

Agenda – Children, Young People and Education Committee

Meeting Venue:

Committee Room 4 – Tŷ Hywel

Meeting date: 20 November 2019

Meeting time: 09.15

For further information contact:

Llinos Madeley

Committee Clerk

0300 200 6565

SeneddCYPE@assembly.wales

Private Pre-meeting

(09.15 – 09.30)

1 Introductions, apologies, substitutions and declarations of interest

(09.30)

2 Session with Members of the Welsh Youth Parliament

(09.30 – 10.15)

(Pages 1 – 2)

Wednesday 20th November is the 30th anniversary of the opening of the United Nations Convention on the Rights of the Child (UNCRC) for signatories. To mark this occasion, the Children, Young People and Education (CYPE) Committee has invited Welsh Youth Parliament (WYP) Members to attend a public session to discuss the WYP's priorities and its members' work on the CYPE Committee's inquiry on children's rights.

Youth Parliament representatives

Betsan Roberts, Welsh Youth Parliament Member for Cardiff North

Todd Murray, Welsh Youth Parliament Member for Bridgend

Ffion Griffith, Welsh Youth Parliament Member for Islwyn

Maisy Evans, Welsh Youth Parliament Member for Torfaen

Attached Documents:

Members' Briefing Paper



3 Papers to note

(10.15)

3.1 Letter to the Minister for Economy and Transport – Additional Learning Needs and transport

(Page 3)

Attached Documents:

CYPE(5)-32-19 – Paper to note 1

3.2 Letter from the Minister for Education – update on activity undertaken by the Welsh Government in response to three of the recommendations in the Committee's report on the status of the Welsh Baccalaureate Qualification

(Pages 4 – 5)

Attached Documents:

CYPE(5)-32-19 – Paper to note 2

3.3 Letter to the Minister for Education regarding the Plenary debate on the Children, Young People and Education Committee's report on School Funding

(Pages 6 – 15)

Attached Documents:

CYPE(5)-32-19 – Paper to note 3

3.4 Letter to the Deputy Minister for Health and Social Services – Children's Rights Impact Assessments

(Page 16)

Attached Documents:

CYPE(5)-32-19 – Paper to note 4

3.5 Letter from the Children's Commissioner for Wales to the Chair of Public Accounts Committee – Looked after children

(Pages 17 – 21)

Attached Documents:

CYPE(5)-32-19 – Paper to note 5

3.6 Letter from the Children's Commissioner for Wales – additional information following the 6 November scrutiny session on the Annual Report 2018-19

(Pages 22 – 24)

Attached Documents:

CYPE(5)-32-19 – Paper to note 6

3.7 Joint letter from the Observatory on Human Rights of Children and Children in Wales – additional information following the 16 October evidence session on children's rights in Wales

(Pages 25 – 26)

Attached Documents:

CYPE(5)-32-19 – Paper to note 7

3.8 Letter to Welsh Government Ministers regarding the joint statement on the proposed review of post-16 learner travel

(Pages 27 – 28)

Attached Documents:

CYPE(5)-32-19 – Paper to note 8

4 Motion under Standing Order 17.42(ix) to resolve to exclude the public for the remainder of the meeting

(10.15)

Break

(10.15 – 10.30)

5 Inquiry into Children's Rights in Wales – consideration of the key issues

(10.30 – 11.30)

(Pages 29 – 58)

Attached Documents:

CYPE(5)-32-19 – private paper – key issues

Document is Restricted

CYPE(5)-32-19 – Paper to note 1

Cynulliad Cenedlaethol Cymru
Y Pwyllgor Plant, Pobl Ifanc ac Addysg

National Assembly for Wales
Children, Young People and Education Committee

Ken Skates AM
Minister for Economy and Transport

12 November 2019

Dear Ken


Additional Learning Needs and transport

I am writing further to the Children, Young People and Education Committee's scrutiny session with the Children's Commissioner for Wales on the Annual Report 2018-19, which took place on **6 November 2019**.

The Children's Commissioner's annual report for this period comments on a number of policy areas, including Additional Learning Needs and transport. During the session, the Committee discussed with the Commissioner the Welsh Government's commitment to undertaking a 'refresh' of the Learner travel guidance. The Committee understands the Welsh Government will consult on revisions in due course. However, I would be grateful if you would be able to provide the Committee with details of the timescales for undertaking this piece of work.

I look forward to hearing from you.

Yours sincerely



Lynne Neagle AM
Chair



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Agenda Item 3.2

CYPE(5)-32-19 – Paper to note 2

Kirsty Williams AC/AM
Y Gweinidog Addysg
Minister for Education



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: MA/KW/5549/19

Lynne Neagle AM
Chair of the Children, Young People and Education Committee
Cardiff Bay

12 November 2019

Dear Lynne,

I would like to take this opportunity to update you on activity undertaken by the Welsh Government in response to three of the recommendations resulting from the Children, Young People and Education (CYPE) Committee inquiry report, *Bacc to the Future*.

In response to the following recommendations, officials have developed guidance, with input from Qualifications Wales and WJEC. The guidance has been published on the Welsh Government website with the accompanying Children's Rights Impact Assessment. The webpage includes links to the relevant pages on the WJEC and Qualifications Wales websites.

