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North Wales

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Chair of Children, Young People and Education Committee

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Dear Chair,

Residential Outdoor Education (Wales) Bill: response to the Children, Young People and Education Committee's Stage 1 report

I would like to thank the Children, Young People and Education Committee for their scrutiny of the Residential Outdoor Education (Wales) Bill during Stage 1 and for the report which was published on 21 March 2024. I have set out my response to the Committee's conclusions and recommendations at Annex A.

I will also be writing to the Chairs of the Finance Committee and the Legislation, Justice and Constitution Committee with respect to their Stage 1 Reports, and will copy the letters to all three Committee Chairs.

Yours sincerely



Sam Rowlands MS

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Annex A

Response from Sam Rowlands, MS to the Children, Young People and Education Committee's Report on the Residential Outdoor Education (Wales) Bill

Recommendation 1. If the Bill is passed, the Welsh Government should commission a review of capacity within the residential outdoor education sector, which must include assessment of capacity for accessible and inclusive provision; and Welsh medium provision. This review should be published, and information about provision made available to schools to help inform their planning and design of residential outdoor education experiences.

Response: Noted

As this recommendation is for the Welsh Government rather than me as Member in Charge of the Bill, it would not be appropriate for me to accept or reject this recommendation.

Whilst I undertook a lot of work to during the development of the Bill to analyse and understand the current capacity of the residential outdoor education sector, I would support the Committee's view that having a better understanding of capacity in Wales will help support the implementation of the Bill if it is passed. As such I would welcome such a review.

Recommendation 2. The Member in Charge should bring forward amendments at Stage 2 to widen the eligibility criteria to include pupils in education other than at school.

Response: Accept in principle

As the Committee will be aware, this is an issue to which I have given a great deal of consideration throughout the development of the Bill.

At the very start of the process, the proposal I submitted, and to which I was given leave to proceed, looked to establish a statutory duty to ensure that all young people receiving maintained education were provided with the opportunity to experience residential outdoor education. In developing the Bill, the way in which this could be best delivered was through making ROE a part of the curriculum, by making relevant amendments to the Curriculum and Assessment (Wales) Act 2021 (the 2021 Act).

As I moved through the process, and undertook consultations on the policy objectives and the draft Bill, it became clear that there were strong views that the Bill should be widened to include pupils educated other than at school (i.e. those outside the maintained education settings to which my original proposal related).

I absolutely acknowledged that children EOTAS, such as those in Pupil Referral Units (PRUs), may particularly benefit from a residential outdoor experience provided under the Bill. However, in bringing the Bill before the Senedd I believed that to best meet the original objectives I had to consider how the Bill would work best, and decided to proceed with the Bill as relating to maintained education, through the changes proposed to the 2021 Act. In doing so, I was mindful that the 2021 Act places different curriculum requirements in PRUs to those in schools, whereby only some aspects of the Curriculum for Wales are mandatory. I was therefore seeking to be cognisant of the approach of the 2021 Act.

I do, however, recognise that this is an area of the Bill that could be strengthened. Hearing evidence presented during the Stage 1 process has highlighted this further. There are, however, some substantial considerations needed to establish how this could be delivered, and whether that would be best delivered through the Bill or through other means led by the Welsh Government.

If the Bill does progress, I commit to reviewing this issue, and to work with the Welsh Government to establish the feasibility of extending the provision to pupils EOTAS, and whether this would be best placed within the Bill or ensured by other means. However, given the time restraints, that work may not be completed in time to bring forward amendments at Stage 2.

Recommendation 3. The Member in Charge should bring forward amendments at Stage 2 to remove the provision that residential outdoor education should consist of four nights and five days to ensure that there is greater flexibility on the length of a residential outdoor education experience which is linked to children and school's individual needs.

Response: Reject

I fully appreciate the Committee's concerns in this respect, and agree that it should be for schools to make decisions that best suit their individual school needs. However, I believe the Bill as drafted already allows for this flexibility.

The Bill proposes that a new Section 64A is inserted into the Curriculum and Assessment (Wales) Act 2021 (the 2021 Act) which relates to the provision of a course of residential outdoor education.

That proposed new section provides that a course of residential outdoor education must be comprised of at least four nights and five days. The proposed new section goes on to state that the course of residential outdoor education can take place on one visit or can be spread over more than one visit.

This would allow schools to decide, as part of the course of residential outdoor education, the length of the visit it wanted to arrange, and this could range from one night to four nights. Schools could also decide to arrange more than one ROE

experience as part of the 'course of residential outdoor education' required under the 2021 Act, as long as the total duration across all experiences is at least four nights and five days.

I note that the Committee believes references to the length of experiences should be left to the guidance and not on the face of the Bill. My original proposal, to which the Senedd gave leave to proceed in October 2022, was for an entitlement to "at least one week" of residential outdoor education. This is part of the reason I have included this on the face of the Bill, although there is flexibility for this total duration to be made up of more than one shorter experience, as explained above. It should also be noted that the Bill provides for a course of residential outdoor education once. To say on the face of the Bill that the course is only available once, but then to say in guidance that it can be split, may lead to a lack of clarity. Explicitly stating on the face of the Bill that it is a course of residential outdoor education that must be provided once, but that it can be split, makes the policy intention clearer.

Recommendation 4. The Member in Charge should bring forward amendments at Stage 2 to specify that the guidance must provide that all children's dietary requirements are catered for.

Response: Accept

I note that this recommendation seems to be in response to a single occasion that was reported to the Committee, and I would hope and expect that this is not more widespread a problem.

People booking courses have a duty of care to their students and should be checking that dietary requirements will be met. Most (if not all) providers who offer food ask for information about dietary requirements and allergies before any visit takes place.

