

## Children and Young People Committee

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Meeting Venue:  
**Committee Room 1 – Senedd**

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Meeting date:  
**27 June 2012**

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Meeting time:  
**09:15**

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Cynulliad  
Cenedlaethol  
Cymru

National  
Assembly for  
Wales



For further information please contact:

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### Agenda

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#### **1. Introductions, apologies and substitutions**

**2. School Standards and Organisation (Wales) Bill: Stage 1 – Evidence Session 4 (09:15 – 10:15)** (Pages 1 – 19)  
**Association of Teachers and Lecturers (ATL) and National Union of Welsh Teachers (UCAC)**  
Dr Philip Dixon, Director, ATL Cymru  
Dr Alec Clark, President, ATL Cymru  
Elaine Edwards, General Secretary, UCAC  
Rebecca Williams, Policy Officer, UCAC

**(Break 10:15 – 10:30)**

**3. School Standards and Organisation (Wales) Bill: Stage 1 – Evidence Session 4 (10:30 – 11:15)** (Pages 20 – 24)  
**Governors' Wales**  
Jane Morris, Director  
Terry O'Marah, Chair

**4. School Standards and Organisation (Wales) Bill: Stage 1 – Evidence Session 4 (11:15 – 12:15)** (Pages 25 – 101)  
**National Union of Teachers (NUT) Cymru and National Association of Schoolmasters Union of Women Teachers (NASUWT) Cymru**  
Neil Foden, Executive Member, NUT Cymru  
David Evans, Secretary, NUT Cymru

Rex Phillips, Wales Organiser, NASUWT Cymru  
Hopkin Thomas, National Executive Member for South West and Mid Wales, NASUWT Cymru

**5. Motion under Standing Order 17.42 to resolve to exclude the public from the meeting for the following business: (12:15)**

**6. Discussion of the Forward Work Programme (12:15 – 12:30)**

**7. Papers to Note** (Pages 102 – 130)

## **Association of Teachers and Lecturers (Cymru)**

### ***School Standards and Organisation (Wales) Bill***

### **Evidence to the Children and Young People Committee**

**27<sup>th</sup> June 2012**

Dr Philip Dixon

Director, ATL Cymru

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Thank you for inviting Association of Teachers and Lecturers Cymru to present evidence regarding the School Standards and Organisation (Wales) Bill. ATL Cymru represents over 6,500 education professionals in colleges and schools across the whole of Wales. It draws its membership from teachers and lecturers, leaders and support staff in maintained and independent schools, and Further Education Colleges. As well as campaigning vigorously to protect and enhance members' pay and conditions ATL also believes that the education profession has a key role in developing education strategy and policy.

The Bill demonstrates the determination of Welsh Ministers to clarify and augment their authority over the organisation of the education structure nationally. At the outset we wish to note that the effectiveness of the Bill will only be realised if local authorities provide the resources required under the direction of Welsh Ministers. The capacity of support provided by local authorities must be determined and resolved in order for the Bill to meet its purpose in raising performance in the education system.

We have pleasure in responding to the committee's consultation and for ease we have taken the Consultation Questions of the Committee as the framework for our response. We have cross-referenced our response to the structure of the Bill

**1. Is there a need for a Bill to make provision about school standards and school organisation. Please explain your answer.**

1.1. The need to bring together disparate legislation is not contentious. The Bill should provide ease and clarity to the reader and be readily accessible.

1.2. The speed of intervention can be crucial. Members report instances where a school in special measures could have been prevented from this, with speedier intervention.

1.3. In regard to **school reorganisation** we share concerns about surplus places and the resultant costs to system. We are also concerned that there is evidence that very small schools are not pedagogically effective. Estyn in its report *Small Primary Schools in Wales* (2006) said:

*1.3.1. The most striking issue is that, in small schools, it can be more difficult for teachers to match work to pupils' needs because pupils in each class may be of widely different ages and stages of development. This is particularly the case in the smallest schools (with up to 30 pupils), where there is 28% of unsatisfactory work compared with 8% of unsatisfactory work in schools with over 210 pupils. It further concluded that a disadvantage of small schools was the greater difficulty in providing pupils with an appropriate curriculum and a wide programme of extra-curricular activities.*

<http://www.estyn.gov.uk/english/docViewer/174092.1/small-primary-schools-in-wales-2006/?navmap=30,119,165>

1.4. Far more contentious to our minds is the questions as to the current position of the Welsh Education System. The Bill clearly presupposes that Wales needs to move from 'fair' to 'good'. This reflects the Minister's clear judgement voiced in February 2011 during his *Teaching Makes a Difference* speech: '*The Challenge, Ours is not a good system aiming to be great. Ours is a fair system aiming to become good.*'

<http://wales.gov.uk/topics/educationandskills/allsectorpolicies/ourevents/teachingmakesadifference/?lang=en>

If Committee accepts the need for the Bill then they are endorsing that judgment. ATL reluctantly accepts that our present education

system is suboptimal, shown by PISA and other data, and that improvements are needed. The Government's assessment seems to be that at this phase the education system would benefit from a central approach to deliver standardised education nationally. Reports from McKinsey and others are used explicitly or implicitly to endorse this approach. It is important to note that the next stage on the journey, from good to excellent, will require another approach which 'decentralises' power. The McKinsey report, 'How the world's most improved school systems keep getting better' (2010) highlighted in its Executive summary that *'systems further along the journey sustain improvement by balancing school autonomy with consistent teaching practice'*.

[http://www.mckinsey.com/Client\\_Service/Social\\_Sector/Latest\\_thinking/Worlds\\_most\\_improved\\_schools](http://www.mckinsey.com/Client_Service/Social_Sector/Latest_thinking/Worlds_most_improved_schools)

- 1.5. In recognition of the aims of the Bill we have two further points:
- i) once improvement occurs how will this move to greater autonomy be enabled
  - ii) the present deficiencies of the Welsh education system are not a fault of the profession but a manifested result of chronic underfunding of education over the last decade.

**2. Do you think the Bill, as drafted, delivers the stated objectives as set out in the Explanatory Memorandum? Please explain your answer.**

2.1. ATL believes that the Bill, as drafted, delivers the stated objectives as set out in the Explanatory Memorandum. For instance, at 1.1 it 'will sharpen the accountability of schools' by bringing together, updating and tightening standards and management. The Bill will reform the statutory process for school organisation so that decisions are taken at the local level wherever possible. Mainstreaming several grant funded programmes will improve the streamlining of current processes and local authorities will be accountable for planning Welsh-medium provision by the placing of Welsh in Education Strategic Plans on a statutory basis.

2.2. We believe that the provisions relating to the 'Changing the way Governing Bodies hold their Annual Parents Meetings', if they are intended to provide a means of ensuring that such meetings

are more flexibly offered in order to meet the needs of parents needs amending.

- 2.3. We have concerns that the provision that local authorities and schools will have in relation to being given greater flexibility over the pricing of school meals may be counter-productive.

### **3. What are your views on each of the main parts of the Bill?**

- 3.1. **Part 1 - Introduction.** We believe that this is clear.

- 3.2. **Part 2 - Standards.** We highlight some issues for clarification below

- 3.2.1. **Grounds for intervention.** We believe these are clearly stated in the main and clarify and tighten existing legislation. However,

3.2.1.1. **Ground 1.** It is right that schools must maintain standards, however performance data can genuinely be skewed due to a cohort and misrepresent standards in a school. The statement '*the standards previously attained*' should not be taken literally to require automatic intervention in a school. Intervention should only take place following suitable interrogation of data taking into consideration, statistical variation and anomalies which may be due to cohort. This should be acknowledged and noted.

3.2.1.2. **Ground 2.** We believe it essential that the Bill should contain provisions for the process by which an assessment that 'a breakdown in the way the school is managed or governed' is to be made, for the avoidance of doubt.

3.2.1.3. **Ground 3.** This is too generic. The behaviour of parents should not be a detriment to pupils, this statement would benefit from clarification of the criteria relating to parents' behaviour that would be considered a requirement for intervention.

3.2.1.4. While the Bill at numerous instances gives powers for Local Authorities to require specific action by schools in its care (for instance at 5.2 (a) a school may required to enter

into a contract) it is not clear on the face of the Bill as to the budget from which such action is to be funded. If it is from the school budget this needs to be made explicit.

We are very pleased to welcome the provisions for the Welsh Government to intervene in local authorities (sections 21 -28). The ethos of the Bill is a restorative approach to address what many judge to have been systemic under-performance in local authorities, especially in regard to their lack of challenge and support. Alongside chronic underfunding by the Welsh Government, we believe that failures on the part of local authorities have been the major contribution to the under-performance of the Welsh Education System. Ground 3 in this part of the Bill requires clarification. The subjective description of '*an adequate standard*' to define the requirement for intervention is unsuitable. To ensure transparency and clear objectivity it will be necessary for the criteria to be expanded upon.

We are not unwilling to accept the Explanatory Memorandum's note that authorities should 'consider' banding when deciding on appropriate intervention. We believe this opens up opportunities for a rational and sensible discussion about what the banding data does – and does not reveal about a school's standing and progress. Our members are currently reporting that while banding data is being used by used local authorities to monitor and challenge schools, the provision and quality of support is still very disparate.

### **3.3. Part 3 – School Organisation**

3.3.1. We welcome the publication of a **School Organisation Code**, duly prepared after full and proper consultation. The move to explain and simplify procedures relating to school organisation is supported. We think the effective use of resources is addressed reasonably well for there to be a sustainable solution to full curricular access for all pupils. We ask that Welsh Ministers and their civil servants afford objectivity to those schools that may apply an alternative solution and not over-prescribe the School Organisation Code.

- 3.3.2. Foundation Schools.** We welcome the clause in the Bill that prohibits the establishment of any new foundation schools in Wales (40 (2)). However, the rationale behind this prohibition needs to be taken to its logical conclusion, and we would urge the insertion of a clause that requires all current Foundation Schools to be returned to the status of community school, voluntary aided school, or voluntary controlled school. Given the prohibition noted above we are puzzled, in the absence of further information, why there is then a provision in 45(5) for a local authority to 'make proposals for a community special school to become a *foundation* special school' (our emphasis)
- 3.3.3. Voluntary Schools.** The Bill at present at 41(2) contains a clause that states that: 'Any person may make proposals to establish a new voluntary school'. We believe the committee should recommend that this clause be revised either to prohibit the creation of any further voluntary schools, or to limit their creation to the current Diocesan authorities. We would also want this clause to be reworded to prohibit explicitly any attempt to set up so-called 'Free Schools' as seem in England.
- 3.3.4. Categories of Objectors,** et al. We are content with the categorisation outlined in the Bill. All too often school reorganisation proposals have been thwarted or seriously delayed by objectors with motives other than those concerned with children's education. The quality of education must be the paramount and overriding concern of any reorganisation.
- 3.3.5. Rationalisation of School Places.** We accept that there is an oversupply of school places in Wales. This means that funding is not best used and that children's education suffers as a result. We welcome measures that will speed up decision making in this area. We believe the provisions relating to schools with fewer than ten pupils are sensible.
- 3.3.6. Local Determination Panels.** The Bill makes reference in several places to *Local Determination Panels*, and outlines them in Schedule 3. We believe strongly that the Bill should include clear provisions on: how these panels will be set up; who is and is not eligible to sit on them; the limits of their jurisdiction; and, crucially, their method of selection.

3.4. **Part 4 – Welsh in Strategic Plans.** In principle we welcome the Welsh Ministers’ strategy to raise standards in Welsh (second language), and acknowledge the policy to increase significantly the number of pupils in Welsh-medium (or bilingual) schools. In order to achieve this there requires an additional investment in the training of Welsh-medium teachers (in Maths and Science particularly). In the experience of our membership this remains an area for development.

3.5. **Part 5 – Miscellaneous School Functions.** We have some comments to make:

3.5.1.**Breakfasts.** While we accept that the provision of breakfasts in every school may not be possible we would urge that schools are not able to rescind previous decisions to provide breakfasts.

3.5.2.**Counselling.** ATL Cymru reiterates the requirement for adequate funding to ensure that all children in Wales have access to counselling. The duty of funding is necessary to ensure that counselling services do not struggle to meet demand. Previously this has resulted in some establishments resorting to using student counsellors. The Bill describes reasonable provisions; it does not place a duty as requested to adequately fund, not just for actual counselling, but also for the management of appointments and referrals all of which currently falls on the schools.

3.5.3.**Parents Meetings.** We would suggest that the committee support the inclusion of a descending scale of percentage of parents requesting a meeting to activate the rule to convene a meeting. A smaller school would warrant a greater percentage response from parents to set such a meeting in motion.

3.6. General. Not contentious.

#### **4. What are the potential barriers to implementing the provisions of the Bill (if any) and does the Bill take account of them?**

4.1. We believe that insensitive handling of the data surrounding the banding awarded to schools could be one of the biggest obstacles to the Bill achieving its desired aim. Very few schools are wholly bad and a nuanced approach will be needed to ensure that

support and challenge is given by local authorities as appropriate and is particular to that school. Generic prescriptions will not be sufficient and could be counter-productive. The Bill or at least its explanatory guidance needs to be explicit about the *limits* inherent in the banding judgements because of statistical constraints.

4.2. The Bill concentrates power into the hands of the Welsh Government on the understanding that this is necessary to move the Welsh Education System from fair to good. The Explanatory Memorandum is explicit in this regard. We believe that the biggest barrier to the implementation of the Bill's intention lies not with schools or local authorities, who will find themselves the subject of statutory direction, but with the capacity of the Welsh Government, in particular the Department of Education and Skills, to deliver. It is far from clear that the Department has universally the relevant expertise or personnel to deliver.

4.3. We are also concerned that the Bill does not stifle and extinguish that creativity and autonomy that the education system will need to manifest if it is to move from good to excellent. We already have a number of excellent schools in Wales and the implementation of the Bill must not diminish those in any way.

4.4. While we have never argued that the decade long chronic underfunding of our education system is the only reason for its relatively sub-optimal performance, nevertheless we remain convinced that full, sustained and adequate funding is an essential prerequisite for improved performance.

**5. Powers to make subordinate legislation.** We see nothing objectionable in the Bill's provision nor in the Explanatory Memorandum's analysis

## **6. Financial Implications.**

We have no reason to doubt the financial exposition provided. The Government's confession of ignorance at 8.4 of the Explanatory Memorandum might suggest that some rapid research may need to be done to assess costs more accurately.

# School Standards and Organisation (Wales) Bill

## UCAC's Response

June 2012

### School Standards and Organisation (Wales) Bill: UCAC's Response

The National Union of Welsh Teachers (UCAC) welcomes the opportunity to respond to this consultation on the School Standards and Organisation Bill. UCAC represents 5,000 teachers, headteachers and lecturers in all education sectors in Wales.

#### **1. Is a Bill necessary to provide for the standards and organisation of schools? Explain your answer.**

1.1 We agree that only a Bill can bring all the relevant legislation together in one place to create a holistic and coherent document that is easy to use.

1.2 Also, we believe that the areas in which the Bill legislates anew are entirely appropriate areas for legislation; the statutory power that will be granted to those sections is valuable.

#### **2. Do you believe that the Bill, as drafted, achieves the objectives noted as stated in the Explanatory Memorandum? Explain your answer.**

2.1 We are of the opinion that the Bill accords closely with the objectives noted in the Explanatory Memorandum.

2.2 Some aspects are subject to Regulations that will be formulated in due course; their exact wording will be central to the work of achieving the objectives and we look forward to the opportunity to respond to a consultation on those Regulations when the time comes.

#### **3. What is your opinion on each of the main sections of the Bill?**

##### **Part 2 – Standards**

##### **Chapter 1: Intervention in the Affairs of Running Maintained Schools**

##### **Chapter 2: Intervention in Local Authorities**

3.1 UCAC accepts in principle the intent of these chapters; if a school is causing concern, it is better to have early intervention of good quality in order to tackle the problem.

3.2 We agree that the Local Authority should be intervening first, and that it is only if this intervention does not succeed that Welsh Ministers become involved in the situation.

3.3 However, we feel that the statement in paragraph 3.15 of the Explanatory Memorandum is slightly overconfident: "The clarification, strengthening and reform of the current provisions through this legislation will raise school standards."

3.4 We feel that some of the clauses are too open-ended in the power they give to Local Authorities or Ministers. There are other clauses that have not been adequately explained in the Explanatory Memorandum.

3.5 We must declare our wholehearted objection to one matter, namely the 'Power of Welsh Ministers to direct that a school is to close' – without going through the usual statutory processes. We detail our reasons below.

3.6 We believe that this chapter would be stronger if it included a clause/clauses on providing relevant and timely information to stakeholders such as parents, staff and trade unions, regarding the school's situation.

### **Chapter 3: School Improvement Guidelines**

3.7 This section (and the corresponding sections in the Explanatory Memorandum) leaves many questions unanswered. The lack of clarity causes concern.

## **Part 3 – School Organisation**

### **Chapter 1: The Code for School Organisation**

We agree with the provisions of this chapter.

### **Chapter 2: School Organisation Proposals**

We welcome the intention of this chapter to make school organisation processes clearer, more transparent and consistent, and to ensure that most decisions are made at a local level. Again, some elements are not adequately explained in the Explanatory Memorandum and their intention is not entirely clear.

### **Chapter 3: Rationalisation of School Places**

There are elements of this chapter that we cannot approve, such as the lack of detail regarding the local inquiries, and the clauses that allow Ministers to decide on proposals that are objected to without referring them to local inquiries.

### **Chapter 4: Regional Provision for Special Educational Needs**

We have no objections to these provisions.

### **Chapter 5: Proposals to Restructure Sixth Form Education**

We have a general concern about this chapter. It does not make sense to create different systems for deciding secondary education organisation proposals on the one hand, and proposals for the organisation of sixth form classes in schools on the other, as the two are so interdependent. We are of the opinion that the Bill extends the power of the Ministers in this context, and we object to that.

## **Part 4 – Welsh in Education Strategic Plans**

We very strongly agree with the intention of this section, and fully support the provisions. However, we would like to see the regulations coming into force earlier in order to support the effort to achieve the 2015 targets of the Welsh Medium Education Strategy.

#### **Part 5 –Miscellaneous School Functions**

We have no objections to these provisions.

#### **4. What are the possible obstacles to implementing the provisions of the Bill (if there are any) and does the Bill consider them?**

Adequate capacity to support schools in a constructive and specialist way is our main concern in terms of possible obstacles to implementing the provisions of the Bill. This matter is not considered in the Bill itself.

#### **5. Are there any other comments you would like to make about specific parts of the Bill?**

##### **Part 1 – Introduction**

**1(3):** There is an error in the Welsh version: there is a need to add '2' after 'Ran'

##### **Part 2 – Standards**

#### **Part 1: Intervention in the Affairs of Running Maintained Schools**

UCAC accepts in principle the intention of this section; if a school is causing concern, it is better to have early intervention of good quality in order to tackle the problem. However, we feel that the statement in paragraph 3.15 of the Explanatory Memorandum is slightly overconfident: "The clarification, strengthening and reform of the current provisions through this legislation will raise school standards."

We must declare our wholehearted objection to one matter, namely the 'Power of Welsh Ministers to direct that a school is to close' – without going through the usual statutory processes. We detail our reasons below.

Also, we have a number of specific points and questions to raise.

In general, we believe that this chapter would be stronger if it included a clause/clauses on providing relevant and timely information to stakeholders such as parents, staff and trade unions, regarding the school's situation.

**2 – GROUND 2:** the Explanatory Memorandum explains that the words 'that prejudice, or are likely to prejudice performance standards' have been removed from the original wording. We feel strongly that the clause would be stronger if these words were retained. The version proposed in the Bill is dangerously open-ended in UCAC's opinion; all kinds of failures can occur in the way a school is managed or governed – from matters with no major implications, to truly serious matters. The clause as it currently stands does not set down any kind of threshold in terms of the level of seriousness that would trigger intervention in the school. We feel that there is a very strong basis for

early intervention, even if the clause regarding prejudice to performance standards is included (which is a very reasonable threshold for intervention) – especially as it states ‘or is likely to prejudice ...’ – i.e. there is no need to wait until the standards start to fall before intervening, it is enough that there is a danger of that happening. Re-adding the clause would ensure that a Local Authority can justify and defend its decision to intervene.

**4(5):** We do not understand the purpose of this paragraph, and see no explanation of it in the Explanatory Memorandum. Ten days is not a long time, and we wish to ask under what circumstances and for what reasons it would be necessary to shorten the period. We do not necessarily object, but rather seek an explanation before being able to form an opinion.

**4(9):** We feel that this paragraph gives Local Authorities power that is too open-ended. We understand, as the situation develops, that a Local Authority could be keen to take steps not mentioned in the warning notice. However, we feel that giving free rein to take any steps at all is a bridge too far and that there is a need to limit this power in some way.

**6(2):** We ask whether there should be some kind of limit on the number of governors a Local Authority can appoint. The restriction could be expressed as a percentage of the current number. It could be argued that, if the Authority wanted to appoint more than 50% of governors, it would be better to move straight to paragraph 7.

**6(5) and 6(6):** We have a question here too. Is the decision regarding how long it will last made at the beginning of the period, or as the period proceeds? We are of the opinion that it would be better to insist that the Authority lays down a specific period for these governors, and that it is possible to renew or extend the period as necessary. Operating in this way would give everyone clearer expectations from the outset, and yet it would not restrict the Authority’s power if the situation had not improved at the end of the first period. Consideration could be given to setting down the period in the warning notice.

**6(7):** We feel strongly that governors appointed by the Local Authority should receive no remuneration or allowance that an ordinary governor would not be eligible to receive. Any difference in the terms would create real obstacles to the process of constructive collaboration.

**9(2):** This paragraph is very open-ended, especially 9(2)(b), which allows Local Authorities to take “any other action” without restriction. We are concerned about the possible use of such a broad power.

**11(4):** Spelling mistake in the Welsh version – instead of ‘gedu’, it should be ‘gredu’.

**11(6):** As 4(5) above.

**11(10):** As 4(9) above.

**13(2):** As 6(2) above.

**13(5) and 13(6):** As 6(5) and 6(6) above.

**13(7):** As 6(7) above.

**15:** We feel that something is missing from this section, namely any kind of consultation with the school(s) with which the school causing concern is directed to federalise. Federalisation can change the working conditions of staff, especially the Head, very substantially. Also, it can change the nature and character of the school in many ways. Is there any right in the Bill for a school to refuse to federalise with a school causing concern? We see no reference to such a right or to any consultation process, and this causes concern.

**16:** We oppose this section in its entirety on the basis that the actions outlined in it are unreasonably extreme. We have not been persuaded by the logic in the Explanatory Memorandum or the recent statements by the Minister, that there is justification for closing a school that causes concern.

Defective processes or performance are likely to be at the root of serious problems in a school, and there are purposeful procedures for tackling them in respect of processes or specific individuals. Indeed, many of those procedures are included in this Bill; there are also performance management systems, discipline and skills policies for staff, training for governors etc. If the Bill foresees that these procedures will not be adequate, and that the only answer is to close the school completely, this suggests that the basis for such a decision is that all the staff and governors (or at least the vast majority of them) are unable to carry out their work. Is this a credible scenario, and one upon which it is wise to legislate? We do not believe so.

We further oppose the proposal to enable Ministers to direct a school to be closed without following the usual statutory processes of submitting proposals and consulting on them within a specific timetable.

The practical implications of closing a school completely and suddenly must be borne in mind. To what school(s) would the pupils go? Are there enough empty places in the nearby school or schools? Do they provide education in the language medium desired? What will be the travelling distance from the homes of the pupils to the new school? What would happen to the building? Or, is the intention to make every member of staff and governor redundant, and then re-open the school with new staff and governors?

In short, we do not believe that this section meets the aim of the Bill to raise school standards.

**17(2):** As 9(2) above.

**Schedule 1; 9:** For the sake of fairness, transparency and accountability, we feel that members of an interim executive should not receive any remuneration or allowance that an ordinary governor would not be eligible to receive.

**Schedule 1; 14:** We are strongly of the opinion that an interim executive should not have the right to recommend closure of a school. We have detailed our viewpoint that standards are not an adequate reason for closing a school in discussing paragraph 16 above. In addition to those reasons, we draw attention to the fact that the school community has not selected the members of the interim executive, and we therefore do not feel that they are in the best position to decide on such a serious matter.

