

CHILDREN'S RIGHT TO PARTICIPATE

Helsinki, CPAT Induction Conference

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The right of children to be heard: Understanding Article 12

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The concept of participation

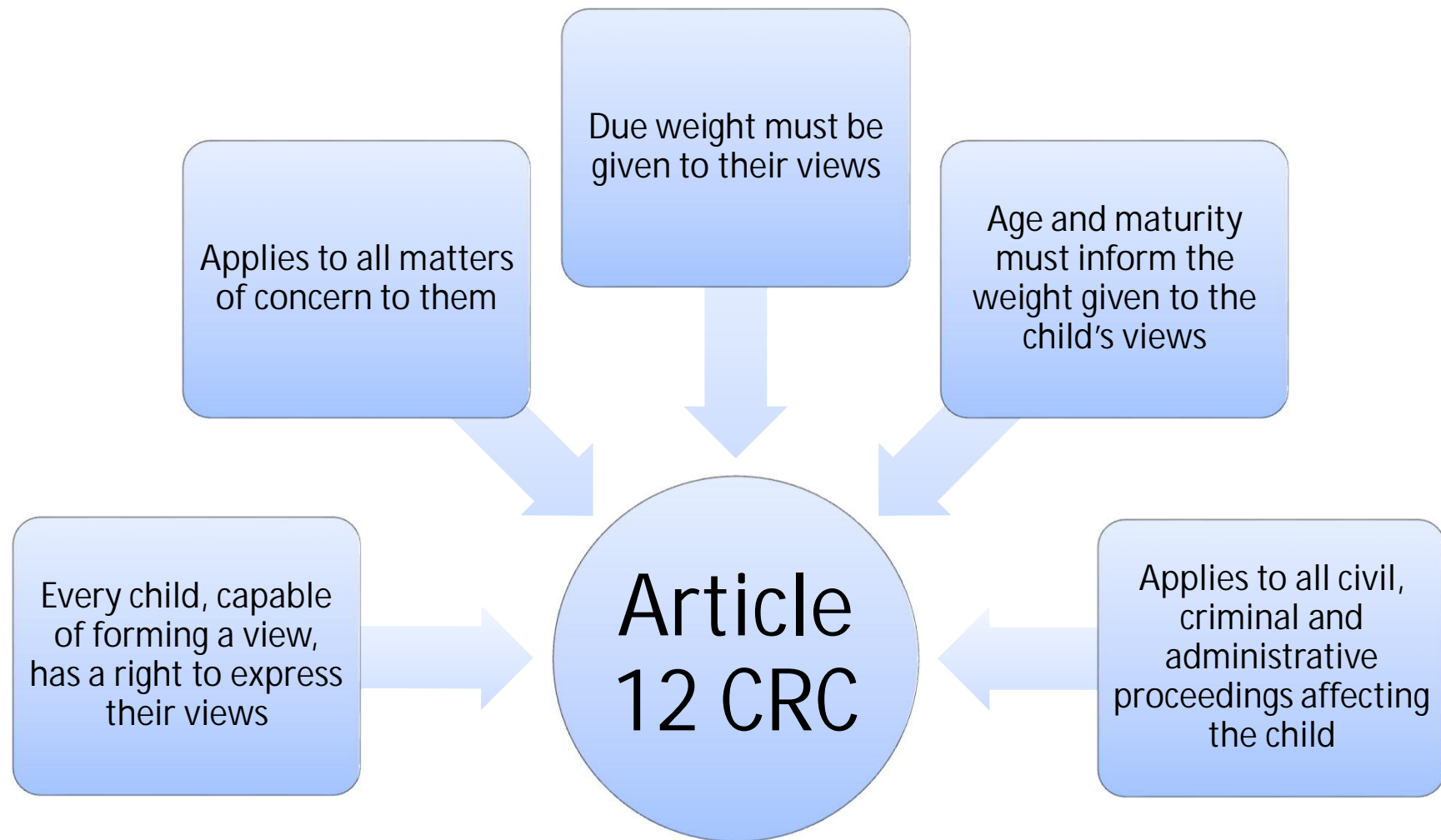
Article 12 of the Convention on the Rights of the Child

‘Every child capable of expressing views has the right to express those views in all matters affecting him or her and to have them given due weight in accordance with the child’s age and maturity’.

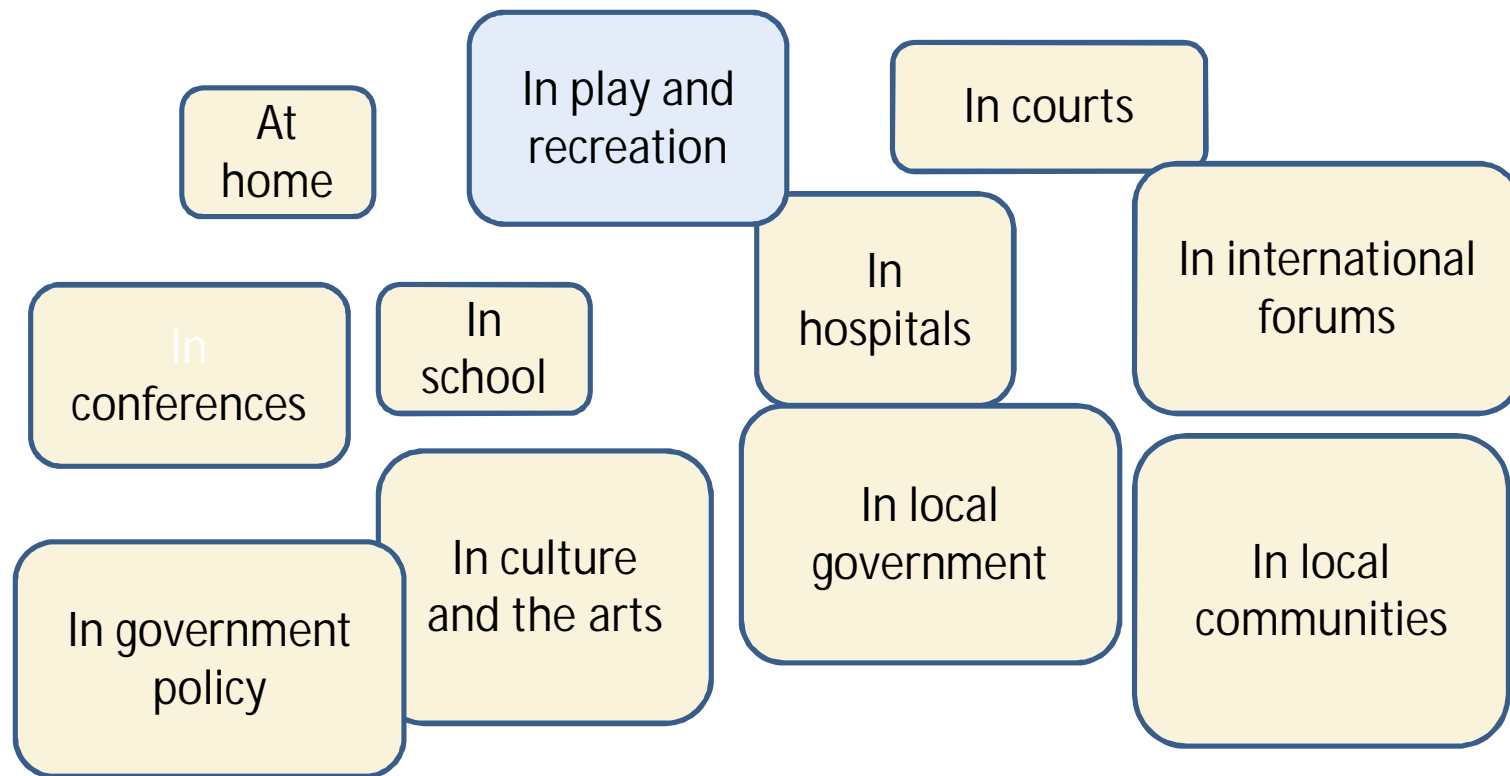
What is participation?

