

# Education and Lifelong Learning Committee ELL (2) 16-04(min)

## Minutes

**Date:** Wednesday 1 December 2004

**Time:** 9.00am to 12.41pm

**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

Neil Thomas                      Head, Lifelong Learning Division

Elizabeth Taylor                      Head, Schools Management Division

Alan Lansdown                      Head, Pupil Support Division

David Clayton Pupil Support Division  
Judith Nedin Business Systems Division

**In Attendance:**

Peter Clarke Children's Commissioner  
Maria Battle Deputy Children's Commissioner

Shelia Drury OBE Chair, ELWa-NC  
Elizabeth Raikes Chief Executive, ELWA-NC  
Richard Hart Deputy Director of Learning , ELWa-NC

Dr John Graystone Chief Executive, fforwm  
Glyn Jones Vice Chair, fforwm  
Brian Robinson Member - fforwm

**Committee  
Service**

Chris Reading Clerk  
Holly Pembridge Deputy Clerk  
Joanest Jackson Legal Adviser

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

1.1 The Chair welcomed Members and the public to the meeting.

1.2 There were no apologies or substitutions.

1.3 There were no declarations of interest.

**Item Two : Minister's Report**

## **Paper: ELL2 16-04(p.1) and Annexes**

2.1 The Chair invited the Minister to introduce her report. The following points were made in introduction:

- A written statement outlining the provisions for Wales incorporated in the new Education Bill had been made available to Members. The Bill would be debated in Plenary in early 2005;
- Following the First Minister's recent announcement of further mergers of Assembly Sponsored Public Bodies (ASPBs) with the Assembly Government, the Minister had commenced the consultation process with the Wales Youth Agency; and
- The trustees of Howell's School for Girls had made an application to admit boys into the sixth form. The school had consulted widely and there had been no objections. The admission process could only be achieved through secondary legislation arrangements. As a result the Minister was seeking to disapply sections 1-3 of Standing Order 29. The Minister sought the Committee's views on this. After conferring with Members, the Chair confirmed that the Committee had no objection to this proposal, and he asked the Clerk to inform Business Committee.

2.2 The Chair invited Members to raise questions concerning the Minister's written report. The Minister gave the following responses to Members' questions:

### 2.3 European Union (EU) Structural Funds

- The timetable was known for the withdrawal of EU funds (2006-08). Organisations were already planning their exit strategies for EU structural funds. The Welsh Assembly Government had put substantial funding into the post-16 sector as a contingency measure;
- The development of the Credit and Qualifications framework would consider how to endorse non-accredited learning and recognising the time that learners devoted to their learning activities; and
- The First Minister, the Minister for Economic Development and Transport and the Minister herself, as Vice President of the European Association of Regional and Local Authorities for Lifelong Learning (EARLALL), had made appropriate representations to the European Commission. The Minister undertook to bring back reports relevant to education and training to the Committee.

### 2.4 Higher Education (HE) Management in Wales

- The Higher Education Funding Council for Wales's (HEFCW) recent audit report on the failed merger between the University of Glamorgan and the University of Wales Institute, Cardiff (UWIC) was an important document. The report demonstrated where the required levels of interaction between the two institutions were not achieved;
- The previous Education and Lifelong Learning Committee from the First Assembly had indicated that it wished HEFCW to have a strategic planning function for HE in Wales, whilst preserving individual HEIs' autonomy. The Committee had also desired financial levers to be in place to

encourage HEIs to develop strategically;

- HEIs in Wales need to build up critical mass in order to compete on a world platform. This meant that new practices had to occur in HEIs in order to achieve this;
- The HE sector's performance had increased in the last Research Assessment Exercise (RAE); Wales still rewarded research funding better than in England;
- The Minister agreed that it was vital to review and disseminate best practice;
- HEFCW also had an important role in encouraging the growth of Welsh medium education. The Welsh Assembly Government had made £3m in the wake of the steering group monitoring HEFCW's Welsh medium strategy. The Minister would respond to HEFCW's recent report on its strategy and would bring her response to Committee; and
- The Minister said that she was satisfied with the level of funding contributed to the HE sector in Wales by the Welsh Assembly Government. The Minister said however that there was a need to remain vigilant that individual HEIs were managing their finances appropriately. HEFCW had been satisfied that it could identify individual weaknesses.

