

Agenda – Children, Young People, and Education Committee

Meeting Venue:	For further information contact:
Video Conference via Zoom	Naomi Stocks
Meeting date: 10 February 2022	Committee Clerk
Meeting time: 09.15	0300 200 6565
	SeneddChildren@senedd.wales

In accordance with Standing Order 34.19, the Chair has determined that the public are excluded from attending the Committee's meeting in order to protect public health. This meeting will be broadcast live on www.senedd.tv

Private pre-meeting

(08.45 – 09.15)

1 Introductions, apologies, substitutions and declarations of interest

(09.15)

2 Peer on peer sexual harassment among learners – evidence session 1

(09.15 – 10.15)

(Pages 1 – 16)

[Estyn Report – We don't tell our teachers – Experiences of peer-on-peer sexual harassment among secondary school pupils in Wales](#)

Jassa Scott, Strategic Director, Estyn

Dyfrig Ellis, Assistant Director, Estyn

Delyth Gray, Her Majesty's Inspector (HMI), Estyn

Attached Documents:

Research Brief



3 Papers to note

(10.15)

Papers to note 1 – 11 are in response to a letter from the Committee seeking information on working with the third sector to provide mental health support services for children and young people following the scrutiny session on the Children's Commissioners Annual Report.

3.1 Scrutiny of the Children's Commissioner for Wales Annual Report

(Pages 17 – 25)

Attached Documents:

Private Paper – summary of written responses [papers to note 1 – 12]

Response from Dr Jen Daffin, Community Clinical Psychologist – CYPE(6)–04–22 – Paper to note 1

3.2 Scrutiny of the Children's Commissioner for Wales Annual Report

(Pages 26 – 27)

Attached Documents:

Response from Newport Mind – CYPE(6)–04–22 – Paper to note 2

3.3 Scrutiny of the Children's Commissioner for Wales Annual Report

(Pages 28 – 30)

Attached Documents:

Response from Short Term Intensive Support Team for children with autism and learning disabilities during Covid-19 – CYPE(6)–04–22 – Paper to note 3

3.4 Scrutiny of the Children's Commissioner for Wales Annual Report

(Pages 31 – 33)

Attached Documents:

Response from Child & Family Community Psychology, Aneurin Bevan University Health Board – CYPE(6)–04–22 – Paper to note 4

3.5 Scrutiny of the Children's Commissioner for Wales Annual Report

(Pages 34 – 37)

Attached Documents:

Response from Powys Regional Partnership Board – CYPE(6)–04–22 – Paper to note 5

3.6 Scrutiny of the Children's Commissioner for Wales Annual Report

(Pages 38 – 44)

Attached Documents:

Response from Cardiff and Vale Regional Partnership Board – CYPE(6)–04–22 – Paper to note 6

3.7 Scrutiny of the Children's Commissioner for Wales Annual Report

(Pages 45 – 56)

Attached Documents:

Response from North Wales Regional Partnership Board – CYPE(6)–04–22 – Paper to note 7

3.8 Scrutiny of the Children's Commissioner for Wales Annual Report

(Pages 57 – 61)

Attached Documents:

Response from Cwm Taf Morgannwg Regional Partnership Board – CYPE(6)–04–22 – Paper to note 8

3.9 Scrutiny of the Children's Commissioner for Wales Annual Report

(Pages 62 – 65)

Attached Documents:

Response from Gwent Regional Partnership Board – CYPE(6)–04–22 – Paper to note 9

3.10 Scrutiny of the Children's Commissioner for Wales Annual Report

(Pages 66 – 77)

Attached Documents:

Response from West Glamorgan Regional Partnership Board – CYPE(6)–04–22 – Paper to note – 10

3.11 Scrutiny of the Children's Commissioner for Wales Annual Report

(Pages 78 – 79)

Attached Documents:

Response from West Wales Regional Partnership Board – CYPE(6)–04–22 – Paper to note 11

3.12 Scrutiny of the Children's Commissioner for Wales Annual Report

(Pages 80 – 82)

Attached Documents:

Letter from the Children's Commissioner for Wales – CYPE(6)–04–22 – Paper to note 12

3.13 Forward work programme

(Pages 83 – 84)

Attached Documents:

Letter from the Deputy Minister for Mental Health and Wellbeing – CYPE(6)–04–22 – Paper to note 13

3.14 Forward work programme

(Pages 85 – 87)

Attached Documents:

Letter from the Deputy Minister for Social Services – CYPE(6)–04–22 – Paper to note 14

3.15 Legislative Consent: The Nationality and Borders Bill

(Pages 88 – 90)

Attached Documents:

Joint letter from the Chair of the Children, Young People and Education Committee and the Chair of the Health and Social Care Committee to the Minister for Social Justice – CYPE(6)–04–22 – Paper to note 15

3.16 Legislative Consent: The Nationality and Borders Bill

(Pages 91 – 94)

Attached Documents:

Joint letter from the Chair of the Children, Young People and Education Committee and the Chair of the Health and Social Care Committee to stakeholders – CYPE(6)–04–22 – Paper to note 16

3.17 Forward work programme

(Pages 95 – 97)

Attached Documents:

Letter from the Minister for Education and Welsh Language – CYPE(6)–04–22
– Paper to note 17

3.18 Tertiary Education and Research (Wales) Bill

(Pages 98 – 111)

Attached Documents:

Letter to Chair of the Legislation, Justice and Constitution Committee from
the Minister for Education and Welsh Language – CYPE(6)–04–22 – Paper to
note 18

3.19 Tertiary Education and Research (Wales) Bill

(Pages 112 – 114)

Attached Documents:

Letter from the Chair of the Children, Young People and Education
Committee to the Minister for Education and Welsh Language – CYPE(6)–04–
22 – Paper to note 19

3.20 Tertiary Education and Research (Wales) Bill

(Pages 115 – 126)

Attached Documents:

Letter from the Minister for Education and Welsh Language – CYPE(6)–04–22
– Paper to note 20

3.21 Welsh Government Draft Budget 2022–23

(Pages 127 – 128)

Attached Documents:

Joint letter from the Chair of the Children, Young People and Education
Committee and the Chair of the Equality and Social Justice Committee to the
Minister for Social Justice – CYPE(6)–04–22 – Paper to note 21

3.22 Organisation of Business

(Pages 129 – 136)

Attached Documents:

Letter from the Chair of the Children, Young People and Education
Committee to the Llywydd – CYPE(6)–04–22 – Paper to note 22

3.23 Forward work programme

(Page 137)

Attached Documents:

Letter from the Chair of Local Government and Housing Committee –
CYPE(6)–04–22 – Paper to note 23

3.24 Legislative Consent: The Nationality and Borders Bill

(Pages 138 – 192)

Attached Documents:

Letter from the Minister for Social Justice – CYPE(6)–04–22 – Paper to note 24

4 Motion under Standing Order 17.42(ix) to resolve to exclude the public from the meeting for the remainder of the meeting and for the whole meeting on 17 February

(10.15)

5 Peer on peer sexual harassment among learners – consideration of the evidence

(10.15 – 10.20)

6 Tertiary Education and Research (Wales) Bill – consideration of the draft report

(10.20 – 11.40)

(Pages 193 – 309)

Attached Documents:

Draft Report

**7 Legislative Consent Memorandum on the Nationality and Border
Bill – consideration of the draft report**

(11.40 – 12.00)

(Pages 310 – 333)

Attached Documents:

Draft report

Lunch break

(12.00 – 12.50)

8 Children's Rights Training

(13.00 – 15.00)

Document is Restricted

Document is Restricted

CYPE(6)-04-22- Paper to note 1
Children, Young People and Education Committee
Request for information on working with the third sector to provide mental health support services for children and young people
Response from: Individual - Dr Jen Daffin

I am responding to the below request for evidence. I used to work in ABUHB Child & Fam Community Psychology and would like to share the following reflections with you based on my nearly 3 years' experience there. My remit was Newport and I was tasked with partnership working alongside the families first funded work, youth, police, housing and sports. I had a number of partnerships with various sectors, including Mind Newport, Barnardo's, GAVO and save the children. I can't not speak on behalf of the CFCP ABUHB team but speak from my personal experience.

- **how you work alongside the third sector to plan and deliver support services;**

This was not a specific remit of our work but we came into contact with the third sector via families first funding and the circle of security programme. I was the chair of the circle steering group.

- **any active projects/initiatives that you are currently undertaking alongside the third sector (i.e., a summary of what the projects/initiatives do, which third sector organisations are involved, who can access the services the projects/initiatives provide and where, etc.);**

Formerly I provided support to Save the Children's Early Learning Community Bettws project in partnership with CFCP, ABUHB. I currently continue this arrangement on a consultancy basis as I have moved jobs. I provide consultation, and training to the delivery of the Community Wellbeing & Resilience work stream. Through partnership with the North hub (and other hubs) I was also providing direct support and family/child consultation. The ELC is for families with children aged 7 and under. It's a systems change not service provision focused project.

GAVO – We co-delivered the circle of security programme (relational parenting programme). The ELC is also looking to provide a pilot trauma informed communities project with GAVO and Save that I will be a part of. This is a 10 month project that

will work with families to explore how to help communities recover from trauma and be psychosocially healthy places for children to grow up in.

Barnado's – I was providing consultation and training as well as working jointly with them on a multiagency COVID recovery project via CFCP ABUHB

Mind Newport – I was providing consultation and training via CFCP ABUHB

- **where partnership working has worked well, and where you have learnt lessons for how to improve it in the future; and**

It's all about relationships and psychological safety. The third sector works very differently to the health board. I had the advantage of having previously worked in the third sector for a number of organisations and so had an understanding. Lots of HB staff have only worked in the HB for all of their careers. Their degree/qualification's are also largely in the HB setting. Change can be a scary thing especially when you are expected to also be the 'expert'.

All the sectors have their own cultures. These often clash. Lots of these systems are (and were prior to COVID; COVID may have made it worse) traumatised systems operating from a position of destabilisation and therefore from a position of threat/fight/flight. See recent news articles about ABHUB's conduct (bullying culture). This makes it very difficult to build trust. You also can't be brave and invest in new relationships if you are not in a safe and resourced place yourself. The trauma recovery model/Three R's models capture this the best. Regulate, Relate, Reason/Reflect. If the system/individual is not regulated (ie. Stable in its function and resourcing) it cannot relate and then it can't be expected to build/have good relationships.

Some of the biggest wins we had were when we were based within teams. So we became part of the team. This helped build trust and for us to learn each other's culture and ways of doing things. The HB has a habit of 'doing to'. The professions are trained in this way. It's what medicine is about. This sits in contrast to the LA and even greater contrast with the ethos of the third sector who's starting points are with and by citizens. These cultural differences are not spoken about. There was real benefit in talking through each others systems and why things are the way they are. Sharing context was very helpful. This however can be threatening and mean you have to share weaknesses which when in a threatened state may not feel desirable/or be possible.

There are power dynamics that need working through here too. Greater understanding of what coproduction and handing over power is, is also needed. HB

staff are often not aware that they are hoarding power. Its just how things are done. The demands and pressure of the environment can cause a poverty of imagination and creative thinking. Something the third sector is not often subject to. The pace then at which the two sectors work is very different. This can cause frustration and also threat. HB feels 'rushed' and third sector feel HB is 'dragging its feet'. Understanding the etiquette of each others working environment is very helpful. For example, HB is very hierarchical. Third sector is not. There are then different expectations and standards that are not spoken. To my knowledge there is no place that this is explored or worked through. Job exchanges or swopes could help bridge relationships and transfer cultural understanding from one to the other and vice versa. The Newport FF partnerships did this but it was only one way – HB to LA not LA to HB.

There are also different understandings of what each service/sector should be doing and what's achievable. This can cause misunderstanding which breeds distrust. Because there isn't good transparency about process or gatekeeping practice, even within SPACE panel, reasons for decisions or who gets what support are not obvious. This has caused frustration between sectors. There is also a difference in understanding what support people need and when. The systems also think about risk differently but this is not shared. This also causes distrust but can make it difficult for, for example, third sector providers to 'hold on' with confidence or be taken seriously when they ask for enhanced support.

There is not good practice with information sharing (as appropriate) or waiting times generally. It can be difficult to get hold of people in different services and there are different expectations about what information to contact someone is given out and how (i.e if an email or mobile number is shared and with whom). These differences and history of difficulty need time to repair and a particular focus on this would benefit future joint working in Newport.

- **any future plans you have for partnership working with the third sector, what you hope to achieve with those plans, and how they will be monitored and evaluated.**

N/A

If there is anything else you would find helpful to know or to be clarified please let me know.

Agenda Item 3.2

CYPE(6)-04-22- Paper to note 2

Children, Young People and Education Committee

Request for information on working with the third sector to provide mental health support services for children and young people.

Response from: Newport Mind

Please see the below information regarding services for children, young people and families provided by Newport Mind. This is in response to the request for information sent for the 'Working with the third sector to provide mental health support services for children and young people' call out.

- Family Wellbeing & Resilience Service – Provides mental health and emotional wellbeing support for whole families in 1-to-1 and group settings as part of the Families First Scheme in Newport.
- Youth Engagement Workers – Provides short-term 1-to-1 support to young people aged 11-25 with low-level mental health and emotional wellbeing difficulties. Also provides 2 detached youth work sessions per week to reduce stigma and engage hard-to-reach young people.
- Systems Change Project – Aims to make mental health a part of normal conversation for young people by working with our partner organisations (currently Community House, and the Bridge Achievement Centre) across Newport. We are recruiting and training volunteers to work in communities that traditionally do not access mental health support. It is important to us that these volunteers are representative of the groups we are trying to reach; young men, young people from BAME communities, young people from LGBTQ+ communities and young people from deprived backgrounds. By working with existing groups we aim to create lasting change; where young people feel comfortable and confident discussing their mental health and wellbeing in their communities, reducing stigma and promoting access to mental health services.
- Whole School Approach to Mental Health Project – Working in partnership with every secondary school and alternative education provision in Newport, the WSA project provides a range of universal and focused mental health interventions for students, staff, parents and carers. The project aims to improve wellbeing, reduce stigma and provide psychoeducation and training to meet the unique needs of the stakeholders of each school community. The BOOST 1-2-1 service for young

people aged 10-18, receives direct referrals from the Newport SPACE Wellbeing Allocations Panel. Sourcing sustainable funding to maintain this impactful project is a challenge, with funds currently due to end in March 2022. Some schools have been able to commission part-time time-limited support directly, but many have expressed that their funding for such support is currently too limited, regardless of the high level of need.

- EBSA – The Emotionally Based School Avoidance (EBSA) project is a collaboration between Newport Mind and Newport Educational Psychology team. Every school in Newport will have access to live workshops as well as pre-recorded staff training videos and a guidance document, to help them support young people and families experiencing EBSA. Resources will also be available for families and young people themselves. Strong partnership communication and the development of trust have been crucial in meeting the targets for delivery so far.
- Piece by Piece Project – The piece by piece project works with young people aged 11-25 and their families who have experienced a recent trauma. We offer 6 one-to-one support sessions, family restorative sessions, and a range of creative workshops that are in partnership with Literature Wales and Community House. This project is available to anyone living within the Newport area, with an added focus of engaging those from backgrounds such as BAME and LGBTQ communities

Agenda Item 3.3

CYPE(6)-04-22- Paper to note 3

Children, Young People and Education Committee

Request for information on working with the third sector to provide mental health support services for children and young people

Response from: Short Term Intensive Support Team for children with autism and learning disabilities during Covid-19

Why was the service set up?

The service was set up at the start of the COVID-19 pandemic to support children with autism and learning disabilities. It was aimed at children with the most complex needs who were already receiving support from the Child and Adolescent Learning Disability Service (CALDS) to prevent/postpone placement breakdown.

Who was involved in leading and delivering the service?

The team was led jointly by Psychology lead for Children with Additional Learning Needs (ALN) and Sparkle Children Centre Manager (third sector organisation). Day to day service delivery included: Behavioural Support Practitioner, Assistant Psychologists, Learning Disability Nurse, Assistant Practitioner and Play Workers from Sparkle team.

Referral, Aims of Service and Service Delivery Pathway

Referral by the Child and Adolescent Learning Disability Service (CALDS)

Criteria:

- Known to CALDS with a moderate to severe learning disability and/ or autistic spectrum disorder (ASD) and displaying complex behaviours
- Not currently accessing an education provision or alternative educational facility
- At risk of family breakdown without intensive support

Aims

1: Giving families a chance to rest: While children and young people attend sessions, families get a much-needed break.

2: Individually tailored support: The team develop Positive Behaviour Support plans based on assessments completed with children and young people, and those important to them.

3: Skills development: The team support children and young people to develop skills to improve their quality of life.



Day to Day Service and Program delivery by the Health Board and Sparkle Play Team

The Short-Term Intensive Service delivered sessions between April 2020 and August 2020. The children had between 1 – 4 sessions a week. The duration of these sessions varied between 30 minutes to 3 hours.

Child and young person sessions

Under supervision from the Behaviour Support Practitioner, Health Board and Sparkle Play Workers delivered sessions with the child which focused upon the following:

- Regulation and Play
- Skills development programmes (promoting communication, engagement with others, cooperating with waiting, promoting independence (e.g., toileting) which were tailored to the needs of the child.



Service Ending

The Short-Term Intensive Service ended August 2020. All children who were being supported by the Short-Term Intensive Service were transitioned to the Intensive Positive Behavioural Support Service for further support.

The total number of sessions that were delivered during the Short-Term Intensive Service was around 140.

Where were the sessions delivered?

The service was based in a local Children's Centre (Serennu) which is a purpose built centre that provides treatment and activities for children and young people with disabilities and developmental difficulties. The children's centre has multiple treatment rooms and leisure facilities including a sensory room and a self-contained flat. Whilst outside, there is a playground and a short sensory walk in landscaped grounds.

Benefits and challenges of joint working between health and third sector

Within the Short-Term Intensive Service there was a cohort of 3 children. For consistency, where possible, these took place on the same days and times each week. The number of staff needed varied dependent on the needs of the child. The core set of staff included at least one health board member and at least one Sparkle play worker, which enabled the children to feel contained, with the familiarity and consistency of staff.

Using this Children's Centre, we feel contributed to the success of the partnership working as the children who were attending the sessions were already familiar with the Children's Centre including some of the play workers. Also, the facilities at the Children's Centre enabled the children to access both indoor activities such as the sensory room, and outdoor activities such as the park and/or gardens.

Reflecting on both health board and play workers running the sessions with the children there was a range of skill sets and strengths amongst the core teams. There was an opportunity to learn from each other and work together collaboratively. We feel that the mix in skill set, familiarity of Children's Centre and of Sparkle staff alongside building rapport

with health board staff, enabled the child to feel regulated in sessions and therefore engage in skills development activities which were person centred to each child.

There were also challenges to partnership working including one of the main difficulties we found was the apparent difference in support style at times (preventative vs reactive techniques). Also, some members of the team had training in 'team teach' which can be used when a child puts themselves or others in danger, whilst other members of the team had not received this training.

The team was established extremely quickly due to the wider context of Covid-19, and had never worked together previously. Upon reflection, it felt as though one of the main challenges was not having enough time to get to know each other as a team. This led to, at times, a breakdown in communication during the sessions, and high levels of frustration and anxiety. To combat this, regular debriefs were implemented, facilitated by a senior staff member to reflect on the sessions and whether any necessary changes would be required prior to the next session. We found this to be very beneficial, particularly to have a safe space to repair any ruptures within the team. If in future we were to run such sessions, we feel that it would be helpful to establish regular team debriefs from the outset to ensure team cohesion.

Conclusions and Outcomes of the Short-Term Intensive Service

The Short-Term Intensive Service highlights how ABUHB and Sparkle have worked in collaboration to provide support to children and young people, and their families, during a global pandemic. We have highlighted the benefits of working together as well as some of the challenges. We just wanted to finish by sharing some of the outcomes for the children attending the Short-Term Intensive Service

- X's ability to engage in an activity for a prolonged period of time compared to earlier sessions.
- X's tolerance of close contact from staff e.g., sitting next to him or carrying him.
- an increase in his verbal communication.

- an increase in his engagement levels in terms of his tolerance of staff joining in with his activities.
- an improvement in regulation levels resulting in a decrease in distressing behaviours.
- an improvement in relationship in terms of seeking close contact from staff as a form of reassurance, instigating physical play with staff and an increase in him requesting help.

- using appropriate alternatives including making requests using his Picture Exchange Communication System (PECS) book and asking for help when he needs it.
- using toilet in sessions and at home.
- Approaches staff for interaction, links arms with staff when walking outside, approaches staff to ask for help and will look for reciprocated emotion from others.

Agenda Item 3.4

CYPE(6)-04-22- Paper to note 4

Children, Young People and Education Committee

Request for information on working with the third sector to provide mental health support services for children and young people

Response from: Child & Family Community Psychology, ABUHB



Child and Family Community Psychology and the Third Sector

Child and Family Community Psychology is a team of Clinical Psychologists, Systemic Psychotherapists and Assistant Psychologists. It is based within the Gwent Child and Family Psychological Health Service.

CFCP is founded upon a number of core beliefs- one of which is that children and young people do not exist in isolation, they are part of a wider network of relationships and systems that create the context for their development. These relationships span across home, the extended family, school and the wider community, recognizing the fundamental role of community volunteers in shaping out young people's development. For some of our more vulnerable young people these relationships will also be with organisations to include social care, the police, housing and the third sector.

CFCP's aim is to develop partnerships across the multiple levels of these systems to change how our communities nurture children and young people's wellbeing and understand and relate to distress. We seek to develop a relational, developmental and contextual understanding of distress and support community members to feel confident in sitting with this distress whilst creating the conditions necessary for change. Drawing on psychological models and theory, we work alongside communities, however defined, to enable and support them to identify needs and to develop and enact their own solutions to these needs.

This document details our recent work in Newport with third sector agencies:

Organisation: Save the children

When: November 2019 – November 2021

Aimed at: Families within Bettws, Newport.

Project: ELC Community Resilience and Wellbeing

The Early Learning Communities project takes a 'whole system' approach to improving the early learning outcomes of children growing up in poverty; seeking to stimulate systems change across the breadth of service providers; thereby resulting in improved outcomes for members of the local early years community. This project is focused on the community of Bettws (Newport, South Wales).

Work completed:

- Transfer of psychological knowledge and embedding psychological thinking and processes into the programmes working structures.
- Community resilience and wellbeing in Bettws questionnaire (based on Adverse Communities Framework.) – 112 responses – analysis and recommendations made (October 2020).
- Bettws place-based formulation completed (December 2020)
- Children's wellbeing workshops: 3 workshops delivered at Millbrook primary school to 36 children attending the SHEP project (summer 2021).
- Parent stories project: 4 parents interviewed about their experience of accessing mental health support. Themes analysed and recommendations made (summer 2021).

Plans for the future:

- Dependent on funding of new CFCP post

Organisation: KidCare4U

When: November 2021

Aimed at: Children, Young People and Members of staff from KidCare 4U Saturday sessions

Project: Emotions and wellbeing workshops

Work completed:

- We were requested to offer some help around wellbeing to children and young people (CYP, aged 5-16) from ethnic minority families who attend Saturday education and play sessions. This request was made in the context of staff from Kid Care 4 U noticing CYP showing distress or talking about distressing experiences in the Saturday sessions, particularly in the context of the pandemic.
- A Clinical Psychologist and Assistant Psychologist from Child and Family Community Psychology were able to offer two Saturday sessions. The aim of the sessions was for CYP attending to feel more able to identify and talk about, to recognise that these feelings are understandable and can affect everyone, and to recognise possible causes for those feelings and to develop some ideas about what might help when they experience distress.

- The workshops were offered according to age group. The workshops gave CYP the opportunity to talk about feelings and experiences they have faced during the pandemic. As staff from Kid Care 4 U already had relationships with the individual children they were able to support them to engage in the sessions. An additional benefit of this was for staff to hear the discussions and hopefully to help them to feel more confident to respond to the children and young people when they shared difficult experiences and feelings of distress outside the workshops.
- The workshops also provided members of staff with practical strategies to talk about feelings with children and adolescents in a fun way and at a child appropriate level.
- Staff were asked to evaluate the workshops using questionnaires, aiming to get an understanding of the impact of the workshops both on staff and upon CYP both during and after the sessions. The CEO of Kid Care 4 U was also interviewed a few weeks after the sessions to gain a more in-depth understanding of the impact of the workshops.

Plans for the Future:

- Due to capacity within our service we are not able to offer any more partnership working immediately, both CFCP and Kid Care 4 U are keen to continue the relationship and to respond to requests for further input from the organisation as future needs are identified.

For further information, please contact:

Dr Rhiannon Cobner, Consultant Clinical psychologist, Lead for Child and Family Community Psychology

Rhiannon.cobner@wales.nhs.uk

01633 436996



Dear Jayne Bryant MS, Chair – Children, Young People and Education Committee.

Re: Working with the third sector to provide mental health support services for children and young people

Following a request received on 1st December 2021 for information regarding third sector emotional health and wellbeing provision for children and young people, please find a response to this structured around the following suggested headings:

- how you work alongside the third sector to plan and deliver support services;
- any active projects/initiatives that you are currently undertaking alongside the third sector (i.e., a summary of what the projects/initiatives do, which third sector organisations are involved, who can access the services the projects/initiatives provide and where, etc.);
- where partnership working has worked well, and where you have learnt lessons for how to improve it in the future; and
- any future plans you have for partnership working with the third sector, what you hope to achieve with those plans, and how they will be monitored and evaluated

We hope this information is helpful in supporting the strategic planning meeting in January but please get in touch if any further information is required.

How we work alongside the third sector to plan and deliver support services

In Powys we have an Emotional Health and Wellbeing Work stream and working group. The workstream reports to our Start Well Board which directly reports to the Regional Partnership Board.

The Emotional health and Wellbeing workstream is chaired by Sam Shore (Head of CAMHS) and Vicky Ruff-Cock (Senior Manager in Children’s Services) and is a multi-agency meeting including all services who particularly work with children and young people regarding emotional health and well-being. PAVO represent our third sector and voluntary providers at this meeting, however a number of third sector organisations are also members of the group (e.g. Action for Children, MFCC, Calan DVS, Mind, CAIS, Kooth). Four of our third sector organisations also sit on our Start Well Board. The Emotional Health and Wellbeing Workstream provides an opportunity to share information about the emotional health services available in Powys as well as developments. It is also an opportunity to raise gaps in service, to look at trends, identify themes to improve services and to look at shared funding opportunities.

We have a shared Emotional Health and Wellbeing strategy which is embedded in the NEST/NYTH model, which all partners including our voluntary and third sector are part of. This has been developed through the workstream. We also have just received notification of the ‘Pathfinder’ funding. This project will map the journey of support for 0-7year olds and will be a partnership approach to addressing additional support needs for 0-7 year olds reporting into the Building Resilient Communities and Integrated Access to Services Workstream.

There is also a Building Resilient Communities and Integrated Access to Services workstream and an Integrate Access to Services working group which also works closely with the third sector. Several third sector organisations sit on this workstream and are part of the development of a panel to improve access to services in Powys.

Some of the current projects that we are working alongside third sector organisations include 'Mind of Our future funding' This is a lottery bid, which PAVO are leading on. The project is focused upon consulting with and listening to young people and what they say supports their mental health, to co-design a young people's emotional health and wellbeing service.

Gender awareness training – we are working with PAVO to provide this training to all services as well as third sector organisations to ensure services have a good understanding and awareness of this. This was highlighted as a gap for training through our Emotional Health working group.

Team Around the Cluster – Multi-agency meetings which include services and third sector organisations who share information about the services they can provide to support emotional health and wellbeing for children and young people.

In the Powys Commissioning Team, we have recently employed a grants officer who is working with our emotional health workstream to identify possible funding that we can work in partnership with third sector organisations to deliver.

One of our standing agenda items on Emotional Health and Wellbeing workstream is funding. We encourage partners to share the funding that they are aware of and some of these bids develop into multi agency provision based upon need. This is in early stages of development. One example of this is our 'Missing Middle' project where we have commissioned a range of services through health funding to deliver projects to young people. Kooth, the counselling service provide group work in schools as part of this grant.

When covid-19 began we established a multi-agency Emotional Health working group, to support services and organisations working with young people and their emotional health and well-being. This group includes several third sector organisations and is a way of sharing service information as well as working together to improve good emotional health and well-being outcomes for children and young people. We regularly encourage services and organisations to present the service they provide and share how this can be accessed eg The Guide Project which is being delivered by Action for Children. From this group we have been able to secure additional funding to support services e.g. Dragons Den to increase support for children and young people experiencing domestic abuse, MFCC and Calan DVS (Domestic abuse Services) received funding to increase capacity.

The local authority also commissions a range of third sector organisations to deliver emotional health and wellbeing services.

Examples of active projects/initiatives that we are currently undertaking alongside the third sector

A number of contracts are delivered by third sector organisations to provide services to support children and young people's emotional health and wellbeing (Credu, Kooth, MFCC, Calan DVS, Mind, Ponthafren)

The 'Missing middle' – funding to support Ponthafren and Welsh Rugby Union (WRU) to provide a sports development worker in the North

Powys Together working with Ponthafren and Street Games to provide 'fit and fed' a project to support young people's health and wellbeing, through activities and a healthy meal.

The Play Sufficiency Action Plan – PAVO are leading on the Play sufficiency Action Plan, and this is focused upon collecting information from a range of services including many third sector organisations to look at Play and Play opportunities and to ensure there is an action plan that is implemented and reviewed across Powys.

Junior Start Well Board working with PAVO, Credu and Young farmers.

Relationship & Sex Education (RSE) in schools – A group that includes Schools, School nurses and Hafan Cymru to identify and improve provision.

VAWDSV young people's steering group – MFCC, Calan DVS, Hafan Cymru, to ensure that we are providing the appropriate services to children and young people as well as meeting demand. This has included increasing funding to provide projects.

Brecon Mind are providing emotional health and wellbeing sessions in Brecon High School as well as family support to the Pupil Referral Unit (PRU) in Brecon.

LGBTQ+ Co-ordinator: Working with existing support through Mind, Hafan Cymru, Kooth and Stonewall Wales to develop this post and to work with existing services to support LGBTQ+ young people.

Where partnership working has worked well, and where we have learnt lessons for how to improve it in the future

The Powys Together Community Project is a good example of working with voluntary and third sector organisations to enhance emotional health and wellbeing for communities. For example, in the Llanidloes Community, the Co-ordinator works closely with the PAVO community connector, The Hanging Garden and Credu to provide a range of opportunities and projects for the children and young people living there. In the Newtown Project the co-ordinator is involved in the Network meeting which is made up of a range of third sector organisations, the project has secured funding on behalf of other organisations to run projects in the town.

The 'Missing Middle' project is another example of working with the third sector to provide group work to support emotional health and wellbeing in secondary schools.

Integrated Access to Services – we know that we need a range of approaches and services to support good emotional health and wellbeing. The Integrated Access to Services is a way of working that includes a panel with a wide range of representation from all sectors to ensure children, young people and families receive the support that they need, when they need it.

We have learnt that offering support through a range of organisations enhances the support available. Through the meetings that are now established we are more aware of what each service can offer, and we are working more closely to provide services in partnership. There is more work to do but provision is more joined up. PAVO represent our third sector in Powys and are involved in all the key meetings, this has also been extended to include individual organisations who can attend and represent themselves. We think much more about joined up services and enhancing those services to deliver what people and communities need.

Our future plans for partnership working with the third sector, what we hope to achieve with those plans, and how they will be monitored and evaluated

Our future plans include continuing to strengthen our partnership working with the third sector. The third sector representatives on our Start Well Board and workstreams, will ensure we continue to listen to organisations and work together to provide good emotional health and wellbeing support.

We have established a Domestic Abuse steering group for Children and young people and this group are identifying funding to extend service, sharing best practice as well as training to ensure the provision is joined up.

The Powys Together project continues to work with voluntary and third sector organisations and will extend this remit after April to ensure Emotional health and wellbeing and social prescribing is available across the age ranges.

We will monitor and evaluate progress through the Emotional health and Wellbeing Workstream and The Start Well Board. The Junior Start Well Board will help to measure the impact of services and the children and young people's views will help shape future developments.

The NEST/NYTH model will be a priority focus over the next 12 months and will support further joint working and delivery of services to support good emotional health and wellbeing for children, young people, and families. The NEST/NYTH model will be evaluated through the Junior Start Well, Start Well and the Regional Partnership Boards.

Agenda Item 3.6

CYPE(6)-04-22- Paper to note 6

Children, Young People and Education Committee

Request for information on working with the third sector to provide mental health support services for children and young people

Response from: Cardiff & Vale Regional Partnership Board



Date: 14.1.2022

Jayne Bryant MS
Chair, Children, Young People and Education Committee
Senedd Cymru
By email

Dear Jayne

Working with the third sector to provide mental health support services for children and young people.

Many thanks for your letter dated 1st December 2021 asking for an update from our Regional Partnership Board to provide the Committee with further information about the mental health support in place for Children and Young people.

This request is very welcomed and timely. We have established the Starting Well Partnership which is a new partnership mechanism, during 2020/21 to oversee the partnership priorities for infants, children and young people. This partnership has delegated responsibility on behalf of the RPB to deliver against priority areas for this cohort. Improving the experiences and services in place for young people with emotional well-being and mental health is one of our main priority areas, with a delivery group of stakeholders already in place taking actions on improving service delivery.

You have asked how the RPB works alongside the third sector to plan and deliver support services. Our third sector partners are a welcome and active voice in our Regional Partnership Board, Starting Well Partnership and our Emotional Well-Being Delivery Group. These partners help to shape our service priorities, enable the voice of the child and young person to be central to discussions and enable planning.

There are a number of workstreams and projects that are being delivered under the umbrella of the RPB, and also within individual sovereign organisations. An appended list has been provided as an overview of some of these.

The Starting Well Partnership is in the process of shaping a programme of work that supports improvement of infants, children and young people's emotional well-being and mental health, supporting a move to a model focused on wellness. This will include the implementation of the Whole School Approach, embedding the NEST/NYTH framework and modelling further the arrangements in place for No Wrong Door. This programme of work includes all partners, including the third sector partners who currently deliver services and support.



Partnership working has worked well within our Starting Well Partnership, through a trusted and open relationship with the third sector and recognising the value of their subject matter expertise and wider reaching service delivery across other regions and nations. We have been able to hear from partners in the practical delivery of psychologically informed environments which deliver best outcomes to young people in distress, and other organisations who have shared their learning in implementing integrated models of care in England.

There are opportunities to improve further our relationship with the third sector, as there are many organisations that would want to be represented in discussions. As a result, the Starting Well Partnership will be launching a stakeholder engagement group, which will enable an open dialogue between 3rd sector providers who support children and young people or people with mental health needs. This group will be independently facilitated by Cardiff 3rd Sector Council and supported by statutory partners to enable an open platform for sharing information, shaping feedback and providing the representatives of the third sector who attend strategic meetings to gather the broader feedback to bring to the partnership.

There are future plans for continued and further partnership working with the third sector, in delivery of direct support to people, and engagement with children and young people. Our partners also continue to work with the third sector in the delivery of services. Most of these arrangements are in place through formal tender processes which have monitoring and evaluation processes built in to ensure outcomes are met. This includes case studies and impact analysis.

I hope that this provides you with the information you are seeking. Please do come back to me if you need any further information and I will be pleased to provide it.

Yours sincerely

Cllr Ben Gray
Chair, Cardiff and Vale RPB



Cardiff and Vale RPB: Annexe 1 – Examples of arrangements with 3rd sector and the RPB in delivering emotional wellbeing and mental health support to children and young people

Project/ initiative	Organisation involved	Summary	Who can access	Location
Platform for families – Regional ICF Mental Health funding	Platform	A service offering support to the families and carers of children and young people with emotional mental health needs that provides practical skills they can use to support the child/ young person as well as peer support.	Parents, siblings and wider family members of children and young people who are receiving support for emotional mental health needs.	Regional across Cardiff and the Vale of Glamorgan
Digital resource development – ICF funded	Promo Cymru	Third sector organisation coproducing with young people to produce digital resources for young people on emotional wellbeing topics. These will be hosted on the C&V UHB emotional wellbeing website and across partners	Children and young people can volunteer to coproduce digital resources via the UHB's youth board or Promo Cymru.	Regional across Cardiff and the Vale of Glamorgan
Subject matter expert and umbrella organisation representation <ul style="list-style-type: none"> - Starting Well Partnership - Emotional Health and Wellbeing Delivery Group 	C3SC, Barnardo's and Llamau; C3SC, Platform Cymru and Barnardo's	Subject matter expert and umbrella organisation representation on both the regional strategic board and delivery group for children and young people to ensure third sector expertise	All 3 rd sector organisations were invited to express and interest with 2 successful applicants. A further stakeholder engagement group will be established to enable wider 3 rd sector involvement in the development of support for CYP with emotional and mental health needs	Regional across Cardiff and the Vale of Glamorgan
Reunification – supporting families to remain together	Action for Children	Practical support for families that models behaviours which may be needed to safely reunify a child or young person – for	If children are not placed with their families, reunification will be the assumed aim unless this is not a safe outcome for the	Vale of Glamorgan

Cardiff and Vale RPB: Annexe 1 – Examples of arrangements with 3rd sector and the RPB in delivering emotional wellbeing and mental health support to children and young people

Project/ initiative	Organisation involved	Summary	Who can access	Location
		example maintaining household cleanliness.	child. Family support workers offer practical assistance where assessment identifies that this is needed to facilitate a good outcome for the family.	
First Episode Psychosis Service	Barnardo's	An integrated service, delivered in partnership with the University Health Board that offers support to children and young people experiencing psychosis for the first time or those at risk of developing psychosis.	14-25-year olds who have been referred from secondary mental services.	Regional across Cardiff and the Vale of Glamorgan
Young carers	YMCA	Provision of peer support, youth clubs and social events for children and young people who care for family members. Emotional wellbeing support available for young carers. Family support offer for the families of young carers who access the service.	Children and young people who are young carers.	Regional across Cardiff and the Vale of Glamorgan – but with separate contractual arrangements in each local authority area
Change Grow Live	UHB commissioned	Group or one to work support with mental health and emotional wellbeing, substance abuse, relationships and self-harm.	Young people aged 10-18 for substance abuse support, or 10-17 for emotional wellbeing support. Young people and families can self-refer.	Regional across Cardiff and the Vale of Glamorgan

Cardiff and Vale RPB: Annexe 1 – Examples of arrangements with 3rd sector and the RPB in delivering emotional wellbeing and mental health support to children and young people

Project/ initiative	Organisation involved	Summary	Who can access	Location
Emotional Well Being Service	Barnardo's – Cardiff Families First	Specialist support for families providing Triage and Therapeutic interventions, with a particular focus on families where there is a low level mental health need, have suffered a bereavement trauma or loss, where there is inter - parental conflict, or the family are asylum seekers / refugees or have a child with a disability.	Professionals can refer on behalf of young people. Children, young people and families who have needs the service can support with. Cardiff's Early Help team can signpost and refer to this service.	Cardiff CYP only
CAVAMH	Join the Dots	Direct support for young people and the groups supporting them. Service aims are: <ul style="list-style-type: none"> - Shared understanding of mental health provision and mental health experiences. - Have a say on how mental health services should be planned and delivered. - Receive feedback from planners/commissioners on young people's views and recommendations. - Share mental health information, resources and news. 	Young people aged 11-25 who use mental health services.	Regional Across Cardiff and the Vale of Glamorgan

Cardiff and Vale RPB: Annexe 1 – Examples of arrangements with 3rd sector and the RPB in delivering emotional wellbeing and mental health support to children and young people

Project/ initiative	Organisation involved	Summary	Who can access	Location
School Based Counselling Services	Barnardos	School-based counselling support for children and young people.	Children and young people aged 10-19 who live in the Vale of Glamorgan. CYP can self-refer. Parents and professionals can refer on their behalf.	Vale of Glamorgan only

Future Plans	Aims	Monitoring and Evaluation
Additional digital resources – Promo Cymru	Third sector organisation providing support for young people to produce additional digital resources for young people on emotional wellbeing topics. These will be hosted on the emotional wellbeing website.	<p>Young people co-produced the C&V UHB emotional wellbeing website and advised about the resources they would find helpful. Development of additional resources continues this piece of work and will be led by the CYP who are supported to produce these resources. Any issues will be resolved between the UHB (as the commissioner) and Promo Cymru.</p> <p>Evaluation will come via feedback through the website once the resources are uploaded.</p>
Third sector stakeholder group	To ensure the views of the third sector are represented in the Starting Well Partnership and Emotional Health and Wellbeing Delivery Group, and that information from these groups flows to sector to ensure they are fully aware of strategic direction and current activity.	<p>Third sector partners have told us that they want to be partners in RPB activity. We have secured membership from the third sector at each level of governance. However, the sector is too large and varied for nominated representatives to represent all views and it is not practicable to extend membership to all interested groups. The stakeholder group will be supported and monitored by the RPB team and C3SC.</p> <p>Evaluation of the efficacy of this group will initially be anecdotal feedback from the EMH Delivery Group members and C3SC. Further quantitative and qualitative data will follow once the group is established.</p>

Cardiff and Vale RPB: Annexe 1 – Examples of arrangements with 3rd sector and the RPB in delivering emotional wellbeing and mental health support to children and young people

Future Plans	Aims	Monitoring and Evaluation
<p>Third sector engagement tender</p>	<p>A consortium of third sector organisations will engage with children, young people and families on behalf of the Starting Well Partnership, ensuring that we meet people where they are.</p> <p>Infants, children, young people and families will ensure their voice and views are represented. Decisions made and services developed will reflect the changes that infants, children, young people and families want.</p> <p>By using third sector expertise in meeting people where they are, we hope to engage with the widest variety of people, including individuals and groups who do not traditionally engage with statutory organisations.</p>	<p>This will be contract monitored by the RPB team on behalf of the partnership.</p> <p>Children, young people and their parents have engaged through third sector partners as part of the development of the Starting Well Partnership that has helped to identify priorities. This process has been small scale and in response to specific developments or questions.</p> <p>The consortium secured through this tender will formalise this arrangement and bring scale to the way Cardiff and Vale engages with children, young people and families about emotional wellbeing and mental health.</p> <p>The consortium will provide evaluation as part of their contract monitoring process, but the qualitative feedback provided by citizens will support a wider evaluation of whether the RPB’s priorities are delivering positive change for people.</p>

CYPE(6)-04-22 - Paper to note 7

Children, Young People and Education Committee

Request for information on working with the third sector to provide mental health support services for children and young people

Response from: North Wales Regional Partnership Board



CYDWEITHREDFA GWELLA GWASANAETHAU
GOFAL A LLESIAANT **GOGLEDD CYMRU**

NORTH WALES SOCIAL CARE AND WELL-BEING
SERVICES IMPROVEMENT COLLABORATIVE

- **how you work alongside the third sector to plan and deliver support services;**

Family Wellbeing in General Practice, the Whole School Approach including roll out of CAMH Schools In-Reach Service

The Schools In-Reach pilot ended in July 2021. In North Wales, the pilot site covered Education Services in Denbighshire and Wrexham Local Authorities. The pilot programme was evaluated positively.

Funding for the North Wales expansion of the CAMH Schools In-Reach for 2021-2022 was approved by WG August 2021 and approved "in principle" from 2022 onwards.

Since the closure of the pilot project in July 2021, plans for roll-out across North Wales have progressed. Activity has focused mainly on liaison with key stakeholders across North Wales specifically local area specialist CAMHS teams Early Intervention and Prevention functions, and Local Authority-level Whole School Approach/Healthy Schools Framework implementation groups. Following a parallel review of the evaluation and associated literature and taking into account lessons learned from the pilot, a Service Delivery Model and Proposed Staff Structure have been developed

The CAMH Schools In-Reach Service forms one part of the Early Intervention Care Pathways work stream under the CAMHS Programme - Targeted Improvement Framework.

Family Wellbeing Project within General Practice to establish a pathway in primary care to support early identification of children and young people who are experiencing or at risk of developing a mental health disorder is being rolled out across North Wales

We have utilised familiar primary care information systems to support needs led decision-making, and enhance access to high quality advice and service information to support early intervention.

The pilot to embed a Family Wellbeing Practitioner (FWP) in each primary care cluster was a success and following positive evaluation BCUHB have been successful in their bid to WG for mental health improvement funding to recruit specialist nurses for each GP cluster within North Wales. To date we now have a FWP in 4 primary care sites and are recruiting to roll out across all areas this year.

The FWP is a clinician with expertise in child and adolescent mental health and early intervention, and maintains strong links with universal and targeted children's services and specialist mental health services (S-CAMHS).

They provide:

- Training and consultation for primary care colleagues to enhance early detection and promote awareness of early help resources and services.
 - Direct consultations to children, young people and families who need more than self-help or signposting information, but do not require a specialist mental health service S-CAMHS. Practice clinicians can refer directly through EMIS.
 - Consultation for families who have received advice and signposting but require further support within six months of the GP consultation. Families are able to self-refer, reducing the need for repeat GP consultations.
 - Bridge the gap between universal and targeted support services and S-CAMHS, ensuring that each family referred has a plan to address their concerns.
- **any active projects/initiatives that you are currently undertaking alongside the third sector (i.e., a summary of what the projects/initiatives do, which third sector organisations are involved, who can access the services the projects/initiatives provide and where, etc.);**

Targeted Improvement Plan – An Opportunities and Challenges paper was developed and a North Wales Crisis Response Task & Finish group has been established as part of a longer term improvement workstream, with representation from each local authority and North Wales Police. The aim of the crisis workstream is to develop and deliver a cohesive multi-agency integrated model of care for children and young people across North Wales who may experience a mental health crisis with a focus on prevention; early identification, early intervention; assessment and support 24/7. We aim to ensure that Children and young people have access to support before crisis point and are supported with their families in the development of self-care/resilience.

The CAMHS Strategic Improvement and Development Group that oversees the improvement plan facilitated a Workshop focussed on workforce on 24th September, to look at immediate workforce requirements to address the rise in crisis presentations seen across North Wales with involvement of partner agencies. There is a short and longer term plan in place for CAMHS recruitment with opportunities to develop joint posts between health and social care to support. Details of current partnership arrangements and plans for future work with third sector partners are demonstrated in appendix 1.

