

Paper to Note – Response from the office of the Children’s Commissioner for Wales

The following documents have been received from the office of the Children’s Commissioner for Wales in response to the additional information that Members were unable to ask during the meeting of the Children and Young People Committee on 6 November.

The information attached relates to the following:

- Annex 1. Administrative costs and accounting procedures within the office over the past two years;
- Annex 2. Specific details on the process of the Childs Rights Impact Assessments and
- Annex 3 Further details on the Commissioner’s work into access for disabled children and young people in mainstream education, pupil referral unit and short breaks.
- Annex 4• The Commissioner agreed to provide the Committee with a briefing on provision of CAMHS services.



Children's Commissioner for Wales Accounts 2012/13

During my evidence session on Wednesday 6th November the Children and Young People Committee asked for clarification over the increase in my total administrative costs, between 2012/13 and 2011/12.

Total Expenditure:

We continue to strive to make cost savings year on year ensuring that the priority of expenditure is on the delivery of activities for children and young people. For 2012/13 over 69 percent of my total expenditure relates directly to staff costs; and a further 15 percent is linked to staffing, for example, building lease payments etc.

My expenditure on staff and other administrative expenditure increased by £127,000, between 2012/13 and 2011/12. A further analysis of this increase shows that:

- Expenditure on staff costs increased by £89,000; and
- Expenditure on other administrative costs increased by £38,000.

Staff costs:

During 2012-13 my office increased its expenditure on staff costs due to a number of factors. These included:

- An increase in staff numbers (25.2 average whole time equivalent in 2012/13 compared to 22.6 in 2011/12).

This was necessary to cover maternity absences and the cost of agency staff for the additional work following the historic North Wales abuse allegations.

- Changes to existing contractual obligations relating to terms and conditions of staff, including increases to pension contributions.



Other Administrative costs:

During this period, expenditure on other administrative costs increased overall but savings were made against some budget lines. Planned investment was made in the following areas to support certain objectives:

- The development of a specific website in support of my work on enhancing the image of children and young people – www.seemedymafi.org.uk
- The redevelopment of the Super Ambassadors website – www.superambassadors.org.uk

Additional costs were also incurred linked to the Historic North Wales abuse allegations, including legal advice.

Financial Control:

As Accounting Officer I have responsibility for reviewing the effectiveness of the system of governance for the work of my Office. My Annual Report includes a financial review and a statement of our accounts. An unqualified opinion was given by the Auditor General for Wales in relation to my 2012-13 Annual Accounts and no significant concerns were raised in the Annual Management Letter. My internal auditors have provided assurance that I have in place a sound system of internal control which should enable the achievement of my priorities.

My office will continue to strive for continuous improvement in our internal systems and to address any issues as they arise. We will also ensure that all the work we do complies with best practice, whilst aiming to achieve positive and lasting changes in the lives of children and young people in Wales.



Specific details on the process of the Child Rights Impact Assessments

Welsh Government has, as part of the Rights of Children and Young People (Wales) Measure 2011, adopted a duty of due regard to the United Nations Convention on the Rights of the Child (UNCRC). The completion of Child Rights Impact Assessments (CRIA's) are critical to the effective implementation of the UNCRC.

Welsh Government divisions are not actually required to publish or share CRIAs. There is currently no formal or consistent process through which Child Rights Impact Assessments (CRIAs) are published or shared with my office.

I have consistently called in my responses to consultations on proposed policy and legislation for this situation to be remedied. The development of a process by which CRIAs are routinely published would allow for better informed scrutiny of the way in which the due regard duty is being applied and would support transparency and rigour in the formulation of policy and legislation for children and young people.