Recommendation 1. *That the Welsh Government issue a clearer statement about its vision for the Welsh Bacc, underpinned by guidance that details its expectations in relation to the consistency of the qualification's delivery in Wales and the resources schools and colleges should make available to teach the qualification effectively.*

Recommendation 5. *That the Welsh Government issue as a matter of priority strengthened and more detailed guidance on the policy of universal adoption. This guidance should set out clearly the circumstances in which learners may be exempt from studying the SCC, and be subject to a rigorous and comprehensive children's rights impact assessment.*

The link to the website is below, it appears in the 'Qualifications' section under 'Guidance and services':

English – <https://gov.wales/welsh-baccalaureate>
Cymraeg – <https://llyw.cymru/bagloriaeth-cymru>

As outlined in our response to the report, Qualifications Wales and WJEC have freely available information and resources, including case studies, on their websites. Any

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

further information and resources for practitioners delivering the qualification will be made available on HWB.

Another recommendation made by the CYPE committee was:

Recommendation 2. *That the Welsh Government and Qualifications Wales work together to deliver a focused awareness-raising campaign for business and higher education institutions. This campaign should aim to increase understanding of the skills developed under the Welsh Bacc and encourage greater collaboration with those sectors in its design and delivery, to secure their engagement and buy-in*

Officials have established a Welsh Bacc communications group that includes membership from Qualifications Wales, WJEC, FE and regional consortia. The group is in the process of developing an awareness raising campaign to raise awareness of the Welsh Baccalaureate amongst learners, parents, employers and universities. We hope to launch the campaign in the new year.

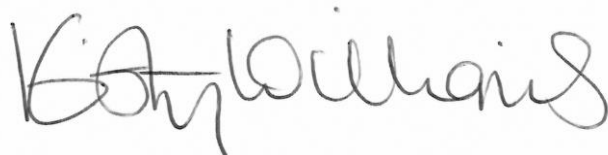
In a further development, Welsh Government received a letter from Qualifications Wales informing them of their intention to discontinue the Foundation (Post 16) and National (Post 16) Skills Challenge Certificate (SCC) qualifications. The declining number of learners taking up these qualifications at Post-16 level prompted this action; in 2018/19 there were no learners entered for the Foundation (Post-16) SCC qualification and only 55 for the National (Post-16) SCC qualification. Qualifications Wales considers that these qualifications are no longer viable and will be withdrawn from August 2020. I understand that Qualifications Wales has notified you of this development, and hope that you agree that the discontinuation of these qualifications should simplify the communication of the Welsh Baccalaureate and remove the perceived repetition when progressing from Key Stage 4 to post-16.

Qualifications Wales published a blog on 24 October which explains how this decision was reached. The link to the blog is below:

<https://qualificationswales.org/english/qualifications/welsh-baccalaureate/the-latest-on-the-welsh-baccs-skills-challenge-certificate/>

I will provide further information on the implementation of the other recommendations made by the committee when it is timely to do so.

Yours sincerely



Kirsty Williams AC/AM
Y Gweinidog Addysg
Minister for Education

Agenda Item 3.3

CYPE(5)-32-19 - Paper to note 3

Cynulliad Cenedlaethol Cymru

Y Pwyllgor Plant, Pobl Ifanc ac Addysg

National Assembly for Wales

Children, Young People and Education Committee

Kirsty Williams AM
Minister for Education
Welsh Government
By Email

15 November 2019

Dear Kirsty

As you will be aware from the recent Plenary debate on the Children, Young People and Education Committee's report on School Funding, there are a number of areas in the Welsh Government's response to the report where the Committee would welcome some additional information or clarity.

A number of these areas were outlined during the debate, but I thought it would be helpful if I set out more formally the areas that are causing concern to the Committee. I am grateful to you for your commitment during the debate to provide additional information on these areas.

As I outlined during the debate, the Committee welcomes the fact that the Welsh Government has accepted all 21 recommendations in the report. However, looking more closely at a number of the recommendations, it appears in some cases that the narrative of the response either does not fully match the headline acceptance of the recommendation, or there is a lack of clarity in how the Welsh Government intends to take forward the recommendation made. In particular, this applies to the following recommendations:

Recommendation 5 (Welsh Government monitoring of the priority local authorities give to schools in budget allocations);

Recommendation 6 (the purpose of Indicator Based Assessments (IBAs));

Recommendation 11 (the flexibility of grant funding);



Recommendation 12 (Welsh Government investigations into high levels of school reserves);

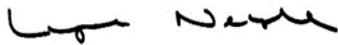
Recommendation 13 (review of local authorities' statutory powers of recovery and direction regarding schools' reserves);

Recommendation 14 (schools' deficit budgets)

Recommendation 17 (potential duplication of school improvement expenditure).

The Annex attached to this letter provides a summary of those areas of concern to the Committee, and includes a note of where we believe the response does not meet the acceptance of the recommendations. The Committee would be grateful if you could provide further information on the Welsh Government's response to these specific recommendations.

