

**Lesley Griffiths AC / AM**  
**Y Gweinidog Cymunedau a Threchu Tlodi**  
**Minister for Communities and Tackling Poverty**



**Llywodraeth Cymru**  
**Welsh Government**

Ann Jones  
Chair of the Children, Young People and  
Education Committee  
National Assembly for Wales  
Cardiff Bay  
Cardiff  
CF99 1NA

22 September 2014

Dear Ann,

**Financial Education and Inclusion (Wales) Bill**

Thank you for your letter inviting me to give oral evidence to the Children, Young People and Education Committee on 1 October. In advance of my appearance before the Committee I am grateful for the opportunity to provide you with my written evidence on the Bill (Annex 1).

I have copied this letter to the Chair of the Constitutional and Legislative Affairs Committee.

Yours sincerely,

A handwritten signature in black ink that reads "Lesley Griffiths". The signature is written in a cursive style with a large, sweeping flourish at the end.

**Lesley Griffiths AC / AM**  
**Y Gweinidog Cymunedau a Threchu Tlodi**  
**Minister for Communities and Tackling Poverty**

**Children, Young People and Education Committee: Stage 1 scrutiny of the Financial Education and Inclusion (Wales) Bill – Bethan Jenkins AM (Member in charge)**

**Written evidence from the Minister for Communities and Tackling Poverty**

I thank the Committee for the opportunity to comment on Bethan Jenkins' Bill as the lead Government Minister on the Bill.

**Introduction**

I understand the main intention of the Bill is preventative, namely to address the position where many people in Wales are falling into financial difficulty due to a lack of knowledge and skills in managing money. Whilst I fully support the aim of strengthening financial education and financial literacy, I do not consider the proposals in the Bill will result in anything additional to what is currently delivered. Indeed I am concerned the Bill may deflect from frontline delivery as it introduces new processes and, potentially, additional bureaucracy without a clear explanation of the measurable outcomes being sought.

Requiring each local authority to have a separate financial inclusion strategy will not lead to more integrated services, but rather runs the risk of placing financial inclusion in its own silo. A more co-ordinated way of working is for Public Services Boards to consider Financial inclusion as part of their assessments of local well-being. These assessments will inform the setting of the objectives set in Local Well-being Plans. The Welsh Government already provides funding to the Wales Co-operative Centre for the "Financial Inclusion Champions" initiative. Part of this initiative is to support local authorities in thinking about tackling financial inclusion issues in a strategic way. The work of the Champions focuses on all local authorities being encouraged to include financial inclusion as part of their normal strategic planning process, as opposed to the development of a separate strategy.

The Welsh Government set out its Financial Inclusion Strategy in 2009 and, rather than developing individual strategies for each local authority, practical work is being taken forward under the themes of this national strategy. One of the focuses in recent times has been to look at where the greatest need is (for advice to help promote financial inclusion) and to encourage better planning and join up of services to meet any gaps in provision. For example, this is being done in taking forward the recommendations of the Welsh Government's Advice Services Review, published in 2013. This review took account of the views of the sector on what should be put in place to help ensure the best provision of debt and money advice in Wales. In response to the review, the Welsh Government will shortly be establishing a National Advice Services Network to drive a more strategic and focused approach to the way advice services, including advice on money management and debt issues are planned and delivered across Wales. This network will look at enabling effective cross referral, better use of specialist resources and the ability to develop flexible responses to local need.

The Network will have a practical focus and aim to forge links with local financial inclusion networks where they exist and, where such structures do not exist provide guidance and support, to enable networks to be established at a more local level. The underlying focus of all of this is a better service for the citizen. We know some parts of Wales are already well-served by Local Advice Networks which bring together different advice providers so there is a common understanding of the needs of local residents; how services are geared to meet this need and to identify ways in which services can be improved. Through the National Advice Network, the Welsh Government (working with other key funders of advice services in Wales, advice providers and client representatives) is keen to encourage more of this type of practical and direct action to address need.

I recognise we need to look to ensure people have access to the right quality of advice as this will impact on financial inclusion and, again, work is progressing on this. The Advice Services Review recommended the development of a Framework of Standards for Advice and Information through the National Advice Network, based on existing quality marks and standards. It also recommended the development of a national register of advice providers who meet the Framework of Standards. There is consensus amongst the sector and funders further work needs to be done to develop a more consistent understanding and approach in relation to the quality of information and advice provided and the approach taken by providers to measure and report on outcomes. Research will be undertaken to understand the current picture in terms of the difference quality standards relating to information and advice provision. Informed by the findings of this work, the Welsh Government will be looking to introduce a new standard or framework of standards. This will not only mean we can be clear about the fact quality matters, but we can also be clearer about what we mean by quality and people will know where they can go for quality advice.

