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Y Gweinidog Addysg
Minister for Education

Ein cyf/Our ref: MA/KW/1709/20



Llywodraeth Cymru
Welsh Government

Lynne Neagle AM
Chair
Children, Young People and Education Committee
Senedd Cymru

4 June 2020

Dear Lynne,

Thank you for your letter of 12 May requesting further information on actions Welsh Government have taken to date to manage the impact of Covid-19 on children and young people. I note that the Deputy Minister for Health and Social Services is writing to you regarding matters within her portfolio, so I am addressing the education elements within my response although I understand that many areas are linked.

I am aware that the circumstances we find ourselves in are difficult for all, but I am concerned that it is especially challenging for our most vulnerable and disadvantaged learners. I am committed to doing everything possible to support learners, parents and carers during this difficult time.

The message during the early part of our response to this pandemic was to minimise the spread of the virus and if it was possible for children and young people to be at home, then they should be. As part of the response, education settings were asked to continue to provide care for a limited number of children and young people - those who are vulnerable (which may include those with a statement of special educational needs (SEN)), and those whose parents or carers are critical to the coronavirus response. It was, and remains, important to ensure all education settings are safe places for children and young people.

We continue to ask local authorities to consider the needs of all children and young people with a statement of SEN and to undertake a risk assessment which accounts for parents/carers views and, where appropriate, takes a multi-agency approach. The risk assessment should focus on determining whether children and young people with a statement of SEN will be able to have their needs met at home with support provided remotely, and whether they would be safer at home than at an education setting. We are developing guidance on risk assessments in consultation with key stakeholders and hope to publish this shortly.

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

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

Safety is a primary concern in those schools and childcare settings that are open. However, some learners with additional learning needs (ALN) have a physical disability or underlying medical conditions which may mean the safest place for them is at home. Provision to support the health and social care needs of all learners, whether they are in school or at home, will continue to be based on assessment of need. Alternative ways of providing this support, such as virtual contacts, are being encouraged, and resources to support this are being developed across Wales.

With regards to the Coronavirus Act 2020, we have been considering which, if any, of the statutory provisions relating directly or indirectly to education and the responsibilities of local authorities, schools and governing bodies, might need to be temporarily modified in light of the impacts caused by the virus.

I am working to establish the most appropriate way of modifying these duties, particularly around statutory timescales set out under Part 4 of the Education Act 1996 and the Education (Special Education Needs) Regulations (Wales) Regulations 2002. These modifications will be made as soon as possible, either by way of notice, or through regulations to amend the current duties and/or timescales. Alongside the publication of notices we will issue guidance to accompany and explain the changes. This will outline what they mean for both local authorities and their partners; learners, their parents and the professionals who support them.

My officials have also been working with local authorities and education providers to understand the impact coronavirus is having on their ability to meet their statutory duties.

Providers are facing significant difficulties in meeting the needs of pupils with SEN, particularly in relation to arranging provision specified in a statement and a number of the statutory timescales, such as annual reviews. I am equally aware of the needs of this vulnerable group of learners and the importance of continued education and support.

As such, my officials are working with a targeted group of stakeholders. This includes children's rights organisations, the Children's Commissioner and relevant third sector organisations. Our purpose is to understand the impact of the existing changes, such as the repurposing of schools, and to assess the likely impact any potential future changes to the statutory duties relating to SEN may have on learners and their families.

We are working to find the right balance to account for the concerns of local authorities and their partners; whilst balancing these against the needs and rights of this vulnerable group of learners. We do not intend to disapply any of the duties relating to SEN; but are considering modifying some of the duties to one of 'reasonable endeavours' rather than an absolute duty. Any changes will be supported by guidance which will set out what Welsh Government expects of providers; and what learners and their families can expect.

The intention is that the modifications will provide more flexibility and allow other support or services to be provided, which may not be as set out in a statement, but may go some way to helping to continue to support learners with SEN.

The impact of any modifications we make will continue to be monitored, using the engagement with providers and the stakeholders mentioned above. The route for complaints and the ability to appeal to the Special Education Needs Tribunal for Wales will remain.

While schools remain open for the children of critical workers and vulnerable children, and continue to support the education and learning of pupils remotely, the day to day provision of education is now very different, and we need to recognise that. There are also a range of administrative matters which it is more challenging for local authorities and schools to undertake at this time.

Following discussions with local authorities we have identified some areas where we feel we will need to temporarily modify or disapply certain requirements and I have provided details of these with this letter (see Annex 1). We are also considering the arrangements that will be needed, including any further legislative changes, to support the increased operations of schools.