Yours Sincerely



Lynne Neagle AC / AM
Cadeirydd / Chair



Annex: Review of Welsh Government response

Committee Recommendation	Welsh Government response	Review of the response. Further information / clarity required
<p>Recommendation 5:</p> <p>That the Welsh Government monitor more closely the level of priority local authorities give to education in the way they set their budgets, in order to help ensure that process is more transparent and robust and to assure itself that sufficient funding is being provided to enable schools to improve and deliver on its reform agenda.</p>	<p>Accept</p> <p>The local government settlement is unhypothecated meaning that it is up to authorities how they spend this funding according to local needs and priorities. The settlement funding formula takes account of the relative need for authorities to spend across all services, given the amount of funding available for distribution and the relative ability of authorities to raise income locally, through council tax.</p> <p>The settlement formula makes an assessment of authorities' relative need to spend by calculating 'Standard Spending Assessments' (SSAs) across notional service areas known as Indicator Based Assessments (IBAs). The Wales total for each of these IBAs is set by looking at the total amount of funding available, adding an assumed element of council tax income and then apportioning across the notional services by using local authorities' budgeted and actual spend data, at a Wales level.</p>	<p>The narrative of this response does not reflect acceptance of the recommendation.</p> <p>The response says little about monitoring more closely the priority local authorities give to education. Instead, it restates the current process, which the Minister for Education and the Minister for Housing and Local Government outlined during the inquiry.</p> <p>It is therefore not clear from the response what the Welsh Government will do differently or additionally to at present, in order to assure itself that local authorities are adequately prioritising schools and that schools are being sufficiently funded.</p>

Each IBA is then distributed across the 22 authorities using formulae developed and agreed with local government through the Partnership Council for Wales and its Sub Groups.

Welsh Government publishes all the data on local government expenditure including schools in our statistical releases.

Local authorities are entirely responsible for determining how much funding is allocated to each individual school, and in line with their statutory function to provide appropriate education provision for all learners in Wales. Each Local Authority sets its own formula for funding schools in consultation with schools through their schools budget forum, and in line with the legislative framework provided by the School Funding (Wales) Regulations 2010. The School Funding (Wales) Regulations 2010 provide the framework within which local authorities set their funding for schools.

The Regulations ensure consistency with the requirement for 70% of schools budgets to be set based on pupil numbers. Local authorities have discretion to distribute the remaining 30% on the basis of a range of factors so that they can take account of individual school circumstances. Local authorities must consult their schools budget forums and all schools in their area when setting a funding formula.

Additional factors or criteria such as the size and condition of buildings and grounds, rates,

	cleaning, school meals and milk, salaries, a school which has a split site, special educational needs of learners, and so on, may also be taken into account in the Local Authority formula. This can affect the amount of funding that each individual school receives.	
Committee Recommendation	Welsh Government response	Review of the response. Further information / clarity required
<p>Recommendation 6:</p> <p>That the Welsh Government publish guidance to clarify the exact purpose of the Indicator Based Assessments (IBAs), including whether or not they are a guide to how much a local authority needs to spend on education to provide a standard level of school services.</p>	<p>Accept</p> <p>The purpose of the Indicator Based Assessments (IBAs) are clearly defined in the <u>Green Book Publication</u> (paras 4 and 5 (top of page vii)).</p> <p>Officials will continue to look at ways of clearly explaining the purpose and function of the IBAs working closely with the DSG.</p>	<p>In referring to the relevant paragraphs of the Green Book, the response does clarify the Welsh Government's position that IBAs are not spending targets and do not state how much a local authority <i>must</i> spend on education.</p> <p>However, there remains some ambiguity over whether IBAs represent how much the Welsh Government believes <i>should</i> be spent on a particular service area. The response does not address the recommendation that the Welsh Government clarifies whether IBAs are a 'guide to how much a local authority needs to spend'.</p> <p>The <u>then Minister for Local Government's letter to the ELGC Committee</u> on 13 November 2017 and statements made by the Welsh Government during the 2018-19 budget setting round pointed to £62 million within the 2018-19 local government settlement to protect school budgets. In identifying a certain amount intended to be spent on schools, it is not clear how this aligns with the Welsh Government's position throughout this inquiry that local government funding is unhypothecated and</p>

		<p>that IBAs do not reflect how much local authorities will spend on education.</p> <p>Whilst accepting that IBAs do not prescribe how much local authorities <i>must</i> spend on education, can the Minister expand on the response to clarify whether they represent the Welsh Government's assessment of what local authorities <i>should</i> or <i>need to</i> spend on education, which is what the recommendation called for.</p>
Committee Recommendation	Welsh Government response	Review of the response. Further information / clarity required
<p>Recommendation 11:</p> <p>That the Welsh Government put mechanisms in place to ensure that grant funding is provided to schools as early as possible in the financial year. If such funding cannot be provided earlier in the financial year, the Welsh Government should build in greater flexibility within the relevant grant conditions for how and/or when schools are able to spend it.</p>	<p>Accept</p> <p>We will continue to work to provide grant funding allocations as early as possible. However much is dependent on final budget decisions and timelines. Grant funding must be spent during the financial year.</p>	<p>Whilst the response says the Welsh Government will provide grants as early as possible, the response does not address the important part of the recommendation that there should be greater flexibility in when schools are able to spend the grant.</p>

