

# Comisiynydd Plant Cymru Children's Commissioner for Wales

Keith Towler

## Consultation response

### National Assembly for Wales' Children and Young People's Committee

### Scrutiny of School Standards and Organisation (Wales) Bill: Stage 1

June 2012

The Children's Commissioner for Wales is an independent children's rights institution established in 2001. The Commissioner's principal aim is to safeguard and promote the rights and welfare of children.<sup>1</sup> In exercising his functions, the Commissioner must have regard to the United Nations Convention on the Rights of the Child (UNCRC).<sup>2</sup> The Commissioner's remit covers all areas of the devolved powers of the National Assembly for Wales insofar as they affect children's rights and welfare. They may also make representations to the National Assembly for Wales about any matter affecting the rights and welfare of children in Wales.<sup>3</sup>

The UNCRC is an international human rights treaty that applies to all children and young people aged 18 and under. It is the most widely ratified international human rights instrument and it gives children and young people a wide range of civil, political, economic, social and cultural rights which State Parties to the Convention are expected to implement. In 2004, the Welsh Assembly Government adopted the UNCRC as the basis of all its policy making for children, and in 2011 Welsh Government passed the Rights of Children and Young Persons (Wales) Measure<sup>4</sup>.

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<sup>1</sup> Section 72A Care Standards Act 2000

<sup>2</sup> Regulation 22 Children's Commissioner for Wales Regulations 2001

<sup>3</sup> Section 75A (1) Care Standards Act 2000

<sup>4</sup> <http://www.assemblywales.org/bus-home/bus-legislation/bus-leg-measures/business-legislation-measures-rightsofchildren.htm>

## **1. Is there a need for a Bill to make provision about school standards and school organisation?**

I agree with the Welsh Government's intention to clarify and consolidate the legislative framework regarding school standards and organisation.

The Schools Standards and Organisation (Wales) Bill (which will be referred to as 'the Bill' in my response) provides Ministers with wide ranging powers to publish statutory guidance and regulation. Whilst on the whole the policy intent is comprehensively outlined, much of the assessments of how these powers could affect children and young people will be evaluated as the guidance and regulations are drafted and consulted upon. I would hope that as these discussions proceed, the process will uphold in particular articles 12 and 13 of the UNCRC regarding participation of children and young people in decisions which affect them and the provision of appropriate information to assist them in that process respectively.

My submission will highlight the need for clarification on a number of policy areas, especially in relation to safeguarding the provision of key services for children and young people.

## **2. General comment on the application of the Rights of Children and Young Persons (Wales) Measure 2012.**

Whilst it is possible to deliberate on the technicalities of whether or not this Bill falls within the purview of the Rights of Children and Young Persons (Wales) Measure 2011, due to the Bill being introduced prior to May 2012 it is logical that Welsh Government apply the obligations in this instance. May saw the commencement of section 1 of the Rights of Children and Young Persons (Wales) Measure 2011 through which Welsh Ministers are obliged to consider the UNCRC and its optional protocols when making decisions about the following:

- Provision proposed to be included in an enactment;
- Formulation of a new policy;
- Review of or change to an existing policy.

I am disappointed that recommendations to this end, made during the white paper consultation on the Bill, were not reflected in the published Bill.

Any guidance and any decisions made by Welsh Ministers, emanating from the Bill will have to be undertaken having paid due regard to the UNCRC. I would suggest that the explanatory memorandum or the regulatory impact assessment should include an assessment of how the due regard duty under section 1 of the Rights of Children and Young Persons (Wales) Measure has been discharged as part of the policy gateway processes of Welsh Government.

The UNCRC is not mentioned anywhere in the documentation. Failure to refer to the UNCRC or its relevant articles is not decisive on the question of whether the due regard duty has been applied as the issue in every case is whether Welsh Ministers have in substance paid due regard. It is therefore not necessarily a determinative of whether the due duty has been performed. It is, however good

practice for decision makers to refer to the UNCRC and any other UNCRC relevant materials that have been considered. This makes it more likely that the relevant factors were taken into account.

