

ELL(2) 03-036(p1) Annex B

CLYWCH

The Children's Commissioner for Wales' report of his examination into allegations of child sexual abuse in a school setting.

THE RESPONSE OF THE WELSH ASSEMBLY GOVERNMENT

An updated response presented to the Education & Lifelong Learning Committee on 8 February 2006

PART 1: Recommendations specifically directed to the Welsh Assembly Government

21.3 I recommend that the Welsh Assembly Government and the General Teaching Council for Wales and the DfES take steps to ensure that teachers receive specialist input in their professional qualifying training programme about the way in which abusers operate and that the findings of this report form part of that training, this recommendation to be implemented within 2 years of the publication of this report.

Current Position

The Assembly has consulted on revised Qualified Teacher Status (QTS) Standards that trainee teachers must meet; and revised requirements for the provision of initial teacher training (ITT) courses, incorporated in criteria for ITT accreditation by the Higher Education Funding Council for Wales. We also consulted on a draft information document "Becoming a Qualified Teacher" which sets out in one publication the QTS Standards and the requirements for the provision of ITT courses, provides some explanatory material and notes the statutory background; and a supporting draft circular "Becoming a Qualified Teacher: Handbook of Guidance" which contains non-statutory guidance on the aims and scope of both the QTS Standards and requirements for the provision of ITT.

The draft requirements for ITT courses specifically include a section which meets the Commissioner's recommendation 21.3. The draft handbook also covers this issue and provides information for ITT providers on particular areas of concern raised in the Commissioner's report. The consultation responses are now being analysed and we will be looking to make an announcement in the Spring.

In the meantime, we will keep in touch with colleagues in the other countries as we take forward the consultation responses; and all ITT providers in Wales have confirmed to us that they are following the principles set out in the recommendation.

21.5 I recommend that the Welsh Assembly Government issues guidance within 6 months of the publication of this report which requires the governors of all schools, whether they be community, voluntary aided, voluntary controlled, foundation or independent schools and further education colleges to have a whistleblowing policy in place and that all teachers and non teaching staff are informed as to its operation.

Current Position

FE Institutions already have whistleblowing guidance in place.

LEAs, as the employers of school staff in community and voluntary controlled schools, have been asked to submit copies of their whistleblowing policies to the Assembly Government. Some LEAs have made it clear in those policies that they apply to LEA based staff and school staff.

However, we have more work to do to prepare accessible material on whistleblowing for all governing bodies. A document will issue for consultation in spring 2006.

21.7 I recommend that the Welsh Assembly Government issue guidance within 12 months of the publication of this report on how allegations of child abuse made against teaching and non teaching staff should be investigated. The guidance should consider the:

(i) Joint NEOST /Teacher Union guidance on Education Staff and Child

Protection: Staff Facing an Allegation of Abuse

(ii) Practice Guide to Investigating Allegations of Abuse against a Professional or Carer in Relation to Looked After Children

(iii) All Wales ACPC Child Protection Procedures.

(iv) National Assembly for Wales Guidance 'Working Together to Safeguard Children'.

Current Position

NAfW Circular 45/2004 "Guidance on Staff Disciplinary Procedures" was issued to school governing bodies in November 2004.

We will be reviewing and revising Circular 45/2004 with a view to making more of the guidance statutory. Work on the revision of Circular 45/2004 must be undertaken alongside the progress of the "Staffing of Maintained Schools (Wales) Regulations 2006", which includes the two provisions

requiring governing bodies to appoint an independent investigator to investigate child protection allegations against staff and to appoint an independent non governor member with voting rights on staff dismissal/disciplinary committees and dismissal/disciplinary appeal committees in cases involving child protection matters. Consultation cannot commence until these provisions have been determined.

The revised guidance will also include those parts of the guidance issued by DfES on "Safeguarding Children in Education: Dealing with Allegations of Abuse Against Teachers" that deal with the non-devolved issues relating to the police and Crown Prosecution Service.

Work is due to commence on this review in February with a consultation on proposals in the Spring 2006.

21.8 I recommend:

(i) that the responsibility for deciding whether to lay charges and to proceed with an investigation and hearing becomes the responsibility of the local education authority, because of its relationship with teachers, non teaching staff and its membership of the Area Child Protection Committees in Wales.

