

Education and Lifelong Learning Committee ELL (2) 06-04(min)

Minutes

Date: Wednesday 28 April 2004

Time: 9.15am - 12.00pm

Venue: Committee Rooms 3 & 4, National Assembly for Wales, Cardiff Bay

Members

Constituency

Peter Black (Chair)	South Wales West
Jane Davidson (Minister)	Pontypridd
Leighton Andrews	Rhondda
Jeff Cuthbert	Caerphilly
David Davies	Monmouth
Mark Isherwood	North Wales
Irene James	Islwyn
Denise Idris Jones	Conwy
Janet Ryder	North Wales
Owen John Thomas	South West Central

Officials

Richard Davies	Group Director, Department for Training and Education (DfTE)
Elizabeth Taylor	Head, Schools Management Division, DfTE
Mike Harper	Head, Teaching and Learning Division, DfTE
Neil Thomas	Head, Lifelong Learning Division, DfTE
Derek Adams	Head, Higher Education Division, DfTE
Andrew Hemmings	Transport Policy Division
Ann MacGregor	Schools Management Division, DfTE
Judith Nedin	Central Support Unit, DfTE
Susan Day	Central Support Unit, DfTE
Catherine Roberts	Teaching and Learning Division, DfTE
Carrie Moss	Schools Management Division, DfTE

Committee Service

Chris Reading

Holly Pembridge

Ruth Hatton

Committee Clerk

Deputy Committee Clerk

Committee Support Officer

Item One: Introduction, Apologies, Substitutions and Declarations of Interest

1.1 The Chair welcomed the Committee and members of the public to the meeting.

1.2 The Committee approved a request from Jeff Cuthbert to attend the SNAP Cymru Annual Conference in North Wales in September, as the Committee's representative.

1.3 Business Committee had approved the additional Committee meeting scheduled for the afternoon of Thursday 13 May.

1.4 The Chair welcomed Joanest Jackson, the Committee's Legal Adviser, to the meeting.

1.5 There were no declarations of interest made in accordance with standing order 4.5.

Item Two: Minister's Report

Paper: ELL(2) 06-04(p.1) and Annexes

2.1 The Minister introduced her report and raised the following points:

- The local authorities who would be piloting the new free school breakfast initiative had been confirmed the previous day; the participating schools would be notified in the forthcoming week and Committee Members would be informed of this; and
- The Minister said she had welcomed the announcement from the Secretary of State for Education and Skills regarding the extension of the Education Maintenance Allowance (EMA) grants scheme into Wales. The Minister briefly outlined the eligibility criteria.

2.2 The Chair then invited Members to raise questions. In response to Members' questions, the Minister made the following points:

Free School Breakfast Initiative

- The nine local authorities participating in the pilot were: Anglesey, Denbighshire, Wrexham, Caerphilly, Neath-Port Talbot, Merthyr Tydfil, Cardiff, Pembrokeshire and Carmarthenshire;
- Roll-out for all schools who wished to participate would occur in 2006-07;
- Meetings with stakeholders had been organised by Phil Rogers; Project Leader and these

meetings would be extended locally. The Minister undertook to provide a note to Committee outlining dates of future meetings;

- £1.5m was available for the pilot scheme this year. The pilot would be undertaken to ascertain what costs needed to be taken into account and how the scheme should be delivered. Additional funding had been allocated to the education budget to fund the breakfast initiative;
- It was important that children should be adequately fed before arriving at school, so they were ready to learn; and
- The free breakfast initiative would contribute to the better health and wellbeing of future generations in Wales.

Education Maintenance Allowances (EMAs)

- The EMA scheme also applied to vocational courses as well as academic courses;
- It was anticipated that the EMA would be publicised primarily through the school system itself. The Welsh Assembly Government would also be advertising in Communities First areas and through the 14-19 networks;
- The Rees Report on Student Hardship had supported a post-18 grant system and the Welsh Assembly Government had responded by implementing the Assembly Learning Grant (ALG). The report also highlighted the importance of further education access and recommended that the Welsh Assembly Government consider EMAs;
- Additional funding for the EMA had been made available by the UK Government, from Annually Managed Expenditure (AME);
- Approximately 13,000 16-year olds could benefit from EMA because of low family income eligibility. There were no figures available as yet for how many students would intend to continue their education: their intentions were yet to be discerned;
- The Minister stated that students would 'only earn if they learn'; and
- The Minister said that she and the Welsh Assembly Government were conscious that the 14-19 agenda worked well for the most able pupils but not as well for 50% of young people. It was important to consider how to encourage young people to continue their education. The EMAs would be welcomed by businesses as a means of support to increase skills levels in Wales.

