to develop an understanding of themselves and the world in which they live. The development of children's self-image and feelings of self-worth and self-esteem are at the core of this phase. (WG 2015 p.3)

Seven areas of learning are identified, the first of which is situated 'at the heart of the Foundation Phase' (WG 2015 p.8).

- Personal and social development, well-being and cultural diversity
- Language, literacy and communication skills
- Mathematical development
- Welsh-language development
- Knowledge and understanding of the world
- Physical development
- Creative development

The implicit emphasis in the Foundation Phase documentation on 'proactive and intentional pedagogy' (Wood, 2007a: 127) was recognised, at the time, as providing the potential for Welsh practitioners to 'develop the integrated approaches that are advocated in contemporary play research' (Wood, 2007: 313). However, two sets of disappointing PISA scores for Wales (OECD, 2014) heralded an intense focus on pupils' development in literacy and numeracy throughout the Welsh education system. A national literacy and numeracy framework was made statutory in September 2012, and has been incorporated into the revised Foundation Phase orders for areas of learning for Language, literacy and communication, and mathematical skills (WG 2015). The associated imposition of national tests in literacy and numeracy for 7-year-olds have introduced some tensions in relation to the play-based, child-initiated aspects of the Foundation Phase initiative, however as a part of the national education reform programme, detailed further below, assessment arrangements are under review.

### **Looking to the future**

Since the introduction of the Foundation Phase, the Welsh Government has re-emphasised its education priorities; the 'National Mission' (WG 2017, 2020b) sets out aims for the Welsh education sector, to 'raise standards, reduce the attainment gap and deliver an education system that is a source of national pride and confidence' (Ministerial foreword, WG 2017). There have been two evaluations of the Foundation Phase curriculum initiative. The first to report was a review of progress or 'stocktake', undertaken by Siraj and Kingston (2014) at the request of Welsh Government. The stocktake highlighted that where the Foundation Phase was working well the outcomes for children appeared to be good (Siraj and Kingston, 2014: 18-19). However, the report emphasised that there was significant variation in the experiences of children in Foundation Phase within and across the

maintained and non-maintained sectors.

The Welsh Government also instigated a three-year evaluation of the Foundation Phase which reports in more detail, though with similar headline findings (WG, 2015). This evaluation highlights the warm support that the Foundation Phase receives from stakeholders and that children experiencing Foundation Phase pedagogy are engaged and achieving well. The evaluation reported that 'The Foundation Phase is associated with improved attainment for pupils eligible for free school meals, but the evaluation has found no evidence to suggest it has made any observable impact so far on reducing inequalities in attainment at the end of Key Stage 2' (WG, 2015: 3). Therefore, the variation in provision across Wales remains a significant issue. Maynard et al. (2013) undertook a review of the curriculum documentation as a part of the three-year evaluation and highlighted possible tensions within the Foundation Phase framework, for example, tension between the play-based pedagogy, underpinned by a developmental approach, and detailed statutory curriculum expectations, especially for Years 1 and 2. Such tensions have been recognised across the Welsh education system and as part of the review of the curriculum and assessment arrangements in Wales (Donaldson 2015) that preceded the introduction of the new Curriculum for Wales (CfW), a radical overhaul of mainstream education provision for 3-16 year olds. The intention of the overhaul is that much of the prescriptive content in the old curriculum is removed and teachers are supported to create local curricular experiences that support the attainment of the four purposes of the curriculum: i.e. that children are:

- ambitious, capable learners, ready to learn throughout their lives
- enterprising, creative contributors, ready to play a full part in life and work
- ethical, informed citizens of Wales and the world
- healthy, confident individuals, ready to lead fulfilling lives as valued members of society

(see WG 2021b and 2021c)

Within the CfW guidance material there will be designated resources addressing the pedagogy required for the early years of the CfW. Practitioners, advisors, academics and policy makers who have a deep knowledge of Foundation Phase practice are developing this guidance. They have sought to maintain the essence of what has been termed *effective foundation phase pedagogy* while ensuring that practice reflects contemporary understandings of how young children learn.

The Children's Commissioner for Wales (CCW) has undertaken a mapping exercise across the proposed purposes of the Curriculum for Wales 2022 (CCW 2019). This demonstrates that the articles of the UNCRC can be well represented within the new curriculum purposes as can the three main elements of human rights education:

- Learning about human rights: The acquisition of knowledge and skills about human rights;
- Learning through human rights: The development of respectful values and attitudes and changed behaviour that reflects human rights values; and,
- Learning for human rights: The motivation of social action and empowerment of active citizenship to advance respect for the rights of all

It is worth noting that the CCW provided a paper imploring that the new curriculum is underpinned by a commitment to children's rights delivered by a workforce that is 'rights-informed, rights-aware and rights-based' (CCW 2018 p.9) and that all teachers should have professional learning in children's rights. Within the early years of the new curriculum there appears to be an ongoing commitment to a responsive and relational pedagogy in which children's experiential learning is prioritised. For the youngest children such a pedagogical approach should support the enactment of Articles 12, 28, 29, 30 at the very least, though the extent of workforce commitment to the rights-based vision of such pedagogy from the start is likely to be limited to certain groups who have already undertaken specific professional learning in this regard, 'Rights respecting school' staff for example (see below).