Therefore, while this may not be necessary, I would be happy to accept this recommendation and bring forward the suggested amendment(s).

Recommendation 5. The Member in Charge should bring forward amendments at Stage 2 to put on the face of the Bill that it is not mandatory for children to take part in residential outdoor education provision offered under this Bill.

Response: Accept

The Bill makes providing a course of residential outdoor education a mandatory part of the curriculum. It would therefore be mandatory for schools to provide this course of residential outdoor education but the intention is that children should

not be compelled to do it. This is set out in the Explanatory Memorandum and I have made this point throughout the Stage 1 process.

There is already provision in the Curriculum and Assessment Act 2021 (the 2021 Act) and regulations made under that Act which enable head teachers of maintained schools to determine that provisions of the Curriculum for Wales should not apply to a child or pupil, so if a child did not wish to take part in the course of residential outdoor education provided under the Bill, the head teacher of the school could make a determination to this effect.

Coupled with this, the Bill makes provision for guidance to be issued under a new Section 71A to the 2021 Act that “must provide that residential outdoor education is not compulsory for pupils to attend”. I appreciate that the guidance itself cannot change the legal effect of the Bill that makes this a mandatory part of the curriculum. The intention is that the guidance would clearly set out that head teachers should use their power under the relevant Regulations to make such a determination to exclude a child or pupil from the course of residential outdoor education provided under the curriculum.

While I am not sure an amendment to the Bill is required given the existing mechanisms that are already in place, I would be happy to explore whether such an amendment could be brought forward at Stage 2 if that would make the intention clearer, and its effect easier to manage in practice.

Recommendation 6. The Member in Charge should bring forward amendments at Stage 2 to give effect to the proposed amendments of the Welsh Language Commissioner, in order to ensure:

- that there is sufficient Welsh language provision;
- that residential outdoor education provision offers opportunities for all children to learn and have experiences through the Welsh language; and
- that residential outdoor education must promote an understanding of Welsh language and culture

Response: Accept in part

The Welsh Language Commissioner has proposed three specific amendments to provisions in the Bill relating to the guidance that must be issued by Welsh Ministers. Those provisions are set out in the Bill through the insertion of a new Section 71A into the Curriculum and Assessment (Wales) Act 2021 (the 2021 Act). The call from the Commissioner is to amend the proposed Section 71A(3)(d) and (3)(e), and insert a new 71A(3)(f) – so the provisions would read as follows:

“(3)(d) must provide that all residential outdoor education providers be able to provide through the medium of Welsh”

“(3)(e) in line with the requirements of the curriculum for Wales, must provide that residential outdoor education offers opportunities for all pupils to learn and have experiences through the medium of Welsh”

“(3)(f) must provide that residential outdoor education promotes an understanding of Welsh language and culture”

Over the course of Stage 1 of the Bill, I have given a commitment to strengthening the Bill wherever possible, and where appropriate, and I gave a specific commitment to the CYPE Committee in that regard in relation to Welsh language provision. With that in mind, I would be happy to accept the recommendation in relation to the proposed amendments to (3)(e) and (3)(f) as set out above.

However, I cannot accept the proposed amendment as set out in (3)(d) above.

The purpose of the new section 71A is for guidance to be issued in respect of residential outdoor education provided in pursuance of a duty imposed under the Act. The Bill does not impose any duties on providers of residential outdoor education, and as such the guidance does not apply to providers. Furthermore, I do not consider it would ever be appropriate for guidance to specify that providers must ‘be able to provide through the medium of Welsh’. The ability of providers to meet this requirement would, in my view, go way beyond the purpose of guidance. It may also impact on the intention of the Bill, as it could result in providers who are not able to offer an experience through the medium of Welsh declining to make any offer at all, which would in turn limit opportunities for children to experience residential outdoor education.

Recommendation 7. The Member in Charge ahead of the Stage 1 debate provides details on how he envisages the tracking of provision to work in practice.

Response: Accept

In developing the Explanatory Memorandum, we undertook work to assess what may be required in terms of tracking pupils’ attendance at residential outdoor education visits.

As part of that we held discussions with stakeholders including the Outdoor Education Advisers’ Panel (OEAP) and WLGA who advised that in its simplest form tracking could be integrated into each pupil record entered on the appropriate information management system. This would require an additional field to be inputted into the pupil record database. This is already outlined in the Explanatory Memorandum.

As I understand it, that pupil record follows a pupil through their school life, and would therefore follow them if they changed schools. That pupil record – through the inclusion of the new field – would state whether that pupil had taken up their ‘free’ residential outdoor education experience.

So based on those discussions, that is how I envisage the tracking of pupils working in practice, based on the Bill as introduced.

Should the Bill progress, and should it be amended to change the way residential outdoor education is provided, there may be a need to revisit the tracking mechanism, and I would be happy to undertake further work to analyse alternative methods of tracking if that is the case.

Recommendation 8. The Member in Charge ahead of the Stage 1 debate should provide examples where legislation has placed a requirement on Ministers to fund a very specific type of activity.

Response: Reject

I note the difficulty the Committee has had in identifying comparable examples in legislation to Section 2 of the Bill 'Funding for residential outdoor education'.

In developing the Bill, I was aware that this was a highly unusual use of legislation. As the whole premise of the Bill (and of my proposal from the very start of the process) was to ensure that residential outdoor education would be provided at least once **free of charge**, such a provision was required to ensure that the Bill met that objective. I am also acutely aware of the financial pressures on schools and local authorities and do not intend for the costs of the Bill to be met from education providers' existing budgets. Section 2 also reflects this objective.

I did not base the drafting of Section 2 of the Bill on any existing legislation, and as such do not have examples of equivalent legislation to provide to the Committee.