The Active Travel (Wales) Bill was published for scrutiny with an accompanying CRIA. The impact assessment accompanying the Bill in relation to the application of the Minister's duty to have due regard to the UNCRC set out the ways in which the Bill will give greater effect to: *Article 24: Children have the right to good health care and to clean water, nutritious food and a clean environment so that they will stay healthy.* In my submission I concurred with this assessment and welcomed the decision to publish the Child Rights Impact Assessment (CRIA) undertaken in relation to this Bill. I also commend the general quality of the CRIA that was been provided. However I also stated my belief that the CRIA had omitted a key issue (that of due regard to article 19 of the UNCRC) and the recommendations section of the CRIA could be usefully amended to reflect this. The publication of the CRIA accompanying the Bill provided for a better informed response in my submission. Although my consultation response did not result in changes on the face of the Bill it has resulted in Welsh Government proposals for new guidance for the risk assessment of walked routes to school (currently out for consultation) that consider the safety of walked routes to school as a paramount concern.

The Social Services and Well-being (Wales) Bill was not accompanied by a CRIA. I raised this issue in my written submission to the Health and Social Care Committee. Members will be aware that a copy was provided to the Children and Young People's Committee on 23 April 2013 by the Deputy Minister following a request for the CRIA by the Committee and in advance of my oral evidence session to the Children and Young People's Committee on 25 April 2013. I made clear my concerns about the quality of CRIA process as applied in this case by Welsh Government and provided a copy of the CRIA undertaken by my own office in



relation to the Bill in May 2013. I have set out clearly in the briefing pack shared with members in July 2013 the key proposals within the Social Services and Well-being (Wales) Bill that I have assessed as failing to give due regard to the UNCRC. The Deputy Minister has been clear in stating in written and oral evidence that she does not agree with my position. However the CRIA that has been undertaken by Welsh Government and that was not readily available at the time the Bill was published does not provide me with confidence that due regard to the UNCRC has been given full and proper consideration.

My office is currently engaged with the Welsh Government on the revision of their Children's Rights Impact Assessment template and processes. Officials have acknowledged the need to improve the current process and are responding positively through the development a new tool to support progress across Welsh Government divisions. The forthcoming revision of the Child Rights Scheme offers an opportunity to address the limitations of the current process and to set out provisions for the publication of Welsh Government CRIAs to support transparency and meaningful scrutiny in relation to application of the due regard duty.

The well-being of learners in pupil referral units:

Estyn published the findings and recommendations of their survey of the arrangements for pupils' wellbeing and behaviour management in pupil referral units in January 2012. The survey findings suggest that systems and measures to support pupil well-being through effective behaviour management need to be improved

The cases involving misuse of seclusion in Pembrokeshire that was dealt with by the office in 2012 also raise issues for CCfW in relation to lack of minimum standards for pupil referral units and the need to secure consistent application of accredited behaviour management training and clear behaviour management policies in such units. Estyn have suggested that local authority responses to the issues raised by the Pembrokeshire case are to date inconsistent.

At the same time pupil referral units support some of our most vulnerable learners but are not included in mainstream programme offers such as the Pupil Deprivation Grant, school nurse commitment and school counselling offer.

The project will examine these issues in more depth with a focus on the views of learners, their well-being and their right to education.



Short Breaks for Carers of Disabled Children

The Breaks for Carers of Disabled Children (Wales) Regulations came into force in June 2012. In September 2012, as a requirement of the regulations, Short Breaks Service Statements were published by local authorities. Welsh Government Best Practice Guidance was also published to accompany the regulations and assist local authorities in the practical delivery of the statements. Within this guidance attention focuses on the child's need alongside that of the carers. However, it is important to note that there is no direct reference to the United Nations Convention on the Rights of the Child (UNCRC), or indeed its application, found within the guidance.

As I stated in my annual report of 2012/13 it is my intention, over the coming year, to undertake a distinct and detailed piece of work in relation to the provision of short breaks. This will involve investigating and examining the implementation of the new regulations through the delivery of local Short Breaks Service Statements. I want a clear and comprehensive all Wales picture of the impact that short break provision is having on the lives of disabled children and young people, as well as their parent carers and other carers, as set out within each local authority statement.

I am establishing an advisory group to assist in the scoping and progression of this important piece of work. The group will comprise of individuals who bring with them wide ranging perspectives, knowledge and expertise. Service users as well as service providers, practitioners and other professionals in this field will constitute key members of the group.