Aim to develop an overarching Workforce Strategy, workforce profile and action plan to build a sustainable CAMHS workforce which meets the needs of the service. To ensure workforce provisions are available to support the strategy and identify any gaps in workforce provision and consider alternative options

The last 6 months there has been a period of intensive analysis and planning with service managers and clinical and professional leads within CAMHS to agree what posts would be funded by the additional investment for 2021, and to re-profile/align core budgeted establishments to enhance recruitment, retention, and sustainability. Opportunities to augment current workforce profiles through diversification of skills, development of career structures to enhance workforce development, and the development of posts with a specific remit for workforce development were identified and agreed

We have recently appointed to the Regional CAMHS Service Manager post for unscheduled crisis care to commence in February 2022. Meetings with LA/NWP and BCUHB continue and a number of crisis response schemes are being considered to inform a sustainable service model for crisis care. Task and Finish group to further develop, agree and finalise all the operational aspects of the proposed pilot schemes. Aim to recruit to a fixed term project manager post to specifically support the pathway work.

There are 3 project schemes in the early planning stages to progress:

- **YOUNG PERSON CRISIS SAFE SPACE PROJECT (Sanctuary)**
This project pilot will establish a community facility to support young people, aged 13-18, to deal with an urgent mental health or emotional wellbeing issue. The facility will be open in the evenings, nights and weekend and operated by trained and compassionate staff provided by a third sector partner in partnership with the local Health Board. The project aims to prevent or reduce deterioration in a young person's emotional, behavioral or wellbeing state which may otherwise result in an application of section 136 of the MHA, calls to emergency services, admission into hospital or presentation at an emergency department. Site visit completed and further discussions with WG planned for mid-November to clarify the requirements for the pilot. The project will aim necessitate the establishment of an accessible, homely and age appropriate facility within the local community. The proposed facility for the pilot in the East area of the Region will be open in the evenings, nights and weekend and operated by trained and compassionate staff provided by a third sector partners with a robust pathway in place to directly access NHS mental health professionals
- **CHILDREN & YOUNG PERSON CARE HOME EDUCATION & SUPPORT TEAM**
This project pilot aims to ensure accommodation providers caring for 'looked after children' have rapid access to specialist support from mental health professionals. This project may prevent or reduce deterioration in a child or young person's emotional, behavioral or wellbeing state which may result in possible admission into CAMHS services or hospitals. The project will initially consist of CAMHS professionals covering a defined number of care homes. Those homes will be defined by geography or acuity of resident need such as the historical frequency of Tier 4 CAMHS admissions or requested Tier 3/4 CAMHS assessments. The care homes that have been identified to run the pilot are in the Denbighshire Region of the Health Board. This specialist support will be through the provision of resident specific advice, training and education to the care home staff by BCUHB Kite Team who provide and intensive outreach service.

- 111 Mental Health Response/Local Emergency Duty Teams (EDT)
CAMHS working with Adult Mental Health to support plans for 111 as a The First Response for Mental Health scheme sees those children and young people and their families who call 111 have the availability to choose an option where they are put through to a local team and pointed to the right place for treatment avoiding A&E where appropriate. Running in parallel to this initiative will be development of CAMHS professionals joining LA EDTs to ensure a rapid response to crisis with appropriate advice and support and provision of assessment out of hours if required. Early discussions have taken place with LA colleagues and the project plan for piloting with EDTs in specific areas will be agreed.

- **where partnership working has worked well, and where you have learnt lessons for how to improve it in the future;**

- **short term intensive support services including short term residential facilities**
In both the Central and East Area, multi-disciplinary teams have continued to work with families. In Central, the Bwthyn Y Ddol Multi-Disciplinary Team, have had a positive closure on 7 cases to date and has avoided 374 weeks of care through the team's work.

Meanwhile, in the East Area, MST team have continued to work with families in the community (39 cases / 36 completed treatment /average stay to complete treatment 121 days / 86% still living at home / 89% in school or working / 92% no new arrests).

In the West Area, the MDT recruitment continues, the team have met with the consultant clinical psychologist and conducted their first case formulation. There has been difficulty recruiting to the team due to the short term nature of the contracts.

In terms of residential centres, both the East and Central Area teams are progressing. In the Central area the Bwthyn Y Ddol build has been delayed due to the builders going into administration. The contract is currently in the process of being re tendered. The identified residential interim solution (Ingleside) requires remedial building work to bring it up to standard for use as a residential centre. A schedule of work is currently being prepared alongside the drawing up of the lease. It is anticipated that the interim accommodation will be available at the end of March 2022.

Planning has been approved, for the refurbishment work on the residential assessment centre, Ty Nyth, in the East. It is due to start on site late November / early December depending on the final agreement of costs and contract finalised. It is anticipated it will be operational late November / early December 2022.

- **Early Help LIFT team** - central area launched their Local Integrated Family Team (LIFT) which to date has had 91 referrals. The team are continually

improving referral, consultation, assessment formulation and evaluation processes. The whole team continuing to bond well, effectively working together as a team and with other agencies. The LIFT have launched a website www.denbighshire.gov.uk/LIFT and have started to receive contacts from parents.

- **Emotional Health Wellbeing & Resilience**

Developing a framework - we have developed an English version of the framework for ages 0-18 years, all of which have been through a Peer Challenge Review, the framework will now be translated.

Building a digital proof on concept for ages 8 – 11 - A successful SBRI Challenge was launched during August and two suppliers were selected to deliver a prototype solution during Phase 1 of the challenge.

FRIENDS Resilience - A Welsh version of the Australian/English FR Training Hub will be developed in order to provide all training resources in Welsh and English giving choice to the North Wales population. This will enable compliance with Welsh Language Standards 2018. Printed books will become available in Welsh to ensure equity and accessibility of resources.

- **any future plans you have for partnership working with the third sector, what you hope to achieve with those plans, and how they will be monitored and evaluated.**

The North Wales **NWD draft strategy** (described below) is a substantial document in excess of 26,000 words and 90 pages in length, which reflects the complexity and breadth of the work undertaken. Comprehensive comments received from partner agency staff are now being incorporated into a revised document.

Most preparative work for the strategy is complete, apart from engagement with schools and education services. Due to the pressures during the period of preparation it was not possible for representative staff from schools to attend the workshops or otherwise participate in the process. Because education are an important support to children and young people's mental health and an education perspective is essential to the strategy, a further engagement process is required.

There is an economic case and quality benefits, borne out by research, for adoption of this strategy, which aims to improve the cost effectiveness of services. The strategy cannot, at this point, offer a full financial impact analysis. This is a necessary part of the implementation process and will require modelling based on data that is not currently available, and requires collection and analysis.

The North Wales 'No Wrong Door' strategy was developed through a collaborative process using Appreciative Inquiry methods. These are strengths-based and seek to: discover what is working well in the current system; develop a joint vision for the future; design a future delivery model; propose and implementation plan.

The process took place over a period of 5 months and consisted of:

- Work with the regional team and Children’s Services Managers to clarify the scope of the project and work collaboratively to initiate the work programme
- Quantitative data research
- An examination of national and international good practice relating to integrated children and young people’s mental health and well-being services
- A series of workshops with professionals from partner agencies across the region
- Engagement with children and young people who have had contact with relevant services
- Iterative drafting of a strategy document and revision based on feedback from senior managers

The initial draft strategy proposes a radical revision of existing arrangements that offers an ambitious model for working together that aims to improve mental health and well-being outcomes for children and young people aged up to 25 years old. It builds on the strengths of the current system and is specifically designed for the local context.

The strategy recognises that children and young people’s mental health and well-being is supported by multiple inputs delivered by a complex network of services and interventions, both formal and informal. This strategy has implications for all agencies and partners that contribute to the health and well-being outcomes of children and young people, enabling them to live their best possible lives. It will require each agency to interpret and align their own strategies and plans to this ‘No Wrong Door’ strategy.

The strategy proposes a regional approach based on a shared vision and an agreed set of common principles that will apply across the whole of North Wales. It however recognises that there are significant differences across the region reflecting culture, language, population density, economic factors, amongst other things. The strategy therefore proposes a regional framework consisting of a set of principles and a model that can be tailored to local circumstances. The RPB will ensure that there is local accountability for compliance with the principles and system performance. We refer to this approach as Tight – Loose – Tight: Tight adherence to the principles and outline service model – Loose (flexible) implementation of the service model – Tight accountability and monitoring of performance against the strategy.

Agreed Vision for the Future

This vision statement was developed from the key themes identified during the professionals’ workshops and consultation with children and young people.

We want the children and young people of North Wales to enjoy their best mental health and well-being.

We will do this by ensuring the organisations that support them are easily accessed, work effectively together, and aim to deliver outcomes in a timely way, based on children and young people's choices and those of their families.

A briefing paper that outlined the progress that has been made towards the finalisation of the North Wales 'No Wrong Door' strategy was shared during the latest NWRPB meeting and it is evident from the discussion that the NWRPB are committed to sign up to the NWD Strategy and the NWRPB were in agreement to note the recommendations on the following,

- To note and approve the main points of the strategy
- To agree that the implementation of the plan will be the responsibility of the new Childrens Sub Group of the RPB.

- **A new children's sub-group of the RPB met for the first time this autumn.** Co-production is key to the success of the RPB Children's Sub Group, therefore, we held three initial "Childrens Sub Group Pre-meets" which took place during September and October, with the final one taking place late November. The group were tasked with reviewing arrangements for:
 - Existing C&YP partnership meetings being mapped out, to avoid duplication.
 - Terms of Reference, Priorities and Membership to the subgroup to be agreed.
 - Agree the framework for engagement and co-production with children and young people, embedding a Children Rights approach.
 - Clear governance and reporting structures to be developed
 - Population needs assessment refresh, consider the priorities when setting the work plan.

The pre-meets have been held with a view to the Group being actively launched and the conception meeting held in January 2022 and then monthly thereafter. Proposed membership of the group includes the following, however, we will review as we progress:

- Heads of Children Services
- Heads of Education Services
- Public Health Wales
- BCUHB Children's Services
- North Wales Police
- Voluntary Sector
- Children Provider Service
- Young Carer Representative

APPENDIX 1

Current Arrangements		
AREA	Third Sector Partner	Details
Regional	Mind Online Anxiety groups, Gorwel, Cruse Bereavement, SNAP Cymru, Young Carers, ASD Info Wales, Rape and Sexual Assault Centre (RASAC), NSPCC, Barnado's, Papyrus, Young Minds, Early Help Hub Flintshire, STAND, VIVA, West Rhyl Young People's Project, Cruse, DASU, NYAS, St Kentigens Hospice Bereavement, North Wales Womens Centre, Action for Children	<p>Example of third sector organisations signposted to via Single Point of Access (SPOA) and Family Wellbeing Practitioners working in GP clusters.</p> <p>Third sector partners are also invited to CAMHS team brief sessions</p>
Central Area	Y Bont	<p>Worked with Y Bont for many years to deliver the Seasons for Growth manualised group based loss and grief education programme. Y Bont now lead on the programme with CAMHS services providing mentorship.</p>
Central Area	Conwy Mind	<p>Improved links being made with individual staff strengthening connections and attendance at CAMHS team meeting.</p> <p>Conwy Mind also attend the Transition meeting monthly alongside other partners to ensure we are working collaboratively with all sectors and agencies and have more patient choice.</p> <p>Training recently provided to the staff team at Conwy Mind re – Self harm in Young People. This link brings added value to the work</p>

		relating to transition and includes a three way partnership with adult services.
Central Area	CREATE	Service based on the arts as a support/step down for young people. CAMHS involved in the setting up of the service and continue to sit on the sub-group to ensure staff are supported
West Area	GISDA	GISDA has the only specific LGBTQ+ young peoples' service in Gwynedd, offering key worker support and also accommodating peer-supported interactions within a youth club setting across three locations in Gwynedd. GISDA offers accommodation, with hostels and independent flats, support with independent living skills, financial advice/education as well as supporting young people back into education, training and employment. Many of the young people GISDA support struggle with their mental health and therefore co-working with CAMHS is very important in ensuring a holistic and complete service, be this is a consultancy role, or working directly with the young people. GISDA and CAMHS co-work on an individual case by case basis, but also on a project development basis, with CAMHS practitioners' project planning, implementing, and managing the LGBTQ+ service to its current status.
East Area	Inspire – Youth Work in Hospital Team	Dedicated CAMHS Practitioners based with them.

		Recently commissioned the employment of a youth worker to be based in CAMHS services to allow for further joint working with Inspire. Monthly supervision facilitated
East Area	Flintshire Sorted (Drug and Alcohol)	Dedicated CAMHS Practitioners based with them
East Area	In2Change	Supervision facilitated on a monthly basis
East Area	Action for Children	Longstanding arrangement, jointly commissioned by BCU/WBC and FCC to deliver therapeutic services to children and young people in care or on the edge of care
Regional CAMHS Tier 4	Urdd Cymru	Outward bounds offering activities to children and young people during school holidays
<p><i>The regional KITE Outreach team works collaboratively via the AMBIT model of engaging the systems of support around the young people open to the team, working systemically and viewing third sector services as an integral part of the MDT. The team ensures that any third sector workers are kept updated as to their work and intervention and they are invited to all reviews. Examples of third sector working with the Kite team include:</i></p>		
KITE team	Action for Children	Joint working to support families
KITE team	Barnardo's	Collaborative working via multi agency meetings. Access services from Barnardo's in relation to young girls at risk of child sexual exploitation
KITE team	Hafal	Joint working in relation to young people transitioning who are experiencing 'first episode psychosis'
KITE team	KIM Project	A project that works to empower young people to build resilience, boost confidence and manage difficult emotions be engaging them in projects, clubs and activities, joint working on a number of occasions.

KITE team	Rape and sexual abuse support centre (RASASC)	Liaison with this service several times in relation to counselling for young people who have experienced sexual abuse/assault.
Plans for future work with third sector partners		
<i>CAMHS services have recently undertaken a Call for Innovation with partners to offer funding available from investment slippage for innovative projects that will enhance CAMHS services. The following bids from third sector partners have been received:</i>		
East Area	Your Space (Marches) Limited	Outreach support for children, young people and their families awaiting ND assessment or post diagnosis, provision of talking therapy counselling – further clarification requested.
West Area	Barnardo's	Provision of interventions and prevention for children and young people and their families who may not meet core CAMHS criteria or require short-term interventions following crisis admission – bid successful
West Area	GISDA	Additional support for 100 at risk homeless or vulnerable young people in Gwynedd – bid successful
Central Area	Denbighshire Missing Boys	Pilot scheme to trial therapeutic interventions with identified cohort of males 11-18 requiring mental health support using outdoor therapies and walk & talk strategies – bid successful
Regional	Multiple third sector partners including Barnardo's, Outdoor Partnership and Gisda	Mind out future programme - Group activities and engagement discovery exercises to facilitate 'what matters?' conversations with emotional resilience and mental health services. Address mental health inequalities that were highlighted and made worse by the Covid-19 pandemic

		Bid submitted for lottery funding, request for interim funding – further information required.
Further plans for future work with third sector partners		
Central Area	Mostyn Art Gallery	Discussions being held regarding provision of art psychotherapy group and their community engagement programme
Central Area	TAPE	Links with TAPE music and film recently made to explore community activities they could deliver focussing on the Five Ways to Wellbeing possibly utilising filming/interviewing skills

Agenda Item 3.8

CYPE(6)-04-22- Paper to note 8

Children, Young People and Education Committee

Request for information on working with the third sector to provide mental health support services for children and young people

Response from: Cwm Taf Morgannwg Regional Partnership Board



13th January 2022

Jayne Bryant MS
Chair, Children, Young People and Education Committee
Senedd Cymru

Dear Jayne

WORKING WITH THE THIRD SECTOR TO PROVIDE MENTAL HEALTH SUPPORT FOR CHILDREN AND YOUNG PEOPLE

Thank you for your letter dated 1st December 21, regarding the above topic and in particular your queries regarding how Cwm Taf Morgannwg are working with the third sector to support children and young people's mental health.

It should be highlighted that the region very much welcome and supports our third sector, partners and services who are essential in delivering services to support children, young people and their families. Within Cwm Taf Morgannwg we can demonstrate many examples of good practice whereby third sector partners are either involved through commissioned services or deliver direct interventions to support children and young people's emotional and mental health.

Good practice examples can be seen in some of the following services;

- **MAPPS Therapy service for children looked after** – recently commissioned, the Behaviour Clinic, a social enterprise agency, has been awarded a one year **regional** contract (with a potential to extend), to provide direct therapy and holistic therapeutic interventions to be delivered across the region of Rhondda Cynon Taff, Bridgend and Merthyr Tydfil. Services will be delivered to those care experienced children who after who have repeated placement breakdown with foster carers, and those with plans for adoptions, with the most complex emotional and mental health needs. Support for carers to manage ongoing relationships and behaviour management/stability will also be provided preventatively, in order to achieve the best longer term outcomes for these

vulnerable children and young people. This service is currently funded through the **Integrated Care Funding, via the Regional Partnership Board**, but will be funded through the new Health and Social Care Regional Integration Fund (RIF), from April 2022, with a pooled budget and managed by an integrated MAPSS Board, consisting of social care Heads of Children's service and CAMHS health professionals.

- **CAMHS new In-Reach Service and links with Whole Schools Approach Coordinator** – the new CAMHS In-Reach service has received funding to roll out emotional support and wellbeing services supporting children in cluster schools across Cwm Taf Morgannwg. As a new Health Board service it is at the earliest inception stage with staff being recruited, to include 3 x Band 7 Mental Health Nurses and 13 x Band 5 Practitioners. Despite no ICF or regional funding being directed to the service, the Regional Commissioning Unit, on behalf of the RPB has facilitated links are made with the Whole Schools Approach Coordinator who is working with 40 pilot schools to undertake self-assessment in schools, a view to identifying how well equipped schools are to support children's emotional and mental health. The links made have been forged on the basis that they will use the new NEST Framework to plan the operational deliver and development of their service, which takes a holistic approach to integrating services in a No Wrong Door approach, give easier access to expertise, supporting by safe communities. The findings from the self assessment by schools will allow the In-Reach service to act as enablers to deliver interventions, signpost to other services, eg Kooth online counselling service (digital mental health service), Mental Health Matters (Eating Disorder peer support service (commissioned from the third sector). Using the NEST framework will allow both services to plan integrated interventions, thus working to the NEST framework principles. **See Annex A** NEST Mindmap for the In-Reach and Whole Schools Approach model.

Other Integrated Care Funded Projects and Services across the Region

The **Resilient Families Service (RFS)** within Rhondda Cynon Taff, sees the provision of a range of support and early intervention services to parents and children, in the community, schools, supporting wellbeing and emotional health. Regional Integrated Care Funding (ICF) funding, agreed by the RPB, to the value of £250,000 part funds this service with Rhondda Cynon Taff CBC.

- The **Community Wellbeing and Support service**, of the RFS provides a raft of wellbeing and emotional support available to young people aged 11 years and above, both within school and the community. **See Annex B.**
- **Eye2Eye service** - the registered counselling **charity Eye to Eye** are commissioned to deliver counselling services to children and young people aged 3-25. The service was predominately for school based counselling; aged 11 to 18 and year 6 primary school pupils however the service was recommissioned in 2019 to deliver services to a wider age range from primary year 3 to 5, the statutory element (11-18), and from age 19 to 25 in the community. The effectiveness of the intervention is evaluated for the 11-18 year olds using the Young Persons CORE assessment, this a 10 item self-

report measure of emotional wellbeing, this is completed from the first to last session. Eye to Eye developed a pathway as part of the service to particularly support schools to refer to the most appropriate agency and to reduce the number of referrals to them where the person could be supported elsewhere. The development of the pathway supported refers to identify those where counselling would be the most appropriate intervention. All the information on the pathway is consistently checked by Eye to Eye to ensure its accuracy. Referrals to Eye to Eye can be made by parents, schools, other professionals or via self-referral for children and young people over age 11.

- **Children's Disability Team (Rhondda Cynon Taff CBC)** - commission open access play sessions for Children with additional needs, Autism, ADHD, from the third sector. Regional ICF funding is used to support this service for children with additional needs in order to access open access play sessions, with adult support, as required. This supports the wider physical, emotional, cognitive development for children with disabilities and additional needs, as children learn and develop through play. The 'Care to Play' scheme will commission open access sessions from a wide range of third sector organisations across the community, but also provides strategies to allow children with additional needs to fully access sessions, without which would prove distressing for them, ensuring their wellbeing and mental health are stabilised within a supportive environment, promoting their learning, growth and wellbeing. **Annex C.**
- Additionally, there is significant amount of support being provided within localities across the region, see **Annex D** - COVID 10 Sources of Support for Children across Rhondda Cynon Taff CBC, whereby queries via the Information, Advice and Assistance teams can refer and signpost on to many third sector agencies, where there is demonstrable mental health and emotional wellbeing need.

Direct Third sector funded projects across the region, include:

- **Third Sector Revenue Grant (TSRG)** – The RPB provides £153,000 of ICF revenue funding to both Interlink (Council for Voluntary Action CVC)) and BAVO (Bridgend Association for Voluntary Organisations) who facilitates funding to support a number of third sector organisations through their large and small grant scheme, to support children and families, across Merthyr Tydfil, Rhondda Cynon Taff and Bridgend. They fund third sector agencies that aim to solve a lack of access, awareness, connectedness and coordination of community support, by providing local information, advice and assistance for children and families. The long term outcomes are to improve community support and access to information, advice and guidance through creating more resilient communities for children and families, which contribute to the **emotional wellbeing** of children and young people, including support, a reducing open access, universal youth service provision in deprived and remote areas of Bridgend County.

Across Bridgend a range of support is available for children and families promoting their emotional wellbeing and mental health;

- **Emotional Wellbeing Resilience Support** - this project provides support through early help to enable children, young people and their families to take control of their lives and maximise their life chances and reducing the need for statutory support and look to increase children's resilience and develop ways in managing their emotions and feelings effectively. The project is in response to the gap in service for children in primary school around promoting their resilience and emotional wellbeing. There are difficulties in accessing CAMHS support for tier 4 children and support for those children who are beginning to present with some emotional wellbeing issues have little support. Five Wellbeing Workers working with primary school aged children either on a 1:1 basis or in group work at home, community or school, to support their resilience and emotional wellbeing to prevent their needs escalating, strengthening family relations and support networks. Via the RPB, ICF funds this service to the value of £168,020 within Bridgend.
- **(EX5C) 3. Moving Forward at Y Bont** – Via the RPB, ICF provides £35,916 funding to this project which works with; children with complex needs due to disability or illness (including mental health & emotional problems), children with Autism and parents/carers. The aim of the project is to provide children with healthier lifestyle behaviours, improve the development of children, support the wellbeing of children and support carers to feel less lonely and isolated in their caring role for disabled children. Supporting children with early help and prevention, also supporting parents, carers with information, advice and support them with their emotional health & wellbeing. For parents/carers, Y Bont provides a vital lifeline and support mechanism, and respite from the heavy demands and challenges placed on them from their child's complex needs. Without this support, many families escalate to crisis point. Family breakdowns are much higher where there is a child with a disability and additional learning needs. The 24/7 attention needs when caring for a disabled child puts huge pressures on the family members and having the ability to place their child at Y Bont where they are confident they will be cared for and safe allows parents the necessary space to focus on their own needs. Taking part in the Moving Forward project puts them in contact with other parents and carers with the same issues and challenges that they face on a daily basis, this provides the comfort of the knowledge that they are not alone.

Other Third Sector services

- **Valley Steps (third sector organisation) - Steps to Student Wellbeing (funded by ICF Funding)** - Funded via the Integrated Care Fund since January 2020 (with additional funding secured to extend our offer beyond RCT and Merthyr via the South East Wales FE College Consortium) Steps to Student Wellbeing delivers a range of self-help and self management courses to students and learners in the University of South Wales, Coleg y Cymoed and the College Merthyr Tydfil (Extended to include Coleg Gwent, St David's College Cardiff and Bridgend College via consortium funding from Autumn 2020). The service provides a programme of six week programmes to students

including a **six week resilience programme** and six week mindfulness programme developed in consultation with learners. The service also delivers a range of stand alone workshops and provides volunteering opportunities for students to engage in peer support for students. The service has also developed a host of online resources on a dedicated student support webpage found at <https://valleyssteps.org/students/>.

- **Families Together 4 Wellbeing and Support For Schools - Funded via the Taf Ely Primary Care Cluster** - The Families Together Programme and work with schools is an initiative developed with the support of the Taf Ely Primary Care Cluster. Professionals in the cluster see a significant number of young people presenting with mental health and emotional health problems, often supported by their parents. This situation has been exacerbated by a limited range of options below CAMHS. Valleys Steps has developed a programme where young people and their parents learn knowledge and skills to promote resilience and to reduce the need for access to statutory services or prescribing of anti-depressant medication. Consultation on the development of this work has included liaison with schools and to date courses have been delivered to learners in Y Pant and Hawthorn Comprehensive Schools with further work planned with Llanharry Comprehensive in early 2022. Dialogue is ongoing with the Bridgend South Primary Care Cluster in connection to the delivery of the families together programme and work with schools.

Supporting this area of work into future years will see a funding bid application for 'Mind Our Future' funding from the Big Lottery, led by County Voluntary Council (Interlink) within Rhondda Cynon Taff CBC. Interlink have been invited to the next stage of the funding application process, to apply for fund which aim to provide mental health support for children and young people across the region.

Yours faithfully



Luke Takeuchi
Deputy Chair Regional Partnership Board
Cwm Taf Morgannwg

Agenda Item 3.9

CYPE(6)-04-22- Paper to note 9

Children, Young People and Education Committee

Request for information on working with the third sector to provide mental health support services for children and young people

Response from: Gwent Regional Partnership Board



Your ref/Eich cyf:

Our ref/Ein cyf: Third Sector_MH_RPB

Date/Dyddiad: 14th January 2022

Please contact/Cysyllter â: Phil Diamond

Direct line/Llinell ffôn: 07904 921532

Direct fax/Llinell ffacs:

Email/Ebost: phil.diamond@torfaen.gov.uk

Jayne Bryant MS
Chair, Children Young People and Education Committee
Senydd Cymru,

Dear Jane,

Working with the third sector to provide mental health support services for children and young people

Thank you for your letter dated 1st December 2021 and the opportunity to set out how the Gwent Regional Partnership Board are working with third sector partners to provide emotional wellbeing and mental health services for children and young people.

In relation to the points raised in your letter, I have set out the partnership arrangements we have established with third sector partners and examples of some of the services we have developed. This is not an extensive list and I would be more than happy to provide further details if required. In relation to providing mental health support to children and young people:

- **how we work alongside the third sector to plan and deliver support services**

The RPB includes membership from both third sector umbrella organisations in the region – Gwent Association of Voluntary Organisations (GAVO) and Torfaen Voluntary Alliance (TVA) – who are able to contribute to partnership working at a strategic level and ensure the views of third sector partners are considered alongside statutory services. The Lead Officers for both GAVO and TVA also attend the regional Leadership Group that underpins the RPB to ensure third sector partners are involved in planning and delivering services. In the Gwent region we have established a Children and Family board and this group has also established a specific third sector network for providers working with children and families. The network is used to promote collaboration opportunities and to strengthen and identify new working relationships on an ongoing basis to address our strategic priorities. The network has been instrumental in shaping the use of Integrated Care Funding and Transformation Funding and well attended by 20-30 partners per meeting.

THIS DOCUMENT IS AVAILABLE IN LARGER PRINT AND BRAILLE UPON REQUEST

We welcome correspondence in Welsh and English.

Correspondence received in Welsh will be answered in Welsh and will not lead to delay.

Rydym yn croesawu gohebiaeth yn Gymraeg a Saesneg.

Cewch ateb Cymraeg i bob gohebiaeth yn Gymraeg ac ni fydd yn arwain at oedi.

- **Active projects/initiatives currently undertaking alongside the third sector**

Below are some of the projects/initiatives established across the region but not an extensive list.

Family Intervention Team with Action for Children: The service provides early intervention for families where there is complexity of needs and where a family-based, community-delivered approach is indicated. The service provides a time-limited home and school visiting service. Families receive a holistic assessment at home or in a community venue of their choice, children are observed in the school setting and a discussion is held with key school staff, and a programme of intervention informed by a psychological formulation is devised collaboratively between worker, Clinical Psychologist/Team Lead and the family. The aim of the *Family Intervention Team (FIT)* is to provide an equitable service across the Gwent region to children and young people from 3-16 years old experiencing emotional, behavioural and emerging mental health difficulties.

Short Term Intensive Support Team for children with autism and learning disabilities during Covid-19: The service was set up at the start of the COVID-19 pandemic to support children with autism and learning disabilities. It was aimed at children with the most complex needs who were already receiving support from the Child and Adolescent Learning Disability Service (CALDS) to prevent/postpone placement breakdown. The team was set up in collaboration with Sparkle and Gofal in Newport. The team have also been working alongside community psychology services to deliver Circle of Security groups for parents. These groups essentially support parents to understand and interpret their children's attachment needs with the aim of supporting children's attachment security, which we know is linked to better outcomes for children and young people in terms of the emotional and mental health.

MyST (My Support Team): is an innovative Mental Health care model which offers an alternative to placing children and young people with complex Mental Health needs in out of county residential care. It is a targeted service for children looked after, who are at risk or have been placed in residential provisions due to their complex Mental Health needs. Through its community-based placements, it provides bespoke and complex Mental Health interventions across the whole support network of the child, as intensively as needed, with a model of intervention that aims to focus on impacting on a child's development and resilience. MyST works with the

- whole support network around the child,
- provides expertise in psychological interventions and strategies underpinned by theory;
- embedded support and reflective practice structures;
- collaborative, pro-active and inclusive approach to working with children, young people and their families and
- 24 hour on-call support for foster cares, birth families and young people.

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This whole system approach includes wider working with third sector partners, especially NYAS and advocacy services as well as providing advice and training to partners.

Skills for Living Project with Action for Children: Skills for Living is an innovative project to improve the emotional wellbeing of young people leaving care across Gwent and is delivered by a specialist mental health team within Action for Children. The service is offered to young people who were in the care system on their 16th birthday, especially targeting those who have experienced significant emotional distress and have developed self-destructive behaviours. The project further supports the Workforce within these sectors, providing training to develop the skills to support care leavers in a consistent manner. The success of the project relies on the integration of these organisations to support the delivery of a consistent and equitably high-quality service to care leavers across Gwent.

Platform 4 YP: Platform work with young people on an individual and group-based level to develop skills and find ways that work for them to manage their wellbeing so that they can live healthier, happier, and more fulfilled lives. Platform provide opportunities for young people to train as peer mentors and pass on the knowledge they have learned. Platform 4YP's overall aim is to provide early access to support, improve young people's overall wellbeing, create a sense of connection/reduce isolation and to create a network of peer support across Gwent. Platform 4YP has supported young people to explore their wellbeing, access new peer groups and learn new skills and strategies that they can use to manage daily. The team report they have seen an improvement in the wellbeing of young people and an increase in the use of wellbeing strategies. The team have observed the benefit of peer support and the connections created through shared experiences and shared learning.

- **where partnership working has worked well, and where you have learnt lessons for how to improve it in the future; and**

Partnership working has worked well through the development of our 'single point of access' panel that has needed collaboration and commitment from agencies to create a single front door. Equally, through the Iceberg transformation programme, we have worked as a partnership to deliver a suite of services for children, young people and families in Gwent. This reflects through our SPACE-Wellbeing panels which was recognised by the Children's Commissioner for Wales in the 'No Wrong Doors' report.

'We are particularly encouraged by the Gwent region's SPACE-Wellbeing early help panels that are the most advanced example we have found of a timely, 'no wrong door' approach to supporting families where children are experiencing mental or emotional health issues or behavioural difficulties. There are also other good examples across Wales where regions are starting to pull services together to help children with complex needs. Regions need to do more to learn from each other where good practice examples exist, and to be more ambitious in aiming for a 'no wrong door' experience right across their regions.'

We have good links with some third sector partners but recognise that we need to ensure the attendance of third sector is consistent at all local panels in the area, and to widen the offer for our communities. We are currently exploring how peer mentoring might have a further part to play when young people are discharged from Mental Health Services.

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- **any future plans you have for partnership working with the third sector, what you hope to achieve with those plans, and how they will be monitored and evaluated.**

We are continuing to foster our relationships with current third sector agencies, and how their input aligns with the new Welsh Government's NEST framework. We have recently setup an implementation group for NEST within a partnership space so we can explore opportunities for synergy and development. The plans are still in development whilst we take a more collaborative approach towards the next stage, but the meeting will provide us with regular review points to work and link with third sector partners. The development and implementation of the NEST framework across all organisations in the region is a key priority for the Children and Family Board and will be monitored with progress updates to the RPB.

I hope you find the information useful and assists the Committee with prioritising key programmes in this very important area of national and regional emotional wellbeing and mental health support to children and young people with our third sector partners. If you require further details or would welcome a follow up discussion, please do not hesitate to contact me

Yours sincerely

Cllr Paul Cockeram
Gwent Regional Partnership Board Chair
Cabinet Member Social Services, Newport City Council

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Cewch ateb Cymraeg i bob gohebiaeth yn Gymraeg ac ni fydd yn arwain at oedi.*

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Agenda Item 3.10

CYPE(6)-04-22- Paper to note 10

Children, Young People and Education Committee

Request for information on working with the third sector to provide mental health support services for children and young people.

Response from: West Glamorgan Regional Partnership Board

✉ west.glamorgan@swansea.gov.uk

🌐 www.westglamorgan.org.uk



Partneriaeth
Ranbarthol
Gorllewin
Morgannwg

West
Glamorgan
Regional
Partnership

Jayne Bryant MS

Chair of Children, Young People and Education Committee

Welsh Parliament Cardiff Bay,
Cardiff,
CF99 1SN

Date: 14th January, 2022

Dear Jayne,

Thank you for your letter dated 1 December 2021, titled 'Working with the third sector to provide mental health support services for children and young people'. As requested below is a response to the Committee in relation to our work providing mental health support to children and young people [CYP].

Regional Context

To provide some background about our transformation of mental health services for CYP in West Glamorgan, it may be useful to describe our regional approach. In early 2021, we restructured our governance arrangements to establish a new **CYP Programme Board**, chaired by the Head of Child and Family Services in Swansea Council and with representation from all partner organisations, third sector representatives and citizens and carers who are members of our Regional Co-production Group. This board provides clear accountability for collaborative working to improve CYP services across the region.

The Programme Board is supported by the **Emotional Health and Wellbeing Planning Group**, which focuses on developing support for CYP across the whole system and pathway. This group has been working on a delivery plan and priority actions including our regional approach to participation and engagement, an important challenge for us to ensure that all of our work is informed by "the voice of the child" and that services are designed to meet their needs.

In addition to our regional governance arrangements, we have been supporting regional transformation through a range of funding opportunities, which include:

- Health Board Mental Health Service Improvement Fund;
- Regional Integrated Care Fund [ICF], including RPB CYP funding;
- Third Sector GP Cluster Grants;

During the COVID-19 pandemic, we have faced a number of challenges across health and social care services but within our region, we have continued to push for transformation of CYP services and mental health services. Both programmes of work have continued to report fortnightly into our Transformation Boards to allow us to provide momentum and direction at this difficult time.



Working with Third Sector

In terms of how we work alongside the third sector to plan and deliver support services, it is a key principle of the partnership to include third sector representation across our governance. We work closely with both Swansea Council for Voluntary Service [SCVS] and Neath Port Talbot Council for Voluntary Service [NPTCVS] to co-ordinate third sector engagement across all of our transformation programmes and meetings. Director of NPTCVS is a member of the Regional Partnership Board and the CVC staff are integrated with our transformation teams across all programmes of work.

In specific reference to our work on CYP mental health, we have worked with SCVS and NPTCVS in the planning and commissioning of mental health services and funding opportunities. Members of both organisations (as well as third sector representatives that have been assigned to support specific programmes through our regional network) sit on our grant panels, attend planning meetings and contribute to the work that informs our strategic planning. One third sector representative is the co-chair of one of our workstreams that focuses on achieving delivery plan actions under the Emotional Health and Wellbeing Planning Group.

Current projects and initiatives

In terms of active projects/initiatives that we are currently undertaking alongside the third sector, we have included a breakdown of these initiatives, which are regionally funded in **Appendix A** (Regionally Revenue funded third sector projects for CYP mental health).

Many of these initiatives have responded to the changing demands of the COVID-19 pandemic. For example, across local GP Clusters there has been an increase in referrals for CYP counselling during the pandemic. Llchwyr, Bay and Cwmtawe Clusters have all commissioned third sector organisations to provide counselling sessions for patients registered in their surgeries. We continue to engage with professionals on the front line including third sector staff and volunteers (e.g. Social Prescribers) to seek their insights on how to improve our regional response to the pandemic.

We have also been working closely with third sector colleagues to promote the initiatives that are already out there in our region in order to meet the challenges of the pandemic. The **Tidy Minds** website (www.tidyminds.org.uk) was developed by Swansea Bay University Health Board to provide young people in Swansea and Neath Port Talbot with access to mental health advice and support. We have also used **Kooth**, a digital mental health and wellbeing company (www.kooth.com), to provide 11-18 years old with access to emotional wellbeing and early intervention mental health support.

Third sector colleagues are also engaged with our work to implement the **NEST/NYTH Programme** directed by the Together for Children and Young People [T4CYP] team in Welsh Government. This will align the principles of the No Wrong Door report and we are working on ways to develop our whole system approach based on cultural, technical and procedural changes.

Partnership Working

In terms of where partnership working has worked well, we are currently picking up some important feedback as part of our evaluation work on our existing programmes, which aligns to the end of the current financial year and in readiness for a new funding cycle with Welsh Government. This will feed

into our planning for how the partnership will evolve from April 2022 onwards in light of the new guidance and opportunities for regional working.

However, we have already identified positive feedback on our partnership approach including:

- Good relationships exist across all levels of partner organisations with third sector representatives included in decision-making functions;
- Suitable representatives are appointed to the majority of transformation boards and programmes (for example, a representative of Barnardos sits on the Children and Young People Programme Board) following a clear process for appointing third sector representatives;
- Both SCVS and NPTCVS play important roles in liaison between the partnership and members of the public across the region, supporting individuals with specific needs to help them contribute directly to the work of the partnership;
- Third sector colleagues often respond quickly to new challenges and opportunities across the partnership (for example, appointing appropriate individuals to sit on grants panels for short term funding opportunities);
- Partnership colleagues are engaged with the **Regional Third Sector Health and Social Care Network** and third sector colleagues are engaged with the regional forums co-ordinated by the RPB including our Carers Liaison Forum [CLF] and Regional Housing Forum [RHF].

In terms of our learnt lessons for how to improve partnership working in the future, we are currently working on what our partnership approach looks like from April 2022, in line with the revised guidance from Welsh Government on the new Regional Integrated Fund [RIF]. Senior managers from both CVS organisations and representatives of third sector organisations are involved in these discussions and we will reference a range of insights and feedback including the Lessons Learned Report which was produced following the first wave of the COVID-19 pandemic.

Future Plans

In terms of future plans for partnership working with the third sector, we plan to build on the successful relationships we have developed in order to improve how effective the third sector can be across our region. In particular consideration of the needs of CYP, we know that there are lots of great resources and organisations in our area that can and should play a vital role in our strategic ambitions.

The next reporting year will see our CYP Programme gain momentum as we look to develop a long term strategy for transforming CYP services across our partnership. Following mapping exercises undertaken this year, we will have a clearer picture of where we are now and we will develop our vision for the future following a co-production approach (in line with our own **Regional Co-production Framework** but with careful consideration to participation and engagement with CYP). A big part of this journey will be increasing understanding and awareness of the role that the voluntary sector plays in supporting the emotional health and wellbeing of CYP.

One area in particular that we have been looking at is our strategic approach to commissioning third sector organisations, in order to allocate funding in a manner that avoids duplication (i.e. funding multiple initiatives address the same outcomes) and encourages collaboration. This will include looking at how to build resilience into the third sector to meet the changing demands, as experienced throughout the COVID-19 pandemic. A partnership group has been established to develop this approach, which includes citizen and carers representatives.

To ensure we are successful in achieving this vision, we will develop our performance management framework specifically for CYP services and initiatives, to monitor our performance and evaluate our outcomes. Data is a key foundation for such a framework so we plan to develop an approach that allows us to explore innovative and collaborative solutions to problems while following robust reporting protocols.

We will shortly be publishing our **CYP Population Needs Assessment** which will provide valuable insight and inform our strategic approach. We also wish to develop our regional approach to training, participation and engagement so that we can use case studies and other sources directly from CYP to develop our workforce and enhance our capabilities.

I hope that provides sufficient update in relation to your questions posed, though please let me know if you would like clarification on any of the topics. We look forward to continue working closely with the Children's Commissioner for Wales and others to continue improving the way we work with colleagues in the third sector in supporting children and young people across West Glamorgan.

