
Comisiynydd Plant Cymru Children's Commissioner for Wales

Sally Holland

FAO Lynne Neagle AC / AM
Chair of the Children, Young People and Education Committee
National Assembly for Wales
Cardiff Bay

By email:

To: SeneddCYPE@assembly.wales

10th April 2017

RE: Additional Learning Needs and Education Tribunal (Wales) Bill: Welsh Government revised healthcare guidance

Dear Lynne,

Thank you for the opportunity to submit further evidence to the CYPE Committee on the Additional Learning Needs and Education Tribunal (Wales) Bill. You will note from my previous submissions that I support the general principles of the Bill and have welcomed the strengthened duties under Sections 18 and 19 which will require Local Health Boards (LHBs) and NHS Trusts to secure and provide health-related additional learning needs provision. I have provided a response to your specific request for further information below:

- **Whether you consider the Welsh Government's new statutory 'Supporting learners with healthcare needs' meets the calls received in evidence to the Committee to place the healthcare guidance in Wales on a statutory footing;**

Issued under Section 175 of the Education Act 2002, the publication of Welsh Government's new 'Supporting learners with healthcare needs' guidance has already been placed on a statutory footing for governing bodies and local authorities. If passed, the duties proposed in Sections 18 and 19 of the Bill would establish a complementary requirement for LHBs and NHS Trust to secure and provide health-related additional learning needs provision.

- **Your early assessment on whether 'Supporting learners with healthcare needs' would sufficiently meet the healthcare needs of learners in Wales, and if not how the Bill could be used to help achieve this;**

In my consultation response to Welsh Government's draft 'Supporting learners with healthcare needs' guidance document, I expressed the need for Welsh Government to give further consideration to:

- Strengthening the recognition to the United Nations Convention on the Rights of the Child (UNCRC);
- Achieving equal parity of status between children's physical health and mental health;
- Improving partnership working and working with children, young people and their families;
- Improving access to schools and education for disabled children and young people.

It is my initial assessment that Welsh Government's published 'Supporting learners with healthcare needs' guidance has made some progress in this respect and may be sufficient to meet the healthcare needs of learners in Wales.

Whilst I acknowledge the rationale to include a blanket provision on learners' healthcare needs in the Bill, it is important to recognise that a child's healthcare needs should not automatically be regarded as an additional learning need. This would be dependent on the individual context and is a matter of proportionality and assessment. For example, where a child is required to take a short course of antibiotics and is competent to self-manage their condition, it is likely this circumstance will not negatively impact on their ability to learn. However, where a child has more complex and/or long-term healthcare needs, this may negatively affect a child's learning ability and, as such, may require additional learning support provision. It is at this point where the 'Supporting Learners with Healthcare Needs' guidance requires the governing body to establish an Individual Healthcare Plan (IHP) for the learner. Where this may be the case, then it seems sensible to incorporate the requirements of the IHP into the IDP process. Provision for this could be made within the ALN Code of Practice. With this in mind, it would be useful for the Bill to provide consistent levels of accountability and ensure all public bodies under the Act to be subject to the Education Tribunal for Wales.

- **Your views on when a full assessment of 'Supporting learners with healthcare needs' could be undertaken to effectively assess its level of success.**

If the Bill is passed, a full assessment of 'Supporting learners with healthcare needs' could be both undertaken as part of a self-evaluation by government and as part of the Committee's post-legislative scrutiny.

The Rights of Children and Young Persons (Wales) Measure 2011 confers Ministerial powers to amend legislation and guidance for the purpose of giving further effect to the UNCRC. Section 2 of the Measure establishes a Children's Rights Scheme as the underpinning guidance for implementing the legislation. This scheme requires Welsh Ministers to publish a report every 2½ years on how well they have given effect to the UNCRC in policy and legislation. The Scheme's reporting round between 2018 and 2020 could also be a timely opportunity to carry out a full assessment on the effectiveness of 'Supporting learners with healthcare needs' and potentially provide a key opportunity for change under Section 6 of the Rights Measure should the guidance not be having the desired effect.

Comisiynydd Plant Cymru
Children's Commissioner for Wales
Sally Holland

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Sally Holland', written in a cursive style.

Sally Holland
Children's Commissioner for Wales