## Chapter 2: Intervention in Local Authorities

**21 – GROUND 1 and GROUND 3:** Is there a definition in the Bill, or anywhere else, of ‘education function’?

**22(1):** error in the Welsh version; there is a need to change ‘to’ to ‘i’

**23(7):** As 4(9) above.

**27(1):** We do not feel that the word ‘hwylus’ is an appropriate translation of ‘*expedient*’ in this context; it does not convey the seriousness of the situation, and the word suggests that it is a matter of convenience that is in question.

We are worried that this clause is much too open-ended in terms of the power it gives to Welsh Ministers; in essence, it allows the people appointed by the Ministers to carry out education functions, to undertake *any* aspect of those functions, functions that could extend far beyond the ‘grounds for intervention’ identified in the notice. We believe that the ambit of the powers should have been more clearly defined.

**27(2):** Neither the meaning or intent of this clause is at all clear; nor do we see an explanation in the Explanatory Memorandum. We cannot form an opinion until a further explanation is given, but in the meantime, it is a cause for concern.

**28(2):** As 9(2) above.

## Chapter 3: School Improvement Guidelines

**33:** This section (and corresponding sections in the Explanatory Memorandum) leaves a great many questions unanswered, and we are of the opinion that it is not clear enough as it is. It is not clear whether specific sets of guidelines will be drawn up for specific schools, or whether general guidelines are being addressed here. Is it the Education Department of the Welsh Government that will provide these guidelines (we understand that the School Standards Unit will operate for a short period only, and we know that it has a small number of staff)? We know that it is not the business of the Bill itself to secure adequate capacity to realise its provisions. However, we consider it fair to ask the question: is the expertise and capacity available in the Education Department to provide individual guidelines for schools – if that is the intention? Also, is the expertise and capacity available in the Local Authorities and the Regional Consortia to support the schools in their efforts to try to improve?

Will there be any consultation with stakeholders before publication of the guidelines in September 2012?

If these are ‘good practice’ guidelines – is it appropriate for them to have statutory power? Usually, good practice is something to be trialled to see whether or not it works in a specific context – not something compulsory. Also, good practice is something that tends to change over time. Will the guidelines be flexible enough to be an effective tool in trying to raise standards in schools?

The Regulatory Impact Assessment in the Explanatory Memorandum raises concern that these guidelines, and the statutory power that it is proposed they will be granted, will be used in a heavy-handed way to force specific practices on schools.

### **Part 3 – Schools Organisation**

#### **Chapter 1: The Code for Schools Organisation**

We agree with the provisions of this chapter.

**39(1):** We would feel more comfortable if there was a clearer definition of the persons Welsh Ministers must consult regarding the code, even if the definition were to appear in the Explanatory Memorandum. The code is going to be an exceptionally important document, and the input of stakeholders will be crucial in its formulation; we would like to have confirmation that teachers' unions will be on the list of consultees.

#### **Chapter 2: Schools Organisation Proposals**

We welcome the intention of this chapter to make schools organisation clearer, more transparent and consistent, and to ensure that most decisions are made at local level.

**40(6):** As we object to paragraph 16, we cannot accept this clause.

**41(2):** What is the definition of 'any person'? Does this include a private company? Could this open the door to 'free schools' as in England?

**45(5) a 45(6):** Do these clauses grant permission to establish new foundation schools (through change of category) although the establishment of new foundation schools in Wales is prohibited under the provisions of the Education (Wales) Measure 2011?

**47(3):** Spelling mistake in the Welsh version – change 'ydys' to 'ydyw'

**52(1)(a):** In Welsh, the word 'gwrthwynebwr' is used in this clause, whilst the word 'gwrthwynebydd' is used in other clauses e.g. 53(1)(a). We would prefer the word 'gwrthwynebydd' as it is less gender-specific, but one way or the other, consistency is required.

**52(4)(c):** There is an error in the Welsh version; the word 'gynigion' should be changed to 'wrthwynebiadau'.

**53:** Although the Explanatory Memorandum makes reference to 'five persons who will either be members of the local authority...or independent lay persons', we see no reference in the Bill to the exact constitution of the Local Determination Panel apart from what is included in Schedule 3, paragraph 2. What kind of lay people would these be? Will this be a standing panel or will a new panel be appointed every time a decision needs to be made?

It is fair to note that, although we fully support the attempt to determine more proposals locally, we have some doubts regarding the impartiality of such a panel, especially in terms of local people's perception of the panel's impartiality.

**53(1)(a):** There is an error in the Welsh version of the Explanatory Memorandum in respect of this clause, on page 112 – it states that “at least 2 category 2 objectors” are needed to be referred to a Local Determination Panel – while the English version and the Bill itself refers to 1 objector.

**53(2)(b):** The meaning of this clause is not completely clear, and this is a matter of concern. Does the clause refer to some kind of petition i.e. a single document signed by a number of people? Alternatively, does it refer to a number of separate documents that include the same text – i.e. an organised campaign providing ready-made letters for people to sign? Either way, we would strongly oppose the proposal to consider these documents as an objection by one single category 3 objector. There are many people who are not confident enough to draw up their own letters but who are keen to express objections, and doing so by signing a petition or sending a letter prepared on their behalf is entirely acceptable. We argue that each of these should count as a separate objection. As the groups of people that come under category 3 are defined in great detail, we are of the opinion that there is already ample protection in the proposed system, without imposing too many limitations in this undemocratic way.

**54:** This section is genuinely difficult to follow and understand, and the Explanatory Memorandum is of no help. Part of the problem is the reference (for the first time) to proposals A, B, C and D. We strongly suggest that it would be wise to have an explanation in the Explanatory Memorandum of the meaning of paragraphs (b) throughout the section, and the logic behind them.

**56(4):** The Explanatory Memorandum offers no logic for this paragraph. The timetables are set down very clearly and carefully in the Bill. Therefore, under what circumstances and for what reasons would there be a need to “bring the action forward by a period of up to 13 weeks”? Other provisions in the Bill allow a school to be closed quickly if it has fewer than 10 pupils – so, what are the other circumstances that could lead to shortening the timetable by 13 weeks?

### **Chapter 3: Rationalisation of School Places**

**60(1)(b)(i):** It is not clear, if proposals *have been published in accordance with the order*, why intervention would be needed from Welsh Ministers. The clause would make sense if the proposals had not been published, or they were inadequate in some way – but it is difficult to understand the logic otherwise. Once again, a further explanation would be useful.

**62:** Once again, we feel that this paragraph is not clear enough, and the Explanatory Memorandum does not offer the necessary clarity either. The greatest vacuum is: who conducts the local inquiry and how (timetable etc.)?

**62(7):** This clause appears to be a huge loophole and we have found no explanation or justification for it. If we have understood correctly, according to the present system, if Ministers had formulated proposals to rationalise school places, and there were objections to the proposals, the matter would need to be referred to a local inquiry; however, this clause states that the Ministers have the right not to refer the matter to a local inquiry if they “form the opinion that any proposals should be implemented.” That is, it would be possible to disregard the objections and not give them any consideration at local level. If there are provisions regarding local inquiries, we believe that they should be relevant in all cases.

**62(9):** Does this clause not contradict clause 62(4)? If not, then perhaps more of an explanation may be needed in the Memorandum to make the difference completely clear.

**63(2):** We disagree with this provision; we believe that any proposals by Ministers, if there are objections to them, should be subject to a local inquiry – regardless of whether they are “original” proposals or “further proposals” after being through one local inquiry.

#### **Chapter 4: Regional Provision for Special Educational Needs**

**69(1)(b)(i):** As 60(1)(b)(i) above.

#### **Chapter 5: Proposals to Restructure Sixth Form Education**

We have a general concern about this chapter. We know that Welsh Ministers already have powers under Section 113A of the Learning and Skills Act 2000 to restructure sixth form education.

However, where that Act grants Ministers power to make an ‘*alteration*’ to any secondary school in a local authority in respect of post-compulsory education, they cannot implement ‘*discontinuance*’ except in respect of a school that provides for pupils between the ages of 16 and 19 *only*.

In contrast to this, the Bill, in Schedule 2, Part 2, paragraph 6(2), grants power to Welsh Ministers: “To terminate the provision of full-time education that is appropriate to the requirements of pupils over compulsory school age in a school that is to continue to provide full-time education that is appropriate to the requirements of pupils of compulsory school age.”

This is therefore a new power, and one that we oppose. We know that Welsh Ministers have powers over the organisation of post-16 education, and that the funding systems are separate from the funding systems for the compulsory ages. However, strong arguments were made as a result of this Bill regarding the importance of making as many decisions as possible regarding schools’ organisation at local level, and we feel that those arguments are equally strong and appropriate in terms of sixth form education. It must be borne in mind that, although the funding streams are separate, the sixth form is a central and integral part of a very large number of secondary schools, and that Local Authorities have responsibility for them. It could be argued that here is a perfect example of the kind of collaboration the Minister is very keen to see, in terms of creating units that are larger and therefore more effective and viable.

It makes no sense to create different systems for secondary schools’ organisation on the one hand, and sixth forms in schools on the other, as both are so interdependent. They exist in the same communities for the same pupils and within the same institutions.

**74(3):** There is a mistake in the Welsh version; the word ‘*amodau*’ needs to be deleted, and the word ‘*addasiadau*’ needs to be added in its place. Also, we would like more details and assurances regarding the persons that need to be consulted on this matter.

#### **Part 4 – Welsh in Education Strategic Plans**

We agree very strongly with the intent of this section, and we fully support the provisions.

We note that the Explanatory Memorandum refers to regulations that will come into force in December 2013, making it necessary for Local Authorities to submit Strategic Plans to be implemented from 1 April 2014. We feel that this timetable is slow (especially compared to the timetable for other regulations in this Bill), and it raises the question of how effective these provisions will be as the Government and Local Authorities attempt to achieve the targets of the Welsh Medium Education Strategy by 2015.

**85(3):** We feel that the emphasis is different in the Welsh and English versions due to the use of the word 'angenrheidiol' to correspond with 'necessary'. We feel that 'angenrheidiol' places the bar considerably higher than 'necessary', and makes it less likely that amendments will be made.

**85(4)(f):** We would like more details and assurance regarding the 'other prescribed persons' who must be consulted on this matter.

#### **Part 5 –Miscellaneous School Functions**

**89(2)(b):** It would be useful to have a further explanation regarding the definition of 'unreasonable', and what circumstances are foreseen that could lead to such a situation.

**97:** We do not object to this provision; it appears sensible to remove the provision for a code of practice published by the Secretary of State in the context of this Bill. However, we see no information in the Explanatory Memorandum that expands upon this clause, and we believe that it is important to explain the side-effects of removing such a provision.

# Agenda Item 3



## *Promoting and developing high quality school governance*

### **School Standards and Organisation (Wales) Bill**

Governors Wales promotes the effective governance of schools in Wales and provides support to individual governors, local governors associations, fora and other groupings. Governors Wales is committed to the promotion and effective management of quality provision in schools in Wales.

There are approximately 23,000 school governors in Wales. They give their time, skills and expertise in a voluntary capacity, to help their schools provide children with the best possible education.

Governors Wales recognises that governing bodies are accountable for the strategic direction of their school and for the quality of education provided.

Governors Wales' role, therefore is to support governors by:

- Encouraging effective and efficient governance of schools;
- Providing advice and guidance to governors and governing bodies;
- Identifying their training needs;
- Promoting their entitlement to training;
- Identifying and disseminating best practice;
- Raising the profile and status;
- Helping governors to focus on the consequences of their work for children;
- Representing the views, concerns and aspirations of governors and governing bodies to policy makers.

Governors Wales welcomes the opportunity to comment on the School Standard and Organisation (Wales) Bill and offers the following comments:

#### **1. Is there a need for a Bill to make provision about school standards and school organisation?**

**Please explain your answer.**

- 1.1 Governors Wales welcomes the School Standards and Organisation (Wales) Bill to assist in improving overall school standards and to reduce bureaucracy. The Bill will streamline, simplify and reform statutory existing processes and this is welcomed.
- 1.2 We are mindful, however, that full consultation and dialogue needs to take place on some of the specific proposals when further details are available. We hope to liaise closely with the relevant stakeholders as the Bill goes through the different legislative stages and would welcome input on the statutory guidance.

- 2. Do you think the Bill, as drafted, delivers the stated objectives as set out in the Explanatory Memorandum? Please explain your answer.**
- 2.1 The Bill appears to replicate the stated objectives as highlighted in the Explanatory Memorandum. Whilst the memorandum is detailed, Governors Wales awaits further consultation on the specific proposals.
- 3. What are your views on each of the main parts of the Bill —**
- a. Part 1 – Introduction (section 1)**
- 3.1 Governors Wales has no particular comments to offer other than the introduction sets the scene and provides a good overview of the overall content.
- b. Part 2 – Standards (sections 2-37) (see pages 9-17, 92-99 of the Explanatory Memorandum)**
- 3.2 Governors Wales believes that it is essential that schools/ governing bodies receive relevant, timely, support and guidance to improve any shortcomings before any formal intervention and warning notices are instigated. The governing body must always be kept informed of any significant concerns and should be fully involved in the resolution process.
- 3.3 We agree that bringing all powers of intervention together is a sensible way forward. At present, it is a confusing and complex process. Greater clarity on the intervention powers of LAs for schools causing concern via detailed and up to date statutory guidance will be beneficial. This will also promote consistency of approach across Wales.
- 3.4 We are mindful that there does not appear to be any appeal mechanism in place for the body which is receiving any intervention. We feel that this needs to be addressed in the interests of natural justice.
- 3.5 We note that the guidance will place an expectation on schools to use of and analyse comparative data at both national and local levels. This must be clearly linked, however, to school self-evaluation, performance management and target setting. We are also mindful of the range of learning and engagement activities that occur within schools to improve the learning and well-being of children and young people. These should also be taken into account.
- 3.6 We recognise that collaboration cannot be avoided and should be encouraged to raise overall standards of performance. Whilst we note the new power enabling a Local Authority to require schools to collaborate, true collaboration must be based on true and honest partnership for it to work effectively, likewise with federations.

## School Improvement Guidance

- 3.7 Governors Wales welcomes the statutory School Improvement Guidance to raise school standards, share best practice and promote consistency across schools in Wales. Whilst we endorse the guidance we hope that it will not be too prescriptive and will not inhibit teachers' own creativity and innovation. The guidance will also need to be flexible to cater for future needs.
- 3.8 Publishing best practice material via the Learning Wales website and other sites will also help to share and promote good practice. Examples of best practice will need to clearly identify the school context.

**c. Part 3 - School Organisation (sections 38-84) (see pages 17-21, 99-106 of the Explanatory Memorandum)**

- 3.9 The introduction of a statutory Code on school organisation is welcomed to ensure all parties are aware of and understand the process that should be followed. This will allow for a common and consistent approach throughout Wales. It also makes sense to place all legislation relating to school organisation proposals in one legislative framework. Governors Wales hopes that the code will be consulted on with stakeholders in due course.
- 3.10 We are mindful however, of the differing views regarding the Local Determination Panel (LDP) but overall Governors Wales agrees that this seems a sensible approach. Although, Schedule 3 of the Bill sets out the disqualification provisions for members of the LDP, we stress the importance of the independence and impartiality of the panel members. It would be worth considering that the make-up of the LDP could derive from the regional consortia.

**d. Part 4 – Welsh in Education Strategic Plans (sections 85-88) (see pages 21-25, 106-107 of the Explanatory Memorandum)**

- 3.11 The introduction of Welsh Medium Strategic Plans will assist local authorities to improve planning for sufficient Welsh-medium places. This should form part of LAs wider planning policies. The WESPs will complement existing legislation.

**e. Part 5 – Miscellaneous School Functions (sections 89 – 97) (see pages 25-31, 107-109 of the Explanatory Memorandum)**

## Annual Parents Meetings

- 3.12 Governors Wales supports the removal of the requirement to hold the annual parents meeting but recognises the importance of governing bodies continuing to demonstrate to stakeholders their accountability through publishing information on the conduct and performance of the school via the annual report, as well as continuing to look at ways of developing effective ways of communicating with parents. Much good practice already exists.

- 3.13 Although we commend the new proposals for parents to call a limited number of meetings with the governing body and recognise the positive benefits that this could bring, i.e., improving parental engagement and collaboration, we urge that the statutory guidance is very specific on the situations which could not be discussed at such meetings without compromising the role of the governing body.
- 3.14 Governors Wales is therefore, not necessarily in agreement with the requirement to let parents request a meeting with the governing body via a petition {Section 95}. It is assumed that this may happen when particular issues may have arisen in the school. It would be best practice for the governing body to meet with the parents anyway if there were any emerging issues of concern, ensuring good and positive communication with stakeholders, rather than await a petition! Governing bodies also need to be mindful of confidentiality issues when discussing certain circumstances with the parents. They may not be in a position to answer questions posed by the group of parents who have requested the meeting, which may inevitably result in some further concern. We suggest, therefore, that a right of refusal by the governing body should be included where the position of the governing body could clearly be compromised. This decision would have been discussed and verified with the Local Authority.
- 3.15 Section 95 of the Bill indicates that the parents of 10% of registered pupils or 10 (primary) or 30 (secondary) registered pupils whichever is the lower can request a meeting/s. We suggest that reference is made in the Bill and any proposed guidance to the definition of ‘parent’<sup>1</sup> in relation to this section.

#### **School based counselling/Free School breakfasts**

- 3.17 Governors Wales agrees on the proposal to transfer grant funding for school based counselling and free school breakfasts for primary schools to the Revenue Support Grant. Both initiatives undoubtedly bring positive benefits to enhance pupils’ wellbeing.

#### **Flexible charging for school meals**

- 3.18 The proposal to introduce flexible charging for school meals is commended and will benefit many families. There is however, a potential concern about the potential bureaucracy of administering this scheme. Clear guidance will be essential.

#### **f. Part 6 – General (sections 98-102) (see pages 109-110 of the Explanatory Memorandum)**

- 3.19 This section appears to be clearly defined.

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<sup>1</sup> Circular Guidance No:12/2007 “Parents” and “Parental Responsibility”  
<http://wales.gov.uk/publications/circular/2007/1552456/?lang=en>

**4. What are the potential barriers to implementing the provisions of the Bill (if any) and does the Bill take account of them?**

- 4.1 This is not a barrier as such but with the emergence of regional improvement services within Consortia, reference will need to be included to this, in addition, to any implications arising from education consortia, particularly in relation to school improvement within statutory guidance.

**Powers to make subordinate legislation**

**5. What are your views on powers in the Bill for Welsh Ministers to make subordinate legislation (i.e. statutory instruments, including regulations, orders and directions)?**

In answering this question, you may wish to consider Part 1, Section 5 of the Explanatory Memorandum, which contains a table summarising the powers delegated to Welsh Ministers in the Bill to make orders and regulations, etc.

- 5.1 Section 5 sets out clearly the provisions for subordinate legislation to be made so no further comment to add, other than to urge consultation on the key aspects of the Bill.

**Financial Implications**

**6. What are your views on the financial implications of the Bill?**

In answering this question you may wish to consider Part 2 of the Explanatory Memorandum (the Regulatory Impact Assessment), which estimates the costs and benefits of implementation of the Bill.

- 6.1 Governors Wales notes the cost implications as set out in relation to the preferred options. Some will clearly bring cost savings whilst others are unknown. Ultimately, schools should have the necessary support and resourcing in place to deliver education efficiently and effectively in order to raise standards for all learners. Any savings that are made from school organisation and early intervention should be ploughed directly back into schools.

**Other comments**

**7. Are there any other comments you wish to make about specific sections of the Bill?**

- 7.1 We are mindful the Code of Practice for LA/School Relations will be repealed. Whilst, the content in certain sections is outdated and will be replaced in new statutory guidance (i.e. intervention), a few sections remain relevant, examples include: relationships between key players, exchanging information and consultation, appointment of LA governors etc. We hope this information will be integrated elsewhere.



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## **CHILDREN AND YOUNG PEOPLE'S COMMITTEE:**

### **Consultation on the School Standards and Organisation (Wales) Bill**

#### **About NUT Cymru:**

NUT Cymru represents primary and secondary school members and is the largest teaching union in Wales. We welcome the opportunity to contribute evidence to the Children and Young People's Committee on the School Standards and Organisation (Wales) Bill.

#### **Consultation Questions:**

##### **General:**

#### **1. Is there a need for a Bill to make provision about school standards and school organisation?**

##### **Please explain your answer?**

In part we believe this is needed. There are aspects within the proposed Bill that are welcomed and acceptable, such as support for Welsh language schemes, proposals around free school breakfasts and education for post-16 learners with special educational needs in schools. However, there are also elements that we are very much opposed to, such as linking intervention to school banding.

One aspect where it can be argued that a Bill of this nature is needed is in terms of responsibility. Teachers have, as a profession, felt undermined by some of the rhetoric of government over the past few years. While we strive towards improving targets, the nature of criticism of the education sector, and the constant stream of new policies and initiatives against a backdrop of systematic underfunding make the task all the more difficult. Hopefully, this Bill will show the Welsh Government is willing to take responsibility for the overarching approach to standards and the profession, amongst other stakeholders, will not simply be treated as a scapegoat for any failings. If education is to be delivered to the highest levels there must be a collaborative approach, not one based simply on criticism.

**2. Do you think the Bill, as drafted, delivers the stated objectives as set out in the Explanatory Memorandum? Please explain your answers.**

On the whole the objectives, as detailed in the description of the Explanatory Memorandum, will be met by the Bill. The key discussion is if the changes proposed in the Bill are going to be delivered in practice as the Bill intends, and if they are changes that will improve the system or not.

**3. What are your views on each of the main parts of the Bill;-**

**Part 1 – Introduction (section 1)**

This is simply an over view of what is contained within the Bill.

**Part 2 – Standards (Section 2-37 of the Bill) (see pages 9-17, 92-99 of the Explanatory Memorandum)**

Much of what is outlined is acceptable. Ensuring that guidance is clear and up to date for local authorities and schools to examine in one place is to be welcomed. Equally, the commitment to ensure that local authorities are clear about the rationale behind their actions is a positive step forward.

One concern is that many of the grounds for intervention are open to wide interpretation.

For example, local authorities may intervene if performance of pupils is low when equated to pupils at comparable schools. The definition of a comparable school in the first instance is not clear. Grounds for intervention such as this could easily be manipulated. If a school is ‘performing poorly’ in relation to one comparable school, but exceeding the performance of another is that a ground for praise or punishment? A local authority could intervene in schools where it is inappropriate to do so based on some of the vague criteria provided.

Some of the grounds for intervention imply local authorities would be expected to consider the school banding system as the basis of evidence behind school interventions, including judging schools as in need of being placed in special measures.

The NUT continues to believe that the nature of the school banding system is flawed and remains vigorously opposed to it. We would have serious concerns that by imbedding the system into legislation, the government will be ensuring that this league table style system will determine the running of schools in Wales in future.

We are also concerned that in creating a league table system based on school bandings the Welsh government risks creating a cycle of decline for schools placed in the lower end of the bandings. By identifying school banding as a key driver behind the ability of local authorities intervening in schools it appears as if the Welsh government could use this system as a way of targeting schools based on a snapshot of performance rather than a true overall picture.

The consultation document which closed in January on this Bill implied that the rationale for these proposals is a combination of “local authorities should be making better use of the information they have in relation to the performance of schools in their areas” (page 5) and the infrequent usage by local authorities of their existing powers of intervention (page 6). Rather than moving immediately

to a system of banding, it would have been more appropriate to ensure first that local authorities were fulfilling their existing responsibilities for school performance. Simply introducing the school banding system will not improve the quality of local authorities' work in this area, but is likely to penalise schools in areas where local authority support is poor.

The point about local authorities being reluctant to issue warning notices is picked up in the Explanatory Memorandum (page 10; 3.7). However, no consideration seems to have been given as to why local authorities have rarely used their existing powers of intervention, other than potential "confusion" because there is currently no single document which includes this information. It may be, as has been shown to be the case in England, that local authorities may choose not to use them because of the damage intervention powers may cause to their relationship with an individual school. Collaboration and trust between an authority and an individual school are essential prerequisites for school improvement work, yet can be destroyed if an authority moves swiftly to exercise of its formal powers of intervention. Similarly, local authorities may believe that intensive support for teaching and learning, for example, may be a more effective intervention than the imposition of an Interim Executive Board. It should not be the Assembly's expectation, therefore, that these proposals "will lead to an increase in interventions in schools causing concern".

Legislating to ensure that local authorities must provide detailed and specific information regarding their moves to intervention in the warning notice is welcomed. One concern is that the local authorities must specify the action they are minded to take if the governing body fails to take the required action. This appears to be pre-judging the outcome of any measures taken by the school and its governing body. It may be that providing details of what possible action is likely should measures fail is helpful. It could also, however, lead to confusion and concern amongst parents and staff which exacerbates any potential problems. Equally, there could need to be a change of approach by the local authority determined by developing circumstances. Making a commitment to specific action prior to any detailed intervention seems inappropriate.