Yours sincerely



Emma Woollett
West Glamorgan RPB Chair
Swansea Bay University Health Board Chair



APPENDIX A – Regional Revenue funded projects for Third Sector CYP Mental Health

The following table provides an overview of the current projects and initiatives funded by the regional Revenue fund specifically for third sector initiatives that directly support the emotional health and wellbeing of children and young people. Further details about each initiative are available if required:

Host Organisation	Project Name	Project Description	Regional / Local Scheme
Circus Eruption	Circus Development Project (Edge of Care / Care Experienced)	In this project we will deliver creative, integrated interventions to support young people on the edge of care/care experienced, to reduce the need for more intensive forms of support. In order to do this we will: • RUN WORKSHOPS AND PILOTS: Create, run and evaluate sets of circus workshops (usually alongside strategic partner organisations, e.g. Voices from Care Cymru, Family Action Support Team, LA participation officers Swansea/NPT). Some of these will be 'pilots' to test or evaluate new approaches. Offer/encourage integration into our youth circus and 'bubble circus' projects. • PROVIDE TRAINING: Train staff in other organisations in use and purpose of circus– so they better understand the value of circus, engage and appropriately refer. • DEVELOP: Build on and cascade existing networks, to support appropriate/ timely early interventions. • RECRUIT VOLUNTEERS: Recruit and train care experienced volunteers • UNDERGO TRAINING: Staff and volunteers to undertake relevant training – e.g. Mental Health First Aid, Sensory Regulation, impacts and issues of care experience (latter delivered by care experienced young people).	Regional
Interplay	Interplay's Wellbeing 4 Early Years – 4 -11	The project is an early intervention and prevention project for children age 4-11 with emotional difficulties, wellbeing or mental health issues and those with learning disabilities, Autism and behavioural issues. Through play the project will work with children to help them combat their social anxieties and behaviours that challenge and lessen the barriers that prevent access to mainstream play and social interaction. As well as working with the children that need additional support, the services will also be open to their siblings, helping to building positive play and social interaction within the family unit and in their wider community. We will provide supported play & wellbeing sessions, the tools and the opportunities for children to build on their social skills and increase their self-esteem, emotional resilience and improve their overall wellbeing; thus enabling children to have a better chance of being able to access social and leisure activities as they get older.	Regional
Interplay	Interplay's ENSpir & Wellbeing Project12-18	The Project is for 12-18 year olds with emotional difficulties and wellbeing or mental health issues, those with learning disabilities, Autism and behavioural issues that lead to social barriers that make accessing mainstream social opportunities challenging. Interplay will provide a skills based provision that will increase young people's confidence and wellbeing through leisure activities, social opportunities and wellbeing sessions, enabling them to access wellbeing support, new experiences, learn new skills, expand their outlook on the world and have a better understanding of their own future potential.	Regional
Llamau	Llamau Counselling (Swansea and NPT)	Our aim is to proactively identify & address emotional well-being issues amongst homeless young people (YP) at the earliest stage we can, reducing both existing & emerging inequalities for YP and the demand for already stretched statutory services. We wish to establish the provision of accessible counselling as a key part of our support offer, levelling the playing field for vulnerable YP during & beyond the COVID-19 crisis.	Regional
Swansea Autism Movement	Swansea Autism Movement CIC	Swansea Autism Movement CIC (SAM) is a peer to peer project whose aim is to develop the resilience and wellbeing of our autism community by connecting families through activities, providing regular contact with peers experiencing similar challenges. We support autistic children/young people, their siblings and also parents and carers. We provide age appropriate, safe, inclusive and flexible activities for the whole family. We are experienced at tailoring activities to meet the particular needs of the autistic community. Activities will be tailored to them following consultation and evaluation and will include music sessions, keep fit and active community events, family fun days, wellbeing events for parent carers and a 3 day activity residential. We now have	Regional

Host Organisation	Project Name	Project Description	Regional / Local Scheme
		<p>approximately 600 families who have autistic children/young people (or on the diagnostic pathway) and their siblings. Our events are an opportunity for families to share their experiences, offer support and celebrate successes. Sharing peer experience and expertise is particularly valuable to new families who are often coming to terms with the assessment process and diagnosis of autism and to families who are experiencing transition points in their services. Many of our families are disadvantaged financially as often one or both parents have needed to terminate their careers to become full time parent carers. Without projects such as ours, they would be even more isolated than they already are. Together we create a sense of belonging in an often emotionally difficult time. Our holistic approach supports our community to stay active reducing loneliness and isolation, supporting everyone's mental and physical health long term.</p>	
Relate	Relate Counselling Services - Wales	<p>We would like to ask for support for our counselling services across Wales in particular Glamorgan, we help thousands of individuals each year looking for support and guidance with many situations. We offer 1 hour long sessions on a regular basis and start with an average of 6 sessions, an individual's need is then assessed and more offered if needed, each person is different. Relate are the UK's largest provider of relationship support, and last year we helped over five million people of all ages, backgrounds, sexual orientations and gender identities to strengthen their relationships across the UK. Our services include Relationship Counselling for individuals and couples, Family Counselling, Mediation, Children and Young People's Counselling and Sex Therapy. We also provide friendly and informal workshops.</p>	Regional
LGBT Cymru Helpline	Supporting Swansea's Mental Health	<p>The LGBT Cymru Helpline proposes a project which focusses on the emotional health and wellbeing of people in Swansea. We operate a service which provides accessible, confidential counselling to LGBT+ people, their families, and allies (open to everyone) in Wales, with a particular emphasis on engagement in Swansea, Neath Port Talbot, and Carmarthenshire.</p>	Local - Swansea
Faith in Families	Brighter futures – ACE recovery	<p>Our Family Centres and Outreach Projects strive to be able to fully provide the much needed children and family support facilities in one-stop centres, easily accessible within the local communities we serve. Faith in Families have delivered services to families in Swansea for over 21 years. We are based in some of the most deprived areas and work with families via our 3 family centres. Staff are experienced in delivering a range of services aimed at improving the mental and physical health of those we support. We have a depth of knowledge and experience of working with families that are affected by poor physical and mental health and living with exceptional hardship due to a lack of income and an ongoing struggle to meet even their most basic of needs. As an organisation we support communities to address issues, develop solution focused thinking and to engage in activities that encourage positive mental health and resilience.</p> <p>Our target audience are children who have experienced often multiple ACE's and are struggling with big emotions such as anger and anxiety, this is often displayed in unwanted behaviours meaning that they find school, friendships and life in general difficult. By employing Engagement Workers to deliver intensive non-intrusive support we will tackle this injustice. Working in partnership with schools and local agencies we will deliver interventions and activities that have a real impact on children supporting them to be the best they can be. Early Intervention addressing mental well-being is crucial in being able to improve the lives of children, adolescents and adults who, when suffering from emotional pain or trauma that is left untreated, may go on to develop more serious mental health issues. By providing one-2-one non-intrusive therapeutic play and emotional literacy support we can support these children and make a real difference. Some of these differences would be-</p> <ul style="list-style-type: none"> • Children school attendance will improve. • Children will achieve more academically. • Children be happier and develop healthy friendships • Children will be able to recognise and name their emotions. • Children will become more confident. • Children will become more resilient and be able to regulate their feelings. 	Local - Swansea

Host Organisation	Project Name	Project Description	Regional / Local Scheme
		<ul style="list-style-type: none"> • Children will develop their voice and ability to use it positively. <p>Our Brighter futures project has been extremely successful in engaging with and changing children's outlook, giving them opportunities that they never had before.</p>	
Swansea Music Art Digital (Swansea MAD)	Creative Connections	<p>Swansea MAD is a youth and community charity. Located in an area of high deprivation, activities take place for the prevention of poverty, advancement of social justice and equity; addressing barriers which young people face. We facilitate inclusive safe spaces for young people to access advocacy, creative arts, education, campaigning activities and wellbeing projects to bring fairness and belonging.</p> <p>The funding will enable Swansea MAD to deliver weekly wellbeing activities; including Arts/Cultural/Environmental workshops for young people in Swansea and Neath Port Talbot aged 11-25. Young people will include those who are disabled, Black/non-Black people of colour, neurodiversity, LGBT+, young carers and parents, refugees and asylum seekers and young people from Gypsy, Roma and Traveller communities, who have been disproportionately affected by COVID-19, experiencing increased mental health problems/ isolation/loneliness/digital/social exclusion</p> <p>150 children</p>	Regional
Jac Lewis Foundation	Counselling for near miss suicide cases	<p>The Jac Lewis Foundation is already a part of Swansea and Neath Port Talbot council's rapid response meetings in collaboration with the police and Swansea Bay Health Board to provide counselling and support to Swansea and Neath Port Talbot residents who have been affected by suicide. The foundation has been providing this service (funded by the National Lottery) for the past seven months and in that time have supported over 80 people who have been affected by regional suicides. Whilst undertaking this project it has become apparent that there is a great need to support the people within the region who are presenting as near miss suicides in the sense that they attempt suicide but do not die. These people are not offered support after the near miss and are far more vulnerable to taking their own life in the future. Therefore a project to provide immediate support to these people after an attempted suicide is greatly needed. The project will link with the regional safeguarding leads (link is already established) to be alerted to an attempted suicide, the foundation will then contact the person and offer immediate support from qualified and experienced psychotherapists.</p> <p>The evidence of need is shown through our collaborative working with the regional local authorities, police and LHB. The statistics of near misses - attempted suicides in the region have been increasing over the Covid 19 Pandemic and currently there are no easily accessible immediate services in place to support these people within the region. This project will support and take the pressure off the local mental health services, GP's and the safeguarding teams within the regional local authorities. Whilst ensuring that immediate support is put in place for those at high risk of suicide within the regional communities</p> <p>200 adults and 50 CYP referred</p>	Regional
New Pathways	Therapeutic Counselling Services for Children/Young People	<p>This project will provide services to meet the growing demand for sexual violence support and counselling in the Swansea, Neath and Port Talbot Area. We know children and young people who have experienced sexual violence trauma often have poor mental wellbeing and problems with behaviour, development and education – this is exacerbated if support is delayed. We want to ensure no child or young person in this region who has been raped or sexually abused is forced to wait long periods for specialist support. We would like funding to provide sexual violence counselling for 30 children and young people (ages 3-25). This would help clear the current children's waiting list and allow us to allocate services promptly to children and young people on referral.</p>	Regional

Host Organisation	Project Name	Project Description	Regional / Local Scheme
Action for Children / Ospreys in the Community	Bouncing Back Plus	<p>Action for Children (AfC) and Ospreys in the Community (OitC) have been working in partnership to deliver Bouncing Back across the region since September-20, and have provided 108 groups, across 17 schools, reaching 1895 Young People (YP). We recently developed and delivered a primary age programme, which is in great demand. Whilst the outcomes for the programme are excellent, e.g., 91% of pupils now know when to ask for help, teachers have suggested that a longer running programme could provide more in-depth support.</p> <p>The purpose/objective of this funding would be to deliver Bouncing Back Plus, building on Bouncing Back sessions by incorporating evidence-based skills from The Decider programme, where YP are taught 12 DBT/CBT skills in a highly original and innovative way, e.g., didactic presentation, demonstrations, music, props and visuals. As the link between physical activity and emotional wellbeing is well known/documented, we will also incorporate a weekly physical activity session (led by OitC). Bouncing Back Plus will include:</p> <ul style="list-style-type: none"> • Five one-hour sessions of Bouncing Back/The Decider (AfC) • Five one-hour sessions of physical activity (OitC) • An end of programme celebration (AfC/OitC) <p>Bouncing Back is derived from The Blues, a targeted CBT evidence-based programme designed for YP aged 12-19, which combines coping skills and physical exercise to build resilience and reduce depressive/anxiety indicators. Bouncing Back is a lower-level, early intervention, resilience building programme for YP, Key Stage 2 and upwards. Provision includes group discussion and practical tools/coping skills, enabling YP to manage their day-to-day emotional wellbeing.</p> <p>YP are supported to understand their feelings, the journey to the feelings, and the things that they can do to be more positive. It also helps YP identify when they need help and who to ask for that.</p>	Regional
Swansea Women's Aid	CHYPS Play and Activities Project	<p>The purpose is to continue our existing CHYPS (Children and Young People's Service) Play & Activities worker post from November 1st 2021 – March 31st 2022. This post assists with the child-led planning and delivery of play and activities programmes including workshops, group work, trips and fun activities sessions to children and young people (CYP) impacted by domestic abuse. Rolling age appropriate play and activities programmes are shaped by CYP using the service.</p> <p>The objectives are:</p> <ul style="list-style-type: none"> • To enable peer support, skills and confidence building and promote every child's right to engage in play and leisure activities • To improve the mental and physical wellbeing of the CYP, leading to reduced short and long term pressure on health centres and other support agencies in the community • To create opportunities with peers – such as group activities, trips and leisure opportunities – for CYP that enable them to feel less isolated, more understood and therefore less stigmatised by their experiences <p>CYP aged 3-16 who have experienced domestic abuse and are CHYPS service users or siblings thereof.</p> <p>The activities will take place after school and during school holidays in a variety of locations, including local parks and beaches, indoor venues such as bowling alleys, trampoline parks etc. and also via Zoom. Activities successfully adapted to Zoom include cookery lessons with parent, arts & crafts club and nature and wellbeing sessions.</p> <p>Our activity sessions can offer families a break from the pressures of having children at home. For CYP, it offers them the chance to play away from the home in a supported environment, as in this modern age they are less frequently allowed to play out, away from the home, for long periods of time.</p>	Local - Swansea
Dewis Ltd	Wellbeing Worker	<p>We would like to create a part-time (10 hour) 'Wellbeing Worker' role, bringing in a staff member with a background in Mental Health and supporting young people to add value to the support we offer to young people. We have seen a significant rise in the number of young people we work with who are aged 16-25 and presenting with wellbeing or mental health flagged within their referral, or where we have concerns regarding their wellbeing or low level mental health (including self-harm). There is an absolute increase of need due to the isolation created during the height of the pandemic and beyond.</p> <p>As a support provider, Dewis has been delivering housing related support to children and young people (aged 16-25) since 1987,</p>	Local - NPT

Host Organisation	Project Name	Project Description	Regional / Local Scheme
Pack Page 74		<p>this includes support in staffed supported accommodation for more vulnerable young people, and in our accommodation units within the community for young people with support needs. The young people we work with are referred or self-refer because they are homeless, at risk of homelessness or vulnerably housed, our referrals include young people who are at risk, those who are looked after, or have been looked after, those with substance misuse issues, those who are estranged from family, those with a criminal background and those with low level mental health. We work with them to provide supported accommodation in one of our 18 units of accommodation within Neath Port Talbot. Every young person who is accommodated by us has a support plan covering the 11 areas of supporting people outcomes including mental health. We work in a trauma informed way to support each young person to co-produce their support plan outcomes to ensure they are tailored to meet their individual needs, and enable them to make progress towards independence, enabling them to move on to independent living with a Registered Social Landlord or Private Rented Sector as an outcome of our support.</p> <p>We would see our 'Wellbeing Worker' role as having a pivotal role within our referral and support process. They would be part of referral assessments, and undertake a wellbeing assessment leading to individualised targeted work with a young person as part of their Support Plan, specifically within the Mental Health category, but looking at all areas of the young persons life to identify support needs. This work would meet the requirement of early intervention and prevention of escalation to higher tier services.</p> <p>Additionally, the 'Wellbeing Worker' will work as part of our on call team in providing advice and support in relation to low-level mental health and wellbeing to staff within our 24-hour services and to young people at a point of crisis.</p> <p>In a wider community context, the 'Wellbeing Worker' will carry out the wellbeing assessment with all young people assessed for support, anyone not eligible for support will be signposted to other services as required as part of the preventative role of the worker.</p>	
Swansea Community Team	Farm Ways to Wellbeing	<p>Over 7 months run 2 targeted family sessions and one community session a month, welcoming 10 young people at a time. Sessions will offer wellbeing opportunities for children and parents by giving them a safe outdoor space and stimulating play sessions facilitated by experienced play professionals. Success will be monitored by using feedback forms, distance travelled tools and collecting feedback.</p> <p>In addition to this will be Saturday sessions. Extra member of staff will allow us to welcome extra 10 CYP to the project contributing over 600 volunteer hours over 7 months. Their time at the farm will help them to increase their skills sets. Learning practical skills from staff and their peers and sharing their own skills.</p>	Local - Swansea
Chinese In Wales Association	Care for our children	<p>The proposed project aims to improve mental health well-being and prevent mental ill-health for children and young people with Chinese heritage living in Swansea and Neath Port Talbot.</p> <p>The key activities and services of this proposed project are as follows:</p> <p>It will understand the interests of children and young people and provide regular social and physical activities to improve mental health well-being, such as outdoor activities, workshops, physical exercises, social togethering etc. These activities will be conducted online or face-to-face.</p> <p>It will promote local services which related to supporting children and young people in the region and translate useful information related children mental health issues to share with parents in the Chinese community to empower them to support their children. It will provide professional counselling sessions to children and young people who are having mental health issues or at high risk of ill mental health. It will provide relevant training to enhance interpersonal skills of the project staff and volunteers.</p>	Regional
African Community Centre	Wellbeing Activities CYP	<p>REACH will provide one to one creative counselling and psychotherapy for ages 14 – 25 we will provide counselling for 50 young people 8 sessions per person =400 sessions in total.</p> <p>Each client aged 14+ will have an assessment and YP Core forms and CORS will be completed at the beginning and end of therapy to capture any improvements and areas where further support is needed and also a tool to help identify risk.</p>	Regional

Host Organisation	Project Name	Project Description	Regional / Local Scheme
		<p>We also provide well-being activities for BAME people, including exercise classes (Yoga, Zumba and men's fitness), and creative workshops like African Drumming, and regular health talks on varied topics. Most recently we provided education sessions to promote take up of the Covid-19 Vaccine.</p> <p>Importantly, we enable BAME individuals (who in many cases have experienced trauma and distress in their journey to Wales) to access support including English Language classes, 1:1 advocacy/mentoring, IT support, Transport Assistance and signposting to other support services.</p> <p>This practical help has assisted many migrants who are often lonely, afraid, and overwhelmed, to adapt to a new language, culture, landscape and infrastructure.</p> <p>Our target audience are:</p> <ul style="list-style-type: none"> • People from BAME communities, Refugees, Asylum seekers <p>BAME people tell us that barriers to mental health services include:</p> <ul style="list-style-type: none"> • cultural barriers where mental health issues aren't recognised or aren't seen as important, • language barriers • professionals lack of knowledge about things that are important to a person of colour or their experiences, • white professionals not being able to fully understand what racism or discrimination is like, • stereotyping, e.g.. some white people think black people with mental health issues will get angry or aggressive, conscious and unconscious bias, and • stigma about mental illness in some communities stops some people of colour seeking help. They can feel ashamed. 	
<p>Portsmouth City AFC Community Trust Page 75</p>	<p>Swans supporting the mental health of children & young people</p>	<p>The purpose and objectives of the project are to provide education and mental health support to, children and young people through in-schools projects and out of school youth work activities delivered by specialist Trust staff.</p> <p>The Trust's Health & Wellbeing programme is in line with changes to the Welsh school curriculum (Sept. '21) in the HWB "Area of Learning & Experience". As well as sessions on Mental Health, Wellbeing and Mindfulness, the programme covers Diet, Getting Active, Sleep Matters and Healthy Relationships. It has been a success, with children and young people confirming improvements in these areas via pre- and post-programme assessments, "...how to look after myself and make lifestyle changes that have made my life better.". Teacher feedback is also highly supportive of the programme.</p> <p>The funding would allow expansion of the programme into additional schools, and into youth engagement workshops outside school hours. It will also add more sessions to cover emotional and social wellbeing (including resilience and empathy) and communication skills and emotional literacy. This will cover the ability to identify emotions and express themselves assertively, active listening skills, to introduce and develop empathy and learn how to support others and conflict resolution skills. It will also allow the existing resources to be adapted to suit a younger age group so it can be delivered in primary schools.</p> <p>Staff training will provide the project's legacy and adapted delivery material will be used beyond the end of the project.</p> <p>The HWB programme uses the power of the Football Club brand to engage with children and young people who may not participate in a non-themed programme.</p> <p>3 elements:</p> <ul style="list-style-type: none"> • Staff training in embedding the above content into sessions. • Resources adaptation for younger groups and addition of new topics • Delivery of sessions 	<p>Regional</p>

Host Organisation	Project Name	Project Description	Regional / Local Scheme
Cwm Alliance CIC	Cwm Alliance CIC - Community Family Therapy	The Cwm Alliance CIC would like to collaborate with The Family Therapy Place to provide community-based family therapy that is easily accessible to families within the Cwmtawe area of Swansea. The service will accept open referrals direct to The Family Therapy Place and be promoted via the existing local networks of the Cwm Alliance CIC which include, Cwmtawe Cluster, Ospreys in the Community and local faith support. The project will start with a family focused creative art/craft group for parent and child with an emphasis on not needing to be 'artistic' to take part. From providing this intervention we hope to identify some families that need further family therapy. These families would then be offered an intervention based on the outcomes of the group.	Regional
ASDES – Autism Skills Development and Employment Support Pack Page 76	Hidden Response	<p>Aim – Provide tailored support to enable individuals with hidden impairments to maintain positive lifestyles choices</p> <p>ASDES job coaches / support workers will work across Swansea and NPT, providing participants with a range of individually designed support covering some of the following areas:-</p> <ul style="list-style-type: none"> • Identifying hurdles that individuals are facing in their community • Responding to requests for support where individuals are feeling overwhelmed in environments that have recently changed • Responding to situations where individuals face disciplinary processes in their workplace • Working with employers / employees who need support but might not be eligible for ATW as they have no formal diagnosis • Identifying changes in familiar surroundings that are having an impact on well-being • Managing fear and anxiety about getting into employment and the knock-on effect of uncertainty regarding future opportunities • Finding activities to engage in that promote positive well-being • Finding volunteering activities to fill time and manage different situations • Engaging in activities outside of the home environment • Managing changes to everyday processes • Managing reduced / changed finances and signposting to organisations that provide financial input • Coping with bereavement and signposting to specialist input • Making telephone calls with regards to payments of bills, applications for benefits and other financial hurdles that individuals may face • Setting up new learning opportunities and look at the new ways of accessing learning / training • Working with family members around a person with hidden impairments to ensure that there is a positive wrap around approach to cover all aspects of support needed • Responding to participants with regards to everyday living obstacles that arise as a result of changed systems – e.g. participants fear of contacting GP or lack of understanding in for new protocol using apps • Phone call input to manage everyday medical issues and signposting <p>ASDES Job Coaches / Support workers are aware that as lockdown restrictions have lifted there has been an increased demand from families around a person with hidden impairments as they try and manage the anxieties of re-engaging with society. Support workers have found that they provide a vital point of contact for families to hold conversations and share their everyday hurdles. ASDES is experiencing an increase in referrals from organisations such as the Integrated Autism Service and Job Centre, as well as individual self-referrals. Many of these referrals are in need of an immediate response to manage situations that have become too complex for them. This grant will act as an interim support for these needs and will enable ASDES job coaches to transition participants onto other projects internally and externally</p>	Regional
The Family Therapy Place	The Play Room Project	F TP will provide children and young people with play therapy, one to one and group therapy, counselling and family support. F TP Counsellors are trained to work with CYP to alleviate distress and to cope with such issues as parenting and attachment issues, childhood adverse experiences, anxiety, depression, trauma, suicidal thoughts, eating disorders, self-harm and OCD. These therapies are particularly helpful for children with attachment and separation difficulties who have been adopted and separated from	Regional

Host Organisation	Project Name	Project Description	Regional / Local Scheme
		<p>their birth parents. We are deeply passionate about early intervention, on a daily basis we meet adults who did not have the appropriate support as a child so they continue to struggle throughout their adult lives and often statutory services are not long enough to meet developmental needs and provide the conditions to re-wire and regulate healthy brain development.</p>	

Agenda Item 3.1.1

CYPE(6)-04-22- Paper to note 11

Children, Young People and Education Committee

Request for information on working with the third sector to provide mental health support services for children and young people.

Response from: West Wales Regional Partnership Board



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3 Spilman Street, Carmarthen SA31 1HQ
Ffôn/ Tel: 01267 228978 ext. 2978

Eich Cyf/Your ref:Ein Cyf/ Our Ref:
Gofynnwch am/ Please ask for:

Dyddiad/ Date: 18th January 2022

Jayne Bryant
Senedd Cymru
Cardiff Bay
Cardiff
CF99 1SN

Dear Jayne,

I write in response to your letter dated 01st December 2021.

We continue to work effectively with the Third Sector as partners to enhance support available to Children and Young People in West Wales. Please find below our response to your letter.

1. Working alongside the Third Sector to plan and deliver support services

The West Wales Regional Partnership Board includes representatives from the Third Sector. The Children and Young People's Board also has Third Sector representation and will assist us as a region move towards a genuinely integrated approach. The key strategic priorities for the board include:

1. Children & Young People's Emotional Health
2. Supporting Children to remain with their Families
3. Meeting the needs of Children with Complex Needs

West Wales Action Mental Health (WWAMH) are members of the Local Mental Health Partnership Board. WWAMH also attend fortnightly Mental Health and Learning Disability Operational Planning meetings and have been a member of the COVID Bronze Group since the beginning of the Pandemic.

2. Active projects/initiatives undertaken alongside the third sector

There are several projects and initiatives undertaken across the Region where there is Third Sector involvement, supporting Children and Young People's Mental Health including:

- Art Therapy Groups
- Café Cash Credit via 'Give the Boys a Lift'
- Counselling support for care leavers

- Digital Connectivity Project, supporting those without access
- 'Working Together' working group of Parent/Carers of Disabled Children
- Job coach project – supporting children and young people across the region
- Mums Matter
- TONIC - Surf Therapy, working with S-CAMHS and other young people services

3. Partnership working, what has worked well/lessons learnt

We have established a Children & Young Peoples Operational Group, which will sit beneath the Children and Young Peoples Board. The operational group will provide an opportunity to share innovative solutions, good practice and identify areas for scaling up projects on a regional footprint.

In Pembrokeshire a review of emotional health and well-being services resulted in some good developments in the emotional health and wellbeing support provided in the county over the last 3-4 years, largely within services and sectors.

Establishing the Emotional Health and Wellbeing team to operate below the S-CAMHS level is one. Some new projects have also been set up by Third Sector organisations using, for example, National Lottery funding. Some new approaches are being piloted e.g., with GPs in the south cluster.

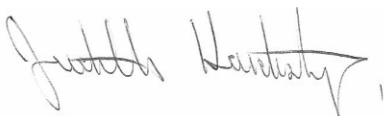
4. Future plans for partnership working with the Third Sector

The Children and Young Peoples Board and Operation Group will maximise opportunities for partnership working across the Region including the Third Sector.

The Health Board have developed a recommissioning timeline to reprocur the current Third Sector provided services across Mental Health and Learning Disability. This is due to take 18 months, reflecting the complexity of the process and the need to support the sector appropriately to prepare for the procurement exercise. In particular, the timescales allow for extra support to be given to smaller organisations through services such as Business Support Wales to ensure parity across all organisations, large and small. The Framework will allow Mental Health & Learning Disability services to work collaboratively with organisations, partners, service users and carers to develop new service specifications, encouraging fresh approaches and innovation.

The wholesale review of emotional and mental well-being services across Pembrokeshire has resulted in the appointment a project manager to develop and take forward an action plan for improving the cohesion of the variety of services provided. This will ensure the gaps in provision are reduced in Pembrokeshire; that communication and awareness of what's available is enhanced; and that delay in receiving the right services at the right time is reduced and eliminated. Several Third Sector organisations provide such services, and Service Level Agreements will be reviewed with each, to ensure their continued suitability, quality and to plan better for future need and associated responses to demand.

Yours sincerely,



Judith Hardisty
Chair, West Wales Regional Partnerships Board

Agenda Item 3.12

CYPE(6)-04-22 - Paper to note 12

Comisiynydd
Plant Cymru

Children's
Commissioner
for Wales

By email only

To: Chair
Children, Young
People and
Education
Committee
Senedd Cymru

20 January 2022

Dear Chair,

Thank you for your letter dated 30th November 2021, in follow up to my annual scrutiny session with the Committee.

Your letter raised two points; in relation to a paper on my legal powers and remit, and in relation to our ongoing work in respect of Regional Partnership Boards (RPBs).

Our work this year in reviewing the work of RPBs is drawing to a conclusion, with a public report to be made available in mid-February. I will ensure that a copy is directed to the Committee given the keen interest in this area of work. The report will contain recommendations to further improve RPBs' practice and effectiveness in Wales. There will be a fuller progress report shared with the Welsh Government to enable them to continue their ongoing monitoring and scrutiny role of the Boards, directing them as to our latest findings and the advice from the young people who have taken part in our sessions also. My team, as part of our strategic planning process, is currently determining how our work will continue in this field. We will update you on this when our work plan is published at the start of April.

The Deputy Minister for Mental Health and Wellbeing has had the benefit of a debriefing session with the young people engaged in this work, and they have shared clear messages with her and her officials on the key areas in



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Croesawn ohebiaeth yn y Gymraeg yn ogystal â'r Saesneg ac mewn amryw o fformatau
We welcome correspondence in the medium of Welsh and English as well as alternative formats

which RPBs require further prompting or pace in their actions.

In relation to the potential of the third sector in supporting the work of RPBs, I am aware that the Welsh Government has set up a working group to consider enhancing the contribution of citizens, carers and third sector in RPBs' work. I understand the group first met last term although my office is not represented in this work. My published report won't show much change from previous engagements on how citizens have been involved in shaping the Boards' work, although there will be some reflection of young people's participation in some regions to shape their work and priorities. I would politely suggest that perhaps the Committee may wish to make further enquiries of the Welsh Government in this regard following the publication of my report in a few weeks' time.

As regards the paper I mentioned in the scrutiny session, on my statutory powers and remit, I can confirm that I've now had the opportunity to meet with my link branch of officials and with my link Minister to discuss this paper. I am continuing to meet with other Government officials this month to discuss the paper however, so I'm afraid I am not yet in a position to share the paper. However, my full intention is to share the paper with the Committee as soon as possible. I am also likely to publish the paper before the end of my tenure as Commissioner, as I reflect on the post and its role in public society in Wales. I will keep the Committee informed of my plans in this respect.

I also plan to hold a public lecture on 4th April 2022, to talk about the conclusion of my term and the policy landscape for children in Wales going forward. I anticipate that the legal remit of the office will be a relevant factor to those discussions so will ensure that any publication of papers precedes such a lecture. The First Minister has kindly agreed to introduce the lecture and event details will be published soon; I will ensure that the Committee Members have the details should they wish to join.

Thank you again for your Committee's work in scrutinising the work of my office; we feel that it's a critical element of our governance structure and would hope to see this annual scrutiny continue for my successor.



Yours sincerely,



Sally Holland
Children's Commissioner for Wales

Rydym yn croesawu gohebiaeth a galwadau yn Gymraeg. Byddwn yn ateb gohebiaeth a gwladau a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd cysylltu yn Gymraeg yn arwain at oedi | We welcome receiving correspondence and calls in Welsh. We will respond to correspondence and calls in Welsh, and contacting us in Welsh will not lead to delay.

CYPE(6)-04-22 - Paper to note 13

Lynne Neagle AS/MS

Y Dirprwy Weinidog Iechyd Meddwl a Llesiant
Deputy Minister for Mental Health and Wellbeing

Ein cyf/Our ref MA/LN/0081/22



Llywodraeth Cymru
Welsh Government

Jayne Bryant MS
Chair, Children, Young People and Education
Committee Welsh Parliament
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18 January 2022

Dear Jayne,

Thank you for your letter of 17 December confirming that perinatal mental health will remain a priority for the Children, Young People and Education Committee during this term and requesting an update on progress. I welcome the Committee's emphasis on this area which is also a key priority for me as Deputy Minister for Mental Health & Wellbeing.

The then Minister for Mental Health, Wellbeing and Welsh Language wrote to the Committee in March 2021, providing a comprehensive update on progress against all the recommendations in response to the previous Committee's report on Perinatal Mental Health in Wales, published in October 2017. As that update demonstrated this is an area where significant progress has been made following the Committee's report on Perinatal Mental Health in Wales, published in October 2017. Previous Ministers have provided the Committee with updates against the recommendations made in response to that report, and I will be pleased to continue to do so. However, as a result of the current Omicron Covid-19 impact on the NHS it is not possible to provide the usual level of detail in this latest update because it is essential that the perinatal clinical workforce can prioritise the provision of high quality services to mothers and families, whilst managing the challenges presented by the Omicron variant. In order to maximise front line clinical capacity, officials are not currently engaging members of the perinatal mental health network on information gathering as many are deployed to clinical service priorities. I will however provide a more detailed update to Committee as soon as possible. Similarly, the data exercise conducted at the end of last year has not been concluded due to pressures on services. I will provide a full update on perinatal service data in due course.

There are, however, a number of areas where I am able to provide an update to Committee. The Mother and Baby Unit within Swansea Bay University Health Board has been open since April 2021, providing care to mothers in need of specialist support. Officials receive regular

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We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

updates on the usage of the unit which have been positive. As I have previously stated that there will be a full review of the unit once it has been operational for 12 months. This review will determine whether the care being provided is meeting current and projected demand, and to establish the long term plan for specialist care in South Wales. As the updates provided to Welsh Government on the operation of the unit have already confirmed there is sufficient demand in South Wales, the review will not consider whether there is a need for a unit, but will focus on whether the size of the unit and the services offered remain fit for purpose in the future.

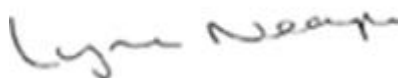
Work is ongoing to establish specialist provision for women living in North Wales. Welsh Health Specialist Services Committee (WHSSC) is leading the commissioning of this inpatient provision. WHSSC is engaged with NHS England to develop a joint, eight bedded Mother and Baby Unit for women living in North Wales. We understand the refurbishment work of this unit will take 18 months to complete. I will provide further updates on progress in future correspondence.

Health boards are working towards meeting the relevant Royal College of Psychiatrists' quality standards. On 27 October 2021 I confirmed that three health boards were reporting funded staffing positions which would enable full compliance with Type 1 staffing standards. We continue to work with those health boards who are not yet fully compliant and this will be a key priority area for Service Improvement Funding this year. However, I do recognise the significant impact that the Covid-19 pandemic has had on services, particularly the ability to recruit to specialist posts. In future updates I will confirm progress in recruiting staff to all funded positions, and progress in all health boards on meeting staffing standards.

All health boards in Wales are now signed up to the perinatal quality network, and have undertaken a review on progress towards meeting the wider standards. Health Boards are developing action plans where needs for improvement have been identified.

Work is continuing to improve the reliability of data collected on perinatal mental health services. The Perinatal Mental Health Network has agreed a number of key data items to be collected on an ongoing basis. This was presented to the Mental Health Outcomes and Measures Board in November 2021, and work is ongoing to ensure that perinatal data collection will align with wider mental health data collection. In the meantime officials have continued to request regular updates from services on key data items. As not all health boards have been able to respond to the latest data request due to workforce pressures at this time, I will provide a summary of this data in my next update.

I would like to thank the Committee for its continued focus on perinatal mental health.



Lynne Neagle AS/MS

Y Dirprwy Weinidog Iechyd Meddwl a Llesiant
Deputy Minister for Mental Health and Wellbeing

CYPE(6)-04-22 - Paper to note 14

Julie Morgan AS/MS
Y Dirprwy Weinidog Gwasanaethau Cymdeithasol
Deputy Minister for Social Services



Llywodraeth Cymru
Welsh Government

Jayne Bryant MS
Chair
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Support for children leaving care

17 January 2022

Dear Jayne,

Thank you for your letter of 17 December about the areas of you are considering as part of your policy inquiries, and the support provided to children and young people who have left, or are leaving care. I will address the points raised in your letter in turn:

1. Information about support provided to children and young people leaving care

Our Social Services and Well-Being (Wales) Act 2014 and accompanying Part 6 Code of Practice (Looked After and Accommodated Children), sets out the statutory duties placed on local authorities to support and promote the well-being of young people leaving their care. This includes the support and services they must provide to young people to help them make a successful transition to adulthood and move towards independent living.

When a looked after child is about to turn 16, local authorities must prepare a pathway plan to assist that young person with the transition to adulthood and leaving care. This will address the young person's physical, emotional, mental health and development needs and the arrangements in place to support their accommodation, education, training or employment.

We collect annual statistics about children looked after by Welsh local authorities and care leavers. Latest figures for 2020-21 were published in November 2021 and can be found at the following link - [Experimental Statistics: Children looked after by local authorities, 2020-21 \(gov.wales\)](#). Further detail about accommodation, activity (education, training and employment) and educational qualifications of care leavers can be found at [Children looked after \(gov.wales\)](#).

2. Update on the Programme for Government commitments

The Programme for Government contains a number of commitments relevant to children's social services, which implemented together will support the transformation of children's social care in Wales. These commitments build on existing work and action taken to reduce

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We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

the number of children in care, help children remain in the care of their families and provide care for children who require it closer to home.

Radical reform of services for looked after children and care leavers

Our White Paper on Social Care Futures touched on opportunities for reform of children's services as part of wholesale reform of social services. We want to deliver a new vision and ambition for children's services, based on more consistent practice, less risk adverse practices and more restorative approaches being prescribed and adopted across Wales. The development of a National Framework for Social Care and the establishment of a National Office provides an opportunity to drive transformation and reform of children's services at a national level.

To inform our approach I have established an Oversight Board, chaired by Anthony Douglas which includes representation from senior leaders across local government and the third sector. The Board will seek to drive improvements in children's services, working collaboratively with the sector on peer learning and professional development and in supporting a systems-wide approach to improving quality and services. The first meeting of the Oversight Board is due to take place on 19 January.

Strengthen public bodies in their role as 'corporate parent'

Whilst corporate parenting is taken seriously by local authorities, our aim is to strengthen corporate parenting across all departments within the local authority, to enable better partnership working and improved transitions between services provided for care experienced children. We also intend to widen the concept of corporate parenting across all public services that provide services to care experienced children, to help ensure care experienced children are provided with the best response and support from these services.

An Implementation Group has been established to take forward our corporate parenting commitment and has met several times. The work of the group has been concentrated on the development of a Corporate Parenting Charter in collaboration with care experienced children and partners, for public sector organisations to sign up to. Once complete, engagement sessions and events across the public sector will be held to strengthen corporate parenting within local authorities and widen responsibilities across the public sector. A particular focus will be on health, education and housing partners. This engagement alongside the Charter will then inform the development of statutory guidance setting out the roles and responsibilities of the range of partners across the public sector who have responsibilities and interactions with care experienced young people.

3. An update on Welsh Government responses to the Children Commissioner for Wales' 2020-21 Annual Report:

With regards to the package of support we are taking forward for care leavers highlighted in the Children's Commissioner's annual report:

- We have committed to introduce legislation in this Senedd Term to deliver on our commitment to provide care leavers with a statutory entitlement to access a personal adviser up to age 25. We anticipate this will be taken forward in 2023.
- In relation to the use of unregulated placements, officials are in regular contact with officials from the Department for Education concerning the ban on unregulated placements for children under 16. The ban came in to force in September 2021 and work is underway with Ofsted regarding its registration and related processes to support the sector in its compliance with the duties. Our dialogue and learning will continue.

- Welsh Government officials are continuing to work closely with partners including local authorities and the third sector to develop a range of good quality accommodation options for care leavers.
- The St David's Day Fund for care leavers continues to be made available via the Children and Communities Grant. This is a flexible funding stream provided recurrently, which enables local authorities to spend according to a range of locally identified needs.

4. An update on the development of an alternative approach to the 'When I am Ready' scheme to support young people in children's residential care.

Whilst the When I'm Ready scheme applies to children in foster care, the same model cannot be translated to residential care. The reasons are around the appropriateness of adults living with younger children and cost of providing suitable arrangements. We are considering alternative models, for instance young people from residential care maintaining links and support with professionals from their previous residential care home. We are working with partners to take forward this work including the third sector, local authorities and the Office of the Children's Commissioner. This will form part of our multi-sector work to improve the range and quality of accommodation for young people leaving care.

5. Clarification on the future role of the Improving Outcomes for Children Ministerial Advisory Group which focussed on care experienced children and those leaving care during the Fifth Senedd

The Improving Outcomes for Children programme and its Ministerial Advisory Group was stood down at the end of the last Senedd Term. Its outcomes and achievements are set out in its Legacy Report - <https://gov.wales/sites/default/files/publications/2021-06/improving-outcomes-for-children-programme-legacy-report.pdf>

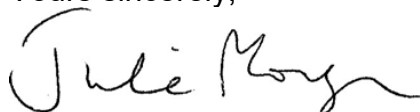
New arrangements have been put in place to oversee and take forward our challenging reform agenda for children's social care for this Senedd Term, building on the action taken in the to improve outcomes for care experienced children and care leavers.

To bring coherence to all our policy activity for children across the Welsh Government, a Children and Young People's Plan for Wales has been developed, building on our commitment to children's rights and specifically to help deliver relevant commitments in our Programme for Government. A Director's Board of senior Welsh Government officials will focus on delivery of and monitor progress against the plan across Ministerial portfolios to ensure all children in Wales can thrive.

Our Oversight Board, referred to earlier in this letter, will focus on the delivery of relevant Programme for Government commitments for children's services. As part of its role the Oversight Board will maintain a focus on our activity to support care leavers and young people in the process of leaving care.

I hope you have found my reply helpful.

Yours sincerely,



Julie Morgan AS/MS

Y Dirprwy Weinidog Gwasanaethau Cymdeithasol
Deputy Minister for Social Services

Agenda Item 3.15

CYPE(6)-04-22 - Paper to note 15

**Senedd Cymru
Welsh Parliament**

Jane Hutt MS
Minister for Social Justice

18 January 2022

Dear Minister

Legislative Consent Memorandum for the Nationality and Borders Bill

The Health and Social Care and Children, Young People and Education Committees are currently scrutinising the Legislative Consent Memorandum for the Nationality and Borders Bill, laid by the Welsh Government on 6 December 2021. To inform our deliberations, we would welcome your response to the matters set out in the annex to this letter.

To enable us to consider your views in line with the reporting deadline set by the Senedd's Business Committee, it would be helpful to receive your response no later than **Friday 28 January 2022**.

Yours sincerely



Russell George MS
Chair, Health and Social Care Committee





Jayne Bryant MS
Chair, Children, Young People and
Education Committee



Croesewir gohebiaeth yn Gymraeg neu Saesneg. We welcome correspondence in Welsh or English.



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Annex

To inform the Health and Social Care and Children, Young People and Education Committees' scrutiny of the Legislative Consent Memorandum ("the LCM") on the Nationality and Borders Bill ("the Bill"), we would welcome your views on the matters listed below.

To enable us to consider your views in line with the reporting deadline set by the Senedd's Business Committee, it would be helpful to receive your response no later than **Friday 28 January 2022**.

Discussions with the UK Government

1. An update on discussions with the UK Government, including details of any assurances the Welsh Government is seeking or amendments it is proposing or agreements that have been reached with the UK Government. We would also be grateful to receive copies of any relevant correspondence with the UK Government on these matters.

The Welsh Government's concerns about the LCM

The LCM notes that the Welsh Government has a number of concerns about the Bill. We would welcome further information about the Welsh Government's concerns in respect of:

2. The constitution and functions of the National Age Assessment Board, and the nature of the potential negative impact on Unaccompanied Asylum Seeker Children in Wales.
3. The anticipated implications of centralising the age assessment process on the assessment of needs and provision of care and support under the Social Services and Well-being (Wales) Act 2014 and what, if any, further functions which could be imposed on Welsh authorities.
4. The Welsh Government's concerns relating to the use of scientific methods in age assessments and regulations regarding the assessments, including:
 - a. the appeal process;



- b. any implications for the Welsh Government's implementation of the United Nations Convention on the Rights of the Child;
- c. any implications for the mental health of individuals being subject to scientific age assessment techniques;
- d. any implications for community cohesion that would directly arise as a result of subjecting individuals to scientific age assessment techniques.

Financial implications

- 5. Further information on any potential financial implications associated with the provisions in the Bill and how they will be accommodated within the Welsh Government's financial planning.



CYPE(6)-04-22 - Paper to note 16

Senedd Cymru
Welsh Parliament

To: see attached annex

18 January 2022

Dear colleague

Legislative Consent Memorandum for the Nationality and Borders Bill

The Health and Social Care and Children, Young People and Education Committees are currently scrutinising the Legislative Consent Memorandum for the Nationality and Borders Bill, laid by the Welsh Government on 6 December 2021. To inform our deliberations, we would welcome your response to the matters set out in the annex to this letter.

It would be helpful to receive your response no later than **Friday 28 January 2022**. We appreciate that this is a very tight timescale but this is unfortunately unavoidable if we are to be able to consider your views in line with the reporting deadline set by the Senedd's Business Committee.

Yours sincerely



Russell George MS

Chair, Health and Social Care Committee





Jayne Bryant MS

Chair, Children, Young People and
Education Committee



Croesewir gohebiaeth yn Gymraeg neu Saesneg. We welcome correspondence in Welsh or English.



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Annex 1

To inform the Health and Social Care and Children, Young People and Education Committees' scrutiny of the Legislative Consent Memorandum ("the LCM") on the Nationality and Borders Bill ("the Bill"), we would welcome your views on the matters listed below.

Overall views

1. Your overall views on part 4 of the Nationality and Borders Bill which involves the age assessment of Unaccompanied Asylum Seeker Children, and includes:
 - a. the establishment of a National Age Assessment Board
 - b. the making of Regulations by the Secretary of State in respect of procedures to be followed in the age assessment process
 - c. the use of scientific methods to establish age; and proposals to reform appeals arrangements.

Impact on areas of devolved competence

2. To what extent the proposals set out in the Bill could undermine the Senedd's devolved responsibilities by requiring referral of age-disputed children to other decision-makers, including the establishment of a National Age Assessment Board?
3. To what extent it could undermine the requirements placed on Welsh local authorities set out in the Social Services and Wellbeing (Wales) Act 2014 which determines whether children have care and support needs which need to be met?

UN Convention on the Rights of the Child

4. Your views on whether the proposals will undermine compliance with the UN Convention on the Rights of the Child to act in the best interests of children.

'Scientific' methods and assessments

5. Your views on the use of use of "scientific methods" to determine age.
6. The anticipated implications for local authorities and the NHS who may be required to carry out "scientific" assessments of age.



7. The potential mental health impact for those who are age-disputed.
8. To what extent the proposals would undermine community cohesion in Wales.

How to share your views

Please email your response to **both** seneddhealth@senedd.wales and seneddchildren@senedd.wales by no later than Friday 28 January 2022.

The Senedd has two official languages, Welsh and English.

In line with the [Senedd's Official Languages Scheme](#) the Committee requests that documents or written responses to consultations intended for publication or use in Senedd proceedings are submitted bilingually. When documents or written responses are not submitted bilingually, we will publish in the language submitted, stating that it has been received in that language only.

We expect other organisations to implement their own standards or schemes and to comply with their statutory obligation.

Please see [guidance for those providing evidence for committees](#).

Please ensure that you have considered the Senedd's [policy on disclosure of information](#) before submitting information to the Committee.



Annex 2

List of consultees

The Association of Directors of Social Services (ADSS) Cymru
Welsh Local Government Association
British Association of Social Workers Cymru
British Medical Association
British Dental Association
Royal College of GPs
Royal College of Nursing
Royal College of Paediatrics and Child Health
Royal Pharmaceutical Society
Royal College of Physicians
Royal College of Psychiatrists
Royal College of Surgeons
NHS Trusts and Local Health Boards
Children's Commissioner for Wales
Children in Wales
The Welsh Refugee Council
Wales Strategic Migration Unit
SNAP Cymru
National Youth Advocacy Service
Ethnic Minorities and Youth Support Team Wales (EYST)
British Red Cross
Women Connect First
BAWSO
NSPCC
Observatory on Human Rights of Children
The Fostering Network



CYPE(6)-04-22 - Paper to note 17

Jeremy Miles AS/MS
Gweinidog y Gymraeg ac Addysg
Minister for Education and Welsh Language



Llywodraeth Cymru
Welsh Government

Jayne Bryant MS
Chair
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25 January 2022

Dear Jayne

Thank you for your letter of 12 January highlighting some potential misinterpretations of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (the 2018 Act). I am grateful for the opportunity to provide some clarity and reassurance to the Children, Young People and Education Committee on this matter.

The following clarifications on the issues raised by the National Deaf Children's Society (NDCS) Cymru will be included in a Frequently Asked Questions (FAQ) document which is currently in preparation.

Does having a reasonable adjustment under the Equality Act affect entitlement to an Individual Development Plan (IDP)?

A child may need the school to make a reasonable adjustment under the Equality Act (EA 2010). The same child may also have Additional Learning Needs (ALN), and if this is the case they will also need an IDP (subject to the exceptions related to Education, Health and Care (EHC) plans and EHC assessments for children who are resident in England).

Whether a child has ALN, and if so, the specific Additional Learning Provision (ALP) they need, must be considered individually in each case. Maintained schools have duties under both the ALN Act and the EA 2010. The duties are separate and a learner may require reasonable adjustments, provision under an IDP, or in some cases, both. Therefore, meeting the duties under one Act does not negate the need to discharge the duties under the other.

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We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

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Are there thresholds based upon level of need for IDP eligibility?

IDPs are for learners with all levels of ALN – from milder through to complex needs. IDP eligibility always depends upon whether the individual child or young person has a learning difficulty or disability which calls for additional learning provision (ALP). Where a child appears to need extra support due to a learning difficulty or disability, the maintained school or local authority must usually decide whether the child has ALN. Where it is decided that they have ALN, they will generally be entitled to an IDP which records the ALP to be made for them to meet their additional learning needs. The position is very similar for young people, although it may be a further education institution that must make the decision.

There are a few exceptions to this, such as if the child or young person has an EHC plan, or in the case of a young person with ALN who is not at a maintained school or further education institution in Wales, the local authority must decide, in accordance with the Additional Learning Needs (Wales) Regulations 2021, whether an IDP is necessary to meet their reasonable needs for education or training. This is all dealt with in the Code in further detail.

Using a graduated response, ALP should start at the lowest level necessary to meet the child or young person's needs, making use of all available resources before bringing in specialist expertise. Some children or young people may require more ALP over time if their progress continues to cause concern, whereas some may gradually require less ALP if the interventions are a success. This is also dealt with in the Code.

What is Additional Learning Provision (ALP)? What support from specialist services is ALP?

Where it is brought to the attention of, or otherwise appears to, a school, further education institution (FEI) or local authority (LA) that a child or young person may have additional learning needs (ALN), the maintained school, FEI or LA must usually decide whether the child or young person has ALN. Where it is decided that the child or young person has ALN, the school, FEI or LA will then usually be required to prepare and maintain an Individual Development Plan (IDP) for the child.

The test for having ALN is set out in the Act (s.2) and is to be applied to each child or young person individually – the test must always be applied in light of the particular circumstances. ALN depends upon the person having a learning difficulty or disability which calls for ALP, which is educational or training provision that is different from, or additional to, that generally provided for others of the same age in mainstream maintained schools, mainstream FEIs and places where nursery education is provided.

It is the ALP called for by an individual child or young person's learning difficulty or disability that must be set out in the IDP (see section 10(b) of the Act). What ALP a child or young person with ALN requires is specific to them and depends upon their individual needs and circumstances.

If a specialist service is available to every learner with a particular disability or condition, that service is likely to be ALP for individual learners. Whether or not it is ALP in any particular instance will depend upon whether it is called for by the child or young person's learning difficulty or disability and whether it is educational or training provision that is additional to or different from the general provision for all learners of the child or young person's age (including those that do not have the disability or condition concerned).

In some cases, indirect forms of support, such as training the person who is to deliver the ALP, may be necessary for any identified ALP to be provided. The Code envisages that these details can be set out in the ALP section of the IDP (paragraph 23.37):

The information recorded in relation to ALP will be more useful the clearer it is. It should be detailed, specific and quantifiable. This clarity might result from describing the specific tasks or actions that will be undertaken; it could also detail the training or qualifications any staff will require. Simply stating that support will be provided will not meet the need for clarity; describing the tasks any staff will undertake or facilitate, what they will be responsible for, and, if necessary, what qualifications or training they will require is important.