(ii) where an investigation is commenced, it should be undertaken by a

specialist personnel officer of the local authority who should also present the case unless a solicitor or counsel is instructed.

(iii) that four new independent tribunals be established, covering four parts of Wales, chaired by a legally qualified person and having two other members one of whom will be a teachers' trades union nominee and the other a governor nominee to hear the evidence and to make findings of fact on the balance of probabilities. Those chairing such tribunals to be appointed by a process involving both teachers' trade unions and the local education authorities.

21.9 I recommend that the Welsh Assembly Government establish a task group within 6 months of the publication of this report, with representatives from all interested parties, charged with bringing forward a set of proposals to implement the recommendation I have made in respect of schools' disciplinary tribunals. The interested parties should include:

(i) all teachers' trade unions

(ii) governor representatives

(iii) local education authority officials

- (iv) child protection and legal experts
- (v) children and young people
- (vi) General Teaching Council representatives
- (vii) Welsh Local Government Association
- (viii) police.

Matters to be considered by the task group to include the threshold for referrals, appeals, tribunal rules, the interrelationship with police investigations and the recording of investigations on the files of teaching and non teaching staff.

Current Position

Consultation on the draft "Staffing of Maintained Schools (Wales) Regulations 2006" took place between 29 July and 28 October 2005. They are due to come into force on 1 April 2006. The proposed regulations include provisions requiring governing bodies to appoint an independent investigator to investigate child protection allegations against staff and to appoint an independent non governor member with voting rights for staff dismissal/disciplinary committees and dismissal/disciplinary appeal committee in cases involving child protection matters.

The Children's Commissioner had indicated he considered these proposals adequate alternatives to his recommendations on this issue.

35 responses to the consultation were received from LEAs, governing bodies, a governor association, teaching unions, a diocesan authority, Governors Wales, Estyn, the School Workload Advisory Panel and headteachers. In the main the proposals were supported in the consultation responses and have been included in the staffing regulations now proceeding through the Assembly's legislative procedures.

The "Staffing of Maintained Schools (Wales) Regulations 2006" are due to come into effect on 1 April 2006, except for the proposals relating to the independent investigation service, which are proposed to come into effect from 1 September 2006 to enable time for the service to be established.

21.12 I recommend that the Welsh Assembly Government, in partnership with the DfES, ACCAC and the equivalent qualifying curriculum and assessment authorities in Scotland, Northern Ireland and England, consider the role of examining bodies across the UK with regard to child protection arrangements within 12 months of the publication of this report.

Current Position

A steering group with representatives from the education departments and regulatory authorities in Wales, Scotland, England and Northern Ireland has met regularly and developed guidance for awarding bodies. The document was discussed with the Assistant Commissioner before its issue for wider consultation. Consultation on draft guidance on "The Role of Awarding Bodies in Child Protection" ended on 30 November 2005.

The final version of the guidance for awarding bodies will be issued shortly from the regulatory authorities in Wales, England and Northern Ireland and endorsed by the Scottish Qualifications Authority.

21.13 I recommend that the Welsh Assembly Government, in partnership with the DfES, ACCAC and the equivalent qualifying curriculum and assessment authorities in Scotland, Northern Ireland and England, consider the way in which drama is taught and examined in schools and further education colleges, with the aim of producing practice guidance within 2 years of the publication of this report that will include consideration of the following issues:

selection of appropriate drama texts in education and examinations;

adult participation in school drama and drama practical examinations;

(iii) safe teaching of drama, in particular the teacher's role in pupil improvisation and method acting;

(iv) venues and timings for drama examinations and rehearsals;

video recording of children and young people in drama rehearsals and practical examinations and the need to obtain parental consent

(vi) the practice of involving younger pupils in drama practical examinations of older pupils;

(vii) monitoring and sanctions in relation to the late submission of scripts for practical examination to examining boards;

(viii) express guidance relating to sexual content and language, intimate physical contact and nudity in drama practical examinations and lessons;

(ix) the duties of schools and college management in monitoring the implementation and observance of guidance.

