

Comisiynydd Plant Cymru Children's Commissioner for Wales

Sally Holland

By email only

To: Rt. Hon Carwyn Jones AM, First Minister of Wales, Welsh Government

09 November 2018

Dear First Minister,

Further to our meeting on 17 October 2018, I write to seek further written confirmation of the Welsh Government's position regarding home education and the forthcoming consultation expected in spring 2019. I am grateful to your officials for swiftly providing a note of our meeting.

Our meeting was the last in a series of meetings and discussions I have held with a range of officials, the Minister for Children, Older People and Social Care, and the Cabinet Secretary for Education. These meetings followed a series of correspondence over the summer, as I was seeking clarification of the Welsh Government's position ahead of the consultation in 2019. In particular, I was seeking assurances around my three tests for the policy, including that all children in Wales should be accounted for, that every child receives a suitable education and that every child must have the opportunity to be seen by a local authority representative and their views and experiences listened to.

I've copied the relevant section of your official's note from 17 October's meeting in full, for ease of reference:

- The CCfW outlined her concerns about home-educated children, particularly the very small minority of cases where children were vulnerable.
- The FM said that he supported the principle of children being seen and known by services. The issue was how this was achieved - he would be prepared to support primary legislation and a register if this was required. But this should only be done if the planned improvements via the database and statutory guidance weren't effective.
- If primary legislation and a register were eventually required, the FM said that the primary legislation could in practice not be introduced until the next Assembly Term.

For me the most important aspect is children being **seen and known by services**, and I welcome your confirmation at that meeting that the government intends to take statutory measures to achieve that goal. The statutory guidance that comes out to consultation in 2019 must make this expectation clear in writing and set out the steps that local authorities must take to achieve this. A stated aim of the guidance should be that children can access their rights to be heard and to receive a suitable education.

Please would you confirm that the proposals that are consulted upon will set out how the database and related work will ensure children are known about by local authorities and then seen? Please would you also confirm that

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the proposals consulted upon will be clear about what powers the proposals give to local authorities to enable them to maintain contact with children and their families, and to offer them the support that I understand will be included in the new arrangements? In order for the new statutory guidance to be successful, local authorities will need to be confident that they have enhanced means to achieve this in instances where families are refusing the authority access to speak with children.

The work of the EHE Stakeholder group will be crucial to the success of these proposals in my view, and I would like your confirmation on how these points will be worked through closely with local authorities in particular, in setting up the arrangements for information sharing under the database. There are statutory and societal expectations on local authorities to safeguard children living in their area and to support their well-being, but we all agree that this cannot be done if children are not known to them.

As you will know I have maintained regular contact with ADSS, ADEW and the National Independent Safeguarding Board on this issue. It is also an issue of significance to the Children, Young People and Education Committee. For that reason I have copied them all in to this letter, and I would be grateful if you would include them in your reply please.

The reason I have been pursuing this issue and considering formal use of my statutory powers at this point is that I do not want to be in a position next year where the proposals introduced do not meet the requirements that I believe are necessary, as do local authorities and safeguarding professionals. As you recognised in our recent meeting, should the database and statutory guidance not be effective in achieving those aims, further primary legislation will be inevitable. Provided that I receive a clear written response to the questions I have posed above I am content to wait for the consultation in spring 2019 and not invoke my statutory powers. If possible, it would be helpful if I could have your written response before my appearance in front of the Children, Young People and Education Committee on 22 November, due to the keen interest that members have taken in this issue, or at the latest before you depart as First Minister. I would also say at this point that I would expect the proposals to be introduced swiftly following the necessary consultation period, in order to maintain pace. As we discussed, I am concerned that your government's response to high-profile, tragic cases such as that of Dylan Seabridge has been slower than I and others would have expected.

This area of work will remain a key priority of mine. Should I, at any time, become concerned about the contents of the consultation or the pace of change thereafter, I will again consider the commencement of a formal review of the Welsh Government's exercise of its functions on this issue as a matter of urgency.

As I have previously stated, my preference is always to work alongside the government where this is possible in order to secure the best outcomes for the children of Wales in the swiftest and most effective manner. I have continued to do this but reserve the right to review the government's functions in relation to this matter should the proposals be unable to protect children in Wales experiencing their rights in full.

I look forward to receiving your response.

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Yours sincerely,



Professor Sally Holland

- cc. Jenny Williams, President of ADSS
Aled Evans, Chair of ADEW
Margaret Flynn and Keith Towler, Chair and Deputy Chair of the National Independent Safeguarding Board
Lynne Neagle AM, Chair of the National Assembly for Wales' Children, Young People and Education Committee
Karen Cornish, Welsh Government, Deputy Director, Children's Branch
Albert Heaney, Welsh Government, Director, Social Services
Ruth Conway, Welsh Government, Deputy Director, Education