## 2.5 Education for Sustainable Development and Global Citizenship

- The standard definition of sustainable development was contained in the Welsh Assembly Government's Sustainable Development Action Plan. FE institutions and providers would have to consider the impact of the action plan. ELWa was reviewing how this was being implemented in the sector. The Minister undertook to bring this information back to Committee; and
- The Minister undertook to inform the Committee of the legislation that included the definition of 'a safe outdoor environment'.

## 2.6 Primary Class Sizes

- Permissible exceptions related to schools and their catchment areas. The Minister invited Members to write to her with any specific cases;
- Estyn had stated that mixed age teaching was not detrimental to pupils provided it was undertaken well. Over 30% of pupils were taught in mixed age groups and Wales was achieving excellent results;
- The Minister acknowledged the achievements of Rhondda Cynon Taff Local Education Authority (LEA) for reducing its primary class sizes and complying with the class size quotas;
- The Foundation Phase from 3-7 years would focus on outcomes;
- The Welsh Assembly Government was ensuring that it focussed on providing opportunities for the whole education cohort and not a select group;
- Evidence had shown that reduced class-sizes were particularly beneficial for younger children and this meant that that it would be extended into the junior years; and
- LEAs had a statutory responsibility to review the class sizes in their localities.

## 2.7 Grant to Teacher Support Line Cymru (TSLC)

- The Minister undertook to advise the Committee how many telephone calls had been taken by the TSLC since 2002.

## 2.8 Devolution of Student Support/Rees Commission

- The Rees Commission was an independent commission and would produce independent proposals. The Commission was inviting views from a broad base, including political parties; and
- The remit of the group had included looking at how the HE sector could contribute to the public services agenda in Wales.
- Jeff Cuthbert asked whether the Commission would enter into dialogue with industry to explore the possibility of sponsorship in the form of grants and bursaries to students: also providing financial support for HE institutions for teaching purposes, as well as for research. The Minister undertook to check with the Commission, to see if these concerns were being addressed and then to write to the Chair.

### **Item Three: Minutes of Previous Meetings**

**Papers: ELL2 14-04(mins) and 15-04(mins)**

3.1 The Committee ratified the minutes of the previous two meetings held on

10 November and 18 November.

### **Item Four: The Children's Commissioner: The Clwyd Report**

**Paper: None**

4.1 The Chair welcomed Peter Clarke, Children's Commissioner and Maria Battle, Deputy Commissioner to the meeting. The Chair invited them to make a brief introduction; the following points are summarised below:

- The Clwyd report was the first piece of work of its type for the office of the Children's Commissioner;
- The Commissioner's office would be approaching the Welsh Assembly Government in due course for more definitive legislation;
- The inquiry had been a learning process e.g. the financial implications of undertaking such an inquiry;
- The Commissioner had been pleased and reassured by the Welsh Assembly Government's response but there were still a few issues that required resolution;
- The inquiry was conducted in accordance with statute, regulations and tribunal rules. The inquiry also had full police co-operation;
- Everyone who gave evidence to the inquiry received legal representation. Throughout the inquiry

there had been the opportunity to provide written and/or oral submissions; and

- An independent lawyer (QC) and an officer from the Tribunals Commission had inspected the proceedings and had declared the process to be robust and fair.

4.2 The Chair then invited Members to raise questions and the Commissioner and Deputy Commissioner gave the following the responses:

#### 4.3 Four Independent Tribunals

- The Commissioner accepted that there was a reasonable discussion to be had about his Tribunal recommendation. He favoured the establishment of independent tribunals for dealing with accusations.. The staff serving the tribunals would develop expertise and experience. The tribunals would be fair to staff subject to allegations. The process for all parties concerned had to be fair and expeditious;
- The cases that the Commissioner's office dealt with varied greatly but the principles and problems encountered were broadly the same. Headteachers took their advice from LEAs. There were still indications that teachers were allowed to resign or move posts without facing disciplinary action; school governors often found the disciplinary process to be unpleasant; and there was a problem with non-disclosure of evidence during disciplinary sessions. During a recent seminar held by the Commissioner's office, there had been a divergence in the opinion of governors in how to deal with specific cases; and
- Whilst the guidance issued from the Assembly Government was welcomed, there was a need for discrete support to the process.