Comparisons of School Budgets in Wales and England 2003-04

- The Minister agreed that when the Chancellor of the Exchequer made budgetary announcements for schools in England, this sometimes caused confusion. Wales, Northern Ireland and Scotland operated on different bases;
- In Wales, funds for schools were distributed essentially via the local authority revenue settlement. In England a greater proportion of funding took the form of direct grants for schools;
- The responsibility for setting school budgets lay with individual local authorities in Wales, which the Minister said she supported
- There was no consequential funding from the Chancellor's budget for the Assembly block for this year or 2005-06. But there would be for 2006-07 and 2007-08 and it would be for the Welsh Assembly Government to determine the allocation of these funds;

- The comparison of school budgets in Wales and England demonstrated that funding for schools in Wales was keeping pace with funding in England;
- An additional £33m had been included in the local government revenue settlement for the implementation of the national workload agreement for the reduction in teachers' workload, this had to be found from existing resources since there had been no consequential new money/as no consequential funding had been made available for this;
- In future the monies for assisting ethnic minority achievement would need to be moved from the Better Schools Fund (formerly known as GEST) since it supported on-going activity
- The school budget forums introduced in all authorities in Wales in December 2003 would have a significant impact on consideration locally of schools budgets;
- The Minister said that she was minded to find ways of increasing transparency within the system: the publication of comparative figures had gone some way to improve the transparency of the process.
- The Minister for Finance and Local Government had agreed that the teaching unions should be invited to submit evidence to the spending review for 2005-06 budget and to the distribution sub-group about to pressures in the education budget;
- There were fewer restrictions this year on the ability of local authorities to transfer funding between the sub-heads in the Better schools budget – the only restrictions related to ethnic minority achievement and funding for ICT. In the past many local authorities had underspent their GEST allocations, for continuing professional development.

Careers Wales

- The report on the review of Careers Wales was available on the Assembly's website. The Chair asked the Clerk to circulate the web link to Members;
- Careers Wales had combined seven organisations, who had previously operated independently and had created a consistent, all-age, advice and guidance service;
- Careers Wales online would be launched in September 2004;
- A recent Organisation for Economic Co-operation and Development (OECD) report had suggested that Wales was a world leader in careers guidance services;
- Stakeholders felt that the service was delivering well and there had been some favourable Estyn reports; and
- The Minister suggested that it would be useful for Careers Wales to appear before the Committee in the autumn term to report progress.

Work Based Training Tendering

- In response to a question from Owen John Thomas, the Minister undertook to provide information subsequently on the number of training providers that had closed down or ceased

offering training in Wales since the inception of ELWa on 1 April 2001;

- Jeff Cuthbert noted that training providers may have closed down or ceased offering training in Wales for a variety of reasons, not necessarily arising from their relationship with ELWa;
- The Minister agreed and noted that ELWa had, to date, rolled over its contracts with most of the providers that it had inherited contacts with from the Training and Enterprise Councils in 2001;
- However, the Minister stressed that it was important that training providers were providing the highest quality provision-the tendering exercise would put a strong emphasis on quality as well as facilitating a substantial claim on additional European funding; and
- Tendering was on course and training providers would be notified of outcomes at the end of May. The Committee would have the opportunity to consider work-based learning price harmonisation in June when the Minister would bring a report to Committee, following the completion of the tendering exercise.

Secondary Legislation

- Section 21 of the Minister's report set out proposed amendments to regulations concerning pupil exclusions and appeals. These regulations were not included in the current schedule of forthcoming secondary legislation. This matter was deferred to item six on the agenda.