- Right to be heard - a fundamental value of the CRC
- An entitlement - not a privilege
- Embodied in a cluster of articles recognising child as a social actor – Articles 5, 12 – 17
- Article 12 - both a substantive right and a general principle to inform the realisation of all other rights - a means and an end
- Applies to children as individuals and as a constituency

Unpacking Article 12



Where it takes place

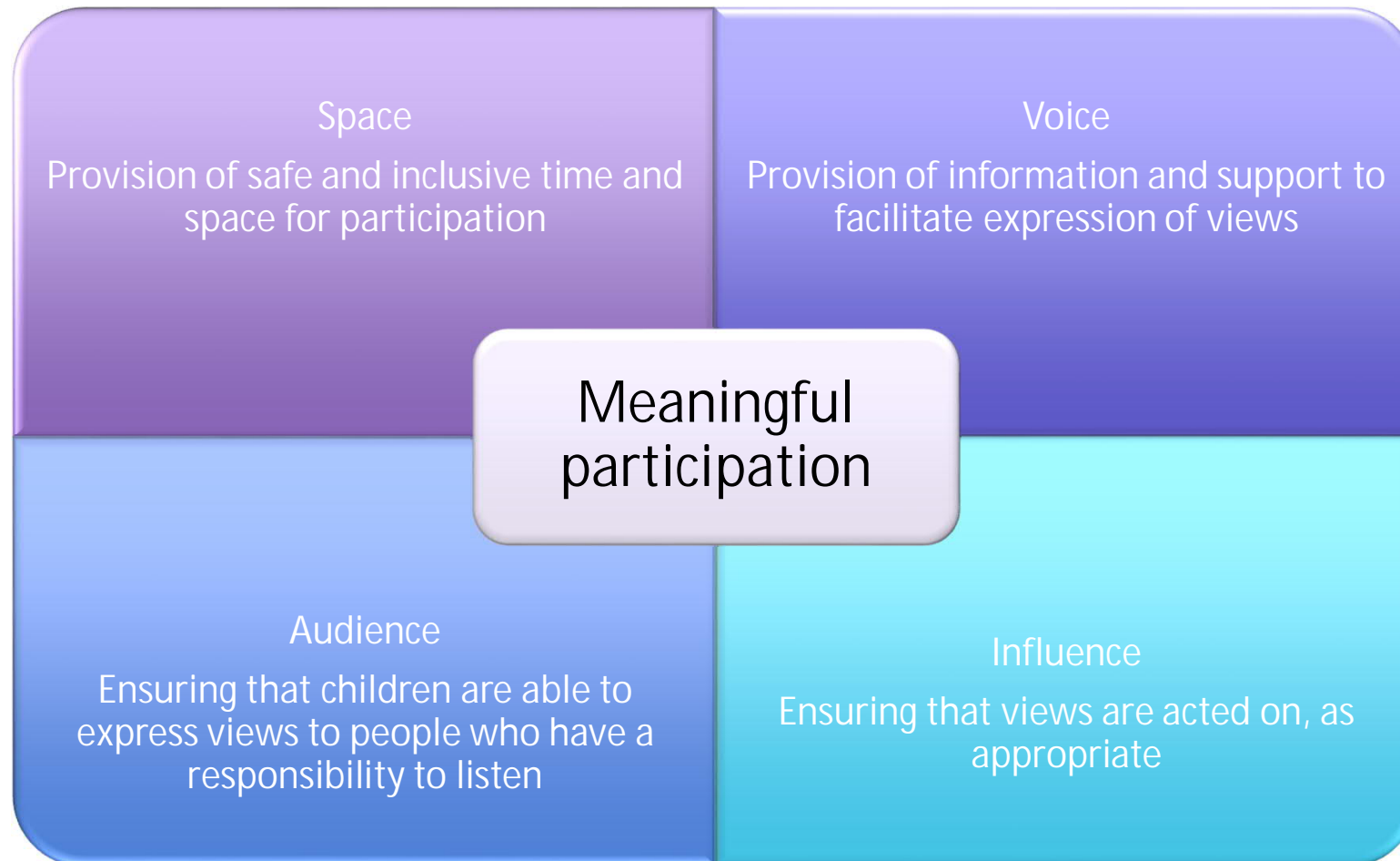


In other words, potentially all children, wherever they are

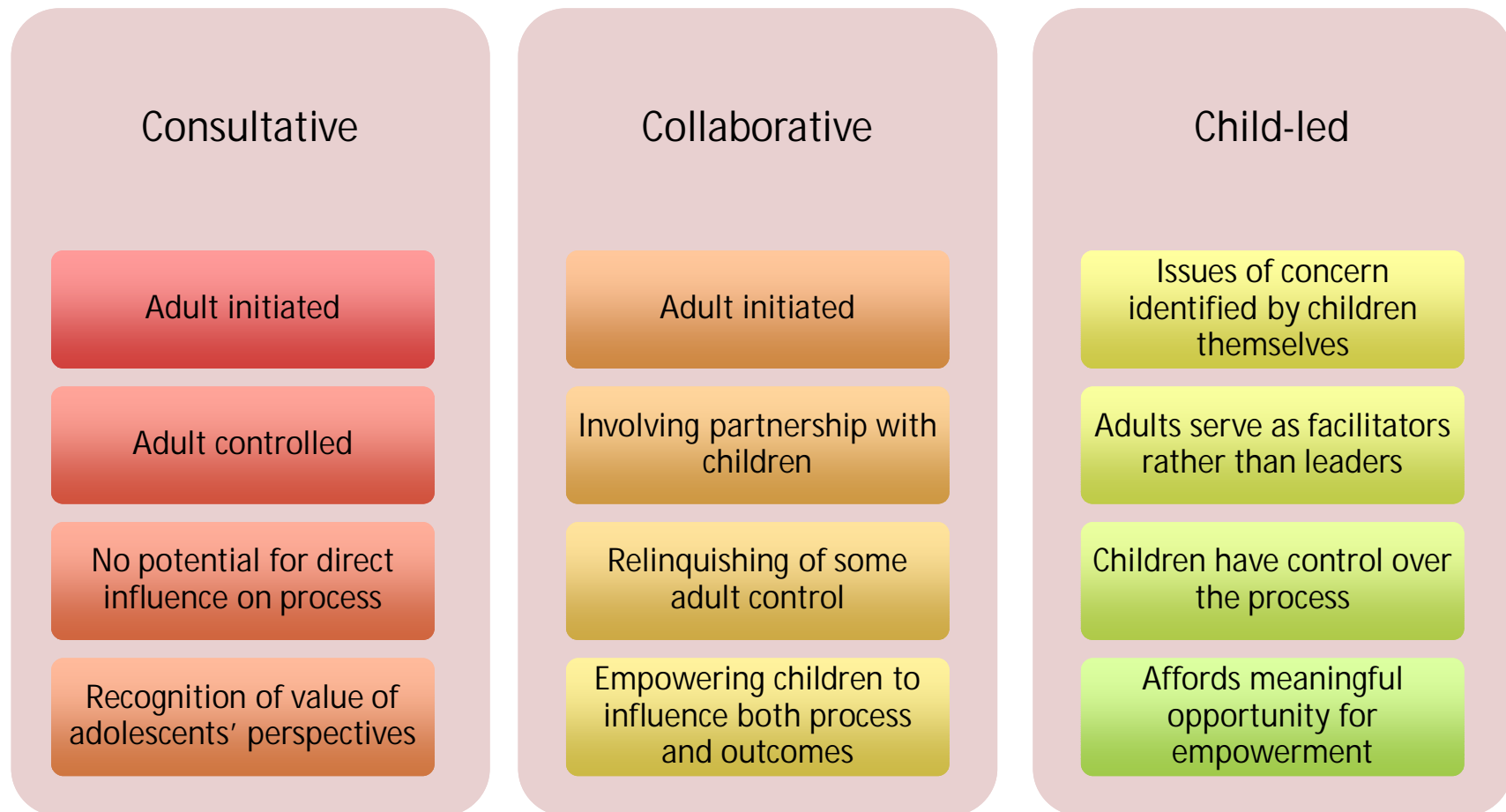
What does participation look like



Features of meaningful participation



Levels of participation



Ensuring ethical and quality participation

Children's
experience

- Respectful
- Relevant
- Voluntary
- Transparent and informative

Adults
commitments

- Supported by training
- Accountable

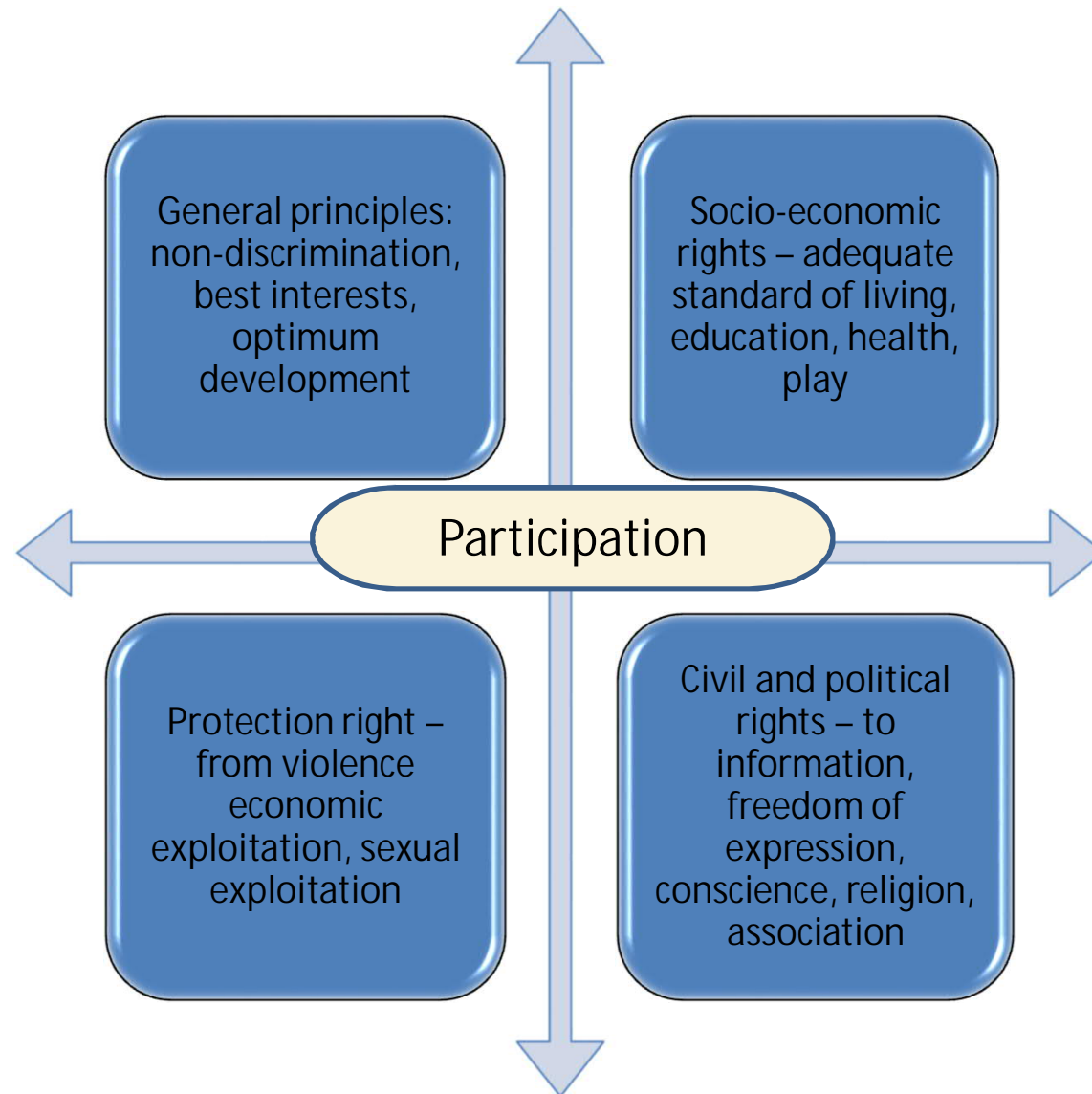
Nature of
environment

- Inclusive
- Child-friendly
- Safe and sensitive to risk

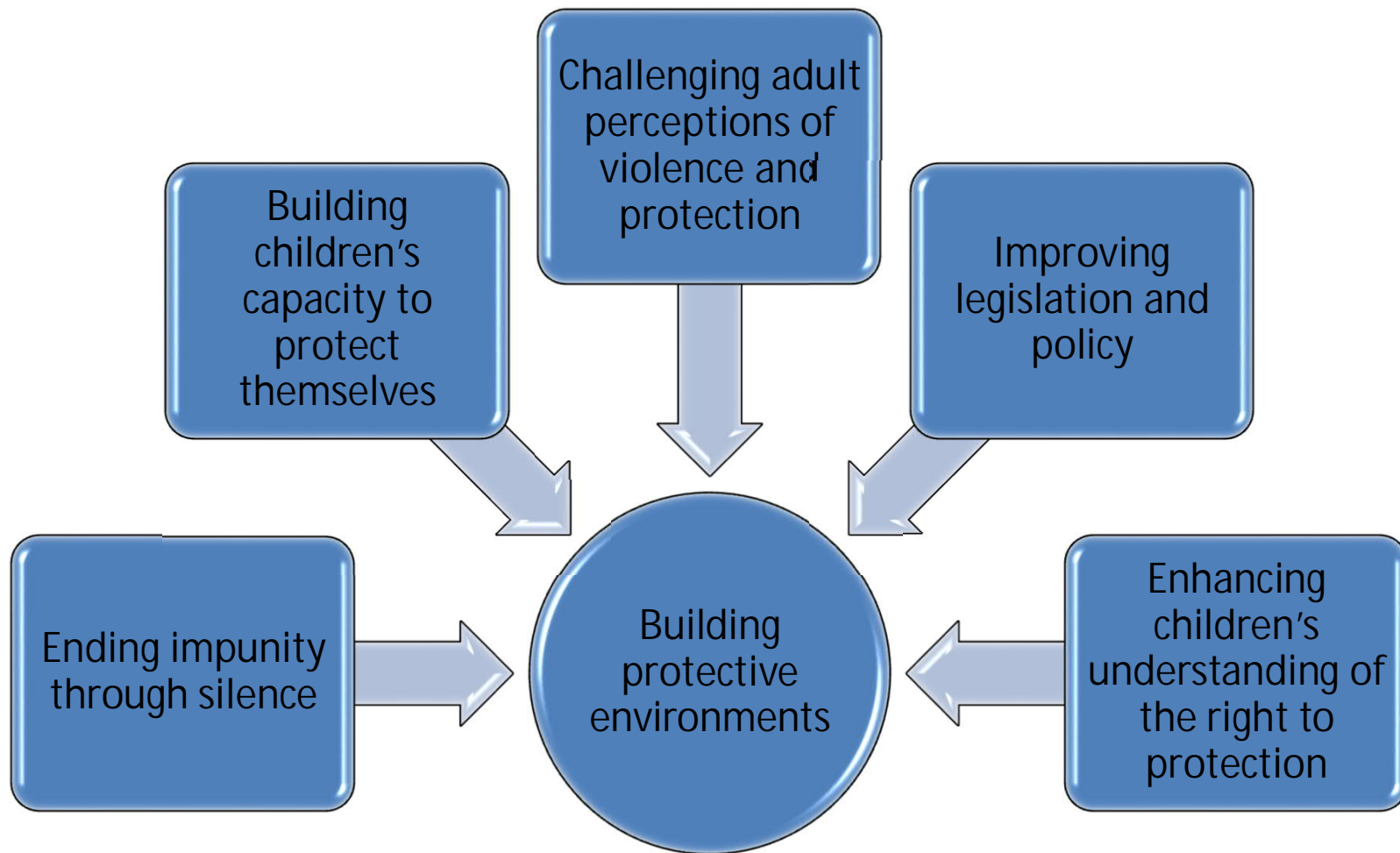
Why it matters

- ✓ Recognition of human dignity
- ✓ Building self esteem and confidence
- ✓ Enhancing decision-making
- ✓ Strengthening protection
- ✓ Promoting capacities for civic engagement, tolerance, peace-building and respect for others
- ✓And a means of realising rights

Participation necessary for other CRC rights