One of the major omissions in the Bill is the necessity to work in a collaborative approach with staff and governing bodies. Much of the Bill focusses on intervention through dictating budgets; appointing interim executive members and/or governors etc. There appears little in the Bill that focusses intervention on a collaborative approach. The best way to improve a school is to work with its existing staff members. We have concerns that an approach based on external input, making sweeping decisions without a real grasp of the nature of problems at a school, could lead to even greater concerns.

In terms of examining the Bill's approach to school improvement, sharing best practice is always welcomed by the teaching profession. It is important to improving standards and ensuring that teachers across Wales are aware of innovative and effective teaching practices, and that those practices are made available.

However, best practice in one part of Wales, or in one school for one set of students, will not always transfer effectively to another. Whilst teachers would welcome advice and guidance to support their development and implementation of best practice, the idea of Welsh Ministers having the power to compel schools against their wishes, and potentially against the ethos and focus of the school, to adopt specific strategies, initiatives or methods would not be acceptable.

No evidence is provided to support the assertion in the Explanatory Memorandum (page 15; 3.31) that this change is needed because “some schools are reluctant to change their approaches.” This is highly insulting to the profession and suggests that it is the Department and its civil servants, rather than school leaders and teachers, who know best.

The suggestion that centrally –approved teaching and learning approaches would be prescribed in statutory guidance for “certain categories” of schools is predicated on the idea that there is only one “right” way to teach. Nothing could be further from the truth. As those in the profession know, there is no “one size fits all” approach to school improvement. What works in one school may not in another, due to a wide range of contextual and personal factors. The proposed approach would also de-professionalise those working in any schools subject to the statutory guidance, as they would be required to follow and deliver prescribed approaches rather than work collectively to use their professional skills and knowledge to identify solutions appropriate to their own school. This reductionist approach to school improvement is certainly at odds with the stated aspiration elsewhere in Government education policy that teaching should become a Masters level profession.

Many LEAs do not have the capacity to manage a school centrally if delegated authority were removed from the Governing Body. Intervention powers can, therefore, be something of an empty threat.

### **Part 3 – School Organisation (Sections 38-84 of the Bill) (see pages 17-21, 99-106 of the Explanatory Memorandum)**

There is a concern that allowing local authorities to decrease the physical capacity of schools will aid the dismantling of small schools, making them unsustainable. This risks taking pupils and funding away from schools. As a consequence the ability to educate those that remain will be compromised, ultimately leading to closing schools and increasing class sizes and workloads for teachers in other schools. It will also lead to redundancies for teachers.

We have serious concerns about the impartiality of decision making if decisions are not referred to Welsh Ministers. Under this plan the proposer will be able to determine, and essentially, ignore the objections of a long list of stakeholders. There is a very clear question of impartiality on this issue. Instead of allowing Welsh Ministers to examine the case for, and objections against, on an impartial basis, the proposer will determine if the objections to their own case merit support. We believe that Welsh Ministers, or the independent local decision making panel, should examine the basis of all objections.

Although staff employed in schools named in a statutory notice are included in the list of categories of statutory objector, a higher threshold of objectors is needed than for some other categories, in order for the objection to be valid. The NUT believes that, as key stakeholders in schools, both staff and parents’ objections should be given as much weight as those made by governing bodies or school councils. Provision also needs to be included which would reflect the differing sizes of schools. The threshold of 10 staff or parents may be a tiny proportion of a larger secondary school but could exceed the entire staffing complement of a rural primary school. Consideration should therefore be given to making these proposals proportionate to school size.

No school should be closed without an examination of the implications of doing so. This proposal essentially gives guidance to proposers to close schools with fewer than 10 pupils irrespective of the reasons behind that number. It could be that a school has this amount of children because travelling to a different school is feasible. The socio-geographical nature of the school must also be considered, not just decision by headcount. It is also important to look at the potential for growth at the school. How many children will be attending in 2, 5 or 10 years' time?

Whilst sustaining schools as small as this is not appropriate in some cases, there is a concern that these plans give the proposer the incentive to ignore the rationale behind the school, and make any objections pointless given they can be dismissed by the proposer. It is difficult to see how there can be an independent view on objections when the proposer who wishes to close the school will determine if they are valid or not.

These proposals also ignore the contribution to the community which such schools, typically situated in rural areas, offer. This is particularly important given the high levels of rural deprivation, where the school may be the only municipal facility available to the community. It also completely ignores the issue of parental choice: many parents prefer their children to attend their local school precisely because of its small size and the more personalised service it can offer and also because they would prefer that their young children did not have to travel to school. These issues may be less easy to measure, but are more important to parents than a straightforward "value for money" judgement.

#### **Part 4 – Welsh in Education Strategic Plans (sections 85-88 of the Bill) (see pages 21-25, 106-107 of the Explanatory Memorandum)**

The replacement of the Welsh Education Schemes of the Welsh Language Board with the new Welsh in Education Strategic Plans appears sensible in terms of improving local authorities' engagement with strategic planning and development for Welsh-medium provision. The Bill fails to address, however, why this new initiative will succeed where previous strategies failed at the local level. Although the proposals list a number of requirements on local authorities, there is no consideration of how LAs will achieve them and what would happen if they failed to do so – would LAs be subject to any sort of penalty or intervention for example? The schools and other settings which would be subject to the new WESPs could be forgiven for being sceptical about what practical advances will be made under these proposed arrangements.

#### **Part 5 – Miscellaneous School Functions (section 89-97 of the Bill) (See pages 25-31, 107-109 of the Explanatory Memorandum)**

The proposal that five per cent of parents would be able to trigger a meeting with the governing body is a cause for concern as it could potentially be used by a small group of parents for vexatious purposes. The vast majority of parents could be extremely happy with a school's provision and may therefore see no reason for attending a single issue meeting with governors, thereby giving undue influence to a minority group. The proposal that the governing body would have to respond in writing to issues raised during the meeting increases the likelihood of non-attendance by satisfied parents.

In addition, the proposal by-passes completely the relationship between parent governors and their electorate. If parents at the school feel that a meeting with the governing body is needed, the parent

governor would be a more appropriate conduit for such a request. This is particularly the case for engaging parents who may lack confidence to participate in the life of the school through more formal mechanisms.

In regards to free school breakfasts, the proposals on the whole appear reasonable. However clarity would be required on some of the criteria that would lead local authorities to determine if it would be unreasonable to provide, or continue to provide, free breakfasts. What is considered the level to which low demand is applicable or costs being disproportionate? What lengths must local authorities go to in order to prove they have done everything possible before determining that they are unable to recruit staff for the scheme etc.? This is often as big an issue as demand.

One of the reasons that teachers have embraced the concept of free breakfasts, and why it has been successful, is that it has not increased their workloads and taken away their time and energy from teaching and learning in the classroom. Having the local authority run the provision ensures that the benefits of the scheme such as increasing concentration, early attendance etc., are delivered but without any additional demands on teachers. The NUT would have concerns that in withdrawing the obligation of local authorities to provide the scheme and placing that onus on the governing body of the school, the delivery of this scheme could end up being placed on teachers and support staff. This will result either in increased workloads, tensions between staff and governing bodies or the scheme disappearing from schools altogether. We would recommend that the scheme be maintained wholly by local authorities.

In addition, to be successful, the scheme must be adequately funded. The lack of ring-fenced funding for this grant is a serious cause of concern, as local authorities may have to make difficult choices given the financial constraints they are currently under. Evidence shows that where parents are asked to make a greater contribution there is less take-up. This proposal could therefore be seen as an attempt to shift blame onto local authorities and schools if this previously successful central initiative is perceived as less effective when devolved completely to the local level.

We support proposals around school based counselling, special education and flexible charging for school meals.

#### **Part 6 – General (Sections 98-102 of the Bill) (See pages 109-110 of the Explanatory Memorandum)**

This simply sets out the timetable of the Bill's introduction.

#### **4. What are the potential barriers to implementing the provisions of the Bill (if any) and does the Bill take account of them?**

One of the main barriers to implementing this Bill effectively is that it appears to have ignored the cooperation needed with schools. On the issue of intervention there is a sense that the Bill is focused entirely on challenge and not on support. Many of the grounds for intervention will be things that are potentially beyond the school's control, are caused by external/specific factors or are specialist issues within an otherwise functioning school. Initiating an intervention process that could result in budgets being dictated to the school or governors/interim executive members being installed against the school's wishes could create major conflict and increase difficulties.

While it would be expected that a common sense approach would serve to ensure that there is cooperation and any intervention is done in collaboration with the school, the Bill does not insist upon that and as a result potential clashes could occur.

As stated in this document some of the interventions, especially those which are based on comparing the performance of a school against others of similar capacity, will be focused on the banding system. Given that the vast majority of schools and staff are vigorously opposed to the banding process this could again cause conflict. We also believe that the banding system gives a misleading impression of school performance and could lead to interventions that are not necessary.

Another potential barrier to this Bill being implemented effectively is the ability of local authorities to undertake their roles effectively. There is a great focus on the role of local authorities in the Bill, from determining when intervention is necessary and in what form, to determining the future of schools and ruling on any objections. Estyn reports have struggled to find many good performing local authorities in regards to education, with special measures applied to some in Wales. It is difficult to believe that with the current support structures in place local authorities will have the capacity, capability and ultimately confidence of the profession and public to take up these tasks effectively. The history of delivering funding effectively to schools by local authorities would also call into question their delivery roles in relation to special education, school based counselling and free school meals.

#### **Powers to make subordinate legislation:**

#### **5. What are your views on powers in the Bill for Welsh Ministers to make subordinate legislation (i.e. statutory instruments, including regulations, orders and directions)?**

The subordinate legislation appears in line with what is being proposed in the Bill. However, we remain cautious of any guarantees that anything is *'unlikely to be controversial.'*

#### **Financial Implications**

#### **6. What are your views on the financial implications of the Bill?**

What it is important to recognise in terms of the financial implications of the Bill is the historic underfunding from which we currently approach education. The latest figures available note that there is a £604 per pupil funding gap between England and Wales. That has a significant influence on the performance of schools and the need for interventions. Equally, while there is a substantial amount of money being put into the 21C Schools programme, it is still far less than was originally outlined as needed by local authorities in Wales. This will mean there will continue to be schools across Wales operating in conditions that are not fit for purpose.

Each of the options proposed by the Welsh Government through its cost/benefit analysis comes with a significant financial burden. This burden must be met from new resources as there simply is not the finance available within existing local authority or school budgets.

The cost of what measures can, or should, be put in place to aid school performance should in theory be secondary to the need. Unfortunately, this is not a realistic assessment of school and local authority education budgets. The costs for intervention can be very high. If the Welsh Government

is keen to pursue a course, through this Bill, of increasing interventions in schools in Wales it must also recognise that there will be a financial burden associated to that. We would strongly argue that consideration of this factor must be given and additional financial resources are made available to take account of it. If schools and local authorities are expected to produce the funding for interventions we will either see the Bill fall flat (as there will not be the funding to deliver it), or we will see a situation where greater numbers of schools and local authorities struggle as a result of drains on budgets. It is unreasonable to expect to improve a system with ever decreasing budgets.

**Other comments:**

**7. Are there any other comments you wish to make about specific sections of the Bill.**

There is much to welcome in this Bill which will hopefully lead to significant improvements across a number of areas within the school system. Certainly, proposals around free school meal charging, provisions for pupils with special educational needs, school based counselling and the reduction of bureaucracy, are all positive steps forward.

Where we exercise caution is in relation to proposals around interventions in schools by local authorities. What we would like to see is a system of cooperation and collaboration between parents, schools and the local authority to ensure that any school which requires assistance is given the necessary support. There must also be agreement on what assistance is required and the challenges which currently exist.

What would be a cause for concern is if this Bill was used by local authorities as a green light to intervene when they may not understand the challenges faced by a particular school, or may not have the capacity to offer the support needed.

We are encouraged that the Education Minister has stated publicly that he does not want to see banding as the sole driver in determining interventions. It will be important to keep a close eye on the practical application of the proposals to ensure that local authorities take a number of factors into consideration, and do not simply revert to interventions based on a fundamentally-flawed banding system, which many in the education sector continue to oppose.

**The Children and Young People Committee  
Consultation on the School Standards and Organisation  
(Wales) Bill  
June 2012**

1. The NASUWT welcomes the opportunity to submit written evidence to the Children and Young People Committee on the general principles of the School Standards and Organisation (Wales) Bill (the Bill).
2. The NASUWT is the largest teachers' union in Wales and the UK representing teachers and school leaders.

**GENERAL COMMENTS**

3. The NASUWT notes the framework in which the Committee has agreed to work and will address the specific matters under consideration by asking the Committee to reflect on the response submitted to the consultation on the White Paper in January (copy attached as Appendix A).
4. The NASUWT remains of the view that the Bill presents a missed opportunity as the issues relating to school standards and organisation that need to be addressed as a matter of urgency in Wales are those stated in response to Question 19 on the consultation response form.

## SPECIFIC COMMENTS

5. The NASUWT offers the comments and observation that follow in relation to the consultation questions.

*Question 1 - Is there a need for a Bill to make provision about school standards and school organisation? Please explain your answer.*

The NASUWT recognises that the proposal to introduce a Bill to make provision about school standards and school organisation has merit. However, the NASUWT maintains that, as drafted, the Bill focuses on school organisation rather than standards.

By way of explanation, the NASUWT refers the Committee to paragraphs 3 to 29 and to the response to Question 19 contained in the response to the White Paper (Appendix A)

*Question 2 - Do you think the Bill, as drafted, delivers the stated objectives as set out in the Explanatory Memorandum? Please explain your answer.*

The NASUWT acknowledges that the Bill, as drafted, addresses the stated objectives as set out in the Explanatory Memorandum but questions the rationale provided for the stated objectives.

By way of explanation, the NASUWT refers the Committee to paragraphs 3 to 29 of the response to the White Paper (Appendix A).

*Question 3 - What are your views on each of the main parts of the Bill—*

*Part 1 – Introduction (section 1)*

The NASUWT acknowledges that Part 1 provides an adequate introduction to the provisions of the Bill, as drafted.

*Part 2 – Standards (sections 2-37) (see pages 9-17, 92-99 of the Explanatory Memorandum)*

The NASUWT refers the Committee to Sections 1 and 2 of the response to the White Paper (Appendix A).

The NASUWT remains of the view that the provisions of the Bill will exacerbate the culture of scrutiny and surveillance that that is currently being visited on schools in Wales.

The NASUWT maintains that a supportive and developmental approach to accountability and intervention is more compatible with high performance.

*Part 3 - School Organisation (sections 38-84) (see pages 17-21, 99-106 of the Explanatory Memorandum)*

The NASUWT refers the Committee to Section 3 of the response to the White Paper (Appendix A).

The NASUWT acknowledges the inclusion of bodies that might represent the interest of staff in the category of objectors, albeit that they are listed as category 3 objectors.

However, the NASUWT's concerns about the creation of a democratic deficit within the school reorganisation process remains.

*Part 4 – Welsh in Education Strategic Plans (sections 85-88) (see pages 21-25, 106-107 of the Explanatory Memorandum)*

The NASUWT refers the Committee to Section 4 of the response to the White Paper (Appendix A).

*Part 5 – Miscellaneous School Functions (sections 89 – 97) (see pages 25-31, 107-109 of the Explanatory Memorandum)*

The NASUWT refers the Committee to Sections 5.1, 5.2, 5.3, 5.4 and 5.5 of the response to the White Paper (Appendix A).

*Part 6 – General (sections 98-102) (see pages 109-110 of the Explanatory Memorandum)*

The NASUWT acknowledges that Part 6 provides general information relating to the Bill.

*Question 4 - What are the potential barriers to implementing the provisions of the Bill (if any) and does the Bill take account of them?*

The NASUWT maintains that the provisions of the Bill are predicated on the assumption that the standards can be raised by an over-reliance on data and organisational change rather than addressing the fundamental issue of under-investment in the education system.

The Bill fails to make provision to ensure that teachers are provided with the contractual entitlements, resources and security of tenure that will enable them to effectively contribute to maintaining and raising standards in schools across Wales.

Further, the provision of the Bill relating to statutory school improvement guidance must be underpinned by an acknowledgement of the need to provide sufficient funding to allow access to effective continuing professional development (CPD).

*Question 5 - What are your views on powers in the Bill for Welsh Ministers to make subordinate legislation (i.e. statutory instruments, including regulations, orders and directions)?*

*In answering this question, you may wish to consider Part 1, Section 5 of the Explanatory Memorandum, which contains a table summarising the powers delegated to Welsh Ministers in the Bill to make orders and regulations, etc.*

The NASUWT notes, with some concern, that paragraph 5.2 indicates that consultation on the content of the subordinate legislation will be at the discretion of the Welsh Government and that the exact nature of the consultation will be decided after the proposals have been finalised.

*Question 6 - What are your views on the financial implications of the Bill?*

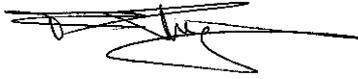
*In answering this question you may wish to consider Part 2 of the Explanatory Memorandum (the Regulatory Impact Assessment), which estimates the costs and benefits of implementation of the Bill.*

After attempting to navigate through the Regulatory Impact Assessment and the cost benefit analysis contained therein, the NASUWT believes that it is prudent to remind the Committee of the £273 million shortfall in funding provided to schools in Wales when compared to schools in England as the cost benefits do not appear to come close to this level of under-investment.

Question 7 - Are there any other comments you wish to make about specific sections of the Bill?

The NASUWT is concerned about the reference to the use of school banding data, in Section 3.23 of the Explanatory Memorandum, to inform the need for intervention as the process is fundamentally flawed. The banding system judges schools against improvement rather than set criteria. Consequently, the banding system prevents schools where good results are sustained from being able to break into the top band because they cannot demonstrate improvement and schools in the bottom bands will receive some additional cash. However, if improvement is then realised, the funding stops because the school moves into a higher band.

The NASUWT maintains that targeting resources on such a short-term basis will do little to raise standards in the longer term.



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**Wales Organiser**

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**Welsh Government**  
**School Standards and Organisation (Wales) Bill**  
**January 2012**

1. The NASUWT welcomes the opportunity to comment on the proposal to introduce a School Standards and Organisation (Wales) Bill.
2. The NASUWT is the largest teachers' union in Wales and the UK representing teachers and school leaders.

**GENERAL COMMENTS**

3. In the Ministerial foreword, reference is made to the desire to make sure schools deliver high quality education that is world class as this is fundamental to securing the future prosperity of Wales and to giving our young people the very best chance in life.
4. The NASUWT maintains that all schools would share such a desire, and would strive to give their pupils the very best chance in life, and is therefore disappointed by the comments contained in the foreword that denigrate the efforts of schools and local authorities.
5. The NASUWT maintains that the suggestion that 'world class provision in many of our schools sits alongside poor practice in neighbouring schools and too many local authorities are judged adequate or having serious weaknesses' demonstrates a lack of awareness of the complexities associated with the provision of education.

6. Indeed, the Ministerial reference to 'world class provision' has been based solely on the results of the Programme for International Student Assessment (PISA).
7. The NASUWT has condemned previously the misuse of the PISA data by the Minister and has explained the inappropriateness of distorting the data to provide a pretext for change in the booklet '*The use of international benchmarking data in Wales*' (copy attached as Annex A).
8. The NASUWT notes with alarm the emphasis placed by the Minister on 'sharpening accountability of schools by bringing together, updating and, where necessary, tightening standards and management'.
9. This approach suggests a system of accountability that is punitive and focuses on exposing weakness rather than recognising that an effective accountability system should be based on principles of support, guidance, development and assistance.
10. The NASUWT suggests that the Minister should reflect on evidence gathered by the Evidence for Policy and Practice Information and Co-ordinating Centre (EPPI-Centre) for a study<sup>1</sup> of accountability and the use of education indicators in high-performing education systems that suggests that a supportive and developmental approach to accountability is compatible with high performance.
11. The study cites Finland as an example and notes that inspectors take on a more advisory role, where the concentration is on helping schools to improve the curriculum, and teaching and learning, rather than evaluating school performance in terms of learner outcomes.

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<sup>1</sup> The EPPI reference is: Husbands, C; Shreeve, A; and Jones, NR (2008), 'Accountability and children's outcomes in high-performing education systems: Analytical maps of approaches to measuring children's education, health, and well-being outcomes in high-performing educational systems' in *Research Evidence in Education Library*; EPPI-Centre, Social Science Research Unit, Institute of Education, University of London.

12. Teachers are trusted as professionals and the relationship between inspectors and schools is more equitable, with schools and inspectors working together to secure improvements to education.
13. The NASUWT regrets that in Wales the approach to accountability is based on the 'stick rather than the carrot'.
14. The NASUWT notes that in the summary contained in the White Paper it is suggested that the Welsh Government needs to focus on building capacity within the system itself if excellence in all schools is to be achieved.
15. Regrettably, having identified this need, it appears from the proposals contained in the White Paper that the Welsh Government believes that this capacity can be built through dictate and the redistribution of resources rather than through dialogue and increased investment.
16. Quite apart from the £604 per pupil funding gap that exists between schools in England and Wales, the per pupil funding gap between the highest and lowest per pupil spend by authorities in Wales stands at £885.
17. The NASUWT maintains that it is absurd to expect that excellence can be achieved in all schools when such funding disparities exist.
18. The NASUWT urges the Welsh Government to take the opportunity provided by the introduction of this first Education Bill to establish a fairer funding system to provide equality of opportunity for all pupils.
19. The NASUWT reminds the Welsh Government of the challenge that was made to the National Assembly for Wales (NAfW), following its formation in 1999, through the presentation of a report entitled *Funding the Education Service in Wales to provide Equality of Opportunity for all Pupils* (a part copy of the document is attached as Annex B but a complete hard copy is available on request) to the then Minister for pre-16 Education and Children, Rosemary Butler AM.

20. The report carried the support of NASUWT Cymru, Governors Wales, ATL, North East Wales Education Forum, NUT Cymru/Wales, the Parent-Teacher Association of Wales and UCAC.

21. The NASUWT suggests that the following extract from the foreword to the report (not included at annex B) puts the proposals contained in this White Paper into perspective and provides a clear demonstration of the opportunities that have been missed by successive administrations at the NAFW:

*'It is the Government's prerogative to decide on the national education priorities and policies: the Local Education Authorities and schools deliver the service in partnership. However, as this report indicated, if it is the wish of the Government to improve quality and standards in education, the service must initially be appropriately funded to deliver those determined policies and priorities. Only when this is done can high ideals of improved standards, quality and opportunity for all be achieved.'*

*It is the fundamental wish of the co-signatories of this report that the findings, contained herein be taken seriously by the members of the Assembly, and that they will, when translated into policy and reality, ensure the development of a Welsh Education Service the whole nation can be proud of.'*

22. Returning to the Ministerial foreword, the Minister claims that he has been honest where he has seen failings in the way our education services have been working and suggests that the variation in performance across the education system is far too great and that far too much resource does not reach the front line.

23. The NASUWT suggests that the Minister has taken a 'Nelsonistic' approach to the variation in funding across the education system and is misguided in his analysis of the front line.
24. The NASUWT accepts that a focus on raising standards should be central to the overall philosophy of all those involved in seeking to secure a world class education system.
25. Indeed, the NASUWT reminds the Welsh Government that it was against this background that the 'National Agreement: *Raising Standards and Tackling Workload*' (the National Agreement), to which the Welsh Assembly Government was a signatory, was brokered in 2003.
26. Following, the establishment of the National Agreement, provision was made in the School Teachers' Pay and Conditions Document (STPCD) to introduce contractual changes that would provide teachers with the time and conditions to facilitate the effective discharge of their duties and responsibilities, free of unnecessary bureaucracy, undue pressure, excessive workload and exploitation.
27. The failure in Wales to put in place strategies to monitor compliance with the contractual changes has remained a matter of regret to the NASUWT and has led to the 'Standing up for Standards' campaign and the national instruction to members to take industrial action short of strike action to secure compliance.
28. The NASUWT believes that the proposal to introduce a School Standards and Organisation (Wales) Bill provides the Welsh Government with the opportunity to make provision to ensure that teachers are provided with the contractual entitlements, resources and security that will enable them to effectively contribute to maintaining and raising standards in schools across Wales.

29. The NASUWT trusts that the opportunity provided by the introduction of this Bill to join the NASUWT in 'Standing up for Standards' will not be missed.