Item Three: Consideration of Secondary Legislation

Papers: ELL(2) 06-04 (p.2 - p.10)

3.1 The Committee had previously identified items of secondary legislation it wished to scrutinise, namely:

ELL-13-04 The Education (School Teachers' Qualifications)(Wales) Regulations 2004;
ELL-14-04 The Education (Specified Work and Registration) (Wales) Regulations 2004;
ELL-15-04 The General Teaching Council for Wales (Functions) (Amendment) Regulations 2004; and
ELL-16-04 The School Teachers (Consequential Amendments) Regulations 2004

3.2 Members were provided with a summary of the consultation response and also the Assembly Government's comments on these responses, together with their proposed amendments.

3.3 The Chair asked the Minister to introduce the draft regulations; the following points were raised:

- From the summary of responses to the consultation on the draft regulations and guidance, the majority of respondents had been in favour of the Welsh Assembly Government's proposals;
- Regulations ELL 14-04 mainly supported the implementation of tackling teachers' workload;
- The regulations did not make it compulsory for support staff to be used but offered opportunities under statutory definitions. There was no guidance currently available;
- The regulations set clear conditions for when support staff could carry out specified work; and
- The Minister said that she opposed Janet Ryder's amendment but that she was content to consider

Mark Isherwood's two amendments to the guidance and seek legal advice on the terminology.

3.4 The Chair then invited Janet Ryder to introduce her amendment and she made the following points:

- Classroom assistants already made a significant contribution in support of classroom teachers and this was welcomed;
- The duties set out in regulation 6 of ELL 14-04 were acceptable for qualified teachers but not for non-qualified teachers;
- Neither UCAC nor NUT Cymru supported these regulations;
- Paragraph 8 would create the potential for a two-tier teaching system; and
- Teaching should be carried out only by qualified teachers.

3.5 The Chair invited comments from other Members:

- David Davies supported the amendment and said that the NUT did not support the proposals. He felt that it was unacceptable for non-teachers to take classes and that it was 'education on the cheap'; and
- The Chair asked for clarification on the interpretation of paragraph 8b: did a teacher have to present in the classroom with a higher level teaching assistant (HLTA) or could the teaching assistant be left alone to supervise a class?

3.6. In response, the Minister made the following points:

- The Welsh Assembly Government wanted to support the teaching profession by helping to reduce their workload;
- A whole range of support staff currently operated in schools e.g. clerical staff, teaching assistants, SEN assistants and school nurses;
- Non-teaching unions had signed up to the regulations and guidance;
- There was no evidence that teaching would become a two-tier profession;
- The National Association of Headteachers (NAHT) and the Secondary Headteachers' Association (SHA) had fully signed up to the regulations;
- The concerns of NUT Cymru and UCAC were ill founded as the Assembly Government had no intention of downgrading the profession by removing its graduate status;
- The Welsh Assembly Government had specified in the regulations what teachers were required to do; and
- Mike Harper, Head of the Teaching and Leadership Division, responded to the Chair's query and said that a HLTA could be left alone to supervise a class, provided that the teacher and headteacher were content. The Minister added that the teacher would have to develop work plans.

3.7 The Chair invited the Committee to vote on Janet Ryder's amendment:

Amendment 1 (in the name of Janet Ryder AM)

The Education (Specified Work and Registration) (Wales) Regulations 2004

Schedule 2: Delete paragraph 8.

The following voted for the amendment:

Peter Black AM

David Davies AM

Mark Isherwood AM

Owen John Thomas AM

Janet Ryder AM

The following voted against the amendment:

Leighton Andrews AM

Jane Davidson AM

Jeff Cuthbert AM

Irene James AM

Denise Idris Jones AM

As it was a tied vote 5/5, the Chair used his casting vote to reject the amendment, in accordance with Presiding Officer's guidance.

3.8 The Chair invited Mark Isherwood to introduce his amendments and he made the following points:

- There was a need for the delivery mechanisms of SEN to be acknowledged in paragraph 2.8 of the guidance;
- There was a need to acknowledge the reward of good behaviour and the management of bad behaviour;
- For ELL-13-04 The Education (School Teachers' Qualifications)(Wales) Regulations 2004, there should be a requirement for deaf awareness training for teachers of hearing impaired pupils and also for FE qualifications being applicable in schools; and
- There was also a need for dual evaluation of further education lecturers and school sixth form teachers, in terms of parity of pay and performance management.