I will now turn to the committee's specific questions:

### ***1. Is there a need for the Bill?***

The proposals in the Bill could be delivered using existing legislation. For example a Local Authority could use its general well-being powers in section 2(1) of the Local Government Act 2000 ("the 2000 Act") to produce a strategy to promote financial inclusion. This provides every Local Authority in Wales with the power to do anything they consider likely to achieve the promotion or improvement of the economic, social or environmental well-being of their area. Arguably the promotion of financial inclusion would fall into promoting the economic and social well-being of their area. In addition, section 3(5) of the 2000 Act requires a Local Authority to have regard to any guidance issued by the Welsh Ministers before exercising their power. Guidance could potentially deal with the promotion of financial inclusion.

Local Authorities also currently have a duty under the Local Government (Wales) Measure 2009 ("the Measure") to create a community strategy relating to long term objectives for improving the social, economic and environmental well-being of the area.

The Well-being of Future Generations (Wales) Bill (“the Future Generations Bill”) which has been recently introduced seeks to repeal provisions relating to community strategies and proposes to make provision in relation to new local well-being plans prepared by public service boards. Whilst the Future Generations Bill may be subject to amendment as part of the Assembly’s consideration, a number of the provisions in the Bill as introduced could be used by Local Authorities to promote financial inclusion.

The law on the curriculum in Wales is set out in Part 7 of the Education Act 2002 (“the 2002 Act”); section 101 of the 2002 Act sets out the requirements of the Basic Curriculum in Wales. That Basic Curriculum comprises of a number of different elements including the National Curriculum for Wales. The National Curriculum includes the foundation phase, the second, third and fourth key stages and the local curriculum. The specific subjects that form part of the National Curriculum for Wales are set out in sections 105 and 106 of the 2002 Act. Those subjects are called the foundation and core subjects.

There is a power in section 108 of the 2002 Act for the Welsh Ministers to set out by way of subordinate legislation areas of learning, desirable outcomes, educational programmes assessment arrangements for the foundation phase. That section also provides a power for the Welsh Ministers to set out in subordinate legislation programmes of learning, attainment targets and assessment arrangements for the foundation and core subjects in the key stages. In essence, this allows the Welsh Ministers to specify what must be taught and how it must be assessed. It is a means of being able to set out a complete National Curriculum for Wales. It is worth noting the power in section 108 of the 2002 Act was used to make the literacy and numeracy framework a statutory part of the National Curriculum.

Therefore, the Welsh Ministers already have extensive powers in existing education legislation to set out curriculum and assessment arrangements for the foundation phase and the key stages for the subjects required to be taught in those phases of education. The Welsh Ministers also have powers in existing education legislation to add new areas of learning to the foundation phase and new foundation subjects to the national curriculum for the key stages by way of subordinate legislation. Therefore I consider sections 4 and 5 of the Bill to be an unnecessary duplication.

The Bill prescribes financial inclusion strategy should include facilitating free access to online financial education and management services (whether through libraries or otherwise). However, Section 7 of the Public Libraries and Museums Act 1964 (“the 1964 Act”) imposes a duty on each library authority (which in practice is each Local Authority by virtue of section 4 of that Act) to provide a comprehensive and efficient library service; section 8 of the 1964 Act provides no charge shall be made by a library authority for library facilities made available by the authority, unless specified in regulations made by the Welsh Ministers<sup>1</sup> - currently the Library Charges (England and Wales) Regulations 1991 (“Library Charges Regulations”) make such provision.

---

<sup>1</sup> Functions of the Secretary of State have been transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999, and subsequently transferred to the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to Government of Wales Act 2006

1964 Act and the Library Charges Regulations provide that libraries currently are able to charge for internet access however, that position could change, given the Welsh Ministers have the executive powers to amend these Regulations which could be exercised so as to prevent libraries from charging for internet access.