Reference should be made on the face of the Measure and in accompanying documents. This would ensure effective documentation and evidence in line with the due regard duty.

The narrative associated with the Bill appears to be too narrow, suggesting that educational attainment is not seen within the wider context of upholding the rights of children and young people.

It is surprising that nowhere in the Bill, or associated documentation, is there an explicit reference to Section 175 of the Education Act 2002 which requires Local Education Authorities and governing bodies of maintained schools to have arrangements to ensure that they exercise their functions with a view to safeguarding and promoting the welfare of children.

This duty to safeguard and protect is highlighted in Article 19 of the UNCRC.

Accordingly local authorities and schools have a responsibility to:

- Provide a safe environment for children and young people for learning;
- Identify children and young people who are suffering or likely to suffer significant harm and take appropriate action with the aim of making sure they are kept safe both at home and at school; and
- Develop, through the curriculum and other means, children and young people's understanding, awareness, and resilience.

In providing limited focus on these issues, the Welsh Government is in danger of reinforcing any misguided perception that teachers are there to teach and that their responsibilities extend no further. There is a danger that this does a disservice to committed, competent and caring teachers and governors, as well as the most important party in our deliberations in relation to education, learners.

I am not suggesting that the provisions within the Bill are contrary to the application of the UNCRC, however it is concerning that the Bill does not appear to be seen within this context.

Section 2 of the Bill, relating to setting out the eight grounds for intervention by Welsh Ministers and local authorities, provides an obvious opportunity to address this issue. It should be clear that the basis for any such action is the best interest of the learners above any other considerations; this would be consistent with the UNCRC.

There are also precedents in 'due regard' cases which could help contextualise particular elements of the Bill. For example, it offers a framework which could be applied to the risks of transferring funds into the Revenue Support Grant (RSG). Key questions for consideration should be whether or not consideration has been afforded to:

- The requirement of progressive realisation, i.e. that goals may be achieved over time;
- The satisfaction of minimum core levels of provision;
- The avoidance of retrogression, i.e. that actions should not have a negative impact on rights already established;

- The need for non-discrimination and equality; and, participation, transparency and accountability.

Key questions for me in a number of areas, such as school based counselling and free school meals, are whether or not there are sufficient safeguards against retrogression and variances in access to services, whether or not the minimum levels of provision are adequate and also, does it assist in progressing the realisation of children's rights?

From a public policy perspective, Ministers simply cannot afford to divorce the agenda of rising standards from the UNCRC. It is not my contention that they are, however this must be reflected both on the face of the Bill as well as the accompanying explanatory memorandum. We should then see that the resulting guidance, regulations and decision making will also be consistent with the Ministerial duties.

### **3. What are your views on each of the main parts of the Bill?**

#### **Part 2 – Standards (sections 2-37)**

##### **Intervention in schools causing concern:**

School governing bodies and local authorities are central to the provision of education and have considerable powers to make decisions that affect children and young people in schools. We trust that most schools are well governed and supported by local authorities, but there are some that raise serious concerns from a rights perspective.

My office has been made aware of decisions made about children's education that infringe their rights. Importantly, there are occasions where decisions are taken that contradict Welsh Government guidance. Some examples of issues referred to my office include schools with a lack of adherence to complaints guidance, unofficial exclusions and non referral to SERVOCA, the independent investigations service in relation to safeguarding cases. This is not something Welsh Ministers would wish to see, but in order for them to assess the impact of such non-compliance and to deliberate whether or not to intervene, they will be obliged – as the provisions of the Rights of Children and Young Persons (Wales) Measure 2011 are commenced – to pay due regard to the UNCRC. It would therefore be necessary to evidence how due regard has been applied.

Providing clarity and consolidation regarding the following scenarios of intervention is welcomed as a way to improve understanding of the available mechanisms to address failing within our schools:

- Intervention by local authorities in the conduct of maintained schools that are identified as a cause for concern;
- Intervention by Welsh Minister in the conduct of maintained schools, that are identified as a cause or concern;
- Intervention by Welsh Ministers in local authorities in the exercise of their education functions.