#### 4.4 Delays Between Complaints and Procedures

- A delay between the registering of complaints and resolution of cases was fairly typical. Guidance from the Assembly Government would go some way to resolving these cases. The issue of adjudication was also an issue. It was hoped that the working group would also consider the issue of referrals;
- The Minister emphasised the importance of guidance Circular 45/2004. During staff disciplinary proceedings, the school governing body must determine and must complete inquiries even if the staff member in question resigns. The working group would be meeting for the second time in the New Year. Issues would be brought to Plenary in March; and
- The Minister also added that information surrounding the existing cases/complaints needed to be shared. Assumptions needed testing so as the Welsh Assembly Government could reach fully robust conclusions.

#### 4.5 Balance - False Allegations Against Teachers

- It was not in the interest of any party for to undergo a protracted process. There was a need for

justice for all parties involved; and

- Some young people never spoke up about the abuse they had encountered and suffered.

#### 4.6 Role of Awarding Bodies

- The Commissioner's office maintained close contact with the Welsh Joint Education Committee (WJEC)\* and was content that recommendations directed at the body were being acted upon. The Commissioner said that he was not as content with other bodies and said that he could write to Members with specific issues if they required further information;
- Richard Davies (Group Director - Department for Training and Education) said that as regards Recommendations 21.12 and 21.13 of the Commissioner's Report, he chaired a team consisting of representatives of all the regulatory bodies and education departments in the UK. It was committed to reporting in 2006. He told the Committee that the approach being taken by these representatives – and indeed by the whole team – had impressed him as notably serious, professional and thorough. The group would consider performance in a variety of contexts – not drama alone;
- The Minister said that she had met with the Joint Council for Qualifications and was also working closely with the WJEC; and
- The Commissioner said that he was content with the pace of implementation of recommendations in this area - the timescales were in this instance necessarily lengthy.

\*Jeff Cuthbert declared that he was a former employee of the WJEC.

#### 4.7 Media Organisations

- There were many media organisations in Wales and the Commissioner's office was compiling a list of all such organisations. LEAs were responsible for maintaining lists of registered chaperones.

#### 4.8 LEA Guidance

- LEAs needed to absorb the guidance; the Commissioner's office was there to provide advice and assistance to LEAs but there was still much work to be done;
- The Secretary of State for Education and Skills had recently announced plans for a pool of independent investigators. If this was to occur in Wales, such a process would need to be managed and appraised; and
- The Commissioner's office was monitoring LEAs closely in their dissemination of advice to governors. Generally, it appeared that governors were still insecure about processes and LEAs had clearer perceptions of their responsibilities.

#### 4.9 Governors' Training

- The Commissioner's office had had a joint meeting with Governors Wales and maintained a constructive dialogue with them;
- A systematic review of training for governors had not yet been undertaken;
- Governors Wales had felt that it was difficult to achieve governors' attendance at training sessions and also it was felt that making governors' training statutory would deter some individuals from becoming governors;
- The current guidance stipulated that governors were the adjudicating body. It had been intimated at the joint session that smaller schools' governing bodies would find it difficult to fulfil this quasi-judicial role; and
- The Minister added that LEAs had a statutory obligation to provide training for governors but she would ensure that governor training was included in the protocol for governors.

#### 4.10 Drama Lessons/Subject Material

- The Commissioner said that drama lessons/material were part of a wider scenario of abuse in the situation outlined in the Clwyd Report; and
- For other material submitted to pupils e.g. sexual health education pamphlets etc, those who had expertise in such areas always needed to act sensitively and consider the need for guidance. It was important to draw the distinction between a sexual health education pamphlet and the use of modified drama scripts. The Commissioner could see no reason why parents could not have access to any material that their children used in school.