The Fifth Framework of the Welsh Library Public Standards, issued by the Welsh Ministers, outlines the core entitlements public library services should provide. This includes “*free use of computers and the internet, including Wi-Fi.*”

Finally, there are existing legislative functions which have a similar effect as sections 7 and 11 of the Bill, namely provisions under the Children Act 1989 and the Children (Leaving Care) (Wales) Regulations 2001. There are also powers that will be able to be utilised under the Social Services and Well-Being (Wales) Act 2014 once that Act comes into force in respect of looked after children.

***2. Do you think the Bill as Drafted, delivers the Stated objectives as set out in the Explanatory Memorandum and***

***3. Are the sections of the Bill as drafted appropriate to bring about the purposes described above, if not what changes need to be made to the Bill?***

Notwithstanding my position that this Bill is unnecessary, I remain to be convinced the Bill as drafted conveys the policy intentions set out in the accompanying Explanatory Memorandum. For example, a Local Authority's financial inclusion strategy must set out how the authority will use its powers to promote the financial inclusion of individuals who live in its area. 'Financial inclusion' is defined as meaning access to financial services and financial education at a reasonable cost. The intended relationship between commercial entities and local authorities in the exercise of this provision is not clear; who decides that a financial service is at a reasonable cost, and will this have the effect of the local authority '*promoting*' commercial products? Will an Authority come under pressure from, for example, a bank for not promoting its latest loan products which the bank considers is available at a reasonable cost?

Turning to section 5 of the Bill, I believe the Member in Charge considers the Welsh Ministers could make an order under section 108(3) of the Education Act 2002 setting out a programme of study, attainment targets and assessment arrangements for financial education. However, whilst section 4 of the Bill proposes financial education be made a new requirement of the Basic Curriculum (by means of adding it to section 101 of the 2002 Act), it is not made an area of learning for the foundation phase or a foundation subject for any of the key stages by the Bill. The power to set out curriculum and assessment arrangements by way of an order made under section 108(3) only applies to areas of learning and foundation subjects.

Further, the Bill seeks to impose a duty to consult upon financial education orders, but to do so creates some unnecessary duplication as it does not take account of section 117 of the 2002 Act. This places a duty upon the Welsh Ministers to consult such persons as they think appropriate when making an order under section 108 setting out desirable outcomes or educational programmes for the foundation phase or attainment targets or programmes of study for the key stages.

I am concerned some of the provisions in section 9 relating to the content of a Local Authority's financial inclusion strategy are ambiguous. For example, I am not clear as to what the 'implications and effects of street-trading and cold-calling' are, and how they relate to financial literacy (which is not defined), and it is not clear whether free access to the internet as a whole is to be facilitated, or access only to financial education and management services. Nor is it clear what financial education is to be provided on-line and by whom.

A further example of the Bill as introduced not necessarily meeting the policy intention can be seen in section 12 of the Bill. Under section 12(1) an Authority must signpost where to find advice about financial management, and under section 12 (2) the Local Authority may provide advice about financial management where it thinks the advice is not reasonably available otherwise. Therefore, there could be a situation where the Local Authority thinks there is not advice reasonably available in its area, but decides not to provide any such advice itself. As drafted, the Bill does not make provision which ensures reasonable advice is provided within an authority's area.

Under section 13, a Local Authority must take reasonable steps to ensure universities and further education corporations in its area provide advice about financial management to students. I am concerned about this provision. Local Authorities have no direct relationship with either universities or further education corporations which would, in turn, give them authority to enforce this requirement. It is not a duty which would be within an Authority's power to discharge, nor could the duty be enforced. I am also concerned with the ambiguity of the drafting of this section: there are no definitions of the terms used; further education corporations are just one type of further education institution, and it is not clear why other ones are not included; it touches on the fundamental principle of the independence and autonomy of higher education and its position at arms length from government. The Welsh Government believes there are other, more effective ways of focussing resources on financial education, for both higher and further education. There already exists a broad range of provisions of financial education at both higher and further educational institutions in Wales, as part of pastoral and welfare services.

***4. How will the Bill change what organisations do currently and what impact will such changes have, if any.***

I do have concerns about placing a duty on local authorities to include information on its web-site directing people where they may obtain advice on financial management. This could be seen as the authority effectively endorsing local advice providers it lists on the web-site, so there would need to be a monitoring role for local authorities that could have resource implications and, possibly, divert a focus from supporting front line work. A duty like this would also result in duplication of work with what is being undertaken already across Wales through the MoneyMadeClear Web-site, which is hosted by the Wales Co-operative Centre. The Web-site provides information on a range of advice providers and there are also links to other sites, for example the Money Advice Service, which provides free independent advice on money management and debt.