In the more medium term, I will also be exploring how a transition to the new curriculum might be facilitated by removing some of the more prescriptive or administrative requirements on schools and governing bodies, to provide space for practitioners to develop their new curriculum. The greater focus on health and well-being this will enable will be of particular importance in supporting learners and practitioners through this period of disruption.

I understand the Minister for Health and Social Services gave a commitment to keep the Senedd informed of all such notices issued under the Act, and we will make sure the Committee is informed as and when these powers are used.

During this period where educational settings are only open to a limited number of learners, our aim is to minimise the impact on learning, learners' progress and wellbeing. Our Continuity of Learning Plan, 'Stay Safe, Stay Learning' will support schools and teachers in guiding the ongoing learning for all children and young people, including those with additional learning needs (ALN). Ensuring all learners are "included" is one of four key cross-cutting priorities that apply to all aspects of our Continuity of Learning Plan and aims to ensure all deliverables within the plan have a clear focus on equity and inclusion.

To support all those children and young people learning at home, schools and colleges are making a considerable amount of educational resources available online. This includes resources for learners with ALN. There are a range of digital tools and approaches available across the education system to help ensure continuity of learning for children and young people. This includes resources available through Wales' learning platform, Hwb.

As part of 'Stay Safe, Stay Learning' we are mobilising support for digitally excluded learners in maintained schools. Where there is no current provision in place from their school or local authority we have established a technical solution which enables local authorities/schools to repurpose existing devices from within schools.

Where required, local authorities also have access to a centrally procured service to provide digitally excluded learners with mobile connectivity (MiFi). All costs associated with the licenses for the repurposed devices and the MiFi costs will be met for the duration of school closures from the local authorities' allocation of the Hwb EdTech Capital fund. As part of the Hwb EdTech funding, local authorities will also have the option of replacing these devices with new devices from their funding allocation.

I am also very aware that the phased return to full time, school-based learning will be crucial for our vulnerable and disadvantaged learners – first in terms of their wellbeing, then in terms of their learning. We are already working with our partners and with experts in the field to consider our approach during this phase.

By taking an inclusive and equitable approach across the deliverables of the Continuity of Learning Plan – whether in terms of tackling digital exclusion, learning resources, guidance for parents or guidance on health and wellbeing – I am aiming to ensure the best possible support is available for all learners, both in the immediate term and when we move into the phased return to full time school-based learning.

With regards to provision for those who are educated otherwise than at school (EOTAS), I can confirm that EOTAS learners have been identified as a particular group for consideration within our Continuity of Learning Plan.

We will soon be publishing a guide for parents of EOTAS pupils and pupils with ALN to provide information designed to help parents of these pupils to Stay Safe, Stay Learning. The guide will provide links to resources and to organisations which can support EOTAS pupils, pupils with ALN and their parents.

As part of Stay Safe, Stay Learning, arrangements are being made for local authorities to undertake a survey relating to the continuity of learning and wellbeing of vulnerable and disadvantaged children and young people – including EOTAS pupils. The survey will provide information about vulnerable and disadvantaged pupils, including arrangements that are being put in place to support their learning and their wellbeing. The information we get back will inform our next steps in ensuring continuity of learning, both during this distance learning phase and when educational settings begin to increase their operation.

All education providers should have put arrangements in place to ensure pupils can continue to learn and generally, these arrangements will include online learning or packs of work being delivered to pupils.

I have received assurances from local authorities that they have risk assessed all children supported by a social worker to identify children who will most benefit from having a safe space. I have also said to local authorities they can offer places to pupils who they think are vulnerable because their education provider or family support officer has let them know about this.

Many EOTAS children may be vulnerable and can face risks. The safety and well-being of all our learners is of paramount importance during these challenging times, wherever their learning takes place. We have developed the definition of vulnerable children which is published on the Welsh Government website, and our view is that children living with most risk would benefit from time away from their home environment in a safe place.

This includes a safe place for pupils who are supported by a social worker, and pupils who have a statement of special educational needs.

With regard to support for higher education, Welsh Government provides the most generous student support package in the UK. We have maintained this support, in upfront grants and loans, during this period. Welsh Ministers are under a legal duty to determine the location of full-time undergraduate students and support is paid according to location, as this reflects the expected cost of living.

Full-time undergraduate students who are 'living at home' are entitled to less maintenance support than those 'living away from home, studying elsewhere' or 'living away from home, studying in London'. The amount of grant a student is entitled to increases as household income decreases. There is no proposal to change this policy. Welsh Government

recognises that students will wish to be certain about their location for the coming academic year, so avoiding unnecessary accommodation contracts, and will look to universities in Wales to provide that clarity.

Support for part-time undergraduate students and for postgraduate students does not vary by location.