Whilst non-compliance with education Acts is referenced, I believe that it would be a missed opportunity given Welsh Minister's new duties under the Children and Young Persons (Wales) Measure 2011, not to refer to the need to uphold the rights of children and young people as learners.

In amending the grounds for intervention I would urge the Government to include non-compliance with the UNCRC in the criteria for intervening. This approach of 'overarching reference' would negate the necessity to refer to all relevant Education Acts with implications for children's rights.

A further discussion may be required to identify how this may be worded. There is also the question whether or not children and young people would be better served via a stand alone 'ground' for intervention or whether the UNCRC should be referenced in the other 'grounds', or both.

This would facilitate a widening of issues to be considered and offer an enhanced focus on key aspects of children and young people's wellbeing. It would raise awareness of the importance that Welsh Government places on the UNCRC and would demonstrate that, in Wales, we expect all professionals to operate with a child rights based approach. All educationalists and duty bearers within the system need to understand the role of education in relation to the wider agenda of upholding children's rights.

It would also be consistent with the current suggested content of the grounds for intervention within the Bill. Reference is made, for instance to Estyn reports as potential triggers. The School Effectiveness Framework states that "children and young people's participation in wider aspects of learning needs to build on the work of school councils to secure real engagement in the learning process<sup>5</sup>." Estyn have reviewed these processes of pupil participation and continue to do so. The inspectorate's activities also reflect wider thematic concerns, such as compliance with equality law. These are all issues related to raising standards and are part of the expansive rights based dialogue relating to attainment which should be reflected.

The dangers of not affording the governance and accountability structures a wider focus can become most apparent in extreme cases when safeguarding obligations are neglected, thus having a detrimental impact, for instance, on educational attainment as well as the health and wellbeing of children and young people. These cases often arise from not upholding the right of pupil voice within the system. An example of taking a narrow approach could be the non-implementation of school bullying policies. The emotional and physical wellbeing of learners is central to their ability to achieve and learn in relation to literacy and numeracy. If a school is ineffective in addressing bullying within the school, levels of attainment will suffer and standards will fall.

The areas of non-compliance could be in relation to non-application of the public sector equality duty in Wales, non-implementation of school bullying policies, non-implementation of school councils, flawed safeguarding procedures, poor hygiene and a lack of consideration for poverty issues etc.

On a practical note, when an intervention, either by local authority or Welsh Ministers, is made it is essential that the situation is explained to the learners and their parents/carers. There should be an obligation on Welsh Ministers and local government to fully explain the rationale, process and expected outcomes of any intervention.

There is also a need for sensitivity in the way that interventions are handled and the potential impact on learners as they become aware of the situation. Anecdotally I have been made aware by young people that the recent issues regarding school banding have had a negative impact on them, both in

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<sup>5</sup> <http://wales.gov.uk/docs/dcells/publications/091020frameworken.pdf>

terms of how their school is perceived and how it compares with neighbouring schools if, for example their school is banded in a lower group.

### **School Improvement Guidance:**

Whilst welcoming the development of the guidance on School Development Plans, I would be interested in the content of the guidance. I hope that it will reflect a wide ranging policy context, looking at a range of learners' needs. The guidance would need to link attainment and wellbeing and also consider ways of improving outcomes for the more vulnerable learners such as young carers, looked after children and children with additional needs. A clear UNCRC focus would also assist in addressing wider rights issues, such as safeguarding.

### **Part 3 - School Organisation (sections 38-84)**

I certainly agree with the policy intent associated with the Bill and that there will be a single, comprehensive legislative framework. I have seen for myself the impact that delays in decision making can have on children's education. We also need to secure a position where school reorganisation does not become too politicised. I am concerned that children are being caught in the middle of hostilities within communities. This is unacceptable and we all have a responsibility to act in the best interest of the child.

My position on the process of school organisation is consistent with my response to the Government's consultation *School Organisation – Potential to Change the Process*.