**5. What are the potential barriers to implementing the provisions of the Bill and how does the Bill take account of them?**

As I indicate above there are several areas of concern about the drafting of the bill and to believe that certain sections of the Bill are not implementable in their current form. It is for the Member in charge to explain how these can be overcome.

**1. Do you have any views on the way in which the Bill falls within the legislative competence of the National Assembly For Wales?**

The provisions of the Bill, particularly as drafted, do need careful consideration to determine whether they might potentially fall with the following express exception in Schedule 7 to the Government of Wales Act 2006, namely “Financial services, including investment business, banking and deposit-taking, collective insurance schemes and insurance”. I note simply at this point the Explanatory Memorandum contains no such analysis.

**7. What are your views on Powers in the Bill for the Welsh Ministers to make subordinate legislation?**

As outlined above, financial education and inclusion can already be addressed in existing legislation. For example, there are detailed skills relating to managing money and financial education within the literacy and numeracy framework which has been in force since September 2013. These were developed in partnership with the Welsh Financial Education Unit, and through open consultation.

Also we have recently consulted on revisions to be made to the existing programmes of study which are given legal effect by way of subordinate legislation. In particular the mathematics programme of study, which embeds the literacy and numeracy framework into it, and again, has a detailed set of skills statements relating to financial education within the ‘Manage money’ element. By way of example, this element contains statements regarding using cash, comparing costs from different retailers, discounts, budgeting, planning and tracking savings accounts, profit and loss, bank accounts, bank cards, VAT, saving, borrowing, interest rates, exchange rates and insurance. This will be published in October 2014, and made statutory from September 2015.

In the interest of thoroughness, I would like to comment on the provisions for subordinate legislation within the Bill:

- a. *Section 6(2) and (3)*: Section 6 appears to duplicate what is effectively already provided for in legislation. Section 20 of the Education Act 2005 places a duty on Estyn to keep the Welsh Ministers informed about the quality of education provided by schools, how far the education provided meets the needs of the pupils in those schools and the educational standards achieved by those schools. In addition, Estyn has a duty to provide the Welsh Ministers with advice on such matters as they specify.

Additionally, the power in the Bill to 'direct' the Inspector to prepare the report is very limited in nature, and there is no discretion for the Welsh Ministers to specify how the Inspector should conduct the report, or what should be included.

It is also unusual to prepare a progress report by way of direction. The Welsh Ministers have several direction-making powers in education legislation but they apply where the person directed (a school governing body or Local Authority) has acted unreasonably or unlawfully. In those cases the legislation provides such direction can be enforced by way of a court order. The Bill does not do this, and therefore it is unclear how it could be legally enforced or indeed if the policy intention behind the provision is that it should be enforced by way of court order. It is also not clear whether the policy intention is that the direction-making power to be exercisable by subordinate legislation or to be exercised more in the nature of executive instruction enforceable by the courts.

Finally, the approach does not seem to take proper account of the existing statutory scheme of powers and duties of Estyn set out in the Education Act 2005.

- b. *Section 9(2) and (3)*: under these provisions the Welsh Ministers may by way of regulations, made following consultation with Local Authorities, amend the prescribed content of a financial inclusion strategy made under section 9(1) of the Bill.

Notwithstanding my view such a strategy is unnecessary, to the extent that provision is made I consider the proposal which allows the Welsh Ministers some flexibility in deciding what should be included in the strategy is acceptable. This is because it will allow account to be taken of the changing landscape; I do however have some concerns with the way the power has been drafted, given: the power in section 9(2) is very wide. The Assembly in passing the Bill should be satisfied it can contemplate what a power is likely to be used for. I would be interested in understanding how the Member in Charge of the Bill envisages this power should be used and in what circumstances, so the Government can consider whether the way this provision is drafted is suitable for its purpose.

- c. *Section 10*: this enables the Welsh Ministers to issue guidance about financial inclusion strategies and requires a Local Authority to have regard to any guidance issued. The Welsh Ministers already have the powers to promote financial inclusion and to require a local authority to have regard to any guidance issued by the Welsh Ministers before exercising their power, and therefore I consider the power provided for in the Bill to be unnecessary.