### SPECIFIC COMMENTS

30. The NASUWT offers the observations and comments that follow in relation to the questions posed on the consultation response form.

#### Section 1

<b>1. Do you agree with the proposals for intervention in schools causing concern?</b>		
Agree with most	Agree/Disagree with some	Disagree with most
		<b>Disagree with most</b>

<b>2. If you disagreed, please tell us about it below.</b>	
Issue	Your concerns
The rationale for proposing change	<p>The NASUWT has some difficulty in reconciling the claim that the purpose of this section of the Bill is to make it easier for local authorities to understand when it would be appropriate for them to use their powers of intervention with the clarity of the provision described at Chapter 4 of Part 1 of the School Standards and Framework Act 1998 (SSFA).</p> <p>The NASUWT maintains that current legislation provides sufficient powers of intervention in schools causing concern, and that this proposal has less to do with clarity and more to do with the implementation of government dictate.</p>
The changes proposed	The NASUWT notes the references to the national

	<p>banding outcome for schools, the reliance on data to make judgements on school performance and the link to data analysis, target setting and performance management and maintains that this confirms the view that the Welsh Government is seeking to place the school workforce under permanent scrutiny with pupil outcome driving the agenda through the introduction, by virtue of this Bill, of an accountability system that is punitive in nature.</p> <p>The NASUWT sides with the EPPI study, referred to previously, that a supportive and developmental approach to accountability is compatible with high performance.</p>
The anticipated outcomes	<p>The NASUWT is alarmed at the suggestion that this provision will lead to an increase in interventions in schools causing concern.</p> <p>The NASUWT believes that this will alter significantly the relationship between local authorities and schools under their control.</p> <p>Further, given the move to consortia arrangements, the NASUWT questions how such interventions will occur as a consortium would have no legal basis for intervention.</p>

## Section 2

<b>3. Do you agree with the proposals for school improvement guidance?</b>		
Agree with most	Agree/Disagree with some	Disagree with most
		<b>Disagree with most</b>

<b>4. If you disagreed, please tell us about it below.</b>	
Issue	Your concerns
The rationale for proposing change	<p>The NASUWT takes issue with the suggestion that best practice does not spread quickly and that there is a reluctance to embrace change in order to raise standards.</p> <p>However, the NASUWT welcomes the commitment to drawing together and signposting the most relevant examples of effective practice to schools and practitioners.</p> <p>The NASUWT would expect schools and practitioners to have open and easy access, via hard copy publications and a dedicated section on the Welsh Government website, to such information.</p> <p>The NASUWT would have grave concerns if such information required teachers and headteachers to trawl through local authority, consortia or Estyn websites.</p> <p>Further, the NASUWT maintains that access to</p>

	<p>effective continuing professional development (CPD) and time to adopt and adapt such practice must be made available to all practitioners.</p> <p>The NASUWT questions seriously whether the Minister should have powers to insist that schools adopt a particular approach to pedagogy.</p> <p>The NASUWT maintains that the school inspection system provides sufficient power of intervention where a need for improvement is identified and submits that this proposal portends a centralist approach to education and pedagogy across Wales.</p>
The changes proposed	<p>Although the NASUWT believes that the Welsh Government has a responsibility to ensure that schools operate within the context of the School Teacher Pay and Conditions Document (STPCD), and welcomed the powers on compliance introduced in January 2010, by virtue of the <i>Staffing of Maintained Schools (Wales) (Amendment) Regulations 2009</i> that enable the provisions of the <i>Apprenticeships, Skills, Children and Learning Act 2009</i> to be applied by Ministers in Wales (copy of the Minister's letter issued to governing bodies, December 2009 can be found at Annex C), the suggestion that Ministers should have the power to determine the teaching techniques and approaches to be used in schools is firmly rejected as it demeans and undermines the status, standing and confidence of the teaching profession.</p> <p>The NASUWT accepts that the Welsh Government has both a duty and a responsibility to determine, in consultation with the teaching profession, the</p>

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	curriculum that is taught, but regimenting pedagogic practice is a step too far.
The anticipated outcomes	The NASUWT rejects the assertion that issuing statutory guidance on leading-edge practices will improve the effectiveness of some schools in need of additional support as guidance alone will be of little use unless sufficient funds are made available to provide access to professional development where such leading-edge practice can be observed and the time for teachers to be able to adopt and adapt such practice to the realities of their working environments.

### Section 3

<b>5. Do you agree with the proposals for changes to the way schools are organised?</b>		
Agree with most	Agree/Disagree with some	Disagree with most
		<b>Disagree with most</b>

<b>6. If you disagreed, please tell us about it below.</b>	
Issue	Your concerns
The rationale for proposing change	The NASUWT maintains that the current arrangements for making changes to school reorganisation, as recorded, provide a structure that is democratic, affords sufficient time for schools, governing bodies, local communities and other interested parties to consider carefully any such proposals and to formulate detailed responses, and

	<p>allows sufficient time for the proper consideration of proposals and objections by those charged with making decisions.</p> <p>The response to the consultation on Objections to statutory proposals for school reorganisation, submitted by the NASUWT in November 2010, placed the blame for delays in the decision making process firmly at the door of the Welsh Government rather than during the preceding process (copy of the NASUWT's response can be found at Annex D). The NASUWT position has not changed.</p> <p>Further, the NASUWT asserts that the rationale for the changes proposed has more to do with political expediency than a concern to allow local authorities to implement change more expeditiously.</p> <p>The NASUWT submits that the Welsh Government is attempting to distance itself from decisions that, inevitably, will be politically sensitive.</p>
The changes proposed	<p>a. The NASUWT finds merit in the proposal to include the reduction in the physical capacity of a mainstream school in the list of significant alterations.</p> <p>However, the proposals around simplifying the provisions in relation to removing the need to consult on school transfers of less than one mile without the need to publish proposals is not accepted because it simply dismisses the notion of objections.</p> <p>Further, the NASUWT views with suspicion the reference in the explanation that the current requirement to provide details of the size and</p>

	<p>condition of school buildings and the use of school playing fields in published proposals somehow argues for transfers of less than one mile to be implemented without publishing proposals.</p> <p>b. The NASUWT acknowledges the intention to largely replicate what is currently required in terms of information to be included in the published proposals and the manner of their publication. However, the failure to identify the information that will no longer be included in the published proposals is viewed with concern.</p> <p>c. The NASUWT is appalled that objections raised by a staff of a school named in statutory notices are not afforded the same status as objections raised by a school council.</p> <p>Likewise, the NASUWT is appalled that the specific category of recognised trade unions has not been included in the list of objectors.</p> <p>Further, the NASUWT is opposed to any provision that would afford greater rights and differing weights to some objectors than others.</p> <p>The NASUWT maintains that the current system should continue to apply.</p> <p>d. The NASUWT welcomes this proposal in the interests of transparency and openness but questions whether the one month limitation provides sufficient time for the objections to be considered carefully by the proposer (please refer to Annex D).</p>
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e. The NASUWT agrees with the intention for the Welsh Ministers to consider all proposals concerning the removal of sixth forms or the addition of sixth forms, including the closure of sixth-form-only schools.

Further, the NASUWT welcomes the acceptance, albeit belatedly, by the Welsh Government that local authorities can establish sixth-form-only schools.

f. The NASUWT reserves judgement on this proposal pending disclosure of the proposals for the composition of such panels.

The NASUWT notes with concern that the language in the consultation document moves, at this point, from 'proposer' to 'promoter' as this presents 'marketspeak'.

g. The NASUWT maintains that the threshold for appeal through application for judicial review is far too onerous and deliberately intended to dissuade interested parties from appealing.

h. The NASUWT reserves judgement on this proposal pending disclosure of the details prescribed in the statutory Code.

i. The NASUWT understands the educational and financial imperatives behind this proposal but maintains that sufficient safeguards would need to be built in to the process to ensure that any such proposals are equality-impact assessed and

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	<p>assessed against community interest.</p> <p>Further, the NASUWT questions the suggestion that the requirement for consultation would be waived since the NASUWT maintains that school closure may not be the only option in every circumstance.</p> <p>j. Without prejudice to the reserved judgement of the proposals to establish local decision-making panels, the NASUWT is in broad agreement with this proposal.</p> <p>k. The NASUWT notes that this proposal would provide bodies under an obligation to implement reorganisation proposals with the power to modify or to abandon the proposals during a three year period without recourse to the Welsh Ministers, but only with ‘good reason’.</p> <p>The NASUWT maintains that the Welsh Government would need to be the arbiter of ‘good reason’ and that this argues for the retention of the current arrangements.</p> <p>l. The NASUWT agrees that the current prohibition of alterations to the religious character of a school, including the acquisition or removal of a religious character, should remain.</p> <p>m. The NASUWT agrees that the existing legislation in relation to the proposed closure of a foundation or voluntary school by its governing body by serving two years’ notice should remain.</p>
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	<p>n. The NASUWT could only accept the proposal to replace the existing legislative process regarding proposals to change the category of schools with a process in line with other types of school organisation proposals if resolution over the concerns expressed previously was reached.</p> <p>The NASUWT welcomes the retention of the existing prohibition on a change to the foundation category.</p> <p>o. The NASUWT acknowledges that existing legislation relating to special schools will be retained.</p> <p>The NASUWT has previously cast doubt on providing powers to Welsh Ministers to enforce or to bring forward proposals for the rationalisation of school places (a copy of the NASUWT response to the Minister in relation to these powers can be found at Annex E) but acknowledges the provisions referred to here.</p> <p>p. The NASUWT welcomes the provision of statutory guidance subject to consultation on the guidance.</p> <p>q. The NASUWT agrees that the closure of schools in rural areas should be on the same basis as closures elsewhere but maintains that the current arrangements for consultation and objection to school reorganisation proposals should be retained.</p>
The anticipated outcomes	The NASUWT anticipates that the proposals, if implemented, will disenfranchise objectors, create a democratic deficit, lead to ill-informed and overhasty judgements and allow the Welsh Ministers to abnegate their responsibilities.

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## Section 4

<b>7. Do you agree with the proposals for placing Welsh in Education Strategic Plans on a statutory basis?</b>		
Agree with most	Agree/Disagree with some	Disagree with most
<b>Agree with most, in principle</b>		

<b>8. If you disagreed, please tell us about it below.</b>	
Issue	Your concerns
The rationale for proposing change	The NASUWT notes the rationale for the changes proposed.
The changes proposed	The NASUWT agrees, in principle, with the changes proposed at a, b, c, d, e and f but cautions that the establishment by local authorities of Welsh in Education Strategic Plans (WESPs) must be impact assessed against equality of access and opportunity to education provision, constraints on funding, the delivery of English-medium provision, community language needs and demographic and geographical relevance.
The anticipated outcomes	The NASUWT recognises that the anticipated outcomes will go some way to re-establishing Welsh as a community language in various parts of Wales.

## Section 5.1

<b>9. Do you agree with the proposals for annual parents' meetings?</b>		
Agree with most	Agree/Disagree with some	Disagree with most
<b>Agree with most</b>		

<b>10. If you disagreed, please tell us about it below.</b>	
Issue	Your concerns
The rationale for proposing change	The NASUWT accepts that annual parents' meetings are not well attended and that there is a need for change.
The changes proposed	<p>a. The NASUWT has mixed views over the proposal to pass the initiative to call for a meeting between parents and governors to parents by way of a petition rather than continuing with the present provision to hold an annual parents' evening.</p> <p>The NASUWT maintains that any such proposal should be qualified by a provision that requires governors to hold a parents' meeting in specified circumstances, for example, where closure is proposed or where it proposed to change school session times, and that any such meetings should be held well in advance of proposed implementation dates.</p>
The anticipated outcomes	The NASUWT is concerned that the proposal could lead to the implementation of change without appropriate accountability.

## Section 5.2

<b>11. Do you agree with the proposals for post-16 learners with special educational needs in schools?</b>		
Agree with most	Agree/Disagree with some	Disagree with most
	<b>Agree/Disagree with some</b>	

<b>12. If you disagreed, please tell us about it below.</b>	
Issue	Your concerns

The rationale for proposing change	The NASUWT is concerned that the rationale for proposing the change is to allow Welsh Ministers to abnegate their responsibility for the funding of post-16 special educational needs (SEN) provision.
The changes proposed	<p>a./b. Although the arguments about accountability have merit, the NASUWT has grave concerns about placing the responsibility on local authorities for funding SEN provision for pupils over compulsory school age given the cost involved.</p> <p>The NASUWT maintains that this will lead to a diminution in the provision available to an extremely vulnerable group of young people.</p> <p>The NASUWT cautions against this proposal unless clear funding streams are identified and accessible on the basis of need rather than affordability.</p>
The anticipated outcomes	The NASUWT anticipates that this proposal could lead to pupils over compulsory school age being disadvantaged and parents and carers having to fund provision.

### Section 5.3

<b>13. Do you agree with the proposals in relation to free school breakfasts?</b>		
Agree with most	Agree/Disagree with some	Disagree with most
<b>Agree with most, in principle</b>		

<b>14. If you disagreed, please tell us about it below.</b>	
Issue	Your concerns
The rationale for proposing change	The NASUWT notes the rationale for reducing the bureaucracy associated with the provision.

The changes proposed	<p>a./b./c./d./e. The NASUWT agrees, in principle, with the proposals set out in these paragraphs but maintains that funding for the primary school free breakfast initiative in the Revenue Support Grant (RSG) must be clearly identified through hypothecation.</p> <p>f. The NASUWT has concerns about the proposal to give the Welsh Ministers the power to transfer responsibility for providing free breakfasts to a governing body instead of the local authority and reserves judgement on this proposal pending details of the funding arrangements that would apply.</p>
The anticipated outcomes	The NASUWT maintains that the ability of primary schools to provide free breakfast clubs will be dependent on their ability to access dedicated funding within the RSG.

## Section 5.4

<b>15. Do you agree with the proposals in relation to schools-based counselling?</b>		
Agree with most	Agree/Disagree with some	Disagree with most
<b>Agree with most, in principle</b>		

<b>16. If you disagreed, please tell us about it below.</b>	
Issue	Your concerns
The rationale for proposing change	The NASUWT recognises the value of the school-based counselling initiative and the rationale for reducing the bureaucracy associated with the

	administration of this provision.
The changes proposed	<p>a./b. The NASUWT agrees, in principle, with the proposals to place a duty to make reasonable provision for such counselling services and to provide powers to the Welsh Ministers to issue related guidance but maintains that funding for school-based counselling services in the RSG must be clearly identified through hypothecation.</p> <p>c. The NASUWT notes that the data required is currently being gathered under the terms and conditions of the specific grant and trust that the data required under the duty, as proposed, will lead to an increase in bureaucracy.</p>
The anticipated outcomes	The NASUWT maintains that the ability of local authorities to provide school-based counselling services will be dependent on their ability to access dedicated funding within the RSG.

## Section 5.5

<b>17. Do you agree with the proposals to allow for flexible charging for school meals?</b>		
Agree with most	Agree/Disagree with some	Disagree with most
	<b>Agree/Disagree with some</b>	

<b>18. If you disagreed, please tell us about it below.</b>	
Issue	Your concerns
The rationale for proposing change	The NASUWT believes that the rationale offered for the introduction of a flexible pricing policy for school meals to assist families is well intentioned but misguided.

	<p>The NASUWT maintains that destigmatising access to free school meals provides a more appropriate way forward to help families in need.</p> <p>In any event, any such proposal would need to be equality-impact assessed and subject to clear and unequivocal guidance to guard against unintended consequences.</p>
The changes proposed	<p>a. The NASUWT is concerned that the proposal to allow local authorities and governing bodies to charge different persons different prices for the same quantity of milk, meals and other refreshments is both misguided and misconceived and could lead to litigation.</p> <p>b. The NASUWT agrees with the proposal to ensure that milk, meals and other refreshments are charged at cost.</p>
The anticipated outcomes	<p>The NASUWT sympathises with the anticipation that the proposed change would help families who find it difficult to afford school meals but believes that flexible charging is thwart with difficulties.</p>

**Question 19:** We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

Please enter here:

Further to the issues and concerns raised in the General Comments at paragraphs 3 to 29 above, the NASUWT maintains that provision should be made in the new School Standards and Organisation (Wales) Bill for:

- i. the establishment of an all-Wales school funding formula based on the needs of the curriculum rather than pupil numbers that would provide schools with the funding to employ sufficient teachers and support staff to enable the effective delivery of the curriculum;
- ii. the remit given to Estyn to include a requirement to monitor compliance with the contractual provisions and entitlements enshrined in the STPCD and report on the same;
- iii. the School Workload Advisory Panel (SWAP) to be established on a statutory basis to enable all new Welsh Government education policies and initiatives to be evaluated for impact on workload and working hours;
- iv. all local authorities to be required, on a statutory basis, to establish local social partnerships (LSPs) with the recognised school workforce trade unions to ensure and enforce compliance with the contractual provisions and entitlements enshrined in the STPCD;
- v. the establishment of an all-Wales workforce strategy and an all-Wales workforce adjustment fund to enable the realisation of transformation to be undertaken without recourse to compulsory redundancy;
- vi. the enhancement of the powers of local authorities in their employer role to enable the redeployment of school-based staff in specified and prescribed circumstances, such as redundancy, reorganisation, federation and transformation.



Chris Keates

**General Secretary**

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# ANNEX A

## benchmarking data in Wales

### *The largest teachers' union in Wales and the UK*

#### **NASUWT CYMRU**

#### **Undeb yr Athrawon The Teachers' Union**

#### **INTRODUCTION**

Inaccurate reporting has claimed that the Programme for International Student Assessment

(PISA) has shown that the education system in Wales is 'slipping further behind' other

countries in key subjects, including English, mathematics and science. These reports have

centred on a PISA survey reporting that out of 67 countries taking part in tests, Wales ranked

38th for reading, 40th for maths and 30th for science.

The publication of the PISA results prompted the Education Minister, Leighton Andrews, to

claim: *"These results are disappointing. They show an unacceptable fall in our overall*

*performance – everyone involved in the education sector in Wales should be alarmed."*

Using the PISA results as a pretext, the Welsh Government has proposed a series of extensive

reforms to the education system in Wales, including the introduction of national reading tests,

the 'grading' of individual schools and a requirement that teachers should have annual tests

of their literacy and numeracy skills.

The NASUWT is clear that to use PISA in this way is flawed and misrepresents the education

system in Wales.

#### **The PISA test**

PISA is an international comparative study of student assessment run by the Organisation

for Economic Co-operation and Development (OECD). The tests have been carried out in threeyear

cycles. In 2009, 75 countries/states participated in the tests. After analysis, a report

was published in December 2010.

The test is designed for 15-year-olds and includes a mixture of multiple choice and shortanswer

questions, as well as longer open-ended questions. The aims of the tests are to assess

the English, scientific and mathematical skills of students, with a methodology that is designed to measure how these skills and competencies apply to real life. The survey also included a questionnaire for students about their backgrounds and attitudes to learning, and headteachers also complete a questionnaire. PISA is a sample survey. Not all students in a country sit the tests. In Wales, only 132 out of a total of 1,817 schools and 3270 pupils out of a total of 450,817 participated in the survey.

### **The limitations of the PISA test**

The results are not meant to be viewed in a league-table format at all. The OECD has stated on a number of occasions that the ranking that countries have been given does not mean that the statistical data that is published as a result should allow for treatment as a quasi-league table. The OECD is clear that the statistical margin of error in the sample results means that the data cannot be viewed in a league-table format and that results could easily be located higher or lower within the nominal rankings.

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The OECD has stressed that the position of an education system in the rankings of average performance is not a reliable indicator of the relative strengths of that system and has warned against over-simplistic interpretations of PISA of the nature made recently by the Welsh Government.

PISA tests are a sample and are of too small a size on which either to praise or criticise an entire education system. PISA is designed to be no more than one of a number of indicators of performance that countries may use.

PISA tests are distributed by the countries themselves. Although governments are meant to choose a broad range of schools, and rigorous checks are meant to be applied, anecdotal evidence suggests that this may not be the case. Furthermore, the tests are available for use, and there is a danger that schools participating could teach according to the tests.

PISA tests are a very narrow measure of three subjects only. At only two-hours long it is not possible that the tests could measure genuine applicability of skills or subject knowledge in English, science and mathematics.

The tests in mathematics and science have been particularly criticised because they are relatively short and lack comprehensiveness. It may also be the case that some countries have

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performed well because they practise didactic forms of teaching more suited to the nature of these tests. Moreover, PISA excludes the vast majority of subjects from the national curriculum. There is some doubt over the extent to which PISA assesses like with like. For example, the education system in Wales may be more inclusive than in some countries and there are significantly higher proportions of young people outside the formal education system who are therefore excluded from the PISA findings for these countries. Other international tests do not give the same results. There are many other international tests, including Trends International in Mathematics and Science Study (TIMSS) and Progress in International Reading Literacy Study (PIRLS). The results in these tests have given very different rankings to the PISA test. For example, in PISA England was crudely ranked at 23rd in Mathematics but in the TIMSS survey it was placed much higher at 7th place. Test results for Wales from TIMSS were included within the England results. Some commentators have suggested a picture of decline or achievement over time by making comparisons between the PISA test in 2009 and previous PISA tests. In reality, the tests are not longitudinal, measuring neither the same cohorts, nor the same schools. Furthermore, countries have joined the tests over time and, therefore, comparisons are not statistically valid. In the case of Wales, therefore, it is not accurate to report that schools moved down the league tables, as each of the three-year cycle of tests do not measure like with like.

#### **What the Welsh Government can learn from the PISA report**

It is apparent from closer analysis of the report that Wales' PISA results actually hold up well in comparison with most other OECD countries. Many commentators believe that the differences in the outcomes of different countries in the PISA rankings are so insignificant that they cannot be used as a reliable guide to the relative performance of pupils in Wales. What is clear, however, is that there are a number of messages

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from the PISA survey about education as a whole that the Welsh Government can draw upon for the future.

Systems with high levels of school autonomy, combined with effective systems of

accountability, do well. Many countries have used this as a pretext to change school systems to develop a system in which autonomy is defined as moving schools from local authority control. However, the OECD promotes a system of 'lateral' autonomy, which is neither topdown nor structural but which is instead concerned with teachers working with teachers and schools working with schools so that staff and institutions are accountable collectively for the learning outcomes of pupils. It is about professional autonomy rather than institutional autonomy. Any moves to fracture the education system, to pit school against school and to break the idea of collective accountability being shared between professionals and schools should be resisted. High levels of teacher morale impact positively on performance. Cuts to education funding, the freezing of teachers' salaries and the development of more punitive school accountability systems are likely to have negative consequences in this respect and thereby undermine the capacity of the system to secure continuing school improvement. Education systems perform well when governments and teacher unions are working collaboratively for a shared common interest. The PISA report noted that collaboration between teacher unions and government has been critical to the success of Finland and other high-performing countries, including England, in recent years. The OECD found that school climate and pupil/teacher relationships are important and suggested that pupils in Wales are more positive about their experiences within schools than in many other countries. Any attempts to change this through root and branch reforms of the type proposed could undermine the quality of relationships within school communities.

#### **The NASUWT's view**

The NASUWT emphasises the importance of ensuring that all young people in Wales receive an education that gives them the best opportunities to achieve their potential and succeed in life.

It is quite right to use the rich data from PISA to evaluate education systems. There are important lessons to be learned from other countries and evaluation is important. However, the data must be used appropriately to inform, not distorted to provide a pretext to justify

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any change. Therefore, the Union should welcome in principle the aims of the Welsh

Government to learn from other countries and ensure that the education system is world class.

However, the NASUWT has made it clear that the way in which the Welsh Government has

interpreted the outcomes of PISA is seriously flawed and is leading to poorly thought out

lurches in policy that will damage rather than enhance the quality of educational provision

in Wales.

The NASUWT will seek to work with the Welsh Government to ensure that recognition of the

broader view of international benchmarking is taken and that a genuine understanding of

such work is developed that allows for constructive measures to be developed for the future.

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perthynol disgyblion yng Nghymru. Yr hyn sy'n glir, fodd bynnag, yw bod nifer o negeseuon

o'r arolwg PISA am addysg yn gyffredinol y gall Llywodraeth Cymru gymryd sylw ohonyn nhw

ar gyfer y dyfodol.