In the development of the statutory code, I would call for children's rights to be clearly identified, that there is a consistent approach to consulting with children and young people and that the obligations in circular 021/2009 in this regard are consolidated and built upon.

The participation landscape for children and young people in Wales is continuing to evolve with the Rights of Children and Young Persons (Wales) Measure 2011 as well as the provisions relating to local authorities within the Children and Families (Wales) Measure 2010 and this must be reflected across all Government departments when engaging in community engagement deliberations. Key to success with the above agenda will be the clarity and guidance provided within the statutory code.

The early anecdotal indications in terms of the 09/2001 guidance is that consultation with children and young people has been inconsistent in terms of implementation and variable in terms of practice. There is an opportunity through this process to improve the situation.

Considerations will be needed in relation to the consultation's accessibility of information and process for the learners involved. I would, for instance, suggest that the code should include a requirement for there to be a meeting proposed with the school council and for age appropriate information to be made available for all children with age appropriate explanations of how to voice any concerns they may have.

Children and young people can be unduly influenced by adult views so they need balanced information about any proposal so they can be assisted to form their own views.

Within any guidance, I would expect to see a feedback loop for children and young people, so that they can see what decisions have been made and how their views have been considered. I welcome the fact that school councils have been included in the specific categories of statutory objector but have concerns with the proposal that: “Children and young people attending, or who might reasonably wish to attend, schools named in statutory notices,” will need to ascertain a total of 10 names before a proposal will be referred to a local decision making panel.

For those who may not be involved with the schools council but have strong opinions and are affected by the proposals, mobilising a group of 10 peers may be difficult. If the current position is maintained then, at the very least, the Government must ensure that within the statutory code the local authorities will clarify how individual children will be supported in this process. Options may include providing children and young people with an independent advocate.

Any code of practice should define what is expected in a report regarding the school organisation proposals. I would expect this to include a general child rights impact assessment (to include a child poverty assessment). In many communities, a school is also a community resource which will have an impact on families’ access to services.

Providing a new framework for the determination of proposals should lead to greater clarity and understanding. Any proposal should consider the best interest of the child at the very core of any determination.

There are particular policy issues relating to the powers of Ministers in the field of SEN and restructuring of sixth form education which will to be discussed in detail as Ministerial proposals are developed and consulted upon. It will be incumbent upon Welsh Ministers to pay due regard to the UNCRC in developing associated policies.

#### **Part 4 – Welsh in Education Strategic Plans (sections 85-88)**

I very much welcome the Welsh Government’s endeavour, at a national and strategic level, to ensure the development and growth of Welsh-medium education which has, too often been piece-meal and dependent on campaigning and lobbying at a local level rather than having a consistent, coherent and transparent approach.

I have been supportive of the Government underpinning strategic aims within its Welsh-Medium Education Strategy, but would also raised some questions about implementation and targets within the submission.

As the guidance is developed and the political commitment is translated into policy we will be able to examine to what extent these developments will have the desired effect, that we are able to see the democratisation of Welsh medium education and that key issues such as pre-school provision, transport and SEN provision may be addressed.

The Minister may wish to consider whether or not the current wording of the Bill will enable Ministers to implement the policy aim of implementing the Welsh Medium Education Strategy with the 5 and 10 year targets to increase provision at all stages of the education process. The Bill states that the Welsh in Education Strategic plans should:

- (i) improve the planning of the provision of education through the medium of Welsh (“Welsh medium education”) in its area;
- (ii) improve the standards of Welsh medium education and of the teaching of Welsh in its area;

There is a difference between planning and improving standards and increasing the provision, which is the stated aim of the Welsh Medium Education Strategy.

The proposals within this Bill may assist in this regard. I stated that it would be preferable that the method of measurement of demand is structured and consistent and that there is a consistency regarding the mechanisms for collating information and publishing findings.

The issue of responding to identified need was a challenge and a discussion on regulatory powers would be welcome. Accessibility to SEN and travel provision would need to form part of this discussion.