### ***Commencement provisions***

I have considered carefully the commencement provision in the Bill, and make the following observations:



- d. Firstly, it is proposed a commencement order containing solely commencement and transitional, transitory or saving provisions would be subject to Assembly procedure. This is unusual. The Assembly has already approved the subject matter of the Act by passing it, such that further scrutiny would not, I believe, be appropriate. The standard approach is that commencement orders are not subject to any procedure, on the basis they are giving effect to provisions already approved by the Assembly. The same reasoning applies to, in particular, transitional, transitory or saving provisions, which are included in a commencement order to ensure the proper operation of the Act being brought into force, and ensure it is clear when the old law and new law apply. Therefore my first concern relates to the *principle* of whether a commencement order should be subject to Assembly procedure.
- e. My second concern is in relation to its practical application, it is not clear what the procedure would be if the Assembly passed a motion for annulment, by virtue of the order being subject to the negative procedure, once any commencement order had been made and had come into force. The Welsh Ministers would have to lay an order revoking the commencement order; this would not affect the validity of anything done whilst the provision was in force, and would not have the effect of 'undoing' the commencement, but would remove the effect of any transitional provisions which would leave the position of those persons affected by the law very unclear.
- f. Thirdly, section 14(3) refers to an order under section 14(2)(b), however, the power to create the order is contained in section 14(1)(a).
- g. Finally, section 14(4) of the Bill provides that provisions will come into force in January 2018 if not in force at that time. This is a restriction on the Welsh Ministers' powers to decide when the circumstances are right to commence the provisions of the Bill. I do not support this provision.

I do not consider this commencement provision as drafted is appropriate.

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

In general the Regulatory Impact Assessment (RIA) has not explored the option that the provisions in this Bill could be delivered using existing Legislation. For example, the opportunity to develop the existing financial education elements of the curriculum (without the need for legislation) has not been fully investigated.

The RIA only considers the costs and benefits of the preferred option (Option 3). The analysis should be extended to enable a comparison of the relative costs and benefits of each of the identified options. As identified in the EM/RIA, a second mathematics GCSE in numeracy is planned and financial literacy will be included as part of the on-going curriculum review. These changes could be expected to deliver at least some of the benefits identified in the RIA. The RIA suggests that the proposals will generate some relatively large additional costs; it would be useful to

understand what the additional benefits of the proposals (over and above those that will be delivered by the existing policies) will be.

Whether there are any opportunity costs associated with the financial education provisions for example, what subject(s) or activities will be replaced/ reduced to provide time for this financial education has not been fully explored. The RIA suggests that INSET days could be used to train existing teachers to deliver the financial education but presumably there is some value to the activities currently undertaken on those INSET days.

The RIA would benefit from more detail around some of the cost calculations. In particular, how do the annual and transitional costs presented in paragraph 303 break down? Linked to this point, para 301 states the costs are based on data provided by a single local authority. The small sample raises questions about whether the data is representative of the situation across Wales and whether it is appropriate to scale up the costs based on that single observation. The RIA does acknowledge these costs are 'rough estimates' and further work is required.

The methodology used to estimate the cost of developing financial inclusion strategies appears to be reasonable (covering the number of people involved, the time commitment and the value of that time) although again, the actual figures are based on information received from single Local Authorities. Also, will Local Authorities be required to consult on and/or publishing their financial inclusion strategies? If so, what is the cost associated with this?

What input have third sector organisations had in developing the RIA, are these stakeholders content with the cost estimates presented in paragraphs 334-337?

The RIA summarises the equalities and children's rights impact assessments but have the other specific impact tests, such as rural-proofing and the competition assessment been completed.

## **Other issues**

In terms the social care aspects of this Bill, I have some very initial thoughts about potential human rights issues – namely, inequality of treatment (between the different classes of care leavers) and a concern about whether this is compatible with the requirements of Article 14 of the European Convention on Human Rights. The current draft Bill and Explanatory memorandum doesn't rationalise the inclusion of categories 1 – 3 (omitting 4 – 6). The omission of 4 is slightly different because this class of young person will never be under the age of 18; but the omission of the relevant young people in categories 5 and 6 seems to be based on a lack of understanding of the provisions in Part 6 of the Social Services and Well-being (Wales) Act 2014. However, it is for the Member in charge to justify her decision to specify only certain categories of young people. I have not instructed my officials to consider this in depth.