Committee Recommendation	Welsh Government response	Review of the response. Further information / clarity required
<p>Recommendation 12:</p> <p>That the Welsh Government provide an update on its work with local authorities to investigate the reasons for the high levels of reserves, and whether those have been adequately tested, and publish any findings from its investigations. In particular, the update should highlight any work undertaken in relation to the 501 schools holding reserves above the statutory thresholds, including any possible local authority intervention.</p>	<p>Accept</p> <p>The School Funding (Wales) 2010 regulations specifies that a local authority's 'scheme for financing schools' should prescribe for a statement from the governing body on what they plan to do with a surplus school budget which exceeds 5% of the school budget share or £10k, whichever is greater.</p> <p>It also provides authorities with the ability to take certain specific action when school surpluses reach certain levels. When surpluses are £50,000 or more in a primary school, £100,000 or more in a secondary school or special school, authorities will be able to direct schools to spend balances. If the governing body does not comply with the direction, the amount could be clawed back with the proceeds applied to the authority's Schools Budget.</p> <p>Schools with surpluses should be subject to ongoing monitoring by local authorities to ensure that approved plans to spend their balances are delivered and within the timescales agreed with the authority. Through ADEW we will continue to work with local authorities to ensure this remains a priority. We will monitor the position and challenge those local authorities that are not effectively managing this.</p>	<p>The narrative in the response does not actually respond to the recommendation and does not reflect acceptance of the recommendation.</p> <p>The response reiterates the legal position but does not give an update on what the Welsh Government has done to challenge and discuss with local authorities the high levels of reserves previously discussed in the Committee.</p> <p>The Minister gave assurances on this issue during the Committee's budget scrutiny in November 2019 and during this inquiry in April 2019.</p>

Committee Recommendation	Welsh Government response	Review of the response. Further information / clarity required
<p>Recommendation 13:</p> <p>That the Welsh Government review the statutory powers available to local authorities under the School Funding (Wales) Regulations 2010 to establish if they are fit for purpose. In doing so, the Welsh Government should, in particular, investigate if the powers give adequate flexibility for local authorities to reallocate effectively any money they recover. Any review undertaken should also consider whether the thresholds of reserves should be a relative percentage of a school's budget rather than an absolute figure, to account for different schools' sizes.</p>	<p>Accept</p> <p>The School Funding (Wales) Regulations 2010 provide the framework within which local authorities set their funding for schools.</p> <p>The Regulations ensure consistency with the requirement for 70% of schools budgets to be set based on pupil numbers. Local authorities have discretion to distribute the remaining 30% on the basis of a range of factors so that they can take account of individual school circumstances. Local authorities must consult their schools budget forums and all schools in their area when setting a funding formula.</p> <p>Additional factors or criteria such as the size and condition of buildings and grounds, rates, cleaning, school meals and milk, salaries, a school which has a split site, special educational needs of learners, and so on, may also be taken into account in the Local Authority formula. This can affect the amount of funding that each individual school receives.</p> <p>We will look at the School funding (Wales) Regulations, working with key stakeholders to explore how these can be strengthened.</p>	<p>The response predominantly reiterates the legal position. It states the Welsh Government will explore how the regulations could be strengthened but does not refer to the two specific factors highlighted in the recommendation (flexibility in how to reallocate the money recovered, and whether the thresholds should be proportional rather than absolute).</p>

Committee Recommendation	Welsh Government response	Review of the response. Further information / clarity required
<p>Recommendation 14:</p> <p>That the Welsh Government continue to work closely with local authorities to address cases where schools have deficit budgets, particularly where there is no recovery plan in place.</p>	<p>Accept</p> <p>The existing School funding (Wales) Regulations 2010 sets out that local authorities must have recovery plans in place, to manage school deficits. We will however continue to work with local authorities and local government to explore the effective management of school deficits.</p> <p>Local authorities should closely monitor school budgets to ensure that no school receives more than it needs, that expenditure is efficient and effective and that deficits are planned and managed properly. Local authorities must challenge schools with significant reserves to determine how they have arisen and to what purpose schools intend to use them.</p> <p>I continue to challenge both regional consortia and local authorities with regard to ensuring that as much money as possible reaches the front line of our education system in to individual schools. I am always open to discussions as to how best we can ensure that more money makes it into our schools.</p> <p>Ultimately, however, school funding is the responsibility of local authorities and it is up to them how they spend this funding.</p>	<p>The response only addresses the recommendation in part. Can the Minister provide further detail about the role the Welsh Government itself will play, specifically in relation to schools' deficit budgets (which was the focus of the recommendation).</p>

Committee Recommendation	Welsh Government response	Review of the response. Further information / clarity required
<p>Recommendation 17:</p> <p>That the Welsh Government urgently investigate what the £11 million budgeted by local authorities for school improvement is spent on, compared to the £11 million that local authorities pay the regional consortia for their school improvement services.</p>	<p>Accept</p> <p>We will continue to work closely with local authorities, regional consortia and the WLGA to clarify the budgets for school improvement. We monitor the spend of local authorities and regional consortia on school improvement through the terms and conditions of grants and will continue to do so as we move forward. In education there isn't an exhaustive list of functions that are carried out by local authorities.</p> <p>In the main, there are general duties for school improvement. However, the National Model for Regional Working does describe what activities we expect to be carried out regionally. Crucially, though, the funding and agreement for the delivery of these services are determined within each regional Business Plan that is agreed by each of the joint committees.</p> <p>My officials have already started work to look at the level of funding local authorities and regional consortia delegate to schools and what is provided as core contributions. We will continue to keep the committee updated.</p>	<p>The response does not fully explain the different purposes and uses of the two amounts of expenditure. The Committee would welcome this additional information.</p>

Agenda Item 3.4

CYPE(5)-32-19 - Paper to note 4

Cynulliad Cenedlaethol Cymru
Y Pwyllgor Plant, Pobl Ifanc ac Addysg

National Assembly for Wales
Children, Young People and Education Committee

Julie Morgan AM

Deputy Minister for Health and Social Services

13 November 2019

Dear Julie,

Children's Rights Impact Assessments

I am writing to you following the public scrutiny session of 6 November 2019 where we discussed the Committee's inquiry into children's rights in Wales.

