

Dear Chair

Thank you for your letter inviting my views in relation to the Children's Wellbeing and Schools Bill LCM, which is currently remitted to your Committee for review alongside the Legislation, Justice and Constitution Committee.

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I note in particular the Committee's interest in Clause 11 (clause 10 as introduced) and the application of this to Welsh Local Authorities.

Via email only

The Committee will have had the opportunity to review my previous submission in relation to the wider subject matter of the LCM dated 1 May 2025, but the focus of that related to the safeguarding provisions and not specifically to Clause 11, so I am grateful for the opportunity to explore this in more detail.

Dyddiad/Date:
16.6.25

Whilst we had had some discussions with Welsh Government Ministers and officials prior to the introduction of the Bill by the UK Government, those discussions had focused on the safeguarding and Education other than at School provisions. We had not had any discussions about the potential for a provision such as Clause 10 to be introduced.

I have since taken the opportunity to discuss this with officials, and with the Minister for Children and Social Care.

I recognise the pragmatic approach taken by Welsh Government to joining in on provisions in this Bill to give them application here in Wales too, where the legislative timetable for the Senedd would not enable such legislation to be passed here.

In particular, in relation to Clause 11, this comes from a policy direction that has not been led by the Welsh Government, so I can understand from that perspective why they haven't brought forward their own legislation in this space to date. I can further understand the decision to ensure that all safe options for children's care remain open to Welsh local authorities, against a backdrop of ongoing pressures on the availability of suitable accommodation to meet all children's needs.

However, I do have a concern that there is limited detail available as to how the new type of provision envisaged will operate. It is not clear to me who will provide and deliver the care in what appears to be a new type of secure-equivalent accommodation, nor what the operating models will be, specifically what the therapeutic care model will be and whether these provisions will be profit making entities.

On the latter point, Wales has taken great strides forward to eliminate profit making from children's care services, in direct response to the concerns of Welsh children and young people who felt commoditised by such arrangements. On the face of the limited information currently available, I am not clear whether these new placements will include a profit element but would be concerned if that were to be the case given the strong steps taken in Wales to prevent this.

I note that the placement of any children in any new types of accommodation would require Ministerial approval should this be a profit making entity, but would prefer to see assurances that this new accommodation will not extract a profit. Otherwise it is not clear to me that this would align with the policy and legislative aims of the Welsh Government and I would query the willingness to be included in this provision without further assurances on this topic.

I share the concerns of my counterpart in England, and other children's charity organisations such as Article 39 about the lack of detail around these new accommodations.

Pressure on secure care provision/places is not a new or emerging issue. There has been something of a crisis in this area which has been known about for many years. Indeed, my office, my counterparts in England, and Ministers and officials in Welsh Government have received correspondence from senior members of the Judiciary highlighting specific cases where the courts hands have effectively been tied, requiring use of the High Court's 'inherent jurisdiction' powers to order placements in bespoke (but unregistered/unregulated) accommodation in lieu of any other suitable placements being available. This is something that the UK and Welsh Governments have been 'on notice' to address for many years now.

It is disappointing that work is not further progressed in this space to address this known pressure in the system, affecting some of our most vulnerable children and young people. I note that the Welsh Government has taken some steps to introduce new regional provision to support children with complex needs; this came as a result of work from my office proposing 'safe accommodation' options back in 2018, but work continues to establish sufficient provision in each region. This has not been a swift process, and alongside this the numbers and needs of children in our care have continued to rise. It is not clear that work to date has been sufficient to address these placement challenges.

There are some questions that I would pose in relation to this proposed new type of accommodation:

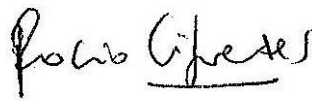
- We do not yet have the details around this proposal; do we know when draft regulations will be brought forward, and what these will contain?
- Will there be separate regulations for Wales, and will any regulations be subject to a full Children's Rights Impact Assessment? (the Children's Rights Advisory Group "CRAG", of which my office is a member, would be delighted to consider a request on this particular topic I am sure).
- Have any children or young people been consulted in relation to these proposals? Either in England, or in Wales? If not, what plans are in place to consult with Welsh children on this Clause?
- Will the new 'relevant accommodation' be subject to the same legislative arrangements as the current secure accommodation regime, in terms of checks and balances such as time limited placements and ongoing need for court approval for continued placements?
- What are the core elements of this type of accommodation that differentiate it from a) a secure accommodation setting and b) a regular children's home? What is it specifically about this provision will make this 'capable' or in other words 'suitable' to accommodate children deprived of their liberty?
- How will family contact and local connections be maintained for Welsh children being placed in this new accommodation? What safeguards will there be in the system to ensure these relationships can be maintained?
- How have Care Inspectorate Wales been involved to date in developing these proposals? As this provision would be in England, they would not have a direct role in regulating or inspecting these settings, but their input should be sought to ensure that the standards of care they would expect for children from Wales are being met.

In summary, at present there is not enough detail available to give a firm support to these proposals. I would have expected the discussions between Governments to be more advanced in terms of the specifics and details at this

stage, as it is necessary to know what the implications of the primary legislation will be even before the secondary legislation comes forward to consultation.

I would be happy to assist the Committee further with its inquiry in this regard if this would be beneficial. Either myself or my Head of Policy and Public Affairs, Rachel Thomas, would be happy to have further correspondence or discussions as required.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Rocio Cifuentes'.

Rocio Cifuentes MBE
Comisiynydd Plant Cymru
Children's Commissioner for Wales