Following the Wellbeing of Future Generations Act (Wales) 2015 (WG, 2016), the Welsh Government launched 'Prosperity for All: The National Strategy' aimed at building 'a Wales that is prosperous and secure, healthy and active, ambitious and learning, and united and connected' (WG, 2017c:2). Early Years provision (0-3) is identified as one of the five cross cutting priority areas in Wales, this has instigated significant changes and targeted improvements to the workforce and availability of 0-3 early years provision. The Welsh Government published the Childcare, Play and Early Years Workforce Plan (WG, 2017d) acknowledging the intention 'to develop a skilled childcare and play workforce, which is highly regarded as a profession and a career of choice and recognised for the vital role the sector plays in supporting our children's development' (WG, 2017d:5). This sits alongside continued investment in the Flying Start childcare element for 2-3 year olds and the 30 hours funded childcare for 3-4 year olds of working parents (WG, 2014; WG, 2019c). This demonstrates an apparent ongoing commitment to Welsh Government's core aim, stated in 2013 for 'all of our children to have a flying start in life; be well-educated; enjoy the best possible health; live in a decent home; have access to an enriched environment including play, leisure, sporting and cultural activities; be listened to, treated with respect and feel safe' (WG, 2013: 2).

### **Embedding Rights-based Approaches in Practice**

As stated at the start of this chapter Wales has taken a proactive approach to embedding children's rights in legislation and policy. The role of the Children's Commissioner for Wales and her team has been central to this. In 2017, the Commissioner, introduced the The Right Way: A Children's Rights Approach for Education in Wales (2017) which was developed for education settings in Wales, both statutory and non-statutory provision. This framework is predicated by the United Nations Convention on the Rights of the Child (1989) and is consistent with the statutory duties of settings as expressed in legislation such as The Rights of Children and Young Persons (Wales) Measure (2011). This approach places the UNCRC centrally in children's educational experiences so that it is at the core of school planning, teaching, decision-making, policies and practice. The principles of a Children's Rights Approach are:

- Embedding children's rights
- Equality and Non-discrimination
- Empowering children
- Participation
- Accountability

(Children's Commissioner for Wales, 2017:7)

The model set out in the guide demonstrates how the principles of the Children's Rights Approach can be embedded into policy and practice in educational settings from early years to post 16. Case studies illustrate how these policies translate into practice. One of the case studies explores how participation can be reflected in practice in a school which has pupils with a range of additional needs. This is the only example provided which considers supporting children with disabilities to realise their rights.

Following on from this in 2018, the Right Way Education Survey was carried out nationwide. The survey looked at how children were experiencing the five principles of a children's rights approach, as set out the Right Way: A Children's Rights Approach for Education in Wales. In total, 391 teachers and 6392 children and young people took part in the review from 108 schools (94% of these schools were Children's Commissioner Ambassador Schools). The report specifies that 122 of these children were 'SEN pupils', which is 1.9% of the total number of children surveyed.

Results of the survey indicate that 75% of children had heard of children's rights, while 65% thought that their parents had heard of children's rights. 76% of teachers said that they would like more

training on children's rights. In terms of participation rights around 70% of primary school children felt that they could share their opinions about learning and their lessons, although for older pupils this was much lower, around 45%. In terms of having choice about what they learn then percentages are much lower, 58% of primary school pupils and 32% of secondary pupils. Throughout the majority of the data there is evidence to show that children are experiencing some elements of a children's rights approach in their schools. However, this approach seems to be more prevalent in primary schools as acknowledged by the children participating, although the survey does not account for differentials in the understanding of what a rights-based approach means in practice. As this data was gathered predominantly in Children's Commissioner Ambassador Schools, it could also be argued that other children in other schools might not be experiencing their rights in the same way or to the same extent. It is also worth noting that there is no explicit indications of how children with disabilities are experiencing the rights.