In order to ensure that this piece of work is as far reaching as possible a series of evidence exchanges will be conducted throughout Wales. Evidence exchanges will involve stakeholders coming together, either in small to medium size groups or on a one to one basis, in order to provide insight from a multitude of perspectives. It will be vital to ensure that the evidence exchanges are as accessible as possible. For this reason my intention, the majority of the time, will be to visit children and young people as well as their parent carers and other carers at a time and place best suited to accommodate their individual needs.

In addition to the evidence exchanges I will also be utilising an online survey as an important tool to collect data and inform the report. I am working with key organisations, such as Contact a Family, to secure robust evidence and raise awareness of the survey. In addition, a paper questionnaire will also be available, as not everyone will be able to or want to engage with the online survey. My objective is to secure a high level of participation, especially amongst children and young people, in order to deliver an end report which is extremely well informed.



It is also my intention to invite all Assembly Members, Members of the Westminster Parliament and Members of the European Parliament in Wales to make constituents who have made contact regarding short breaks provision aware of the work I am undertaking. Therefore, I will be writing to elected representatives early in 2014 with information regarding the online survey, paper questionnaire and anything else of relevance to the collection of data.

The report will be published in the spring of 2014.



Briefing for National Assembly for Wales Children and Young People's Committee on the provision of Child and Adolescent Mental Health Services (CAMHS) in Wales

27 November 2013

Briefing for Members

Recent strategic developments and the policy landscape in Wales

Wales has seen major strategic changes in relation to mental health services for the population as a whole over recent years and predominantly since the introduction of the Mental Health (Wales) Measure 2010 (referred to as 'the Measure' within this paper) and, in relation to children and young people specifically, the replacement of Everybody's Business (2001), the previous strategic document on Child and Adolescent Mental Health Services.

Mental Health (Wales) Measure 2010:

Members will be aware that the Measure was first introduced as an adult-focussed piece of legislation that soon recognised the potential to create positive change for children and young people. Whilst this recognition required further work to distinguish how its final implications would ensure that the needs of children and young people were appropriately addressed, time constraints and a subsequent lack of financial investment remain the main concerns following its passing.

Despite this, we are aware that the Measure has resulted in numerous pieces of secondary legislation to guide both Local Health Boards (LHBs) and Local Authorities (LAs) in their statutory duties to implement its objectives, and included from the outset, a duty on Welsh Ministers to review its operation (Section 48), with the publication of both an interim report and final report by January 2016. We are keen to ensure we keep abreast of these developments in order to assess for ourselves, the impact that the implementation of the Measure has had on the lives of children and young people across Wales. However, the review process itself must also ensure that it too evaluates the appropriateness and reach of the Measure to children and young people. We will engage with this process as it develops and make any necessary comment on the reports produced.

Together for Mental Health: A Strategy for Mental Health and Wellbeing in Wales:

One of the major sources of evidence of how far CAMHS services are comprehensively developed and equitably available to children and young people across Wales remains the All Wales review of CAMHS led by the Wales Audit Office and Healthcare Inspectorate Wales, with support from Estyn and CSSIW in November 2009 (referred to as 'the 2009 Joint Review')



below). The review process also ensured that the views of children and young people were gathered and this work was led by Barnardo's Cymru. This report provides another source of valuable evidence.

Whilst the publication of the 2009 Joint Review led to the development by Welsh Government of 'Breaking the Barriers: Meeting the Challenges', an Action Plan for Wales in May 2010, and two subsequent progress reports in December 2011 and March 2013, which set out particular requirements to meet the needs of children and young people experiencing emotional and mental health needs, we now see the adoption of an 'age-inclusive' approach to policy development in this area and the end of a CAMHS-specific policy document ('Everybody's Business', 2001).

As Members will be aware, 'Together for Mental Health: A Strategy for Mental Health and Wellbeing in Wales', published by Welsh Government in November 2012 is intended to bring services together to form a single, seamless, comprehensive system for addressing mental health across all ages. We have argued that the loss of a distinct and separate national strategy for children and young people and its replacement with an all age strategy could potentially dilute regard to the intentions of the UNCRC. **With this in mind, it is our intention to complete a compliance report by the end of this year to assess for ourselves how far this new approach ensures the rights of children and young people.**

Implementation of policy

National and local governance arrangements:

As a result of Breaking the Barriers: Meeting the Challenges (2010), a National Delivery Group for 'Everybody's Business' was established "to monitor and oversee the delivery of the action plan on behalf of the relevant Directors General within the Welsh Assembly Government, and the Ministers they serve." (2010:19). A National Expert Reference Group was also established, made up of professionals and practitioners "to provide support and expertise to the National Delivery Group" (2010:19).

