

To: To: Lynne Neagle
MS

Chair
Children, Young People
and Education
Committee

Via email only

25 February 2021

Dear Chair,

I have today published a report using my formal legal powers to review the Welsh Government's exercise of their functions in respect of two education policy areas; home education and independent schools.

As you and the members of the Committee will be acutely aware, I had been concerned at a lack of progress by the Welsh Government in making changes to the legal framework that were needed to protect and uphold all children's access to their rights, wherever they are educated. This is the first time that the office of the Children's Commissioner has used this power to review the Government.

My Review has found that the Welsh Government has failed to protect children's rights in exercising their functions in the two areas of policy under review. Whilst a lot of activity has taken place over the years, ultimately no substantive changes have been made to protect children's rights in these settings.

The Review contains a number of recommendations, including an overarching recommendation for the Government to ascertain what is needed in order to bring these changes through swiftly when the new Government is formed. There cannot be a repeat of what I've found in the Review, with activity largely starting from scratch in each Senedd term as this has failed to ensure that the necessary changes can be made by the Government. While I recognise the enormous diversion of government resources that has taken place to tackle the pandemic, the issues have gone unresolved for too long, and it will be essential for the next Government in May 2021 to have a clear steer on how to move forward in these policy areas. I believe that my recommendations will do this.

The Review also contains some broader recommendations related to the way that the Government is organised and works across its functions, as well as recommendations regarding my own legal powers. In conducting this Review, I have not been able to access all the papers that I wished to see in order to track and review how Government decision making took place. In a democracy I do not expect to be able to *require* any Government or public body to act, but I do need sufficient powers to carry out my role. My statutory role requires me to hold the Government to account in their actions. Whilst I



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have done so through this Review, the Government was unable to release all relevant papers due to limitations in the legislation underpinning my role. I believe the law needs to be amended to reflect this.

My report refers to a number of recommendations from your own Committee's inquiry into Children's Rights in Wales and I believe that my Review complements your recommendations in respect of CRIA, due regard to children's rights and the role and appointment of the Children's Commissioner.

The Government received this report in early January 2021; they have until 7th April 2021 to send their formal written response to this report. I look forward to receiving this and will continue to press for change in these policy areas. They may affect relatively small numbers of children but, as the Review has demonstrated, it is vital that all children have access to all of their rights wherever they are and a key part of my role is to ensure this is the case.

You can read and download all of the documents for the Review on my website here: <https://www.childcomwales.org.uk/a-review-of-the-welsh-governments-exercise-of-its-functions-home-education-and-independent-schools/>

This includes the main report, two lengthy chronologies setting out the timeline of the papers and actions that I have reviewed, and also a young person's summary of the work.

Should you wish to discuss this work further I would be happy to provide further information to the Committee and/or to appear in person for further scrutiny.

Yours sincerely,



Sally

Sally Holland
Comisiynydd Plant Cymru
Children's Commissioner for Wales

Rydym yn croesawu gohebiaeth a galwadau yn Gymraeg. Byddwn yn ateb gohebiaeth a gwladau a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd cysylltu yn Gymraeg yn arwain at oedi | We welcome receiving correspondence and calls in Welsh. We will respond to correspondence and calls in Welsh, and contacting us in Welsh will not lead to delay.