Example: Participation essential for protection



Some key challenges....

- Focus tends to be short term projects rather than sustained entitlement
- Presumptions of incapacity
- Exclusion and discrimination of many groups
- Lack of awareness and capacity among adults
- Lack of tools for promoting implementation

Child Participation & Council of Europe



Anne Crowley

Council of Europe

Committee of Ministers:

- Recommendation Rec (2012)2
Participation of children under 18 years
- Recommendation Rec (2010)7 on the Council of Europe Charter
on Education for Democratic Citizenship and Human Rights
Education

Congress:

- Recommendation 128 (2003) on the revised European Charter on
the participation of young people in local and regional life

Strategy for the Rights of the Child (2016-2021)



Council of Europe

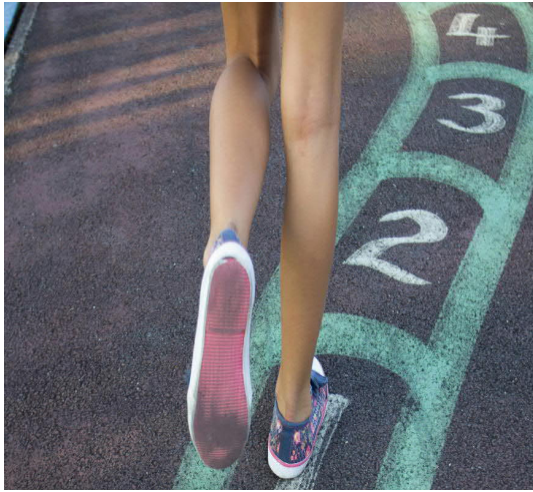
Recommendation CM/Rec (2012)2 Participation of children under 18 years

- Recognition of Article 12 both as a fundamental right and as a general principle of the UNCRC
- Recognition that Article 12 is linked with all other articles of the UNCRC and in particular:
 - General principles, articles, 2,3 and 6
 - Evolving capacities, article 5
 - Broader civil rights, articles 13,14, 15, 16, 17

Council of Europe definition of child participation

'individual or groups of children (have) the right, the means, the space, the opportunity and, where necessary, the support to freely express their views, to be heard and to contribute to decision making on matters affecting them, their views being given due weight in accordance with their age and maturity.'





Child Participation Assessment Tool

Development and Rationale

Why do we need an assessment tool?

- CoE Recommendation adopted - but achieving systemic change on child participation more difficult
- Continuing lack of understanding about what participation is or means
- Participation too often reliant on goodwill rather than measures to ensure entitlement
- Lack of tools currently available
- Need to provide indicators to enable governments to measure progress and be held to account

Piloting

- Tool piloted in three countries in 2015
- Revised
- Developed implementation guide (including Guidance on process, FAQs, Links to UNCRC monitoring, Roadmap)
- Launched in April 2016 as element of the Council of Europe's Strategy for the Rights of the Child

Aim of the Child Participation Assessment Tool

To enable countries to undertake a baseline assessment of current implementation



To help identify measures needed to achieve further compliance



To provide benchmarks to measure progress over time



To strengthen monitoring and accountability

?

