

Education Lifelong Learning and Skills Committee

ELLS(2) 11-06(Paper1) Annex B

CLYWCH

The Children's Commissioner for Wales' report of his examination into allegations of child sexual abuse in a school setting.

THE RESPONSE OF THE WELSH ASSEMBLY GOVERNMENT

An updated response presented to the Education & Lifelong Learning Committee on 5 July 2006

PART 1: Recommendations specifically directed to the Welsh Assembly Government

21.3 I recommend that the Welsh Assembly Government and the General Teaching Council for Wales and the DfES take steps to ensure that teachers receive specialist input in their professional qualifying training programme about the way in which abusers operate and that the findings of this report form part of that training, this recommendation to be implemented within 2 years of the publication of this report.

Current Position

The Assembly Government has consulted on revised Qualified Teacher Status (QTS) Standards that trainee teachers must meet; and revised requirements for the provision of initial teacher training (ITT) courses, incorporated in criteria for ITT accreditation by the Higher Education Funding Council for Wales. We have also consulted on a draft information document "Becoming a Qualified Teacher" which sets out in one publication the QTS Standards and the requirements for the provision of ITT courses, provides some explanatory material and notes the statutory background.. A supporting draft circular, "Becoming a Qualified Teacher: Handbook of Guidance", contains non-statutory guidance on the aims and scope of both the QTS Standards and requirements for the provision of ITT.

The Assembly Government now proposes to introduce legislation (the Criteria for Initial Teacher Training Accreditation by the Higher Education Funding Council for Wales 2006), which includes requirements for the provision of courses of ITT. The requirements for ITT courses in this legislation specifically include a section which meets the Commissioner's recommendation 21.3. We also propose issuing the final version of the handbook of guidance, which will include coverage of this issue and provide information for ITT providers on particular areas of concern raised in the Commissioner's report.

Subject to Assembly approval, the legislation is planned to come into force on 1 September 2006 on a voluntary basis, becoming mandatory for courses starting in September 2007. The provision for it to take effect from 1 September 2006 on a voluntary basis will allow ITT providers a transitional year (2006-07) to review course content and materials to reflect the new legal requirements. In the meantime, all ITT providers in Wales have confirmed to us that they are following the principles set out in the recommendation.

Once this legislation is made, we will be in touch with colleagues in the other countries to provide details of our measures so that they can take these into account when considering these issues.

21.5 I recommend that the Welsh Assembly Government issues guidance within 6 months of the publication of this report which requires the governors of all schools, whether they be community, voluntary aided, voluntary controlled, foundation or independent schools and further education colleges to have a whistleblowing policy in place and that all teachers and non teaching staff are informed as to its operation.

Current Position

FE Institutions already have whistleblowing guidance in place.

LEAs, as the employers of school staff in community and voluntary controlled schools, have been asked to submit copies of their whistleblowing policies to the Assembly Government. Some LEAs have made it clear in those policies that they apply to LEA based staff and school staff.

The draft guidance for governing bodies on whistleblowing in schools and a model policy for school staff will issue for consultation in July 2006.

21.7 I recommend that the Welsh Assembly Government issue guidance within 12 months of the publication of this report on how allegations of child abuse made against teaching and non teaching staff should be investigated. The guidance should consider the:

(i) Joint NEOST /Teacher Union guidance on Education Staff and Child

Protection: Staff Facing an Allegation of Abuse

(ii) Practice Guide to Investigating Allegations of Abuse against a Professional or Carer in Relation to Looked After Children

(iii) All Wales ACPC Child Protection Procedures.

(iv) National Assembly for Wales Guidance 'Working Together to Safeguard Children'.

Current Position

NAfW Circular 45/2004 "Guidance on Staff Disciplinary Procedures" was issued to school governing bodies in November 2004.

We will be reviewing and revising Circular 45/2004 with a view to making more of the guidance statutory. Work on the revision of Circular 45/2004 must reflect the recently made "Staffing of Maintained Schools (Wales) Regulations 2006". These include two new provisions requiring governing bodies to appoint an independent non governor member with voting rights on staff dismissal/disciplinary committees and dismissal/disciplinary appeal committees in cases involving child protection matters (which came into effect 1 April 2006) and to appoint an independent investigator to investigate child protection allegations against staff (due to come into effect on 1 September 2006).

The revised guidance will also include those parts of the guidance issued by DfES on "Safeguarding Children in Education: Dealing with Allegations of Abuse Against Teachers" that deal with the non-devolved issues relating to the police and Crown Prosecution Service. We are also looking at including a model procedure for school governing bodies to adopt. Consultation is anticipated to commence Autumn 2006.