Whilst these groups were disbanded as a result of strategic policy changes, the Welsh Government, through the development of Together for Mental Health, has reconfigured a CAMHS Delivery Assurance Group (CAMHS DAG) in order to "maintain a focus on delivering the age specific elements" of the new Strategy (2012:59). The Children's Commissioner for Wales has secured observer status on this group, which reflects the Memorandum of Understanding between the Office and the Welsh Government. Terms of reference have recently been agreed by the new CAMHS DAG and reflect its delivery assurance role, whilst ensuring that the newly-established National Mental Health Partnership Board (NPB), with overarching Welsh Government responsibility on implementation, is informed of progress and any emerging issues.



Together for Mental Health also aims to ensure that multi-agency partnership arrangements are established on LHB footprints. These local mental health partnership arrangements were to be in place by January 2013 and an annual report produced and sent to the NPB by January 2014 (TfMH: Delivery Plan 2012-2016). Actions set out within the Delivery Plan also relate to service users of all ages and their families and carers being fully involved in service development. Local arrangements are consequently tasked with ensuring their effective engagement in the planning, delivery and evaluation of local mental health services by September 2013.

We are currently aware that local mental health partnership arrangements are said to be in place in all LHB areas and that the Welsh Government requested sight of each Annual Report in October 2013. There is, however, an acknowledgement that these arrangements continue to work to address the requirement to develop mechanisms to ensure the engagement of service users, their families and carers. **Through our communication with relevant stakeholders, we are in the process of collating each Annual Report to assess for ourselves the level of development in this regard.**

Whilst we believe that the above requirements will go some way to ensure national and local governance arrangements are in place to oversee developments in mental health service planning and monitoring, such processes must ensure a sufficient level of independent scrutiny to establish true levels of implementation and identify both best practice and issues requiring further attention. It is particularly important that such arrangements do not lose sight of the impact policy developments and their implementation are having on the children and young people they are duty-bound to serve.

CAMHS planning and commissioning arrangements:

In relation to the planning and commissioning of CAMHS across Wales, CAMHS Commissioning Networks (CCNs) were established as a result of CAMHS Implementation Guidance (*no publication date noted on document*) and a Welsh Health Circular published in 2003. NHS-funded specialist CAMHS at Tiers 2 and 3 were to be commissioned by a secondary care commissioning group model and subsequently established three regional networks, made up of a number of LHBs. The CCNs were established to “create sufficiently wide geographical areas and critical mass to allow expertise in CAMHS commissioning and performance management to develop” (2003:13). Tier 4 services and elements of Tier 3 were to be considered on an all Wales basis due to the fact that provision was very specialised in nature and likely to be accessed by a very small number of children and young people. Health Commission Wales (Specialist Services), now Welsh Health Specialised Services Committee (WHSSC) is responsible for ensuring fair and equitable access to a range of specialised services.

In relation to specialist CAMHS provision and as a result of such guidance, three specialist CAMHS planning networks were established across Wales: North Wales; Mid and West Wales;



and South Wales, who were associated with five CAMHS provider clusters. However, as a result of the NHS reconfiguration and a perceived blurring of role and function between the three networks, we are aware that a review of these arrangements commenced in early 2012 for the purpose of outlining proposals to restructure the way in which CAMHS in Wales was both planned and delivered. We understand that these proposals are to be agreed by Chief Executive Officers of each LHB before being submitted, for information, to the CAMHS DAG. We also understand that the final proposals will be distinguished by Directors of Planning across all LHBs and that Welsh Government, whilst without a locus to intervene, are to ensure that the proposed options reflect the strategic directions set out within the new Strategy. Whilst it is appropriate that LHBs lead this review, all relevant stakeholders, involved in the delivery of CAMHS services across Wales, should be appropriately involved in the decision-making process.