#### 4.11 Awareness of Complaints Procedure

- The Commissioner agreed that there was a need for greater awareness amongst all parties for the complaints procedure. Indeed, if pupils had an understanding of the complaints procedure, they would be less likely to make potential malicious, unfounded allegations.

#### 4.12 Examination Process (Drama)

The Commissioner believed that scripts should be submitted to examiners prior to the assessment.

#### 4.13 Protection for Whistleblowers

- The Commissioner said that often, despite whistleblowing policies being in place, individuals felt that they could only contact the Commissioner's office directly. Current systems were not robust enough. Often in the school setting, it was other teachers that raised concerns.

#### 4.14 Children's Champion/Neutrality

- The passage of the Children's Commissioner Bill highlighted that there might be a potential



conflict of interest whilst chairing a public inquiry and championing the rights and protection of children and young people;

- Through regulations it would be possible to appoint someone to undertake an inquiry on the Commissioner's behalf. The Department for Constitutional Affairs might be willing to lend the Commissioner's office a judge without cost; and
- The Commissioner however did not want his office to feel inhibited by a perception of conflict.

#### 4.15 LEAs' Decisions

- The Commissioner said he could challenge a LEA's decision if he felt it necessary to do so: he could review any decisions, bring forward recommendations and publicise a situation.

#### 4.16 Cross Border Allegations

- Where alleged child abuse was a cross border issue, the Area Child Protection Committees (ACPCs) would have a role; otherwise collaboration between LEAs would necessary.

4.17 The Chair thanked Peter Clarke and Maria Battle for their contribution.

4.18 The Chair informed that Committee that the Panel of Chairs had requested that the ELL Committee, the Social Justice and Regeneration Committee, the Equality of Opportunity Committee and the Health and Social Services Committee have a joint session in the New Year to consider the Commissioner's Annual Report.

### **Item Five: Draft Forward Work Programme - Spring 2005**

#### **Paper: ELL2 16-04(p.4)**

5.1 The Chair invited Members to ratify the draft forward work programme and explained that, as the Committee would not start taking evidence on the second phase of the SEN policy review until the summer term, there was no need to take up the optional additional meetings outlined in the periodic timetable.

5.2 The Chair pointed out that the Committee would also be finalising its report on school transport. Depending on the time taken to agree the final report, it might prove necessary to take up the optional additional meeting on 24 February. Members acknowledged this.

5.3 Leighton Andrews suggested that when the Committee ratified its policy review reports, Members should be obliged to submit written amendments prior to deliberations. The Committee agreed to this proposal.

5.4 To accomplish all scheduled business, the meetings would have to commence at 9.00am. The Committee was content with this proposal.

5.5 The joint committee session to consider the Children's Commissioner's Annual Report was likely to be scheduled for 27 January 2004. The Committee was content.

5.6 The 19 January meeting would also include consideration of the Education Bill. The Committee was content. Action: The Clerk to amend the work programme.

5.7 Subject to action at paragraph 5.6, the Committee ratified the work programme.

## **Item Six: Post-16 National Planning and Funding System - ELWa-National Council and fforwm**

### **Papers: ELL(2) 16-04(p.2 and p.3)**

6.1 The Chair welcomed Shelia Drury, Elizabeth Raikes; Richard Hart (ELWa-NC) and Dr John Graystone, Glyn Jones and Brian Robinson (fforwm) to the meeting. The Chair invited both sets of speakers to give PowerPoint presentations. These can be viewed on the Committee's webpages at [www.wales.gsi.gov.uk](http://www.wales.gsi.gov.uk)

6.2 Presenters spoke to their PowerPoint presentations and then the Chair invited Members to raise questions. In response to Members questions, presenters gave the following responses:

#### 6.3 Parity of Esteem: Vocational and Academic Qualifications

- ELWa - it would be evident that this had been achieved when the most able students were following vocational courses. Achieving parity of esteem was difficult whilst vocational courses continued to be associated with not-so-able students;
- fforwm - parity of esteem was already being achieved in FE colleges at present. Students were taking a mix of vocational and academic subjects; and
- In FE, the same funding was received for vocational and academic courses. However, students pursuing 'A'-levels in sixth forms received more funding than students pursuing vocational courses in colleges.