The amendments were as follows:

Amendment 2 (in the name of Mark Isherwood AM)

Professional Standards for Higher Level Teaching Assistants (Guidance)

Paragraph 2.8: Add at the end..."and know the key factors that that can affect the way SEN pupils learn."

Amendment 3 (in the name of Mark Isherwood AM)

Professional Standards for Higher Level Teaching Assistants (Guidance)

Paragraph 2.9: Delete remainder of sentence after "...to establish a..." and replace with "...purposeful and disciplined learning environment, to promote good behaviour and to manage bad behaviour."

3.9 The Minister said that she was content to accept the amendments in principle but would seek legal advice on the exact wording of any changes. The regulations were scheduled to be debated in plenary for 28 June 2004, which would provide an opportunity for Members to comment on the amended regulations.

3.10 The Committee, including the Minister, supported the principles of these amendments and so the Chair decided that there was no need for a vote.

3.11 Joanest Jackson said that there was a need for some minor drafting changes in the regulations, as dates would need to be reconciled with existing legislation.

3.12 The Chair asked the Clerk to prepare a report of this item for Business Committee.

Item Four: Policy Review - School Transport - Issues Paper

Paper: ELL(2) 06-04(p.11)

4.1 The Chair welcomed Ann MacGregor, Schools Management Division and Andrew Hemmings, Transport Policy Division, who had jointly prepared an issues paper. Annex C of the paper outlined areas of suggested enquiry, which the Committee might wish to focus on as part of its review.

4.2 The Chair informed Members that arrangements were in hand to appoint an expert adviser to assist the Committee with this policy review. Three candidates would be interviewed towards the end of May.

4.3 The Chair invited the Minister to introduce the paper. Then the Chair invited Members to comment on what they wished to be included in the Committee's review. The following issues were raised:

- Owen John Thomas felt that single deck buses were safer than double deck buses; the '3 for 2' seating rule needed reviewing; there was a need to look at provision for those children undertaking the Foundation Stage (3-4 year olds) and those attending denominational and Welsh medium schools; the constraints of working on a cost neutral basis was unlikely to result in finding a solution and most accidents occurred on dismount of school bus vehicles - in the USA, vehicles were not allowed to overtake yellow school buses;
- Leighton Andrews supported Owen John Thomas's comments concerning the right of pupils to free travel to Welsh medium schools if outside of designated boundaries; and there were inconsistencies in approaches to provision of free school transport amongst LEAs;
- Jeff Cuthbert said that the review should include a risk assessment of routes that pupils had to use; for example, busy main roads with single pavements; walking distances had been prescribed in legislation in the late 1940s which was now outmoded; and school children were encouraged to walk to school, as long as it was safe to do so - this showed the need for a joined-up review;
- Janet Ryder said that there was a need to consider whose responsibility it was for school pupils to arrive in school on time and that there was a need to take into account traffic around the school and 'out of school' parking;
- Mark Isherwood endorsed Jeff Cuthbert's comments and declared that all his children received free school transport; there was a need to consider provision of transport for children with SEN; transport to accommodate the free school breakfast initiatives should be taken into account; the availability and use of public transport needed examination and how the Assembly Government/ local authorities could work in partnership with private companies to ensure safety standards were met;
- David Davies stated that it was particularly difficult and dangerous for children to walk to school in rural areas. He was concerned that if free school transport was withdrawn, that this would increase the number of pupils taken to school by private car;
- Peter Black suggested that school opening/closing times might be staggered to ease traffic congestion and that there was a need to review non-contract provision; and
- The Minister said that Annex 1 of the paper for the Cabinet Sub-Committee for Children and Young People's paper on School Transport contained information on responsibilities.

4.4 The Committee was content to use the suggested parameters in Annex C of the issues paper as a framework for the review, in addition to Members' comments above.

4.5 The Chair thanked Ann MacGregor and Andrew Hemmings for attending. He reminded the Committee that evidence gathering for the review would begin on 19 May.