## **Part 5 – Miscellaneous School Functions (sections 89 – 97)**

### **Parents’ Meetings**

There appears to be a consensus that taking away this requirement is a sensible decision. I would, however, suggest that Welsh Government should carefully consider the effectiveness of schools’ engagement with parents/carers and the positive impact that positive engagement can have on educational attainment. The National Behaviour and Attendance Review was clear about the need to engage with parents and encourage parents to engage with their children’s school work. It may be worth considering the recommendations within the NBAAR report – particularly those relating to liaising with parents/carers.

I am aware of schools with a good level of engagement with parents, where parents are consulted in relation to needs and where initiatives such as homework clubs, adult learning and community activities take place within the school. There is a need to encourage further practice of this type so that parents feel confident about their relationship with the school and teaching staff and in turn, their role in the education of their child.

I also accept the risk of affording the right of 5% of parents to initiate a meeting. Effective consultation and engagement will be needed to identify ways of ensuring the effective implementation of such an approach.

### **Placing school based counselling in statute and cost implications**

I very much welcome the move towards placing school based counselling on a statute to safeguard funding as it is transferred into the Revenue Support Grant (RSG). It is an opportunity to further develop the impressive policy drive resulting from recommendations within the Children’s Commissioner for Wales’ *Clywch Inquiry Report*; and to implement one of the key actions (2.35) set out in the National Service Framework for Children, Young People and Maternity Services in Wales.



The national strategy published in April 2008 is a sound and coherent strategy<sup>6</sup> and I am supportive of the identified actions within it. These include actions regarding inspection, training and qualifications, data and outcome evaluation, consulting pupils etc. The Bill offers an opportunity to further drive forward those actions and the regulatory impact assessment states that the legislation will: “firmly embed the Welsh Government’s policy of school based counselling in Wales”.

I would however, seek clarification regarding Welsh Government’s policy on entitlement to counselling services. The cost and benefits assessment states that the Bill will: “ensure that young people continue to have the support they have had since the introduction of the strategy in 2008,” and that the duty would “largely formalise existing practice. The existing level of budget provision at the point of transfer should therefore provide for reasonable provision, given that there is currently a service available in all secondary schools.”

However, the explanatory memorandum states that the intention is that there will essentially be universal provision for 11-18 year olds: “local authorities will be required to make reasonable provision for an independent counselling service to be provided to: pupils receiving secondary education or year 6 primary education at a school in its area; other persons aged 11 to 18 who belong to the authority’s area and such other persons receiving primary education as the Welsh Ministers may set out in regulations.”

This indicates that there is an expansion of counselling services to those who are not within school settings.

The explanatory memorandum also notes: “local authorities will be required to provide a counselling service on the site of each school they maintain that provides secondary education. They may provide additional counselling services at other locations should they wish to do so.”

A logical question to ask is why such discretion is offered to local authorities, if the policy intention is to extend entitlement to “other persons aged 11 to 18 who belong to the authority’s area”?

The extension of the entitlement is something I welcome and there are positive examples of out-of-school provision in Wales. My office has received a case of a young person in a private school with no access to such counselling services within her school but who was eventually directed to community based provision in a neighbouring authority. A question also arises with regard to children and young people educated at home.

If the policy is one of extending the entitlement, then it is logical to question whether or not the true cost implications have been considered as part of the cost benefit analysis.

One of the principles outlined in the *School Based Counselling Services in Wales – a National Strategy*<sup>7</sup> is that: “A service that is given appropriate levels of funding over the long term”.

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<sup>6</sup><http://wales.gov.uk/dcells/publications/publications/guidanceandinformation/counsellingstrategy/counsellingstrategy-e.pdf;jsessionid=4bGxPfwJyM9RZrgd2y7zg1Z0Qy60sK3WRYdyKLKW21bHyFM4x0Bf!-1822353977?lang=en>

<sup>7</sup><http://wales.gov.uk/topics/educationandskills/publications/guidance/counsellingservicesstrategy/;jsessionid=SmDtPqVZT3j1GgJpJcWLNQ8v4K1L21G3GB2M053JWJ1pb3Vj0kZz11674108250?lang=en>

*The Evaluation of the Welsh School-based Counselling Strategy: Final Report* referred to the need for secure streams of funding so it would be useful to identify how this may be achieved, especially in light of any expansion.