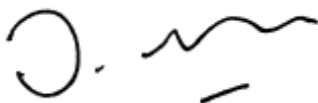
Therefore, specialist training for teaching staff could, depending upon the circumstances, form part of the description of ALP in an individual child or young person's IDP. However, not all input from specialist services is necessarily ALP. Some support from specialist services, including some forms of staff training, may be provided for other purposes, such as to help staff identify needs or generally to raise awareness about particular conditions.

Response to the National Deaf Children's Society (NDCS) Cymru Position Paper

The matters raised by NDCS about the NHS provision that is potentially not being recorded as ALP within IDPs are new issues and we will need to explore these further and what has led to them. Officials will be meeting with Designated Education Clinical Lead Officers in early February and will discuss the issues with them.

As the 2018 Act is being implemented with the main provisions commencing at different times for different groups of learners, we will be listening carefully to the experiences of learners and practitioners. A national ALN implementation programme will review progress to ensure the Act is implemented as intended.

Yours sincerely,



Jeremy Miles AS/MS

Gweinidog y Gymraeg ac Addysg
Minister for Education and Welsh Language

Agenda Item 3.18

CYPE(6)-04-22 - Paper to note 18

Jeremy Miles AS/MS
Gweinidog y Gymraeg ac Addysg
Minister for Education and Welsh Language



Llywodraeth Cymru
Welsh Government

Huw Irranca-Davies MS
Chair
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Senedd Cymru
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18 January 2022

Dear Huw

Tertiary Education and Research (Wales) Bill

Thank you for your letter of 10 December following my attendance at Committee to give evidence on the Tertiary Education and Research (Wales) Bill ('the Bill').

Your letter raised a number of questions, to which I have responded in Annex A to this letter.

This letter has been copied to the Children, Young People and Education Committee.

Jeremy Miles AS/MS
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Minister for Education and Welsh Language

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

- 1. Can you confirm what assessments have been undertaken in relation to the human rights impact of the Bill and what the outcome of these assessments has been? In particular, are you satisfied that the rights of entry and inspection provided for in sections 62 and 72 of the Bill are compliant with the Human Rights Act 1998?**
 - 1.1 The Welsh Government is satisfied that the provisions of the Bill are compatible with Convention rights

- 2. The Statement of Policy Intent for this Bill sets out a list of 20 regulation-making powers largely inherited from existing legislation, referred to as the inherited powers. Are each of the inherited powers subject to the same Senedd scrutiny procedure as they are in the existing legislation? Can you also confirm that where powers in the Bill previously existed in a different form, for example previously a regulation making power but now a power to make directions, the same or a higher procedure is applied? It would be helpful to have a comprehensive list setting out the position in relation to each of the powers?**
 - 2.1 A table is provided at Annex B which sets out the powers inherited from existing legislation, their previous form and procedure and their form and procedure in the Bill.

- 3. Why isn't the Welsh Ministers' power to issue directions under paragraph 1 of Schedule 15 dealt with in the Statement of Policy Intent?**
 - 3.1 This oversight has been addressed and the additional text to be added to the Statement of Policy Intent is included with this letter at Annex C. The revised Statement of Policy Intent has also been shared with the Children, Young People and Education Committee.

- 4. Section 11 of the Bill requires the Welsh Ministers to publish a statement of strategic priorities in relation to tertiary education and research and innovation. Can you clarify why there is no duty on the face of the Bill on the Welsh Ministers to consult any other party when preparing the statement?**
 - 4.1 The statement of priorities, in conjunction with the Commission's strategic duties, will outline the core matters the Commission must consider and take into account when exercising its functions. The statement will, in effect, be a "term of government remit letter" and is designed with a longer term planning approach in mind. In practice, it is expected to contain a small number of strategic priorities and high-level success indicators.
 - 4.2 Whilst there is no statutory requirement to consult on what will be included in the statement, I recognise it would be counter-productive to move away from current practice whereby arms-length bodies in general, and HEFCW in particular, are involved in dialogue with their partnership teams within government when matters are considered for inclusion in their remit.

- 4.3 When the Commission is fully operational, it is expected that it will provide evidence about the strengths and weaknesses of the PCET&R system to Welsh Ministers that will assist in making their statement of priorities most meaningful.
- 4.4 Once the statement is published, the Commission has a 6 month period for the preparation of its strategic plan, which will be subject to consultation before being considered by Welsh Ministers.
- 5. Section 13(4) of the Bill requires the Commission to publish its approved strategic plan but provides no timescale for doing so. Why is this?**
- 5.1 If necessary Welsh Ministers could issue guidance (under s18) concerning the expectations regarding the strategic plan which aren't included on the face of the Bill. Alternatively, these expectations could be captured in the Commission's framework documents to ensure there is total clarity concerning matters such as these.
- 5.2 By way of background, HEFCW's framework documents only specify a timeframe regarding submission of the business plan they draw up in response to the remit letter. Although they are required to make their other documents available to the public, no timescale is specified. This current approach has not been problematic, and given stakeholders' views that being over prescriptive on the Bill regarding operational processes is not beneficial, I believe the approach we have adopted is appropriate. This will allow flexible and appropriate mechanisms to be developed.
- 6. Section 22 of the Bill introduces Schedule 2, which provides the Welsh Ministers with the power to make schemes to transfer staff, property, rights and liabilities from HEFCW and the Welsh Ministers to the Commission. There is no provision for the Senedd to scrutinise this scheme. Can you explain why this is the case?**
- 6.1 Paragraph 1 of Schedule 2 to the Bill enables the Welsh Ministers to make transfer schemes which provide for the transfer of staff from HEFCW and the Welsh Government to the Commission and for the transfer of property, rights and liabilities of HEFCW and the Welsh Ministers to the Commission.
- 6.2 Procedurally, the schemes do not need to be made by way of order, paragraph 3 of Schedule 2 provides for the Welsh Ministers to lay a copy of a transfer scheme made under Schedule 2 before the Senedd. The transfer of staff and property from WG to the Commission is, in my view, an administrative issue for the Welsh Government, and, although the scheme(s) would also provide for the transfer of staff and property from HEFCW to the Commission, there has to be legal certainty regarding the transfers, hence the obligation on the Welsh Ministers being limited to laying Schedule 2 transfer Schemes before the Senedd.
- 6.3 Similar provisions in respect of transfer schemes are contained in the Qualifications (Wales) Act 2015 (see section 2 and Schedule 2). Under the 2015 Act, the Welsh Ministers are able to make schemes providing for the transfer of Welsh Government staff and Welsh Minister's property, rights and liabilities to QW. In terms of procedure, the WMs are only obliged to lay a copy of such a transfer scheme before the Senedd (the schemes do not need to be set out in an SI).

6.4 As for Parliamentary Acts, section 115 and Schedule 10 to the Higher Education and Research Act 2017 are also similar to the Bill. Under Schedule 10 of the 2017 Act, the Secretary of State can make property or staff transfer schemes in connection with the establishment of the Office for Students or UK Research Institute and (amongst other things) HEFCW ceasing to exist. There are no procedural requirements relating to these Schemes (they do not need to be made by / contained within an SI) and there is no duty imposed on the Secretary of State to lay the schemes before Parliament. The Energy Act 2016 took a similar approach with transfer of staff from the civil service to the Oil and Gas Authority (OGA) where the Secretary of State scheme did not need to be made by / contained within an SI and was not subject to any Parliamentary procedure.

7. **Section 23 provides for various regulation-making powers in relation to the registration of providers by the Commission. The Statement of Policy Intent explains that:**

“the funding structure (and hence appropriate regulation) of tertiary education (particularly higher education) across the UK has changed frequently in recent years, with changes in other UK administrations often having an effect on funding policy in Wales. These changes have occurred at a rate faster than is appropriate or practicable for the Welsh Government to respond with primary legislation regarding the details of regulation in each and every instance. The Bill enables details of the regulatory framework to be changed in response to any future changes in the structure or funding of the tertiary sector in Wales.”

Can you provide further information on this and confirm whether discussions are taking place with the other UK administrations to ensure that the law is able to keep pace with the changes?

7.1 A major change to the Welsh Government’s tuition fee and student support regime took place in the 2012/13 academic year following the Browne Review of Student Finance in England. The changes made at that time had significant consequences for the funding and regulatory oversight of higher education in Wales and resulted in the need for new primary legislation in the form of the Higher Education (Wales) Act 2015. The 2015 Act provide the statutory framework to ensure that HEFCW could continue to regulate Welsh higher education providers whose relevant HE courses are subject to fee limits in light of the shift in funding from institutional grants towards an increased reliance on tuition fee income.

7.2 The Bill seeks to establish a future-proofed regulatory framework, to enable the Commission to maintain regulatory oversight of tertiary education providers, which can be adapted in response to future changes to funding or student support arrangements.

7.3 The Bill creates a regulatory system fit for the future. It allows for secondary legislation to set out different categories of registration and to link these categories to distinct regulatory requirements and access to funding. This will enable the regulatory system to evolve in response to any future changes in the size, shape and funding of tertiary education in Wales, which may in turn be influenced by changes in such funding elsewhere in the UK.

7.4 The UK Government has recently proposed the introduction of a “Lifelong Loan Entitlement” which could radically change the financing of further and higher education provision in future years. Much of the detail of the UK Government’s proposals is not currently known but, if implemented, may have implications for future Welsh Government policy in this area. I have recently met with the Minister of State for Higher and Further Education and understand that the UK Government intends to consult on the Lifelong Loan Entitlement.

7.5 My officials are continuing to engage with their counterparts in the UK Government’s Department for Education on a range of matters arising from the Skills and Post-16 Education Bill, including the development of the proposed Lifelong Loan Entitlement.

7.6 We will work closely with stakeholders in the further education and training sectors to move towards a regulatory settlement which is fit for the long-term and brings greater parity between the FE and HE sectors.

8. There are several sections in the Bill where “examples” are given for matters that regulations may cover, for example, sections 25(4) and section 59(2). Does the Minister consider that this may lead some readers to think that the regulations in question can only cover the matters listed?

8.1 Section 25(4) sets out examples of what regulations that are made under section 25(3) may do. This includes conferring functions on the Commission in connection with the operation of further initial conditions provided for in the regulations, and examples of what further initial conditions of registration may relate to.

8.2 In accordance with the current practice for drafting laws for Wales¹, it is made clear that the list is not exhaustive by the use of the words “may (among other things)”. This is a recommended approach to clearly conveying in primary legislation the relationship between the regulation-making power and the non-exhaustive list of examples of what it may be used for. The specific wording used makes clear that section 25(4) doesn’t qualify or limit the scope of section 25(3).

8.3 The second example cited in the question, section 59(2), operates in a similar way; the words “may include” serve to clarify that the examples listed in the section do not limit the scope of the regulation-making power in section 59(1). Again, the wording is used in accordance with the drafting recommendations and practice set out in “Writing Laws for Wales: a Guide to Legislative Drafting”.

9. Section 30(2)(b) provides for the Welsh Ministers to make regulations to specify what constitutes a “fee limit category”. This power is subject to the affirmative procedure, but the three other regulation-making powers in section 30 which also deal with fee limits are subject to the negative procedure. Can you explain why all of the powers in this section are not subject to the affirmative procedure when they deal with the same subject matter?

9.1 The regulation making power under section 30(2)(b) enables the Welsh Ministers to specify categories of registration in relation to which the Commission must impose an ongoing registration condition concerning fee limits.

¹ paragraphs 5.6(8) and (9) of “Writing Laws for Wales: a Guide to Legislative Drafting” published in 2019

- 9.2 Our intention is for this registration condition to apply in respect of the proposed “core” higher education registration category. It is not envisaged that these arrangements would be subject to frequent change. However, if in future arrangements for funding and student support were to change (see answer to question 7), the Bill enables the Welsh Ministers to prescribe other categories of registration to which a fee limit condition must apply. As compliance with fee limits is a significant matter for tertiary education providers and an important feature of the legislative scheme it is appropriate that the affirmative procedure is applied to this regulation making power, and this is consistent with use of the affirmative procedure for other powers regarding registration categories and conditions.
- 9.3 In contrast the other regulation making powers under section 30 enable the Welsh Ministers to specify qualifying courses and persons for the purpose of regulating fee limits (sections 30(4) and 30(8)(b)) as well as to set out when fees payable to a provider in respect of a course it provides on behalf of a registered provider are to be treated as payable to the registered provider for the purpose of fee limits (section 30(10)). These matters may need to change over time to ensure synergy between the courses and persons to whom the fee limit applies and the Welsh Government’s student support regulations. The Welsh Government would consult on proposed changes ahead of making regulations under these powers. It is my view that that the negative procedure is appropriate for these regulation making powers, and this is also consistent with the equivalent powers held under section 5 of the Higher Education (Wales) Act 2015.
- 10. With regard to the intervention powers of the Welsh Ministers under the Bill, section 68 gives the Welsh Ministers the power to give a direction directly to a provider’s governing body. The Statement of Policy Intent confirms that this is intended to be used when the Commission has exhausted its intervention functions or when the matter is so serious that urgent action is required. Why are these conditions not reflected on the face of the Bill?**
- 10.1 Whilst it is intended that these intervention powers will be used in only the most serious cases and will operate alongside the intervention powers available to the Commission under the Bill, express conditions relating to these matters have not been included on the face of the Bill for the following reasons:
- the way in which the Welsh Ministers intervention functions will operate alongside the Commission’s powers of intervention, and decisions around the urgency of intervention are operational matters that would need to reflect the specific circumstances of each individual case. It would be more appropriate to include operational detail such as this within the Welsh Ministers published statement on how these intervention powers will be exercised (section 70 of the Bill). This would be a continuation of current practice;
 - section 67 of the Bill already sets out the specific grounds that must be satisfied in order for the Welsh Ministers to intervene under these powers. These broadly restate the existing grounds for intervention that are prescribed under section 57 of the Further and Higher Education Act 1992;
 - the nature of the grounds for intervention set out under section 67 of the Bill may give rise to circumstances where the issue requiring intervention is not related to the Commission’s registration or funding functions, for example breaches of statutory duties by a further education institution. In such cases, the

Commission's intervention functions may not be appropriate or able to address the identified issue;

- it is likely that many further education institutions will not be registered providers in the first instance, therefore the Commission's regulatory relationship with these providers will be through terms and conditions of funding; and.
- it would be difficult to define what constitutes circumstances where more urgent action is needed.

10.2 In light of the above, there could be potential risks arising from the inclusion of conditions on the face of the Bill that relate to the Commission's intervention functions or the requirement of urgency of use for these powers. Should such conditions be included, the Welsh Ministers would have to demonstrate that all of the Commission's intervention powers had been exhausted (or would not resolve the issue in question) or that there was sufficient urgency before they are able to intervene under these powers. This could have the unintended effect of preventing the Welsh Ministers from taking action under these powers or delay such action in circumstances where it may be necessary to protect further education provision in Wales.

10.3 It is also important to note that the Bill makes provision for the Commission to play a role in the exercise of these intervention functions which reflect its regulatory role in respect of further education institutions in Wales. The Bill also requires the Welsh Ministers to have regard to the Commission's view in deciding whether to intervene using these powers. Advice from the Commission will help the Welsh Ministers take all relevant factors into account when deciding whether or not to intervene in the specific circumstances of each case. It is anticipated that this advice will include the Commission's view on the most appropriate form of intervention to address the issue identified.

11. In relation to section 77(4) of the Bill, the Statement of Policy Intent indicates that any regulations made under this provision would be "broadly similar" to the current arrangements in the Higher Education (Fee and Access Plans) (Notices and Directions) (Wales) Regulations 2015. Can you confirm what is meant by the phrase "broadly similar"?

11.1 The regulation making power under sections 77(3) and 77(4) of the Bill concerns procedural arrangements to apply in respect of any reviews of the Commission's decisions in relation to the register and its regulatory oversight of registered tertiary education providers. This is similar to a power under sections 44(3) and 44(4) of the Higher Education (Wales) Act 2015. The Higher Education (Fee and Access Plans) (Notices and Directions) (Wales) Regulations 2015 make provision, amongst other matters, in respect of procedural arrangements for the issue and review of notices and directions under Part 6 of the 2015 Act, including section 44.

11.2 We have not as yet identified any reason for amending the policy on decision reviews as set out in regulations 7 to 10 of the 2015 regulations. These set out the grounds for review of notices and directions, the procedure to apply for reviews, the procedure for the conduct of reviews, and post-review procedure. However, this will be reviewed in full upon drafting of the regulations and with consideration given to any feedback provided by stakeholders on appropriate provisions for review procedure.

11.3 In line with standard Welsh Government practice we the regulations to be made under section 77 would be issued for formal consultation.

12. Section 86(6) of the Bill contains regulation-making powers which the Statement of Policy Intent says are not currently intended to be used. Why are they included in this Bill? Would they not be better addressed in the future if and when the need arises?

12.1 Section 86(1) is designed to allow specified courses of higher education to be funded by the Commission outside of courses provided by registered providers in a category specified for the purposes of section 85. The power in section 86 is intended to ensure that gaps in higher education provision could be addressed should it not be possible or practicable for such courses to be provided by a registered provider in the “core” category.

12.2 The Commission’s main higher education function power (section 85) is intended to apply to higher education providers registered in the proposed “core” category and regulations would provide for that. However, there could be providers in Wales, who for example, elect to register in the “alternative” category or are not registered at all who would not be eligible for higher education funding by the Commission under its main higher education funding power, but may be able to provide ‘specialist’ courses identified by the Welsh Ministers as being needed for Wales. There may also, in very rare instances, be courses at providers outside of Wales which the Welsh Ministers or Commission identify as requiring funding so as to provide benefits to Wales and people ordinarily resident in Wales.

12.3 Whilst no such instances have been identified as yet, we believe it would be prudent to retain this power in order to provide sufficient flexibility to the Commission in the future and ensure that funded higher education can meet the needs of Wales.

13. In relation to section 91, the Statement of Policy Intent says that “The use of secondary legislation to determine the scope of relevant education and eligibility for the purpose of the funding duty is intended to enable a progressive expansion of the funded adult further education and training offer over time to address evolving patterns of need.”

Similarly, the Statement of Policy Intent uses wording such as “not current government policy” and “should the need arise” in the context of regulation making powers under sections 95 and 101.

Can you expand on this and explain why you consider it to be appropriate to put these powers in place now, rather than when the need actually arises?

13.1 Section 91(3) requires the Welsh Ministers to specify relevant further education and training for the purposes of the Commission’s duty to secure proper facilities for persons aged 19 and over.

13.2 We presently intend to introduce regulations under this section upon, or shortly following, commencement of these provisions, in line with this duty. It is my intention that these regulations will set out the first iteration of requirements for the provision of further education and training made available for adults.

13.3 Full details of the policy that will underpin these regulations is being developed following publication in December of a report for the Welsh Government by the Wales

Centre for Publication Policy entitled 'Supporting the Welsh Lifelong Learning System', which set out recommendations in this area. This report demonstrates the vital importance of expanding opportunities for lifelong learning in Wales, which we hope to achieve through this legislation.

13.4 Regulations under sections 95 and 101 concern the powers to require providers to be registered to access further education and apprenticeships funding. As noted in my response to question 7, these powers are intended to ensure the regulatory system can evolve in response to future changes in the size, shape and funding of tertiary education in Wales.

14. Part 3 of the Bill deals with the funding of tertiary education and research. Virtually all of the powers in this Part for the Welsh Ministers to make regulations are subject to the affirmative procedure. However, section 106 of the Bill enables the Welsh Ministers to issue directions to the Commission in the event that funds are being mismanaged by a provider and these directions are subject to no procedure other than being laid before the Senedd. These are broadly modelled on the existing section 57 of the Further and Higher Education Act 1992 relating to HEFCW, where such directions can only be given by order of the Welsh Ministers which is subject to the negative procedure. Can you confirm why such directions are not subject to a scrutiny procedure before the Senedd?

14.1 The financial support direction power in section 106 of the Bill is similar to existing order-making powers in section 57 of the Further and Higher Education Act 1992. Section 89 of the 1992 Act provides that orders made under section 57 do not need to be made by statutory instrument, and consequently are not subject to any Senedd procedure. The provisions as reflected in section 106 of the Bill have been considered anew with consideration given to how these powers may need to be used.

14.2 One of the key benefits of a direction making power is to enable the Welsh Ministers to respond to a situation and impose requirements quickly in order to ensure public money is subject to appropriate controls. As such an approach has been developed for the Bill based on three steps:

- consulting the Commission before issuing a direction,
- being required to publish the direction when given and
- providing a report to the Senedd after issuing a direction.

14.3 Alongside this, the Welsh Ministers are required to keep the direction under review.

14.4 I consider this approach enables an appropriate response to matters which may require a timely response. The three step procedural requirements are intended to address possible concerns about scrutiny and transparency of the directions.

14.5 I attended the Children, Young People and Education Committee earlier this month where the arrangements in respect of issuing general directions to the Commission (section 19 of the Bill) was raised. At that meeting I confirmed I would consider whether there were alternative approaches which could allow for the flexibility whilst addressing the concerns of the Committee. During these considerations I will also reflect on the arrangements for the financial support directions.

- 15. The Statement of Policy Intent notes that a number of the powers in Part 4 “build upon, or re-enact, existing regulation making powers in the Apprenticeship, Skills, Children and Learning Act 2009”. Can you confirm that, where this is the case, the scrutiny procedure which was applicable under the 2009 Act remains applicable under the Bill?**
- 15.1 I can confirm that, where a power in Part 4 is derived from a regulation making power in the Apprenticeship, Skills, Children and Learning Act 2009, the scrutiny procedure in the Bill is at least equivalent to the procedure which was applicable under the 2009 Act.
- 16. Section 130(6) imposes a duty on the Welsh Ministers to publish guidance regarding factors they will take into account when deciding whether to approve a body or individual to receive application to acceptance information and to carry out and publish research in relation to such information. There is no requirement for this guidance to be laid before the Senedd. Can you explain why this is the case?**
- 16.1 This guidance is intended to cover procedural and technical matters to support the implementation of these provisions and as such I do not consider the application of a Senedd procedure or a requirement to lay the guidance before the Senedd to be necessary.
- 17. Section 135 preserves a wide-ranging power to dissolve higher education corporations with no justification for the retention of this power other than that it is a “desirable position”. Do you consider this to be sufficient justification and can you expand on the reasons for the retention of this power?**
- 17.1 The powers that are retained in the Bill in respect of the dissolution of HECs, are, apart from some technical modifications, the same powers that exist at present. These are, in essence, backstop powers and their use would be subject to the principles of public law.
- 17.2 I recognise the strength of stakeholder feeling in respect of these powers and as such am actively exploring an amendment to these provisions and have asked my officials to consider the feedback and comments made by stakeholders in respect of these provisions as part of developing that amendment. I would also welcome the views and recommendations of the Committee.
- 17.3 As we continue to consider this matter I am happy write to Committee with any further updates.

Tertiary Education and Research (Wales) Bill				Current Legislation			
Section	Power	Form	Procedure	Derived from	Power	Form	Procedure
19(1)	Direction	Published	Report to Senedd Cymru that a direction has been given and lay a copy of the direction before the Senedd. The direction must be kept under review	Section 81(2) of the Further and Higher Education Act 1992	Direction	SI	Negative
30(4)	Regulations	SI	Affirmative	Section 5(2)(b) of the Higher Education (Wales) Act 2015	Regulations	SI	Negative
30(8)(b)	Regulations	SI	Negative	Section 5(5)(b) of the Higher Education (Wales) Act 2015	Regulations	SI	Negative
30(10)	Regulations	SI	Negative	Section 5(9) of the Higher Education (Wales) Act 2015	Regulations	SI	Negative
44(6)	Regulations	SI	Affirmative	Section 5(3) of the Higher Education (Wales) Act 2015	Regulations	SI	The first set of regulations to be made under section 5(3) are subject to the affirmative procedure and thereafter the negative procedure.

Tertiary Education and Research (Wales) Bill				Current Legislation			
Section	Power	Form	Procedure	Derived from	Power	Form	Procedure
52(8)	Regulations	SI	Negative	Section 17(4)(a) of the Higher Education (Wales) Act 2015	Regulations	SI	Negative
55(1)(f)	Regulations	SI	Negative	Section 75(1)(e) of the Learning and Skills Act 2000	Regulations	SI	No procedure
55(4)	Regulations	SI	Negative	Section 77(2) and 77(4) of the Learning and Skills Act 2000	Regulations	SI	No procedure
59(1)	Regulations	SI	Negative	Section 76(3) of the Learning and Skills Act 2000	Regulations	SI	No procedure
61(9)	Regulations	SI	Negative	Section 83(7) and (9) of the Learning and Skills Act 2000	Regulations	SI	No procedure
77(3)	Regulations	SI	Negative	Section 44(3) of the Higher Education (Wales) Act 2015	Regulations	SI	Negative
81(4)	Regulations	SI	Affirmative	Section 3(4) of the Higher Education (Wales) Act 2015	Regulations	SI	Affirmative
82 (see (d) in the definition of “fees”)	Regulations	SI	Negative	Section 57(1) of the Higher Education (Wales) Act 2015	Regulations	SI	Negative

Tertiary Education and Research (Wales) Bill				Current Legislation			
Section	Power	Form	Procedure	Derived from	Power	Form	Procedure
				(see (d) in the definition of "fees")			
106(1)	Direction	Published	Report to Senedd Cymru that a direction has been given and lay a copy of the direction before the Senedd. The direction must be kept under review.	Section 81(3) of the Further and Higher Education Act 1992	Direction	SI	Negative

General directions to the Commission

Section	Form	Provision	Procedure
Schedule 1 paragraph 15(1)(a)	Direction	The Commission must prepare a statement of accounts in respect of each financial year in accordance with directions given by the Welsh Ministers	No procedure

Description of powers

Paragraph 15(1)(a) of Schedule 1 to the Bill enables the Welsh Ministers to issue a direction to the Commission about the preparation of a statement of accounts. Each financial year the Commission must prepare accounts in accordance with the accounts direction issued by the Welsh Ministers.

By the end of August following the financial year to which the accounts relate, the Commission must submit to the Auditor General for Wales (AGW) the signed accounts together with a letter of representation. The Commission must forward two copies of the signed accounts to the Welsh Government.

Policy purpose and intent

The Welsh Ministers are currently able to give directions to HEFCW in relation to the preparation of their accounts and it is intended to issue equivalent directions to the Commission once established.

The substance of the direction is set out in paragraph 15(2)(b) of Schedule 1 and includes:

- the information to be contained in the statement;
- the manner in which the information is to be presented;
- the methods and principles according to which the statement is to be prepared; and
- any additional information that is to accompany the statement.

Agenda Item 3.19

CYPE(6)-04-22 - Paper to note 19

**Y Pwyllgor Plant, Pobl Ifanc
ac Addysg**

**Children, Young People
and Education Committee**

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Jeremy Miles MS
Minister for Education and Welsh Language

Dyddiad | Date 13 January 2022

Pwnc | Subject: Tertiary Education and Research (Wales) Bill

Dear Jeremy,

Thank you for giving evidence to the Committee on 13 January. As I indicated, there are some issues which we would like some further information on to inform our scrutiny.

Information raised during the consultation

There were some issues that were raised by stakeholders in the consultation, and we would welcome some further clarity on these issues as outlined below.

- The Council of Deans has requested further clarity “about whether the Commission will fund pre-registration healthcare programmes and how this will link with funding from NHS Wales and HEIW”. The Council also asks for more information on how the Commission will fund healthcare research in Wales; and how pre-registration healthcare professional apprenticeship programmes will be funded.
- The Open University in Wales has expressed concerns about lifelong learning provision being framed specifically in terms of further education in the Bill. The OU seeks clarify on this point, writing: “We do not believe that it is the Welsh Government’s intention to limit these funding mechanisms to further education providers but would welcome clarification that our understanding is correct”.

- NPTC Group has asked for clarity regarding the effect of S67 And S68 in the Bill. They write: “Further explanation is [...] required regarding how this [power] interacts alongside the role of WG as Principal Regulator of the FE institutions as exempt charities”.
- The Equality and Human Rights Commission write: “it is unclear how and whether the EIA relates to the breadth of the Bill and the scope of its measures”. The Committee would be grateful if the Minister can clarify this point for the EHRC.
- The Charity Commission has asked for clarity on the following point: “Under clause 25(4)(b)(i) of the Bill, the Welsh Ministers may, by regulation, specify further initial registration conditions relating to the charitable or other status of tertiary education providers. It would be helpful to have clarity as to what conditions may be imposed in practice”.
- Universities Wales asks for clarity on why the Commission is obliged to have regard to the ‘distinctive characteristic’ of providers when funding under some headings but not others, for instance when funding research and innovation.
- On the matter of Additional Learning Needs:
 - The Children’s Commissioner has requested further details be provided that would “support the Commission to more effectively fulfil [the activity listed in para 3.276 of the EM]” in relation to learners with ALN.
 - Natspec asks how the Bill will require providers to be accountable for meeting the needs of students with ALN; and draws the Committee’s attention to “a need to ensure young people with complex ALN who require a placement at a specialist further education college are not excluded from the protections offered by the Commission”. The Committee would appreciate more information on these points.
 - Estyn has told us that: “we feel the Bill as introduced is not clear about the Commission’s role in funding [high need and ALN] learners to have appropriate provision”. They seek clarity regarding: “why or how learners with high needs could be funded differently according to the type of provision they need and may have differing quality experiences according to which provider they attend”.

Issues arising from the evidence session

Following discussion of the evidence, we would welcome some further information on:

- Your thinking on the development of the national strategic body for adult community learning;
- How ALN provision will work for learners in practice and how this Bill will interact with other pieces of relevant legislation such as the 2018 Additional Learning Needs Act; and

- Why you believe 6th forms should be included in the Commission's remit, and if so, clarity as to why some of the provisions around learner protection and learner voice do not cover 6th forms

During the session you agreed to provide:

- Comparative information on composition and differing types of Board membership in similar organisations to the Commission;
- Further information on the latest position on the power to dissolve Higher Education Corporations;
- Further information on the issues arising from the [petition](#) on the postgraduate STEM bursary;
- Further information on how the Bill can support academic freedom for individual academics, as opposed to the broader protections within the Bill for institutional academic freedom;
- Further information on how the Coleg Cymraeg Cenedlaethol, Commission and other associated bodies will work together in relation to their roles in relation to Welsh medium provision; and
- Whether consent has been granted for section 128.

In order to ensure your response can inform our deliberations on the Bill, we would ask for a response by Friday 4 February.

Yours sincerely,



Jayne Bryant MS
Chair

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.



CYPE(6)-04-22 - Paper to note 20

Jeremy Miles AS/MS
Gweinidog y Gymraeg ac Addysg
Minister for Education and Welsh Language



Llywodraeth Cymru
Welsh Government

Jayne Bryant MS
Chair
Children, Young People and Education
Committee Senedd Cymru
Ty Hywel
Cardiff Bay
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CF99 1NA

4 February 2022

Dear Jayne,

Tertiary Education and Research (Wales) Bill

Thank you for your letter of 13 January following my attendance at Committee to give evidence on the Tertiary Education and Research (Wales) Bill ('the Bill'). Your letter raised a number of questions to which I have responded in the Annex to this letter.

I will write again shortly with further detail in respect of my intended plans for the implementation of the Bill.

Following my attendance at the Legislation, Justice and Constitution Committee in December, the Committee wrote to me querying an omission in the Statement of Policy Intent. In response to this query I asked my officials to update the statement and the revised version is included with this letter. This revised version also correct two minor errors.

This letter has been copied to the Legislation, Justice and Constitution Committee and the Finance Committee.

I would like to take this opportunity to thank the Committee again for the valuable input to the Bill.

Yours sincerely,

Jeremy Miles AS/MS
Gweinidog y Gymraeg ac Addysg
Minister for Education and Welsh Language

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Annex

1. **The Council of Deans has requested further clarity “about whether the Commission will fund pre-registration healthcare programmes and how this will link with funding from NHS Wales and HEIW”. The Council also asks for more information on how the Commission will fund healthcare research in Wales; and how pre-registration healthcare professional apprenticeship programmes will be funded**
 - 1.1 These are matters for the Commission itself to determine once it is established. The public investment in healthcare education and training programmes is currently made through a variety of funding streams and programmes including funding from Welsh Government, NHS Bursaries, student tuition fees as well as HEFCW’s teaching funding. It will be for the Commission to decide whether or not it continues with HEFCW’s current system or adopts a different approach.
2. **The Open University in Wales has expressed concerns about lifelong learning provision being framed specifically in terms of further education in the Bill. The OU seeks clarify on this point, writing: “We do not believe that it is the Welsh Government’s intention to limit these funding mechanisms to further education providers but would welcome clarification that our understanding is correct”.**
 - 2.1 Section 2 of the Bill requires the Commission to promote lifelong learning across all tertiary education. This duty includes the promotion of opportunities for lifelong learning at a variety of levels, subjects, settings and modes of study.
 - 2.2 We are committed to the benefits of further expanding lifelong learning opportunities across further and higher education. The reforms to student financing and HEFCW funding following the Diamond Review enabled significant expansion of lifelong learning opportunities in higher education. Student numbers at the Open University in Wales have more than doubled between 2017/18 and 2020/21.
 - 2.3 Whilst student finance will remain a matter for the Welsh Ministers after the Commission is established, we presently anticipate that the Commission may make similar grant funding arrangements for part-time courses of higher education to those currently made by HEFCW, subject to the provisions of sections 85 to 89 (and other relevant provisions) of the Bill; we are interested in the views of the sector in what further steps can be taken to facilitate lifelong learning in higher education.
 - 2.4 The new duty in Section 91 of the Bill - which provides that the Commission must secure proper facilities for relevant further education and training for eligible adults aged over 19 - is therefore only one of several ways we expect the new Commission to drive forward our commitment to lifelong learning.
3. **NPTC Group has asked for clarity regarding the effect of S67 and S68 in the Bill. They write: “Further explanation is [...] required regarding how this [power] interacts alongside the role of WG as Principal Regulator of the FE institutions as exempt charities”**
 - 3.1 The Bill does not impact on the interface between the Welsh Ministers’ powers of intervention in respect of further education institutions in Wales and their role as Principal Regulator for charitable purposes. Under current arrangements, section 57

of the Further and Higher Education Act 1992 (the 1992 Act) provides the Welsh Ministers with powers to intervene in the conduct of an institution in the further education sector in Wales. The Bill will repeal the powers in the 1992 Act and broadly restate them under sections 67 and 68. Currently, the Welsh Ministers also perform the role of Principal Regulator for further education corporations in Wales (and institutions administered by or in connection with them), and for St David's Catholic College (and institutions administered by or in connection with it) as exempt charities (exempt by virtue of section 22 and paragraph 7 of Schedule 3 to the Charities Act 2011 ("the 2011 Act")). "Principal Regulator" is defined in section 25 of the 2011 Act, and regulations made by the Minister for the Cabinet Office in 2013 appointed the Welsh Ministers to the role in respect of exempt charities in the further education sector in Wales. The Bill does not change these arrangements.

3.2 However, Committee may wish to note that the Welsh Government proposes to review the role of the Principal Regulator going forward, subject to the successful passage of the Bill and the establishment of the Commission. In particular, consideration will be given to whether this role should more appropriately lie with the Commission given its responsibility for the regulatory oversight of tertiary education providers in Wales that are institutions within the further education sector. The Welsh Government will engage with all relevant stakeholders as part of its consideration of this matter. However, any appointment to the role of Principal Regulator must be by regulations made by the Minister for the Cabinet Office.

4. The Equality and Human Rights Commission write: "it is unclear how and whether the EIA relates to the breadth of the Bill and the scope of its measures". The Committee would be grateful if the Minister can clarify this point for the EHRC

4.1 In response to the comments raised by the Equality and Human Rights Commission, I would like to confirm that, once established the Commission will be a listed body under the Equality Act 2010.

4.2 I have asked my officials to consider the EHRC's evidence specifically and look at what we need to do to improve the document to ensure we have demonstrated publicly our thorough assessment of the impacts of the policy. Following that assessment and, if appropriate, any additional investigations, I shall re-publish the amended Equality Impact Assessment ahead of Stage 2.

4.3 Discussion with stakeholders has been frequent and is ongoing since the policy was first considered, and the EIA can be updated to reflect the breadth and scope of that engagement, at the various consultations and learner voice events through to day-to-day interaction with stakeholders and student groups.

5. The Charity Commission has asked for clarity on the following point: "Under clause 25(4)(b)(i) of the Bill, the Welsh Ministers may, by regulation, specify further initial registration conditions relating to the charitable or other status of tertiary education providers. It would be helpful to have clarity as to what conditions may be imposed in practice".

5.1 Section 25(3) of the Bill enables the Welsh Ministers, by way of regulations, to specify further initial registration conditions in addition to those set out on the face of the Bill. Different conditions may be specified for different categories of registration. The list

provided at section 25 (4)(b) indicates the kind of conditions that may be specified in such regulations which include:

- the charitable or other status of tertiary education providers;
- the information provided to prospective students about a provider, its courses, and its terms and conditions of contracts with students;
- complaints procedures of providers.

5.2 The above examples are not exhaustive. Additionally, not all of the above matters may be appropriate initial conditions of registration for all the categories on the proposed register.

5.3 The Statement of Policy Intent accompanying the Bill sets out the Welsh Government's initial policy intentions for subordinate legislation. It is presently intended that the categories of registration to be prescribed in regulations to be made under section 23(2) of the Bill will be informed by engagement and consultation with stakeholders. The current policy proposal is to prescribe two categories of registration namely:

- **Higher Education Providers (Core)** – It is intended that providers registered in this category would benefit from automatic higher education course designation for Welsh Government student fee and maintenance support at the higher fee level, currently £9000 per year. Student support regulations are made under the Teaching and Higher Education Act 1998. Providers registered in this category would be subject to a fee limit registration condition and would also be eligible to receive higher education grant funding from the Commission.
- **Higher Education Providers (Alternative)** – It is intended that providers registered in this category would benefit from automatic higher education course designation for Welsh Government student fee and maintenance support at the lower fee level, currently £6165 per year. Providers registered in this category would not be subject to a fee limit condition nor would they be eligible to receive higher education grant funding from the Commission.

5.4 It is presently intended that regulations to be made under section 25(3) of the Bill will provide a further initial condition of registration for the proposed “Core” registration category that requires providers to be a charity. This would be consistent with the Higher Education (Wales) Act 2015 (“the 2015 Act”), which provides that a “regulated institution” (an institution which has an approved fee and access plan) must be (inter alia) a charity. The Welsh Government will consult on its policy proposals for subordinate legislation in due course.

6. Universities Wales asks for clarity on why the Commission is obliged to have regard to the ‘distinctive characteristic’ of providers when funding under some headings but not others, for instance when funding research and innovation

6.1 This is an area where I am considering bringing forward an amendment with a view to ensuring there is consistency within the Bill in respect of the duty of the Commission to have regard to the ‘distinctive characteristic’ of providers when funding research and innovation.

On the matter of Additional Learning Needs:

7. The Children's Commissioner has requested further details be provided that would "support the Commission to more effectively fulfil [the activity listed in para 3.276 of the EM]" in relation to learners with ALN.

7.1 The Commission will have a statutory duty to secure the proper and reasonable facilities for the further education and training of learners in Wales and to fund such provision including funding to meet the needs of young people with Additional Learning Needs (ALN). In providing funding to secure such facilities it must consider whether the needs of people with ALN are being met. In supporting learners with ALN the Commission will be required to have regard to:

- **the different abilities and aptitudes of different persons** – this includes those learners with ALN;
- **the education and training required** to ensure that:
 - employees and potential employees are available who are able to deliver additional learning provision in Welsh; and
 - that facilities are available for assessing through the medium of Welsh whether persons have ALN
- **facilities whose provision the Commission thinks might reasonably be secured by other persons** including provision secured by local authorities under Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (ALNET Act 2018).
- the needs of persons with additional learning needs; and
- the desirability of facilities being available which would assist the discharge of duties under the ALNET Act 2018.

7.2 Additionally, the Commission will be required to consider the further education and training needs of the ALN workforce. Specifically the capacity to undertake assessments and provide additional learning needs support through the medium of Welsh. Overall, this means integrating consideration of ALN into the Commission's further education planning and funding decisions from the outset rather than after other funding decisions have been made. In funding provision the Commission will be able to impose terms and conditions on funding including regulatory requirements in respect of the needs of persons with ALN.

7.3 It will be a matter for the Commission to decide funding allocations and in doing so it will need to have regard to the achievement of objectives in its approved strategic plan and comply with any terms and conditions the Welsh Ministers attach to their funding to the Commission.

- 8. Natspec asks how the Bill will require providers to be accountable for meeting the needs of students with ALN; and draws the Committee’s attention to “a need to ensure young people with complex ALN who require a placement at a specialist further education college are not excluded from the protections offered by the Commission”. The Committee would appreciate more information on these points.**
- 8.1 The primary legislation governing support for individual learners’ ALN and the statutory requirements placed on local authorities are clearly specified in the ALNET Act 2018. The Act makes provision for supporting children and young people with ALN while they are in school and, if they are over compulsory school age, while they are in further education. The Commission has a duty to fund provision for ALN at a population level but is not required to fund all ALN provision for post-16 learners. Local authorities would be responsible under the ALNET Act for securing specialist ALN provision for individual young people aged 16 – 25 with complex needs in private specialist colleges where they are required to maintain Individual Development Plans for them. Local authorities are best placed to consider and make arrangements to meet individual learners’ needs in these circumstances at a local level.
- 8.2 The Welsh Government is yet to announce the detail of how and when implementation of the ALN Act will commence for young people who are post-16, including the details and timing of how and when responsibility and funding for securing post-16 specialist provision will be transferred from Welsh Ministers to Local Authorities.
- 8.3 The Bill makes explicit reference to provision secured by local authorities under the ALNET Act 2018 in the context of the Commission taking account of the facilities that might be secured by others. The Commission will make an assessment of the sufficiency of facilities for additional learning needs provision at a general population level and not on a personalised individual learner basis. We will consider the terms of the Bill and supporting documentation to establish whether any amendments are needed to clarify the position in respect of specialist additional learning needs institutions or the requirements and relationship with the ALNET Act 2018 further.
- 9. Estyn has told us that: “we feel the Bill as introduced is not clear about the Commission’s role in funding [high need and ALN] learners to have appropriate provision”. They seek clarity regarding: “why or how learners with high needs could be funded differently according to the type of provision they need and may have differing quality experiences according to which provider they attend”.**
- 9.1 As discussed in Committee, the Commission has a duty to fund provision for ALN at a population level, but is not required to fund specialist provision identified for individual learners with high level or complex needs.
- 9.2 The ALNET Act is currently being implemented on a phased basis for particular cohorts of children and young people. Once the Act is commenced for a particular cohort, Local authorities will have a duty under the Act for considering the needs of those young people. Where a young person’s needs cannot be met by mainstream provision, Local Authorities have a duty to secure specialist provision as appropriate and in line with the requirements placed on local authorities to maintain Individual Development Plans.

- 9.3 Alongside the inspection of post 16 provision, including ALN, in mainstream schools and FE Colleges Estyn has a statutory responsibility to inspect provision in independent specialist FE colleges. The Chief Inspector is required to inspect and report on the quality of the further education and training being provided, the standards achieved by learners and whether the financial resources made available to specialist colleges to support learners' needs are managed efficiently and provide value for money.
- 9.4 It is expected that under the new ALN arrangements that local authorities would take into account Estyn's inspection outcomes of independent specialist colleges when making arrangements for individual learners complex needs.

Following discussion of the evidence, we would welcome some further information on:

10. Your thinking on the development of the national strategic body for adult community learning.

- 10.1 Policy considerations have moved forward since a national body for adult learning was considered in 2019, not least with the introduction of the bill. As we have discussed, the Commission will be responsible for planning and funding across the sector including adult and lifelong learning.
- 10.2 To support my commitment to increase the number of adults learning in Wales, I have agreed a Terms of Reference for an External Reference Group to take forward a programme of national co-ordination with key stakeholders from the sector. I expect to receive an outline of the programme in March and will report back to the committee once I have considered it.

11. How ALN provision will work for learners in practice and how this Bill will interact with other pieces of relevant legislation such as the 2018 Additional Learning Needs Act

- 11.1 The statutory requirements on how provision for learners with ALN will work in practice is set out in the ALNET Act 2018, supporting regulations, guidance and Code. In drafting the Tertiary Education and Research Bill we have looked closely at the interface between the ALNET Act 2018 and the planning and funding functions of the Commission recognising the policy importance of meeting the needs of learners with ALN.

12. Why you believe 6th forms should be included in the Commission's remit, and if so, clarity as to why some of the provisions around learner protection and learner voice do not cover 6th forms

Commission's Remit

- 12.1 We have taken a considered and balanced decision to include maintained school sixth forms within the remit of the Commission and believe that this approach will enable it to have clear, strategic oversight of all post-16 provision to inform policy on those areas that affect 16-19 year old learners wherever they choose to learn, study or train. I believe that this approach ensures that we are able to continue to deliver a mixed economy model of 16 – 19 provision across Wales offering diversity of choice for

learners, establishing parity and equal status of academic and vocational qualifications while valuing the benefits and merits of the different provision available. It offers a unique opportunity to adopt a coherent approach to planning and funding 16 – 19 provision, monitoring the delivery, availability and quality of courses, while facilitating collaborative working and improving accessibility.

12.2 The Committee may wish to note that the provisions in the Bill will not directly affect local authorities or schools in their day to day school organisation, or amend the legislation governing the arrangements for local school governance. These remain as now to ensure the integrity of the broader school structure is maintained.

Provisions around learner protection, learner voice and complaints procedures

12.3 The aim of a mandatory Learner Engagement Code (LEC) is to recognise and strengthen the existing arrangements in place across the breadth of the post 16 sector actively monitoring adherence to the LEC and ensuring that learners' voices are heard regardless of their course, location, level and mode of study. It will become mandatory for school sixth forms to have a LEC in place to ensure all our young learners are represented fairly and consistently. The Code will complement the existing arrangements in place at a school level, including the school council arrangements.

12.4 We are seeking to avoid duplication and ensure we are not placing additional administrative burden on schools and local authorities in managing different arrangements for learners at pre 16 and post 16 in a maintained school setting. It is also our intention to avoid potential confusion for learners and their parents which may arise as a result of different learner protection and complaints procedures operating within a school. Therefore, with the exception of making the Learner Engagement Code mandatory for school sixth forms, we have not extended the provisions in Part 5 of the Bill governing learner protection and the learner complaints procedures and schemes to maintained schools.