Introduction to the Child Participation Assessment Tool



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Structure of the assessment tool

10 Indicators

- Structural indicators e.g. laws and policies
- Process indicators e.g. training, measures to implement policies
- (no outcome indicators)

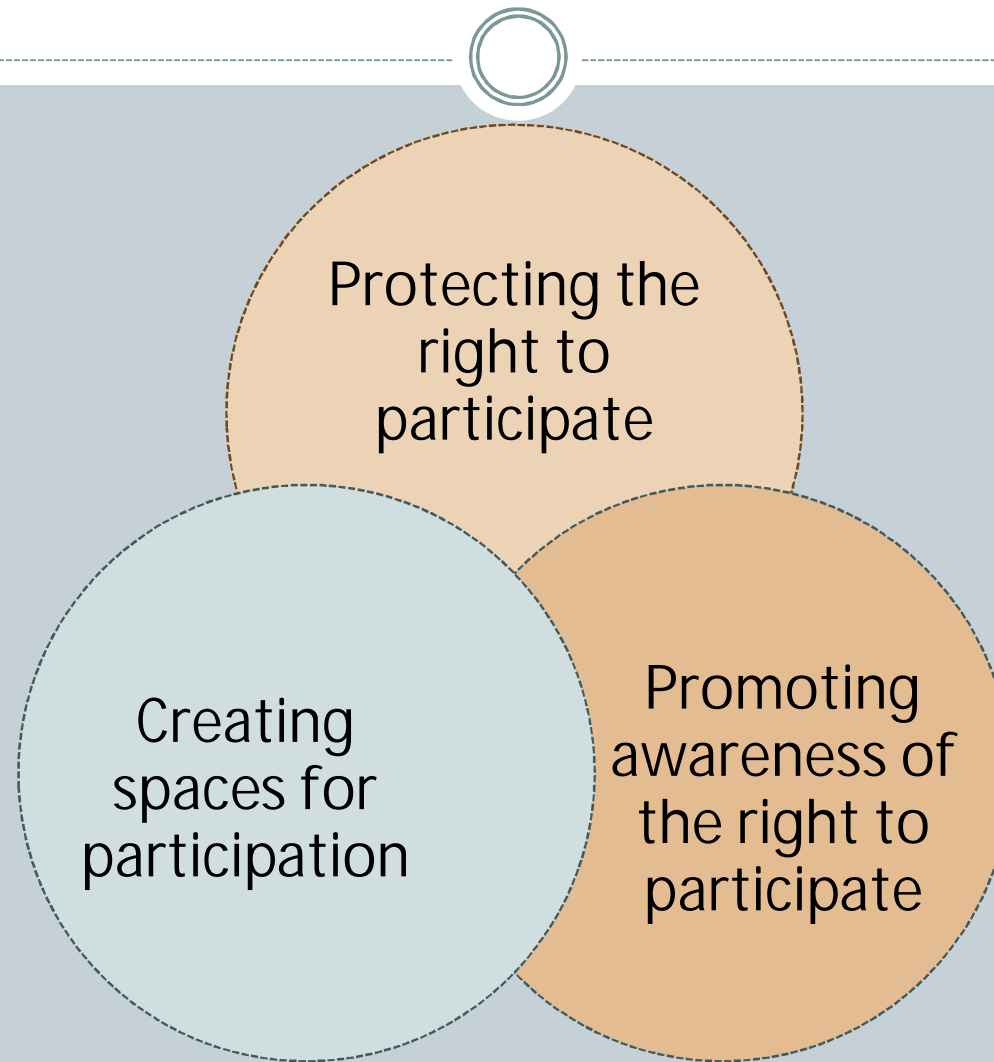
Data sources

- Constitutions, laws, policies, strategies
- Qualitative research, Eurobarometer surveys, NGO reports
- Monitoring reports, CRC Concluding observations

Assessment criteria

- Graduated criteria from 0-3
- Aim to enable tracking of progress
- Need for disaggregation

The 10 indicators fall into 3 clusters



Protecting the right to participate



1. Legal protection for children's right to participate is reflected in the national Constitution and legislation.
2. Explicit inclusion of child participation in a cross-sectoral national strategy to implement children's rights.
3. An independent children's rights institution is in place and protected by law.
4. Existence of mechanisms to enable children to exercise their right to participate safely in judicial and administrative proceedings.
5. Child friendly complaints procedures are in place.

Promoting awareness of the right to participate



6. Children's right to participate in decision-making is embedded in training programmes for professionals working with and for children.
7. Children are provided with information about their right to participate in decision-making.

Creating spaces for participation



8. Children are represented in forums, including through their own organisations, at school, local, regional and national governance level.
9. Child-targeted feedback mechanisms on public services are in place.
10. Children are supported to participate in the monitoring of the UNCRC and CRC shadow reporting, and relevant CoE instruments and conventions.

EXAMPLE: Indicator 4 - Existence of mechanisms to enable children to exercise their right to participate safely in judicial and administrative proceedings

Definition

Children who come into contact with the justice system should be informed of their rights, have free access to a lawyer, be heard and taken seriously, and have decisions affecting them explained in a way that they can understand. These provisions should be available to children in criminal justice proceedings, family law proceedings, care and protection and immigration proceedings

Data Sources

Key legal and policy instruments; UNCRC monitoring reports and concluding observations; European Commission for the Efficiency of Justice monitoring reports on efficiency and quality of justice; Eurobarometer surveys; FRA and European Commission data on Child Friendly Justice.

Assessment criteria

0= No direct access to the courts for children

1= Rules and procedures to ensure access to information on rights, to free access to a lawyer, and to be heard in judicial proceedings and to have decisions explained to them in a way they can understand are being applied in one of the judicial or administrative settings listed.

2= Rules and procedures to ensure access to information on rights, to free access to a lawyer, and to be heard in judicial proceedings are being applied in at least two of the judicial or administrative settings listed.

3= Full implementation of the Council of Europe Child Friendly Justice guidelines has been achieved in all of the specified judicial and administrative settings.

EXAMPLE: Indicator 5 – Child-friendly individual complaints procedures are in place

Definition

Complaints procedures are mandated by law, and are child-friendly and easily accessible to all children in a range of contexts, notably in schools and education settings, care and protection, health, criminal proceedings, family law proceedings, immigration proceedings. To be child-friendly, a complaints procedure must be safe and accessible, provide information in accessible formats, create effective referral and feedback mechanisms.

Data Sources

National law; Legal and policy instruments in the field of family law, education, health care, juvenile justice, social welfare, housing, immigration; Qualitative research available

Assessment criteria

0= No complaints or feedback mechanisms in place in any of the areas specified

1= Child-friendly complaints procedures are in place in two of the areas specified.