March 2013 saw the publication of the final report of 'Breaking the Barriers: Meeting the Challenges'. Within the report, an update is provided with regard to the specialist CAMHS planning networks reconfiguration and notes the developments above. The report goes on to state that "Following a full options appraisal LHB Chief Executives are in the process of considering their preferred option and an announcement is expected in 2013" (2013:5).

We are not aware of any further developments at present and given the delay in achieving a final decision, we are currently considering the merits of engaging with the decision-making process to ensure that children and young people across Wales who are currently receiving CAMHS services or will require mental health support in future are not placed at risk as a result. We must also ensure that practitioners are supported in continuing their professional roles in the interim and are appropriately engaged in the proposals as they develop. **It is our intention to facilitate an evidence exchange between lead professionals for CAMHS across all levels and the Children's Commissioner for Wales in order to distinguish the current status of the reconfiguration proposals; identify current levels of service delivery; and assess the impact recent developments are having on the rights of children and young people across Wales.**

Operational guidance for CAMHS professionals:

Another emerging concern that we have with regard to CAMHS is the lack of operational guidance and related performance management arrangements. Whilst we understand that Annual Operating Frameworks for the NHS have previously distinguished targets for CAMHS, there currently appears to be a lack of clarity on the status of these. In addition to this, the current status of the National Service Framework for children and young people continues to be unclear and therefore the future of CAMHS targets set out within it are also unclear. We continue to press the Welsh Government for an update on this.

As the 2009 Joint Review concluded, further development is needed to ensure that performance management arrangements are in place and that CAMHS targets are an integral



part of such arrangements across all key CAMHS stakeholders. In addition to CAMHS targets, we are currently aware that only limited practice and policy implementation guidance is available to CAMHS professionals. Despite the recent publication by the (now disbanded) National Expert Reference Group (mentioned previously) in June 2013 of 'Professional Advice for Service Planners', its status is unclear and therefore it is difficult to assess the contribution its content will make towards performance management arrangements.

Whilst we acknowledge that the Delivery Plan associated with Together for Mental Health sets out key actions for CAMHS services specifically and should also ensure a contribution from CAMHS into the wider all-age actions in practice, we are concerned at the lack of more detailed guidance to steer service development across Wales. The Measure includes statutory duties associated with timescales, to which CAMHS services will be expected to comply. However, further and specific guidance to ensure an appropriate and consistent response to children and young people who are experiencing mental health issues should be in place.

Audit of CAMHS:

We are aware from our representation at the CAMHS DAG that the Delivery and Support Unit of NHS Wales undertook an audit of CAMHS in June 2012. Its purpose was to understand the level of demand on services in Wales; assess the workload of staff; consider the multi-disciplinary skill mix; and to provide a baseline analysis of other aspects of provision. We are currently unaware of any published report although its conclusions were presented at the CAMHS DAG and included snapshot findings. An update on any developments as a result of this work would be helpful.

In addition to this, Members may be aware that the WAO and HIW have undertaken a follow up review of CAMHS with a focus on the safety issues raised in their Joint Review of 2009. Whilst we were expecting an announcement of findings in spring 2013, we are currently aware that a publication is imminent.

Levels of investment in CAMHS:

Concerns regarding the level of funding invested into CAMHS across Wales has been raised by the Children's Commissioner for Wales consistently. Whilst we have received anecdotal evidence of the impact this has on the availability and quality of CAMHS services for children and young people, statistics published by Welsh Government can be used to evidence this concern further. From a comparison of NHS expenditure programme budgets solely over the period of two financial years (2010-2011 and 2011-2012), we understand that Welsh Government report that "the largest single programme budget category was spending on mental health problems, which amounted to 11.9 per cent of the total"¹. Whilst this is a key

¹ Welsh Government (March 2012 and March 2013) NHS Expenditure Programme Budgets: 2010-11 and 2011-12 (separate releases): Cardiff.



point made in both publications, upon further analysis of the breakdown of expenditure, both documents conclude that the percentage share of the total expenditure on mental health problems for CAMHS until 2011-2012 (which is stated as 1%) has consistently remained at 0.8% since 2006-2007.