12.5 A learner protection plan will set out a tertiary education provider's arrangements for protecting the interests of a learner in the event of their course ceasing to be provided and for supporting a learner who wishes to transfer to another course. Learner protection plans would be in a format appropriate to the individual provider and its structures. Support and arrangements for learner protection at school and at a local authority level are already well established for the transfer of data about learners when they move from one setting to another, whether due to a school or course closure, a change in personal circumstances or learner preference.

12.6 While robust learner complaint arrangements, underpinned by legislation, are already in place in schools I am of the view that it would be beneficial for the Commission to broaden consultation with local authorities and school sixth forms in relation to learners aged 16 - 19 to encourage more active participation in the delivery and quality of their learning experience and to share good practice.

12.7 Provision has been included in the Bill to enable Welsh Ministers to specify by regulations a registered institution, other than a registered institution in receipt of financial resources from the Commission, as a qualifying institution for the purposes of the student complaint scheme currently operated by the Office of the Independent Adjudicator (OIA).

12.8 It is intended that providers that are registered with the Commission or receive funding from the Commission, for the purpose of higher education, further education or apprenticeships will be specified as qualifying institutions for the purposes of the OIA complaints scheme. It is recognised that all higher education providers and some further education providers in Wales that deliver higher education are currently qualifying institutions and it is envisaged that where further education providers are already members of the scheme, access to the scheme will be extended to their further education learners.

12.9 Welsh Ministers will not be able to specify that local authorities in relation to maintained school sixth form provision are qualifying providers and will not be part of the OIA scheme.

12.10 This balanced, proportionate and practicable approach will enable the Commission to support learners' interests ensuring that learner voice is at the centre of the reforms and a fundamental principle that applies across all post 16 provision.

13. Comparative information on composition and differing types of Board membership in similar organisations to the Commission

13.1 Welsh Revenue Authority (WRA), Qualifications Wales, the Education Workforce Council and Citizen Voice Body for Health and Social Care (CVB), are each established by statute, with a Board or Council making the key decisions.

Citizen Voice Body for Health and Social Care

- The statutory framework of the CVB, as set out in the Health and Social Care (Quality and Engagement) (Wales) Act 2020, provides for the appointment of one non-voting associate member who is a member of the Body's staff, and a member of a trade union recognised by the Body.

WRA

- The WRA Board includes:
 - one or two members of staff appointed to the Board by the Chief Executive;
 - one member of staff appointed to the Board following a ballot of staff members
 - there is no requirement in the legislation for staff members to be members of recognised trade unions

Qualifications Wales

- Qualifications Wales' board comprises the Chair, Chief Executive and eight to ten ordinary members. No provision is made for representation of staff, trade unions or other key interested parties on the Board.

Education Workforce Council

- The Education Workforce Council comprises of 14 members with all appointed by the Welsh Ministers.

- In respect of seven of the members the Welsh Ministers must seek nominations from the below bodies and appoint those members from the nominations received. The Welsh Ministers must, as far as possible, ensure that four of the members are from nominations made from bodies listed in the left-hand column

<p>National Education Union. National Association of Schoolmasters Union of Women Teachers (Cymru). Association of School and College Leaders. Professional Association of Teachers. National Association of Head Teachers in Wales. Undeb Cenedlaethol Athrawon Cymru. University and College Union. UNISON. GMB. Unite the Union. Aspect Group of Prospect Union. Wales TUC.</p>	<p>Colleges Wales. Y Coleg Cymraeg Cenedlaethol. Association of Directors of Education in Wales. Welsh Local Government Association. Confederation of School Governors Associations in Wales. The Church in Wales. The Catholic Education Service. Higher Education Wales. Universities Council for the Education of Teachers. Welsh Independent Schools Council. Wales Association of SACREs. Association of Directors of Social Services Cymru. Federation of Small Businesses. Wales Council for Voluntary Action. Council for Wales of Voluntary Youth Services Cyngor Cymreig y Gwasanaethau Ieuenctid Gwirfoddol. Wales Principal Youth Officers' Group. National Training Federation for Wales Ltd. Education Training Standards Wales.</p>
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14. Further information on the latest position on the power to dissolve Higher Education Corporations

14.1 As I explained when I attended the Committee last month it is my intention to bring forward an amendment in respect of the power to dissolve Higher Education Corporations and work is continuing in this respect.

15. Further information on the issues arising from the petition on the postgraduate STEM bursary

15.1 The Bill makes provision for the Commission to fund certain categories of providers who are registered with the Commission, for the purpose of supporting higher education provided by or on behalf of such providers.

15.2 The categories of registered providers eligible to receive funding from the Commission will be specified in regulations. The register will ensure that matters of critical public interest are monitored in tertiary education institutions and that there are appropriate protections for Welsh public money, including student support and grants made by the Commission.

15.3 The benefits derived from registration are intended to be commensurate with the regulatory requirements. The Statement of Policy Intent accompanying the Bill sets out my intention for providers who register in the proposed “core” category to be eligible to receive higher education funding from the Commission.

15.4 It will be for individual providers to determine whether to seek registration with the Commission and to consider which category of registration they wish to apply for.

15.5 Our current policy intention is that providers in Wales seeking to be designated for the purposes of Welsh Government student support, or seeking eligibility for higher education and research grant funding, will need to register with the Commission to access these sources of funding.

16. Further information on how the Bill can support academic freedom for individual academics, as opposed to the broader protections within the Bill for institutional academic freedom

16.1 Section 16 provides that in exercising their functions under the Bill, the Commission and the Welsh Ministers have regard to the academic freedom within the law of academic staff at tertiary education providers in Wales that provide higher education to question and test received wisdom and to put forward new ideas and controversial or unpopular opinions, without jeopardising their jobs or privileges.

16.2 Those concerned in the government of higher and further education institutions in Wales (and in certain higher and further education institutions in England) are also under a duty to “take such steps as are reasonably practicable” to ensure that freedom of speech is secured for members, staff, students and visiting speakers, under section 43 of the Education (No. 2) Act 1986.

16.3 We strongly believe in and support the principles of academic freedom and free speech across the education system, and are generally assured that such principles are well upheld in our universities and colleges. Section 16 of the Bill underlines and reaffirms this commitment.

17. Further information on how the Coleg Cymraeg Cenedlaethol, Commission and other associated bodies will work together in relation to their roles in relation to Welsh medium provision

17.1 Provision included in the Bill will enable the Commission to have the flexibility to work innovatively and effectively with the Coleg Cymraeg Cenedlaethol and other relevant bodies such as the National Centre for Learning Welsh to support the development of Welsh medium tertiary education. Both the Coleg and the National Centre have important and distinct roles to play in the achievement of the Welsh Government’s Cymraeg 2050 vision, supporting the development of Welsh medium tertiary education and language acquisition. The Cymraeg 2050 Work Programme from 2021 to 2026 includes a commitment to further expand the role of the Coleg and to develop proposals to place it on a statutory footing.

17.2 The Commission will be responsible for strategic planning and funding across the whole of the tertiary education sector and research and innovation sector in Wales. It will be vital for the Commission to engage with the Coleg and make use of the Coleg’s established expertise to plan strategically to positively promote and increase Welsh-

medium tertiary education, as specifically noted in the explanatory memorandum accompanying the Bill. The expectation is that responsibilities for taking forward areas of work will be determined reflecting the remit and respective expertise of each organisation to avoid duplication of effort and maximise the impact of interventions. It is envisaged that strategic planning documents will be aligned where appropriate and robust arrangements should be put in place to measure the impact of interventions on increasing opportunities to learn through the medium of Welsh across the tertiary education sector.

17.3 Further detail on the envisaged relationship between the Commission and the Coleg will be included in our implementation plan. The Commission and the Coleg will determine how best to deliver their respective functions. It should be noted that the Coleg has developed an effective working relationship with HEFCW over several years which has been codified in a memorandum of understanding.

18. Whether consent has been granted for section 128

18.1 My officials continue to engage with the UK Government and we anticipated receiving consent shortly.



Tertiary Education and Research (Wales) Bill

Statement of policy intent for secondary legislation, direction making powers and guidance

Introduction

This paper summarises the Welsh Ministers' powers for making secondary legislation, direction making powers and guidance outlined in the Tertiary Education and Research (Wales) Bill (the Bill), as introduced to the Senedd Cymru on 1 November 2021.

The paper explains why these powers have been chosen and the current government policy for use of these powers. The justification for the Senedd procedure selected is set out in table 5.1 and 5.2 of the Explanatory Memorandum.

Regulations made using these powers will be subject to consultation with key stakeholders in the tertiary education sector. This document is intended to provide stakeholders with an initial opportunity to provide feedback on the intended use of these powers so as to ensure robust and effective policy.

The Welsh Ministers have considered the use of powers in the Bill as set out below and are satisfied that they are necessary and justified.

Overview of the Bill

The Bill contains 7 Parts and 4 Schedules.

- Part 1 establishes a new arms-length Welsh public body, the Commission for Tertiary Education and Research (“the Commission”), dissolves the Higher Education Funding Council for Wales and outlines the strategic duties.
- Part 2 outlines the Commission’s regulatory functions with regards to a register of Tertiary Education Providers, registration procedure for the Tertiary Education Providers, quality assurance frameworks.
- Part 3 makes provision for the Welsh Ministers to fund the Commission and the Commission to fund tertiary education and research.
- Part 4 contains provisions in respect of Welsh Apprenticeships.
- Part 5 contains the learner protection, complaints procedures and learner engagement provisions.
- Part 6 contains the information and data-related duties and powers of the Commission.
- Part 7 contains miscellaneous provisions, including provisions relating to the dissolution of higher education corporations in Wales.

Powers inherited from existing legislation

The Bill includes 20 regulation-making powers largely inherited from existing legislation, these powers are primarily based upon, with some modification, provisions of the Higher Education (Wales) Act 2015 and the Learning and Skills Act 2000.

Policy area	Section of the Bill	Current legislation
Fees, qualifying courses and qualifying persons	30(6)	Section 5(2)(b) of the Higher Education (Wales) Act 2015
	30(8)(b)	Section 5(5)(b) of the Higher Education (Wales) Act 2015
	30(10)	Section 5(9) of the Higher Education (Wales) Act 2015
	44(6)	Section 5(3) of the Higher Education (Wales) Act 2015
	82	Section 57(1) of the Higher Education (Wales) Act 2015
Quality assurance in higher education	52(8)	Section 17(4)(a) of the Higher Education (Wales) Act 2015
Inspection of further education and training	55(1)(f)	Section 75(1)(e) of the Learning and Skills Act 2000
	55(4)	Section 77(2) of the Learning and Skills Act 2000
	59(1)	Section 76(3) of the Learning and Skills Act 2000
	61(9)	Section 83(7) of the Learning and Skills Act 2000
Regulation and decision reviews	77(3)	Section 44(3) of the Higher Education (Wales) Act 2015
Designation of other providers of tertiary education	81(4)	Section 3(4) of the Higher Education (Wales) Act 2015
HE Governance	133(2)	Paragraph 2-11 of Schedule 7A to the Education Reform Act 1988
	134(2)	Section 125(2) to (4) of the Education Reform Act 1988

Powers of the Commission for Tertiary Education and Research

The Bill also provides for direction and guidance provisions to be exercised by the Commission. The purpose and intended effect of these provisions are set out in the Explanatory Memorandum which accompanies the Bill, these powers are not included in this statement of policy intent as how they will be exercised is a matter for the Commission.

Other documentation

This document should be read in conjunction with the following:

- The Tertiary Education and Research Bill;
- The Explanatory Notes to the Bill;
- The Explanatory Memorandum to the Bill, in particular chapters 3 and 5.

Guidance and general directions to the Commission

Section	Form	Provision	Procedure
18	Guidance	In exercising its functions, the Commission must have regard to guidance given to it by the Welsh Ministers	No procedure
19	Direction	The Welsh Ministers may give the Commission general directions about the exercise of any of its functions	No procedure

Description of powers

Section 18 requires the Commission to have regard to guidance issued by the Welsh Ministers about the exercise of its functions (i.e. powers and duties) conferred by the Bill, or by Regulations made under it.

Section 19 enables the Welsh Ministers to issue directions to the Commission about the performance of any of its functions, subject to certain limitations to protect the institutional autonomy of tertiary education and research providers, the academic freedom of higher education providers and the ability of the Commission to determine funding allocations to individual providers. The limitations do not prevent any direction issued under this section from being framed by reference to a course of study, or parts of courses of study, being provided and assessed through the medium of Welsh.

The Welsh Ministers are required to consult the Commission before issuing a general direction under these powers. They are also required to keep any general direction given to the Commission under review. The Welsh Ministers must also publish any general direction given to the Commission under this section and report any such directions to the Senedd and lay a copy of the direction before the Senedd

This is a continuation of an existing power whereby the Welsh Ministers are able to give general directions to HEFCW about the exercise of its functions.

Policy purpose and intent

The guidance provision is a general power needed so that the Welsh Ministers are able to issue relevant guidance when the need requires.

The power to direct the Commission is necessary to ensure that the Welsh Ministers are able, should the need arise, to direct the Commission in the exercise of its functions.

For example, the Welsh Ministers might want to direct the Commission to plan for the provision of a particular type of education, such as part-time or distance learning provision, or in respect of a broad area of education, such as STEM subjects. In addition, the Covid-19 pandemic has highlighted the need to consider the circumstances under which the Welsh Ministers may require the Commission to take timely and specific action to deal with events that have significant implications for tertiary education and research in Wales.

Additional functions of the Commission

Section	Form	Provision	Procedure
20(1)	Regulations	Power for the Welsh Ministers to confer supplementary functions on the Commission.	Affirmative
20(4) & (5)	Direction	Power for the Welsh Ministers to direct that their functions in relation to the land or other property of a higher or further education institution in Wales, may be exercised by the Commission where the Welsh Ministers are entitled to a right or interest in respect of that property	No procedure

Description of powers

Section 20 enables the Welsh Ministers, by way of regulations, to confer supplementary functions on the Commission. A supplementary function conferred on the Commission under these powers must be a function that is exercisable by the Welsh Ministers and relate to the provision, or proposed provision of tertiary education, or to the carrying out, or proposed carrying out of research and innovation. The power to confer supplementary functions on the Commission is a continuation of current arrangements that are in place for the Welsh Ministers to confer supplementary functions on HEFCW under section 69(5) of the Further and Higher Education Act 1992.

This section also enables the Welsh Ministers to direct that their functions in relation to the land or other property of an institution in Wales within the higher or further education sector, may be exercised by the Commission, where the Welsh Ministers are entitled to a right or interest in respect of that property. The Commission is required to exercise these functions in accordance with directions given by the Welsh Ministers.

Policy purpose and intent

Regulations provide the Welsh Ministers with appropriate flexibility to ensure the Commission is enabled to exercise all relevant functions in relation to tertiary education, research and innovation should the sector evolve in the future.

Currently the Welsh Ministers are able to direct HEFCW where any property or land is, or was, held or used for the purposes of an institution in the higher education sector in Wales where the Welsh Ministers are entitled to any right or interest in respect of the property or land. The Bill makes provision for the Welsh Ministers to direct the Commission in relation to any of their interests in property or land of an institution in either the higher or further education sectors in Wales so that the Commission exercises the Welsh Ministers functions on

their behalf. This is appropriate as the Commission will in future have regulatory oversight of both further and higher education institutions in Wales.

For example if the Welsh Ministers provide funds to support investment in the further education estate under the 21st Century Schools and Colleges programme there could be legal charges arising from such investments. In future, the Welsh Ministers may wish the Commission to be able to manage such funding arrangements on their behalf.

Categories of registration

Section	Form	Provision	Procedure
23(2)	Regulations	Requires the Welsh Ministers to specify one or more categories of registration for which provision must be made in the register of tertiary education providers.	Affirmative
23(5)	Regulations	Allows the Welsh Ministers to prohibit the registration of a provider in one category of the register at the same time that it is registered in one or more of the other categories.	Negative
23(8)	Regulations	Power to make provision about the information which must be contained in a provider's entry in the register.	Negative

Description of powers

These powers allow secondary legislation to set out different categories of registration, whether providers are prohibited from registering in multiple categories of registration, and the information which must be contained on the register.

Policy purpose and intent

The register of tertiary education providers is intended to be a flexible mechanism for proportionate and accountable regulation of the tertiary education sector in Wales. In particular, the register is intended to enable appropriate regulation for tertiary education providers in Wales, whose courses are designated for the purposes of Welsh Government student support under the Teaching and Higher Education Act 1998.

The regulation making power in section 23(2) will enable categories of registration to be created, applicable to different types of tertiary education providers as appropriate. The specification of different categories of registration may become necessary if new forms of student support funding are introduced by Welsh Government to support expansion of post-compulsory education opportunities, such as in non-degree higher technical and vocational education and training.

Furthermore, the funding structure (and hence appropriate regulation) of tertiary education (particularly higher education) across the UK has changed frequently in recent years, with changes in other UK administrations often having an effect on funding policy in Wales.

These changes have occurred at a rate faster than is appropriate or practicable for the Welsh Government to respond with primary legislation regarding the details of regulation in each and every instance. The Bill enables details of the regulatory framework to be changed in response to any future changes in the structure or funding of the tertiary sector in Wales.

The categories of registration to be prescribed in regulations will be informed by engagement and consultation with stakeholders, the current government policy proposal is to prescribe two categories of registration:

- Higher Education Providers (Core) – Providers registered in this category will be eligible for automatic designation for Welsh Government student fee and maintenance support for higher education courses at the higher fee level, currently £9000 per year, provided under the Teaching and Higher Education Act 1998. Providers registered in this category will also be eligible for higher education grant funding from the Commission (see ‘Funding’). Providers in this category will be subject to registration conditions outlined in the Bill and in regulations (see ‘Conditions of registration’).
- Higher Education Providers (Alternative) – Providers registered in this category will be eligible for automatic designation for Welsh Government student fee and maintenance support for higher education courses at the lower fee level, currently £6165 per year, provided under the Teaching and Higher Education Act 1998. Providers in this category will be subject to registration conditions outlined below (see ‘Conditions of registration’).

It is not current government policy to create any categories for providers which do not provide higher education. These providers will continue to be primarily regulated through the terms and conditions attached to grant funding received from the Commission. The specification of registration categories, and associated conditions, in regulations provides the flexibility that categories for further education providers (that are not providing higher education), apprenticeship and training providers, and other forms of tertiary education provider, could be provided for in the event of future changes in funding and regulatory priorities in the sector.

It is also intended, subject to there being the two proposed categories of registration, to prescribe in regulations under section 23(6) that providers can only register in one of the categories.

Conditions of registration

Section	Form	Provision	Procedure
25(3)	Regulations	Power for the Welsh Ministers to provide for further initial conditions of registration	Affirmative
30(2)(b)	Regulations	Power for the Welsh Ministers to specify a category of registration in relation to which a fee limit condition is to apply	Affirmative
31(1)	Regulations	Power for the Welsh Ministers to specify categories of registration which are to be subject to mandatory ongoing registration conditions in respect of equal opportunities	Affirmative
32	Regulations	Power for the Welsh Ministers to provide for further mandatory ongoing registration conditions	Affirmative

Description of powers

Section 25(1) outlines initial conditions of registration which a tertiary education provider in Wales must satisfy to become registered. The Welsh Ministers may make regulations under section 25(3) providing for further initial conditions of registration which could apply to one or more categories of registration.

Section 29 outlines mandatory ongoing registration conditions which a provider must satisfy to remain registered. The Welsh Ministers may make regulations under section 32 providing for further mandatory ongoing registration conditions which may apply to one or more categories of registration.

The regulatory system created by the Bill is designed to be fit for the future and therefore must be allowed to adapt to changing circumstances. There may be a need to create new initial and ongoing registration conditions applying to different categories of registration in addition to those specified in primary legislation from time to time, in response to changing regulatory needs.

Section 30(2) enables the Welsh Ministers may also specify categories of registration in relation to which the Commission must impose an ongoing registration condition on fee limits, whilst section 31(1) allows the Welsh Ministers to specify the registration categories to be subject to the ongoing registration conditions on equal opportunity.

Policy purpose and intent

In addition to the initial conditions of registration outlined in section 25(1), Welsh Government intends that the following initial conditions of registration should apply to the respective categories of registration. These categories are provided for in regulations rather than on the face of the Bill in order to retain the flexibility to alter or amend these provisions.

Type of condition	Condition	Category
Initial	Consumer law compliance – It is intended that regulations will provide for an initial registration condition for these categories that relate to the information provided to prospective students about a provider, its courses, and its terms and conditions of contracts with students. This registration condition will enable the Commission to require that providers seeking to register demonstrate their compliance with their obligations under consumer law, and in particular with any guidance published for higher education providers by the Competition and Markets Authority.	Core and Alternative
Initial	Charitable status – It is intended that regulations will provide for an initial registration condition for this category that requires providers to be a charity. This would continue current policy established by the Higher Education (Wales) 2015 Act, which requires ‘regulated institutions’ in Wales to be charitable providers.	Core

It is also intended, subject to there being the two proposed categories of registration, to prescribe in regulations under section 31(1) that both categories are subject to the mandatory ongoing registration conditions in respect of equal opportunities.

It is not currently intended to specify any further mandatory ongoing registration conditions for any category of registration.

De-registration

Section	Form	Provision	Procedure
39(2)	Regulations	Power to set out further circumstances where the Commission must remove an institution from one or more categories in the register or all categories of the register	Affirmative
39(6)	Regulations	Power for Welsh Ministers to make transitional or saving provisions in connection with the removal of an institution from a category of the register.	No procedure
41(13)	Regulations	Power to make transitional or saving provisions in connection with the voluntary or consensual removal of an institution from a category of the register.	No procedure

Description of powers

These powers enable secondary legislation to provide for specific circumstances, additional to those set out in the Bill, where an institution is removed from the register or from a category of the register, and for transitional and savings provisions to be made when a provider is removed from the register, whether mandatorily or voluntarily.

Policy purpose and intent

The power under section 39(2) is intended to ensure that any emerging circumstances which might require that a registered provider be removed from the register or a particular category of the register can be specified in subordinate legislation.

The powers under sections 39(6) and 41(13) are intended to ensure that public funds and students' interests are protected in the event that a provider ceases to be on the register. This may include ensuring that the Commission retains certain regulatory powers in respect of a de-registered provider, or that certain funding streams remain temporarily available to students at a de-registered provider in order to ensure course continuation and completion.

These powers should be considered as contingency powers and are only expected to be used in rare and exceptional circumstances.

Fees, qualifying courses, and qualifying persons

Section	Form	Provision	Procedure
30(4)	Regulations	Power for the Welsh Ministers to specify a qualifying course.	Negative
30(8)(b)	Regulations	Power for the Welsh Ministers to specify who is a qualifying person for the purposes of paying regulated course fees.	Negative
30(10)	Regulations	Power for the Welsh Ministers to set out when fees payable to a provider in respect of a course it provides on behalf of a registered provider are to be treated as payable to the registered provider for the purposes of fee limits.	Negative
44(6)	Regulations	Power for the Welsh Ministers to set the maximum amount that the fee limit specified in a fee limit statement may not exceed.	Affirmative
82	Regulations	Power for the Welsh Ministers to specify further exceptions to the definition of 'fees' for the purposes of Part 2.	Negative

Description of powers

These powers enable the Welsh Ministers to specify a description of 'qualifying courses' and 'qualifying persons' for the purposes of regulating the maximum tuition fee limit of qualifying courses provided by, or behalf of registered providers.

They also enable regulations to specify circumstances where fees paid to a person providing a course on behalf of a registered provider are to be treated as paid to the registered provider for the purposes of fee limits.

The Welsh Ministers currently hold similar powers under sections 5 and 57 of the Higher Education (Wales) Act 2015.

Policy purpose and intent

These regulations enable the Welsh Ministers to provide for fee limits to apply to different courses or different groups of students in response to any future changes to the ways in which higher education providers charge fees in Wales, and also any changes in the form of student support offered by Welsh Government.

Qualifying courses are currently prescribed in the Higher Education (Qualifying Courses, Qualifying Persons and Supplementary Provision) (Wales) Regulations 2015. These Regulations provide that qualifying persons are those persons who, on the first day of the relevant academic year, fall within the Schedule to the Regulations, save for those persons who are not eligible for support under the exceptions listed.

Section 30(10) of the Bill ensures that when registered providers have courses delivered on their behalf, through a sub-contracting or franchise arrangement, providers are not able to circumvent the statutory tuition fee limit. Regulations will be made under this section to ensure that the variety of complicated franchise arrangements which may exist in the higher education sector do not create any circumstances where the fee limit may be circumvented.

Prescribing descriptions of 'qualifying courses' and 'qualifying persons' is a technical matter which will likely require updating from time-to-time. Any regulations made under section 30(10) will be only required in response to evolving forms of franchise and sub-contracting arrangements between tertiary education providers.

Maximum tuition fee

The Higher Education (Amounts) (Wales) Regulations 2015 currently set out the maximum amount of fees that may be payable for qualifying courses by providers regulated under the Higher Education (Wales) Act 2015. Welsh Government policy regarding the maximum tuition fee for qualifying higher education courses remains unchanged.

Quality assurance in higher education

Section	Form	Provision	Procedure
52(5)	Regulations	Power to make regulations to require higher education assessments and reports at specified intervals.	Negative
52(8)	Regulations	Power to make provision about the circumstances in which a person is to be treated as responsible for providing a course.	Negative

Description of powers

Section 52 places a duty on the Commission to assess, or make arrangements to assess, the quality of education provided by registered higher education providers. This duty includes the quality of education provided on behalf of a registered higher education provider, such as under a franchise or sub-contracting arrangement.

Section 52(5) enables the Welsh Ministers to determine the minimum intervals at which registered higher education providers should be required to undergo a quality assessment, and to prescribe the period within which assessment reports must be published.

Section 52(8) allows the Welsh Ministers to specify circumstances where an external provider should or should not be treated as providing all or part of a course on behalf of a registered institution. The Welsh Ministers have an equivalent power to that in section 52(8) under section 17(4) (a) of the Higher Education (Wales) Act 2015.

These powers cover largely technical and detailed matters related to quality assurance in higher education.

Policy purpose and intent

Higher education assessment intervals

It is currently anticipated that regulations made using these powers shall specify that higher education assessments should take place at least once every six years. This is consistent with HEFCW's current Quality Assurance Framework, and also with Estyn's usual cycle of inspections in other parts of the post-compulsory education sector.

The minimum interval between higher education quality assessments (section 52(5)) may need to be changed from time to time in response to changing resource availability or assessments of risk regarding quality in the higher education sector.

External providers

Whilst there is no immediate intention to make such regulations, section 52(8) provides the Welsh Ministers with appropriate flexibility to make the necessary provision should any novel forms of partnership arrangements for the delivery of higher education courses develop in the future.

Inspection of further education and training

Section	Form	Provision	Procedure
55(1)(f)	Regulations	Power to specify education and training which the Chief Inspector of Education and Training (the “Chief Inspector”) must inspect, in addition to education and training set out on the face of the Bill.	Negative
55(4)	Regulations	Power to make provision about inspection and report interval periods.	Negative
59(1)	Regulations	Power to confer further functions on the Chief Inspector in connection with the education and training described in section 55(1).	Negative
61(9)	Regulations	Power to make further provision in relation to the obligations to provide the Chief Inspector with information in connection with an area inspection; and to require area inspection reports to be published before the end of a certain period.	Negative

Description of powers

Section 55 of the Bill sets out the inspection remit of the Chief Inspector of Education and Training in Wales. The regulation making powers under section 55(1)(f) and section 59(1) are intended to extend or clarify the remit of the Chief Inspector in response to changing forms of provision in the education and training sector.

Section 55(4) enables the Welsh Ministers to:

- specify the minimum interval between inspections, and
- prescribe the period within which inspection reports must be published.

Section 59 enables the Welsh Ministers to specify any other functions of the Chief Inspector in respect of education and training listed in section 55(1).

Section 61 sets out provision for area inspections, including the requirements for bodies listed in section 61(7) to provide information to the Chief Inspector. Section 61(9) enables the Welsh Ministers to make:

- further provision with respect of the duty to provide information ,
- provision as to the time period before the end of which reports of area inspections must be published.

The Welsh Ministers currently hold similar regulation making powers to all of the above listed powers under Part 4 of the Learning and Skills Act 2000.

Policy purpose and intent

Sections 55(1)(f) and section 59(1) - Remit and further functions of the Chief Inspector

The Welsh Government does not currently intend to use the powers in section 55(1)(f) and 59(1) of the Bill..

These powers are necessary for future-proofing. For example, regulations may be required to provide for the inspection of initial teacher education for post-compulsory providers, in a similar way to current duties to inspect youth and community worker training or initial teacher education for schools.

Section 55(4) and section 61(9)(b) - Inspection intervals and reports

The Inspection of Education and Training (Wales) Regulations 2001 (“the 2001 Regulations”), as amended (most recently by the Education (Amendments Relating to the Intervals for Inspection of Education and Training) (Wales) Regulations 2020) require that:

- following the conclusion of the inspection period ending on 31st August 2024, inspections will be conducted at least once within a six year period,
- inspection reports be made within the period of 70 working days from the date on which the inspection or area inspection is completed . Welsh Government policy on inspection reports remains unchanged.

Welsh Government policy in respect of inspection intervals and the timing of reports, in respect of both inspections under section 55(1) of the Bill and area inspections under section 61 of the Bill remains unchanged, and regulations will be made under section 55(4) and 61(9)(b) restating existing provision as set out in the 2001 Regulations.

Section 61(9)(a) - Obligation to provide the Chief Inspector with information

It is not currently intended to make regulations under section 61(9)(a), the power provides the Welsh Ministers with the necessary flexibility to make provision in respect of practical matters such as the way in which the duty in 61(7) may be satisfied.

Intervention in the conduct of further education institutions

Section	Form	Provision	Procedure
68(1)	Direction	Power for the Welsh Ministers to intervene in the conduct of a further education institution if they are satisfied that one or more grounds for intervention exist.	No procedure

Description of powers

If the Welsh Ministers are satisfied that one or more of the grounds for intervention (as set out in section 67 of the Bill) exist, they may, pursuant to section 68 of the Bill, give a direction to the governing body of a further education institution, requiring the governing body to, amongst other things:

- collaborate with such persons and on such terms as may be specified in the direction;
- make a resolution for the body to be dissolved on a date specified in the direction.

Further detail on these intervention powers are provided in paragraphs 3.196 – 3.204 of the Explanatory Memorandum.

Policy purpose and intent

The intervention functions serve an important role in effecting the policy to protect the provision of further education in Wales. However, it is intended that in most cases the functions will be used only when the Commission has exhausted its intervention functions or where the issue is so serious that more urgent action is required.

Regulation and decision reviews

Section	Form	Provision	Procedure
77(3)	Regulations	A duty on the Welsh Ministers to make provision in connection with decision reviews. For example, details regarding the role of the decision reviewer and procedure to be followed (see subsection (4)).	Negative

Description of powers

Section 77 sets out the Welsh Ministers' functions in respect of appointing a person or panel to conduct decision reviews under sections 43 and 76 of the Bill.

A provider may request a review where the Commission makes use of the following powers:

- Refusing to register a provider (section 23).
- Imposing or varying a specific ongoing registration condition (section 27).
- Directing a provider in respect of failure to comply with ongoing registration conditions (section 37).
- Removing a provider from a category of the register (section 39).
- Specifying the date on which a provider is to be removed from a category of the register (sections 40 and 41).
- Giving a notice rejecting a fee limit statement (section 45).
- Directing a provider in respect of failing to co-operate with the Commission or a designated body as required under section 71.

Section 77(3) requires the Welsh Ministers to make provision through regulations in connection with the form, content and process of carrying out reviews. The Welsh Ministers currently hold a similar duty to make such provision in respect of reviews of HEFCW decisions under section 44 of the Higher Education (Wales) Act 2015.

Policy purpose and intent

Section 77(4) sets out the matters that regulations made under section 77(3) may, among other things, provide for:

- the grounds upon which a decision reviewer may make recommendations
- the kinds of recommendations that might be made
- the period within which an application for review might be made

- the procedure to be followed by the reviewer(s)
- the steps to be taken by the Commission and/or the Welsh Ministers following a review

The regulations would adopt an approach broadly similar to the arrangements currently provided for in the Higher Education (Fee and Access Plans)(Notices and Directions)(Wales) Regulations 2015, in respect of decision reviews under the Higher Education (Wales) Act 2015.

Subject to consultation with stakeholders, the current policy intention about the detail to be prescribed in these regulations is summarised below:

Topic Area	Description
Grounds on which decision reviewer(s) may make recommendations to the Commission	<ul style="list-style-type: none"> • that the governing body of a provider provides evidence in support of the matter for which it is seeking a review that has not previously been presented to the Commission; • that the reviewer considers the Commission has disregarded a material factor which it should have considered in the process of informing its decision; or • that the reviewer considers the Commission’s decision to be disproportionate in light of the evidence submitted to it.
Kinds of recommendations that might be made	<ul style="list-style-type: none"> • that the Commission should reassess its original decision taking into account - <ul style="list-style-type: none"> ○ any additional evidence provided to the decision reviewer(s) by the governing body of the institution requesting a review; ○ any material factors which the decision review considers it has not previously considered; or ○ any reasons the decision reviewer may have for considering the decision previously reached to be disproportionate.
Period within which an application for review might be made	<ul style="list-style-type: none"> • Within 40 days of the provider being notified by the Commission of its intended course of action.
Procedure to be followed	<ul style="list-style-type: none"> • The reviewer(s) should be required to provide the Commission with (i) details of the decision to be reviewed; (ii) details of the grounds on which the application for review has been made; and (iii) a copy of the information provided by the provider in support of the application for review. • The reviewer(s) should be required to provide both the provider and the Commission with an anticipated timetable for completing the decision review;

Topic Area	Description
	<ul style="list-style-type: none"> • The reviewer(s) may request additional information from both the Commission and the provider and if doing so they should be required to inform both the Commission and the provider about such a request; • To ensure that decision reviews are conducted in a timely manner a cut-off point of 28 days should apply in respect of the provision of further information to the decision reviewer(s) from either the Commission or the provider; • To ensure that all parties are updated about the progress with the review the decision reviewer(s) should be required to supply any additional information provided by the provider to the Commission and vice versa; • The reviewer(s) should be required to consider whether it is appropriate in the context of a specified review to accept representations from the Commission in response to additional information received from the provider in and from the provider in response to additional information received from the Commission and to notify both parties accordingly; • The reviewer(s) should be required to take account of any additional information provided by either the provider or the Commission; • The reviewer(s) should be required to prepare a report of their findings, setting out recommendations which should be sent to both the provider and the Commission.
Steps to be taken by the Commission and/or the Welsh Ministers following a review	<ul style="list-style-type: none"> • The Commission should be required to take account of the decision reviewer(s)' report and reconsider their decision to take the specified action which forms the subject of the decision review; • The Commission should be required to notify the provider about whether the proposed notice or direction has effect within a period of 40 days from the issue of the decision reviewer(s)' report and set out reasons for their confirmed course of action.

Monitoring financial sustainability

Section	Form	Provision	Procedure
78(1)(c)	Regulations	Power to specify education providers (in addition to those set out on the face of the Bill) in respect of which the Commission must monitor financial sustainability.	Negative
78(2)	Regulations	Power to provide for exceptions to the duty to monitor the financial sustainability of registered providers and providers in Wales within the FE sector funded by the Commission.	Negative

Description of powers

Section 78 places a duty on the Commission to monitor and report on the financial sustainability of certain tertiary education providers. Under the duty, the Commission must monitor the financial sustainability of registered providers and providers in Wales in the further education sector that are not registered but are funded by the Commission.

The powers under section 78(2) enable the Welsh Ministers to make exceptions in the application of the monitoring duty for providers or types of providers in these categories.

Section 78(1) (c) enables the Welsh Ministers to extend the monitoring duty to other kinds of tertiary education provider not specified on the face of the Bill.

Policy purpose and intent

These powers will ensure that the Commission's duty to monitor and report on the financial sustainability can be extended, if considered necessary, to tertiary education providers other than registered providers or providers in Wales within the further education sector that are not registered but are funded by the Commission. This would allow any providers or groups of providers that may be in receipt of significant amounts of funding from the Commission but fall outside of these categories to be brought within the scope of the duty.

The powers also allow the Welsh Ministers to make exceptions in the application of the duty for providers or types of providers within the categories specified on the face of the Bill. This might, for example, allow the duty to be dis-applied to the Open University who would, should they register with the Commission, be subject to equivalent monitoring by the Office for Students by virtue of its status as a

registered higher education provider in England. This would avoid unnecessary duplication and potential conflicts in monitoring arrangements.

These regulation powers provide a means to future proof the provisions set out under section 78 of the Bill and ensure that there are no gaps in the application of the duty.

Designation of other providers of tertiary education

Section	Form	Provision	Procedure
81(4)	Regulations	Power to make provision about the designation of providers which would not be regarded as an institution for the purposes of the Bill. This includes provision about applications for designation, the making of designations, withdrawal of a designation and the effect of withdrawals.	Affirmative

Description of powers

Section 81 enables the Welsh Ministers to designate a provider of higher education in Wales as an ‘institution’ for the purposes of the Bill and any subordinate legislation made under it. Such a provider would not normally be regarded as an ‘institution’ under the Bill.

A designation may be made on an application by the provider concerned. Section 81(4) enables the Welsh Ministers to make regulations about applications for designation, the making and withdrawal of designations, including matters to be taking into account when considering whether to make or withdraw a designation, and the effect of a withdrawal of designation.

Policy purpose and intent

The power under section 81 may be exercised to designate an organisation which provides courses of higher education, but might not regard itself as an “institution” for the purposes of the Bill, and may nevertheless wish to be registered. These regulations will require providers applying to the Welsh Ministers for such a designation to provide certain information or documentation alongside their application. The regulations may also specify how an application is to be made (for example in writing).

Securing and funding tertiary education

Section	Form	Provision	Procedure
85(3)	Regulations	Power to specify categories of registered provider to which the Commission may provide financial support in respect of expenditure incurred for the purposes of the provision of higher education and facilities or activities connected with the provision of higher education.	Affirmative
85(4)	Regulations	Power to specify the requirements to be met by a course of initial teacher training before the Commission can provide an institution with financial support in respect of the provision of that course.	Negative
86(1)	Regulations	Power to specify a particular course of higher education or description of course of higher education in respect of which the Commission can provide financial resources.	Negative
91(3)	Regulations	Duty to specify a description of relevant education and training for the purposes of the Commission's duty to secure proper facilities for person aged 19 and over.	Affirmative
91(7)(b)	Regulations	Power to specify a description of an eligible person in relation to the Commission's duty to secure proper facilities for persons aged 19 and over.	Affirmative
95(2)	Regulations	Power to provide that financial support for specified purposes for further education and training can only be secured under section 94(1)(a) or (b) to providers registered in specified categories. Regulations may provide for exceptions for specified courses or specified descriptions of courses. to the requirement to be registered.	Affirmative
96(6)	Regulations	Power to provide exceptions to the prohibition on providers of further education and training from charging (i) persons over compulsory school age and under the age of 19 who are receiving the further education and training; and (ii) eligible persons who are receiving relevant education and training.	Affirmative

Section	Form	Provision	Procedure
101(3)	Regulations	Power to provide that the Commission can only provide financial resources in respect of expenditure incurred in connection with the provision of an approved Welsh apprenticeship to providers registered in categories specified in the regulations.	Affirmative
102(4)	Regulations	Power to specify categories of registration which a provider must be registered in before the Commission can provide financial resource to the provider in respect of expenditure for the purpose of (or in connection with) research or innovation.	Affirmative

Description of powers

Section 85 allows the Commission to fund certain categories of registered providers (the “specified providers”), for the purpose of supporting higher education provided by or on behalf of such providers. Section 85(3) enables the Welsh Ministers to specify these categories, whilst section 85(4) enables the Welsh Ministers to specify that funding must not be provided by the Commission under this section in respect of expenditure incurred in relation to the provision of courses of initial teacher training unless the course satisfies requirements set out in regulations.

Section 86 allows the Commission to fund the provision of specified higher education courses wholly or mainly in Wales or to persons who are ordinarily resident in Wales. Section 86(1) enables the Welsh Ministers to specify such courses in regulations. Regulations may describe a course by way of reference to, amongst other matters, the requirements to be met by the course; the description of the person providing the course; and the qualification to which the course leads.

Section 91(3) requires the Welsh Ministers to specify relevant further education and training for the purposes of the Commission’s duty to secure proper facilities for such education and training in section 91(1). Section 91(7)(b) enables the Welsh Ministers to specify eligible persons for whom such facilities must be secured.

Section 95(2) enables the Welsh Ministers to make regulations requiring providers to be registered in a specified category in order to be eligible to receive funding from the Commission under section 94(1)(a) (provision of further education or training wholly or mainly in Wales) or section 94(1)(b) (provision of further education and training to learners ordinarily resident in Wales).

Where the Welsh Ministers or the Commission provide funding under section 94, section 96 allows them to impose terms and conditions. Section 96(4) and (5) provide that those terms and conditions must prohibit:

- a provider of further education or training suitable to the requirements of learners who are over compulsory school age but have not attained the age of 19 from charging those learners who are receiving the further education or training ; and
- a provider of relevant education and training suitable to the requirements of eligible persons from charging those eligible persons who are receiving that education or training. “Relevant education and training” and “eligible persons” are defined in regulations made under section 91 of the Bill.

Section 101(1)(a) allows the Commission to provide funding to providers of approved Welsh apprenticeships, under section 101(3) the Welsh Ministers can make regulations requiring the recipient of such funding be registered in a specified category on the register..

Section 102 allows the Commission to fund certain categories of registered provider, for the purpose of supporting research or innovation. Section 102(4) enables the Welsh Ministers to specify these categories.

Policy purpose and intent

Section 85(3) and section 102(4)

It is intended, subject to the proposed regulations under section 23(2) (see Categories of Registration) being made and specifying the proposed two categories of registration, to prescribe in regulations:

- under section 85(3) specifying that higher education providers must be registered in the “core” category in order to be eligible to receive funding from the Commission under section 85 (financial support to specified providers for higher education), and
- under section 102(4) specifying that higher education providers must be registered in the “core” category in order to be eligible to receive funding from the Commission under section 102 (financial support for research and innovation).

Section 85(4)

It is intended to make regulations under section 85(4) of the Bill providing that initial teacher training courses must not be funded by the Commission unless they are accredited by the Education Workforce Council (ECW).

Section 86(6)

It is not currently intended to make regulations under section 86(6). This power is intended to ensure that gaps in provision could be addressed should the need arise. Gaps in provision may arise due to a lack of specified higher education providers (as defined in regulations made under section 85(3)) being able to fulfil an identified need. For example, a need for a specialist course to be delivered in

Wales or to be undertaken by small numbers of students ordinarily resident in Wales, which may not be cost effective for specified providers to deliver. These powers should be considered as contingency powers.

Section 91

Section 91(3) and 91(7)(b) enable the Welsh Ministers to determine the scope of, and eligibility for, a new duty to fund further education for adults, and are intended to ensure that the Welsh Government's commitment to providing lifelong learning opportunities, particularly for those who stand most to benefit from them. The use of secondary legislation to determine the scope of relevant education and eligibility for the purpose of the funding duty is intended to enable a progressive expansion of the funded adult further education and training offer over time to address evolving patterns of need.

The policy for these regulations will take account of the following forthcoming considerations:

- Recommendations of a report due to be published by the Wales Centre for Public Policy regarding lifelong learning.
- Outcomes of a planned review of adult education as promised in the Programme for Government.
- The views and representations of relevant stakeholders.

Section 95(2) and section 101(3)

As set out in Categories of Registration above, it is not current government policy to create any categories for providers which do not provide higher education. However, regulatory arrangements may change over time and the register may, in the future, include categories, in respect of providers of further education, training or approved Welsh apprenticeship. .

Should the need arise the Welsh Ministers will be able to make regulations:

- under section 95(2) to specify the categories of registered providers eligible to receive funding from the Commission under section 94, or
- under section 101(3) to specify the categories of registered providers eligible to receive funding from the Commission under section 101.

Section 96(6)

The development of any policy in respect of regulations under section 96(6) will be subject to engagement and consultation with stakeholders.

Consent for payments to collaborating bodies

Section	Form	Provision	Procedure
105(1)	Regulations	Power to specify the matters to be taken into account by the Commission in deciding whether to give to consent for the passage of funds from directly funded persons to collaborating bodies under sections 85, 86, 94, 101 or 102.	Negative

Description of powers

The Bill provides for a person in receipt of financial resources from the Commission under sections 85(3)(a), 86(4)(a), 94(3)(a), 101(2)(a) or 102(4) to be able to pass all, or some, of this funding to a collaborating body. For a person to be a collaborating body the Commission must have given its consent for financial resources to be paid to it by the person receiving funds directly from the Commission.

The power under section 105(1) allows the Welsh Ministers, by way of regulations, to specify matters to be taken into account by the Commission when determining whether to give consent for a directly funded person to pass funding to a collaborating body under the specified powers.

Purpose, Policy and Intent

This regulation making power will allow the Welsh Ministers to set out those matters that the Commission must take into account when deciding to consent to a directly funded person passing resources to a collaborating body. Subject to consultation, it is anticipated that such matters might initially include

- The reasons for and the appropriateness of the collaboration arrangement;
- How the collaboration arrangement fits with the Commission's strategic plan;
- The effectiveness of the governance and financial management arrangements of the collaborating body;
- That the funded body's learner protection plan has adequate provision should the collaboration cease for any reason;
- The adequacy of the assurance arrangements between the funded provider and the collaborating body;
- Financial position of a proposed collaborating body;
- The ability of the proposed collaborating body to deliver what is proposed; and
- Adequacy of facilities or education provision available at the proposed collaborating body.

It is likely that the nature of matters to be taken into account by the Commission in giving its consent will need to be revised over time as new collaborative arrangements develop or in light of any issues that may have arisen with existing consent arrangements. This regulation power will provide flexibility for the Welsh Ministers to amend the specified matters should this be necessary.