Mae systemau â lefelau uchel o ymreolaeth ysgol, wedi'u cyfuno â systemau effeithlon o

atebolrwydd, yn gwneud yn dda. Mae nifer o wledydd wedi defnyddio hyn fel esgus i newid

systemau ysgolion i ddatblygu system lle mae ymreolaeth yn cael ei ddiffinio fel symud

ysgolion o reolaeth awdurdodau lleol. Fodd bynnag, mae'r OECD yn hybu system o ymreolaeth

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'ochrol' nad sydd o'r pen i'r gwaelod na'n strwythurol ond sydd yn lle hynny'n ymwneud ag athrawon yn gweithio gydag athrawon ac ysgolion yn gweithio gydag ysgolion fel bod staff a sefydliadau gyda'i gilydd yn atebol am ddeilliannau dysgu disgyblion. Mae'n ymwneud ag ymreolaeth broffesiynol yn hytrach nag ymreolaeth sefydliadol. Dylid osgoi unrhyw symud tuag at ddarnio'r system addysg, gosod ysgol yn erbyn ysgol a chwalu'r syniad o atebolrwydd cyfunol yn cael ei rannu rhwng pobl broffesiynol ac ysgolion. Mae lefelau uchel o forâl yn effeithio'n gadarnhaol ar berfformiad. Mae toriadau yn arian addysg, rhewi cyflogau athrawon a datblygu systemau atebolrwydd ysgol fwy cosbol yn debygol o gael canlyniadau negyddol oherwydd hyn ac felly'n tanseilio gallu'r system i sicrhau gwelliant parhaus i'r ysgol. Mae systemau addysg yn perfformio'n dda pan fydd llywodraethau ac undebau athrawon yn gweithio gyda'i gilydd er budd cyffredin ar y cyd. Nododd yr adroddiad PISA fod cydweithredu rhwng undebau athrawon a llywodraeth wedi bod yn gritigol i lwyddiant y Ffindir a gwledydd eraill sy'n perfformio'n dda, gan gynnwys Lloegr, yn y blynyddoedd diweddar. Nododd yr OECD fod hinsawdd ysgol a pherthnasoedd disgybl/athro'n bwysig ac awgrymodd fod disgyblion yng Nghymru'n fwy positif am eu profiadau mewn ysgolion nag mewn gwledydd eraill. Gallai unrhyw gais i newid hyn drwy ddiwygiadau gwraidd a changen o'r math a gynigiwyd, danseilio ansawdd perthnasoedd rhwng cymunedau ysgolion.

### **Barn NASUWT**

Mae NASUWT yn pwysleisio pwysigrwydd sicrhau bod yr holl bobl ifanc yng Nghymru'n cael addysg sy'n rhoi'r cyfleoedd gorau iddyn nhw gyflawni eu potensial a llwyddo yn eu bywydau. Mae'n hollol iawn defnyddio'r data cyfoethog o PISA i werthuso systemau addysg. Mae gwersi pwysig i'w dysgu oddi wrth wledydd eraill ac mae gwerthuso'n bwysig. Fodd bynnag, rhaid defnyddio'r data'n briodol i hysbysu, a pheidio â'i wyrdroi i roi esgus i gyfiawnhau unrhyw newid. Felly, dylai'r Undeb groesawu mewn egwyddor nodau Llywodraeth Cymru i ddysgu o wledydd eraill a sicrhau bod y system addysg o safon fyd-eang. Fodd bynnag, mae NASUWT wedi'i gwneud hi'n glir bod y modd y mae Llywodraeth Cymru wedi dehongli deilliannau PISA, yn ddiffygiol iawn ac mae'n arwain at wendidau mewn polisi

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nad sydd wedi'u hystyried yn ofalus ac a fydd yn niweidio yn hytrach na gwella darpariaeth addysg yng Nghymru. Bydd NASUWT yn ceisio gweithio gyda Llywodraeth Cymru i sicrhau ei bod yn cydnabod y farn ehangach o feincnodi rhyngwladol a'i bod yn datblygu dealltwriaeth ddilys o'r gwaith hwn sy'n caniatáu datblygu mesurau adeiladol ar gyfer y dyfodol.

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Mae'r OECD wedi pwysleisio nad yw sefyllfa system addysg yn nhrefn restrol perfformiad cyfartalog yn ddangosydd dibynadwy o gryfderau perthynol y system honno ac mae wedi rhybuddio yn erbyn dehongliadau gor-syml o PISA o'r math a wnaed yn ddiweddar gan Lywodraeth Cymru. Sampl yw profion PISA ac maen nhw'n rhy fach o ran maint lle gellir canmol neu feirniadu system addysg lawn. Lluniwyd PISA i fod yn ddim mwy na un o nifer o ddangosyddion perfformiad y gallai gwledydd ei ddefnyddio. Dosberthir profion PISA gan y gwledydd eu hunain. Er mai'r bwriad yw i lywodraethau ddewis ystod eang o ysgolion ac y dylid cymhwyso gwiriadau manwl, mae tystiolaeth storiol yn awgrymu nad yw hyn yn wir. Hefyd, mae'r profion ar gael i'w defnyddio ac mae perygl y gallai ysgolion sy'n cymryd rhan addysgu yn unol â'r profion. Mae profion PISA'n fesur hynod o gul o dri phwnc yn unig. Mewn dwy awr, nid yw'n bosibl y gall y profion fesur cymhwysedd sgiliau go iawn na gwybodaeth am bwnc mewn Saesneg, gwyddoniaeth a mathemateg. Beirniadwyd y profion mewn mathemateg a gwyddoniaeth yn benodol oherwydd eu bod yn gymharol fyr a bod diffyg ehangder. Mae'n bosibl bod rhai gwledydd hefyd wedi perfformio'n dda oherwydd eu bod yn ymarfer ffurfiau addysg didactig sy'n fwy addas i natur y profion hyn. Hefyd, mae PISA'n eithrio'r mwyafrif llethol o bynciau o'r cwricwlwm cenedlaethol. Mae rhywfaint o amheuaeth i ba raddau y mae PISA'n asesu tebyg wrth debyg. Er enghraifft, mae'n bosibl bod y system addysg yng Nghymru'n fwy cynhwysol na rhai gwledydd a bod cyfrannau sylweddol uwch o bobl ifanc y tu allan i'r system addysg ffurfiol sydd felly'n cael eu heithrio o ddarganfyddiadau PISA yn y gwledydd hynny. Nid yw profion rhyngwladol eraill yn rhoi'r un canlyniadau. Mae nifer o brofion rhyngwladol

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eraill, gan gynnwys Trends - Astudiaeth Ryngwladol mewn Mathemateg a Gwyddoniaeth (TIMSS) ac Astudiaeth Cynnydd Mewn Llythrennedd Darllen Rhyngwladol (PIRLS). Mae canlyniadau'r profion hyn wedi rhoi trefn restrol wahanol iawn i'r prawf PISA. Er enghraifft, yn PISA roedd Lloegr wedi'i rhoi yn 23 yn y drefn restrol mewn Mathemateg ond yn yr arolwg TIMSS, roedd yn llawer uwch yn rhif 7. Roedd canlyniadau profion Cymru o TIMSS wedi'u cynnwys o fewn canlyniadau Lloegr. Mae rhai sylwebyddion wedi awgrymu darlun o ddirywiad neu gyrrhaeddiad dros amser drwy wneud cymariaethau rhwng y prawf PISA yn 2009 a phroffion PISA blaenorol. Mewn gwirionedd, nid yw'r profion yn hydredol, heb fesur yr un criwiau na'r un ysgolion. Hefyd, mae gwledydd wedi ymuno â'r profion dros amser, ac felly, nid yw'r cymariaethau'n ystadegol ddilys. Yn achos Cymru, felly, nid yw'n gywir adrodd bod ysgolion wedi symud i lawr y tablau cynghair gan nad yw pob un o'r cylch profion tair blynedd yn mesur tebyg gyda thebyg.

#### **Yr hyn y gall Llywodraeth Cymru ei ddysgu o'r adroddiad PISA**

Mae'n amlwg o ddadansoddiad manylach o'r adroddiad bod canlyniadau PISA Cymru'n edrych yn dda o gymharu â mwyafrif gwledydd eraill yr OECD. Cred nifer o sylwebyddion fod y gwahaniaethau yn neilliannau gwahanol wledydd yn nhrefn restru PISA mor anarwyddocaol fel na ellir eu defnyddio fel arweiniad dibynadwy i berfformiad

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#### **CYFLWYNIAD**

Mae adroddiad anghywir wedi honni bod y Rhaglen ar gyfer Asesu Disgyblion Rhyngwladol (PISA) wedi dangos bod y system addysg yng Nghymru'n 'llithro ymhellach y tu ôl' i wledydd eraill mewn pynciau allweddol gan gynnwys Saesneg, mathemateg a gwyddoniaeth. Mae'r adroddiadau hyn wedi canolbwyntio ar arolwg PISA oedd yn dweud bod Cymru'n rhif 38 yn y rhestr am ddarllen, 40 am fathemateg a 30 am wyddoniaeth o'r 67 gwlad oedd yn cymryd rhan mewn profion. Roedd cyhoeddi canlyniadau PISA'n ysgogi'r Gweinidog Addysg, Leighton Andrews, i ddweud:

*"Mae'r canlyniadau hyn yn siomedig. Maen nhw'n dangos dirywiad annerbyniol yn ein perfformiad cyffredinol – dylai pawb sy'n ymwneud â'r sector addysg ddychryn."*

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Gan ddefnyddio canlyniadau PISA fel esgus, mae Llywodraeth Cymru wedi cynnig cyfres o ddiwygiadau helaeth i'r system addysg yng Nghymru, gan gynnwys cyflwyno profion darllen cenedlaethol, 'graddio' ysgolion unigol a dweud y dylai athrawon gael profion blynyddol o'u sgiliau llythrennedd a rhifedd.

Mae NASUWT yn glir bod diffygion wrth ddefnyddio PISA fel hyn a'i fod yn camliwio'r system addysg yng Nghymru.

### **Prawf PISA**

Mae PISA'n astudiaeth gymharol ryngwladol o asesu myfyriwr a gynhelir gan Y Sefydliad ar gyfer Cydweithrediad a Datblygiad Economaidd (OECD). Cynhaliwyd y profion mewn cylchoedd tair blynedd. Yn 2009, roedd 75 gwlad/talaith yn cymryd rhan yn y profion. Ar ôl eu dadansoddi, cyhoeddwyd adroddiad ym mis Rhagfyr 2010.

Lluniwyd y prawf ar gyfer plant 15 oed ac mae'n cynnwys cymysgedd o gwestiynau aml-ddewis ac atebion byr ynghyd â chwestiynau penagored. Nodau'r profion yw asesu sgiliau Saesneg, gwyddonol a mathemategol disgyblion gyda methodoleg sydd wedi'i llunio i fesur sut mae'r sgiliau a'r galluedd hyn yn cymhwyso i fywyd go iawn.

Roedd yr arolwg hefyd yn cynnwys holiadur i'r disgyblion am eu cefndir a'u hagweddau at ddysgu, ac roedd penaethiaid hefyd yn cwblhau'r holiadur.

Arolwg sampl yw PISA. Nid yw pob disgybl mewn gwlad yn sefyll y profion.

Yng Nghymru,

132 yn unig o gyfanswm o 1,817 ysgol a 3,270 disgybl o gyfanswm o 450,817 oedd yn

cymryd rhan yn yr arolwg.

### **Cyfyngiadau'r prawf PISA**

Nid y bwriad yw edrych ar y canlyniadau mewn fformat tabl cynghrair o gwbl. Mae'r OECD wedi nodi nifer o weithiau nad yw'r drefn restrol a gafodd gwledydd yn golygu

y dylai'r data ystadegol a gyhoeddir o ganlyniad, ganiatáu triniaeth fel tabl lled-gynghreiriol.

Mae'r OECD yn glir bod lled y gwall ystadegol yng nghanlyniadau'r sampl yn golygu na ellir

edrych ar y data mewn fformat tabl-cynghrair ac y gellir gosod y canlyniadau'n hawdd yn

uwch neu'n is o fewn y drefn restrol nominal.

3

**Y defnydd o ddata meincnodi  
rhyngwladol yng Nghymru**

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# ANNEX B

## FUNDING THE EDUCATION SERVICE IN WALES TO PROVIDE EQUALITY OF OPPORTUNITY FOR ALL PUPILS A CHALLENGE TO THE NATIONAL ASSEMBLY FOR WALES

### Introduction

The White Paper, 'Building Excellent Schools Together', held the promise that the Welsh Office would aspire to 'Fairness for the Future' in respect of school funding. The need to develop a funding system in Wales that does not discriminate unfairly between schools or pupils was recognised. This report presents an analysis of the current situation and proposes strategies for meeting that objective.

### The Current Situation

The unfair discrimination which is inherent in the funding of the education service in Wales manifests itself through:

- the underfunding of the education service in Wales as compared to England, Scotland and Northern Ireland;
- the lack of transparency of funding at all levels;
- the disparities of funding which exist between the twenty-two Welsh unitary authorities.

### **National Education Spending Comparisons**

Despite the Government's commitment to invest an extra £844 million in education and training in Wales over the next three years, the education service in Wales will continue to remain underfunded in comparison to other areas of the United Kingdom. Indeed, the £844 million committed to Wales represents just 4.4% of the Government's extra £19 billion investment in education over the next three years.

CIPFA Education Statistics reveal that, from 1994-95 onwards, the General Schools Budget (GSB) has ranged from 95% to 98% of the total net expenditure on education in Wales compared to an average of 85% for all authorities in England and Wales over the same period. However, the statistics also show that the overall percentage

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spend on education in Wales has not kept pace with spending in England. Notwithstanding a recent upward trend, this has resulted in a decline in spending per pupil in Wales (Appendix 1).

Audit Commission data, covering the period 1993-94 onwards, illustrates the extent of the decline. In 1993-94, spending per pupil in Wales compared to that in England was £54 greater in the primary sector, and £60 greater in the secondary sector. By 1996-97 the situation had been reversed, with spending per pupil in England outstripping that of Wales by £71 in the primary sector, and £121 in the secondary sector. An overall shortfall of some £43 million (Appendix 2).

The most recent comparisons available with Scotland and Northern Ireland relate to 1995-96 (Regional Trends, 1998) and present an even less favourable picture. These indicate that spending per pupil in Wales was £220 short of the Northern Ireland figure, and £650 lower than that for Scotland - revealing overall shortfalls of £103.8 million and £306.7 million, respectively (Appendix 3).

### **Lack of Transparency**

The 1993 School Teachers' Review Body (STRB) report described the education service funding regime as a 'fog' which few teachers and governors can penetrate.

The Government publishes its spending patterns for local authority services - the Total Standard Spending assessment (TSS), and schools are given individual budgets. These are clear and fixed amounts. However, the 'fog' surrounds the way in which these amounts are determined and distributed at both national and local level.

At Government and local authority level, the use of historic spending patterns, needs equalisation factors, capping regimes/spending guidelines, and the freedom given to local authorities to determine the allocation of resources all contribute to a lack of transparency within the system.

The Welsh Office, having received the Welsh Block, is free to allocate the total resources available to Wales between all the programmes within the Welsh Block, including the Welsh TSS.

The Welsh TSS is not broken down into service blocks but is allocated to each authority as an overall Standard Spending Assessment (SSA). The local authorities are allowed to 'top-up' the SSA with funds raised from council taxpayers. However, the degree to which they can do this is limited by a cap/spending guideline which is based on historic spending patterns rather than **need**. Each Welsh authority is left to determine the levels of spending for its various services, including the education budget.

Having received its budget, the Local Education Authority (LEA) then decides on the amount to be retained centrally and the amount to be distributed to schools. The schools receive their allocation by way of a formula which has been agreed with the Welsh Office. The formulas used vary considerably between authorities. This not only adds to the lack of transparency but allows for further inequalities to creep into the system.

The system suffers from anomalies and inequalities, and, consequently, discriminates unfairly between schools and pupils.

The potential for a lack of transparency exists at all stages of the budgetary process:

- local authority SSAs are decided by historic factors rather than need;
- local authority education budgets are determined according to local priorities in relation to other local authority services;
- school budgets are subject to locally determined formula approved by the Welsh Office;
- decisions on school staffing levels are necessarily taken by governors and headteachers.

The National Assembly has an opportunity to put in place a funding methodology which will overcome these problems.

### **Welsh Unitary Authority Funding Disparities**

1997-98 WLGA information relating to school funding per pupil in Wales provides an indication of the disparities which exist between the twenty-two unitary authorities.

In the secondary sector, the amount schools received per pupil varied between £1,969 and £2,384. In the primary sector, amounts ranged from £1,345 to £1,866. In special schools and units the difference was even more startling: from a low of £5,065 to a high of £13,096.

In simple terms, a 1000-place secondary school in one area of Wales may well have received £415,000 more in its budget than a school of similar size and character in another part of Wales. The variation in funding for a 250-place primary school could have been as much as £130,250. The £8,031 pupil-funding differential which existed in the special sector needs no multiple (Appendix 4).

These variations in school funding per pupil in Wales are mirrored in the variations in local authority funding per pupil. In a parliamentary response in November 1998, it was revealed that the difference in funding per pupil between the highest and the lowest authorities in Wales was as much as £874 (Appendix 5).

On grounds of equity and financial fairness, there must be a case for providing a fairer method of distributing funds to schools in Wales, as well as establishing a more realistic means of assessing the overall spending needs of the education service in Wales.

### **Assessing Education Spending Needs in Wales**

If Government policies are to be delivered in Wales, and if LEAs and schools are to achieve the 'Standards' objective, the education service in Wales must be resourced appropriately.

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The shortfalls which exist between overall spending per pupil in Wales as compared to Scotland and Northern Ireland provide a clear indication that the education service in Wales has not achieved the status it should command in terms of special funding arrangements. Indeed, the fact that spending per pupil in Wales has fallen behind that of England since 1994-95 highlights the lowly funding status of the Welsh education service. The situation has, to some extent, been exacerbated by the inability of schools and authorities in Wales to access funding which has been available in England through the Standards Fund (Appendix 6).

If the education service is to progress as the National Assembly, local authorities, parents and teachers would wish, then resourcing which merely allows the service 'to tread water' is neither a desirable nor worthy proposition. Present budgeting arrangements are basically of a maintenance nature and will never serve as the necessary strategy for improvement. As a first step, a system of *zero-based budgeting* must be established to either replace or complement the historical and developmental approaches that have been employed in the past (Appendix 7).

It is envisaged that such a process would be based on a determination of the overall needs of the education service at local, regional and national level, and an evaluation of the most appropriate means of providing for those needs. Essential to the successful development of this process would be:

- the establishment of approved national staffing models for various types and sizes of schools in Wales;
- the funding of schools by actual salary cost, recognising the implications on salary discretion;
- the calculation of common age-weighted pupil units (AWPUs) for each age group;
- a commitment to fund fully teachers' pay awards recommended by the School Teachers' Review Body (STRB);
- the provision of adequate support staff and systems;
- a review of the funding and strategic management of central service provision;
- the development of a standardised approach to the funding of special educational needs provision;
- a recognition of the need for forward planning in terms of capital financing;
- the costing and monitoring of new initiatives.

### **Establishing a National Minimum Staffing Model for Schools in Wales**

If the National Assembly is to subscribe to the fundamental principle of 'equality of opportunity for all', then schools in Wales will need to be staffed at a level which will allow for the delivery of the National Curriculum.

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The current system of formula funding does not ensure that schools are provided with the necessary resources to employ sufficient teachers to deliver the Government's prescribed National Curriculum. The recent moves by the Welsh Office to increase the delegation of funds to schools, under the guise of 'Fair Funding', has done nothing to overcome this problem. It should also be noted that many of the proposals contained in the Green and Technical Papers 'The BEST for Teaching and Learning', if adopted, will only become achievable if these issues are addressed. Similarly, the commitment to reduce class sizes for 5, 6 and 7 year olds cannot be achieved without some form of standardisation of staffing levels (Appendix 8).

The national staffing models for Welsh-medium and English-medium primary and secondary schools, which follow, present an illustration of how a far more stable funding base for schools in Wales could be achieved. They provide examples of how minimum staffing requirements for schools could be determined. Local authorities would, of course, be able to enhance the funding to take account of local factors.

The models are based on a single-form entry primary school (age range 5 -11) and a five-form entry secondary school (age range 11-16). The subject time allocations are taken from proposals arising out of the 'Dearing Report' in 1994. It is recognised that the subject time allocation may need to be amended in light of the National Curriculum review currently being undertaken by Awdurdod Cymwysterau, Cwricwlwm ac Asesu Cymru (ACCAC).

**The flexibility of the basic models is such that it can be adapted to fit any size of school, or to meet the changes in the curriculum or other conditions. The intention of the models is to demonstrate the factors which need to be taken into consideration in arriving at a national model.**

It is recognised that further developmental work may be needed to produce a model that will meet the requirements of all Schools in Wales. Such work would need to address issues arising out of the ETAG Report, particularly in relation to post 16 funding; and the sparsity or small schools factor.

The problems associated with the staffing of small rural schools - in terms of both teaching and support staff - are of significant importance in Wales. Among the factors which impact on the funding of small rural schools, and which require further research and analysis are:

- dis-economies of scale;
- curriculum and age related complexities;
- disproportionate overhead costs at local authority and school level;
- disproportionate travel time and transport costs for both pupils and staff.

### **Primary Staffing Models**

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The models below are based on one-form entry Welsh and English Medium primary schools. There are 210 pupils on roll comprising 30 pupils in each of seven year groups with an age range of 5-11 i.e. National Curriculum Years 0 – 6. The curriculum is expressed as a notional 40 period week. In practice, this may be expressed in terms of hours. The models have been constructed in order to provide for a different balance of teaching time at Key Stage 1 (KS 1) and Key Stage 2 (KS 2).