21.8 I recommend:

(i) that the responsibility for deciding whether to lay charges and to proceed with an investigation and hearing becomes the responsibility of the local education authority, because of its relationship with teachers, non teaching staff and its membership of the Area Child Protection Committees in Wales.

(ii) where an investigation is commenced, it should be undertaken by a

specialist personnel officer of the local authority who should also present the case unless a solicitor or counsel is instructed.

(iii) that four new independent tribunals be established, covering four parts of Wales, chaired by a legally qualified person and having two other members one of whom will be a teachers' trades union nominee and the other a governor nominee to hear the evidence and to make findings of fact on the balance of probabilities. Those chairing such tribunals to be appointed by a process involving both teachers' trade unions and the local education authorities.

21.9 I recommend that the Welsh Assembly Government establish a task group within 6 months of the publication of this report, with representatives from all interested parties, charged with bringing forward a set of proposals to implement the recommendation I have made in respect of schools' disciplinary tribunals. The interested parties should include:

(i) all teachers' trade unions

(ii) governor representatives

(iii) local education authority officials

- (iv) child protection and legal experts
- (v) children and young people
- (vi) General Teaching Council representatives
- (vii) Welsh Local Government Association
- (viii) police.

Matters to be considered by the task group to include the threshold for referrals, appeals, tribunal rules, the interrelationship with police investigations and the recording of investigations on the files of teaching and non teaching staff.

Current Position

Consultation on the draft "Staffing of Maintained Schools (Wales) Regulations 2006" took place between 29 July and 28 October 2005. The regulations were made on 21 March 2006 and came into effect 1 April 2006, with the exception of the provision requiring governing bodies to appoint an independent investigator to investigate child protection allegations against staff, which is due to come into effect on 1 September 2006 to allow time for the service to be established. The regulations also contain provisions requiring governing bodies to appoint an independent non governor member with voting rights for staff dismissal/disciplinary committees and dismissal/disciplinary appeal committee in cases involving child protection matters.

The Children's Commissioner had indicated he considered these proposals adequate alternatives to his recommendations on this issue.

21.12 I recommend that the Welsh Assembly Government, in partnership with the DfES, ACCAC and the equivalent qualifying curriculum and assessment authorities in Scotland, Northern Ireland and England, consider the role of examining bodies across the UK with regard to child protection arrangements within 12 months of the publication of this report.

Current Position

- Action on this recommendation has been completed.
- "Safeguarding and protecting children and young people – A guide and good practice exemplification for awarding bodies" issued in April from the regulatory authorities in Wales, England and Northern Ireland, endorsed by the Scottish Qualifications Authority.
- The guidance was developed under the aegis of a Steering Group with representatives from the Education departments and Regulatory Authorities in Wales, Scotland, England and Northern Ireland. Consultation on draft guidance ended on 30 November 2005.

- Prior to full consultation the draft guidance issued for initial consultation with SSIW (who have already contributed to the drafting), Estyn, WJEC, the Joint Council for Qualifications and the Executive Committee of the Federation of Awarding Bodies.
- ACCAC also wrote to the Children's Commissioner and had a positive meeting with the Assistant Commissioner to discuss the document before its issue for wider consultation.

21.13 I recommend that the Welsh Assembly Government, in partnership with the DfES, ACCAC and the equivalent qualifying curriculum and assessment authorities in Scotland, Northern Ireland and England, consider the way in which drama is taught and examined in schools and further education colleges, with the aim of producing practice guidance within 2 years of the publication of this report that will include consideration of the following issues:

- i. selection of appropriate drama texts in education and examinations;
- ii. adult participation in school drama and drama practical examinations;

(iii) safe teaching of drama, in particular the teacher's role in pupil improvisation and method acting;

(iv) venues and timings for drama examinations and rehearsals;

- i. video recording of children and young people in drama rehearsals and practical examinations and the need to obtain parental consent

(vi) the practice of involving younger pupils in drama practical

examinations of older pupils;

(vii) monitoring and sanctions in relation to the late submission of scripts for practical examination to examining boards;

(viii) express guidance relating to sexual content and language, intimate physical contact and nudity in drama practical examinations and lessons;

(ix) the duties of schools and college management in monitoring the

implementation and observance of guidance.

Current Position

- We are on course to issue guidance to schools, colleges and other learning providers in the summer. Hard copies will be distributed early in the Autumn term.
- The great majority of responses to the consultation on "Teaching Drama: Guidance on Safeguarding Children and Child Protection for Managers and Drama Teachers", which ended on 7 April 2006, supported the guidance.
- The guidance was developed under the aegis of a steering group which includes

representatives from the Education departments and Regulatory Authorities in Wales, Scotland, England and Northern Ireland and also includes representatives of Estyn and SSIW.