UNICEF UK started the Rights Respecting Schools Award (RRSA) throughout England Wales and Northern Ireland in 2004 (UNICEF, 2021). The Award is centred around schools' commitment to embedding the United Nations Convention on the Rights of the Child (CRC) planning, policies, practice and ethos. In order for a school to achieve accreditation, the setting must evidence how it has placed the Rights Respecting Schools Award strands at the heart of all policies and processes, thus promoting children and young people's rights. Sebba and Robinson carried out an evaluation of the scheme across the UK in 2010. The aim of the evaluation was to assess the impact of the RRSA on the well-being and achievement of children and young people (CYP) in the participating schools (12 schools where longitudinal data was gathered over three years and 19 schools which received one off visits). Conclusions were positive and the authors reported that the scheme had a 'profound effect on the majority of the schools involved in the programme. For some school communities, there is strong evidence that it has been a life-changing experience.' (Sebba and Robinson, 2010:3). Key findings noted the increased knowledge of the United Nations Convention on the Rights of the Child (1989), positive relationships with staff and pupils as well as increased levels of empowerment for pupils and the opportunity to make informed decisions within their schools. Improved levels of engagement resulting in raised attainment in two thirds of the 31 schools. In terms of inclusive practice, 'positive attitudes to diversity were reported towards peers and staff with disabilities, and towards those with behavioural or emotional problems' (Sebba and Robinson, 2010:5). The study also reported that there were instances recorded in the interviews where children with disabilities challenged the externally imposed stereotypes placed upon them. However, there was concern expressed particularly by special schools and those with resource units for pupils with special educational needs, that their pupils had experienced difficulties in accessing the RRSA language or in participating with the values. The evaluation emphasised the need to publicise the scheme further in light of the generally positive outcomes, however the authors do recommend the need for greater guidance around addressing the complex notions with those children with learning difficulties.

Since 2010, the scheme has developed further and there has been an increase in uptake, currently around 5,000 schools across the UK (UNICEF UK, 2019). In its current format, there are three evidence-based strands of the RRSA. The strands cover the leadership of the school, knowledge and understanding of children's rights, ethos and relationships and the empowerment of children and young people. According to UNICEF UK (2019) the strands are:

#### **Strand A: Teaching and learning about rights**

The United Nations Convention on the Rights of the Child (CRC) is made known to children, young people and adults, who use this shared understanding to work for improved child wellbeing, school improvement, global justice and sustainable living.

#### **Strand B: Teaching and learning through rights – ethos and relationships**

Actions and decisions affecting children are rooted in, reviewed and resolved through rights. Children, young people and adults collaborate to develop and maintain a school community based on equality,

dignity, respect, non-discrimination and participation; this includes learning and teaching in a way that respects the rights of both educators and learners and promotes wellbeing.

### **Strand C: Teaching and learning for rights – participation, empowerment and action**

Children are empowered to enjoy and exercise their rights and to promote the rights of others locally and globally. Duty bearers are accountable for ensuring that children experience their rights.

Schools are awarded a particular level dependant on the evidence provided. The levels are:

- Bronze – Rights Committed
- Silver – Rights Aware
- Gold – Rights Respecting

Silver and Gold accreditations are valid for three years and then school must be re-accredited.

The 2018 impact survey carried out by UNICEF, the resulting report represented the opinions of over 80,400 children and young people from over 700 schools across the UK. UNICEF (2018:2) reported at 'results found that Child Rights Education through RRSAs often enhances and strengthens effective practice within a school. Rights have been described as a 'heartbeat' in school life; like a 'golden thread' or 'stick of rock' that underpins and informs their practice.' The effect of this approach is obviously more pronounced as schools move through the award process with gold schools achieving positive performance across a broad range of outcomes including children's knowledge of rights, children's happiness and safety as well as their engagement in school life. The adults surveyed also reported having positive relationships and enjoy their job.

In 19/20 there were 1480 maintained schools in Wales, 183 secondary schools, 1234 (nursery/primary schools), 41 special schools and 22 middle schools (StatsWales, 2021). In Wales as of February 2021(UNICEF, 2021), there were currently 44 schools with the silver award (3% of schools in Wales) and 37 of these schools were primary schools, 4 special schools and 3 secondary schools. There were 33 schools with the gold award (2% of schools in Wales), 27 of which are primary schools, 1 special school and 1 pupil referral unit as well as 4 secondary schools. The uptake of the RRSAs is heavily weighted to the primary school sector (Out of the 77 gold/silver awards, 83% were primary schools). In terms of special schools, 4% of schools have achieved the gold and silver award. Therefore, the enactment of children's rights and children's participation in this is heavily skewed to the primary sector in Wales and there is a need to promote and develop children's rights and participation in special schools and secondary schools in order to achieve the positive outcomes noted by Sebba and Robinson in 2010. This lack of uptake in special schools and secondary schools is also mirrored in the outcomes of the Right Way Education Survey (Children's Commissioner for Wales, 2018) as discussed earlier, where the children's responses reflected a more positive view of children's rights approaches being enacted in primary schools compared to secondary schools.