Financial support directions

Section	Form	Provision	Procedure
106(1)	Direction	The Welsh Ministers may give the Commission financial support directions in relation to a relevant person.	No procedure

Description of powers

Section 106 enables the Welsh Ministers to direct the Commission in respect of the provision of financial support provided to a relevant person under section 85, 86, 94, 98, 100, 101 or 102, where it appears to the Welsh Ministers that the financial affairs of the relevant person have been, or are being mismanaged. The Commission is required to comply with a financial support direction given by the Welsh Ministers.

A relevant person is a registered provider or a person (other than a registered provider or the governing body of a maintained school) funded by the Commission under section 85(2), 86, 94, 98, 100, 101 or 102(2).

Before issuing a financial support direction to the Commission, subsection (5) requires the Welsh Ministers to consult the Commission and the relevant person to which the direction relates unless the Welsh Ministers are satisfied that it is not practical to do so because of the urgency with which the direction needs to be given, or the specific circumstances mean that consultation would defeat the object of the direction.

Any financial support direction given to the Commission under this section must be kept under review. Additionally, the Welsh Ministers must publish a financial support direction given to the Commission and report any such directions to the Senedd.

Policy purpose and intent

The Welsh Ministers are currently able to give directions to HEFCW in relation to the provision of financial support to a provider of higher education if it appears that the financial affairs of that provider have been, or are being mismanaged. Section 106 builds on existing arrangements and ensure that the Welsh Ministers can take appropriate action in circumstances where it might be necessary to protect the interests of students, safeguard public funds or prevent reputational damage to the tertiary education sector in Wales.

This power should be considered as contingency powers and are only expected to be used in rare and exceptional circumstances.

Apprenticeships

Section	Form	Provision	Procedure
107(4)	Regulations	Power of the Welsh Ministers to specify the conditions that an apprenticeship must satisfy to be an approved Welsh apprenticeship.	Affirmative
108(1)(c)	Regulations	Power of the Welsh Ministers to specify further conditions that an apprenticeship agreement must satisfy to be an approved Welsh apprenticeship agreement.	Affirmative
109(1)	Regulations	Power of the Welsh Ministers to specify the description of what is categorised as an alternative Welsh apprenticeship.	Affirmative
114(6)	Regulations	Power of the Welsh Ministers to require the Commission to include further information in the register of apprenticeship frameworks.	Negative
115(4)	Regulations	Power for the Welsh Ministers to authorise the Commission to charge a fee for issuing an apprenticeship certificate.	Negative
120 (5)	Regulations	Power to make provision applying any provision of Part 4 (apprenticeships) with modifications to an apprenticeship agreement where a person undertakes Crown employment or to a person working (or proposing to work) under such an agreement.	Negative

Pack Page 160

Description of powers

The powers above enable the Welsh Ministers to determine the parameters necessary for the operation of the new apprenticeship system. They confer an ability on the Welsh Ministers to specify and amend:

- the conditions that an apprenticeship must satisfy to be an *approved Welsh apprenticeship*;
- the further conditions than an apprenticeship agreement must satisfy to be an *approved Welsh apprenticeship agreement*; and
- the description of an *alternative Welsh apprenticeship*.

Additionally, the Welsh Ministers are enabled to:

- add new information requirements to the register of approved Welsh Apprenticeships maintained by the Commission;
- authorise the Commission to charge a fee for issuing of apprenticeship certificates; and

- apply any provision of Part 4 of the Bill with modifications to an apprenticeship agreement where a person undertakes Crown employment or to a person working or proposing to work under such an agreement.

Policy purpose and intent

Section 107 of the Bill provides for the definition of an approved Welsh Apprenticeship. The power under section 107(4) allows the Welsh Ministers to make regulations providing further requirements that must be met in order that an apprenticeship is an approved Welsh apprenticeship. The purpose of this power is to ensure that what constitutes an approved Welsh Apprenticeship can be revised over time and remains appropriate in light of changes in the delivery of Welsh apprenticeships. It could for instance be used to respond to changes to the economy or delivery of apprenticeships.

Section 108 provides for the definition of an approved Welsh apprenticeship agreement. Section 108(1)(c) enables the Welsh Ministers to specify further conditions that an approved Welsh apprenticeship agreement must satisfy beyond those specified on the face of the Bill. This power is intended to ensure that the definition of what constitutes an approved Welsh apprenticeship agreement remains up to date, it could for example be used to specify that such an agreement include or refer to a statement of employment particulars issued under section 1 of the Employment Rights Act 1996.

Section 109 provides for the meaning of an alternative Welsh apprenticeship. The power under section 109(1) enables the Welsh Ministers to make regulations that provide for what is meant by an alternative Welsh apprenticeship. This power could be used, to specify alternative working arrangements to take account of self-employment or to deal with situations where individuals working under an apprenticeship agreement have been made redundant during the course of their apprenticeship replicating (in part) equivalent provisions underpinning the operation of the current apprenticeship system.

Section 114 requires that the Commission must maintain a register of the apprenticeship frameworks published under section 113 of the Bill. The power under section 114(6) will enable the Welsh Ministers to add new information requirements to the register of published apprenticeship frameworks this enables the register maintained by the Commission to be adapted over time to respond to economic or social changes.

Section 115 of the Bill enables the Commission to issue a certificate if a person has completed an approved Welsh apprenticeship, and applies to the Commission for a certificate. It also provides that the Commission may charge a fee for issuing an apprenticeship certificate or copy of a certificate but only if regulations made by the Welsh Ministers allow for a fee to be charged. The power under section 115(3) will enable the Welsh Ministers to authorise the charging of fees by the Commission for issue of apprenticeship certificates or copy certificates and to specify the fee that may be charged. The Welsh Ministers are currently able to charge a fee to issue an apprenticeship certificate or copy certificates, and this power enables the Commission to continue to do likewise.

Section 120 of the Bill provides that a person who is employed as a Crown servant may undertake an approved Welsh apprenticeship agreement. The power under section 120(5) enables the Welsh Ministers to make regulations in relation to an approved Welsh apprenticeship agreement and Crown servants. This power allows for regulations to make provision in light of the differing employment status of Crown servants and allows for elements of Part 4 of the Bill to apply to Crown servants with modifications.

Apprenticeships need to be able to respond flexibly to changing technology and market needs. The regulation making powers under sections 107(4), 108(1)(c) and 109(1) are necessary to allow the Welsh Ministers to maintain a strategic oversight of what constitutes an approved Welsh apprenticeship, an approved Welsh apprenticeship agreement and an alternative Welsh apprenticeship. These powers will ensure that the quality and robustness of the Welsh apprenticeship system is maintained in future by specifying any further requirements that might be necessary for apprenticeships and apprenticeship agreements to satisfy in order to be approved Welsh apprenticeships and approved Welsh apprenticeship agreements. These requirements could change over time. Section 120(5) is necessary to enable elements of Part 4 to apply with any modifications necessary to Crown servants in light of their atypical employment status. A number of the regulation making powers contained in Part 4 of the Bill build upon, or re-enact, existing regulation making powers in the Apprenticeship, Skills, Children and Learning Act 2009 which are used to operate the current Welsh apprenticeship system.

Elements of the regulatory system underpinning approved Welsh apprenticeships may need to change over time as apprenticeship frameworks evolve to meet the changing needs of the Welsh economy. The regulation making powers under sections 114(6) and 115(4) allow the Welsh Ministers to make adjustments to the information requirements of the register of apprenticeships and the fees that the Commission may charge for the issuing of apprenticeship certificates both of which may change over time.

Learner complaints

Section	Form	Provision	Procedure
124(2)	Regulations	Amends section 11 of the Higher Education Act 2004, inserting a power to specify 'qualifying institutions' in addition to those set out on the face of the Act, in respect of which complaints can be made by students and former students and considered under the student complaints scheme under that Act.	Negative

Description of powers

Section 13 of the Higher Education Act 2004 ("the 2004 Act") allows for the designation of a body to operate a student complaints scheme. The Office of the Independent Adjudicator is the designated operator body for handling unresolved student complaints in England and Wales, having been appointed by both the Secretary of State and the Welsh Ministers respectively. The Office of the Independent Adjudicator's role currently extends to 'qualifying institutions' as defined in section 11 of the 2004 Act.

Section 124(2) of the Bill amends section 11 of the 2004 Act inserting, at subsection (2), a regulation making power which enables the Welsh Ministers to specify additional 'qualifying institutions' for the purposes of the student complaints scheme.

The Welsh Ministers may specify in regulations:

- a registered provider or
- a tertiary education provider in Wales (other than a registered provider) in receipt of financial resources from the Commission under the following sections of the Bill:
 - 86(3)(a) (higher education courses),
 - 95(1)(a) (further education or training), or
 - 101(1)(a) (apprenticeships) of the Bill.

The Welsh Ministers will not be able to specify local authorities in relation to school sixth form provision as they are not funded under the specified provisions

Policy purpose and intent

The policy aim is to extend the remit of the Office of the Independent Adjudicator and the breadth of access to the complaints scheme to learners undertaking all courses funded by the Commission as specified. Consultation will be undertaken with stakeholders on the detail and practicalities of extending the scheme prior to the regulations being made.

This will enable providers to be brought into the student complaints scheme gradually, allowing time for the Office of the Independent Adjudicator and individual providers to build their capacity.

Data sharing

Section	Form	Provision	Procedure
128(1)(l)	Regulations	Power to specify persons other than those set out on the face of the Bill as persons who are able to share information with the Commission.	Negative
130(5)	Guidance	The Welsh Ministers must publish guidance regarding factors to be taken into account in deciding whether to approve a body or individual for the purposes of section 130 of the Bill	No procedure

Description of powers

Section 128 includes a list of persons, statutory bodies and persons exercising statutory functions that may share information with the Commission, for the purposes of the exercise of any of the Commission's functions. The Commission may also give information, about any matter in relation to its functions, to those listed in this section and any other person it considers appropriate. The Welsh Ministers may by regulations specify other persons that are allowed to share information with the Commission under this section.

Section 130 makes provision for how the Welsh Ministers may use the application-to-acceptance information obtained under section 129 and provides that the information may be shared with an "approved person". An approved person is:

- a body approved by the Welsh Ministers for the purposes of section 130 of the Bill, that uses or disseminates information for the purpose of research, or
- an individual approved by the Welsh Ministers or an approved body for the purposes of section 130 of the Bill.

The Welsh Ministers are subject to a duty to publish guidance setting out the factors to be considered when deciding whether to approve a body, or individual researcher, to become an "approved person" in relation to the use of application to acceptance information for research purposes.

Policy purpose and intent

This section allows the Welsh Ministers to make regulations to specify other persons that are not mentioned on the face of the Bill which will be able to share information with the Commission. It would also allow for new authorities to be specified.

Examples of the type of factors which may be included in guidance under section 130(5) in respect of a body being an approved person could include:

- Whether the body is a recognised academic institution, public sector organisation or a research organisation on the Research Councils UK list of eligible independent research organisations (noting that research would not be for commercial purposes);
- Whether the body complies with relevant data protection and related legislation, guidance and best practice to ensure that data is accessed, handled, transmitted and stored securely including the use of encryption where necessary;
- Whether the body operates under appropriate governance.

Examples of the type of factors which may be included in this guidance under section 130(5) in respect of an individual being an approved person could include:

- Whether the individual is affiliated with a recognized academic institution, public sector organization or a research organization on the Research Councils UK list of eligible independent research organizations for non-commercial research purposes;
- Whether the individual has relevant expertise in conducting research with secure/administrative data and in a secure environment or is willing to undergo training.

HE Governance – instruments and articles of government for Higher Education Corporations in Wales (HECs)

Section	Form	Provision	Procedure
133(2)	Regulations	Power to amend or repeal, by order, paragraphs 2 to 11 of Schedule 7A of the Education Reform Act 1988 that relates to the contents of the instruments of government for a HEC	Affirmative
134(2)	Regulations	Power to amend or repeal, by order, section 125(2) to (4) of the Education Reform Act 1988 that relate to the contents of the articles of government for a HEC	Affirmative

Description of powers

Section 133(1) makes provision for the Welsh Ministers' existing order making powers under section 124A (9) of the Education Reform Act ("the 1988 Act") to be extended to cover the whole of Schedule 7A with the exception of paragraph 1. Schedule 7A sets out statutory requirements for the content of instruments of government of HECs made by the Privy Council.

Under Section 124A (9) of the 1988 Act, the Welsh Ministers are currently able to amend or repeal any of paragraphs 3 to 5 and 11 of Schedule 7A by order. These paragraphs relate to membership of the HEC and in particular, its size, constitution and the appointment of its members. Paragraph 1 enables a HEC's instrument of government to empower the corporation to change its name with the consent of the Privy Council.

Section 134(2) introduces amendments that will enable the Welsh Ministers, by order, to amend or repeal section 125(2) to (4) of the 1988 Act which relate to the content of articles of government of HECs. Broadly the articles determine the distribution of functions between the board of governors, the Principal and the Academic Board and regulate the constitution and functions of committees of the corporation.

Policy purpose and intent

These provisions amend ERA 1988 and make revisions in respect of the Welsh Minister's powers to amend or repeal current statutory requirements placed on the contents of a HECs instrument of government. The overriding policy aim behind these provisions is to address the findings and recommendations of the Law Commission's report on *Technical issues in Charity Law* that relate to the amendment of governing documents for higher education institutions in Wales. In particular, the Law Commission's report recommends the removal of

existing statutory requirements placed on the governing documents of HECs so that they are able to respond to good governance and best practice guidance in the same way as other types of higher education institution that are not subject to equivalent legislative requirements.

Under current arrangements, the Welsh Ministers are able to amend, by order, only a limited number of the requirements placed on HEC governing documents under Schedule 7A of the 1988 Act. These are the requirements under paragraphs 3 to 5 and paragraph 11 of the Schedule. This means that any future changes to those requirements that are outside the scope of the current powers could not be made in the same way or to the same timeframe as they would require separate primary legislation to take them forward. These provisions will address this issue by extending the Welsh Ministers current order making powers so that they apply to all of the statutory requirements placed on HEC governing documents under Schedule 7A (with the exception of paragraph 1) and to the requirements under section 125(2) to (4) of ERA 1988.

This is intended to create a more flexible and responsive approach that will:

- allow future changes to any or all of the statutory requirements within the scope of the new extended powers to be considered in the same way and be taken forward via statutory order made by the Welsh Ministers;
- remove the need for separate primary legislation to change those requirements that are not within scope of the current powers as is currently the case; and
- allow any future changes that are considered necessary to be made more quickly than if separate primary legislation were to be required for changes to those requirements that are currently out of scope.

An order brought forward by the Welsh Ministers to amend or repeal prescribed provisions in Schedule 7A or sections 125(2) to (4) using these new powers will be subject to the affirmative procedure. The Welsh Ministers will also be required to consult with the Commission and any other persons they consider appropriate before making an order. Currently, an order under section 124A(9) of ERA 1988 is subject to the negative procedure. The change in procedure reflects the widening scope of the powers which affect provisions in an Act of Parliament.

Open University

Section	Form	Provision	Procedure
140(1)	Regulations	Power to provide for the Open University to be treated as an institution in Wales for the purpose of specific provisions under this Bill	Affirmative

Description of powers

The Open University does not fall within the definition of “tertiary education provider in Wales” because its activities are not carried on “wholly or mainly in Wales”. This power enables the Welsh Ministers to make regulations which provide for the Open University to be treated as a tertiary education provider in Wales for the purpose of any provision in, or made under, the Bill. Under the regulations, the Welsh Ministers are able to modify the effect of any provision, specified in those Regulations, insofar as it applies to the Open University (whether as a tertiary education provider in Wales or as a registered provider, should it become one).

Policy purpose and intent

The Open University is the largest higher education provider in the UK, and the only large higher education provider which operates across all four of the UK administrations. Although the Open University has a significant presence in Wales it is not a tertiary education provider in Wales for the purposes of the Bill. Changes in funding and regulation of the Open University in other UK nations may have knock on implications for the way in which the Open University is funded and regulated in Wales.

The Welsh Government is presently in discussions with the Open University to determine the most appropriate application of different provisions of the Bill to the Open University. This may be to apply the registration conditions, learner protection plans and other provisions to the Open University in order to ensure funding and protection for learners in Wales undertaking courses of study with the Open University.

It is therefore more appropriate to use secondary legislation to apply provisions in this Bill to the Open University in respect of the University’s provision in Wales, and for the way in which the Bill applies to the Open University to be amended in response to any wider changing circumstances across the UK.

General directions to the Commission

Section	Form	Provision	Procedure
Schedule 1 paragraph 15(1)(a)	Direction	The Commission must prepare a statement of accounts in respect of each financial year in accordance with directions given by the Welsh Ministers	No procedure

Description of powers

Paragraph 15(1)(a) of Schedule 1 to the Bill enables the Welsh Ministers to issue a direction to the Commission about the preparation of a statement of accounts. Each financial year the Commission must prepare accounts in accordance with the accounts direction issued by the Welsh Ministers.

By the end of August following the financial year to which the accounts relate, the Commission must submit to the Auditor General for Wales (AGW) the signed accounts together with a letter of representation. The Commission must forward two copies of the signed accounts to the Welsh Government.

Policy purpose and intent

The Welsh Ministers are currently able to give directions to HEFCW in relation to the preparation of their accounts and it is intended to issue equivalent directions to the Commission once established.

The substance of the direction is set out in paragraph 15(2)(b) of Schedule 1 and includes:

- the information to be contained in the statement;
- the manner in which the information is to be presented;
- the methods and principles according to which the statement is to be prepared; and
- any additional information that is to accompany the statement.

Minister for Social Justice
Jane Hutt MS

Cc Children's Commissioner for Wales
Sally Holland

31 January 2022

The Children's Commissioner for Wales' 2022-23 Budget Estimate

Dear Jane,

The Children's Commissioner for Wales ("the Commissioner") has written to both of us to set out her concerns about her office's budget settlement for the 2022-23 financial year and projected settlement for the subsequent two years. The Commissioner appended to her letter the statutory budget estimate that her office submitted to the Welsh Government in October 2021.

The letter sets out that the Commissioner requested a total resource budget of £1,695,765 for the 2022-23 financial year, £1,652,444 for 2023-24, and £1,662,001 for 2024-25. However, the Welsh Government rejected this estimate and proposed a resource budget of £1,580,000 for 2022-23 and a "projected 'flat budget' for the two subsequent years as well". The Commissioner sets out her concerns with the Welsh Government's proposed budget, before adding that she has "asked the Government for a substantive response as to how the decision was reached to continue providing the same settlement as previous years during a period where costs outside the accounting officer's control are rising."

It is not appropriate for us to comment on the precise levels of funding that the Children's Commissioner for Wales receives from the Welsh Government. Neither is it appropriate for us to take action on behalf of any commissioner unless we wish to do so.

However, we are concerned about the potential implications of the Commissioner's funding settlement for children and children's rights. Particularly, the Commissioner's assertions that the proposed settlement will:



- restrict the ability of the Commissioner to set an independent work programme covering all of the areas that are important to children and young people in Wales today, and fulfilling the legal remit of the post;
- impair the Commissioner's office's capacity to provide advice to the Welsh Government on behalf of children and with the interests of promoting children's rights, particularly if, as in the Commissioner's view, "there is limited expertise within the Government to perform such an expert role"; and
- negatively impact on the Welsh Government's delivery of its Programme for Government insofar as it relates to children and young people.

Please can you:

1. clarify why the Welsh Government rejected the Commissioner's budget estimate;
2. share with the Committee the Children's Rights Impact Assessment for your decision; and
3. provide your assurances in relation to each of the three bullet points above that your proposed budget settlement will not adversely impact the ability of the new Children's Commissioner for Wales to fulfil her statutory and wider advocacy and advisory roles?

We would be grateful for your response no later than Monday 28 February.

I have copied this letter to the Children's Commissioner for Wales.

Yours sincerely,



Jayne Bryant MS

Chair of the Children, Young People and
Education Committee



Jenny Rathbone MS

Chair of the Equality and Social Justice
Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.



CYPE(6)-04-22 - Paper to note 22

Y Pwyllgor Plant, Pobl Ifanc ac Addysg

Children, Young People and Education Committee

Elin Jones MS
Llywydd

03 February 2022

Review of the committee timetable and committee remits

Dear Elin,

Thank you for your letter dated 7 January 2022 seeking our views on the review of committee timetable and remits. We discussed this letter at our meeting on 20 January.

We note that you do not expect committees to consult with stakeholders. As part of our consultation on the Committee's priorities over the summer recess, the FSB provided their views on the timetable, which is enclosed.

Timetable – status quo

To what extent does the current approach to the committee timetable provide sufficient time for committees to undertake their work effectively?

As the Committee tasked with the first Stage 1 scrutiny of the 6th Senedd, we believe we bring an important perspective on how effectively the current timetable can accommodate work with timeframes which are outside of the Committee's control.

It is worth noting that the introduction of the Tertiary Education and Research (Wales) Bill came at the same time as other core activity, where we had limited discretion on when it could be done:

- Annual scrutiny of Estyn;
- Annual scrutiny of the Children's Commissioner for Wales;
- Annual scrutiny of Qualifications Wales;
- Scrutiny of the Skills and Education LCM;
- Pre-appointment hearing for the preferred candidate for the next Children's Commissioner for Wales; and

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- Scrutiny of the Welsh Government's draft budget.

This meant that we have had to request a number of additional meetings (five in total since October). All of our requests for have been agreed by Business Committee. Two of these requests were for meetings in one of the "protected" weeks.

In December, the volume of work meant that we had three meetings within the space of 10 days, two of which were lengthy, starting with pre-meetings before 9am and not finishing until later in the afternoon. They all had extensive Committee papers to accompany the meeting.

The current timetable therefore has provided us with the opportunity to undertake our work. However, this has only been because Business Committee agreed our requests for additional meetings and because we have used the maximum capacity of the slot allocated to us.

[To what extent does the current approach to the committee timetable provide sufficient flexibility to meet peaks in committee workloads and / or future business requirements for additional committee capacity?](#)

As noted above, there has been flexibility, but it has been dependent on Business Committee agreeing individual requests. The time involved that approval process can cause delays to finalising the forward work programme. Our current experience is that this has been manageable as it has been to accommodate business where we have advance notice (for example Bill scrutiny). However, we are aware that it could cause potential issues if we needed to meet urgently.

Additionally, if the meetings are outside the Committee's scheduled slot that can cause issues with members being able to attend, and general diary management. This is less of an issue when we know far enough in advance, but if issues arise unexpectedly, that could cause challenges. It is important for us to have certainty about committee meetings dates, to ensure we can plan and manage our workloads and diaries accordingly. (This also relates to the next question.)

[To what extent does the current approach to the committee timetable provide an appropriate balance between the time Members spend on committee work \(in and outside committee meetings\) and their wider responsibilities?](#)

Some of us sit on multiple committees, others only sit on this Committee. Therefore we have a range of experiences. As the question notes, it is important to consider that as well as the time spent in a Committee meeting, there is also the time spent preparing (which depending on the items being considered can be extensive) and time following up on matters after meetings.

In our discussions, we reflected on the challenges of long virtual meetings, and the impact that can have. We have primarily met virtually, although two of our meetings have been in a hybrid format. At the moment, we have been using the maximum of our slot more often than not, with most meetings starting with pre-meetings before 9, and usually running until at least 2:30pm, and on occasion past 3pm. We all noted the challenges that come with long virtual meetings, however, we acknowledged that the amount of core business meant that sometimes there was no other option.

We discussed that the challenges of long Committee meetings are different to long Plenary meetings, where Members may not attend or contribute to all items. However, the size of committees means that all members need to attend and actively engage in all business. This can be challenging, and due

to the wider responsibilities on Members, has meant that there have been times towards the end of meetings where we are only just quorate.

Timetable – alternatives to the status quo

What changes could be made to the committee timetable to improve committee effectiveness, whilst maintaining flexibility to accommodate additional committee business, and an appropriate balance between the time Members spend on committee work (in and outside committee meetings) and their wider responsibilities?

On balance, after discussion, our preference would be to keep fortnightly committee meetings, but with the option to meet in the “off” weeks in the same scheduled slot, without the need to seek Business Committee agreement. We believe this would give us greater flexibility in how we schedule business, for example being able to adjust our business at a meeting, with short notice, which would enable us to respond to urgent or pressing business, or to ensure a better balance across our committee meetings and avoiding the challenges which can stem from meetings which can be up to six hours or longer.

Whatever changes are made to the timetable, we would want to ensure that it does not result in any reduction in time available to our Committee to undertake our work.

If changes are to be made to the timetable, when should these changes be implemented?

We note the challenges of deciding when best to implement any changes, and how that can take account of committees’ forward work programmes. There is a specific issue for us, as arrangements need to be made for Stage 2 proceedings for the Tertiary Education and Research (Wales) Bill. The dates need to be agreed before the Stage 1 debate in early March. We will be writing separately to the Business Committee on this matter, but we note that the current preferred dates both for the Committee and the Welsh Government is in line with our preferred model of working.

Remits

Do you believe there is a need to adjust the remit of your committee? For example, to balance work across committees, and/or to improve lines of accountability.

We are satisfied with the remit. One of our strategic priorities is to work with other Senedd committees, and so far, we have taken up opportunities to do this, even if it has not involved holding joint meetings.

We note that in the last Senedd, the previous Chair of the CYPE Committee sat on the Health, Social Care and Sport Committee. We understand that this was felt to be a particularly effective way of managing the shared areas of interest across the two committees. As we share the same Committee slot with the Health and Social Care Committee, this means there is no shared membership. Whilst we understand that putting both committees in the same slot was done with the intention of helping to facilitate more joint working across committees, in this instance, we note that it has actually made this more difficult. It has also caused logistical issues at certain points when both committees have been calling upon the same ministers at the same time (such as for budget scrutiny.)

I hope this information is helpful for the review, and we look forward to the findings.

Yours sincerely,

Jayne Bryant

Jayne Bryant MS
Chair

Enc: Letter from FSB, 25 August 2021

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.





Arbenigwyr mewn Busnes
Experts in Business

25 August 2021

Children, Education and Young People Committee
Senedd
Pierhead St,
Cardiff
CF99 1SN

Dear Ms. Bryant

RE: Priorities for the Committee

FSB Wales is the authoritative voice of businesses in Wales, with around 10,000 members. It campaigns for a better social, political, and economic environment in which to work and do business. With a strong grassroots structure, a Wales Policy Unit and dedicated Welsh staff to deal with Welsh institutions, media and politicians, FSB Wales makes its members' voices heard at the heart of the decision-making process.

FSB welcomes the opportunity to respond to the Committee's call for views on its priorities. Committees serve a vital role in providing scrutiny of the government, in providing a key role in influencing policy development, and as a constructive engagement point for evidence and understanding between the legislature and civil society, including our role in representing small businesses.

With continuing issues arising from Covid-19, the possibility of further disruptions, and the legacy of the damage the pandemic has wrought alongside the impetus to build an economic recovery, the role of committees will be of even more importance this term.

As such, insofar as possible, it is important that the Senedd's capacity and abilities are used to the full in this process, and that the structure allows committees – and their Chairs - to be agile and able to respond quickly to events this Winter, as well as in providing scrutiny and policy development for the challenges ahead. It is in the spirit of supporting this democratic process and committees as the engine room of Welsh democracy that we respond to this consultation.

The Committee covers areas of priority for FSB Wales and we look forward to working with you over the coming term.

Ways of Working

We note that the new Committees structure includes the following:

- The Sixth Senedd has for the moment opted for smaller membership in committees (4-6).
- This should allow members to build more specialism, but at the cost of more diverse voices in each committee (as was the case with larger committees).
- It is important to push for the advantages of building focused specialism is nurtured and maximised, but the diversity and small pool is mitigated (e.g., through cross-committee working).

Potentially, this structure could allow for more agility which as there may well remain issues arising requiring quick reaction, policy response and scrutiny over the next period, could be extremely useful. This would require significant autonomy for committees to pursue their own path and ways of working.

However, the decision has also been taken to cut the number of committee meetings to be fortnightly rather than weekly.

- Smaller committees should allow MSs being able to populate across them better, but fewer meetings do not seem to add value in this respect.
- There are also dangers to scrutiny and policy development – the role of scrutiny (legislative and non-legislative) as we open up after Covid is important, with myriad issues across all policy areas important. Committees have an important role in this respect and halving the time for scrutiny in a stroke makes little sense. This is a particular issue for small business issues, as we are concerned that vital areas of economic recovery may not be properly addressed or scrutinised.
- There is a danger that the pressure will force committees to focus on necessary legislative scrutiny alone, while relegating wider scrutiny and policy inquiries to the margins (including on business issues and day to day issues around Covid, for example).
- Some committees have wide and disparate subject areas, and there is a danger that whole policy areas will be relegated to the side-lines.
- As well as being the engine room of democratic scrutiny of Government, committees are a vital interface for contact and policy evidence from civil society – there is a danger that the pool of evidence is further narrowed, and a focus is on the narrower ‘usual suspects’ providing evidence posing a danger of group-think and less diverse views being taken in oral evidence.
- As noted above, committees will need to be agile in continuing to respond to Covid and the various issues raised by the pandemic will continue to impact for the Senedd term. These limits on their work may mitigate against that and undermine responsive policy development and scrutiny. As such, it makes sense to allow autonomy for Committees to pursue their own ways of working, including additional meeting and inquiries. As such, the two-week meetings should be seen as a baseline rather than a ceiling for activity and scrutiny.

Cross-committee working will be vital to mitigate against small committees meaning a greater focus but a danger of silo working and loss of diverse offices bringing in a range of policy field lenses and understanding how they intersect. We therefore encourage cross committee inquiries as a minimum (and suggestions later in paper on subjects that span committees).

It is also possible to look at ways as a regular way of working and ensuring policy span through MSs from different committees could sit as non-voting ‘guests’ or bringing committee expertise and lens to particular meetings (e.g., climate change members sitting in on discussions on housing capital spending policy).

This way of working will also be important in terms of scrutiny of the substance and operation of Welsh Government – through the Climate Change Ministry as a central organising department looking to ensure cross departmental and holistic working, it is important that Senedd is able to mirror this and provide adequate scrutiny across policy areas accordingly.

Business concerns sit across many departments, and within intersecting policy subjects so cross-committee working is important for FSB and our members.

Recommendations

- *That committees are allowed freedom (as decided unanimously by all their members) to look at the fortnightly meetings as a baseline and so can organise more meetings as suits them or for specific inquiries.*
- *We would urge a view to cross committee working on intersecting subject areas and inquiries – and that these can be on top of the fortnightly meetings.*
- *To mitigate against small committees being a small pool we would urge that committees can co-opt other MSs (including possibly spokespeople retain a right to attend and question) as non-voting members for individual sessions, and to be encouraged and incentivised to do so. These could also be as members of other committees to encourage cross sectoral views.*
- *It is vital, with continuing uncertainty on Covid over the Winter months (as well as ongoing issues and its legacy) that Committees are able to react with agility to raise issues, conduct inquiries and scrutinise reactively and quickly as needed. Committees and their Chairs should be able to do this with as much autonomy as possible over their schedules and ways of working (with necessary checks of unanimity in committee as appropriate).*

FSB's key policy areas of work for the Committee

A key area of work here is scrutiny and policy development around the *Guarantee of Offer for Education, Employment or Training to under 25s* in the Programme for Government. Currently we are not aware of greater detail. It is important for our members to understand if this is to be a meaningful offer how it relates to training and apprenticeships and how any scheme would be easily accessed and used by SMEs across the whole of Wales, in order to ensure that opportunities are available to young people and to businesses with proper support.

The role of entrepreneurship in education, how it aligns with the wider curriculum and its aims of making 'informed and critical citizens' is an ongoing interest, as well as how we understand the changing needs of the next generation of young entrepreneurs and business support mechanisms required to help provide opportunities for them. The role of work-related experiences and the practical experiential side of education, as well as the fostering of key skills is also a key concern for SMEs, and in future entrepreneurship.

FSB have upcoming work on Generation Z entrepreneurship, which we will share with the committee when available.

Subject areas for Joint working with other committees



Arbenigwyr mewn Busnes
Experts in Business

Our suggestions above advocate a dynamic and agile role in co-working and cross committee working, utilising all the backbench capacity and capabilities as much as possible, and reducing possible silos in policy scrutiny and development. The following list gives some indications of possible areas of work, although this is not exhaustive list, and priorities will be necessarily shaped by wider issues of Welsh Government priorities and external factors such as Covid-19 and Brexit. Working iteratively with other committees will also shape framing of subject areas, and we believe this would generally be positive for inquiries and scrutiny.

Subject area	Possible partner committee(s)
<i>Implications and opportunities of Guarantee of Offer for Education, Employment or Training to under 25s</i>	Economy, Trade and Rural Affairs Committee
Entrepreneurship and Young People – including Business Support, Entrepreneurship in Education and next generation of entrepreneurs	Economy, Trade and Rural Affairs Committee

FSB Wales would welcome the opportunity to discuss this issue with your officials, should you deem it useful.

Yours sincerely,

Ben Cottam
Head of Wales
FSB

CYPE(6)-04-22 - Paper to note 23

**Y Pwyllgor Llywodraeth Leol a
Thai**

**Local Government
and Housing Committee**

Jayne Bryant MS,
Chair,
Children, Young People and Education Committee

3 February 2022

Dear Jayne,

Thank you for your letter of 6 January regarding youth homelessness. We have agreed that appropriate housing will be an overarching priority area of work for us. Within that, we have identified that scrutinising policies and actions to end homelessness is one of our main priorities over this Senedd term, building upon the work of our predecessor committee.

I have recently written to a range of stakeholders inviting them to share their views on the current situation and to suggest specific issues on which we could focus our forthcoming work on homelessness and rough sleeping. We will consider the responses from stakeholders and how we can take this important work forward in the summer term.

Yours sincerely



John Griffiths MS

Chair

Croesewir gohebiaeth yn Gymraeg neu Saesneg.
We welcome correspondence in Welsh or English.

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Llywodraeth Cymru
Welsh Government

Russel George, MS
Chair, Health and Social Care Committee
SeneddHealth@senedd.wales

Jayne Bryant, MS
Chair, Children and Young People Education Committee
SeneddChildren@senedd.wales

3 February 2022

Dear Russell and Jayne

Legislative Consent Memorandum on the Nationality and Borders Bill (“the Bill”)

I am grateful to you and your members for setting out the matters requiring further information as described in Annex 1 of your letter of 18 January. I write to provide a response to the points raised to aid your deliberations in respect of the Legislative Consent Memorandum on the Bill. I apologise for the delay in replying and for not meeting your deadline of 28 January.

Discussions with the UK Government

- 1 An update on discussions with the UK Government, including details of any assurances the Welsh Government is seeking or amendments it is proposing or agreements that have been reached with the UK Government. We would also be grateful to receive copies of any relevant correspondence with the UK Government on these matters.**

The Welsh Government has repeatedly raised concerns about the impact of this Bill on Wales and sought details of the clauses relating to age assessment from May 2021 onwards, without success. The main points made have been captured in our formal response to the *New Plan for Immigration (sent June 2021, with response received in September 2021)*, in the Written Statement published on 6 December which was shared with Home Office officials, and in the joint Welsh Government and Scottish Government letter sent on 9 December. Copies of these documents and replies are attached to this response as doc 1-3a respectively.

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
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Gohebiaeth.Jane.Hutt@llyw.cymru
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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

Back Page 138
We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

The UK Government has provided no satisfactory assurances and no amendments have been tabled to address the concerns raised by the Welsh Government. The UK Government has maintained its position that the entirety of the Nationality and Borders Bill relates to reserved areas of policy, despite the Bill making provision concerning local authority decisions as to whether and how to exercise functions under “relevant children’s legislation”.

These provisions would apply to Welsh local authority decisions about whether and how to exercise their functions under the Social Services and Well-being (Wales) Act 2014.

The Welsh Government’s concerns about the Bill

2 The constitution and functions of the National Age Assessment Board, and the nature of the potential negative impact on Unaccompanied Asylum Seeker Children in Wales.

Little information is provided on the constitution of the National Age Assessment Board (NAAB). As such devolution to Wales of services, such as social care and NHS services appear not to have been considered. There are no specific proposals about the representation of Wales (or Scotland and Northern Ireland) in the Bill.

In Wales, we treat all unaccompanied asylum seeking children as looked after children under Part 6 of the Social Services and Well-being (Wales) Act 2014 (the 2014 Act). As such they are entitled to the same care and support as all children in care in Wales. The 2014 Act also provides for a range of assessment functions and we treat the assessment of age as part of the ‘what matters’ assessment functions provided for in Part 4 of the 2014 Act.

All social services functions are fully devolved to the Senedd and as such, all legislative and policy decisions relating to social services are for the Senedd and the Welsh Ministers. The NAAB would diminish the lead, authoritative role for social workers in Wales in this function.

There are stark differences in views between UK Government and Welsh Government about how age assessments should be conducted and by whom. For example, in Wales, we have an extant policy position on age assessment¹ which does not recommend or support the use of medical examinations as determinants of age and considers such approaches morally wrong. The use of ‘scientific methods’ will potentially be a fundamental and perennial disagreement between the views of Welsh local authorities and the NAAB.

3 The anticipated implications of centralising the age assessment process on the assessment of needs and provision of care and support under the Social Services and Well-being (Wales) Act 2014 and what, if any, further functions which could be imposed on Welsh authorities.

Centralisation of the age assessment process could present a barrier to ensuring best practice, as a multi-agency holistic approach is best conducted by local authority social workers local to the age-disputed young person. This is compounded by an age assessment approach which uses “scientific methods” and determines that a person’s credibility is damaged if they do not consent to these “scientific methods” being used. In our view such an approach would conflict with existing international legal obligations (such as

¹ [42834 Age Assessment Toolkit for UASC \(gov.wales\)](#)

the UN Convention on the Rights of the Child (“UNCRC”)) and social care legislation in Wales.

As referenced above, all unaccompanied asylum seeking children are treated as looked after children under the 2014 Act. Under the 2014 Act, they receive the same care and support as all looked after children in Wales. This Bill introduces an additional statutory process for age assessments for unaccompanied asylum seeking children in Wales which contradicts Welsh law, will cause confusion and potentially diminish the law as it stands in Wales.

In terms of further functions imposed on Welsh Authorities, it unclear as to whether Welsh NHS bodies will be expected to conduct the “scientific methods” assessment or whether this will be outsourced to private health providers. If the NHS in Wales is expected to provide these assessments, this would place additional workload onto health boards who are already under significant pressure and remain severely impacted by the pandemic. To note, there is the potential for conflict between health professionals, NAAB and other local authorities where health professionals do not support the use of ‘scientific methods’.

Evidence we submitted in our response to the UK Government’s ‘New Plan for Immigration’ consultation demonstrated the significant divergence in recent age assessment outcomes where the Home Office had centralised these processes.

The UK Government’s statistical release on 27 May 2021, in respect of age assessment determinations, demonstrates the potential consequences of centralising the age assessment function under the direct control of the Home Office including carrying out age assessments. Such shorter form assessments have been challenged and found to be unlawful² but still demonstrate the Home Office’s intentions in this area.

Date of age dispute	Year ending Mar 2020	Year ending Mar 2021	Change in the latest year	% change in the latest year
Age disputes raised ²	632	791	+159	+25%
Age disputes resolved ^{3,4} (Total)	679	693	+14	+2%
Under 18 (Age group of Age disputes resolved)	420	258	-162	-39%
18+ (Age group of Age disputes resolved)	259	435	+176	+68%

Our anticipated impact of centralised assessments is that children may be placed in accommodation which is meant only for adults, creating safeguarding concerns, risks of exploitation of children, and potential homelessness where children flee dangerous situations.

If those children later arrive in Welsh local authorities we anticipate a conflict between the views of social services officers who may deem the person to be a child with care and support needs and Home Office officers who deem the person to be an adult. This conflict would have financial consequences for the local authority who would be obligated to provide care and support if the 2014 Act assessments found this to be required but without the

² [Home Office age assessment policy for unaccompanied asylum seekers is unlawful, High Court rules | The Independent](#)

funding which the Home Office would normally provide to local authorities looking after unaccompanied asylum seeking children.

Adult asylum seekers are provided with accommodation on a 'no choice' basis by the Home Office. If they 'abscond' from that accommodation (Home Office terminology), this may void their asylum case. Therefore, children placed in adult accommodation due to these centralised assessments will be at high risk of exploitation by other adult asylum seekers who they may need to share a House of Multiple Occupation with (the most common form of asylum housing).

4 The Welsh Government's concerns relating to the use of scientific methods in age assessments and regulations regarding the assessments, including:

- a. the appeal process;
- b. any implications for the Welsh Government's implementation of the United Nations Convention on the Rights of the Child;
- c. any implications for the mental health of individuals being subject to scientific age assessment techniques;
- d. any implications for community cohesion that would directly arise as a result of subjecting individuals to scientific age assessment techniques.

We are opposed to the use of medical examinations as determinants of age. The science underpinning the determining of age is inconclusive and unclear. Our view is that subjecting young people to often invasive medical examinations is morally wrong. As an example, I refer to the aforementioned response by the British Dental Association's consultation response³. The Royal College of Paediatrics and Child Health⁴ and the Royal College of Nursing have also recently expressed concerns about these proposals.⁵

Currently age assessment decisions made for immigration purposes are not binding on local authorities. However, under clause 53(5) of the Bill a determination by the First Tier Tribunal of an appeal is binding on a local authority even where the appeal concerns a decision by the NAAB for immigration purposes. This could lead to holistic and detailed assessments carried out in accordance with the Welsh Government Age Assessment Toolkit being overturned, on the basis of decisions which have been made based on evidence gathered using processes which are antithetical to the approach of the Toolkit, such as "scientific methods" which are highly contested and have wide margins of error. A Welsh local authority in such a position would be subject to two conflicting statutory duties.

The Bill will put the age assessment process on a separate statutory footing outside of the 2014 Act. A separate statutory footing which appears to be in conflict with the aims of the 2014 Act and the duty of local authorities under section 7(2) of that Act to have due regard to the UNCRC when exercising functions in relation to a child who may have needs for care and support.

It is notable in this regard that the Committee on the Rights of the Child gave guidance on age assessment in a General Comment in 2017 which included confirmation that: "States should refrain from using medical methods based on, inter alia, bone and dental exam

³ British Dental Association written response to the [Nationality and Borders Bill \(21st September 2021\) \(parliament.uk\)](#)

⁴ [Refugee and unaccompanied asylum seeking children and young people - guidance for paediatricians | RCPCH](#)

⁵ [RCN expresses concern over Nationality and Borders Bill | RCPCH](#) | [College of Nursing](#)

analysis, which may be inaccurate, with wide margins of error, and can also be traumatic and lead to unnecessary legal processes.”⁶

Local authorities in Wales use a trauma informed approach to carrying out age assessment. The aim is to reduce the risk of re-traumatisation and to promote positive outcomes and mental well-being. We know from research in Wales that adversity experienced by unaccompanied asylum seeking children includes parental separation and loss, child abuse and exploitation particularly on the journey, witnessing or experiencing violence and lack of social and emotional support to cope with adversity that may have been provided by parents.

As such, it is our view that locally based social workers who have established a connection with a child and/or young person are best placed to assess age. These assessments are based upon a ‘Merton compliant’ (*R(B) v London Borough of Merton, 2003*) assessment where social workers are likely have spent considerable time understanding the capacity of the young person being assessed. Although the format of assessments which the NAAB would use have not yet been explained, the recent decision that centralised Home Office age assessments were unlawful made clear that assessments were often completed within an hour with the young person.

Community cohesion impacts may arise without criminality because conflicting views of a child’s age may mean young people are left in limbo in local authority-provided accommodation (provided due to care and support needs) because the Home Office will not recognise the child’s age and therefore will not accept the type of asylum application being submitted. In such circumstances, children are likely to be increasingly isolated and have deteriorating mental health and other outcomes which will impact on community cohesion over time.

There is also a risk that young people may remain in the Home Office-provided adult asylum accommodation leaving the young people particularly vulnerable to exploitation for fear of voiding their asylum claim if they left the property.

Where the Secretary of State disputes the findings of local authority age assessments and refers the matter to the NAAB for a further age assessment, this is likely to have the effect of undermining public faith in institutions. Repeated instances of this may lead to protest.

Financial implications

5 Further information on any potential financial implications associated with the provisions in the Bill and how they will be accommodated within the Welsh Government’s financial planning.

The impact assessment conducted by the Home Office is silent on the financial implications of this Bill.

There will clearly be financial implications in relation to the proposed use of ‘scientific methods’ to assess age. It is presumed this will only be done within a health setting, either

⁶ UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW), Joint general comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return, 16 November 2017, CMW/C/GC/4-CRC/C/GC/23, para. 4, available at:

commissioned from private healthcare or within the NHS. This could have direct costs for local authorities and consequential impacts on health service capacity.


There is a strongly likelihood of lengthy, costly legal challenge.

The Home Office provides some funding to local authorities to support unaccompanied asylum seeking children. However, they will not recompense where a Welsh local authority considers someone a child but the Home Office disagrees.

We will be seeking further information about the financial implications from Home Office if the Bill is passed.

I hope my reply is helpful.

Yours sincerely,

A handwritten signature in black ink that reads "Jane Hutt". The signature is written in a cursive style with a long horizontal stroke above the first letter of "Jane".

Jane Hutt AS/MS

Y Gweinidog Cyfiawnder Cymdeithasol
Minister for Social Justice



Welsh Government Response to the Home Office's New Plan for Immigration – June 2021

Introduction

1. The Welsh Government welcomes the opportunity to comment on proposed changes to refugee and asylum seeker policy. There is shared ground between our organisations – and many other stakeholders – that the system is currently not fit-for-purpose.
2. The following comments provide the Welsh Government's initial views on the Home Office's New Plan for Immigration consultation paper but the pre-election period in Wales which almost exactly coincided with the consultation period, has prevented us gaining a full understanding of the proposals. We would welcome meaningful engagement with the Home Office as we believe some areas of the proposals relate to devolved responsibilities, and other areas will have a significant impact upon Wales.
3. This response provides general reflections on the *New Plan for Immigration* proposals, before outlining specific proposals which the Welsh Government welcomes. This is followed by our significant concerns with the consultation paper proposals. In the final part of this paper we reflect on areas of the immigration system which are in urgent need for reform.
4. Welsh Government proposals to improve, extend or revise proposals will be written **in bold text**.

General reflections

5. The *New Plan for Immigration* sets out many proposals for reforming the immigration system but many of these are vague, and alternative options which could be considered are not explored.
6. We believe that this consultation has not followed the Gunning Principles¹ in several important ways and **the UK Government should further consider the proposals with reference to these Principles and provide a revised paper for consultation**.