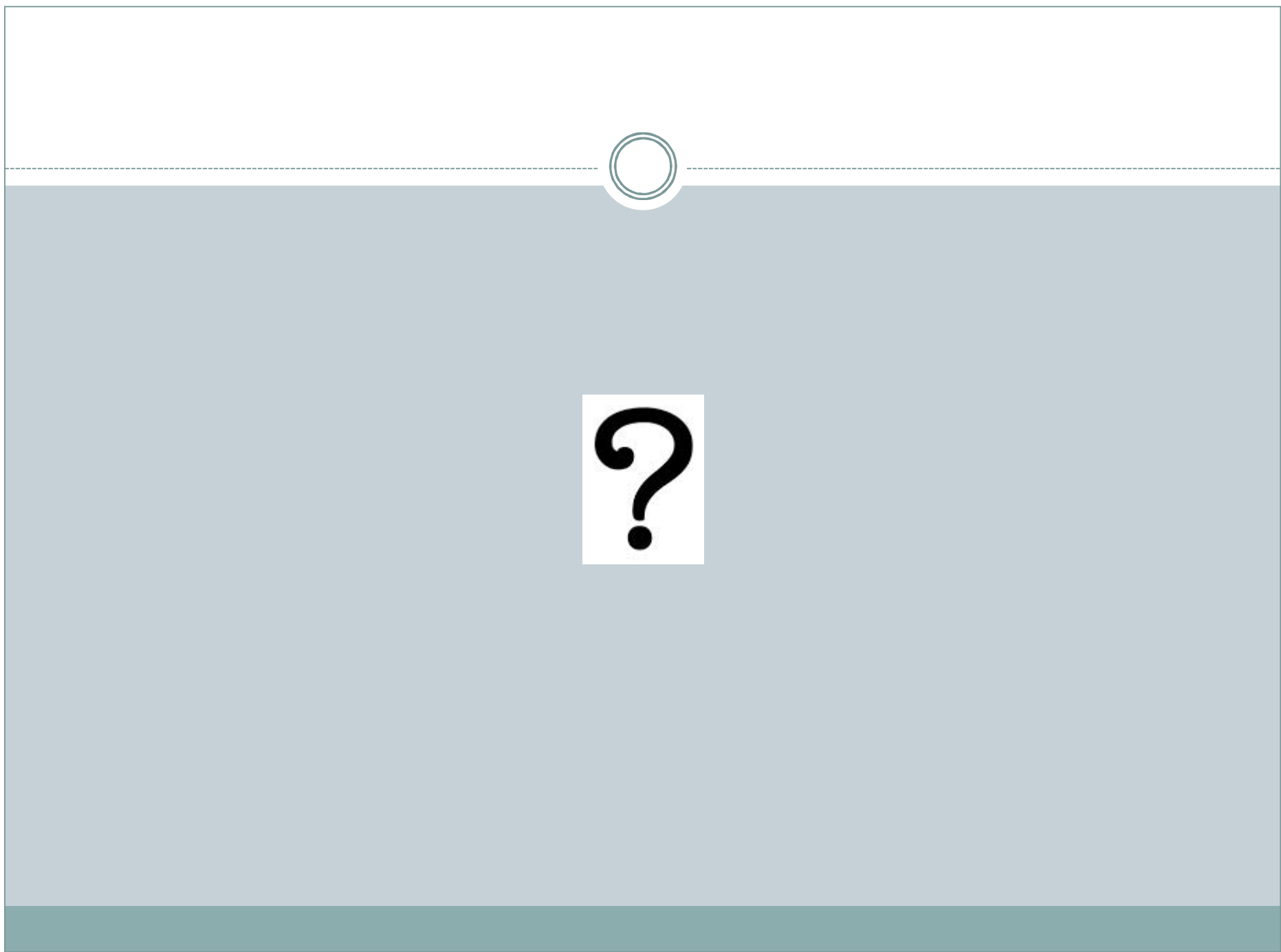
2= Child friendly complaints procedures are in place in four of the areas specified

3= Child friendly complaints procedures are mandated by law and easily accessible to all children across all of the areas specified. Children are provided with information about their right to complain and receive help and support to pursue a complaint in accordance with their age and capacity.

Concluding comments



- Thirty years since CRC adoption by UN and only limited progress globally in development of indicators on participation
- Child Participation Assessment Tool is a resource for governments, researchers, and civil society
- Will also facilitate reporting to the Committee on the Rights of the Child



Funky Dragon, Wales, UK

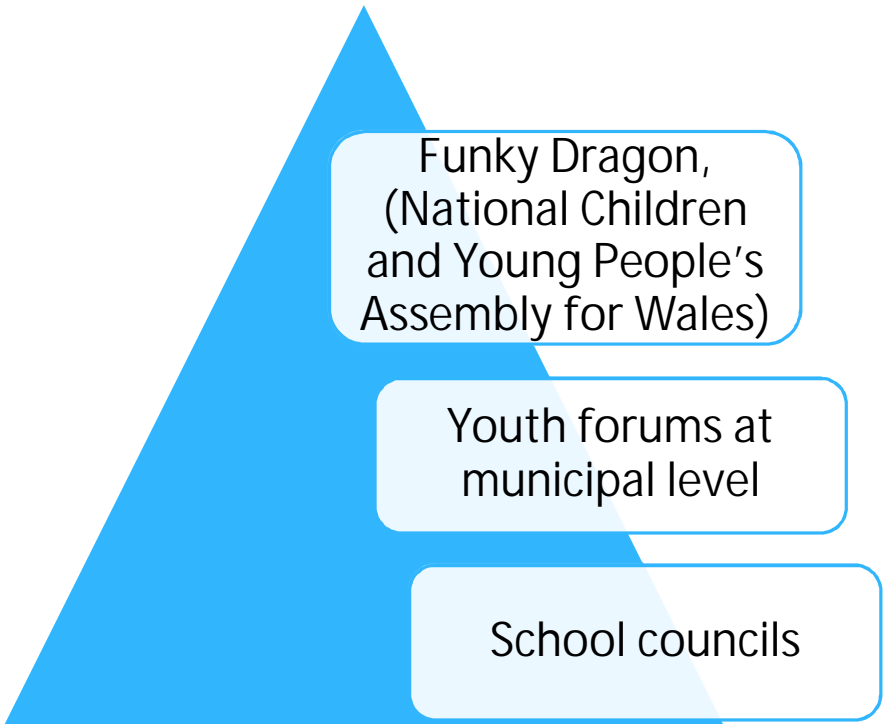
Child participation case
study

Gerison Lansdown

Background

- * Devolved government for Wales in 1998
- * Opportunity to develop its own Assembly
- * Expose of serious physical and sexual abuse of children in care homes in Wales dating back many years
- * Failure to listen to children had contributed to the silencing of abuse and its continuation
- * Recognition of the need to address the problem in Wales – and give children a voice

Measures introduced to promote children's participation



Funky Dragon,
(National Children
and Young People's
Assembly for Wales)