Item Five: Draft Bill - School Travel Schemes

Paper: School Travel Schemes and Prospectus

5.1 The Chair invited the Minister to introduce the draft bill and she made the following points:

- The draft Bill was designed to address the difficulties surrounding statutory walking distances

and would allow local education authorities (LEAs) to experiment with local solutions for local problems;

- Every scheme would be subject to extensive local consultation;
- The Bill would enable LEAs to charge modest fares;
- The legislation would permit LEAs to bid for pilot schemes from 2006;
- The Free School Meal (FSM) index would be used as an indicator for pupils from low income families in England, but not in Wales; and
- It was hoped that LEAs would be imaginative in their proposed pilot schemes.

5.2 The Chair told Members that the Assembly's Economic Development and Transport Committee and also the House of Commons Education and Skills Select Committee and the Transport Select Committee would also consider the draft Bill. The Chair stated that there might be an opportunity to address the Education and Skills directly, if Members felt this would be useful.

5.3 Members made the following suggestions and observations:

- Scheme Objectives: Members were broadly content with the objectives of the school travel schemes, subject to comments below;
- Variable Charges: the pilot schemes would provide an opportunity to create zones so that pupils could be charged different fares, depending on the length of their journey: a similar system to that operated by the London underground. It was felt that this might attract more pupils onto buses;
- Disincentives: if charges were levied for transport that was previously free, then more parents might decide to transport their children by car;
- Rural and Upper Valley Areas: travel schemes should take account of the relatively large distances travelled by pupils from rural and upper valley areas;
- Costs: the requirement for pilot travel schemes to be cost neutral was too onerous and would inhibit, rather than encourage, innovation. Funding should be provided by the Welsh Assembly Government, to cover additional administration costs for pilot schemes in Wales;
- Safety: the Bill should address fundamental safety issues, such as the type and condition of buses used for school transport and also the 'three for two' concession, which was considered to be an anachronism;
- Means Testing: this should be avoided, if possible;
- Measuring Benefits: in assessing the bids from LEAs, due account should be taken of how the benefits of schemes could be measured: for example, in reducing the number of cars dropping off and picking up pupils at the start and end of the school day;
- 'Out of School Hours' Activities: travel schemes should take account of the needs of pupils attending activities outside normal school hours;
- Consultation Period; it was felt that the consultation period should be extended, in the light of the forthcoming local authority elections.

5.4 The Chair asked the Clerk to prepare a draft report for Business Committee, The draft report would

be considered at the Committee meeting on 19 May.

Item Six: Secondary Legislation Forward Look and Schedule of EU Deposited Documents

Papers: ELL(2) 06-04 (p.12 and p.13)

6.1 The Chair invited Members to identify items of secondary legislation for consideration. The following comments were raised:

- David Davies welcomed the comments in section 21 of the Minister's report relating to exclusions procedures, currently provided for in The Education (Pupil and Exclusions and Appeals) (Maintained Schools) (Wales) Regulations 2003 and The Education (Pupil and Exclusions and Appeals) (Pupil Referral Units) (Wales) Regulations 2003 and Guidance - Circular (1/2004), Exclusion from Schools and Pupil Referral Units;
- David Davies welcomed the proposal from the Welsh Assembly Government to provide that the standard of proof used in all exclusion cases would be the civil standard of a balance of probabilities. He expressed concern that any other high court judgements could revoke this principle. The Minister stated that she did not anticipate any changes;
- The Chair asked Members to inform the Clerk of any items of secondary legislation that they wished to consider; and
- Mark Isherwood referred to paper 13: COM (2004) 152 final - Interim report on the implementation of the second phase of the Leonardo da Vinci Programme (2000-2006) EU Ref: 7210/04. He commended a recent publication: ' The Mismanagement of Talent, Employability and Jobs in the Knowledge Economy' produced by scholars of Cardiff University and Lancaster University.
- Members did not identify any items of secondary legislation or EU documents for future scrutiny.