¹ [Law Wales - What are the requirements for any consultation that is carried out? \(gov.wales\)](https://gov.wales/law-wales-what-are-the-requirements-for-any-consultation-that-is-carried-out/)

7. The paper uses several inaccurate claims about those claiming asylum in the UK. This includes the suggestion that asylum seekers “should be claiming asylum” in other European states, which is not a legal requirement. The paper repeatedly conflates the terms ‘illegal migration’, ‘foreign national offenders’ and ‘asylum seekers’ which are all different concepts which need a nuanced explanation (Gunning Principle 2).
8. The paper seems to overlook a major cohort of asylum seekers – those who arrive in the UK through clandestine methods but claim asylum at the first opportunity. The Refugee Convention and UK legislation recognise this type of entry and envisage circumstances where imposing penalties may not be appropriate. However, the consultation paper is silent about what provisions will be available to this large cohort. The paper claims that 62% of asylum claims are made by those entering illegally but this is false – individuals may have entered through clandestine methods but not necessarily unlawful. This misrepresentation prevents intelligent consideration and response (Gunning Principle 2).
9. The plan does not present any alternative options for consideration by stakeholders. There are many different ways which the asylum system could be reformed (we provide some throughout this paper) but the UK Government is not providing stakeholders with the information required to make their own judgements on appropriate courses of action (Gunning Principle 2).
10. The consultation paper also makes inappropriate conclusions based upon outlier data relating to 2020. The pandemic and associated travel restrictions means that the asylum estate was forced to swell in size (despite arrivals into the UK reducing) and returns of those refused asylum or foreign national offenders was also bound to reduce. The claim that there was a “rapid intake” of asylum seekers or that 42,000 refused asylum seekers living in the UK shows that the system is broken are misrepresentations of the facts (data from 2019 showed a downturn until the pandemic hit)(Gunning Principle 2).
11. The consultation paper makes frequent claims that individuals are abusing the asylum system, judicial reviews, or the Modern Slavery National Referral Mechanism, but this is only ever backed up by anecdotes. We need to be able to see the quantitative data underpinning these claims, as well as alternative proposals which could be considered, to make intelligent comment (Gunning Principle 2).
12. The lack of clarity in the proposals may suggest that these proposals are at a formative stage but Home Office officials have made clear that the Borders Bill will be introduced to Parliament before summer recess. Therefore, it seems unlikely that these proposals genuinely are at a formative stage, as required by Gunning Principle 1.

Positive aspects of *New Plan for Immigration proposals*

ILR for Refugees

13. We strongly welcome the Home Office's proposal to grant immediate Indefinite Leave to Remain (ILR) to refugees. We know that the vast majority of refugees resettled to Wales cannot return to their country of origin within 5 years of arrival and most will apply for ILR. The current delay in being able to apply for ILR causes uncertainty and prevents refugees from fully rebuilding their lives as quickly as possible in the UK.
14. We would welcome a commitment from the Home Office to **apply eligibility for this policy retrospectively to any resettled refugee already living in Wales.**
15. We would also welcome **this policy being extended to any former asylum seeker living in Wales who has been granted refugee status, as well as any future asylum seekers who are granted refugee status.**

Review of Family Reunion routes

16. We agree with the Home Office that 'safe and legal routes' to International Protection are improved. The proposal to review the refugee family reunion routes is welcome but we expected to see some firm proposals about how family reunion provisions would be strengthened.
17. It is crucial that refugees living in Wales are able to be reunited with family members who they may have been separated from for a variety of reasons. We know that where refugees are able to live in the UK as family units, their outcomes are generally better than those who are unaccompanied.
18. The European Court of Human Rights and UK courts have recognised that family unity is "an essential right of refugees and that family reunion is an essential element in enabling persons who have fled persecution to resume a normal life." Current Family Reunion rules do not reflect the diversity of family units which are likely to have formed due to the very nature of the war and persecution which refugees will be fleeing from. It is more common that dependent relationships will exist between siblings, aunts or uncles, or grandparents, due to the likelihood that parents may have been killed in the country of origin.
19. In our view, the **definition of "family members" must include (at least) a person's:**
 - (a) parent, including adoptive parent;
 - (b) spouse, civil partner or unmarried partner;

- (c) child, including adopted child, under the age of 18;
- (d) sibling, including adoptive sibling, under the age of 18;
- (e) aunt and/or uncle, where the individual's parent is no longer living or cannot seek International Protection;
- (f) grandparent, where the individual's parent is no longer living or cannot seek International Protection;
- (g) other persons the Secretary of State may determine as being an important member of the family unit who should be permitted to come to the UK in the best interests of the child.

20. The proposal to restrict family reunion rights to those granted 'temporary protection status' under these measures will also likely cause disastrous unintended consequences. Often male asylum seekers will first make dangerous journeys to the UK to seek International Protection, whilst women and children are more likely to follow on afterwards. The proposal to limit family reunion rights to those who enter the UK through clandestine methods will likely lead to more women and children making dangerous journeys into the UK, as there will be no other prospect of being reunited as a family.

21. We will talk about temporary protection status later in this paper but, at the very least, **we urge the UK Government to drop the proposal to limit family reunion rights**. We believe that this policy is incompatible with the 1951 Refugee Convention and the UK Government's own stated aim to reduce the number of dangerous crossings via these proposals.

Multi-year commitment to resettlement

22. We welcome the UK Government's proposal to develop multi-year resettlement programmes. The Syrian Vulnerable Persons Resettlement Programme was a remarkably successful project and we would welcome further similar schemes to be developed as a safe and legal route to resettlement.

23. We also support the principle of providing a route to settlement in the UK from regions where conflict is happening. Many of the most vulnerable refugees will not be able to make arduous and dangerous journeys to the UK.

24. Nevertheless, resettlement must not come at the expense of supporting the asylum system. Both routes must continue to operate in line with the spirit and letter of the Refugee Convention.

25. The consultation paper provides insufficient details about the multi-year commitment and introduces uncertainty where targets will be "guided by circumstances and capacity at any given time." Having a firm target to aim for was critical in ensuring Welsh local authorities were able to play a full part in this system under the Syrian scheme.

26. We propose that the UK Government sets an unwavering, indefinite minimum commitment for those it aims to resettle to the UK each year. The Syrian resettlement programme has shown that **the UK can support at least 4,000 people per year through this type of scheme** and we would urge the UK Government to be more ambitious than this.
27. The Welsh Government would be very happy to support the UK Government in promoting Welsh local authority participation in a scheme which had **similar financial and coordination support as the internationally renowned Syrian scheme**.

Exceptional discretionary assistance to people in country of origin

28. The consultation refers to building a more flexible system which enabled the UK Government to support those who are at very high risk around the globe. This will enable discretionary assistance to people still in their country of origin.
29. We welcome this proposal as we have seen numerous examples of persecuted minorities living in Internally Displaced People camps who are in need of support but cannot receive it. However, more details need to be provided about how this proposal would work in practice.
30. For those in this situation, there will be a time critical need for resettlement but the current resettlement schemes can take a significant amount of time for appropriate housing, medical and school needs to be assessed and catered for. The UK Government will need to ensure there is ready supply of accommodation and other services to ensure resettlement can happen quickly.
31. It is unclear whether those arriving under this method would be granted ILR or some form of temporary protection. This needs to be clarified.

Tailored support to help refugees to integrate

32. The Welsh Government strongly agrees with the principle that Government should support refugees to integrate more quickly and effectively into society. We are encouraged by the UK Government's proposal to develop tailored and flexible employment support arrangements and packages of support, such as language training and skills development, in England.
33. Responsibility for migrant integration including, amongst other things, language tuition, skills development, community cohesion, and similar integration activities, is **devolved** to the Welsh Government.

34. For several years, the Welsh Government has invested significantly in improving the integration of refugees in Wales, with a primary focus on English language tuition through the development of ESOL Hubs. Our ReStart: Refugee Integration Project has also developed employability programmes and supported the holistic assessment of refugee needs. Similar schemes would be considered by the Welsh Government if consequential funding was made available.
35. The consultation paper makes reference to the 'UK' rather than 'England' when discussing these measures, which we believe to be an oversight. **We understand from meetings with UK Government officials that the intention would be to provide this integration package in England and provide consequential funding to the Welsh Government. We would welcome this outcome.**

Problematic proposals

Temporary Protection Status

36. The consultation paper seemingly aims to redefine the interpretation of Article 31 of the 1951 Refugee Convention but without ever explicitly stating this. Article 31 prohibits the penalisation of refugees on account of their illegal entry or presence if they have come directly from a territory where their life or freedom was threatened, present themselves without delay, and show good cause for their illegal entry or presence. The proposal to introduce a 'temporary protection' status hinges on the definition of the word 'directly' in Article 31.
37. The UNHCR has made clear that the meaning of this word in Article 31 is that it was *"Refugees are not required to have come directly from territories where their life or freedom was threatened. Article 31(1) was intended to apply, and has been interpreted to apply, to persons who have briefly transited other countries or who are unable to find effective protection in the first country or countries to which they flee. The drafters only intended that immunity from penalty should not apply to refugees who found asylum, or who were settled, temporarily or permanently, in another country."*²
38. UK jurisprudence has similarly interpreted Article 31 in the same way as stated above by UNHCR.³ Reinterpreting this article with a literal or

² Paragraphs 10 (b) and 10(c), *Summary Conclusions: Article 31 of the 1951 Convention*, UNHCR, June 2003: [Refworld | Summary Conclusions: Article 31 of the 1951 Convention](#)

³ R v. Uxbridge Magistrates Court and Another, Ex parte Adimi [1999] EWHC Admin 765; [2001] Q.B. 667, United Kingdom: High Court (England and Wales), 29 July 1999, para. 18, available at: www.refworld.org/cases,GBR_HC_QB,3ae6b6b41c.html; R v. Asfaw [2008] UKHL 31, United Kingdom: House of Lords (Judicial Committee), 21 May 2008, para. 15, available at: www.refworld.org/cases,GBR_HL,4835401f2.html; R. and Koshi Pitshou Mateta and others [2013] EWCA Crim

geographical interpretation undermines the spirit and intent of the 1951 Convention.

39. The *New Plan for Immigration* does not explicitly state that the UK Government intends to reinterpret the meaning of the word 'directly' in Article 31. However, the consultation implies that those who arrive through clandestine methods and then seek asylum at the earliest opportunity will only be eligible for 'temporary protection' status and be considered to have illegally entered the UK. Current UK law recognises that individuals may have needed to travel to the UK through clandestine methods to seek international protection.
40. **If the UK Government intends to introduce a 'temporary protection' status it must only apply to those who could not be considered to have transited through other countries on their way to the UK in the manner which has been accepted as 'direct' through previous jurisprudence relating to the 1951 Convention.**
41. It is not clear whether the temporary protection status would confer any rights for recipients to work, claim homelessness assistance, social security payments or any other 'Public Funds'. **Our view is that those seeking asylum who have been granted this status should not be subject to a 'No Recourse to Public Funds' condition.** If such a condition is applied it will substantially undermine their ability to integrate with Welsh communities and undermine our ability to implement **devolved** responsibilities in this area.

Asylum Reception Centres

42. We have substantial concerns regarding proposals for 'asylum reception centres' in the UK. Whilst '*immigration, including asylum and the status and capacity of persons in the United Kingdom who are not British citizens*' is a reserved responsibility of the UK Government, **the integration of migrants with host communities is devolved to the Welsh Government in Wales. With the detail provided in the *New Plan* we cannot see how the proposal for reception centres is compatible with our *Nation of Sanctuary Plan* which seeks to integrate asylum seekers into Welsh communities from day one of arrival.**
43. If asylum seekers are located in facilities which prevent easy formation of neighbourly relationships with those ordinarily resident in Wales and

1372, United Kingdom: Court of Appeal (England and Wales), 30 July 2013, LJ Leveson, para. 21(iv), available at: www.refworld.org/cases,GBR_CA_CIV,5215e0214.html; Decision KKO:2013:21, Finland: Supreme Court, 5 April 2013, available at: www.refworld.org/cases,FIN_SC,557ac4ce4.html; also see UNHCR, Guidance on Responding to Irregular Onward Movement of Refugees and Asylum-Seekers, para. 39, September 2019, www.refworld.org/docid/5d8a255d4.html.

difficulties accessing mainstream services, **we would oppose the development of such facilities in Wales.**

44. The Planning system is devolved to the Welsh Government and **we would need further details of the proposed design and operation of these reception centres to understand how they would comply with our Planning Policy Wales** and associated Technical Advice Notes.
45. Our recent troubling experience of Home Office use of the Penally army training camp as asylum accommodation has given us serious cause for concern. Many individuals were inappropriately transferred into the site and welfare considerations were not given the paramount importance they merit. **Any reception centre would need to have ready and appropriate access to specialist services, from post-traumatic stress counselling, to legal advice, medical services and English language tuition, as well as internet access to connect with family and wider support services.**
46. The *New Plan* does not explain how those claiming to be children, those who have faced persecution due to their gender identity or sexual orientation, or those who claim to have experienced trauma would be considered for relocation to reception centres. **It would always be inappropriate to locate anyone where age is disputed in these centres, whilst many in the other cohorts should also not be accommodated in this way – with very carefully considered safeguards for those who are.**

Streamlining asylum claims and appeals

47. Firstly, it is important to state that the flowchart on page 25 gives an unhelpful and confusing picture which undermines any consultation responses which may have been received. The flowchart is titled '*Simplified typical asylum appeals process: at a glance*' and therefore gives the impression that this is how the Home Office intends the process to operate if *New Plan* proposals are implemented. In fact, the flowchart shows the existing system.
48. There is currently theoretically a 'one-stop' process for asylum claims but claimants' circumstances, access to good legal advice and expert evidence very often prevent full evidence being provided upfront. Though there are undoubtedly some unmeritorious or spurious claims put forward, many genuine claims are ultimately successful following submission of new evidence which could not be presented earlier. **In theory, providing more generous access to legal advice sounds positive but we need to understand what this would amount to in practice.**
49. The proposal to extend the 'Fixed Recoverable Costs' regime to immigration-related judicial reviews does not appear to be fair when it is considered that those bringing such claims are likely to be destitute. The risk of costs being

awarded against such individuals is likely to have a chilling effect on claimants and undermine the principle of an appeals process. **The UK Government should abandon this proposal.**

50. We are concerned by the proposal to introduce a “panel of pre-approved experts (e.g. medical experts) who report to the court or require experts to be jointly agreed by the parties.” It appears contradictory that the independence of experts would be put beyond doubt by the Home Office creating such a panel. If the panel of experts does not contain the necessary expertise required for a particular case, this could itself be grounds for a legal challenge, undermining the rationale for making such a change.

Inadmissible claims and removal

51. The *New Plan* proposals around inadmissible claims relate to the reinterpretation of Article 31 of the Refugee Convention, as detailed above. The UNHCR have stated that “international refugee law prohibits penalisation of irregular entry” and these proposals appear to flout this.

52. Where individuals have been considered to have inadmissible claims for UK asylum, the UK Government would seek to rapidly return them to ‘another safe country’. Part of the UK Government’s rationale for this is that those seeking asylum here could have claimed asylum in other EU Member States from where they have embarked. However, due to EU Withdrawal there are no return agreements in place with these countries and some countries have explicitly ruled this out without the UK adopting reciprocal arrangements.

53. The *New Plan* also states that ‘*we will also pursue agreements to effect removals to alternative safe third countries.*’ We do not agree with the general principle of the UK Government off-shoring our responsibilities to third countries. If this proposal was implemented, we would at least expect there to be clear connections between those seeking asylum in the UK and the third country where they may be relocated. A clear framework for when this could and could not be used would also be required. **International refugee law opposes the externalisation of international protection responsibilities without necessary safeguards.**

54. The *New Plan* proposes amending sections 77 and 78 of the Nationality, Immigration and Asylum Act 2002 to enable asylum claims and appeals to be processed outside the UK. The paper claims that this is simply to “*keep the option open, if required in the future, to develop the capacity for offshore asylum processing.*” The off-shoring of the UK’s asylum responsibilities to third countries would encourage other nations to do likewise and thereby undermine the international standing which the UK currently has in terms of providing international protection. It will be far harder for the UK to utilise ‘soft power’ in its foreign diplomacy if such policies are implemented.

55. Furthermore, we are concerned that such proposals may impact upon continuity of care or legal advice where asylum seekers who were located in Wales are transferred abroad.

56. As a general point of principle, legislation should be a last resort where other policy levers are insufficient. The consultation paper suggest that alternative levers have not been exhausted as this power would only be held in reserve for the future. If the legislative powers are not required now then statute should not be amended in such a far-reaching way now. **We urge the UK Government to withdraw this proposal, at least until such time that the evidence demonstrates that it is required and it has been developed further with alternative options put forward for consultation.**

Age assessment

57. We note the proposals to establish a National Age Assessment Board (NAAB) and the potential use of 'scientific' methods to determine age. There are references to legislating for age assessment criteria, staff who are not qualified social workers undertaking such assessments and potentially requiring social workers to refer to the NAAB in respect of age disputes. Also, for a new appeals process.

58. In Wales, we treat all unaccompanied asylum seeking children as looked after children in line with Part 6 of the Social Services and Well-being (Wales) Act 2014. The Act also provides for a range of assessment functions and we treat the assessment of age as part of the 'what matters' assessment functions provided for in Part 4 of the Act. **Social services, including social care is a devolved matter and as such, all legislative and policy decisions relating to social services are for Senedd Cymru and the Welsh Ministers.** The New Plan proposals as currently set out, do not recognise the devolved context therefore it is important for us to state that **any legislation to be made which impacts on these devolved functions would be subject to Legislative Consent Memoranda being made in the Senedd. And of course, any legislation UK Government creates is required to be informed by existing case law in this area**, not least *Merton* but also, for example, *AB v Kent County Council* (2020) EWHC 109 (Admin).

59. While we understand from our officials meeting with Home Office officials on 27 May, that the NAAB is to be an England-only body, we still feel it important to comment on the proposal. Little information is provided about the constitution and functions of the NAAB. Again, the full devolvement of social services functions to Wales appears not to have been considered in that there are no specific proposals about the representation of Wales (or Scotland and Northern Ireland). The function of assessment is a core duty for social workers and the assessment of age is part of this. **We do not support any diminution of the lead, authoritative role for social workers in this**

function and this includes legislating for officers without the required expertise, experience and skill in conducting these assessments. Over recent years, we have asked for information about the training immigration officers receive in assessing age in line with Welsh social services and UNCRC legislative requirements. This has never been provided. Overall, we are concerned about any UK Government centralising of processes which could diminish existing Welsh national duties and functions in this space. **We need to see detailed draft clauses to understand more about what you are trying to achieve and to enable a more detailed response.**

60. The UK Government’s statistical release on 27 May in respect of age assessment determinations, reveals an interesting picture. It demonstrates the potential consequences of centralising the age assessment function under the direct control of the Home Office including carrying out age assessments. We understand that such shorter form assessments are being challenged and the outcome of that challenge together with existing case law as mentioned above, will no doubt inform any future guidance you produce.

Date of age dispute	Year ending Mar 2020	Year ending Mar 2021	Change in the latest year	% change in the latest year
Age disputes raised ²	632	791	+159	+25%
Age disputes resolved ^{3,4} (Total)	679	693	+14	+2%
Under 18 (Age group of Age disputes resolved)	420	258	-162	-39%
18+ (Age group of Age disputes resolved)	259	435	+176	+68%

61. While we could consider supporting a legislative basis for guidance in respect of the age assessment function, any legislation would be made via the 2014 Act. Wales has its own Age Assessment Toolkit (first published in 2015) which is well recognised and used by social workers. An updated version is to be published imminently. In it, there are clear statements about the use of medical reports, specifically in respect of the unreliability of and lack of any evidential basis to medical examinations as a means of determining age. Such reports are not to be requested or used as part of the age assessment process unless in very narrow circumstances and then only as part of a multiagency, holistic process which draws on a wide range of factors. **We also strongly believe that such examinations are morally unjustifiable, degrading and are in conflict with individuals’ human rights.**

62. We also agree with the UNHCR’s view ‘that medical age assessment methods remain highly contested and are subject to a high margin of error.

The evidential value of such methods remains contested by UK courts and in other jurisdictions, and by medical professionals and associations. In addition to being subject to a high margin of error, medical methods used for age assessment can be potentially harmful (such as those that involve exposure to radiation through x-rays). For this reason, dental x-rays have previously been ruled out for use in assessing age in the UK by the UK Home Office citing the British Dental Association's views⁴ that they are "inaccurate, inappropriate and unethical". **The Committee on the Rights of the Child further confirmed in 2017 that "States should refrain from using medical methods based on, inter alia, bone and dental exam analysis, which may be inaccurate, with wide margins of error, and can also be traumatic and lead to unnecessary legal processes".**⁵

63. The Royal College for Paediatrics and Child Health further state: *"there is no single reliable method for making precise age estimates. The most appropriate approach is to use a holistic evaluation... It is therefore important for paediatricians, when contacted, to explain to social workers that dental x-rays, bone age and genital examination will currently **not** add any further information to the assessment process."*⁶ The College adds *"the margin of error can sometimes be as much as five years either side with medical tests."* And the British Medical Bulletin research⁷ highlights that the influence of ethnicity, genetic background, nutrition, deprivation, previous and current illnesses - especially endocrine diseases – can all have profound effects on physical development, skeletal and dental maturity.

64. Your Equality Impact Assessment will, we are sure, have established the same and other significant concerns in all of these regards.

65. In terms of a new appeals process, any new process which is or appears to have a lesser standing or is limited in any way by comparison with JR, would not be one we would support. Again, we need to see further detail by way of draft clauses to enable a more detailed response. We do, however, **agree that introducing an appeals process where currently none exists, is a desirable proposal.**

66. In conclusion, we agree with Refugee Rights Europe that the proposals are 'too concerned with the over-publicised myth of an adult being placed in a school...' and 'dangerously exacerbates existing narratives and myths that depict asylum-seeking adults posing as children as a common occurrence.'⁸ We also agree with UNHCR's view that 'policy or legislation which allows

⁴ <https://www.ein.org.uk/news/british-dental-association-says-x-rays-should-not-be-used-establish-age-young-asylum-seekers>

⁵ [UNHCR - UNHCR Observations on the New Plan for Immigration UK](https://www.unhcr.org/uk/news/2017/04/unhcr-observations-on-the-new-plan-for-immigration-uk)

⁶ <https://www.rcpch.ac.uk/resources/refugee-unaccompanied-asylum-seeking-children-young-people-guidance-paediatricians#age-assessment>

⁷ <https://academic.oup.com/bmb/article/102/1/17/312555>

⁸ [New Age Assessment Rules for Asylum- Seeking Young People – Refugee Rights Europe \(refugee-rights.eu\)](https://www.refugeerights.eu/new-age-assessment-rules-for-asylum-seeking-young-people)

asylum-seekers to be treated as adults based on brief assessments of physical appearance and demeanour by immigration officials creates a considerable risk of children being subjected to adult procedures and of a violation of their rights under the Convention on the Rights of the Child and the 1951 Convention.⁹

67. Finally, we wish to remind you that the Rights of Children and Young Persons (Wales) Measure 2011 brought into Welsh domestic a requirement to have regard to the UNCRC. Welsh Ministers were clear in their Senedd election manifesto that they will ‘continue to uphold the rights and entitlements of unaccompanied asylum seeking children.’ We are proud to take a ‘child first, migrant second’ approach which upholds the best interests, rights and entitlements of children in Wales. **Any policy proposal which appears to diminish this statutory position is not one which we would support.** This includes the large majority of those set out in the New Plan.

Supporting victims of Modern Slavery

68. We do not oppose the proposal to consult on a definition of “public order grounds”. However, we urge the UK Government to reconsider the proposal to focus on “*serious criminality (specifically, where there is a prison sentence of 12 months or more) or risks to national security.*” Given that trafficking victims are likely to have been forced to participate in serious criminality in many cases, this seems wholly inappropriate.

69. The *New Plan* cites the example of Germany as an inspiration for consulting on a new definition of “public order grounds” but Germany chose to define this as “*the continued stay of the foreign national would be detrimental to public safety and order or other substantial national interests.*” **We would urge the UK Government to consult on a similar definition, rather than create an unfair barrier to victims who have committed serious criminality through duress.**

70. It is positive that temporary leave to remain will be possible for modern slavery victims and survivors who are helping the police with prosecutions but **we would urge UK Government to offer ILR instead to enable victims and survivors to finally rebuild their lives after the trauma they have experienced.** This will also likely undermine the ability of perpetrators to control victims by encouraging further victims to come forward.

⁹ [UNHCR - UNHCR Observations on the New Plan for Immigration UK](#)

Removal of failed asylum seekers

71. The *New Plan* states that the Home Office will be “*working with local authorities and partners [to] seek to enforce returns – including removing asylum support for individuals who fail to comply with our attempts to return them.*” It is unclear how local authorities are expected to support this objective but many functions undertaken by Welsh local authorities relate to devolved responsibilities – including community cohesion, homelessness and social services. **We need further information about how the Home Office intends Welsh local authorities to support their intention to remove refused asylum seekers.**
72. We agree that the current system too often leaves refused asylum seekers (who are appeal rights exhausted) in a limbo situation in Welsh communities, leaving them vulnerable to exploitation and destitution. However, **our suggestion would be for enhanced support for voluntary returns packages with increased funding support available.**

Opportunities for improvements which should not be missed

Asylum seeker Right to Work

73. The Immigration White Paper (2018) included a commitment to review the right to work for asylum seekers whilst they await a decision on their claim. **The Welsh Government fully supports a proposal to extend the right to work for all asylum seekers from 6 months of arrival in the UK, regardless of Shortage Occupation List roles or any other requirements.** It makes good economic, social and well-being sense to make this alteration – as articulated by the Lift the Ban campaign.
74. This Right to Work would extend until an individual has become Appeal Rights Exhausted or been removed from the UK. After three years, there appears no sign of the review promised in 2018. However, this legislative vehicle provides a golden opportunity to make this positive change. If UK Ministers are concerned about potential unintended consequences, **we propose that a sunset clause is added to the Borders Bill which enables this change to be reversed after 5 years or the sunset clause removed by secondary legislation if enacted before then.**

Case management system for asylum seekers

75. A major obstacle for a well-functioning asylum system is that many asylum seekers simply do not understand what the status of their case is. Many voluntary organisations devote substantial time and effort to help increase understanding and resolve issues but the job is difficult and time-consuming. **We propose the development of an accessible case management system which asylum seekers can utilise (along with their case workers**

with consent) to enable them to track the progress of their case and more easily understand if any actions are required.

British citizenship for children born to migrant parents

76. The *New Plan* includes a section seeking to end anomalies and deliver fairness in British Nationality laws. **The most significant improvement which we believe the UK Government should make – but which is missing from this paper – is to bestow a clear right to British citizenship to any child born in the UK to migrant parents.** From Windrush to the EU Settled Status system (and many other examples along the way), the current lack of a right to UK citizenship for children in these circumstances has led to unfair and unforeseen hardship.
77. ‘Birthright citizenship’ (also known as ‘*jus soli*’ citizenship) exists in many other countries (including the USA and Canada) but has not existed in the UK since the British Nationality Act 1981. Growing up in the UK without the guarantee of citizenship (or at least Settled Status) is not in the best interests of children and these members of society should not be penalised by any choices which were made before they were born.

‘Public Funds’ regime

78. It is clear that prohibiting access to specified ‘Public Funds’ in the Immigration Rules is a cornerstone of UK Government immigration policy and the principle is likely to be retained. We understand the policy intention behind the use of ‘No Recourse to Public Funds’ (NRPF) conditions but we urge the UK Government to revise the way it implements this concept.
79. The current system creates confusion because the list of Public Funds includes both specific funds and general areas of prohibited support. **We urge the UK Government to only feature specific funds in this list and make it clear that any support which is not listed is permitted.**
80. We have been prevented from exercising our powers sufficiently to fully implement our *Nation of Sanctuary Plan* (devolved integration strategy). This is because our strategy is to support integration from day one of arrival in Wales, regardless of immigration status. Although we have general legislative powers to support the well-being of anyone living in Wales, the (sometimes vague) prohibitions listed in the Immigration Rules make positive interventions sometimes incompatible with UK Government policy. Therefore, **we urge the UK Government to consult with Devolved Administrations to seek agreement before adding a specific Public Fund to the list in the Immigration Rules.**

81. The current NRPF regime creates negative outcomes which we do not believe was the UK Government's policy intent when drafting these rules. **Where an individual cannot be returned to their country of origin for no fault of their own, we do not believe that it is ethical or conducive to public health and community cohesion for these individuals to be subject to NRPF conditions.**

82. It is also imperative that children from migrant families living in Wales are not disadvantaged because of NRPF conditions. The Welsh Government has enshrined the United Nations Convention on the Rights of the Child in law and acting in the best interests of children guides all our work. NRPF conditions which prevent children accessing Free School Meals, Healthy Start vouchers or similar initiatives are opposed by the Welsh Government. **We urge the UK Government to ensure that such prohibitions are outlawed in future.**

Respect for Devolved Administrations

83. Immigration control is a reserved responsibility to the UK Parliament but migrant integration is not (the former is listed in Schedule 7A to the Government of Wales Act 2006¹⁰ but the latter is not). Unilateral UK Government decisions to add public funds to the NRPF regime or to spend funds on integration activities in Wales undermine the Welsh Government's devolved responsibilities.

84. The Welsh Government already spends considerable amounts to support the integration of migrants in our communities but sometimes the UK Government suggests it will fund potentially duplicate or contradictory schemes in Wales. In recent times, we have successfully managed to explain to Home Office colleagues that **this undermines the devolution settlement** and ensured that instead, consequential payments are made to the Welsh Government relating to integration activities implemented in England. Nevertheless, **the UK Government should ensure that their officials adopt this approach as standard.**

85. The UK Government will often refer to a 'tripartite relationship' in the delivery of its migration initiatives. This is intended to mean: (1) the Home Office; (2) Home Office-funded partners (e.g. Clearsprings Ready Homes); and (3) Local Authorities. Though we do not dispute the central importance of these partners, there is a fundamental lack of recognition of the Welsh Government's devolved responsibilities and support services provided to address shortcomings in the existing system.

86. We are very often not involved in the way we would expect. For example, we will be told of major policy changes via the Wales Strategic Migration

¹⁰ Paragraph 29 of Schedule 7A to the Government of Wales Act 2006 "Immigration, including asylum and the status and capacity of persons in the United Kingdom who are not British Citizens".

Partnership rather than through Inter-Ministerial engagement between UK and Welsh Governments.

87. The Home Office will also develop policies with England-only departments (such as the Department of Health, Department for Education or Ministry for Housing, Communities and Local Government), before sharing these policies and expecting them to apply to Wales, despite divergent legislation, policies and structures operating in Wales. The Welsh Government should be involved at an earlier stage on policies and guidance which include or impact on devolved responsibilities.
88. When we request Home Office data to support the Welsh Government to develop policies and initiatives which we believe are necessary for migrant integration in Wales (a devolved responsibility), we are never provided with this in a timely manner. We are currently awaiting anonymised data on the demographic characteristics of asylum seekers in Wales and this process has so far taken well over a year.
89. In recent times, the Ministry of Housing, Communities and Local Government has been given inappropriate responsibilities to coordinate migrant integration initiatives in Wales. These are devolved responsibilities and the role of the MHCLG is not needed or understood.
90. **We request and expect a fundamental improvement in the way the UK Government engages with the Welsh Government in relation to migrant integration.** Initially we expect the issues above to be resolved and then to see improved timely collaboration between our two Governments.

Asylum accommodation

91. The quality of asylum accommodation is one of the most negative aspects of the asylum system at present. An inspection of asylum accommodation in 2018 by the Independent Chief Inspector of Borders and Immigration (ICIBI) showed serious inadequacies in the quality of accommodation in Wales and the implementation of new Asylum Accommodation and Support Contract (AASC) does not appear to have improved things in any meaningful way.
92. **We recommend that the UK Government transfers responsibility for routine inspections of asylum accommodations to either the ICIBI or the soon to be established Office of Migrants' Commissioner.** Such a transfer will need to be accompanied with sufficient resources to enable more regular inspections which includes photographic evidence of findings. Publication of findings should be made via the Home Affairs Select Committee, rather than the Home Secretary.

93. **We also recommend that the Office of Migrants' Commissioner be transferred the resources and operation of the 'independent complaints process' which is currently operated by Migrant Help under the AIRE contract.** The current process is not seen to be independent and the service has so far failed to live up to expectations in terms of service standards and applying accountability to the operation of the AASC contract.
94. **We further recommend that Clearsprings Ready Homes are required to submit photographs to the Home Office showing property conditions before and after asylum seekers have been living in each property and these should be made available on request where complaints are lodged.**
95. The Welsh Government was initially heartened with UK Government confirmation that the new asylum accommodation contracts would comply with the Welsh Housing Quality Standards. These standards make it clear that forced room sharing of adults is not acceptable (amongst other standards). However, despite several attempts to draw attention to this breach of the contract, forced room sharing remains a feature of asylum accommodation in Wales. **The UK Government must ensure Clearsprings Ready Homes discontinue the policy of forced room sharing of adults.**
96. The current arrangements make insufficient provision for asylum seekers who are likely to be exceptionally vulnerable. This particularly includes those who are LGBTQ+ and are forced to share properties with those who have discriminatory views on the basis of sexual orientation or transgender identity. It also includes those who have experienced domestic or sexual abuse, either in the UK or on the journey to the UK. Those with physical or mental impairments may also be disabled by the Home Office's failure to centrally consider these impairments in selecting the location of accommodation. Those who may have been forced to seek asylum due to apostasy or non-traditional religious beliefs may also be placed in a vulnerable position if forced to share properties with those who do not share their beliefs.
97. **We urge the UK Government to overhaul the policy for allocating accommodation – putting the well-being of asylum seekers at the heart of its allocation policy.** Ensuring a better compatibility between those living in shared properties will help the general well-being of all involved.
98. This would mean ensuring there are **LGBTQ+-only properties** available in each area, as well as ensuring **dedicated domestic or sexual abuse counselling and bedspaces** are made available as required. It means ensuring **reasonable adjustments** are made – not only to properties themselves, but also to the location of those properties – to ensure disabled people are properly supported. It also means **ensuring the situations which led to someone fleeing their country of origin are not replicated here in**

Houses of Multiple Occupation, by carefully considering the compatibility of religious views.

Widening asylum dispersal

99. The asylum system has long been founded on the principle of local authority cooperation and consent. Recent experience with the Penally army training camp in Wales was a concerning departure from this long-accepted principle. **We urge the UK Government to recommit to the importance of local authority consent for the placement of asylum seekers in their boundaries.**

100. The Welsh Government is actively involved in seeking to widen asylum dispersal to new areas in Wales. However, we have been clear with UK Government colleagues that the availability of funding to ‘pump-prime’ new areas to receive asylum seekers is essential. Funding would enable the local authority to build internal expertise and professional capacity, to build required partnerships with relevant local stakeholders, to assess gaps in key services and to bridge these gaps as quickly as possible. **We recommend that the UK Government creates a new fund which local authorities can access for at least the first few years of asylum dispersal to their area.**

The ‘Move On’ grace period

101. The UK Government provides a continuation of asylum support when someone is granted refugee status for a 28 day period. **We urge the UK Government to extend this period to ‘up to 56 days’, which would align with Homelessness legislation in both England and Wales.**

102. The current situation means that many recognised refugees fall into destitution and homelessness soon after leaving asylum accommodation. In turn, this undermines the ability of individuals to integrate into Welsh communities.

103. The Welsh Government specifically funds a ‘Move On’ service with comparable services missing in many parts of England, yet we still see these negative outcomes too often. This is a perverse situation where the UK Government recognises an individual’s right to international protection after many months of consideration but then expects them to rebuild their lives within 28 days.

104. **We believe that in most cases the full 56 day period will not be required** – newly granted refugees will be motivated to move onto Universal Credit or into employment at the earliest opportunity as asylum support rates are so low. However, 56 days will provide the necessary breathing space to find sustainable solutions for individuals.

Asylum support rates

105. Asylum support rates are set at an exceptionally low level which intends to meet “essential living needs.” Whilst the Home Office follows a methodology accepted by the Court of Appeal as lawful in setting these rates, that judgement was made in 2014. Since that time, there has been an inexorable change in the needs of all members of society to access online services – particularly but not exclusively during the Covid-19 pandemic.
106. The current setting of rates does not adequately address this fundamental change in circumstances. It seems impossible to claim that access to the internet for asylum seekers during the pandemic was not an essential living need – how else would individuals have accessed translated public health messaging, kept in touch with families, and been able to heed Covid-19 control measures through staying inside?
107. Despite a £20 top-up provided to Universal Credit claimants, this top-up was not provided to asylum seekers. The Welsh Government has intervened to provide free unlimited internet access in all asylum accommodation in Wales for the next stage of this pandemic, in the absence of Home Office provision.
108. The *New Plan* and other Home Office policies are also making a default move to remote hearings and reporting requirements for many situations. Without internet access delivery of this change will be difficult to achieve.
109. **We urge the UK Government to look again at the asylum support rates methodology – to add additional funds to ensure access to internet services and also to consider funds to support the integration of individuals in our communities (e.g. increased transport costs).**
110. The Immigration Act 2016 introduced a provision to enable the cessation of asylum support for families with children who had been refused asylum. A new Section 95A was introduced as an alternative form of support but had to be applied for within 90 days. Thankfully, this change has not been implemented but **we urge the UK Government to abandon it altogether at this opportune moment. We will not tolerate children sleeping rough in Wales** and should Home Office support stop, it is likely that Welsh Social Services duties would be engaged instead. However, this will incur costs on Welsh public services which are avoidable and are only necessary to abide by basic children’s rights requirements.

Data and information sharing

111. It is **imperative that where asylum seekers are transferred to a local area, the Home Office provides relevant information to the local authority and local health board** (Welsh principle local structure responsible for healthcare)

to ensure appropriate considerations can be made for care, well-being and integration support.

112. Information must be shared quickly on a confidential and secure platform to ensure this support is put in place quickly. Where the Home Office needs to move an individual to another area, they should update all relevant partners in both the receiving area and the area of departure – facilitating continuity of care.
113. Where individuals receive refugee status, the local authority housing team will need to be made aware urgently to start the move on process as quickly as possible. Similarly, where an individual is refused asylum local authority social services teams need to be made aware as they will need to consider whether alternative accommodation must be provided under the Social Services and Well-Being (Wales) Act 2015.
114. The Welsh Government does not need to receive details relating to personally identifiable individuals but **we do expect to receive anonymised data on asylum seeker demographics and trends in support required**. As yet, we have not been provided with the information we have been requesting for over a year.

Quality of decision-making

115. The *New Plan* does not discuss a crucial change which needs to be made to improve the asylum system – the quality of decision-making. In the year ending December 2020, 38% of appeals were allowed, demonstrating the high number of initial decisions which were not as robust as it should have been.
116. We acknowledge that focusing on a ‘one-stop’ legal process is intending to increase the availability of relevant evidence at the initial decision stage but the process of evidence gathering cannot be rushed. There is a dearth of good immigration legal advice in many parts of the UK, including much of Wales, and this needs to be enhanced to ensure the evidence at initial decision stage is improved.
117. **We recommend that the UK Government works with the Legal Aid Agency and Office of the Immigration Services Commissioner to increase the supply of immigration legal advisors and relevant Legal Aid to support better quality decision making in future.**
118. **We further recommend that the UK Government adopts a less adversarial approach to asylum interviewing.** LGBTQ+ individuals, those sexually assaulted and torture survivors have all previously expressed views

that interviews re-traumatised them and undermined the objective of building a complete case history at this initial stage.

John Davies
Head of Inclusion, Cohesion and Brexit Coordination
Communities Division
Welsh Government

By email:
John.Davies35@gov.wales

XX August 2021

Dear John,

Welsh Government Response to the Home Office's New Plan for Immigration

Thank you for your email of 22 June, which contained the Welsh Government Response to the Home Office's New Plan for Immigration. I apologise for the delay in replying.

I begin by thanking you and colleagues in the Welsh Government for the constructive discussions we have been having on the New Plan for Immigration and the Nationality and Borders Bill. I look forward to further discussions as the Bill moves through the UK Parliament.

The New Plan for Immigration policy statement and consultation

The New Plan for Immigration policy statement, which was published on 24 March, set out in detail proposals for controlling both legal and illegal migration to the United Kingdom. It contained multiple sources of analysis and evidence.

The Home Office considered carefully how to conduct the consultation and a detailed and thorough consultation exercise was conducted. In total, there were 8,590 respondents to the online consultation questionnaire, which included 7,399 individuals who identified themselves as members of the public and 1,191 who identified themselves as stakeholders. There were also extensive engagements, with stakeholder groups, with public focus groups and with groups of those with lived experience of seeking asylum in the UK and with those who were victims/survivors of modern slavery. The consultation was run in line with established principles, and legal duties. [The UK Government response to the consultation was published on 22 July.](#)

The Plan included evidence for particular proposals, including sufficient data, to allow those consulted to give intelligent consideration and an intelligent response. We do not agree that the Plan contains any misleading statements or inappropriate conclusions. We also do not agree that the Plan overlooks the position of those who enter the country illegally. Our intention is indeed to reduce the number of individuals who illegally enter the United Kingdom.

The Plan was published when policies were at a formative stage. The objective of the consultation was to listen to a wide range of views to further inform the proposals set out in the New Plan for Immigration, to enable us to reach a decision on the

content of legislation to be introduced to Parliament. Our consideration of all consultation responses took place before the introduction of the Bill.

The Bill was introduced into the House of Commons on 6 July and passed its Second Commons Reading on 20 July. Commons Committee Stage will commence following summer recess in the autumn. Those interested in the proposals contained in the Bill will of course be able to make representations on the detailed provisions in the Bill in the usual way as the Bill progresses through the UK Parliament.

ILR for Refugees

From October, refugees arriving through the UK Resettlement Scheme will be granted indefinite leave to remain upon their arrival to the UK. Once this change takes place, anyone resettled under the UK Resettlement and Community Sponsorship Schemes from March 2021 will have the option to benefit from the change, free of charge. This will only apply to resettled refugees.

The previous Vulnerable Persons Resettlement and Vulnerable Children's Resettlement Schemes both closed in February 2021. Refugees resettled through these schemes were granted five years' leave to remain, after which they can apply for indefinite leave to remain, free of charge.

Review of Family Reunion routes

The UK family reunion policy has seen over 29,000 family reunion visas issued in the last 5 years, with more than half issued to children. Our policy makes clear that there is discretion to grant visas outside the Immigration Rules, which caters for extended family members in exceptional circumstances – including young adult sons or daughters who are dependent on family here and living in dangerous situations. There are separate provisions in the Rules to allow extended family to sponsor children to come here where there are serious and compelling circumstances.

The UK Government committed to review safe and legal routes to the UK and had a statutory duty to conduct a public consultation on family reunion for unaccompanied asylum-seeking children (UASC) in the EU. This consultation was completed as part of the wider consultation on the New Plan for Immigration. We have carefully considered the responses. [A report on the outcome of the review of safe and legal routes was laid in Parliament on 22 July](#). This includes details of the UK Government's ambition to strengthen our existing policy by providing additional clarity in the Immigration Rules on the exceptional circumstances where we would grant leave to a child seeking to join a relative in the UK.

We will continue to allow those arriving in the UK via safe and legal routes to reunite with family in the UK. The UK Government's position is that reducing family reunion entitlements for those granted temporary protection status is a proportionate way of encouraging people to claim asylum in the first safe country they reach and not to undertake dangerous journeys to the UK. But importantly, these individuals will still be able to reunite with family where refusal would breach our obligations under Article 8 of the European Convention on Human Rights. These proposals comply with the 1951 Refugee Convention.

Multi-year commitment to resettlement

We are committed to continue welcoming refugees through resettlement in the years to come. This commitment will ensure we continue to offer safe and legal routes to the UK for vulnerable refugees in need of protection.

This is a multi-year commitment with number of refugees we resettle every year dependent on a variety of factors, including local authorities' capacity for supporting refugees and the extent to which Community Sponsorship continues to grow.

We are grateful to Welsh local authorities for their contribution to the success of our previous resettlement schemes and welcome your offer of help promoting future participation in the new UK Resettlement Scheme.

Our Afghanistan Citizens' Resettlement Scheme aims to welcome 5,000 Afghans in year one, with up to a total of 20,000 in the long-term. We are working urgently to open this route. Further details will be announced in due course.

Exceptional discretionary assistance to people in country of origin

Resettlement programmes provide protection in the UK to those who have been recognised as refugees outside their country of origin. But there can be circumstances whereby someone faces immediate danger whilst in their country of origin and is therefore not eligible under our refugee resettlement programmes. This proposal is designed for such circumstances. In truly exceptional and compelling cases, the Home Secretary will be able to act swiftly to allow internally displaced persons into the UK, using their discretion under Section 3 of the Immigration Act 1971 to grant leave outside the rules to enter the UK. More details regarding subsequent entitlements once in the UK will be set out in due course.

Tailored support to help refugees to integrate

We recognise that integration is devolved in Wales, and we are grateful for the work the Welsh Government has been undertaking over the past few years. We believe there is much that we can learn from each other. We note your comments about funding and look forward to further discussions.

Temporary Protection Status

In line with Article 31 of the Refugee Convention, we will pursue differential treatment of those who do not come directly to the UK, do not claim asylum without delay, or fail to show good cause for their illegal entry/presence in the UK. This is aimed at deterring dangerous journeys and upholding the first safe country principle.

A person granted temporary protection status will not be provided with recourse to public funds unless they are destitute or at risk of destitution.

Asylum Reception Centres

Clause 11 of the Bill would allow the Secretary of State to take account of the stage an individual's asylum claim has reached in deciding the particular type of accommodation that might be suitable for their needs. It also allows the Secretary of State to take account of their past compliance with bail conditions and other conditions attached to the provision of support. Full-board accommodation centres are already used to provide housing and other support to asylum seekers and failed asylum seekers who would otherwise be destitute. Expansion of their use will help to increase efficiencies within the asylum system, for example through onsite case working. Faster decisions are in the interests of those with a genuine claim for asylum and help to facilitate their integration into UK society. Individuals accommodated at the centres will have appropriate access to the services they need, either on site or locally.

Plans for accommodation centres are at an early stage of development. At present, however, there are no plans for couples and families to be accommodated at the centres. We welcome further dialogue with the Welsh Government as the proposals develop.