Key:	Column A	% of the timetable allocated to the subject per class
	Column B	Number of periods per class
	Column C	Hence the number of teacher periods required at the appropriate Key Stage
	Column D	Column C with a class contact ratio of 95%
	Column E	Column C with a class contact ratio of 85%
	Column F	Column C with a class contact ratio of 70%
	Column G	Curriculum staffing derived from Column D
	Column H	Curriculum staffing derived from Column E
	Column I	Curriculum staffing derived from Column F

### Welsh Medium Primary School

Subject	A	B	C	D	E	F	G	H	I
English/Welsh	24.0	9.60	28.80	30.32	33.88	41.14	0.76	0.85	1.03
Maths	17.0	6.80	20.40	21.47	24.00	29.14	0.54	0.60	0.73
Science	7.0	2.80	8.40	8.84	9.88	12.00	0.22	0.25	0.30
Technology	5.0	2.00	6.00	6.32	7.06	8.57	0.16	0.18	0.21
History	3.0	1.20	3.60	3.79	4.24	5.14	0.09	0.11	0.13
Geography	3.0	1.20	3.60	3.79	4.24	5.14	0.09	0.11	0.13
Art	5.0	2.00	6.00	6.32	7.06	8.57	0.16	0.18	0.21
Music	5.0	2.00	6.00	6.32	7.06	8.57	0.16	0.18	0.21
RE	5.0	2.00	6.00	6.32	7.06	8.57	0.16	0.18	0.21
PE	5.0	2.00	6.00	6.32	7.06	8.57	0.16	0.18	0.21
Other	21.0	8.40	25.20	26.53	29.65	36.00	0.66	0.74	0.90
Key Stage 1 Sub Total							3.16	3.53	4.29
English	20.0	8.00	32.00	33.68	37.65	45.71	0.84	0.94	1.14
Maths	15.0	6.00	24.00	25.26	28.24	34.29	0.63	0.71	0.86
Science	8.5	3.40	13.60	14.32	16.00	19.43	0.36	0.40	0.49
Welsh	20.0	8.00	32.00	33.68	37.65	45.71	0.84	0.94	1.14
Technology	5.0	2.00	8.00	8.42	9.41	11.43	0.21	0.24	0.29
History	5.0	2.00	8.00	8.42	9.41	11.43	0.21	0.24	0.29
Geography	5.0	2.00	8.00	8.42	9.41	11.43	0.21	0.24	0.29
Art	5.0	2.00	8.00	8.42	9.41	11.43	0.21	0.24	0.29
Music	5.0	2.00	8.00	8.42	9.41	11.43	0.21	0.24	0.29
RE	4.0	1.60	6.40	6.74	7.53	9.14	0.17	0.19	0.23
PE	5.0	2.00	8.00	8.42	9.41	11.43	0.21	0.24	0.29
Other	2.5	1.00	4.00	4.21	4.71	5.71	0.11	0.12	0.14
Key Stage 2 Sub Total							4.21	4.71	5.71
Class Support							1.00	1.00	1.00
Headteacher							1.00	1.00	1.00
Total							100.0	40	280.00
Total Rounded Staffing Level							9	10	12
Pupil Teacher Ratio (National Average for primary schools- 22.7)							22.4	20.5	17.5

## English Medium Primary School

Subject	A	B	C	D	E	F	G	H	I
English	24.0	9.60	28.80	30.32	33.88	41.14	0.76	0.85	1.03
Maths	17.0	6.80	20.40	21.47	24.00	29.14	0.54	0.60	0.73
Science	7.0	2.80	8.40	8.84	9.88	12.00	0.22	0.25	0.30
Welsh	7.0	2.80	8.40	8.84	9.88	12.00	0.22	0.25	0.30
Technology	5.0	2.00	6.00	6.32	7.06	8.57	0.16	0.18	0.21
History	3.0	1.20	3.60	3.79	4.24	5.14	0.09	0.11	0.13
Geography	3.0	1.20	3.60	3.79	4.24	5.14	0.09	0.11	0.13
Art	5.0	2.00	6.00	6.32	7.06	8.57	0.16	0.18	0.21
Music	5.0	2.00	6.00	6.32	7.06	8.57	0.16	0.18	0.21
RE	5.0	2.00	6.00	6.32	7.06	8.57	0.16	0.18	0.21
PE	5.0	2.00	6.00	6.32	7.06	8.57	0.16	0.18	0.21
Other	14.0	5.60	16.80	17.68	19.76	24.00	0.44	0.49	0.60
Key Stage 1 Sub Total							3.16	3.53	4.29
English	20.0	8.00	32.00	33.68	37.65	45.71	0.84	0.94	1.14
Maths	15.0	6.00	24.00	25.26	28.24	34.29	0.63	0.71	0.86
Science	8.5	3.40	13.60	14.32	16.00	19.43	0.36	0.40	0.49
Welsh	6.5	2.60	10.40	10.95	12.24	14.86	0.27	0.31	0.37
Technology	5.0	2.00	8.00	8.42	9.41	11.43	0.21	0.24	0.29
History	5.0	2.00	8.00	8.42	9.41	11.43	0.21	0.24	0.29
Geography	5.0	2.00	8.00	8.42	9.41	11.43	0.21	0.24	0.29
Art	5.0	2.00	8.00	8.42	9.41	11.43	0.21	0.24	0.29
Music	5.0	2.00	8.00	8.42	9.41	11.43	0.21	0.24	0.29
RE	4.0	1.60	6.40	6.74	7.53	9.14	0.17	0.19	0.23
PE	5.0	2.00	8.00	8.42	9.41	11.43	0.21	0.24	0.29
Other	16.0	6.40	25.60	26.95	30.12	36.57	0.67	0.75	0.91
Key Stage 2 Sub Total							4.21	4.71	5.71
Class Support							1.00	1.00	1.00
Headteacher							1.00	1.00	1.00
Total	100.0	40	280.00						
Total Rounded Staffing Level							9	10	12
Pupil Teacher Ratio (National Average for primary schools- 22.7)							22.4	20.5	17.5

Given that many small primary schools in Wales have no option but to organise classes on mixed age groupings, and the Government's commitment to reduce KS 1 class sizes to below 30, it may well prove necessary to devise a supplementary model to determine the number of classes required to take account of the class size limits. This figure could then be used as the multiple to determine the number of teacher periods required in column C of the primary staffing models.

The WLGA is currently working on a model for determining the number of teachers and nursery assistants required in primary schools. The model seeks to take account of class size limits. The number of teachers is determined by the number of pupils at KS 1 and KS 2 (Appendix 8a).

If, as is suggested above, the WLGA model (Appendix 8a) was to be used to determine the number of classes required at KS 1 and KS 2, rather than the number of teachers, then a primary school with twenty-five pupils at KS 1 and thirty four pupils at KS 2 - would require one class at KS 1 and one class at KS 2. The table that follows demonstrates the effect on the staffing model for an equivalent Welsh Medium Primary School.

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**Welsh Medium Primary School with twenty-five pupils at KS 1 and thirty-four pupils at KS 2**

Subject	A	B	C	D	E	F	G	H	I
English	24.0	9.60	9.60	10.11	11.29	13.71	0.25	0.28	0.34
Maths	17.0	6.80	6.80	7.16	8.00	9.71	0.18	0.20	0.24
Science	7.0	2.80	2.80	2.95	3.29	4.00	0.07	0.08	0.10
Welsh	7.0	2.80	2.80	2.95	3.29	4.00	0.07	0.08	0.10
Technology	5.0	2.00	2.00	2.11	2.35	2.86	0.05	0.06	0.07
History	3.0	1.20	1.20	1.26	1.41	1.71	0.03	0.04	0.04
Geography	3.0	1.20	1.20	1.26	1.41	1.71	0.03	0.04	0.04
Art	5.0	2.00	2.00	2.11	2.35	2.86	0.05	0.06	0.07
Music	5.0	2.00	2.00	2.11	2.35	2.86	0.05	0.06	0.07
RE	5.0	2.00	2.00	2.11	2.35	2.86	0.05	0.06	0.07
PE	5.0	2.00	2.00	2.11	2.35	2.86	0.05	0.06	0.07
Other	14.0	5.60	5.60	5.89	6.59	8.00	0.15	0.16	0.20
Key Stage 1 Sub Total							1.05	1.18	1.43
English	20.0	8.00	8.00	8.42	9.41	11.43	0.21	0.24	0.29
Maths	15.0	6.00	6.00	6.32	7.06	8.57	0.16	0.18	0.21
Science	8.5	3.40	3.40	3.58	4.00	4.86	0.09	0.10	0.12
Welsh	6.5	2.60	2.60	2.74	3.06	3.71	0.07	0.08	0.09
Technology	5.0	2.00	2.00	2.11	2.35	2.86	0.05	0.06	0.07
History	5.0	2.00	2.00	2.11	2.35	2.86	0.05	0.06	0.07
Geography	5.0	2.00	2.00	2.11	2.35	2.86	0.05	0.06	0.07
Art	5.0	2.00	2.00	2.11	2.35	2.86	0.05	0.06	0.07
Music	5.0	2.00	2.00	2.11	2.35	2.86	0.05	0.06	0.07
RE	4.0	1.60	1.60	1.68	1.88	2.29	0.04	0.05	0.06
PE	5.0	2.00	2.00	2.11	2.35	2.86	0.05	0.06	0.07
Other	16.0	6.40	6.40	6.74	7.53	9.14	0.17	0.19	0.23
Key Stage 2 Sub Total							1.05	1.18	1.43
Class Support							1.00	1.00	1.00
Headteacher							1.00	1.00	1.00
Total	100.0	40	80.00						
Total Rounded Staffing Level							4	4	5
Pupil Teacher Ratio (National Average for primary schools- 22.7)							14.4	13.4	12.0

## **Secondary Staffing Models**

The model below is for a five form-entry secondary school catering for Years 7 – 11. Two versions, Welsh Medium and English Medium, are provided. The model has been split into a curriculum for Key Stage 3 and Key Stage 4 in order to reflect the different requirements of the National Curriculum for these Key Stages. It is capable of adoption for varying form entry sizes by adjusting Column 'D'. Subjects are weighted (Column 'C') to reflect teaching group sizes with the standard class of 30 pupils being weighted 1.0.

Key:	Column A	% of the timetable allocated to the subject per class at Key Stage 3 and Key
		Stage 4
week	Column B	Number of periods per subject per class on a notional 25 period
	Column C	Subject weighting to recognise varying size of teaching group
	Column D	Form entry
	Column E	Hence the number of teacher periods per subject
	Column F	Column E with a class contact ratio of 80%
	Column G	Column E with a class contact ratio of 75%
	Column H	Column E with a class contact ratio of 70%
	Column I	Curriculum staffing derived from Column F
	Column J	Curriculum staffing derived from Column G
	Column K	Curriculum staffing derived from Column H

Note 'Technology' includes both design technology and information technology.  
 'Other' includes all non-core subjects. At Key Stage 4, the bulk of 'other' time will be spent undertaking GCSE or vocational courses taught in option blocks together with the requirements on schools to offer appropriate sex education and drugs education programmes.  
 A subject weighting of 2.0 has been used to reflect this.

## Welsh Medium Secondary School

Subject	A	B	C	D	E	F	G	H	I	J	K
English	10.0	2.50	1.0	5	37.50	46.88	50.00	53.57	1.88	2.00	2.14
Maths	10.0	2.50	1.0	5	37.50	46.88	50.00	53.57	1.88	2.00	2.14
Science	10.0	2.50	1.5	5	56.25	70.31	75.00	80.36	2.81	3.00	3.21
Welsh	10.0	2.50	1.0	5	37.50	46.88	50.00	53.57	1.88	2.00	2.14
Technology	9.0	2.25	1.5	5	50.63	63.28	67.50	72.32	2.53	2.70	2.89
History	6.0	1.50	1.0	5	22.50	28.13	30.00	32.14	1.13	1.20	1.29
Geography	6.0	1.50	1.0	5	22.50	28.13	30.00	32.14	1.13	1.20	1.29
Art	5.0	1.25	1.0	5	18.75	23.44	25.00	26.79	0.94	1.00	1.07
Music	5.0	1.25	1.0	5	18.75	23.44	25.00	26.79	0.94	1.00	1.07
PE	5.0	1.25	1.5	5	28.13	35.16	37.50	40.18	1.41	1.50	1.61
RE	4.0	1.00	1.0	5	15.00	18.75	20.00	21.43	0.75	0.80	0.86
Foreign Lang	7.0	1.75	1.0	5	26.25	32.81	35.00	37.50	1.31	1.40	1.50
Other	13.0	3.25	1.0	5	48.75	60.94	65.00	69.64	2.44	2.60	2.79
Key Stage 3 Sub Total									21.00	22.40	24.00
English	12.5	3.13	1.5	5	46.88	58.59	62.50	66.96	2.34	2.50	2.68
Maths	12.5	3.13	1.0	5	31.25	39.06	41.67	44.64	1.56	1.67	1.79
Science	10.0	2.50	1.5	5	37.50	46.88	50.00	53.57	1.88	2.00	2.14
Welsh	12.5	3.13	1.5	5	46.88	58.59	62.50	66.96	2.34	2.50	2.68
PE	5.0	1.25	1.5	5	18.75	23.44	25.00	26.79	0.94	1.00	1.07
RE	5.0	1.25	1.0	5	12.50	15.63	16.67	17.86	0.63	0.67	0.71
Other	42.5	10.63	2.0	5	212.50	265.63	283.33	303.57	10.63	11.33	12.14
Key Stage 4 Sub Total									20.32	21.44	23.21
Class Support									1.00	1.00	1.00
Deputy Head(s) (2, less their contribution to the above curriculum at contact ratio of .5)									1.00	1.00	1.00
Headteacher									1.00	1.00	1.00
TOTAL ROUNDED STAFFING LEVEL									44	47	50
PUPIL TEACHER RATIO (National Average 1994 Secondary Schools: 16.4)									16.92	16.01	15.40

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## English Medium Secondary School

Subject	A	B	C	D	E	F	G	H	I	J	K
English	10.0	2.50	1.0	5	37.50	46.88	50.00	53.57	1.88	2.00	2.14
Maths	10.0	2.50	1.0	5	37.50	46.88	50.00	53.57	1.88	2.00	2.14
Science	10.0	2.50	1.5	5	56.25	70.31	75.00	80.36	2.81	3.00	3.21
Welsh	6.0	1.50	1.0	5	22.50	28.13	30.00	32.14	1.13	1.20	1.29
Technology	9.0	2.25	1.5	5	50.63	63.28	67.50	72.32	2.53	2.70	2.89
History	6.0	1.50	1.0	5	22.50	28.13	30.00	32.14	1.13	1.20	1.29
Geography	6.0	1.50	1.0	5	22.50	28.13	30.00	32.14	1.13	1.20	1.29
Art	5.0	1.25	1.0	5	18.75	23.44	25.00	26.79	0.94	1.00	1.07
Music	5.0	1.25	1.0	5	18.75	23.44	25.00	26.79	0.94	1.00	1.07
PE	5.0	1.25	1.5	5	28.13	35.16	37.50	40.18	1.41	1.50	1.61
RE	4.0	1.00	1.0	5	15.00	18.75	20.00	21.43	0.75	0.80	0.86
Foreign Lang	7.0	1.75	1.0	5	26.25	32.81	35.00	37.50	1.31	1.40	1.50
Other	17.0	4.25	1.0	5	63.75	79.69	85.00	91.07	3.19	3.40	3.64
Key Stage 3 Sub Total									21.00	22.40	24.00
English	12.5	3.13	1.0	5	31.25	39.06	41.67	44.64	1.56	1.67	1.79
Maths	12.5	3.13	1.0	5	31.25	39.06	41.67	44.64	1.56	1.67	1.79
Welsh	5.0	1.25	1.0	5	12.50	15.63	16.67	17.86	0.63	0.67	0.71
Science	10.0	2.50	1.5	5	37.50	46.88	50.00	53.57	1.88	2.00	2.14
PE	5.0	1.25	1.5	5	18.75	23.44	25.00	26.79	0.94	1.00	1.07
RE	5.0	1.25	1.0	5	12.50	15.63	16.67	17.86	0.63	0.67	0.71
Other	50.0	12.50	2.0	5	250.00	312.50	333.33	357.14	12.50	13.33	14.29
Key Stage 4 Sub Total									19.69	21.00	22.50
Class Support									1.00	1.00	1.00
Deputy Head(s) (2, less their contribution to the above curriculum at contact ratio of .5)									1.00	1.00	1.00
Headteacher									1.00	1.00	1.00
TOTAL ROUNDED STAFFING LEVEL									44	46	50
PUPIL TEACHER RATIO (National Average 1994 Secondary Schools: 16.4)									17.16	16.163	15.15

The models illustrate the number of teachers required for a school with a given number of pupils and a given curriculum, but with varying proportions of teacher contact time.

Additional models would have to be developed to identify the cost associated with other areas of provision such as support staff, materials and equipment, premises and other funding needs such as sparsity and rurality, social deprivation, special needs, and post 16 provision. This would result in a national model for baseline provision for primary and secondary schools in Wales. Similar models would be required for special schools and nursery schools.

### **Funding of Schools by Actual Salary Costs**

At present, the vast majority of schools receive money for teaching staff costs on the basis of average salaries, but have to meet actual salary costs. This system has resulted in a considerable number of schools experiencing staffing difficulties whilst others have built up substantial reserves.

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The inequities that follow from average salary funding distributed on a pupil led basis have meant that some schools, by virtue of good luck rather than good management, are better placed to deliver the National Curriculum. The essential principle of the National Curriculum - that it provides equality of educational opportunity to every child - is undermined comprehensively by allocating the resources to deliver it in this way.

If the National Assembly was to move to the promotion of a system of funding schools on the basis of actual costs then there would be a need for a greater acknowledgement of school staffing costs. An average/actual salary adjustment model, based on a sectorised approach - nursery, primary, secondary and special, should reflect and would need to address five key funding elements:

- headteacher salaries;
- deputy headteacher salaries;
- number of teacher allowances;
- weightings for actual salaries relating to the number of teachers determined by approved national staffing models;
- weightings for actual salaries relating to the number of support staff determined by an approved model.

Funding for school staffing budgets would be based on these elements. However, LEAs could regard these as base levels which could be added to, and governing bodies could retain the facility to offer additionalities from within the school's budget allocation.

Transitional arrangements to absorb any shift in *winners and losers* would be necessary within the first few years of moving to actual salary funding.

**Consideration should be given to the introduction of a three-year funding cycle which would assist both policy makers and providers in the strategic management and delivery of high quality education and the drive to raise standards.**

### **Calculation of Common Age Weighted Pupil Units (AWPUs) for each Age Group**

The common AWPUs would relate to those areas of the budget which can be appropriately linked to pupil numbers. This could include funding areas such as:

- the pupil-led elements of long and short term relief teachers;
- mid-day supervisors;
- repairs and maintenance;
- grounds maintenance;

- teaching materials;
- furniture;
- library books;
- games and school activities.

If minimum staffing levels are determined through approved national staffing models, and schools are funded on the basis of actual salary cost, then teaching staff budget allocations cannot be included in the calculation of common AWPUs. Indeed, all actual in/actual out formula funding would have to be removed from such calculations.

The costs associated with support staff - identified through the development of approved national models - could be linked to common AWPUs. Additionally, the AWPUs could be enhanced to take account of pupils requiring additional provision relating to factors such as special educational needs (SEN), pupils who have neither English nor Welsh as a first language, income support, and post 16 provision. Costings in these areas could be based on average salary calculations.

### **School Teachers' Review Body (STRB) reporting and the funding of Teachers' Pay Awards**

The failure of the Government to fund fully successive pay awards for teachers has had a disastrous effect on the resourcing of the education service and on school staffing levels. Even the schools that have been *winners* under LMS have seen their school-held balances dwindle over recent years. Reductions in teaching posts have resulted in restricted access to the curriculum.

The timing of the STRB report - post local authority budget settlements - adds to the problems. A more sensible approach would be for the STRB to report before the settlement process.

There is a need for the National Assembly to press for a change in the timing of the STRB report.

### **Provision of Support Systems and Staff**

There can be no doubt that schools benefit from the provision of suitably trained and qualified support staff at all levels - both teaching and non-teaching. However, at present, there is very little guidance on minimum requirements for the provision of support staff. A school's ability to employ such staff is subject to the vagaries of the LMS system and the ability of the unitary authorities to fund central provision.

There is a need to establish a model to determine baseline provision for secretarial, special needs support teachers, teacher assistants, technicians, and other support staff in schools in Wales. The model could be developed as an enhancement to the common AWPUs or in conjunction with the approved national staffing models.

Issues such as social deprivation, sparsity, and special needs would have to be taken into account in devising such a model. This would be necessary to identify the funding requirements, at school, unitary authority and/or an all-Wales level, of alternative strategies such as the provision of compensatory teaching resources above certain thresholds, social and community provision, parental and multi-agency support programmes.

### **Review of the Funding and Strategic Management of Central Service Provision**

If the National Assembly is to continue with the system of financial delegation to schools and is to extend it, in line with the '*Fair Funding*' proposals, to cover services previously provided centrally by the authorities, then it will be vital to ensure that the funds delegated to schools are sufficient to allow for the purchase of quality services. Similarly, it will be vital to ensure that the money to be delegated is zero-budgeted - needs linked rather than perpetuating historic inequities - and earmarked in the Education SSA for Wales, as is current for England.

It is recognised that the limited size of some of the twenty-two Welsh unitary authorities provides a strong argument, particularly in relation to 'economies of scale', for a two or three tier approach to the provision of central services. In any event, it is essential that the support services provided are of a high quality. Following local government reorganisation (LGR) many of the Welsh unitary authorities found it impossible to continue to provide quality services, while others set up service level agreements (SLAs) but found difficulty in sustaining value for money. This has led to an inequality of access to support services throughout Wales, and has had a negative impact on the ability of schools to raise standards.

The advent of the National Assembly provides an opportunity to review central service provision. The review should consider which services are better provided for on a unitary authority basis, a regional basis and an all-Wales basis.

It may well be that services such as:

- SEN;
- pupils who have neither English nor Welsh as a first language;
- Music; and,
- Outdoor Education;

would be more suited to a regional or an all-Wales approach. Whereas, other services such as:

- Athrawon Bro;
- personnel management;
- payroll;
- health and safety;

- legal; and,
- technical and administrative support;

require more local accountability.

### **Standardisation of Funding for SEN Provision**

It is recognised that under *The BEST Programme* much work has already been undertaken within the area of SEN provision. The 75% increase - from £1.3 to £2.3 million - in the funding available for SEN priorities under the Grants for Education Support and Training (GEST) programme for 1999/2000 referred to in the Welsh Office document '*Shaping the Future for Special Education - An Action Programme for Wales*' is welcomed. However, the sufficiency of this extra funding is as questionable as the means of accessing it through the GEST programme and distributing it through formula funding. The WLGA's *1998 Expenditure Sub-Group Report* identified a need for additional resources of £5.4 million for statemented pupils and £3.4 million for other special needs for 1999/2000 (Appendix 9): accessing funding through the GEST programme depends on the success or otherwise of the bid put forward.

If SEN provision is to be fair and equitable throughout Wales, the starting point has to be through the development and implementation of all-Wales Descriptors relating to the SEN Code of Practice, and the introduction of a funding methodology which identifies resource requirements on the basis of need and allows for their distribution on the same basis.

Whilst the proposals contained in the Welsh Office consultation paper '*Fair Funding: Improving Delegation to Schools*' present an acceptable means of identifying which funds should be delegated to schools, and which should be retained centrally (Appendix 10), the argument relating to 'economies of scale', rehearsed in the previous section, has particular relevance to SEN provision. Consequently, the National Assembly should give consideration to establishing a regional, if not an all-Wales approach to the provision of SEN support services.

### **Capital Financing**

Successive OHMCI Annual Reports have highlighted the poor state of school buildings in Wales. The 1998 report is no exception. The report lists leaking roofs, inadequate toilet facilities, poor external decoration and over-crowded classrooms amongst the deficiencies found, and comments that such shortcomings have an adverse influence on the quality of teaching and learning (Appendix 11).

The WLGA has identified the total level of capital and revenue resources needed to bring schools in Wales to a reasonable state of repair as amounting to more than £320 million - with at least an additional £32 million required for 1999/2000 to start to address the maintenance and repairs backlog (Appendix 12).

Given the poor quality of the '*school stock*', and the backlog of repairs and maintenance which will be passed on to schools under the '*Fair Funding*' proposals,

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it may be appropriate for the National Assembly, in co-operation with the unitary authorities, to undertake a school buildings' audit in order to ensure that capital funding can be targeted at areas of greatest need.

### **Costing and Monitoring New Initiatives**

If schools and teachers are to cope with the Government's agenda for change, there must be an acceptance that initiatives such as:

- the literacy and numeracy strategies;
- exclusion targets;
- citizenship;
- drugs education; and,
- inclusivity;

need to be properly planned and adequately resourced.

All too often in the past, funds have been provided to pilot or 'pump prime' such initiatives in a few schools against an expectation of their subsequent implementation in all schools without additional funding. Restricting funding in this way places unnecessary pressure on school budgets and on teachers.

There is a need for the National Assembly to establish a system to ensure that such initiatives are thoroughly assessed in terms of the cost, the impact on teachers' time and on teacher supply before their implementation. The national staffing models presented in this document would provide such a vehicle, since allowances can be made to the subject time allocations.

### **Conclusions**

There can be no doubt that the education service in Wales is deserving of more favourable treatment in terms of funding. Geographic and demographic factors, sparsity, the considerable areas of social deprivation, cultural and linguistic dimensions, the demands of a bilingual education system, the strong local education authority base, the lack of support for the grant maintained system, and parental commitment to locally available post 16 provision provide key indicators to justify higher spending per pupil in Wales.

However, the problems associated with the current system are not only restricted to a lack of resources. The methodology used to both assess and distribute those resources is in urgent need of a radical review. The current system is littered with inequalities and anomalies.

The challenge facing the National Assembly will be to devise a process which will ensure that the education service in Wales is adequately funded according to need, on the basis of fairness and transparency, and that pupils in Wales are provided with equality of opportunity. The development of approved national staffing models for

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baseline provision for nursery, primary, secondary and special schools will be fundamental to that process.

The purpose of this report is to provide the National Assembly for Wales with a starting point for meeting the challenge.

# ANNEX C

**Jane Hutt AC/AM**

Y Gweinidog dros Blant, Addysg, Dysgu Gydol Oes a Sgiliau  
Minister for Children, Education, Lifelong Learning and Skills

TO: - Chairs of Governing Bodies -  
maintained schools in Wales.

1 December 2009

Dear Chair

## **The Staffing of Maintained Schools (Wales) (Amendment) Regulations 2009 and the Apprenticeships, Skills, Children and Learning Act.**

Following my announcement in April this year about Welsh Assembly Government proposals to amend the current staffing regulations in Wales I would like to inform you that amended regulations came into force on 2 November 2009. These can be found at:

[http://www.opsi.gov.uk/legislation/wales/wsi2009/wsi\\_20092708\\_en\\_1](http://www.opsi.gov.uk/legislation/wales/wsi2009/wsi_20092708_en_1)

The regulations have been amended in order to bring them up to date and reflect what is new relating to teachers' conditions of employment since the regulations were first made.

The purpose of the regulations is to:

- strengthen the aspects of the National Agreement on *Raising Standards and Tackling Workload* that relate to head teachers' work/life balance and
- impose a new duty on governing bodies to manage their staff (i.e. Head Teachers) in accordance with their conditions of employment.

