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Senedd Children, Young People and Education Committee Inquiry – Education access for disabled children and young people

A briefing from the Children’s Commissioner for Wales, Rocio Cifuentes MBE

Children’s human rights under the UNCRC

18% of secondary school aged children report having a long-term health problem or disability that limits their day-to-day activities¹. All children have the same right to education (article 28, UNCRC), which develop the child’s personality, talents and mental and physical abilities to their fullest potential (article 29, UNCRC). This includes disabled children. The UN Committee on the Rights of the Child’s General Comment on the rights of children with disabilities² is clear that ‘effective access of children with disabilities to education has to be ensured’ to achieve the aims of articles 28 and 29. I welcome the Committee’s focus on the issue of disabled children’s access to education.

What do children, young people and families tell us?

The findings from my *Ambitions for Wales* survey of over 10,000 children, young people, parents / carers and professionals, undertaken in October and November 2022, showed that:

- 7-11 year old disabled children were statistically significantly more likely to be worried about going to school.
- Young people aged 12 -18 who identified as disabled are significantly more concerned than others about bullying and abuse, exams and tests and going to school, college or university
- Of young people aged 12-18 who have experienced bullying, 90.9% of those with disabilities were bullied in school
- Among children aged 7-11, children with disabilities are statistically significantly more likely to have ever been bullied or suffered abuse (along with girls and those reporting the lowest level of family affluence) than children who do not identify as disabled (and boys and those in more affluent household)
- 59.1% of young people aged 12 – 18 and identified as disabled report having experienced bullying
- Professionals surveyed most frequently identified disabled young people as most at risk from bullying (43.4%)

¹ Page N., Angel, L., Ogada, E., Young H., Murphy S., 2023. Student Health and Wellbeing in Wales: Report of the 2021/22 Health Behaviour in School-aged Children Survey and School Health Research Network Student Health and Wellbeing Survey. Cardiff University. <https://www.shrn.org.uk/wp-content/uploads/2023/04/SHRN-2021-22-National-Indicators-Report-FINAL-en.pdf>
²https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FGC%2F9&Lang=en

- Children with profound and multiple disabilities (PMLD) told us most frequently that going to school was something they do to feel happy (43.7%), but going to school was also highlighted as a worry most frequently by this group of children (18.8%).
- Young people aged 12 – 18 who identified as disabled are statistically significantly more likely than others to have been treated differently at school, college or university, in the street or in their town or village, in clubs and online
- 14.8% of young people aged 12-18 and identified as disabled said they never feel safe on the bus, school bus or train
- 17.4% of young people aged 12-18 and identified as disabled said they never feel safe at school, college or university
- Participants were asked to reflect on what would make children’s lives better; 31.3% of children and young people with PMLD agreed that it is important that ‘all children are treated the same and have the help they need’. Parents and caregivers called for, ‘a more imaginative revamp of education in Wales’. They recommended for children to be taught about disability from a young age, both to increase awareness and reduce stigma of difference and disabilities, and to accommodate and celebrate diverse needs and capacities of young learners. Inclusivity was recommended both in schools and in public spaces and groups to ensure that young people with disabilities are able to join in and feel safe and welcome. Parents and caregivers also recommended flexible and blended learning and adjustments to timetables to support ‘learners who struggle in full time education to do blended learning on more difficult days’. Overall, parents and carers do not support the, ‘one size fits all’, approach and recommend that education system should be more flexible to support and nourish all children.

Case work examples

My Investigations and Advice service regularly hears from families where a disabled child is struggling to access the education to which they are entitled.

- **Schools are still not always accessible environments** – our casework is suggesting the picture is varied between local authorities in how well they are implementing their accessibility duties. A case which came to our office concerned the increasing number of pupils attending a special school and the lack of space available for them especially those using wheelchairs and walking aids. They were also concerned that the environment would adversely impact on their educational opportunities compared to their mainstream peers.
- **Consultation with learners** – schools should consult with pupils on their accessibility action plans under 2018 statutory guidance, but we hear of occasions where this does not happen.
- **ALN Act implementation and neurodiversity** - the delays in the implementation of the additional learning needs code, the variation in progress across Wales, and the confusion for families of the migration to the new system are further exacerbating the barriers to accessing a suitable education and necessary support services for disabled children. Too often, neurodivergent children do not receive support if they do not meet the requirements for ALN

support. This was an experience recounted by children and families in our recent report - *A No Wrong Door Approach³ to neurodiversity: a book of experiences*.

- **Accessing specialist education** – both the following examples are from April 2023. We heard from the family of siblings who are autistic and non-verbal. One of the siblings also has global developmental delay and possible ADHD. The siblings are both on a waiting list for specialist educational provision. We were told that the parents was asked by the local authority whether, if a place became available, which child would she wish to attend. We have been told the local authority is actively working hard to find a place but in the meantime these siblings are not accessing a suitable education. We have also heard from a family where a child is not fully accessing their education placement a Learning Resource Base attached to a mainstream school, and is struggling in the setting. School agree that the child would benefit from more specialist provision. However, the local authority have stated that there were no places available and that a place for September 2023 was not guaranteed. Both the parent and the school had significant concerns about the impact the placement was having on the child's mental health. Following our office's contact we were told a place had been organised for September and 1:1 support arranged in the meantime.
- **Accessing education through the medium of Welsh** – children with additional learning needs who wish to study through the medium of Welsh face additional barriers. A child at a Welsh medium school was told that their school could not meet their needs and their only alternative was English Medium.
- **School transport** – disabled children aren't always provided with safe accessible transport to education. An example shared with us is of minibus provision being unsuitable for an individual's particular needs, resulting in them not using the bus, and the school refusing to provide a taxi. Other children have had no wheelchair accessible option for school transport. This is an issue we have raised repeatedly with Welsh Government. We are pleased that there is an ongoing review of the Learner Travel Measure, but we have been disappointed with the slow progress which has been the case for many years.

Some of my office's work in this space:

- The committee will be aware of my predecessors' work on the issue of accessibility of school buildings. As Commissioner, Keith Towler, published 'Full Lives: Equal Access' in 2014 and in 2018, Professor Sally Holland, as Commissioner published a follow-up report. This most recent report highlighted the lack of real progress by some local authorities to implement their duties under the Equality Act and frustrations around lack of pace by Welsh Government to issue new statutory guidance. When we contacted local authorities for the follow up report, the data we received back was not complete as we would hope for. For example local authorities described many schools as 'partially accessible' without an explanation as to what that means in practice. Welsh Government did eventually publish refreshed statutory guidance in March 2018⁴ which was improved but we believe could be strengthened further by making closer

³ <https://www.childcomwales.org.uk/wp-content/uploads/2023/03/A-No-Wrong-Door-Approach-to-Neurodiversity-.pdf>

⁴ <https://www.gov.wales/increasing-access-disabled-pupils-planning-guidance>

links to taking a children's rights approach and involving learners and the school community more in decisions made about school facilities, for example. In September 2018, we shared our views with Welsh Government on how the guidance could be further strengthened by linking to a children's rights approach. However, these views were not embedded into guidance as we had hoped.

- In March this year we published our report – *A No Wrong Door Approach⁵ to neurodiversity: a book of experiences*. This set out the challenges faced by children and families who are seeking help and support with often undiagnosed neurodiversity. Often those experiences are shaped by interactions with school, both positive and negative. We heard about schools refusing to refer children to the neurodevelopmental team; and children unable to access specialist educational placements.

⁵ <https://www.childcomwales.org.uk/wp-content/uploads/2023/03/A-No-Wrong-Door-Approach-to-Neurodiversity-.pdf>