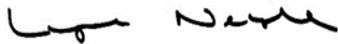
During the session, in response to a question about Children's Rights Impact Assessments (CRIAs), you outlined to the Committee how all CRIAs are made available to the public through the Welsh Government's website and are also available upon request via a dedicated mailbox. This is in line with the Children's Rights Scheme.

However, to date the Committee has been unable to locate a list of completed CRIAs on the Welsh Government's webpages.

In light of the above, I would be grateful if you were able to provide the Committee with a full list of completed CRIAs by 27 November 2019.

I look forward to hearing from you.

Yours sincerely,



Lynne Neagle AM
Chair



CYPE(5)-32-19 - Paper to note 5

To: Nick Ramsay
Chair of the Public
Accounts Committee

Via email only

14 November 2019

Dear Nick Ramsay AM,

Many thanks for your letter seeking my views on the current work for Local Authorities to develop bespoke 'reduction expectation plans' to safely reduce the number of looked after children in care. Your letter seeks my views specifically on the monitoring and enforcement of this policy, which I shall outline below. I also want to reiterate the need for careful consideration of children's rights in the context of this work and for all to understand the balance of rights that are at play in this policy decision. The safety of children must be paramount, but we must recognise the weight and gravity of a decision to remove a child on a statutory basis from their families.

It is vital that we place children's rights at the centre of this policy decision.

Children's Rights:

Children have the right under the United Nations Convention on the Rights of the Child (UNCRC) for their best interests to be a priority when making any decision that affects them (Article 3). Whilst this Article states that consideration must be given to the "*rights and duties of his or her parents, legal guardians, or other individuals legally responsible*", the child's best interest must be a primary consideration. This right sets out how those responsible for making such decisions in regards to a child must consider "*legislative and administrative*" measures to support a child's best interest. Alongside this, Article 19 recognises a child's right to be safe, and for Governments to take appropriate "*legislative, administrative, social and educational measures*" to protect children from all forms of abuse, neglect and violence. I believe these rights should be kept firmly at the forefront of decision making when considering this policy context and reiterate the importance of services being able to offer a broad range of support for children and their families, as well as statutory intervention and separation when appropriate.

The UNCRC also outlines the rights of children in regards to their family environment, and to an extent, the rights and duties of parents and legal guardians to support a child's evolving capacities and to provide guidance and direction to the child (Article 5). Article 8 recognises a child's right to family relationships as a protection and preservation of their identity, whilst Article 9 recognises that a child must not be separated from their parents unless it is in their best interest to do so.



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Page 17

Croesawn ohebiaeth yn y Gymraeg yn ogystal â'r Saesneg ac mewn amryw o fformatau
We welcome correspondence in the medium of Welsh and English as well as alternative formats

The UNCRC also sets out duties on Governments to put in place measures to support families to ensure every child has an adequate standard of living to promote their healthy development (Article 27) and for governments to provide social security and financial support to families in need of assistance (Article 26). These rights set out Governments' duties to provide a spectrum of support to families to support their children and ensure where issues such as deprivation or vulnerabilities exist in family networks, Governments support families with this.

In some cases, separating a child from their family will be a proportionate response to serious, evidenced concerns about a child's safety and wellbeing. Where this is the case, children have the right to keep in contact with their family if separated and it is in their best interest (Article 10). For children who are separated from their families, they have a right to have special protection and support (Article 20) and for their care to be reviewed regular reviewed (Article 25).

In light of this, it is important that we recognise the delicate balance that exists between children's rights to safety, family life and the responsibility of services to support children and their families.

The development of expectation plans

In Wales, we have a sophisticated and robust safeguarding framework which enables us to inform decisions about child safety, risk management and the need to remove and accommodate a child or young person, away from their family. However, there is a growing body of evidence, along with the rising numbers of children becoming exposed to care proceedings, which demonstrates variance in practice — within both local authorities and the judiciary. This should give rise to reflection about the consistency of approach by those involved in decisions to remove a child from their family. For example, in Torfaen for every 10,000 children, 216 are looked after by the local authority. This is the highest rate in Wales and England, by some margin, and can be compared to 96 in Wrexham, and 49 in Carmarthenshire.¹ We are seeing an increasing number of new born babies removed from birth mothers, with 83 infants per 10,000 births being removed in Wales, of which 52% are under two weeks old.² Again, there are regional variations in these figures. We are also seeing a significant rise in the number of children who are being placed with their families at the conclusion of care proceedings, but under a care order. In

¹ <https://statswales.gov.wales/Catalogue/Health-and-Social-Care/Social-Services/Childrens-Services/Children-looked-After/childrenlookedafterat31marchper10000population-localauthority-year>