### **Clarifying intention regarding guidance**

The national strategy states as an action:

“Action 3: Standards and guidance for counsellors and counselling services working with children and young people in Wales will be developed drawing extensively on the NSF and guidance and research produced by BACP and other relevant professional bodies. The guidance will be designed to assist schools and local authorities to develop services.<sup>8</sup>”

The memorandum notes:

“Welsh Ministers will be able to issue guidance regarding the provision of school-based counselling to which local authorities must have regard.”

A commitment to develop such guidance would be welcomed. This would enable the Government to further pursue the initial actions within the national strategy as well as address particular concerns identified within the evaluation – such as Welsh medium provision and the need to ensure access to all groups of children and young people.

### **Defining reasonable**

Within the regulatory impact assessment, under the disadvantages of the preferred option of transferring the funding with underpinning statute, it states:

“There is the risk that a local authority might provide services at a lower level than under the current arrangements. In these circumstances however, the LA would still need to demonstrate that the provision it made was reasonable. The continued collation of anonymised demographic and outcome data would indicate whether the provision was reasonable.”

In my opinion, the “collation of anonymised demographic and outcome data” would not enable an indication as to whether the provision was reasonable. This mechanism would not demonstrate the level of access to provision, but only the outcome of provision and the characteristics of such provision.

I would therefore ask that the work on defining “reasonable” is developed further in order to assuage the concern rightly outlined in the impact assessment of the danger of reduction of service provision.

### **Commissioning arrangements**

One area to which subsequent guidance may be useful is commissioning. Action 12 of the National Strategy states: “Children and Young People’s Partnerships are identified as having a strategic lead in developing commissioning of school-based counselling services.”

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<sup>8</sup> *ibid*

I am currently unsure about the commissioning arrangements for school based counselling, however within the context of rationalisation of partnerships and the termination of some CYP Partnerships, clarity is needed in terms of accountability and responsibility of commissioning.

### **Primary school breakfast scheme**

The Welsh Government free school breakfasts programme was introduced due to the well-established evidence of its nutritional and educational benefits. The evidence in relation to these benefits still stands. Once introduced the programme was the focus of some criticism in relation to the use of sessions as free childcare for working parents. However in the absence of sufficient affordable childcare and in view of the need to tackle child poverty this was accepted as a welcome added benefit of provision. In view of the current economic situation and Welsh Government commitment to the priority to tackle child poverty the decision to leave further implementation to local discretion is questionable.

I am not clear what evidence has been used to form Welsh Government's view that: "the vast majority of schools who want to participate have already signed up," when just under a third of schools across Wales still do not offer free school breakfasts. UK research highlights the need to address breakfast consumption amongst school children. In school surveys, 5% of pupils have been found to have gone without breakfast, 3% to have only consumed a drink and 10% to only have eaten low nutrition food such as crisps or chocolate. Furthermore, skipping breakfast has been found to be significantly higher amongst obese children and those from more deprived backgrounds.

The universal offer of free school breakfasts in primary schools in Wales therefore has an important role to play in supporting the realisation of children's rights to be healthy and to participate fully in learning.

I am concerned about the methods to be used to decide if the duty to meet pupils entitlement to free breakfast is met. Specifically what measures will be put in place to ensure:

- That all pupils are aware of and understand their right to free school breakfasts;
- That pupils have access to systems and adults who can act on their behalf to request free school breakfasts;
- That where a decision is made that there are 'reasonable grounds' for a refusal of such a request such reasons are clearly explained to pupils and to the adults acting on their behalf.

It is not sufficient that pupils' entitlement to free school breakfasts should be reliant on decisions made by adults without consultation with pupils themselves.