- To complement its work, the Welsh Assembly Government convened a Seminar of experts in the field of drama to gain initial specialist practitioner input into guidance for the teaching of drama (and the expressive arts) in schools and colleges.

21.14 I recommend that the Welsh Assembly Government issue guidance, within 12 months of the publication of this report, as to what information can be shared where there are allegations of child abuse whether or not findings have been made. Such guidance should include what information can be shared with the voluntary sector and any other body through which the individual has or may have access to children.

Current Position

The issue of sharing information was raised in the consultation on the establishment of Local Safeguarding Children's Boards. The final guidance, which has been subject to extensive discussion with the relevant agencies, is now likely to be published in July 2006 alongside the regulations that are needed to enable the Boards to be established. These regulations were approved in Plenary on 26 June 2006 and provide for the establishment of Safeguarding Boards from 1 October 2006.

21.17 I recommend the Welsh Assembly Government review the Children (Performances) Regulations 1968 and the guidance thereto so as to address the weaknesses outlined in my report in the current arrangements for safeguarding the welfare of children in Wales when performing in television or other media, within 12 months of the publication of this report.

Current Position

The proposed review is underway. Draft regulations are being finalised and will be issued for consultation during Summer 2006.

21.18 I recommend local education authorities to be issued with guidance by the Welsh Assembly Government on best practice to fulfil their current duties and responsibilities under the Children (Performances) Regulations 1968 within 6 months of the publication of this report.

Current Position

A consultation paper proposing best practice guidance for LEAs on discharging their duties under the Children (Performances) Regulations 1968 was issued in July last year and replies were sought by September. Final guidance is being prepared in the light of the replies received, for issue during Summer 2006 alongside the revised Children (Performances) Regulations in response to Recommendation 21.17.

21.25 I recommend that the Welsh Assembly Government's "Guidance on Procedures for Dealing With Complaints to Governing Bodies" be amended to include clear and unambiguous guidance on the responsibilities of relevant parties if complaints raise child protection concerns.

21.26 I recommend that the Welsh Assembly Government's "Guidance on Procedures for Dealing With Complaints to Governing Bodies" is amended to make it clear that the Children's Commissioner for Wales has powers, under the Care Standards Act 2000 and the Children's Commissioner for Wales Act 2001, to review complaints procedures in schools and to review individual cases.

21.27 The Welsh Assembly Government's "Guidance on Procedures for Dealing With Complaints to Governing Bodies" shows an awareness of the difficulties in achieving sufficient independence in all stages of the investigative process of a complaint and in adjudication in schools, especially small schools. I share this concern but remain unconvinced that the remedies proposed will prove practicable and effective. Nonetheless, I feel the arrangements proposed should, amended as I have suggested, be given the chance to be tested and therefore that they, together with "Complaints Involving Pupils" should be issued as statutory guidance without delay and not later than 1 September 2004. My office will conduct a Review of these arrangements after they have been in force for 1 year.

21.28 I recommend that the Welsh Assembly Government takes the necessary steps to ensure that all the proposals within its consultation document 'Procedures for Complaints involving Pupils' are placed on a statutory footing.

Current Position

Work on guidance to governing bodies on handling complaints involving pupils is nearing completion. The document will be issued to schools for the start of the new school year September 2006.

To address some of the Children's Commissioner's specific concerns relating to our complaints procedure guidance, we will be highlighting that complaints received in schools involving child protection issues should be dealt with via the governing body's staff disciplinary procedures and not as a general complaint.

The consultation on the pupil complaints guidance also sought views to putting more of the guidance contained in Circular 03/2004 "School Governing Bodies Complaints Procedures" on a statutory basis.

We will be looking at merging the guidance for governing bodies on dealing with complaints involving pupils with the general complaints procedures guidance into one comprehensive document, including a model complaints procedure, and at putting more of the guidance on a statutory basis in due course.

21.29 I recommend that the Welsh Assembly Government devise a national strategy for the provision of an independent children's counselling service for children and young people in education including provision of appropriate support to children during disciplinary, child protection, complaints and exclusion processes within 12 months of the publication of this report. This national strategy should also consider teachers' pastoral care skills, training and support and the respective

roles within pastoral care of teaching staff, counsellors and educational welfare staff.

Current Position

The recommendation that the Welsh Assembly Government should develop a national strategy on counselling for school pupils has been accepted.