In addition to these regulations, the Apprenticeships, Skills, Children and Learning Act 2009 (ASCL Act) has given the Welsh Assembly Government the power from January 2010 to ensure that schools and their governing bodies comply with the provisions of the School Teachers' Pay and Conditions Document (STPCD) and also with arrangements for performance management and induction of teachers. As you will be aware, the duties of schools, local authorities and governing bodies with regard to compliance are made explicit within the STPCD.

The power to set out teachers' pay and conditions is not devolved to the Welsh Ministers. However, the ASCL Act creates powers for the Welsh Ministers to serve warning notices on local authorities in Wales where there is evidence of non-compliance.

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I believe that non-compliance, should there be any, is more likely to result from misunderstanding rather than a deliberate decision and some schools may need additional support in order to be fully compliant. Issues are best resolved at a local level and I certainly would only want to use the new powers where it becomes reasonable and proportionate to do so, after all other efforts have failed. It will be important for robust and consistent arrangements to be in place at local, regional and national level throughout Wales.

Governing bodies have a particularly important role in securing compliance and ensuring that all staff at the school benefit fully from their legal entitlements. Governing bodies need to be clear what their duties and responsibilities are in these matters including their role in identifying and resolving issues of non-compliance in their schools. I would, therefore, like to take this opportunity to remind you of the new statutory duties of governing bodies, as outlined in The Staffing of Maintained Schools (Wales) (Amendment) Regulations 2009, in relation to the head teacher's duties and entitlements: -

(1) The governing body must ensure that the head teacher at the school

(a) complies with the duties imposed upon the head teacher;  
and

(b) benefits from any entitlement conferred upon the head Teacher by any order under section 122 of the 2002 Act (teachers' pay and conditions).

(2) In discharging its duty under paragraph (1)(a), the governing body must have regard to the desirability of the head teacher being able to achieve a satisfactory balance between the time spent discharging the professional duties of a head teacher and the time spent by the head teacher pursuing personal interests outside work.

In practice, this means that governing bodies must ensure that the head teacher complies with and benefits from the provisions of the STPCD and that regard is given to the head teacher achieving a satisfactory work/life balance.

It would be helpful if you would bring this to the attention of your governing body and review what arrangements you have in place to ensure these statutory duties are being met. Further advice and guidance on the duties referred to above can be obtained through the governor support services provided by your local authority.

CC: - Jane Morris, Director, Governors Wales  
Local Authority Governor support officers  
Local Authority Directors of Education  
Diocesan Directors of Education

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# ANNEX D

**Welsh Assembly Government  
Consultation on Objections to statutory proposals for school  
organisation  
November 2010**

31. The NASUWT welcomes the opportunity to comment on the potential changes to the time available for objections to published statutory proposals that involve changes to schools, new schools or school closure.
32. The NASUWT is the largest teachers' union in Wales and the UK representing teachers and school leaders.

## GENERAL COMMENTS

33. The NASUWT notes that the Minister for Children, Education and Lifelong Learning asserts that there is a need to reduce the length of time required by the statutory process when changes to schools are proposed because of the uncertainty for pupils, parents and local authorities caused by the current timetable set in legislation. The NASUWT does not agree.
34. The Minister's view appears to be based on the assumption that once school organisation changes are proposed, parents, local authorities and governing bodies normally prefer the issues to be resolved as soon as possible so that there is greater certainty for pupils and schools. The NASUWT questions this assumption as experience demonstrates that

such concerns are more likely to occur due to delays following the submission of proposals to the Welsh Ministers than at the formative stages of the statutory process.

35. The NASUWT submits, therefore, that if a limit is needed, then it should be placed on the time that the Welsh Ministers have to consider and determine school organisation proposals, following an objection to a published statutory notice, in order to meet the objective of providing greater certainty for pupils, parents and staff.
36. The NASUWT is against curtailing the time available for the submission of objections to a published statutory notice as this may limit the ability of groups or bodies that wish to submit such objections and compromise the democratic process.
37. In addition, the NASUWT questions the premise that as the arguments and objections will have been rehearsed previously as a part of the informal and/or statutory consultation process, less time will be required by interested parties and local authorities, following the publication of a statutory notice, for the submissions to the Welsh Ministers. Experience shows that at an informal stage people feel that it is less imperative to engage knowing a statutory process will follow.
38. The NASUWT is therefore opposed to any attempts to curtail the period of statutory objection on such a premise.

## **SPECIFIC COMMENTS**

39. The NASUWT offers the comments that follow in relation to the questions posed on the consultation pro forma:

**Question 1:** *Do you agree that it would be better if changes to schools were decided more quickly, once statutory notices have been published in the newspaper and at the school? If you do not agree, please say why.*

The NASUWT believes that this question is both misconceived and misleading.

The NASUWT does not accept that the changes to the statutory process, as proposed, would ensure that decisions are made more quickly.

The NASUWT submits that the objective behind the question will only be realised if time limits are placed on the deliberations of the Welsh Ministers.

**Question 2:** *Do you think that 1 calendar month is enough time for objectors to let local authorities and others know that they oppose the change? If you do not think that this is enough time, please make an alternative suggestion, with brief reasons.*

The NASUWT rejects the view that one calendar month provides sufficient time for objectors to respond to a published statutory notice. The NASUWT submits that the status quo should be maintained. There is no evidence or rationale offered to demonstrate the need for change.

The NASUWT believes that the proposal to reduce the period of objection ignores the fact that the formulation of such objections can often be a very complex process requiring the collection, collation and analysis of huge volumes of information before a presentable and coherent argument can be

decided upon and agreed through the appropriate democratic structures of the respondent bodies, including the NASUWT, prior to their submission.

Further, experience demonstrates that objectors are often campaign/action groups comprising volunteers who, in the main, attempt to ensure that they are both representative of, and democratically accountable to the parents and local communities served by the schools involved. The NASUWT believes that such groups would be disadvantaged, and possibly disenfranchised from the process, by curtailing the time allowed for objections.

In addition, the NASUWT questions the premise that as the arguments and objections will have been rehearsed previously, as a part of the informal and/or statutory consultation process, less time will be required for objections from interested parties following the publication of a statutory notice.

Whereas it is recognised that there may be circumstances where less time would be required by objectors in such circumstances, the NASUWT maintains that it would be foolhardy and irresponsible to curtail the period of statutory objection on such a premise.

**Question 3:** *Do you think that 2 weeks is enough time for local authorities to refer the objections on to the Welsh Ministers, together with their comments on the objections? If you do not think that this is enough time, please make an alternative suggestion, with brief reasons.*

The NASUWT rejects the view that two weeks provides sufficient time for local authorities to refer and comment on objections to the Welsh Ministers.

The NASUWT recognises that there will be some instances where a two week time frame could be met but does not believe this provides a sound or reasonable basis for altering the current arrangements. Local authorities also

have democratic accountability and two weeks is insufficient to ensure that their democratic processes are completed.

The NASUWT believes the suggestion that local authorities will require less time to refer and comment on objections, following the publication of a statutory notice, because responses will have been submitted previously as a part of the informal and/or statutory consultation process, to be ill-considered and misguided.

The NASUWT opposes the change.

**Question 4:** *Do you agree that if the objection period is reduced to 1 calendar month, proposals should not be published during school holidays? If you do not agree, please let us know why.*

Regardless of the time frame involved, the NASUWT maintains that proposals that involve changes to schools, whether at the stage of informal consultation, statutory consultation or statutory notice, should not be published during school holidays or, indeed, on a date that causes the period for response or objection to be mainly in school holidays. This leaves the process open to abuse and excludes relevant parties from engaging in the consultation.

**Question 5:** *If a proposal were to be published in term time, do you agree that the objection period should include at least 15 school days? (this would be approximately 75% of the objection period). If you do not agree, please let us know why.*

The NASUWT maintains that the objection period should remain at two months and should not include or extend into school holidays.

**Question 6:** *We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:*

For the avoidance of any confusion the 'General Comments' made above are repeated below:

- The NASUWT notes that the Minister for Children, Education and Lifelong Learning asserts that there is a need to reduce the length of time required by the statutory process when changes to schools are proposed because of the uncertainty for pupils, parents and local authorities caused by the current timetable set in legislation. The NASUWT does not agree.
- The Minister's view appears to be based on the assumption that once school organisation changes are proposed, parents, local authorities and governing bodies normally prefer the issues to be resolved as soon as possible so that there is greater certainty for pupils and schools. The NASUWT questions this assumption as experience demonstrates that such concerns are more likely to occur due to delays following the submission of proposals to the Welsh Ministers than at the formative stages of the statutory process.
- The NASUWT submits, therefore, that if a limit is needed, then it should be placed on the time that the Welsh Ministers have to consider and determine school organisation proposals, following an objection to a published statutory notice, in order to meet the objective of providing greater certainty for pupils, parents and staff.

- The NASUWT is against curtailing the time available for the submission of objections to a published statutory notice as this may limit the ability of groups or bodies that wish to submit such objections and compromise the democratic process.
- In addition, the NASUWT questions the premise that as the arguments and objections will have been rehearsed previously as a part of the informal and/or statutory consultation process, less time will be required by interested parties and local authorities, following the publication of a statutory notice, for the submissions to the Welsh Ministers. Experience shows that at an informal stage people feel that it is less imperative to engage knowing a statutory process will follow.
- The NASUWT is therefore opposed to any attempts to curtail the period of statutory objection on such a premise.



Chris Keates

**General Secretary**

For further information on the Union's response, contact Rex Phillips, Wales Organiser.

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# ANNEX E

19<sup>th</sup> October 2010

Leighton Andrews AM  
Minister for Children, Education & Lifelong Learning  
Cardiff Bay  
Cardiff  
CF99 1NA

Dear Leighton,

Thank you for your letter of 5 October 2010 inviting views on the areas of education in which legislation is being considered through the introduction of an Education Assembly Measure.

I must state from the outset that given some of your recent Ministerial Statements and the short time scale for this response, it seems that views are being sought as an afterthought rather than an attempt to enter into constructive and meaningful dialogue.

Nonetheless, I offer the views and comments on the proposals that follow on behalf of the NASUWT.

## **School Governance**

The NASUWT has, for some time, been advocating a revision of school governance arrangement. In particular, but not exclusively, in relation to the ability of governors to hear disciplinary and/or capability cases objectively and fairly.

Consequently, the NASUWT would expect the Measure to be specific about the need for appropriate training and proven capability in this area of

governance and to make provision for the removal of governors where the actions of governors have subsequently failed to meet the tests of fairness and objectivity.

The NASUWT believes that it is important to point out, at this formative stage, that training as an initiative on its own may not lead to any improvement in the capability of governors.

On a related issue, in the recent discussions on the establishment of an all-Wales model disciplinary procedure, it became clear that sections of *The Staffing of Maintained Schools (Wales) Regulations 2006* were in need of revision.

By way of example, paragraph 7(3) (Conduct and discipline and capability of staff) is open to interpretation. This was evidenced during the discussions by the differing views that were expressed on the application of this provision. Also, paragraph 17(9) (Dismissal of staff) provides an entitlement for headteachers to attend, for the purpose of giving advice, hearings of the staff disciplinary committee and the staff disciplinary appeal committee. The NASUWT submits that allowing headteachers to give advice in such circumstances is an affront to the rules of natural justice, as the advice given will inevitably be partial.

The NASUWT has raised previously concerns over the amendment made to *The Government of Maintained Schools (Wales) Regulations 2005* by virtue of *The School Councils (Wales) Regulations 2005* that made provision to allow associated pupil governors to be able to take part in discussions relating to areas such as staff appointments, staff pay, staff discipline, performance management, grievances submitted by staff or dismissal. As constructed, section 44A.(1) (Exclusion of associate pupil governors from meetings) states that associate pupil governors 'may' be excluded from such discussion.

The NASUWT submits that the word 'may' needs to be replaced with 'must' to prevent the involvement of pupils in such discussions.

In citing these examples, the NASUWT suggests that the Measure should be seen as an opportunity to review and correct any such discrepancies in the current Regulations that apply to, or impact on the role of governors and school governance.

## **Collaboration**

The NASUWT has consistently opposed any suggestion of the need for legislation that would provide the Welsh Assembly Government with powers to enforce collaboration.

The NASUWT notes that the Measure, as proposed, would impose a duty on school governing bodies and the governing bodies of further education institutions to consider collaboration when exercising appropriate functions in the interests of efficiency and effectiveness and to enter into collaborative arrangements if savings can be made.

The NASUWT is concerned that the proposal fails to recognise that the vast majority of schools remain in the control of local authorities and are, therefore, democratically accountable, whereas, on the incorporation of the further education institutions, a democratic deficit was created in terms of the management and governance.

The NASUWT submits that enforced collaboration could lead to post-14 education provision being engulfed by further education institutions, resulting in further erosion of the democratic accountability that is essential to the provision of state education.

In addition, the NASUWT cautions against the introduction of legislation on financial assumption or cost saving. The NASUWT questions the suggestion that further collaborative arrangements on such things as back-room costs, sharing assets, data inputting and so on, will release funding for learning. Indeed, the NASUWT maintains that such collaborative arrangements could lead to increased costs and a diminution in the quality of the service provided.

## **Preventing schools changing category to become foundation schools**

The NASUWT has been consistent and resolute in opposing the creation of foundation schools and, therefore, welcomes this proposal.

## **Repeal of section 347 of the Education Act 1996**

The NASUWT would need to be convinced about the merits of, and rationale behind this proposal.

The NASUWT is concerned that allowing local authorities to make decisions on the placement of pupils with a statement of special educational needs (SEN) in unapproved independent schools without recourse to the Welsh Ministers could inadvertently lead to a reduction in the quality of provision and/or an increase in the numbers of SEN tribunals.

To date, the experiences of the NASUWT dealing with schools in the independent sector that cater for pupils with special educational needs argues for a strengthening, rather than any relaxation in regulation.

I trust that these comments will both assist and guide you in your deliberations on this matter.

Yours sincerely,

Rex Phillips  
NASUWT Wales Organiser

## Children and Young People Committee – additional evidence School Standards and Organisation (Wales) Bill

June 2012



WLGA • CLILC

## INTRODUCTION

1. The Welsh Local Government Association (WLGA) represents the 22 local authorities in Wales, and the three national park authorities, the three fire and rescue authorities, and four police authorities are associate members.
2. It seeks to provide representation to local authorities within an emerging policy framework that satisfies the key priorities of our members and delivers a broad range of services that add value to Welsh Local Government and the communities they serve.
3. The WLGA and ADEW provided oral evidence to the National Assembly Children and Young People Committee on the 31<sup>st</sup> May 2012, due to time constraints in that session there were a number of issues that the Committee were unable to cover. This report provides additional evidence in line with the written questions sent to the WLGA in a letter dated 1<sup>st</sup> June 2012.

### Costs associated with School Improvement Guidance

4. ***What input did you have into how the cost of providing on-going training and implementation support to schools on the School Improvement Guidance has been calculated? How will these costs be met by local authorities?***
5. The WLGA and ADEW have worked closely with Welsh Government officials regarding the on-going work on school improvement. All local authorities are in the process of setting up four regional school improvement services which will provide support for schools. Local government would expect that any additional responsibilities will be fully funded, work that is part of the ongoing support for schools will be funded from a variety of sources, including local authority's education budget and through grants such as the School Effectiveness Grant (SEG) and the Pupil Deprivation Grant (PDG).
6. ***The Explanatory Memorandum states that further assessment of costs associated with the statutory school improvement framework will take place once future priorities have been identified. Do you have a view of what form these costs will take and how they will be funded?***

7. It is difficult to say without a clear view of what the priorities are in the school improvement framework. It is assumed that any new burdens on local authorities will be fully funded, and that on-going work will continue to be funded via grants such as the SEG, and for more targeted work at school level through the PDG.

#### Local Determination Panels

8. ***There are a number of costs associated with the creation and operation of LDPs. These costs may vary depending on the complexity of proposals. Do you have an estimate of the costs associated with the creation and operation of Local Determination Panels? How will these costs be met by local authorities?***
9. It is difficult to estimate the costs of setting up of the panels because this will be dependent on the specific needs of the proposal in question. Factors that could impact on costs would be issues such as whether independent panel members were required, the complexity of the briefings and officer time required, the number of meeting required by the panel etc. Some of the additional work involved may be covered within authorities existing resources, such as facilitation of meetings, and adaptation of procedures already in place for the appointment of members etc. However, the ability of local authorities to absorb these costs will depend on the number, and complexity, of panels that an individual local authority has to establish. This will be subject of on-going discussions with the Welsh Government.
10. ***The Explanatory Memorandum estimates that the Welsh Government will save £77,000 from the transfer of work on determining disputed proposals to local authorities, and the corresponding cost to local authorities will be £55,000. Is this a fair estimate? How do you expect to fund the £55,000?***
11. As stated above, it may be possible in some circumstances for local authorities to absorb a proportion of the costs. There is, however, an agreement between the Welsh Government and local government that any new burdens on local authorities will be fully funded.
12. ***Following the introduction of the Bill do you envisage putting together a pool of potential LDP panel members that could be drawn upon when a LDP is required given the requirement for the panel to make a decision on proposals referred to it before the end of 16 weeks beginning with the end***

***of the objection period (schedule 3 paragraph 7) and that the panel members cannot be a member of the LA executive, and cannot have had a connection with the appointing authority, the proposer or the school to which the proposals relate (Schedule 3 paragraphs 3-4)? If so, who do you envisage these panel members as being and what costs will be associated?***

13. The detail on the setting up of panels is still the subject of discussion between local government and the Welsh Government. However, it is envisaged that local authorities will have a pool of potential independent panel members, in line with other such arrangements within local authorities. These panel members could come from a variety of backgrounds, for example, have an expertise in education or finance.

*Regional Provision for Special Educational Needs*

14. ***Can you clarify whether you support the provisions in the Bill (set out in sections 65 to 71) in relation to regional provision for special educational needs?***

15. This section of the Bill re-states an existing power of the National Assembly to Welsh Ministers, from the Education Act 2002.

16. ***To what extent are the provisions that allow for Ministers, by order, to direct local authorities to secure regional provision for special educational needs appropriate, particularly given that the orders are not required to be made by statutory instrument and therefore will not be subject to any further Assembly scrutiny?***

17. Any request to secure regional provision for SEN would have to be considered carefully. SEN provision is a complex issue and the paramount consideration should be the needs of the pupils. There are many examples across Wales of where SEN provision is already delivered on a regional basis, for example in sensory impairment across the former Gwent authorities. However, there are other circumstances where regional provision would not be appropriate for legal reasons, for example regarding accountability or for educational reasons.

*Welsh Education Strategic Plans*

18. ***Do you believe that Welsh Education Strategic Plans should be placed on a statutory footing or whether there are other ways the Welsh Government's policy objectives in relation to planning for Welsh medium education could be achieved?***
19. Local authorities are already engaged in planning for Welsh medium education and support the principles in the Welsh Medium Education Strategy. Having the plans on statutory footing demonstrates the importance of Welsh medium education planning in Wales.
20. ***Is the £468,000 estimated by the Welsh Government as on-going administration costs of WESPs already being borne by local authorities?***
21. As stated above local authorities are already engaged in planning for Welsh medium education, if there are any additional costs incurred as a result of moving to statutory planning then local authorities would expect those costs to be supported by the Welsh Government.
22. ***How many local authorities are currently surveying parents to identify demand for Welsh medium education?***
23. Local authorities in Wales, as part of their pupil planning processes, regularly survey parents to identify their needs in terms of Welsh language provision. ADEW and the WLGA are not aware of any local authority who does not undertake consultation with parents on such admission processes.
24. ***What are the capital cost implications should local authorities need to adjust their school planning as a result of parental demand?***
25. It would be difficult to estimate the costs of changing existing, or future programmes, if it was needed. As part of the 21<sup>st</sup> Century Schools Programme all local authorities have submitted outline business cases to the Welsh Government regarding their plans for capital investment in schools over the next 10 years. A key aspect of these plans has been a focus on Welsh medium provision.

*School based counselling*

26. ***Do you believe that there is a need for school based counselling for all primary school pupils?***
27. There are currently pilot projects underway looking at extending school based counselling to primary schools in Wales. The need for such counselling will be clearer following a full evaluation of these schemes.
28. ***If so, should the duty on local authorities to provide counselling be extended to include all primary school pupils or, given the financial constraints, is it more important for counselling to be targeted at secondary age pupils?***
29. There is provision in the Bill to extend the provision to primary schools, should this be deemed to be necessary. If this is the case then local authorities would expect to receive funding to implement the counselling in both secondary and primary schools.
30. ***What arrangements do local authorities intend to put in place to ensure that funding is made available for the continuation of free school breakfasts and school based counselling following the transfer of funding to the Revenue Support Grant, and in the longer term for the expansion of these services if up-take increases?***
31. If this Bill is passed in its current form then the provision of school breakfasts and school based counselling will be statutory requirements and local authorities will support these schemes through funding from the RSG. With regards to free school breakfasts the current take up is around 75% of primary schools and this has remained steady for a number of years. Discussions are underway with Welsh Government officials to ensure that there is sufficient funding transferred to the RSG to enable local authorities to meet their statutory requirements.
32. ***Can you confirm whether £4.5m being transferred to the Revenue Support Grant for school based counselling includes the additional costs of extending the service to Year 6?***
33. The funding that is being transferred into the RSG for school based counselling is currently the subject of discussion between local government and Welsh Government officials. The extension of the counselling provision to cover year 6 pupils and pupils aged 16 – 18 is a grey area. The 2008 School Based Counselling Strategy covered

“secondary school children” but did not specify age. There are discussions ongoing with Welsh Government about this and how to address it in any guidance which is issued following the commencement of the Bill.

34. ***What are the costs of extending school based counselling to Year 6?***

35. As above, this area is subject to ongoing discussion with Welsh Government officials.

*Flexible charging for schools*

36. ***Do you have any estimates of the likely initial set-up costs arising from flexible charging for school meals and how these would be funded?***

37. Allowing local authorities to develop flexible charging for school meals will give local authorities more scope to market school food and encourage pupils to have a cooked meal during the school day. It is not anticipated that there would be set-up costs.

*Overall costs*

38. ***Do you have an estimate of 'incidental costs' associated with the Bill, such as issuing warning notices for school causing concern and the operation of Local Determination Panels?***

39. The overall costs of implementing the Bill, including incidental costs, are the subject of ongoing work.

40. ***How do envisage any 'incidental costs' will be met by local authorities?***

41. Protocols between local government and the Welsh Government state that any additional statutory burdens placed on local authorities will be fully funded.

42. ***What would be the total financial impact of the Bill on local authorities aside from the £14.7 million of breakfast funding; the £4.5 million of school based counselling and the £1.7 million of transitional costs to be covered by the School Effectiveness Grant?***

43. The total cost of implementation is still the subject of ongoing work.

44. ***What are the anticipated overall costs for local authorities of implementing the Bill?***

45. As above.

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**For further information please contact:**

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**Barnardo's  
Cymru**

**Children and Young People Committee  
Inquiry into Adoption in Wales**

**Additional information requested of  
Barnardo's Cymru following  
oral evidence session of  
23<sup>rd</sup> May 2012**

**SUBMITTED BY:**

**Andy James  
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**DATE:**

**15<sup>th</sup> June 2012**

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**Tel: 01639 620945**

**A. ADOPTION BREAKDOWN**

**1. You both say that we need better monitoring of the rates of adoption breakdown. How can we better record and share information on the causes?**

In our view, it is essential that any data that is collected via improved monitoring is accurate and consistent and that all agencies involved need to be clear in what they are recording and why. It is not just the recording of breakdown numbers that are important but we need to have a clear record as to the reasons for the breakdown, as this is how we learn what works and what doesn't (eg was adoption the right placement choice for the child?) To improve our understanding of placement breakdowns, factors which could be monitored/recorded could include age at time of placement; pre-placement history (ie previous number of moves/breakdowns); length of time waiting for placement; level of support available and utilised during placement etc. It would also be important to record whether the placement was within the agency or inter agency.

**2. Should the Welsh Government commission research on adoption disruption rates in Wales?**

Yes. Barnardo's Cymru would support such a proposal if this is designed to usefully inform us about disruption/breakdown characteristics from which policy and practice can be improved. The research would, therefore, need to look beyond just the adoption disruption rates and focus on the reasons for, and causes of, placement breakdowns.

It may be of interest to the Committee that renowned adoption expert, Dr Julie Selwyn (Director of the Hadley Centre for Adoption and Foster Care Studies at Bristol University) is currently conducting a large scale piece of retrospective research on placement disruption. When she completes the work, it is likely that many of her findings will be transferable to the Welsh context.