Considering the fact that early identification and investment in prevention and protection has been recognised and prioritised by the Welsh Government, we are concerned that this level of investment in CAMHS does not reflect this commitment. CAMHS has for too long been described by many as the “cinderella service” and will never address the needs of children and young people who have early signs of mental health problems if we do not sufficiently invest in it.

What this all means for children and young people

Cases received by our Advice and Support Team:

Issues in relation to CAMHS have consistently been raised with us via our Advice and Support Team. We have assessed the contact made from children, young people, parents/carers and professionals (amongst others) and as a result, we have distinguished many continued barriers children and young people face across Wales in accessing CAMHS services.

The most consistent concerns relate to access issues; waiting times and delays in the assessment process; and access to information on provision. This list is not exhaustive but reflects the issues that are most prominent amongst those making contact with the team.

Cases received by our Advice and Support team between April 2012 and March 2013 in relation to CAMHS have reflected the experiences of children and young people where referral processes have been unclear and thresholds have been high affecting access to services; the quality of provision has been questioned; and a lack of joined-up approach between CAMHS, education and social services has impacted on the ability of children and young people to access their rights.

We have identified that there may be particular cause for concern in relation to three major areas of mental health provision. These are detailed separately below and include a brief summary of the emerging concerns.

- Access to psychological therapies

Children and young people accessing a medically driven service model where access to psychological therapies, including the provision of counselling, has not necessarily been made available to them in conjunction with the prescription of medication.



- ASD assessments

Children and young people being caught up in unclear assessment protocols and availability of ASD treatment and support. CAMHS contribution to the assessment and treatment processes unclear and children and young people experiencing lengthy waiting times as a result of demand upon services and unclear referral pathways.

- CAMHS provision in youth justice settings

Young people in contact with the youth justice system continue to experience barriers to accessing CAMHS provision as a result of often unclear commissioning arrangements; lack of joined-up services; and an understanding of information sharing expectations and integrated assessment processes.

Implementation of Mental Health (Wales) Measure for children and young people:

In addition to the above, anecdotal evidence received from key CAMHS stakeholders is that the Measure does not allow for the most appropriate application for children and young people. For example, we are aware that Part One of the Measure provides for the establishment by LHBs and LAs in partnership, of local primary mental health support services, operating either within or alongside GP practices across Wales. However, whilst we recognise the intention to provide consistency in provision and earlier access to mental health services, the service model currently available to service planners only allows for referrals via GPs and therefore does not reflect the fact that these professionals are often not the first point of contact for children and young people. As a result of this, we are aware that in one LHB area, services have been re-developed to ensure that children, young people and their families are seen as early as possible by practitioners with appropriate skills within primary care. This in turn, ensures sufficient regard for children and young people within their structure of service provision.

Another issue that has been raised anecdotally with the Commissioner is the need to review the application of the Care & Treatment Planning resource available to CAMHS when applying Part Two of the Measure. Again, we understand that this part seeks to ensure greater involvement of service users, better outcomes and a co-ordinated response to patients through the development of a plan, for those in receipt of secondary service. However, we are aware that CAMHS practitioners are having to consistently modify the template available to them to ensure its applicability and appropriateness for children and young people.



Collating the views of children and young people:

As outlined in the Commissioner's Annual Report 2012-2013, we are currently collating the views of children and young people across Wales in relation to their emotional wellbeing and access to mental health services. We are engaged with colleagues working with children and young people locally to distinguish the work that has already taken place on this policy area and to collate the views they have already shared with local services. In addition to this, and in order to gain the particular views of children and young people who have been in receipt of mental health services across Wales, we are scoping the possibility of assessing the feedback provided through local evaluation and review processes to ensure we do not duplicate work and to also provide an avenue for their views to contribute towards the Commissioner's position and influencing plans.

If you would like further information about any of the issues raised within this briefing, please contact Nia Evans: nia.evans@childcomwales.org.uk / 01792 765600