



Mountain Movers Education

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Registered Charity Number: 1176708

Dear Committee Members,

Thank you for your email giving Mountain Movers the opportunity to respond to the Minister's recent update on the draft statutory guidance for elective home education in relation to our petition.

With regards to the attached document it appears to relate back to a statement the Minister for Education made on the 11th of December. Therefore the trustees response is primarily based on this statement.

In its wording, the 11th of December statement reads that although they have received substantial objections from the primary stakeholders to this policy, the Minister is planning on forging ahead with forming this policy to meet the Children's Commissioner for Wales three test demand:

***“ all children in Wales can be accounted for and that none are invisible.
Second, that every child receives a suitable education and their other human rights,
including health, care and safety.
And crucially, that every child is seen and their views and experiences are listened to.”***

In keeping with the petition request, we ask the Petition Committee to investigate if the threat of legal action by the Children's Commissioner for Wales has unfairly pressurised the Education Minister into creating a policy based on meeting the Commissioner's demands against the input of the primary stakeholders (home educating families)?¹

These three tests are founded on the presumption that the state knows that is best for all children above their own parents.

In the UK, parental authority is a protected right. The aim of meeting these three tests seeks to give state regulation to an area that it has no duty or right to interfere in.

***“Protocol 1, Article 2: Right to education
No person shall be denied a right to an education. In the exercise of any functions
which it assumes in relation to education and to teaching, the State shall respect the
right of parents to ensure such education and teaching is in conformity with their own
religious and philosophical convictions.”***

¹ Papers To Note: Letters from the Children's Commissioner for Wales - 12th December 2018, 19th January 2019, 5th July 2019 to the CYPE Committee.

It is a parent's legal right to raise and educate their child as they see fit so long as that education is full-time, suitable to a child's needs and abilities and does not foreclose their future options. Local authorities are to operate on the presumption that a full and efficient education is being provided unless they have evidence to the contrary. There is no duty, implied or otherwise on local authorities to go looking for evidence. If local authorities have valid concerns about the education of a child beyond their own personal opinions or beliefs, there already exists sufficient powers and avenues for them to address these concerns i.e social services referral, application for an Education Supervision Order, followed by a School Attendance Order if necessary.

“Article 8: Right to privacy

Everyone has the right to respect for his private and family life, his home and his correspondence.

There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

Families have the protected right to raise their children free from unjust state interference. This new guidance appears to be based on a philosophy that the state and local authorities know what is best for a child above their parents and is founded on the myth that home education poses a safeguarding risk to children despite all investigations repeating showing that this is untrue.

“Under article 14 of the human rights, governments and organisations are strictly prohibited from discriminating minority groups for a lifestyle choice that is different from the majority. “

The summary of responses has now been published. Of the 437 responses received, 386 of those responses have come directly from the primary stakeholders (home educators). The responses have also clearly shown that in its current format this document is reinforcing set prejudices, practises and bias against home educators both in the language used, the powers, duties and objectives it seeks to bestow on local authority officers far beyond what is reasonable or legally entitled to do. The Minister's statement on the 11th of December seems to suggest that the Minister is intent on continuing with this policy's direction despite this clear divide between local authorities and Children's Commissioner's goals and the primary stakeholders (home educators).

We would like to request that the Petition Committee investigate this further to ensure the rights of the primary stakeholders (home educators) are appropriately upheld with sufficient safeguards put into place and to seek clarity regarding the insinuated possibility that the Minister will need to seek secondary legislation change in order to legally force this policy position.

“sought my own legal advice as to the capability of secondary legislation to enable the change that is needed” Children's Commissioner for Wales 5th July 2019²

Why is there a failure to mention any Welsh based home education charities in this document who, given that they are working with home educators week in week out, understand the needs of the community and are successful in engaging with this hard to reach community, are not given the acknowledgment of being

² Letter from Children's Commissioner for Wales - 5th July 2019 to CYPE Committee

the best place for LEA'S to signpost home educators to, or for the LEAS to seek support and training regarding home education for themselves?