² https://www.nuffieldfjo.org.uk/app/nuffield/files-module/local/documents/Born%20into%20care%20Wales%20-%20main%20report_English_final_web.pdf



2014, 545 children were living under these arrangements, but this has risen to 1,065 in 2019.³

Whilst I recognise the demographic differences and challenges that can be at play, leading to variation in need for support and intervention, there are other factors at play that are attributable to different approaches and which require further consideration. Whilst placement with a parent under a care order might be the best outcome to care proceedings, to ensure the child's rights to be safe and to live with their family can be promoted, this should not be seen as a long term solution for the child. A care order allows the Local Authority to share parental responsibility with the parent/carer; this is particularly important when pursuing a previously untested placement or where a change in parental circumstances such as drug rehabilitation or the ending of a violent relationship may be relatively recent and could be vulnerable to change in the near future. It should rarely be the long term option for the child however; if such untested circumstances can be successfully navigated, the Local Authority should be actively considering whether that care order is still required or whether it should be discharged. I am aware that the use of placements of this type vary between different local authorities and can be dependent on the views of the local judiciary and children's guardians too.

In light of this increasing variation in approach I support measures for Local Authorities and others involved in supporting families to reflect on practices and to consider collectively how families can be better supported to remain safely together through managed interventions and accessible community support, prior to statutory intervention and removal. Therefore, the development of expectation plans, or strategies in each Local Authority, can go some way in shining a spotlight on current service accessibility and effectiveness. They can raise questions about family engagement, what works well and where services can support differently to help families remain together. They may encourage local authorities to explore how other local authorities are tackling the issue, either within Wales or in other parts of the UK. The Welsh Government has provided funding to Local Authorities to develop their prevention and early intervention family services and has provided recommendations to Local Authorities on how to develop a whole-sector approach to service design to better support vulnerable families. This is how I believe expectation plans can be valuable as they will encourage public services, particularly health and social services to work more effectively for families and potentially increase the provision of early intervention support. I set out my thoughts on this issue in a letter to the Children, Young People and Education Committee in July 2019.⁴

³ <https://statswales.gov.wales/Catalogue/Health-and-Social-Care/Social-Services/Childrens-Services/Children-Looked-After/childrenlookedafterat31march-by-localauthority-placementtype>

⁴ <http://senedd.assembly.wales/documents/s91156/CYPE5-23-19%20-%20Paper%20to%20note%205.pdf>



The requirement of these expectation plans should accelerate the necessary culture change required in public services, to move towards earlier interventions and preventative service provision to support families before they reach a point of crisis. This should also contribute to the aim of rebalancing the spend of public funds towards preventative services and can result in savings for public bodies if these preventative measures are successful. This is entirely consistent with the principles of the Well-being of Future Generations (Wales) Act 2015 and with children's rights under the UNCRC.

Monitoring and "enforcement" of plans

In the conversations I have had with elected representatives and those working within local authorities, I recognise the very real concern that at times, the reasons and decisions surrounding why children may need to come into care are due to factors that are beyond their control. This can include the impact of poverty on families as well as variation in responses from the judiciary in different regions. This can be a particular 'pressure' for smaller local authorities, whose figures may be disproportionately affected by the entry of a large sibling group into local authority care, for example. This is why local authorities must be supported to develop whole sector approaches to reducing the need for children entering care. I also recognise the current financial and workload pressures that exist with Wales' children's services. It is my understanding that the Welsh Government are committed to developing a monitoring group, which shall bring Local Authorities and other agencies together to oversee the delivery of individual plans. I believe this will support Local Authorities to share experience and approaches. My policy officer has attended the workshops with Local Authorities where these arrangements have been discussed, and I will continue to take an active interest in this work.

The Welsh Government Children's Rights Impact Assessment of the Reduction Expectation Plans recognised how some have raised concerns that "*the Reduction Expectation Plans work may present perverse incentives to local authorities: where their focus is switched to reducing numbers without giving full consideration to whether it is safe for a child to remain at home.*" Whilst I understand why some may hold these reservations, it is vital that the Welsh Government and Local Authorities further reiterate that this policy intention is driven by a safety first principle, and decisions are made in regards to a child's best interest, rights and wellbeing, with risks positively managed. It may be beneficial for further measures to be put in place to mitigate any concerns regarding financial decisions or focus on "targets" having any influence on decisions made in a child's best interests. For example, I am aware that the Welsh Government has in the past utilised financial penalties on health boards who have not met their service delivery targets, and it is absolutely vital that the Welsh Government rule out the use of any such measures in this regard. Targets established by each Local Authority must only be advisory and support a strategic vision — they must not be used to penalise local authorities, neither should they be used as comparable measures of success. This does not mean that these expectation plans are not a priority; simply put the protection

of children will always need to come first and financial penalties would not be conducive to achieving the culture change that I believe is needed in this area, where budgets are already tightly stretched.

The Government's language appears to have 'softened' in this regard over the last few months as the policy has evolved. Some local authorities may, however, still require reassurance that they are not being asked to make decisions that undermine the safety of children in pursuit of targets.