The role of the teacher is central in driving rights-based approaches and implementing inclusive and participatory practice in the classroom. Research by Jerome et al in 2015 has acknowledged that there is a lack of emphasis on children's rights in initial teacher education. The researcher examined the teacher education in the UK and concluded that within the devolved nations of the UK, there is no specific requirement that ensures that all teachers are trained in children's rights and are familiar with the Convention on the Rights of the Child (CRC). In Wales, the new Professional Teaching Standards were introduced in 2017, there is specific requirements for teachers to develop overarching values and dispositions where the 'needs and rights of learners will be central and take priority in the teacher's approach to their job,' (Welsh Government, 2017). These values and dispositions should have been integrated into initial teacher training programmes in Wales as well as current practice for all those working with learners. Therefore, with the emphasis on learner rights implicit in driving professional practice for teachers in Wales, there may be a greater drive towards using rights-based approaches in the classroom in the future. The Welsh Government have commissioned an



independent evaluation of the standards and the report is due in 2022 and may provide an insight into whether the inclusion of rights-based approaches is more evident in classroom practice.

In the meantime however, the final report of the Black, Asian and Minority Ethnic Communities, Contributions and Cynefin in the New Curriculum Working Group (WG 2021c) suggests that a rights-based, inclusive education environment in which all children thrive may be some distance away. The ministerial foreword indicated that there are 'hard truths' in the report, and that the recommendations offer 'serious challenges'. Professor Charlotte Williams OBE led the working group that was commissioned to undertake an independent review to advise on and improve the teaching of themes and experiences relating to Black, Asian and Minority Ethnic communities across all parts of the school curriculum. In the opening foreword by the chair, Professor Williams reports:

*The facts of racial inequality in the Welsh education system are now well evidenced and documented. The attainment of children and young people from some Minority communities is being hampered by a curriculum that has failed to represent their histories, and the contributions of their communities, past and present. They are hampered by the lack of positive role models in an education workforce that does not adequately reflect the ethnically diverse profile of Wales; and they are hampered by experiences of racism in their everyday school life (WG 2021c p.4).*

The recommendations made as a result of the independent review are wide-ranging and related to five areas for action: resources used in school, workforce training and professional development, professional learning at all stages of the teacher career, school-level actions and actions for sustainability. The concluding sections of the report acknowledge that part of this development is about 'changing mindsets, ingrained practices and developing positive cultures of change'. This is associated with 'an interrogation of the attitudes and values that underpin competency, and the commitment and willingness to change' (WG 2021c p.68). We would argue that the findings of this report demonstrate in the strongest terms that, despite the positive policy backdrop with regard to children's rights in Wales, and despite the gains made in this area in education, much is yet to be done, and there is no room for complacency.

## **Conclusion**

The Welsh Government's commitment to children's rights has been evidenced in legislation and policy since the Rights of Children and Young Persons (Wales) Measure in 2011. The Foundation Phase curriculum and pedagogy embraces an understanding of how children learn through first-hand experiences with child-initiated activity acknowledged as central. Whilst the curriculum in Wales is currently in a state of flux, the new proposals evidenced in the Curriculum for Wales (2021) do go some way to addressing the need for children's rights to be at the heart of the curriculum but at the point of writing this chapter we do not know whether a child-first, play-based approach will be put into practice. In order to enact a pedagogy which has the rights of the child as a central tenet, we advocate that practitioners and teachers need to be trained in rights-based approaches as part of all early years care and education courses, initial teacher education, and ongoing professional development. This would ensure that child-first approaches would be implemented across all parts of Wales with parity in the maintained and non-maintained sectors.

In 2016, the UN Committee on the Rights of the Child, identified that the UK (including Wales) should further develop inclusive education and that the voice of children with additional learning needs should be considered in all aspects of educational provision and decision-making. With regard to changing policy, the ALN Bill (2018) in Wales reflects a commitment to person-centred planning, taking into account the views of learners and their parents at all stages. These substantial changes in ALN provision in Wales will require a commitment from all practitioners and agencies involved to adopt this participatory approach if the voices of children with ALN are going to be strengthened. This

commitment will again need to be supported by training for new and existing practitioners in order to support a view of the child as a participant in the process.

Although Wales has been seen as leading the way in terms of the UK context, in the discussion above we have illustrated that some of the drivers and initiatives seen in practice have been focussed on mainstream primary age pupils and beyond, rather than in the early years or indeed those children with additional learning needs. This raises questions about practitioner notions of maturity and competence of young children and children with ALN. Initiatives which support the rights-based approaches in schools need to be adapted to support implementation with younger children and children with additional needs, so that these children are able to express their views and become participants in the processes relating to their learning and provision. Legislation, policy and practice for all children in Wales must adopt a consensual approach to developing child-centred pedagogy where the voice, the needs and the interests of all children are dominant.

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