A report on the outcomes of the Assembly Government's initial scoping study was presented to the ELL committee on March 16th, along with an update of current plans on taking the work on developing a national strategy forward.

Next steps will be to evaluate the effectiveness of existing models of counselling in secondary education in Wales and other parts of the UK to identify:

- whether current Welsh models are sufficiently robust and flexible to apply more widely throughout Wales; and
- if they are adaptable enough to fit in with the new planning and joint working arrangements under the Children Act 2004.

The findings and recommendations from the evaluation will be used to inform and update the counselling strategy and to consider how funding available for 2007-08 and 2008-09 will be used.

External partners have been invited to participate in a working group to advise on the development of a National Strategy for Counselling in Education in Wales for consultation during the Autumn. The strategy will bring together guidance for schools about developing counselling provision as well as guidance for local authorities on developing a counselling service for children and young people and consider whether services should be education-based or wider community-based provision.

21.30 I recommend that the Welsh Assembly Government within 3 months of the publication of this report require all school governing bodies to ensure that children are informed in their school of the availability and purpose of relevant services, including ChildLine, the NSPCC Child Protection Helpline, social services, the Children's Commissioner for Wales and advocacy services.

Current Position

The forthcoming guidance on handling complaints involving pupils will provide information on advocacy and related matters. It will be issued in time for the start of the new school year, September 2006.

Part 2: Recommendations not directed principally to the Welsh Assembly Government but where we have a substantial involvement with associated guidance.

21.1 I recommend that in any child protection investigation the wishes and views of the child about the conduct of the interview, including their wishes about the nature of the support they prefer, are

always sensitively ascertained and recorded and form part of the interview planning process and that the All Wales Child Protection Procedures are amended accordingly within 12 months of the publication of this report.

21.2 I recommend that consideration always be given by the police to informing a child of the outcome of a police investigation, taking great care to explain what has happened and that the All Wales Child Protection Procedures are amended accordingly within 12 months of the publication of this report.

21.21 I recommend to chairs of ACPCs that if a serious case review is undertaken the independent writer for the overview report should participate in the review group meetings.

21.24. I recommend that ACPC chairs ensure that the All Wales Child Protection Procedures are amended within 6 months of the publication of the report to give guidance on the retention and storage of documents which would allow for cases to be reviewed as appropriate over a longer period.

Current Position

The All Wales Child Protection Procedures are being substantially re-written to reflect the change from Area Child Protection Committees to Local Safeguarding Children Boards.

The Welsh Assembly Government guidance for the Local Safeguarding Children Boards either includes or reinforces existing guidance on these particular issues. It is scheduled for publication in July 2006.

With regard to 21.21, we are considering the preparation of separate guidance on the format and preparation of serious case reviews, to guide Local Safeguarding Children Boards and to achieve, as far as possible, a consistent standard across Wales.

21.6 I recommend that, on appointment in any school or further education college in Wales, every teacher and member of non teaching staff should receive written and oral instruction on whistleblowing procedures and how to operate them. This should then be reinforced on a regular basis.

Current Position

The guidance referred to at Recommendation 21.5 above cover whistleblowing in schools and including a model policy for school staff is being produced. It is anticipated the document will be issued for consultation July 2006.

21.31. I recommend that ACCAC within 12 months of the publication of this report review its Personal and Social Education Framework in the light of my report and decide whether changes or additions need to be made.

Current Position

- The Assembly Government's response to the Children's commissioner explained that the review of the PSE Framework was being taken forward by ACCAC (now the qualifications and Curriculum Group in the Assembly's Department for Education Lifelong Learning and Skills as an integral part of the review of the National Curriculum for Wales.
- As part of the Wales Curriculum Review, the then ACCAC established a PSE Advisory Group to assist with the revision of the PSE Framework. This group received a presentation from the Education Adviser for NSPCC Cymru on the Clywch Report and the potential implications for the PSE Framework. Consequently, textual revisions have been made to the PSE Learning Outcomes relating to child protection and information on the availability of services and the Education Officer for NSPCC Cymru, (an advisory group member) checked the revised text for wording suitability, continuity and progression.
- The revised Learning Outcomes for each Key Stage have been submitted to the ACCAC Cross- Phase and additional Educational Needs monitoring group. The PSE Advisory Group has completed the revision and has taken account of stakeholders' views in revising the PSE Framework.
- In Spring 2007, we will undertake a formal consultation on the proposed revised PSE Framework. The Assembly will subsequently issue PSE Framework and Guidance to schools to support implementation of the finalised PSE Framework from September 2008