#### 6.4 Addressing Low Skills Levels

- ELWa - low skills levels in literacy and numeracy had been evident in research carried out for the Skills and Employment Action Plan and ELWa's review of work place learning. All students taking up post-16 learning now received screening to assess their basic skills levels; and
- fforwm - as well as extensive screening, there were additional schemes for improving basic skills provided in conjunction with some major employers.

#### 6.5 The Credit and Qualifications Framework (CQF)

- ELWa - the credit based nature of the national planning and funding system (NPFS) complemented the CQF; and
- fforwm - credit based funding facilitated credit based curriculum delivery. There was evidence of this happening in colleges.

## 6.6 ELWa's Merger with the Welsh Assembly Government

- ELWa - ELWa was already working closely with the Welsh Development Agency (WDA) and DfTE in developing a shared field force - communicating with companies about their needs. One of the benefits of the merger would be towards economic development through the education and lifelong learning and economy sectors; and
- fforwm - fforwm had argued for a regional perspective to be taken onboard by the Welsh Assembly Government after ELWa's absorption.

## 6.7 Actual Budget Allocations for School Sixth Forms

- ELWa - ELWa wanted to avoid destabilisation for school sixth forms. LEA data could be disaggregated down to individual school basis. There was a need to communicate with LEAs to see to what extent funding was retained for central services and what funding methodology each LEA was utilising; and
- ELWa was on target to make the actual budget allocations known to school sixth forms by the end of January 2005 indeed ELWa was planning to bring the information forward by three weeks to give LEAs more time to deal with their budgets and for schools to forward plan.

## 6.8 Sparsity/Density

- ELWa - there were some anomalies with the previous methodology in respect of the sparsity weighting revealed by research. Regression analysis pointed to the method of weighting now proposed.
- As a result, the proportion of funding allocated in the learning provision element of the system for sparsity funding had been reduced from around 2% to under 1.49% and was now targeted at fewer recipients. This would make a significant difference to the funding of provision in areas that still qualified for the sparsity uplift.

## 6.9 Engaging with Employers

- fforwm - colleges were responsive to the needs of employers utilising EU funding or the current Recurrent Funding Methodology (RFM).

## 6.10 Funding for Welsh-Medium Sixth Forms

- ELWa - 25% more funding for Welsh medium sixth forms had come out of work undertaken in a consultation exercise with stakeholders. This would take into account the real cost of translation and materials etc. There was also a need for colleges to create incentives for learning bilingually or through the medium of Welsh; and
- There were currently not enough teachers confident enough to deliver learning through the medium of Welsh but they could be seconded for further training to enhance their existing skills. Strategic funding could be used to develop resources/capacity through developing teachers' Welsh language skills.

### 6.11 Calculating Deprivation

- ELWa - ELWa had initially taken the totality of the Welsh Assembly Government's index of multi-deprivation but had felt it more appropriate to concentrate on the education deprivation element of the index. The paper submitted to the Committee (ELL2 16-04(p.2) referred to four sets of research undertaken on this issue; and
- There were often longer taught hours in deprived areas which incurred additional costs. The deprivation formula was related to activity undertaken.

### 6.12 Data Received from LEAs

- ELWa - ELWa was reliant on providers to provide accurate data;
- Schools had recently had a technical problem with their Pupil Level Annual School Census (PLASC) data but this was in the process of being resolved;
- Fforwm - there was a need to have the correct data in place in order to plan effectively at institutional level; and
- When comparing performance, data needed to be accurate, of similar nature and transparent.