Once again, many thanks for inviting me to share my views on this topical issue. I welcome the Committee's decision to revisit this important area of public service and look forward to the Committee's findings in this area. I am aware that Phase 2 of the inquiry will continue to explore the issue of early intervention and prevention work, as well as developing services that are good value for money and deliver good outcomes for the young people they support. It may be of interest to the Committee, that in my most recent Annual Report, I strengthened calls in relation to removing the element of profit from children's care services. In my report, I have called for the Welsh Government to commit to taking concrete actions within the next year towards reducing and ultimately ending profit making in children's care services, without detriment to children and young people's current care arrangements.⁵ I believe taking this step is a key way to releasing money and supporting local authorities to invest in their own services or those in the third sector. I am aware that some local authorities are taking this action and bringing elements of their provision in house, but this is taking place individually in the absence of a national directive.

As always, my team and I are happy to support with evidence where necessary. I have copied this letter to the Chair of the CYPE Committee too, as this was an issue of intense interest during my recent annual report scrutiny session with members on 6th November.

Yours sincerely,



Sally

Sally Holland
Comisiynydd Plant Cymru
Children's Commissioner for Wales

cc. Lynne Neagle Am, Chair of the CYPE Committee

⁵ <https://www.childcomwales.org.uk/wp-content/uploads/2019/10/Annual-Report-2018-19.pdf>

Agenda Item 3.6

CYPE(5)-32-19 - Paper to note 6

To: Lynne Neagle AM

Chair
Children, Young People
and Education
Committee
Via email only

14 November 2019

Dear Chair,

Thank you for sending through the additional questions that weren't able to be reached during the session on 6th November. Please find below my answers to those two questions.

In your annual report 2018-19, you state that a priority going forward for your office will be to analyse the effectiveness of Regional Partnership Boards. Can you outline what your plans are in relation to this work, and whether it will involve any analysis of the £1.4m allocated to Regional Partnership Boards to improve mental health and well-being support for children and young people?

This autumn and winter I will have visited all 7 Regional Partnership Boards across Wales, to challenge them on the work they are doing to integrate children and young people's health and social care, particularly for children and young people with complex needs due to disability or illness, including mental ill health and learning disability. In doing so I am continuing to push the findings and recommendations of my 2018 [Don't Hold Back Report](#) where I brought forward the experiences of young people with learning disabilities and their families.

There should be no 'wrong door' for these groups of young people in accessing the care and support they need. As well as challenging them on the partnership work they are doing, I want to hear from the RPBs about any barriers they face in undertaking their work, and to share practice examples from other RPBs that may be helpful to shape their plans for providing improved integrated services.

In particular, I want to hear about:

- Governance structures — how are the voices of children and young people, and the adults who care for and work with them, embedded within the governance structures of the RPB
- Transitions to adulthood arrangements and general integrated care arrangements for children and young people with learning disabilities.
- Structures in place to support children and young people with mental health, emotional and behavioural issues, both for the 'missing middle'



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Croesawn ohebiaeth yn y Gymraeg yn ogystal â'r Saesneg ac mewn amryw o fformatau
We welcome correspondence in the medium of Welsh and English as well as alternative formats

- who do not reach the threshold for specialist CAMHS but require therapeutic and other interventions; and the small number of young people with very challenging behavioural and emotional difficulties for whom there is currently very little suitable residential provision in Wales
- The RPBs' assessment of their current and future effectiveness, and any barriers, in terms of ensuring that young people do not 'fall between the gaps' because of service thresholds

Following my visits with RPBs, and after consulting with public and third sector professionals, I will be producing a report on my findings. I will follow this report with recommendations, to be published in my 2019/20 Annual Report.

Certainly, applications to, and use of, the transformation funding and ICF funding will form part of my analysis.

In your annual report 2018-19, you state that the Welsh Government is due to consult on new guidance on transitions from child and adult services in health settings. Given the importance of putting young people at the centre of well planned, integrated and supported transitions, should you be more ambitious as Children's Commissioner, in challenging Health Boards — and Welsh Government, to ensure existing guidance and good practice is followed?

Transitions to adult services in health settings has been a priority area for me in 2018/19. Over the past 12 months, I have organised and chaired 3 meetings, which have involved representatives from health boards across Wales, Royal Colleges and Societies, third sector representatives and Welsh Government. The evidence and professional contributions from these meetings, and the evidence from my 2018 [Don't Hold Back Report](#) have been shared directly with Welsh Government officials to help inform the upcoming new guidance.

I am pleased that, following a meeting in November 2018, the Welsh Government have committed to issuing new guidance on transitions to adult services in the health setting. In particular, I am pleased that the Welsh Government set up a Project Board which has now met twice, and engaged with all the health boards in Wales and a large number of Royal Colleges and Societies.

I am confident that the draft guidance has been improved by this process, in terms of its emphasis on coproduction with children and young people and their families, for example.



However, I am not convinced that the current draft guidance is yet sufficient to really drive change. We need Wales-wide guidance which addresses issues such as:

- Care and support for those of transition age in acute care settings
- 16 and 17 year olds accessing services for the first time, and who are not 'known' to services who then look to organise transition arrangements to adult services
- Children and young people with complex needs who require multi-agency support with transitions

The guidance will be health-led, but I will continue to encourage Welsh Government to do more to ensure that health professionals engage in multi-agency planning to support young people who are engaged with several agencies.

The issues outlined above have been raised consistently by attendees of the three meetings I have organised this year with royal college, third sector and health board representatives; as well as in conversations with health professionals and care providers.