Youth forums at
municipal level

School councils

How these initiatives relate to the Assessment Tool

School councils

Indicator 1: legal framework

Indicator 8: represented in forums at all levels

Indicator 9: feedback mechanisms on public services in place

Youth forums

Indicator 1: legal framework

Indicator 8: represented in forums at all levels

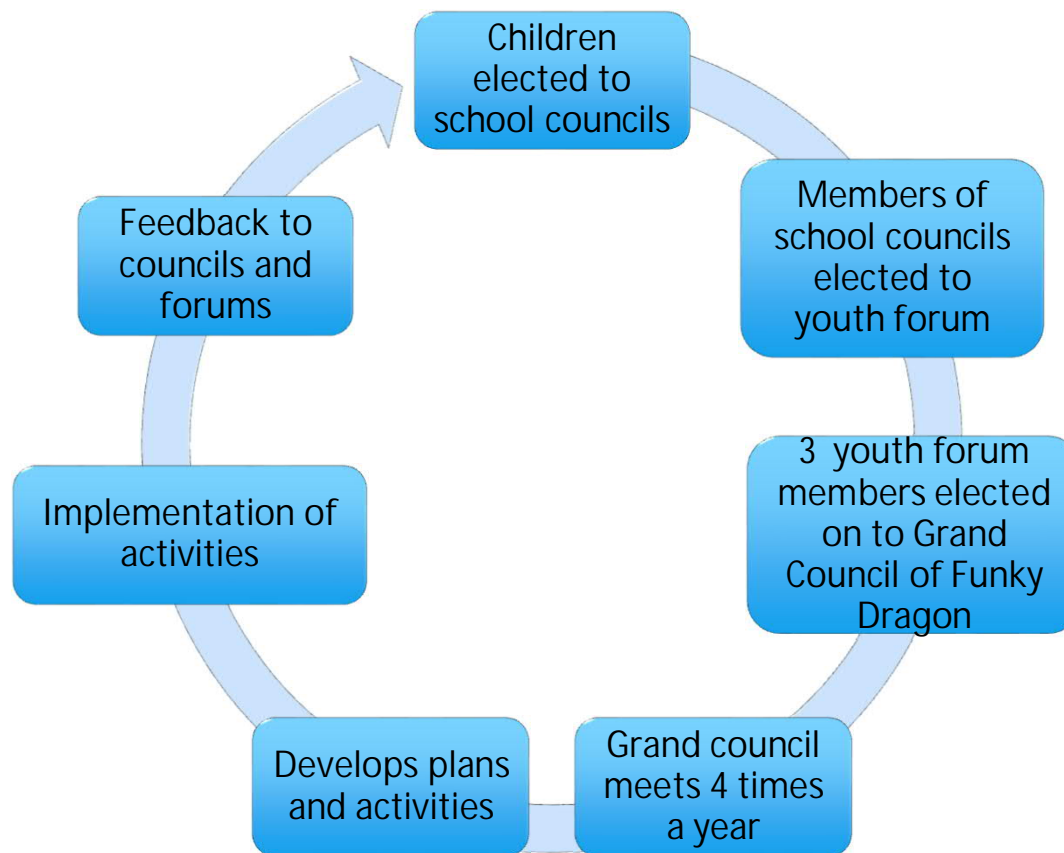
Indicator 9: feedback mechanisms on public services in place

Funky Dragon

Indicator 8: represented in forums at all levels

Indicator 9: feedback mechanisms on public services in place

How did it work?



Role of Funky Dragon

- * Contribute to policies affecting children and young people
- * Raise awareness of children's right to participation as set out in the UNCRC;
- * Enable children and young people to have a voice in the Welsh Government;
- * Enable the collective voices of children and young people to be heard nationally by Ministers;
- * Promote meaningful and effective participation through the sharing of good practice.

Illustrative examples of activities

- * Research with children 7-10 years for CRC report
- * Research into children's experience of bullying
- * Production of accessible and attractive materials on rights for children of different ages
- * Communication with children and young people through Youtube, Twitter, Facebook
- * Training for children and young people on CRC
- * Regular meetings with Ministers and parliamentarians
- * Feedback of proposed government policy and legislation

Examples of impact of Funky Dragon

- * Development of regulations requiring all schools in Wales to establish school councils
- * Pupil complaints procedure support (Indicator 5)
- * Contribution to the sexual health strategy
- * Help with travel costs for students
- * Introduction and development of anti-bullying strategy

Current situation

Funky Dragon closed after funding withdrawn October 2014

Why?

- * Government wanted to make cuts
- * Indicator 1 not complied with – no legal status
- * No security of status
- * Vulnerable to government change of heart
- * Highlights importance of compliance with all indicators in assessment tool



Youth councils in Dutch youth care institutions

Child Participation Case Study

Anne Crowley

Case study – the Netherlands

- * Closed youth care institution – 2 boys, Ivo (16) and Stephan (15) live in the institution due to a court order.
- * Ivo and Stephan are members of the youth council in the institution and represent the interests of all boys in the institution.
- * Selection for the youth council is done by the boys who are already members



Dutch National Youth Council

- * Training children and young people in youth care institutions to set up youth councils within their institutions

Skills learned :

- * Develop arguments to convince the management
- * Find compromises
- * Socialize



Youth Care and Juvenile Justice Institutions in the Netherlands

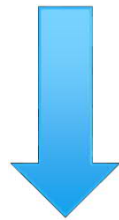
Legal requirement that Youth Care and Juvenile Justice
Institutions have a Youth Council



Meeting Indicator 1 of the CPA tool:
'Legal protection for children's right to participate is reflected
in the national constitution and legislation'

Training provided to young people and staff

Staff are trained to support the young people participating in the youth council



Indicator 6: 'Training in child participation is embedded in training programmes for professionals working with and for children' – for residential workers

Young people trained on how to participate in a youth council and provided with information about their right to participate



Indicator 7: 'Children are provided with information about their right to participate'

Youth Council provides feedback to management of Institution

The Youth Council is a means to provide feedback to the institution about the services they deliver. Several of the changes in the institution have been achieved due to the arguments of the youth council.



Indicator 9: 'Child-targeted public service feedback mechanisms are in place'



Implementation of the Child Participation Assessment Tool

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Supporting implementation of the Tool

Detailed guidance provided including:

- Fact sheet
- Frequently asked questions
- Guidance note on collecting evidence
- Roadmap providing timetable and process

Support Round:

- co-funding and consultants

Roadmap for assessment: 1 Year

Three Phases:

1. Preparatory Phase – translation materials; appointment of national consultant and facilitators; prepare training and induction seminar (2 months)
2. Implementation Phase – Multi-stakeholder consultations, children's consultations (9 months)
3. Concluding and Evaluation Phase – Collection of national data; national report; Evaluation meeting; action plan (2 months)

1 Preparatory Phase: National authority

- Translation of CPA Tool and supporting materials (guidance note, guidance for children's facilitators) – ready by induction seminar
- Appointment of responsible person in Ministry and a national consultant
- Appointment of children's facilitators
- Preparation of Training and Induction Seminar – invite relevant stakeholders - Open Call Induction Seminar (option to include training on child participation) : minimum 1 day; 25-30 participants

2 Implementation Phase: National consultant

Guidance Note providing directions on each of the ten indicators:

- What evidence needs to be collected?
- Which stakeholders will be involved?
- Which methodology needs to be used for the different indicators?:
 - children's consultations
 - research and data collection
 - meetings of professionals