Current Position

The guidance has been developed under the aegis of a steering group which includes representatives from the education departments and regulatory authorities in Wales, Scotland, England and Northern Ireland and also includes representatives of Estyn and the Social Services Inspectorate for Wales. To complement its work, the Welsh Assembly Government convened a seminar of experts in the field of drama to gain initial specialist practitioner input into guidance for the teaching of drama (and the expressive arts) in schools and colleges.

A draft of the guidance that will issue for full consultation in February was sent to the Children's Commissioner in December. We are on course to issue guidance to schools, colleges and other learning providers in the Summer.

21.14 I recommend that the Welsh Assembly Government issue guidance, within 12 months of the publication of this report, as to what information can be shared where there are allegations of child abuse whether or not findings have been made. Such guidance should include what information can be shared with the voluntary sector and any other body through which the individual has or may have access to children.

Current Position

The issue of sharing information was raised in the consultation on the establishment of Local Safeguarding Children's Boards. The draft guidance, which has been subject to extensive discussion with the relevant agencies, is now likely to be published in March/April 2006 alongside the regulations that are needed to enable the Boards to be established.

Because of the many issues that have had to be addressed in the establishment of Safeguarding Boards, the date for the establishment of Boards has been postponed to 1 October 2006, subject to the Assembly agreeing the draft regulations. Regulations and guidance will, however, be published some months in advance of the date by which Boards must be established.

21.17 I recommend the Welsh Assembly Government review the Children (Performances) Regulations 1968 and the guidance thereto so as to address the weaknesses outlined in my report in the current

arrangements for safeguarding the welfare of children in Wales when performing in television or other media, within 12 months of the publication of this report.

Current Position

The proposed review is under way. Draft regulations are being finalised and will be issued for consultation shortly.

21.18 I recommend local education authorities to be issued with guidance by the Welsh Assembly Government on best practice to fulfil their current duties and responsibilities under the Children (Performances) Regulations 1968 within 6 months of the publication of this report.

Current Position

A consultation paper proposing best practice guidance for LEAs on discharging their duties under the Children (Performances) Regulations 1968 was issued in July last year and replies were sought by September. Final guidance is being prepared in the light of the replies received for issue in February 2006.

21.25 I recommend that the Welsh Assembly Government's "Guidance on Procedures for Dealing With Complaints to Governing Bodies" be amended to include clear and unambiguous guidance on the responsibilities of relevant parties if complaints raise child protection concerns.

21.26 I recommend that the Welsh Assembly Government's "Guidance on Procedures for Dealing With Complaints to Governing Bodies" is amended to make it clear that the Children's Commissioner for Wales has powers, under the Care Standards Act 2000 and the Children's Commissioner for Wales Act 2001, to review complaints procedures in schools and to review individual cases.

21.27 The Welsh Assembly Government's "Guidance on Procedures for Dealing With Complaints to Governing Bodies" shows an awareness of the difficulties in achieving sufficient independence in all stages of the investigative process of a complaint and in adjudication in schools, especially small schools. I share this concern but remain unconvinced that the remedies proposed will prove practicable and effective. Nonetheless, I feel the arrangements proposed should, amended as I have suggested, be given the chance to be tested and therefore that they, together with "Complaints Involving Pupils" should be issued as statutory guidance without delay and not later than 1 September 2004. My office will conduct a Review of these arrangements after they have been in force for 1 year.

21.28 I recommend that the Welsh Assembly Government takes the necessary steps to ensure that all the proposals within its consultation document 'Procedures for Complaints involving Pupils' are placed on a statutory footing.

Current Position

Responses to the consultation on guidance for governing bodies on handling complaints involving pupils are currently being analysed. This work is due to be finalised in February/March 2006 with the document being issued to schools in April 2006.

This consultation also sought views to putting more of the guidance contained in Circular 03/2004 "School Governing Bodies Complaints Procedures" on a statutory basis. This issue is also being considered.

To address some of the Children's Commissioner's specific concerns relating to our complaints procedure guidance, we will be highlighting that complaints received in schools involving child protection issues should be dealt with via the governing body's staff disciplinary procedures and not as a general complaint.

We will also be looking at merging the guidance for governing bodies on dealing with complaints involving pupils with the general complaints procedures guidance into one comprehensive document, including a model complaints procedure, and at putting more of the guidance on a statutory basis in due course.