I understand that this guidance will be going out for consultation this winter. We will be providing a full response to this consultation when it is published, and would encourage the committee to follow the progress of this consultation process.

Yours sincerely,



Sally

Sally Holland
Comisiynydd Plant Cymru
Children's Commissioner for Wales

Agenda Item 3.7

CYPE(5)-32-19 - Paper to note 7



Sarah Bartlett
Deputy Clerk
Children, Young People and Education Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

November 2019

Dear Deputy Clerk

Thank you for the opportunity to provide evidence to the Children, Young People and Education Committee session on 16th October in support of the Inquiry into Children's Rights in Wales on behalf of the Wales UNCRC Monitoring Group.

You have requested additional information from the research¹ undertaken by the Observatory on Human Rights of Children and Children in Wales on behalf of the Equality and Human Rights Committee, in relation to the following question –

“From your recent research (on behalf of EHRC) can you provide examples where Children Rights Impact Assessments (CRIAs) have been completed retrospectively to a policy being introduced?”

In relation to the 5 policy areas which we considered as case studies as part of our research, we are not aware of the CRIAs, where available, being ‘completed retrospectively’

The research acknowledged the importance of the CRIA as the internationally recognised mechanism by which to operationalise the CRC, and as the tool used by Welsh Government as one means to evidence and support compliance with the due regard duty. The increase in the number of CRIA undertaken since the Measure came into effect was recognised. However, our research reported on concerns expressed about the uneven application of CRIA suggesting that practice was not consistent, with the quality of CRIA described as variable, serving to undermine the impact of the due regard process. As one respondent to

¹ The impact of Legal Integration of the UN Convention on the Rights of the Child in Wales

our survey said **'you get the impression sometimes, not always, that CRIA is an afterthought'** (pp. 28)

The research concluded that the CRIA process can be an effective mechanism to inform and improve policy development where the due regard duty is consistently applied, and identified a number of case examples to support this assertion. These findings were consistent with an earlier published evaluation of CRIA².

During our evidence session, we were able to make reference to examples of CRIA being undertaken and where CRIA was not carried out. One such example was the Welsh Government budget where we would have anticipated there being a CRIA undertaken given its strategic importance to furthering children's rights in respect of maximising the allocation of resources.

We also drew attention to the importance of transparency and accountability, and of not always knowing at what stage in the policy process a CRIA was being considered or being developed, or at what stage in the process it had been finalised. CRIAs are not always routinely published but made available by request – which can prove problematic for many reasons. Some are first issued in draft as part of the public consultation process and invite recipients to pass comment on their content. This is a welcome development as it reinforces accountability and transparency, and provides an opportunity for external stakeholders, including children and young people, to put forward alternate viewpoints and comments, which can then be properly considered by Welsh Government with feedback to the consultee provided.

We do hope that this additional information proves helpful in informing your recommendations, and serves to compliment our more detailed research report, as well as the written and oral evidence from the Wales UNCRC Monitoring Group as part of your inquiry.

Yours Sincerely

Sean O'Neill
Children in Wales

Dr. Simon Hoffman
Observatory on Human Rights of Children

² [Evaluation of the Welsh Government's Child Rights Impact Assessment procedure under the Children's Rights Scheme pursuant to the Rights of Children and Young Persons \(Wales\) Measure 2011](#)

Cynulliad Cenedlaethol Cymru
Y Pwyllgor Plant, Pobl Ifanc ac Addysg

National Assembly for Wales
Children, Young People and Education Committee

Lee Waters AM, Deputy Minister for Economy and Transport
Kirsty Williams AM, Minister for Education
Eluned Morgan AM, Minister for International Relations and Welsh Language
Julie James AM, Minister for Housing and Local Government

15 November 2019

Dear Ministers,

Review of Post-16 Learner Travel

The Children, Young People and Education Committee considered your **joint statement** on the proposed review of post-16 learner travel (13 November) at its meeting on 14 November.

In light of a number of issues relating to learner travel raised with us as committee members, we intend to undertake post-legislative scrutiny of the Learner Travel Measure before the end of this Assembly. As such, we are pleased to learn of your intention to review arrangements for post-16 learners and will draw on its findings as part of our work.

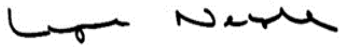
Nevertheless, concerns raised with us are not limited to post-16 learners. We note that your statement refers to the commitment to review and consult on the learner travel guidance (2014) but that this will be delayed pending the consideration of post-16 issues specifically. We would be grateful if you could clarify what consideration you plan to give (and when) to wider concerns about learner travel, including (but not restricted to):

- arrangements for travel to Welsh-medium and Faith schools for pupils of a statutory school age;
- arrangements for travel for pupils with additional learning needs, regardless of their age (in light of commitments made during the passage of the Additional Learning Needs and Education Tribunal (Wales) Act 2018);
- what constitutes a "safe route to school".



I have copied this letter to the Children's and Welsh Language Commissioners given the relevance of these matters to their responsibilities and their ongoing work. I am also mindful that we wrote on 12 November to request further details of the timescales for the review of the learner travel guidance – please feel free to answer both letters with one response.

Yours sincerely,



Lynne Neagle AM
Chair

Cc Children's Commissioner for Wales; Welsh Language Commissioner



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