Item Seven: Minutes of the previous meeting

Paper: ELL(2) 05-04(mins)

7.1 The Chair invited Members ratify the minutes of the meeting of 1 April 2004.

7.2 Owen John Thomas requested that paragraph 3.14 should be amended to include the Minister's response to a question concerning her power to direct LEAs to provide SEN services on a regional basis. The Clerk said that he would investigate and amend the minutes accordingly.

Action Points

- The Minister undertook to provide a note to Committee outlining dates of future stakeholder/

local meetings for the Free School Breakfast Initiative;

- The Clerk would circulate the web link for the report of the review of Careers Wales to the Committee;
- The Minister suggested that it would be useful for Careers Wales to update the Committee on its progress in the autumn term;
- The Minister undertook to provide any available information in the next Ministerial report on the number of training providers that had ceased to exist since the inception of ELWa-National Council (1 April 2001);
- The Minister to report to Committee on tender pricing and price harmonisation of work based tendering in May;
- The Clerk to prepare a report of the Committee's consideration of the secondary legislation (ELL13-04-16-04) for Business Committee;
- The Clerk to prepare a draft report for Business Committee on the draft school transport Bill. The Committee would consider this draft report at its meeting on 19 May;
- The Clerk to amend paragraph 3.14 of the minutes of the meeting held on 1 April.

Annex A - Cumulative schedule of action points arising from meeting

Annex A

Education and Lifelong Learning Committee

Cumulative schedule of action points arising from Committee meetings

Meeting Reference	Date	Action	Responsibility	Status
ELL(2) 06-04	28 April 04	Minister's Report - The Minister undertook to provide a note to Committee outlining dates of future stakeholder/local meetings for the Free School Breakfast Initiative	Minister	Completed
ELL(2) 06-04	28 April 04	Minister's Report - The Clerk would circulate the web link for the report of the review of Careers Wales to the Committee	Minister/ Committee Clerk	Completed
ELL(2) 06-04	28 April 04	Autumn Term - The Minister suggested that it would be useful for Careers Wales to update the Committee on its progress in the autumn term	Committee Clerk	Pending

ELL(2) 06-04	28 April 04	Minister's Report - The Minister undertook to provide any available information in the next Ministerial report on the number of training providers that had ceased to exist since the inception of ELWa-National Council (1 April 2001)	Minister	Pending
ELL(2) 06-04	28 April 04	Minister's Report - The Minister to report to Committee on tender pricing and price harmonisation of work based learning in May.	Officials	Pending
ELL(2) 06-04	28 April 04	Secondary Legislation - The Clerk to prepare a report of the Committee's consideration of the secondary legislation (ELL13-04 -16-04) for Business Committee	Committee Clerk	Pending
ELL(2) 06-04	28 April 04	Draft School Transport Bill - The Clerk to prepare a draft report for Plenary on the draft school transport Bill. The Committee would consider this draft report at its meeting on 19 May	Committee Clerk	Pending
ELL(2) 06-04	28 April 04	Minutes (1 April 2004) - The Clerk to amend paragraph 3.14 of the minutes of the meeting held on 1 April	Committee Clerk	Pending

Actions outstanding from spring term 2004

Meeting Reference	Date	Action	Responsibility	Status
ELL(2) 02-04	28 Jan 04	School Transport Policy Review - Committee Clerk to make arrangements for the appointment of an expert adviser to assist the Committee with the review of school transport	Committee Clerk	In hand
ELL(2) 03-04	25 Feb 04	PE and School Sport - The Minister would report to Committee after the Easter recess, when the 30 sports development centres were in place	Minister	Pending

ELL(2) 03-04	25 Feb 04	Children's Commissioner/Clwyd Report - The Commissioner to be invited to address the Committee on the Clwyd Report	Committee Clerk	Pending

Outstanding Action from 2003

Meeting Reference	Date	Action	Responsibility	Status
ELL(2) 02-03 (p.1) Minister's Report	9 Jul 03	Student Choices for HE - Minister to investigate the availability of research into student preferences for higher education and report back to Committee	Minister	Pending
ELL(2) 02-03 (p.1) Minister's Report	9 Jul 03	National Insurance Costs for Local Authorities Minister to provide a note for Committee on National Insurance costs for local authorities	Minister	Pending