I have some concerns over the Bill's proposals in relation to the circumstances through which the local authority's duty to provide breakfasts will not apply or will cease to apply. Where a governing body has asked the local authority to stop providing breakfasts what measures will be put in place to ensure that such a request is based on the wishes of pupils and their parents? The Bill suggests that the local authority's duty to provide breakfasts will apply where a request is made by or on behalf of the pupils. I would therefore suggest that decisions in relation to cases where the duty will cease to apply should

also be based on the requests made by or on behalf of pupils. The Bill is not clear on the circumstances under which local authorities can decide that it is unreasonable to provide or to continue to provide breakfasts.

Guidance issued in relation to free school breakfasts under the proposed Bill must set out a clearly defined process supported by clear definitions of terms such as “unreasonable” through which the local authority duty will cease to apply. Guidance should include a clear mechanism through which pupils, parents and governing bodies can challenge incidents where a decision is made that the duty will not apply or will cease to apply.

The Bill states that: “Welsh Government remains committed to the free breakfast initiative”. However this commitment does not appear to be reflected in acceptance of the fact that nearly a third of schools have not taken up the initiative, an acceptance of 'dwindling applications' and the lack of definition in relation to the circumstances under which the duty will not apply or will cease to apply. I would like to see a continued commitment by Welsh Government to the monitoring of the free breakfast initiative and clear lines of accountability in relation to decisions about non-application of the duty.

### **Flexible charging for milk, meals and other refreshments**

I welcome the proposals to allow for flexible charging arrangements in relation to school meals. The growing reliance of families in Wales on emergency food supplies through food banks is a source of concern to me and tackling food poverty must be considered a priority.

Poorer families can often struggle to give their children a healthy diet due to low income, lack of access to reasonably priced shops, or inadequate knowledge and information about healthy eating. The food budget is often the only flexible part of the family budget and suffers if there is an unexpected expense.

I also welcome the policy’s aim to enable schools to use the flexible arrangements to encourage uptake of school meals, especially given the roll out of the Healthy Eating in Schools (Wales) Measure.

In-work poverty is a growing issue in Wales with half of children in poverty coming from working families.<sup>9</sup> Additional support through reduced costs for school meals could make a real difference to low-income families. The proposal to include larger families makes sense in relation to assisting families who do not meet the eligibility criteria for free school meals but who may struggle to meet the costs of school meals.

The explanatory memorandum notes particular groups who may benefit from such initiatives. Whilst we would not expect to be provided with an exhaustive list, it would be useful to consider other categories, perhaps the Minister would want to consider defining the types of families who could benefit from such an initiative within a school. One example would be families with a disabled child who may experience poverty without reaching eligibility criteria, because although household income sits above the poverty line the additional costs of supporting a disabled child mean that household income is actually very limited.<sup>10</sup>

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<sup>9</sup> <http://www.jrf.org.uk/sites/files/jrf/poverty-social-exclusion-Wales-summary.pdf>

<sup>10</sup> <http://www.dcmw.org.uk/resources/PolicyBriefingPoverty.pdf>

The End Child Poverty Network Wales resource for schools on tackling child poverty sets out the need to increase the uptake of free school meals by providing information about entitlement and availability and by introducing non-stigmatising provision, e.g. swipe card systems. Many children entitled to free school meals do not claim them due to fear of stigma and bullying.<sup>11</sup> Care must be taken to ensure that in introducing any flexible charging arrangements in schools methods for administration are selected on the basis of the need for a non-stigmatising approach.

### **Financial Implications**

I have referred in previous questions for the need to clarify particular policy intentions in order that the financial implications can be fully understood, namely with regards to counselling services and free school breakfasts.

A handwritten signature in black ink that reads "Keith Towler". The signature is written in a cursive style and is positioned above a horizontal line.

Keith Towler  
Children's Commissioner for Wales  
27 June 2012

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<sup>11</sup>[http://www.swamwac.org/addressing\\_deprivation/docs/Tackling\\_Child\\_Poverty\\_in\\_Wales.pdf](http://www.swamwac.org/addressing_deprivation/docs/Tackling_Child_Poverty_in_Wales.pdf)