**B. WELSH GOVERNMENT PROPOSALS FOR A NATIONAL ADOPTION SERVICE**

**1. What are your main concerns, if any, about the Welsh Government proposals for a National Adoption Service?**

Please see our written submission for more detailed information on our view of a National Adoption Service (NAS) for Wales.

We are generally supportive of the proposal but our overriding concern is that Voluntary Adoption Agencies, such as Barnardo's Cymru, could be marginalised under any new arrangements and that the valuable role we play in providing quality adoption placements could be minimised or sidetracked into peripheral areas.

Barnardo's Cymru is an agency with a wealth of adoption experience and we currently provide the full range of services offered by local authorities apart from having responsibility for pre-placements for the looked after child. Although, as we are also a fostering agency, we are able to offer this and are very keen to develop concurrent planning and placement work, building on our expertise in independent assessment work with families and in foster care. We want to continue to offer our services, as we feel we add to the range of choice in placements and thereby add to the diverse pool of adopters who want to offer adoptive placements for those children in Wales who need them.

We are very happy to work in partnership with Welsh Local Authorities (we already do this successfully via 88 projects in our overall portfolio of children's services across Wales) as long as we feel there is a 'level playing field' (ie if we recruit and assess adopters, we would want to ensure that their skills and strengths are the basis of a successful match to meet the needs of any child or sibling group ..... rather than there being the possibility of local authorities preferring in-house or inter-local authority placements because they are perceived to be cheaper or 'home-grown').

Selwyn and Sempik ('Recruiting Adoptive Families: the cost of family finding and the failure of the inter agency fee', British Journal of Social Work, June 2010) found that one possible factor in the decline in adoption numbers in England was the reluctance of local authorities to use adopters approved by Voluntary Adoption Agencies (VAAs) and this may have led to children not being placed.

'There is a perception that VAA adopters are expensive because a high inter agency fee is charged. Meanwhile many VAA adopters are waiting for a placement'.

The aim of the study was to consider whether the inter agency fee was a good reflection of the expenditure incurred by local authorities and VAAs and Selwyn and Sempik examined the adoption team accounts of ten local authorities and 17 VAAs. They found that average expenditure was similar, as were overhead rates. However, this expenditure was 'substantially more than the inter agency fee', thereby evidencing that the fee had 'failed in its purpose to encourage inter agency co-operation and provide full cost recovery'.

We are continuing to strengthen our relationships with local authority adoption services in Wales and would, therefore, welcome the opportunity to work even more closely with them in helping to deliver a NAS. We would wish to contribute to any system that improves the quality of the adoption experience for both prospective adopters and the children and young people themselves.

**2. What implications will the creation of a National Adoption Service have for your organisation?**

Please see our written submission for our views on the proposed NAS. Please also see above response to Question 1.

We would wish to reiterate that, in our view, the NAS has the potential to significantly improve the adoption process in Wales. This would include improved timeliness, planning and permanency in addition to more co-ordinated placement provision. We would, therefore, see the setting up of a NAS for Wales as a positive move.

As outlined above, we would wish to be part of any improved adoption service in Wales but we would also want to ensure that our extensive adoption experience is not lost within any new arrangements and that the status of Barnardo's Cymru as an Adoption Agency is fully recognised and accommodated within the new NAS.

**3. St David's say that the creation of a National Adoption Service will lead to a 'marked increase in the number of children being referred'. What evidence is there to support this view?**

We feel this question has probably arisen from the written evidence provided by St David's and we are unsure as to what evidence (if any) there is for a projected increase. This question, therefore, is probably better for St David's to respond to rather than us.

The important element would be a requirement for local authorities to refer all children needing placement in a timely way and for all agencies to make families available. Under the current system, children may remain waiting 'in house' while a voluntary agency may have a potentially suitable family.

**C. CONCURRENT PLANNING**

We have been requested to provide the Committee with some information about concurrent planning.

Concurrent planning is a well established process which can help provide early stability for children who may be adopted. Where local authorities use this approach, prospective adopters who are also approved foster carers, care for the child from soon after the child enters care, and work with the local authority to see if a child can return home, assessing the birth parents' capacity to care for the child and maintaining contact. Concurrent planning has been introduced in

several London authorities including Harrow, Islington and Camden in partnership with Coram. Almost all concurrent planning placements have resulted in the baby being adopted by the carers with whom they have lived, in most cases, from just a few weeks old. Concurrent planning means that children get a stable loving home as early as possible and that the risks of disruption are taken by adults rather than children.

We would like the principles behind concurrent planning to be used more widely and for children as well as infants. Whilst there can be no question of pre-empting a court decision, we would like to see local authorities working with family finding teams as early as possible to find potential permanent carers for children, and children with families who may, if the court agrees, go on to adopt them.

Please see Appendix 1 for an outline of a potential model for a Barnardo's Cymru concurrent planning service.

Please see the attachment with this document for an information leaflet for a concurrent planning service run by Barnardo's in the North East of England.

## **Appendix 1**

### **BARNARDO'S CYMRU ADOPTION AND FOSTERING SERVICE**

#### **Concurrent planning – potential models of service**

The UK Government has highlighted the need for tackling delay for children within the care system who need adoptive placements and is encouraging local authorities to increase the use of concurrent planning either in-house or commissioned from an adoption agency. This service could be provided at a realistic cost to the local authority.

Barnardo's, as a national adoption agency delivering local services across the UK, is committed more than ever to work with local authorities to address the issue of delay. The importance of placing children at the earliest opportunity is well researched if children are to have a chance of forming secure relationships and attachments. Concurrent planning can clearly meet the needs of very young children, but can also be developed to offer similar positive opportunities to older children and disabled children.

Such is our commitment to working with local authorities to address the issue of delay, we would be very interested to work in partnership with local authorities in providing a range of services which will assist in progressing the plans for children. We believe this can be achieved through concurrent planning.

This is a new opportunity for us in Wales that enables us to draw on the learning and experience of Coram, which currently operates a concurrent planning project, and our Barnardo's colleagues in the North East of England who are also setting up such a service. By working in partnership with local authorities and pooling our collective experience, we believe we can achieve a range of streamlined services, which will help avoid delay and provide the best outcomes for the child.

The core model can operate with individual local authorities under the auspices of the proposed new structure for a Welsh National Adoption Service. It can also be adapted to meet changing local need.

### **Barnardo's Cymru – Potential concurrent planning project**

We could offer three elements to reduce delay that can be developed in partnership with local authorities in Wales:

- 1. Provision of concurrent carers:** Carers are trained, assessed and supported by Barnardo's Cymru during the placement. This will continue should the child be rehabilitated with birth parents or proceed to adoption.
- 2. Parenting assessment:** We will provide qualified and experienced workers to undertake an assessment of the parents placed with concurrent carers, which will be used to progress the plan for the child through court. This could be independent of the local authority.

3. **Facilitate contact:** Contact will be undertaken at an appropriate venue, facilitated and supervised by contact workers. Observations will be recorded to inform the assessment and the assessor undertaking the parenting work will attend as appropriate.

### **Outcomes and Benefits**

- Looked after children will be afforded the best possible chance to form settled and secure relationships and not experience sequential placements.
- Local authorities will be able to address the issue of delay in a cost effective way.
- Local authorities will be working in partnership with a credible and highly regarded children's charity which has a strong campaigning and influencing reputation.

### **Challenges**

- There would be a number of challenges to overcome to establish an effective service but these could be overcome by joint planning and interagency co-operation.

# Concurrent Planning Service

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children**



**Barnardo's**

North East

A new fostering and  
adoption service for  
children under two  
years old



“ If the child returned to the natural parents, that was a risk for us. But the positive aspects of that were explained to us. OK, while we might be bereaved, disappointed, upset, we would also, hopefully, feel we had taken part in a positive process and that if the child did go back to the parents that was the best thing. I think we both knew that concurrency was the better route. Perhaps not for us, but for the child, yes.”

*Adoption & Fostering* 22:4, pp 30-40, Winter 1998/99



## What is concurrent planning?

Concurrent planning is a form of fostering and adoption for babies and toddlers in care who are likely to need adoption but who still have a chance of being reunited with their birth family.

## How does concurrent planning work?

Children aged 0-2 years are placed at the earliest opportunity with specially-trained foster carers, known as concurrent carers, who are also approved to adopt. The child remains with the concurrent carers while their birth parent(s) and extended families, who are likely to have severe difficulties and issues in their lives, are rigorously and intensely assessed to see whether the child can be returned to them.

If the court decides that adoption is in the child's best interest, the child will remain in placement and will be adopted by the concurrent carers. The carers will have the advantage of having cared for the child from a very young age and they will also be in the unique position of knowing the child's birth parents and understanding their difficulties.

If, however, the court decides that the birth parents are able to meet the needs of the child, the concurrent carers will be involved in helping the child to return to their birth family.

This can, of course, be sad and upsetting for the carers but they can take solace from the fact that they gave the child the love and security that they needed in a critical time in their development as well as helped them to settle back with their family. The concurrent carers will then continue to receive support and may go on to care for another child from Barnardo's.

## Why is concurrent planning important?

Concurrent planning is a better option for the child as it prevents them from being placed with temporary foster carers before moving to a permanent placement with an adoptive family. Living with their concurrent carers as early as possible means the child has a greater chance of stability and of forming secure relationships and attachments even though there is uncertainty about their future.

## What does it involve for the Barnardo's concurrent carer?

As a Barnardo's concurrent carer you will be approved for both fostering and adoption and will receive tailored training and support for this particular role. We will discuss with you your motivation, resilience, support networks and ability to manage this specialist task. You will receive guidance and support from your social worker throughout the process and you will also be entitled to a fostering allowance until the child is adopted or returned to the birth family.

Concurrent carers will be involved in taking the child for contact with their birth family on a regular basis (at least three times a week) while decisions about the child's future are being made. You will need to be willing to work co-operatively with a team of professionals and with the child's family. If the child is returned to their birth family it can be distressing for the carer, so as a person you must be able to put the child's needs first, be emotionally resilient and be able to live with and manage uncertainty.





“ We felt we would benefit even if the baby did not stay with us. We thought that once the child was with us, and we were getting to know him it would be very difficult to give him up. But, it would give us an understanding of what birth parents go through a little bit, and that would be a helpful thing to go through – not nice – but helpful. And we felt sort of, well, if it happens we just cope somehow. It would be terrible and we can’t imagine what it would feel like, but we would just have to deal with it. ”

Monck, Reynolds & Wigfall (2003) *The Role of Concurrent Planning: Making permanent placements for young children*. London: BAAF, p127.

### Contact us

If you are interested in becoming a concurrent carer or finding out a bit more about the process, please contact us for an informal discussion.

#### **Barnardo's Concurrent Planning Service**

Tel: **0191 492 9000**

Web: [www.barnardos.org.uk/concurrent\\_planning\\_service](http://www.barnardos.org.uk/concurrent_planning_service)



[www.barnardos.org.uk](http://www.barnardos.org.uk)

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Barnardo's Registered Charity  
Nos. 216250 and SC037605

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**Cymdeithas Plant Dewi Sant**



**St David's Children Society**

Children & Young People Inquiry into Adoption.

Supplementary Questions.

St. David's Children Society.

14<sup>th</sup> June 2012.

## Adoption Breakdown

### ***1. You say that we need better monitoring of the rates of adoption breakdown. How can we better record and share information on the causes?***

- There is inconsistency amongst agencies as to what constitutes a disruption and at what point a placement becomes a disruption.
- Currently all agencies agree a placement date: i.e the date on which the child is formally placed with the prospective adoptive family for adoption. Any breakdown that occurs after this date should be recorded as a disruption.
- Within the disruption data gathering process, it would be helpful to have additional data on the timescales in which a disruption occurred: e.g.:
  1. Data on breakdowns from the date of placement to the date of adoption order granted.
  2. From say the date of the adoption order to the first 3 or 5 years of placement post adoption order.
  3. Post 5 year data.
  4. Perhaps separate data on the teenage years.
  5. Of critical importance is to hold a formal 'disruption meeting' in every case where there is a placement breakdown.

#### Purpose of a Disruption Meeting:

When a disruption occurs, it is fundamental that we examine the various elements of the placement in order to understand the sequence of events with a view to:

- Meeting the child's needs now and in the future.
- Supporting the family in recovering from the experience.
- Improving agency practice
- Ascertaining the wide variety of factors that, in all probability, led to the disruption. This to include the social care agency response, health, education, family factors, etc.

- Prior to the formal date of placement there is a period of introductions where the child is being introduced to the family. Occasionally, during this period the link does not progress. The period of introductions should be seen as a testing period and not formally classed as a disruption.

### ***2. Should the Welsh Government commission research on adoption disruption rates in Wales?***

- Perhaps this is a moment to look forward rather than back. The fact that more children are waiting for an adoption placement than were placed in the whole of last year, suggests that the current system is failing a large number of children. There seems to be little value in commissioning research into a failing system. Precious resources should be invested in the proposed national adoption service ensuring that it becomes a vehicle that will deliver justice for children waiting for adoption.

There is already a considerable body of adoption research that evidences several reoccurring themes in adoption breakdowns. These include:

- The lack of clear and accurate information contained within the child's assessment report, particularly in relation to the child's health, education, behaviour and history of attachment. Poor quality or inadequate child assessment reports may leave the prospective adopter feeling undermined, resulting in a placement breakdown. It is essential that we secure qualitative data on children.
- The lack of adequate preparation of prospective adopters, including the lack of analytical thinking in assessments results in disruptions. The evidence demonstrates that at times prospective adopters are sometimes 'over stretched' in terms of their child preferences. 'The child placed was not the child they were prepared for.' Well-constructed, evidenced based reports are essential to improving placement outcomes.
- Disruption research indicates that insufficient weight is given to the child's views on the proposed placement. This is more problematic in children who are older or who have behavioural difficulties. Children need to be properly prepared for placement with greater emphasis placed on developing qualitative life story work.
- Poor or inadequate post placement and post adoption support is often cited as key factor in adoption breakdown activity.

Reliable supervision structures, regular staff training, responsive support systems and reliable performance measures will significantly reduce the impact of these factors resulting in a marked improvement in outcomes for children. Robust matching also aids the process of successful placements as does a good choice of adopters developed by experienced staff.

***1. What are your main concerns, if any, about the Welsh Government proposals for a National Adoption Service for Wales?***

- The risk for a national adoption service is that it could become a fragmented entity e.g.: offering a single gateway for recruiting prospective adopters, a stand-alone adoption register, an assessment centre, etc. Adoption research clearly evidences that the most successful outcomes achieved for children are in those agencies where there are seamless, high quality services, where each element of the service shapes and informs the next stage or need. We need to build on what works.
- A significant risk to 'national adoption service' is that resistance to change or maintaining the status quo will result in little change for children. The 1976 Adoption Act was supposed to herald a new dawn in adoption service. 24 years later, the PM's Review of Adoption reaffirmed a failing system resulting in new legislation. Another 10 years have passed, children continue to wait and a considerable number of prospective adopters report receiving a

less than satisfactory service. We need to act now before adoption slips off the political agenda and another generation of children are lost in care.

- The greatest risk is that we do nothing. Yes there is a risk that a 'national adoption service' may initially struggle. That risk will be mitigated by a well run, properly managed service.

For 36 years (since the 1976 Adoption Act), a significant number of children have faced a failing system. In this system, it is the 'children who wait' who carry the entire burden of risk. Perhaps this is a moment for the Welsh Government to remove the burden of risk from children and courageously place it in a new model of adoption services for Wales. We simply cannot afford to lose another generation of children.

## ***2. What implications will the creation of a National Adoption Service have for your organisations?***

- St. David's mission is to find loving, nurturing, permanent homes for children awaiting adoption. Should the national adoption service, prove to be an effective, high quality service provider, St. David's mission would be achieved. The trustees have already agreed that in such an event, we would work to embed our social work and admin staff in the new service and aim to achieve an orderly closure of the charity. These actions are consistent with our mission.

## ***3. St David's say that the creation of a National Adoption Service will lead to a 'marked increase in the number of children being referred'. What evidence is there to support this view?***

- Last year 183 Welsh children were placed for adoption. Currently, there are approximately 200 children waiting across Wales for adoption placements. Many of these placement orders were issued last year. This would suggest that significantly more children could be placed for adoption in any given financial year.
- Over these past years, BAAF has estimated that 1 in 4 children available for adoption will not be placed primarily due to the lack of an adoptive parent resource.
- The annual number of children adopted each year in Wales may not represent the total number of children with an adoption plan. It is not unusual to find approximately 15 – 18% of the looked after child care population being referred to the local authority adoption agency. While the adoption plans for a significant number of these children will change, the 4% annual statistic of adopted looked after children appears modest and considerably short of the initial referral rate.
- The establishment of the National Adoption Service will result in greater emphasis being placed on adoption. In time, LAs will view it as a positive

option for children and budgets, which will result in adoption being considered at an earlier point in the child's care journey.

- WLGA reports a marked increase in children entering the care system, particularly since the Baby P case. In due course, a proportion of these children will be referred to the adoption register.
- Most significantly, the English 'Action Plan for Adoption,' states, "In 2000, Prime Minister Tony Blair led a major overhaul of adoption legislation, guidance and practice. He increased funding for adoption, set out new National Adoption Standards.... and introduced specific targets for adoption numbers. At its high point this reform programme achieved an increase of 38% in the number of children adopted from care.....When financial incentives were removed, improvements in the system was not sustained." (Action Plan for Adoption. Page 11. Dept for Education website). Given the 38% uplift in the number of children adopted from care, it would seem reasonable to postulate that part of the reason underpinning this increase was due to a new mindset in which people warmed to the positives and significance of adoption.

***Additional Comments:***

*Hopefully you will allow me the opportunity of adding two additional comments (one on risks and the other which relates to evidence given by another party to the Committee).*

We must not be afraid of the risks or the misconceptions, one of the greatest of which is that there is a lack of available adopters. We know that a considerable number of families are lost due to the inadequacies of the current system. (evidence by research from Adoption UK 2010). We need to analyse the data: 1 in 10 families who wish to have children will remain childless. Clustering all of the fertility treatments together suggests a 1 in 3 success rate. A significant proportion of the childless population will consider adoption as a means of generating a family, particularly if there is a high quality, supportive adoption service. Families are also recruited from adopters with older children, from reconstituted families, single parent families and same sex families.

There is a risk that we feel overwhelmed by the challenge of finding 200 or 300 homes for children per year. There are 22 local authorities in Wales. For 200 children all that is required is that the national service recruit 10 families from each authority year after year. For 300 children we recruit 15 families from each authority. That is inherently achievable. The imperative is that we act with confidence, show leadership and finally secure justice for all children who wait.

***Comment on evidence given by a psychotherapist.***

On the 23<sup>rd</sup> March a child psychotherapist shared very detailed, well informed and insightful thoughts on the impact of abuse on children. While I agree with much of what was said, I was disturbed by the comment, that some

children, including younger children, due to the impact of abuse, may not be suitable placed for adoption.

Yes there is a recent vein of research which suggests that in a small number of young children, who have experienced abused and global neglect that the neural pathways upon which the emotional connections grow might close down as they were never stimulated. There is also rebuttal research, (I think by Chisum on Ceausescu's Romanian children adopted in the USA), that during adolescence these neural pathways re-opened as the adolescent brain restructured and reorganised. The USA research suggested that the adopted Romanian children, who were provided with a platform of stability, managed to reclaim their lives and move forward with the support of their permanent families. It would be fair to say that all of this research is in its infancy and at times light and sketchy.

Across our communities, families parent children with many challenging conditions, including birth children with extreme conditions. These families remain absolutely committed to children. They start inexperienced and grow, in part, with high quality support.

The life chances of children should not rest on sketchy theories, but on *the UN Convention on the Rights of the Child*. Implicit in *Article 9* is that each child has the right to family life.

***Article 19 (Protection from all forms of violence):*** "Children have the right to be protected from being hurt and mistreated, physically or mentally. Governments should ensure that children are properly cared for and protect them from violence, abuse and neglect by their parents, or anyone else who looks after them."

"Properly caring for and protecting" children means offering them support to recover from their psychological and emotional wounds. Every child has the right to family life; and families who adopt our most vulnerable children should be provided with all of the support they require to enable that healing to occur.

Gerry Cooney  
Chief executive  
St. David's Children Society  
14<sup>th</sup> June 2012.

Dear Aled Roberts,

Thank you for hearing our evidence at the C&YPC. I thought it may be helpful if I added clarity to a question you asked on research that I referred to in the Committee hearing. This specifically related to research which explored financial arrangements.

DCSF, after consultation with BAAF, ADSS & CVAA (Consortium of Voluntary Adoption Agencies), jointly commissioned Julie Selwyn at the Hadley Centre and Loughborough University to consider whether the voluntary adoption agency interagency fee was value for money. <http://www.bristol.ac.uk/sps/research/projects/completed/2009/rk6582a/rk6582afinalreport.pdf>

*The Bristol study worked with 8 Local Authorities: (LAs) and 10 Voluntary adoption Agencies (VAAs).*

*The Loughborough sample included 7 LAs and 10 VAAs.*

Their Report, “*Adoption & the Interagency Fee*’ was published by the DCSF in Sept 2009.

The Bristol study concluded that the average cost for *both* the LAs and the VAAs of providing an adoption placement, ie: recruiting, training, assessing, approving the prospective adopter, including the process of linking the child with the adopter and the first years placement support was £36,905. Loughborough concluded that the average cost for both providers was approximately £44,000.

Selwyn’s report evidenced that:

- The local authority adoption teams involved in the study consistently omitted the financial costs of running their offices, their legal costs, pensions, governance, buildings costs, utilities, maintenance, etc. In local authorities, these costs were arbitrarily attributed to other budgets, whereas are allocated on a proportional basis to each placement made by voluntary adoption agencies.
- “There was a lack of knowledge among managers, particularly LA managers, of the costs of providing services. Inter-agency fees were perceived as expensive although the fee is currently lower than the LA spends.... There was little recognition of the financial costs of children growing up in the care system and the possible longer-term costs. Managers could be better informed about the costs of service provision and the relationship between costs and outcomes.” Page 71.
- “That generally LAs have under-estimated their own costs of finding an internal placement & this has influenced their beliefs about the costs of external placements. This study found that on average the fee was £13,700 short,” (of the agreed VAAs which in 2009 was £24,300). Pg 68.

- Those local authorities who made use of the interagency fee not only created greater choice of prospective adopters for children but more importantly created better outcomes for children; as is evident by the lower breakdown statistics.
- Selwyn demonstrated that those authorities that used voluntary adoption agencies made significant savings across their child care budgets, reducing the need for foster carers, respite carers, frontline staff & management, costs for ongoing legal challenges, Independent Reviewing Officers, etc.
- “The development of initiatives such as the London Borough of Harrow and Coram partnership show that adoption services can be improved by LAs and VAAs working together. This partnership removes the need to recruit prospective adopters from LAs, so that they can concentrate on preparing children and ensuring that legal issues are dealt with quickly. Such partnerships could be encouraged.” Pg 71

To be clear, I am not advocating for an increase in the interagency fee. St. David’s has managed to achieve efficiencies by the introduction of caseload weighting systems, constantly measuring inputs, outputs and outcomes, etc.

The critical point is that this very recent independent research, commissioned by the DCSF, reviewed the financial arrangements / costs for the provision of adoption placement services (across 15 local authorities and 20 voluntary adoption agencies), demonstrated that the cost of adoption placement activity was between £37k and £44k per placement. This was the first time that the costs of adoption services were thoroughly evaluated.

This research evidenced that there was a difference in the construction of LAs & VAAs adoption budgets. The voluntary agency fee includes legal advice, policy & procedure, insurance, rates, building costs and maintenance, training, human resources management, etc, all allocated on a proportioned basis per placement. Within Local Authorities these costs are attributed to other costs centres, however, will be included in the critical mass of accounting. When considered within this framework, there is greater parity between the fees of both sectors.

The other point that needs to be kept in mind is that the current fee of £27,000 covers two years work with an adoptive family. The recruitment, training, assessment, approval, linking with a child, including moving a child into placement equates to approximately one year activity. The remainder of the fee pays for the first year’s placement support to the prospective adopter once the child is in placement. This two years of service to the adoptive family (at a total cost of £27k) compares favourably to the approximate fee of the child

remaining in the looked after system at a cost in the region of £50k – and that is before we look at the benefits for the child.

Hopefully that has added some clarity to the research quoted in our submission paper.

Thank you,  
Gerry Cooney