Issues to consider

- Gather information from a range of different sources across the whole assessment
- Identify and record gaps in information: consider to include in action plan and next steps
- Be aware that children and young people increasingly use online and social media in engaging in decision-making

2 Implementation Phase (cont)

Multi-stakeholder consultations:

- Line Ministries and government agencies
- Professionals and their organisations working with/for children
- Legal professional working with/for children
- NGOs and civil society
- Children's Ombudsperson(if this exists)

Children's consultations:

- Children's Focus Groups



Children's Focus Groups Consultations

- Minimum of 10 Focus groups
 - ✓ each involving around 15-20 children
 - ✓ Minimum half to one day
 - ✓ 5 groups from primary and secondary schools
 - ✓ 5 groups with involvement of NGOs
 - ✓ led by experienced children's facilitator
- Selection of children
 - ✓ in cooperation with schools and NGOs
 - ✓ ensure inclusion of disadvantaged children by cooperation with NGOs with specific expertise in working with these groups
- Indicators for focus groups
 - ✓ Children's commissioner(3)
 - ✓ Child friendly complaints (5)
 - ✓ Information about rights (7)
 - ✓ Represented in forums (8)
 - ✓ Feedback mechanisms (9)
 - ✓ International reporting (10)
- Focus group report
 - ✓ Information on the group – age, numbers, context
 - ✓ Methodology
 - ✓ Outcomes
 - ✓ Evaluation method and reporting back

Good practice for children's participation in focus group meeting

Compliance with 9 basic requirements for quality and ethical participation

- Relevant
- Transparent
- Voluntary
- Inclusive
- Supported by training
- Safe
- Child friendly
- Respectful
- Accountable

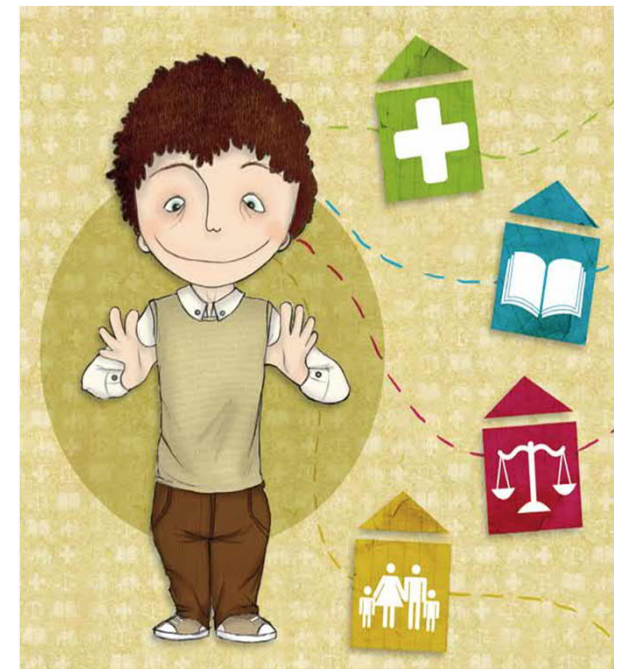


Suggested questions to be addressed in children's focus group consultations

- Indicator 3: Independent children's rights institution is in place: e.g. Do the children know the children's ombudsperson? Do they know how to get in touch with him/her? Do they know what s/he does?
- Indicator 5: Child-friendly individual complaints procedures are in place: e.g. Are they aware of complaints procedures and how to access them? Would they be confident to use them?
- Indicator 7: Children are provided with information about their right to participate in decision-making: e.g. Did the children learn about child participation at primary or secondary school? Is the issue of rights incorporated into the wider curriculum?
- Indicator 8: Children and young people are represented in forums: e.g. Can the children say if they are members of school councils, local youth councils, etc? Do those forums take children seriously? Are they democratic?
- Indicator 9: Child-targeted feedback mechanisms on local authority services are in place: e.g. Are the children aware that they can give feedback to local authorities about services, such as education/schools; recreation/sports; child protection services? Have they ever done so and if yes, what was the outcome?
- Indicator 10: Monitoring the CRC: e.g. Are children consulted in the governments report to the CRC Committee? Have they ever produced their own report?

Consultation meetings with different stakeholders on specific indicators

- Professionals working with children, including teachers and social workers (on indicators 3 and 5)
- Legal professionals working with or for children (on indicator 4)
- Professionals in the area of law, education, health, social workers, responsible for immigration procedures and government officials responsible for housing (indicators 5 and 6, 7)
- Civil society (in particular NGOs) (indicators 7, 8, 9 and 10).



3 Concluding and Evaluation Phase: National authority and national consultant

- Collection of National Data from stakeholders consultations, desk research, children's focus groups (to be sent to national consultant) (by end of month 10)
- Compilation of National Report (by national consultant)
- Evaluation meeting: to present the national report to all stakeholders involved; discuss key outcomes and proposals for moving forward
- Provide feedback of the outcomes to the children who have been consulted

Reporting Guidelines for National Reports

- Executive summary: 2-3 pages
- Introduction: 1 page
- The assessment process: this section should briefly describe the assessment process, giving details of the timeline and the methods: 2 pages
- Outcomes of the Child Participation Assessment process: 10-15 pages. This section should include for each of 10 indicators:
 - The assessment rating
 - Comments and observations
 - Examples of good practice
 - Follow up proposals/plans of action.
- The action plan: 1-2 pages
- Conclusions: 1 page
- Appendixes: 2-3 pages



- Council of Europe Children's Rights Division
- External Consultants
- 6 countries have already done the assessment: Estonia, Ireland, Romania, Latvia, Bulgaria and Italy
- www.coe.int/en/web/children/participation

Questions



Working Group Discussions

PROTECTING THE RIGHT TO PARTICIPATE
1. Legal protection for children and young people's right to participate in decision-making is reflected in the national Constitution and legislation
2. Explicit inclusion of children and young people's right to participate in decision-making in a cross-sectorial national strategy to implement children's rights
3. An independent children's rights institution is in place and protected by law
4. Existence of mechanisms to enable children to exercise their right to participate safely in judicial and administrative proceedings
5. Child friendly complaints procedures are in place
PROMOTING AWARENESS OF THE RIGHT TO PARTICIPATE
6. Training in children and young people's right to participate in decision-making is embedded in training programmes for professionals working with and for children
7. Children are provided with information about their right to participate
CREATING SPACES FOR PARTICIPATION
8. Children are represented in forums, including through their own organisations, at local, regional and national governance levels
9. Child-targeted feedback mechanisms on local services are in place
10. Children are supported to participate in monitoring the UNCRC and CRC shadow reporting, and relevant CoE instruments and conventions (hereinafter called: children's rights instruments)

TASK

Please take Indicator number(s) _____ and discuss:

- a) How far do you think it is implemented in Finland
- b) How might you go about collecting data?
- c) What difficulties do you anticipate?
- d) How might those difficulties be overcome?