### 6.13 Weighting/Credit Equivalence Units (CEU)

- ELWa - Programme area weights were applied to courses such as Engineering and Construction because they were costly to run as sometimes they involved additional staff, disposable materials etc;
- There were tens of thousands of course programmes available but not all had credit ratings. Currently, there was a default factor for some courses (T-factor). This would activate so individuals were not disadvantaged if the learning opportunity stopped. 10 hours of learning was worth one credit;
- fforwm - it was important to see how weightings were used to ensure Industry's skills needs were met; and
- Through the NPFs, weightings attached to courses could be adjusted according to demand.

### 6.14 Collaboration

- ELWa - at a recent conference there had been many examples of schools and FE colleges working together. Four schools had liaised together to address the problem of falling roll numbers.

### 6.15 Closing the Funding Gap

- ELWa - there was a reason for differentials as figures were formulated on a per capita basis. In respect of the CQF there was also a need to look at learning activities taking place in different authorities. Some LEAs had stipulated 80 Credit Equivalence Units per learner, others had stipulated 120 CEUs;
- There was also a need to take into account education and curriculum enhancement issues. ELWa had therefore wanted to make public, transparent arrangements and support providers in planning well ahead; and
- Marrying learner and employer needs required effort from ELWa and all its partners.

### 6.16 Consultation

- fforwm - fforwm and its member colleges were extensively consulted on the NPFS by ELWa. fforwm supported the principles of the NPFS but had been concerned initially on publication of the indicative budgets. ELWa had been accommodating however in listening to the views of fforwm.

### 6.17 Transparency

- ELWa - ELWa needed to ensure that it advised recipients of funding accordingly. Allocations made to LEAs in January would be available on ELWa's website.

### 6.18 Employer Needs

- ELWa - it was important to recognise the needs of customers and learners and to realise this ELWa was carrying out learner satisfaction surveys. There had also been much consultation with employers as part of ELWa's review of work based learning;

### 6.19 Welsh for Adults

- ELWa - 23,500 individuals were enrolled on such courses;
- Six flagship learning centres had been proposed by ELWa;
- ELWa's Council would be considering the budget area for Welsh for Adults at its meeting on 16 December; and
- The weightings for the courses had been raised from 1.25 to 1.50.

6.20 Shelia Drury said that ELWa would be happy to provide technical briefing for Members, should they so require it. The Chair noted this suggestion and thanked all presenters for their contribution to the meeting.

## Item Seven: Future Secondary Legislation

Paper: ELL2 16-04(p.5)

7.1 Members were invited to identify items of secondary legislation from the schedule for further scrutiny. Members did not identify any items.

7.2 The Minister agreed to indicate the dates of relevant consultations on future schedules of secondary legislation, where the timetable was known.

7.3 The Chair asked Members to notify the Clerk of any items of secondary legislation they wished to consider at future meetings.

Papers to note:

The Committee noted the following papers:

Notes of informal meetings with small transport operators, produced by the Committee's Expert Adviser

**Paper: ELL2 16-04(p.6 and p.7)**

Note for information: Denbighshire County Borough Council - Yellow Bus Pilot Operation

**ELL2 16-04(p.8)**

Action Points

- The Clerk to inform Business Committee that the ELL Committee had no objection to the Minister's intention to disapply sections 1-3 of Standing Order 29 in relation to Howell's School for Girls;
- The Minister would respond to HEFCW's recent report on its Welsh medium strategy and would bring her response to Committee at a future meeting;
- The Minister undertook to check with the Rees Commission to see if they were conducting a dialogue with industry regarding providing grants and bursaries to students, and also financial support to HE institutions for teaching purposes, as well as for research. The Minister will then write to the Chair;

- The Minister undertook to advise the Committee how many telephone calls had been taken by the TSLC since 2002;
- The Minister undertook to bring information back to Committee regarding ELWa's monitoring of implementation of education for sustainable development and global citizenship in the FE sector;
- The Minister undertook to inform the Committee of the legislation that included the definition of 'a safe outdoor environment';
- The Minister undertook to include, where possible, information on relevant consultation exercises in subsequent schedules of future secondary legislation.
- The Clerk to amend the forward work programme and circulate it to Members.