Universities in Wales responded rapidly to the emerging threat of Covid-19 by moving provision online, and many students returned home. Regulated institutions are responsible for ensuring that provision is of an acceptable quality. Students have recourse to their University and the Office of the Independent Adjudicator if they are not satisfied.

Accommodation contracts are made between accommodation provider and student, and Welsh Government has issued guidance for private sector tenants in light of Covid-19. We have not undertaken analysis of any impact on students' legal rights.

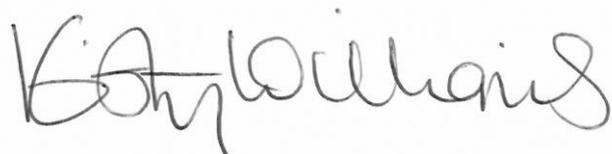
We are currently working closely with HEFCW to explore options for any possible additional financial support that Welsh Government may be able to provide to help stabilise the sector ahead of the next academic year. However, it is clear that scale of the financial support required to maintain stability in the university sector goes beyond what is available within devolved government budgets, and we remain committed to working with all governments of the UK and HM Treasury on a more comprehensive settlement.

I am also working with Ministers from the four nations on a Research and Innovation task force to address the impact of Covid-19 on the research base.

You will be aware that discussions on resource commitments for the 2020-21 financial year are still ongoing. I have provided an indicative annual grant to HEFCW of almost £172m which is an increase on last year's allocation. As my funding letter makes clear, with the need to focus efforts and the Government's limited resources on our response to the outbreak, I have been unable to issue my usual remit letter at this time.

My priority during this period has always been the safety and wellbeing of all our learners, and staff in educational settings. This will continue to be the case as we look to the future. I am grateful for the support of our partners, and the Committee during this very challenging time.

Yours Sincerely

A handwritten signature in black ink, appearing to read 'Kirsty Williams', written in a cursive style.

Kirsty Williams AS/MS
Y Gweinidog Addysg
Minister for Education

Coronavirus Act 2020 – Potential areas for Notices under Schedule 17

Area	Proposed Alteration
Definition of pupil - Section 3 of the Education Act 1996	Modify definition so that: <i>'A person is not for the purposes of the Education Act 1996 to be treated as a pupil at a school merely because any education is provided for that person at the school on a temporary basis for reasons relating to the incidence or transmission of coronavirus.'</i>
Section 108 of the Education Act 2002 – specifically The Education (National Curriculum) (Assessment Arrangements for Reading & Numeracy) (Wales) Order 2013 and The Education (National Curriculum) (Assessment Arrangements for Reading and Numeracy) (Wales) (Amendment) Order 2018	Modification to a reasonable endeavours basis. To note we are currently working through broader implications of requirements imposed under section 101 and 108 of the Act.
School Standards and Framework Act 1998 Section 70 (requirements relating to collective worship)	Modification to a reasonable endeavours basis.
The Government of Maintained Schools (Wales) Regulations 2005 – provision 45	Modification to a reasonable endeavours basis.
Headteachers' reports to parents and adult pupils (Wales) Regulations 2011	Modification to a reasonable endeavours basis. With the exception of regulation 5 which needs to remain as an absolute duty so that learners are not disadvantaged,
The School Information (Wales) Regulations 2011	Modification to a reasonable endeavours basis.
The School Performance Information (Wales) Regulations 2011	Disapplication
The School Performance and Absence targets (Wales) Regulations 2011	Disapply for the 2019-20 academic year, we believe regulations may be more appropriate to temporarily suspend these requirements for the 2020-21 academic year as we do not wish targets to be set on the basis of estimated grades
The School Governors' Annual Reports (Wales) Regulations 2011	Modification to a reasonable endeavours basis.

School Organisation Code made under section 38 of the School Standards and Organisation (Wales) Act 2013	Disapplication being considered
The Welsh in Education Strategic Plans (Wales) Regulations 2019	Amendment to extend the date by which a LA Plan must be submitted to WM
School Funding (Wales) Regulations 2010	Modification to reasonable endeavours basis to the requirement for Local authorities to provide schools with their individual school budget for the forthcoming financial year
Education (Induction Arrangements for School Teachers) (Wales) 2015	Amendment to the requirements around induction periods to reflect school closures may prevent NQTs from meeting these
The Education notification of school term dates (Wales) Regulations Act 2014	Make a one-off amendment to temporarily extend the deadline of 31 August 2020 in which LAs must notify WM of term dates they propose to set for 2022/23 to end Dec.
The Education (Admission Appeals Arrangements) (Wales) Regulations 2005	Amendments to disapply certain requirements and modify others