Streamlining asylum claims and appeals

We do not accept that the flowchart on page 25 of the policy document is misleading.

The current appeals system can be slow. As of May 2020, 32% of asylum appeals lodged in 2019 and 9% of appeals lodged in 2018 did not have a known outcome.

The Bill will seek to prevent sequential or unmeritorious claims, appeals or legal action, while maintaining fairness, ensuring access to justice and upholding the rule of law.

There will be expanded access to civil legal aid for those in receipt of a Priority Removal Notice. There will also be expanded access to civil legal aid for potential victims of modern slavery, to enable advice on referral into the National Referral Mechanism (NRM) to be provided as 'add-on' advice where individuals are in receipt of civil legal services for certain immigration and asylum matters.

Proposals around Fixed Recoverable Costs will look to create certainty of costs for all parties, including claimants and their representatives. This will therefore also fix at a reasonable rate the amount of costs that the Home Office can potentially claim from other parties when it successfully defends litigation. The proposals are designed to create a fairer and more reasonable costs schedule for all parties involved in immigration litigation.

It should also be noted that most immigration Judicial Reviews are brought by legal representatives on behalf of claimants, rather than litigants in person, so the notion that the majority of litigants in Judicial Review proceedings are destitute or are without legal representation is not accurate.

We are also now giving further consideration to proposals regarding experts and can confirm that these proposals are not being taken forward through the Nationality and Borders Bill.

Inadmissible claims and removal

We remain committed to upholding our international obligations. The UK Government is clear that asylum seekers should claim in the first safe country they reach – that is the fastest route to safety and it is compliant with the 1951 Refugee Convention.

The UK Government expects our international partners to engage with us, building on our good current cooperation. We will continue to highlight the importance of having effective returns agreements to stop people making perilous crossings.

The UK and EU agreed a joint political declaration which made clear the UK's intention to engage in bilateral discussions with the most concerned Member States, to discuss suitable practical arrangements on asylum, family reunion for unaccompanied minors or illegal migration. We continue to engage in discussions with other countries.

In respect of proposals to permit the processing of claims outside the UK, the UK Government's position is that we must explore every option to tackle illegal migration. We will continue to work with our international partners to meet this joint challenge.

Age assessment

There are very serious safeguarding risks if people over 18 are treated as children and placed in settings with children. Local authority 'Merton' age assessments demand a significant amount of time and resources. Even when completed, assessments are frequently subject to costly legal challenges. In light of this we are committed to supporting local authorities to better achieve swift and sustainable assessment outcomes – including through the establishment of a National Age Assessment Board (NAAB).

The NAAB will be able to undertake age assessments upon the request of local authorities and will work with local authorities to set out the criteria, process and requirements to be followed to assess age.

Welsh colleagues will have noted the recent Supreme Court judgment in the case of *BF Eritrea* regarding initial age assessments carried out by immigration officers on the basis of a 'significantly over 18 threshold'.

The UK is one of very few European countries that does not currently employ scientific methods of age assessment. Assessing someone's age is an extremely challenging task and it is only right we explore how the current system can be improved by harnessing scientific evidence alongside existing methods.

Regarding the proposed introduction of a statutory right of appeal, we welcome the positive response from Welsh colleagues.

On the detailed substance of the proposed measures, Home Office officials have already initiated further discussions with Welsh counterparts and look forward to continued constructive engagement over the coming weeks and months.

Our current devolution analysis, which is set out in the explanatory notes to the Nationality and Borders Bill, is that the age assessment clause contained in the Bill as introduced deals with reserved matters. However, as the Home Secretary noted in her letter to the First Minister of 6 July, we intend to replace this clause with substantive clauses in due course, as policy is finalised. We will continue to engage with you on this, noting your comments about a Legislative Consent Memorandum.

Supporting victims of Modern Slavery

We welcome your engagement on the public order measure and note your concerns. We would like to reassure you that the circumstances of each case will be carefully considered when making decisions about withdrawing support or protections. We are conscious that potential and confirmed victims of modern slavery may be suspected or accused of committing criminal offences as part of their exploitation. The UK Government will continue to engage with partners when operationalising this measure.

We also welcome your positive views on the temporary leave to remain measure. This clause ensures that all confirmed victims without immigration status will be considered for a grant of temporary leave to remain in line with specific criteria. The provision provides for a grant of leave for those victims with ongoing recovery needs stemming from their exploitation, those assisting the authorities with investigations and prosecutions relating to their exploitation and those seeking compensation linked to their exploitation. Temporary Leave to Remain is one form of leave and individuals may be entitled to Indefinite Leave to Remain through other routes.

Removal of failed asylum seekers

We recognise that rough sleepers are some of the most vulnerable people we encounter, and therefore our approach to rough sleepers with insecure immigration status is firstly to engage with them and encourage their compliance with Immigration Rules, through either regularisation of their stay or to voluntary return.

We will indeed continue to signpost individuals to the Voluntary Returns Service (VRS) where support can be provided for their return home. VRS introduced an enhanced reintegration provision in April this year, increasing funding for those who are eligible to between £1500 and £3000. The support differs based on whether the returnee is returning to a country in receipt of overseas development funding or whether they have additional assistance needs. Both failed asylum seekers and those identified as rough sleepers are entitled to reintegration support. Rough sleepers should be referred to VRS by their support worker wherever possible.

The enforced return of rough sleepers would be pursued only as a last resort. The Department is keen to work with local authorities that are engaged with non-UK rough sleepers to work collaboratively in addressing their situation in the UK.

I understand you have an ongoing dialogue with the Home Office Homelessness team regarding the interaction between Welsh local authorities and Immigration Enforcement with regards to rough sleepers. We will be consulting with local authorities and look forward to further discussion with the Welsh Government and Welsh local authorities.

Asylum seeker Right to Work

Asylum seekers are allowed to work in the UK if their claim has been outstanding for 12 months or more, through no fault of their own. Those permitted to work are restricted to jobs on the Shortage Occupation List, which is based on expert advice from the independent Migration Advisory Committee.

It is important to distinguish between those who need protection and those seeking to work here, who can apply for a work visa under the Immigration Rules. Our wider policy could be undermined if migrants bypassed work visa rules by lodging unfounded asylum claims here. Unrestricted access to employment could act as an incentive for more migrants to choose to come here illegally, rather than claim asylum in the first safe country they reach.

The policy remains under review. We thank you for your suggestions and our findings will be communicated in due course.

Case management system for asylum seekers

The Home Office is currently undertaking significant changes to its case management system. This includes a transformation programme. We have no plans at the present time to develop a user interface along the lines you suggest, but the outcome of this programme of work – and the other changes we are making through the Plan – will be a streamlined asylum system with quicker outcomes for claimants.

British citizenship for children born to migrant parents

A child born in the United Kingdom will only be a British citizen if either parent is a British citizen or settled in the United Kingdom (or from 13 January 2010, a member of the armed forces). “Settled” is defined in the British Nationality Act 1981 as being ordinarily resident in the United Kingdom and not subject to an immigration time restriction on their stay. This effectively excludes those whose parents only have limited leave to remain or are here illegally. This means that children whose families have an ongoing connection with the UK can acquire citizenship, and will be able to pass that status on to their own children born overseas, but those whose parents are here temporarily will not.

However, a child born in the United Kingdom who is not a British citizen at birth has an entitlement to register as a British citizen if their parent becomes a British citizen

or settled, or the child lives here for the first 10 years of their life. If a child does not have an entitlement to registration, an application could be made under Section 3(1) of the Act, which is at the Home Secretary's discretion. Whilst we would normally expect one of the parents to be a British citizen, the child could be registered if there were compelling circumstances. In addition, there are provisions for children born in the UK who would otherwise be stateless to acquire citizenship, which enable us to meet our obligations under the Convention on the Reduction of Statelessness. The UK Government has no plans to amend this. Citizenship should be acquired by those with an ongoing connection with the UK. This is the approach taken by many European countries and Australia and New Zealand.

'Public Funds' regime

It is a well-established principle that migrants coming to the UK should be able to maintain and support themselves and their families without posing a burden on the welfare system. Successive UK Governments have taken the view that access to benefits and other publicly funded services should reflect the strength of a migrant's connections to the UK and, in the main, only become available to migrants when they have become settled here with indefinite leave to remain (ILR).

These restrictions are an important plank of immigration policy designed to ensure public funds are protected for the residents of the UK and assure the public that immigration brings real benefits to the UK.

The Home Office has published detailed guidance in respect of public funds at [Public Funds guidance \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/671222/public-funds-guidance.pdf). This provides clarity that benefits and services considered to be public funds are those listed at Section 115 of the Immigration and Asylum Act (1999) or Rule 6 of the Immigration Rules.

The Home Office is committed to consulting widely in understanding how No Recourse to Public Funds (NRPF) policy impacts different migrant groups, including all four nations. We have therefore set up a national NRPF stakeholder forum to work constructively and collaboratively with stakeholders in developing and reviewing policy. This forum includes representatives from the Welsh Local Government Association, other devolved administrations, central government, the NRPF Network, and other third sector organisations with a specific interest in the subject.

Free school meals are not listed as public funds under immigration legislation and the Home Office does not prevent migrants from accessing them. Rather, eligibility for free school meals policy is the prerogative of the Department for Education in England and of the devolved administrations in Wales, Scotland and Northern Ireland.

Respect for Devolved Administrations

We are committed to working with Welsh Government. Our dedicated Wales Team in Cardiff provides the strategic interface between Wales and Whitehall, so that due account is taken of the Welsh context in policy development and implementation, strategy and operations. As you will know, to ensure there is continued meaningful

engagement around immigration matters, the Deputy Director of the team is represented at your Ministerial Refugee and Asylum Seeker Taskforce and Wales Strategic Migration Partnership's Executive Board. The team also meets with you on a monthly basis. If you have any suggestions as to how to further strengthen our interaction, our Wales Team is happy to pick up with you.

Asylum accommodation

Planning to establish a Migrants' Commissioner is at an early stage and we welcome your views, both about the role of the new Commissioner and their relationship with the Independent Chief Inspector of Borders and Immigration. An independent working group is considering next steps and we will put you in touch with them so that you can feed in your views directly.

Clearsprings Ready Homes work with Rainbow International to support people who are LGBTQ+ and currently there are 6 such specific properties in Wales, with more being sourced. We do not currently room share anywhere in Wales, including initial accommodation and have no plans to do so. If you believe this is being breached, then we would welcome examples of where this is the case.

Widening asylum dispersal

The UK Government recognises the importance of working with local authorities in respect of asylum dispersal

We are grateful to local authorities in Wales for their response to the launch of the new National Transfer Scheme (NTS). Local authorities in Wales have committed to accepting a fair proportion of UASCs and have successfully delivered the necessary care placements for vulnerable new arrivals, since the launch of the new scheme on 26 July, in accordance with the new UK wide rota mechanism.

The 'Move On' grace period

The UK Government has no plans to increase the "move-on" period from 28 days to 56 days, but will consider any practical ideas to ensure those granted refugee status are able to access mainstream benefits if they need them and assistance to secure alternative housing.

We have already implemented a number of such changes over the past few years. Most importantly, Migrant Help were awarded the Advice, Issue Reporting and Eligibility (AIRE) contract, under which they are required to contact newly recognised refugees at the start of the move-on period to provide practical assistance. As your letter indicates, this service is arranged via the Refugee Council in Wales and our understanding is that it is working effectively.

Newly recognised refugees also receive their Biometric Residence Permit (BRP) before the 28-day period starts. The BRP provides evidence of their eligibility to apply for benefits and take up employment and the National Insurance Number, an issue in the past, is also printed on the back of the BRP. Further, integration loans can be applied for, which can be used for essentials to help people integrate into UK

society. For example, such a loan can be used to assist with access to housing, education or work.

Asylum support rates

The UK Government does not accept the support rates are set at an exceptionally low level. Last year, the standard allowance provided to each member of a supported household increased from £37.75 per week to £39.63 per week, an increase of around 5%, which was well over inflation.

Officials have commenced this year's review of the asylum support rate and as a first step have reached out to the main voluntary sector groups representing asylum seekers for their views. The costs of meeting needs related to travel and communication will be taken into consideration in the normal way. Currently, the £39.63 rate includes provision for the cost and maintenance of a mobile phone that provides access to the internet.

We plan to consult later this year on implementing the support provisions of the Immigration Act 2016 and will consider the impact on local authorities carefully. However, it is important to recognise that any failed asylum seekers who would otherwise be destitute, including those with children, will be able to obtain Home Office support if there is a genuine obstacle that prevents them from leaving the UK.

Data and information sharing

The Home Office are working on a data sharing agreement which will see Realtime move-on (departure following a grant of leave) data shared with Local Authorities via the secure Move IT portal.

Uploading data across circa 150 participating Local Authorities across the UK is challenging so we are developing an automated platform to do so.

In relation to demographic data, that is shared on a monthly basis with the Strategic Migration Partnership for Wales who should share that with Welsh Government and brief on developments.

Quality of decision-making

We know that some people who make a protection claim or who are identified as potential victims of modern slavery have complex needs and histories. Case Workers who interview individuals have guidance and the training required to assist them conducting interviews which makes it clear that trauma and other factors may be relevant in conducting the interview. We ask individuals before interview if they would be more comfortable talking to an interviewer / interpreter of the same gender, and where possible these wishes will be accommodated.

Under the new Bill, as noted, there will be expanded access to civil legal aid for those in receipt of a Priority Removal Notice. There will also be expanded access to civil legal aid for potential victims of modern slavery to enable advice on referral into the National Referral Mechanism (NRM) to be provided as 'add-on' advice where

individuals are in receipt of civil legal services for certain immigration and asylum matters.

I hope this letter has been helpful. I would welcome further discussions.

Yours sincerely,

**Dan Hobbs,
Director, Asylum, Protection and Enforcement Directorate
Migration and Borders Group
Home Office**



Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE **UK Nationality and Borders Bill**

DATE **06 December 2021**

BY **Jane Hutt MS, Minister for Social Justice and Mick Antoniw MS,
Counsel General**

The UK Government's New Plan for Immigration and its Nationality and Borders Bill, which is currently making its way through the Houses of Parliament, severely undermine our vision of Wales as a Nation of Sanctuary.

We agree that the asylum system is "broken". There are many flaws which need to be addressed but this Bill is the antithesis of what is needed and will only exacerbate inequity and harm communities.

We believe many of the provisions in the Bill will breach international conventions, violate basic principles of justice and will place ultimately extreme and insurmountable conditions on people who seek our protection.

Many of the Bill's provisions will impact on the operation of devolved responsibilities – and we will bring forward a Legislative Consent Motion in relation to these – and it will affect our ability to exercise functions relating to equality, planning, social services, community cohesion and migrant integration.

The Bill proposes a new two-tier system to create "group one" and "group two" refugees – a system we believe to be incompatible with international law through the UN Refugee Convention.

Group two refugees may be prohibited from accessing public funds; prevented from being reunited with their family in the UK, and restricted to just 30 months refuge in the UK pending further reviews of their circumstances. These restrictions relate to their method of travel to the UK and not on the merits of their case.

This will cause unforeseen and unequal impacts on the people arriving in Wales and the UK and will adversely impact the delivery of integration support in Wales. It will

exacerbate destitution and increase exploitation of migrants and illegal working in our communities – increasing vulnerability among an already vulnerable population.

It will also increase homelessness and potentially endanger public health, as those without recourse to public funds are likely to be fearful of coming forward for healthcare. Service providers will confront difficult ethical and legal dilemmas about who they should or could provide services to and, inevitably, some will incorrectly be turned away from vital avenues of support.

In the context of these challenges, maintaining community cohesion and supporting effective migrant integration will be made more difficult. This change will apply to people the UK Government has already accepted are fleeing a well-founded fear of persecution.

It is difficult to understand the rationale for denying people who have found refuge in the UK access to public funds; preventing them putting down roots and denying them opportunities for family reunion, simply because of the way they travelled to the UK.

After the Windrush scandal, the UK Government assured us it would “see the face behind the case” and ensure a more compassionate approach but that commitment rings hollow when the implications of this Bill are considered.

The UK played a key role in developing the principles of the UN Refugee Convention, which it signed 70 years ago, but the Nationality and Borders Bill will erode these principles and with it the UK’s credibility and ‘soft power’ around the world.

As signatories to the Refugee Convention the UK explicitly accepts that people should be able to claim asylum in this country but this Bill gives the false impression that asylum seekers are “shopping around” to find the most advantageous country in which to claim asylum. It is, more often than not, a simple reality that the individuals who claim asylum here are more likely to be able to integrate peacefully in the UK than anywhere else.

The Bill’s proposal to open “accommodation centres”, including in Wales, will undermine our Nation of Sanctuary vision, by warehousing asylum seekers in large facilities – potentially indefinitely – away from the wider Welsh community. This prevents the development of social support networks, informal language acquisition, and cross-fertilisation of culture, which are essential elements of integration.

Unfortunately, we have seen first-hand just how damaging such “accommodation centres” can be. Last year, the Home Office’s decision to use Penally Army training camp in Pembrokeshire, as an asylum centre caused disruption to community cohesion with protests outside the camp and damage to the mental health of the people accommodated there. We have seen a legacy of far-right activity in Pembrokeshire, long after the closure of Penally.

The Bill does not place limits on the use of these centres – they could be used to accommodate children, people with a history of torture and arbitrary confinement, the placement of LGBTQ+ individuals alongside those with hateful views, and other unacceptable outcomes.

The Bill proposes no right of appeal for asylum seekers, leaving them reliant on judicial review. This is tantamount to depriving people of a right to a fair trial under Article 6 of the Human Rights Act 1998.

The Bill requires people to bring forward grounds for protection and human rights claims within a set time period but it can take time for people escaping a repressive regime to set out their full case. There is a lack of legal representation in the UK to support asylum seekers to build these cases and people who have been victims of trafficking do not always disclose their cases immediately.

We recognise and support the UK Government's focus on disrupting criminal networks carrying out modern slavery. However, we believe the proposals concerning modern slavery in the Bill may exacerbate vulnerabilities, cause additional trauma and stress to victims, and make detection much harder. Rather than having a deterrent effect on organised criminal networks, it may create additional obstacles to addressing modern slavery in Wales and the provision of support to victims and survivors.

We are concerned about the proposals, which are aimed at the age assessment process. As the registration of birth differs around the world, many children who come to the UK cannot provide documentation as evidence, either because they have never had it in the first place or it has been lost or destroyed.

This has been established over many years of case law but the Bill disregards these important cases. We urge the UK Government to consult the ethical committees of relevant medical, dental and scientific professional bodies and publish a report before making regulations.

We welcome the Home Office's proposal to grant immediate indefinite leave to remain (ILR) to group one refugees. The vast majority of refugees resettled to Wales cannot return to their country of origin within five years of arrival and most will apply for ILR. The current delay in being able to apply for ILR causes uncertainty and prevents refugees from fully rebuilding their lives.

However, the logic which convinced the UK Government to make this change should also be applied to people in the group two category who are no less in need. To do otherwise cruelly ignores the reality of refugee trauma.

The Home Office is failing to capitalise on the skills asylum seekers bring with them by not allowing them to work. This change would see asylum seekers contributing to

our economy; helping to fill gaps in the labour market, while minimising the loss of their skills and supporting integration. There is a clear ethical, economic and social case to make this change.

We have seen recently how quickly the UK can act to help those in need of refuge – as we evacuated thousands of people from Afghanistan. This underlines the inconsistencies in the Bill.

Any Afghan who could not get onto an evacuation plane but was able to make the long and difficult journey to the UK, via people smugglers, will be criminalised by the proposals in the Bill, despite fleeing the very same threat from the Taliban.

In Wales, we are proud to be a Nation of Sanctuary. We are proud of all the agencies and individuals which work together to create a unified and welcoming experience for people who have been resettled here.

Wales is a welcoming nation and we will always stand with those who need us the most. We want the UK Government to change course and to advance – not diminish – the legal, equitable and moral standing of the United Kingdom.

Ein cyf/Our ref MA/JH-/4169/21

Rt Hon Priti Patel MP
Home Secretary

By email only.

09 December 2021

Dear Home Secretary,

We write jointly following the tragedy which occurred in the English Channel on 24 November, where 27 people lost their lives seeking to cross to the UK. Whilst this is the biggest loss of life in one incident this year we know that there are numerous reports of other individual deaths, with the International Organisation for Migration, reporting that 166 people have been recorded as dead or missing after undertaking this perilous journey since 2014.

Our three Governments agree that we must ensure people do not attempt to make the English Channel crossing by small boats and that the influence of people smugglers must be curtailed. However, we do not believe that increased marine or beach patrols, diversion, criminalisation, changes to legal status or reduced support to those who arrive in the UK, that the UK Government proposes will solve this issue.

We therefore want to offer to work together constructively with you on proposals which can seek to end any further tragic waste of human life and ensure a humanitarian solution and seek an urgent meeting to fully discuss.

Safe and legal routes

People do not make dangerous journeys to the UK because they believe our welfare system will support them. They arrive because of existing family or kinship ties in the UK, their ability to speak English or as a consequence of cultural connections linked to former British colonialism. The UK has moral and international legal obligations to uphold the 1951 UN Refugee Convention, to which the UK was a founding signatory. The UK must recognise our moral duty to enable people to seek safety and also help ease pressure in countries of initial displacement with the highest numbers of refugees.

It is therefore clear that the UK Government must reconsider its hostile environment strategy and, vitally, develop sufficient safe and legal routes for asylum seekers to claim asylum from outside the UK, negating the need for perilous journeys and disrupting the business model of people smugglers. As Zoe Gardner from the Joint Council for the Welfare of Immigrants told the Home Affairs Committee “until we provide people with a regulated alternative means of travel to the UK, every round of security spending we throw at this and every attempt at this failed model of

deterrence and pushbacks will be celebrated by the smugglers, because it simply lines their pockets.”

The ‘Dubs Scheme’ was one such legal route which closed a number of years ago and we urge you to reopen – with an expanded offer to ensure the scheme is seen as accessible for those who need it. Properly funded successor schemes must support many thousands per year, as opposed to the 480 people who were accommodated through the previous scheme. Those considered to have meritorious claims can and should be brought safely to the UK, avoiding any further loss of life.

The Dublin Regulations also provided a safe and legal route for people seeking asylum to be reunited with family members they had become separated from and for their asylum application to be considered in the country their family were already living in. Home Office data shows that 882 people were transferred into the UK under Dublin Regulations in 2020. As the UK is no longer subject to Dublin regulations this safe route to be reunited with family and have an asylum claim considered here in the UK has been lost and a replacement is urgently required.

EU Withdrawal has made it harder to return migrants to France and other European countries. This was confirmed when the UK Minister for Immigration, Compliance and Courts told the Home Affairs Committee on 17 November that only five people have been returned so far this year compared to several hundred the previous year. As yet, no returns agreements have been made between the UK and other Member States. Progress requires a joint UK-EU response and we urge the UK Government to do more to work effectively with our European neighbours.

National Transfer Scheme

We recognise the pressure which various parts of the asylum system are currently operating under and note your recent decision to mandate local authority participation in the National Transfer Scheme to try to alleviate pressure to support unaccompanied asylum seeking children. We have unresolved concerns about the way the Scheme will operate but with Ministerial willingness, we believe that suitable compromises can be made to ensure the Scheme works effectively across the UK. Our governments and local authorities are keen to ensure our Nations play a full part, but we urgently need clarity that adequate funding and flexible arrangements will be put in place to ensure the operation of the Scheme works in a devolved context.

Asylum dispersal

We are extremely concerned by the Home Office’s recent approach to procuring contingency accommodation for asylum seeking adults and families without consultation with our Governments or local authorities. We understand the time pressures involved but there is ample time for proper consultation if these conversations are prioritised in the Home Office operational delivery. In Wales, we were recently able to avert a disaster, where the Home Office wanted to open a hotel very close to the office of a far-right organisation which would have caused major disruption and safeguarding risks. We can offer this local knowledge if involved early enough but this is not happening at present.

The current approach will undo all of our good work in the last year in bringing new local authorities into the asylum dispersal system and we urge you to take action to prevent this. Similar significant concerns about the procurement of hotels as contingency initial asylum accommodation in Scotland were set out in 21 October correspondence. The offer for our three Governments to have meaningful discussions on asylum dispersal with the Convention Of Scotland's Local Authorities (COSLA), the Welsh Local Government Association (WLGA) and our combined 54 local authorities remains.

Nationality and Borders Bill

Finally, we have far-reaching concerns about the impact of the provisions included in the Nationality and Borders Bill on our Nations. Although we understand that you have different policy intentions to our Governments, we also believe the current provisions will have a counter-productive effect in achieving the aims you have outlined. People seeking asylum should be accommodated within communities and have access to the support and services they need to rebuild their lives.

- The UK government claims that this legislation contains measures that will prevent migrants crossing the English Channel in small boats, including the barbaric suggestions for "push-back" exercises involving enforcement officials seeking to repel small boats. Rather than help matters, these measures will delay rescues and endanger lives. It is an obligation under maritime laws and conventions to guarantee people's safety. As reported by the UK Parliament's Joint Committee on Human Rights a "policy of pushbacks fails to comply with the obligations to save those in distress, contrary to the right to life and international maritime law." Our governments wholeheartedly support the Joint Committee's position and call again for this policy to be urgently reviewed.
- Provisions which penalise Group 2 refugees will inevitably lead to more illegal working and exploitation of refugees (other Home Office priority areas to tackle) in our communities, a point reinforced by a range of experts who presented to the Public Bill Committee.
- Differentiation between refugees based on how they arrived rather than their protection needs is entirely counter to integration. Focus should be on improving the asylum system, not finding new ways to make the system more challenging and prolonged for people seeking safety.
- Restrictions on Family Reunion rights will lead more family members to attempt the Channel crossing.
- The provisions aimed at ensuring asylum seekers put their full case together at the first opportunity will lead to increased litigation for the Home Office if asylum seekers are dispersed to immigration legal advice 'deserts' unless there is a radical increase in Legal Aid support.
- Provisions relating to the operation of accommodation centres will lead to the rise in far-right extremism (another Home Office priority to address), as we saw in Penally in West Wales.

Our officials and ministers have repeatedly sought engagement on the matters raised in the Nationality and Borders Bill, the impact that they will have in our nations and the possible need for legislative consent. This includes key considerations on

issues relating to unaccompanied asylum seeking children and human trafficking but meaningful engagement on these matters has not been forthcoming. Welsh Ministers have now decided that a Legislative Consent Memorandum will be required to be laid at Senedd Cymru in relation to the age assessment clauses in the Bill, whilst Scottish Ministers still require urgent clarity from the Home Office to ascertain whether similar legislative competence issues need to be addressed in Scotland.

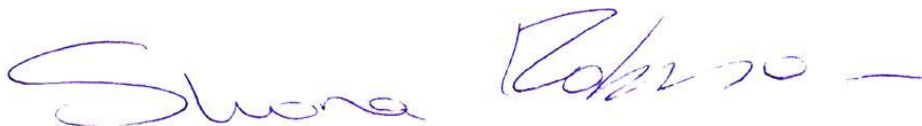
We further note that, on 1 December, less than a week before report stage, the Home Office have tabled some 80 amendments, again, without any advanced notice or meaningful engagement. This approach makes cooperative working virtually impossible and we would urge the UK government to engage constructively to address our real concerns.

Next steps

Scotland and Wales have always played their part in providing sanctuary to those fleeing conflict and persecution and we stand ready to do so again. We are committed to working with you to build cross-party support around revisions to the Bill which could make it workable and effective in achieving your policy aims whilst also ensuring effect integration of all arrivals within our Nations.

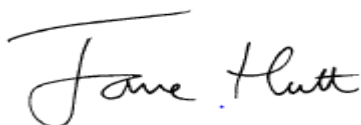
It is notable that we have had no Ministerial meetings in relation to these matters and we urge you to meet with us before the end of the year to discuss how we can work together on these vitally important issues.

We are keen to follow a Four Nations approach to this issue so we are also copying this letter to the First Minister and Deputy First Minister of Northern Ireland and we urge you to include us all when the meeting is convened.



Shona Robison MSP

Cabinet Secretary for Social Justice, Housing and Local Government
Scottish Government



Jane Hutt AS/MS

Y Gweinidog Cyfiawnder Cymdeithasol
Minister for Social Justice
Welsh Government



Shona Robison MSP
Cabinet Secretary for Social Justice, Housing and Local Government
Scottish Government

Jane Hutt AS/MS
Minister for Social Justice
Welsh Government

DECS Reference: MIN/0220001/21
Your Reference: MA/JH-/4169/21

18 January 2022

Dear Shona and Jane,

Thank you for your joint letter of 9 December to the Home Secretary about asylum and immigration. I also thank Shona for her letters of 4 November and 25 November, and Jane for her letters of 18 November and 10 December. I am replying as the Minister for Safe and Legal Migration.

Last November's tragic loss of life is yet another reminder of how lethally dangerous journeys across the Channel are, and why they must be stopped. The criminals who facilitate these journeys have no regard for life, and we will use every tactic in our disposal to break their business model. We must also recognise illegal immigration from safe and democratic countries in Europe undermines our efforts to help those most in need who are in the first safe country they can reach. Controlled resettlement via safe and legal routes is the best way to protect such people and disrupt the organised crime groups who exploit migrants and refugees.

This is a complicated issue and there is no simple fix. The Nationality and Borders Bill and the New Plan for Immigration are both essential elements in finding a multi-pronged solution to a long-term problem which successive Governments have faced over decades.

Safe and legal routes

The UK has a proud history of welcoming refugees through resettlement, and this will continue to be the case. Yet with worldwide displacement now standing at around 80 million people, we cannot help everyone. However, we will maintain clear, well-defined routes for refugees in need of protection. When they arrive in the UK, we will ensure refugees have the tools to properly integrate and contribute to society. The number of refugees we can resettle has to be based on the UK's capacity to support them.

Since 2015, we have resettled over 25,000 men, women and children seeking refuge from persecution across the world. This is more than any other European country. Our doors

remain open to the people who most need our help through our commitment to resettlement.

Following the successful completion of the Vulnerable Persons Resettlement Scheme in February 2021, we have launched the new global UK Resettlement Scheme. This builds on the success of previous schemes and sees the UK continue to welcome refugees in need of protection. Equally, the UK will continue to work closely with international partners such as the United Nations High Commissioner for Refugees to target those in greatest need of our support. This includes people requiring urgent medical treatment, survivors of violence and torture, and women and children at risk. We also continue to resettle refugees through our Community Sponsorship and Mandate Resettlement Schemes.

We have also relocated over 7,000 people under the Afghan Relocations and Assistance Policy (ARAP), with many more continuing to arrive. ARAP offers relocation to current or former staff, and certain others who worked alongside or in partnership with the UK Government. They are assessed to be at risk because of this work. In addition, on 6 January, the Afghan Citizens Resettlement Scheme (ACRS) formally opened. It will provide up to 20,000 women, children and others at risk with a safe and legal route to resettle in the UK.

The scheme will prioritise those who have assisted UK efforts in Afghanistan and stood up for British values such as democracy, women's rights, freedom of speech and the rule of law. Furthermore, we are also prioritising vulnerable people such as women and girls at risk, and members of minority groups (including ethnic/religious minorities and people who are LGBT+). The ACRS is a clear demonstration of the Government's New Plan for Immigration in action, as we expand and strengthen our safe and legal routes to the UK for those in need of protection.

In very exceptional circumstances, the Home Secretary can use her discretion to allow someone whose life is at direct risk to come to the UK, where the unique facts of the case merit this. As we committed to in the New Plan for Immigration, those coming to the UK through resettlement routes now receive immediate indefinite leave to remain.

It is also worth noting over 88,800 British Nationals (Overseas) (BN(O)) status holders and their family members have now applied for the BN(O) route we created in January 2021. It reflects the UK's historic and moral commitment to those people of Hong Kong who choose to retain their ties to the UK. The route offers a choice which affords long-term safety and stability for these individuals and their families via settlement in the UK.

Dubs Scheme

I note your comments about the Dubs Scheme. The Government met its one-off commitment to transfer 480 unaccompanied asylum-seeking children from Europe to the UK under the Dubs Scheme. We have no plans for a new transfer scheme specifically from countries in Europe, which are all safe and democratic nations, for unaccompanied asylum-seeking children (UASC), reflecting our new global approach to the Immigration system.

In addition to our resettlement schemes, since 2015 we have issued over 39,000 visas under the Refugee Family Reunion Rules. Around half of these were issued to children. Separately, we have already committed to provide additional clarity in the Immigration Rules on the exceptional circumstances where we would grant leave to a child seeking to join a relative in the UK.

Dublin Regulation and returns agreements

I also note your comments about the Dublin Regulation and about returns agreements with EU states.

All countries have a moral responsibility to tackle the issue of illegal migration. We expect our international partners to engage with us, build on our good current co-operation, and continue to highlight the importance of having effective returns agreements to stop people making perilous crossings.

The UK and EU have therefore agreed a joint political declaration which makes clear the UK's intention to engage in bilateral discussions with the most concerned Member States to discuss suitable practical arrangements on asylum, family reunion for unaccompanied minors and illegal migration. We also continue to work with other international partners to meet this joint challenge.

National Transfer Scheme (NTS)

A new voluntary National Transfer Scheme rota was launched on 26 July 2021 and was initially successful in enabling us to transfer children into the care of local authorities. However, the high number of UASC arrivals over recent months, particularly as a result of small boat crossings, alongside limited local authority participation, placed the scheme under unprecedented pressure. The NTS was unable to keep up with the demand and pace of new arrivals. Out of necessity, with the children's best interests in mind, we therefore accommodated UASC on an emergency and temporary basis in hotels whilst placements with local authorities were vigorously pursued.

Whilst many local authorities provided support under the voluntary scheme, this is a national issue which requires all local authorities to play their part. The Government therefore decided to direct local authorities to participate in the NTS, as a measure to address this current crisis. On 14 December 2021, participation in the scheme therefore became mandatory for the majority of local authorities in the UK with children's services.

We are continuing to consider remaining representations made by local authorities, including from those local authorities in Scotland and Wales, and expect to issue the outcome of those shortly. The scheme will be kept under review and the length of time it will remain mandatory will be determined by a range of factors, including intake levels and how long it takes to end the use of hotels for UASC.

We are very grateful to local authorities in Scotland and Wales, as well as the Convention of Scotland's Local Authorities (COSLA) and the Welsh Local Government Association (WLGA), for their commitment to the scheme and for providing vital care placements for UASC.

Wherever possible within the mandatory framework, we will support any nation or region wishing to make alternative local operating arrangements where it is in the best interests of the children. We have previously shown flexibility in this area and aim to continue discussions to ensure the best outcome for vulnerable children.

I recognise the importance of funding in this area. We have significantly increased the additional funding which the Home Office pays to local authorities in each of the past three years. In particular, from April 2021 local authorities receiving a child transferred under the NTS receive the higher rate of £143 per day for the child, to recognise the contribution made by the authority. In addition, I have made available a £3 million exceptional costs fund, to which I have invited local authorities to apply in relation to any additional costs they might incur.

Pack Page 187

Details of the application process are included in the UASC funding instructions to local authorities and available at:

Asylum dispersal

I agree we need to limit the use of contingency accommodation such as hotels and the importance of local areas participation in accommodating asylum seekers and their dependants to help us do this.

It is therefore very disappointing only 1 out of 32 local authorities in Scotland currently participates in the national dispersal scheme. Whilst I am extremely grateful to Glasgow City Council for their immense work in this area, others need to step up and play their part.

It is further disheartening how some local authorities in Scotland are picking and choosing who they will support by taking in those resettled from Afghanistan, but not those resettled via other safe and legal routes. I hope we can in future ensure a more balanced approach.

Cessation of asylum support

It is important any support provided to those who receive a negative asylum decision is conditional on the individuals concerned taking reasonable steps to leave the UK or show there is a practical or legal obstacle which prevents their departure. This is why the legal framework means support is stopped ('negative cessations') if the individuals concerned are able to leave the UK but choose not to. Negative cessations were paused across the UK for most of the period since March 2020 because of COVID-19 factors, but have now resumed in England. It is important the same system is applied in the rest of the UK as soon as possible, but before any final decision is made, we will advise the devolved administrations.

Access to work

We allow asylum seekers to work if their claim has been outstanding for 12 months or more, through no fault of their own.

Those permitted to work are restricted to jobs on the Shortage Occupation List (SOL), which is based on expert advice from the independent Migration Advisory Committee. It is important to distinguish between those who need protection and those seeking to work here, who can apply for a work visa under the Immigration Rules. It is crucial to prevent our wider policy from being undermined by migrants seeking to bypass work visa Rules by lodging unfounded asylum claims.

Asylum seekers are provided with accommodation and support to meet their essential living needs if they would otherwise be destitute whilst their claim is considered. We strongly encourage all asylum seekers to consider volunteering, so long as it does not amount to unpaid work. Volunteering provides a valuable contribution to their local community and may help them to integrate into society if they ultimately qualify for protection.

Relaxing our right to work policy is not the correct approach as this would simply encourage more people to make dangerous journeys across the Channel in order to undercut our visa routes and gain unfair access to our labour market. We have been clear those in need of protection and who wish to come to the UK must do so through safe and legal routes, such as our resettlement schemes. Where reasons for coming to the UK include family or economic considerations, applications should be made via the relevant route; either through the new points-based immigration system, or via the refugee family reunion rules. Otherwise, asylum seekers should claim asylum in the first safe country they reach, which is their fastest route to safety.

Finally, comparing different jurisdictions is unhelpful. Our policy responds to circumstances unique to the UK and must complement our wider asylum and immigration system. The same goes for other European states, and looking more closely at European countries is instructive. Austria allows asylum seekers to work after three months, but they are restricted to seasonal roles on six-month visas in forestry, tourism, and agriculture. Meanwhile in France, the right to work is permitted after six months but is contingent on having a work permit, which itself requires a job offer. In practice, this means many asylum seekers in France cannot work.

Nationality and Borders Bill

The Nationality and Borders Bill has now been passed by the House of Commons and is before the House of Lords. The principle behind the Bill, and the wider New Plan for Immigration, is simple. Access to the UK's asylum system should be based on need, not on the ability to pay people smugglers to leave safe countries like France and Belgium. Those in genuine need will be protected, while illegal migration will be prevented and those with no right to be in the UK should be removed.

Differentiation

We are creating powers to differentiate entitlements between those refugees who came directly to the UK, claimed asylum without delay, and, where applicable, showed good cause for their illegal entry or presence, and those who did not. This is intended to deter migrants from undertaking dangerous journeys from safe countries facilitated by criminal smugglers and to uphold the first safe country principle. This policy complies with our international obligations under the Refugee Convention and the European Convention on Human Rights.

You say provisions in the Bill will “inevitably lead to more illegal working and exploitation of refugees”. All recognised refugees, regardless of whether they are in Group 1 or Group 2, will have the right to work in the UK. More broadly, I hope you would agree with me the best way to tackle illegal working and the exploitation of refugees is by tackling the criminal gangs who are doing the exploiting, which is exactly what we are doing through our New Plan for Immigration.

I would also like to clarify family reunion for refugees in Group 2 will be permitted where a refusal would breach our international obligations. Policy will be set out in guidance and in Immigration Rules in due course.

Accommodation centres

The Government has a statutory obligation to provide safe and secure accommodation whilst meeting the essential living needs of asylum seekers who would otherwise be destitute. Hotels are currently being used to meet some of these duties, but this is not sustainable in the longer term. Part of the solution is to increase the stock of dispersal accommodation (flats and houses), but accommodation centres are also a key part of our on-going work to build capacity in the asylum estate.

Those accommodated at the centres will receive support to cover their essential living needs – generally through ‘in-kind’ provision but supplemented by some cash where appropriate. People who are resident at the centres will also have the same access to services in the local community as those in other existing accommodation.

There are no plans to require all asylum seekers and failed asylum seekers to live in this type of accommodation. Those who can obtain accommodation with friends or family will continue to be able to so. Individuals who require accommodation because they would

otherwise be destitute will have the opportunity to provide information and supporting evidence as to why they should not be housed in accommodation centres because of their particular circumstances. The normal 'dispersal accommodation' will be available for these cases.

I note your comments seeking to link the operation of accommodation centres with a rise in far-right extremism. I deplore the possibility there would be any attacks on those housed in the centres, and I reiterate the accommodation will be safe and secure, as has been seen in other European Countries.

Priority Removal Notices and legal aid

It is often the case those facing removal or deportation from the UK raise late protection or human rights claims which could have been made at an earlier juncture. This causes unnecessary delay and expense to the taxpayer.

We will therefore strengthen the existing one-stop process by establishing a Priority Removal Notice (PRN) which may be issued to a person who is liable to removal or deportation from the UK. The PRN will require a person to raise any new or additional grounds for why they should remain in the UK before the date specified in the notice. This includes information relevant to whether the person is a victim of modern slavery or trafficking. Any supporting evidence must be provided at the same time.

I note your questions about legal aid, which is devolved in Scotland and Northern Ireland. I would therefore respectfully suggest these are questions for the Scottish Government and the Northern Ireland Executive. I can, however, advise all recipients of a PRN in England and Wales will receive an additional provision of between 3-7 hours of legal aid advice, which may cover advice on anything relating to their immigration status and also include advice on the National Referral Mechanism process. This will ensure all claims can be considered sufficiently in advance of the person's removal, reducing the extent to which removal can be frustrated, and allow those in need of international protection to be identified and supported as early as possible.

The Legal Aid Agency monitor the legal aid market regularly and take concerns about capacity seriously. However, at the moment, to say there are not enough legal aid lawyers is simply not correct. Each procurement area in England and Wales has immigration legal aid providers, which in June 2021 totalled 263 offices.

Assisting people at sea

We are clear the Bill does not change the UK Government's approach to existing obligations under international maritime law, including the duty to protect lives at sea.

We tabled an amendment to the Bill at Commons Report Stage to make clear organisations such as HM Coastguard and RNLI will be able to continue to rescue those in distress at sea as they do now. I understand our officials are picking up your specific questions about the interaction of the Bill with the Human Trafficking and Exploitation (Scotland) Act 2015, and the further questions your officials have raised about the meaning of the term "danger and distress" as used in the Bill.

Maritime tactics

Our priority first and foremost is to save lives. This is why every action Border Force take is safe and in accordance with domestic and international law obligations. However, clearly it is important we have a maritime deterrent in the Channel. We are therefore strengthening Border Force maritime powers in response to the increased threat posed by

cross-Channel illegal migration over the past few years. Consequently, Border Force will gain additional powers to intercept vessels in international waters as well as UK seas.

If Border Force suspect a vessel is entering UK seas to facilitate the entry of illegal migrants, they are able to stop the vessel to investigate. Border Force would have the option to divert the vessel out of or away from UK seas or to return the vessel and those on board to the country they had left, subject to the country agreeing to their return.

Vessels used to facilitate illegal entry by sea to the UK will be liable to be seized and be quickly disposed of, including through donation to charities if appropriate.

Age assessment

The new National Age Assessment Board – with expert social workers specialising in age assessments – will improve the quality and consistency of decision making.

I did note your comments about scientific methods, yet we are one of the very few European countries which does not currently use such methods of age assessment. The Home Secretary will seek scientific advice directly from the Home Office Chief Scientific Adviser, and determine whether a method, or combination of methods, is appropriate for the purposes of an age assessment. The Home Office Chief Scientific Adviser will consult a wider group of experts on the accuracy and reliability of various scientific methods.

I note on 6 December 2021, the Welsh Government tabled a legislative consent memorandum before Senedd Cymru in respect of some of the age assessment provisions in the Nationality and Borders Bill. It remains our position the legislative consent of the devolved parliaments is not required, but I have asked my officials to write to you to provide more detail.

Working in UK waters

All foreign nationals require permission to work in UK territorial waters unless they are covered by an exemption.

The Bill clarifies the legal framework requiring foreign national workers to obtain permission to work in UK waters, therefore the effect of this clause should be negligible as this has always been the UK Government's position. Foreign nationals intending to work in UK territorial waters will need to apply for the appropriate visa under the points-based system, in the same way as when coming to work on the landmass. I

I note your comments about transit visas, particularly in respect of fisheries, and would reiterate our longstanding position. This position stipulates foreign nationals require permission to work in our territorial waters, including those working in fisheries. Transit visas do not give someone permission to work in the UK either on the landmass or within UK territorial waters. They can be used, however, to transit the UK to work outside of the UK.

Visa penalties

The UK accepts returning nationals who lose the right to be in a foreign country, and we expect other countries to do the same for their nationals. This is part of a functioning migration relationship between countries.

The Bill makes it clear when determining whether to impose visa penalties, the Secretary of State must consider factors relating to the lack of co-operation and "matters as the Secretary of State considers appropriate. **Pack Page 191** If appropriate, this could also include matters raised by the devolved administrations.

Electronic Travel Authorisations

I welcome Shona's support in principle for the new Electronic Travel Authorisation scheme, which will strengthen our borders and enhance our ability to prevent the travel of those who pose a threat to the UK.

I agree we need to carefully consider how to operationalise the scheme and this work is making progress.

Engagement

I know our officials have been engaging regularly on the New Plan for Immigration and the Nationality and Borders Bill, most recently to address detailed questions your officials have had on age assessment and modern slavery.

The Minister for Justice and Tackling Illegal Migration has also been sending written updates on Government amendments to the Bill to the First Minister of Scotland, the First Minister of Wales and the First Minister and Deputy First Minister of Northern Ireland.

Legislative consent motions

The Bill does not require the legislative consent of the Scottish Parliament, the Welsh Parliament or the Northern Ireland Assembly, and so we will not be seeking legislative consent motions.

Next steps

We stand by our moral and legal obligations to help innocent people fleeing cruelty around the world. Our long-term plan will prioritise bringing over the most vulnerable people currently living in refugee camps around the world through safe and legal routes. However, we must take action to address long-term pull factors and to smash the criminal gangs which treat human beings as cargo. We must send a clear message using dangerous, illegal routes is not the way to come to our country.

I note your letter of 9 December was copied to the First Minister and the Deputy First Minister of Northern Ireland, and so I am copying this letter to them as well. I am also copying this letter to the Secretary of State for Scotland, the Secretary of State for Wales, the Secretary of State for Northern Ireland, the Chancellor of the Duchy of Lancaster and the Secretary of State for Levelling Up, Housing and Communities.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Foster', with a large flourish at the end.

Kevin Foster MP
Minister for Safe and Legal Migration

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Agenda Item 7

By virtue of paragraph(s) vi of Standing Order 17.42

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