With regards to our petition, the children in our membership who have previously engaged with the Children's Commissioner for Wales request us to ask again for the Assembly to investigate why an office that is primarily funded by government with the duty to listen to and stand up for children, is ignoring what they have been told directly from the, limited engagement, they have had with home educated children (even those who sit on their own panels) and continue to form policies that go against these children's wishes?

In Conclusion

As a whole, the community of home educators, are exhausted by the constant cycle of consultations into home education regulations by the Welsh Assembly. It appears that LEAS and the Children's Commissioner for Wales are continuing to push policy agendas based on their own bias and prejudices (in their misguided conviction that home education is a safeguarding risk, despite every report to the contrary) against home educators and forcing this cycle until they achieve the goal, that the state decides what constitutes an education for all children and erodes this next piece of parental authority. This is unfair and morally wrong to keep this sustained amount of pressure, investigation and discrimination upon a minority group who are simply exercising their right to educate their children in an individualised manner, in order to reach their children's full potential according to the own philosophical beliefs.

We ask the Petitions Committee to investigate if the consultation and new guidance were produced in a manner that was legally fair given the substantial evidence that leads us to believe that the outcome was already predetermined between the Education Minister and the Children's Commissioner for Wales? ³

Since this current cycle of investigation into home education, as a charity we have evidenced policies and practices that are not only resulting in increased disengagement and fear amongst home educators (such as door-stopping practise which has dramatically increased in the last 12 months) but also excluding home educated children, from minor issues like accessing resources such as HWB thus contravening the law which says that home education is given equal status with schools. As well as more serious exclusions from services which should be universally available. For example, Mountain Movers are currently correlating case studies to show the difficulties home educators face in accessing what should be universal health services including but not limited to CAMHS and the Neurodevelopment Team in a selection of South Wales counties. There are also new policies being implemented by a number of local authorities with regards to accessing an educational psychologist assessment. Some local authorities are now stating they will only allow a home educated child to be seen/assessed by an educational psychologist if the parent agrees to a statement of SEN for the child. In Mountain Movers' opinion there is a clear advantage to local authorities in taking this action. Should parents not agree to this stipulation, the local authority saves money and time, if they do agree, then local authorities are legally empowered to hold annual reviews and have oversight of the home education provision. We feel this policy though is discriminatory against home educated children by subjecting them to a barrier rule to which state schooled children are not subjected.

We ask the petition's committee to investigate why the previous non-statutory guidance that was only recently published after extensive consultation has not been further utilised and the best practise methods highlighted in there pursued by local authorities? The failure of local authorities to even tolerate the idea of building a positive relationship with local home educating communities through effective and meaningful

³ Gunning Principle (i) consultation must take place when the proposal is still at a formative stage

support and interactions based on trust and respect is the crux of this continuing situation.

In addition, the duties and obligations that the Minister is seeking to achieve with this policy will require significant financial investment per local authority as well as additional legislation in order to make them legal. Considering the substantial amount that has already been spent on home education consultations in the past 8 years, is the Minister able to provide the Assembly with an outline of the costs involved in implementing these proposed policy changes? Mountain Movers would argue that given that the powers and duties the Minister is trying to achieve are already in existence but belong to the role and duty of a social worker (not LEA officers or teachers), it is hard to see how this policy would be an efficient and effective use of public funds.⁴

We thank you for your continued work with regards to our petition and look forward to receiving your response in due course.

Yours faithfully,

Erika Lye
Trustee and Chair on behalf of:
Mountain Movers Education
Registered Charity 1176708

⁴ Letter and QC Advice From Protecting Home Education Wales - 20th October 2019.
Email from Wendy Charles-Warner, Education Otherwise to CYPE Committee CYPE(5) - 31-19) Paper to note 2