21.29 I recommend that the Welsh Assembly Government devise a national strategy for the provision of an independent children's counselling service for children and young people in education including provision of appropriate support to children during disciplinary, child protection, complaints and exclusion processes within 12 months of the publication of this report. This national strategy should also consider teachers' pastoral care skills, training and support and the respective roles within pastoral care of teaching staff, counsellors and educational welfare staff.

Current Position

I accepted the recommendation from the Clywch Inquiry that the Welsh Assembly Government should develop a national strategy on counselling for school pupils. As a starting point we have undertaken an initial scoping exercise to look at the effectiveness and current provision in Wales. The Welsh Assembly Government has also set aside £200,000 for the next three years to try out initial approaches to developing counselling throughout Wales.

I will be reporting to the Education and Lifelong Learning Committee in March on the initial scoping exercise, our suggested approach to developing a national strategy and our intentions on the use of the additional funding.

21.30 I recommend that the Welsh Assembly Government within 3 months of the publication of this report require all school governing bodies to ensure that children are informed in their school of the availability and purpose of relevant services, including ChildLine, the NSPCC Child Protection Helpline, Social Services, the Children's Commissioner for Wales and advocacy services.

Current Position

The forthcoming guidance on handling complaints involving pupils will provide information on advocacy and related matters. It will be issued no later than April 2006.

Part 2: Recommendations not directed principally to the Welsh Assembly Government but where we have a substantial involvement with associated guidance.

21.1 I recommend that in any child protection investigation the wishes and views of the child about the conduct of the interview, including their wishes about the nature of the support they prefer, are always sensitively ascertained and recorded and form part of the interview planning process and that the All Wales Child Protection Procedures are amended accordingly within 12 months of the publication of this report.

21.2 I recommend that consideration always be given by the police to informing a child of the outcome of a police investigation, taking great care to explain what has happened and that the All Wales Child Protection Procedures are amended accordingly within 12 months of the publication of this report.

21.21 I recommend to chairs of ACPCs that if a serious case review is undertaken the independent writer for the overview report should participate in the review group meetings.

21.24. I recommend that ACPC chairs ensure that the All Wales Child Protection Procedures are amended within 6 months of the publication of the report to give guidance on the retention and storage of documents which would allow for cases to be reviewed as appropriate over a longer period.

Current Position

The guidance proposed for the Local Safeguarding Children's Boards either includes or reinforces existing guidance on these particular issues. It is expected that it will be published in March/April 2006.

With regard to 21.21, we are considering the preparation of separate guidance on the format and preparation of serious case reviews, to guide Local Safeguarding Boards and to achieve, as far as possible, a consistent standard across Wales.

21.6 I recommend that, on appointment in any school or further education college in Wales, every teacher and member of non teaching staff should receive written and oral instruction on whistleblowing procedures and how to operate them. This should then be reinforced on a regular basis.

Current Position

The guidance referred to at Recommendation 21.5 above and which is designed to cover the whole whistleblowing issue is being produced and the target date for consultation commencing is Spring 2006.

21.31. I recommend that ACCAC within 12 months of the publication of this report review its Personal and Social Education Framework in the light of my report and decide whether changes or additions need to be made.

Current Position

As part of the Wales Curriculum Review, ACCAC has established a PSE Advisory Group to assist with the revision of the PSE Framework. This group has received a presentation from the Education Adviser for NSPCC Cymru on the Clywch Report and the potential implications for the PSE Framework. Consequently, textual revisions have been made to the PSE Learning Outcomes relating to child protection and information on the availability of services and the Education Officer for NSPCC Cymru, (an advisory group member) is checking the revised text for wording suitability, continuity and progression.

The revised Learning Outcomes for each Key Stage will be submitted to the ACCAC Cross-Phase and additional Educational Needs monitoring group. The PSE Advisory Group will continue to meet and take account of stakeholders' views to help with revising the PSE Framework.

In Spring 2007, we will undertake a formal consultation on the proposed revised PSE Framework. The Assembly will subsequently issue PSE Framework Guidance to schools to support implementation of the finalised PSE Framework from September 2008.