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**Barnardo's
Cymru**

**Response from Barnardo's Cymru to the
School Standards and Organisation
(Wales) Bill – Children and Young
People Committee Legislative
Consultation.**

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- **This response may be made public.**
- **This response is on behalf of Barnardo's Cymru.**

Barnardo's Cymru has been working with children, young people and families in Wales for over 100 years and is one of the largest children's charities working in the country. We currently run 93 diverse services across Wales, working in partnership with 20 of the 22 local authorities, supporting in the region of 8,500 children, young people and families last year.

Barnardo's Cymru services in Wales include: care leavers and youth homelessness projects, young carers schemes, specialist fostering and adoption schemes, family centres and family support, parenting support, community development projects, short breaks and inclusive services for disabled children and young people, assessment and treatment for young people who exhibit sexually harmful or concerning behaviour and specialist services for children and young people at risk of, or abused through, child sexual exploitation.

Every Barnardo's Cymru service is different but each believes that every child and young person deserves the best start in life, no matter who they are, what they have done or what they have been through. We use the knowledge gained from our direct work with children to campaign for better childcare policy and to champion the rights of every child. We believe that with the right help, committed support and a little belief, even the most vulnerable children can turn their lives around.

General

1. Is there a need for a Bill to make provision about school standards and school organisation? Please explain your answer.

Yes.

As it has been highlighted by Welsh Government (WG) the current legislative framework can be confusing and would benefit from consolidation and subsequent clarity particularly in areas of potential policy divergence from Westminster.

Whilst schools need to have flexibility and some autonomy this needs to be balanced with a need for LEA's and Welsh Ministers to intervene where necessary. There is also a need for schools not to have so much autonomy as to make the national delivery of education policy virtually impossible. In this, national directives and standards are needed.

Whilst this Bill is directly concerned with structures and organisational considerations we are concerned at the lack of

reference and apparent consideration given to pupil and parent voice and engagement. Overall the users of the education service, that is, pupils and parents, are not included within much of the discussion of structures and organisation. Where relevant we have given suggestions for how this could be rectified within our comments under question 3 below.

2. Do you think the Bill, as drafted, delivers the stated objectives as set out in the Explanatory Memorandum? Please explain your answer.

This is difficult to answer as the explanatory memorandum is not easy to follow, particularly in instances where it does not follow the layout of the Bill, for example Part 5: miscellaneous school functions. Additionally, there are parts of the explanatory memorandum that are straightforward to comment upon, but potential comments are not easily transferrable to relevant sections of the Bill.

3. What are your views on each of the main parts of the Bill—

Part 1 – Introduction (section 1)

No comments to make.

Part 2 – Standards (sections 2-37) (see pages 9-17, 92-99 of the Explanatory Memorandum)

Chapter 1 'intervention in conduct of maintained schools', Sections 4 and section 11, intervention by local authority or Welsh Ministers respectively, 'power to intervene' could include a duty to inform pupils and their parents. Our suggested clause to be inserted at:
Part 2, Standards,
Chapter 1, Intervention in Conduct of maintained Schools
Before Grounds for intervention

- 2 '*Places a duty on a Local Authority or Welsh Minister making an intervention to ensure clear, timely information explaining the need for intervention, the nature of the intervention and what grounds for concern it will address, with timescales where possible to the pupil body and their parents or carers.*'

This would enable pupils and parents to have clear and accurate information.

Chapter 2, 'Intervention in local authorities' section 23 'power of Welsh ministers to intervene' could also include a duty to inform the

pupil population and their parents and carers. This would enable the education service users of a local authority to have clear and accurate information. Our suggested insertion is:

Part 2

Chapter 2

Page 14 line 18, insert

23 *'Where Welsh Ministers decide upon an intervention within a local authority they have a duty to provide timely information explaining the need for intervention, the nature of the intervention and what grounds for concern it will address, with timescales where possible to the pupil population and their parents or carers.'*

Part 3 - School Organisation (sections 38-84) (see pages 17-21, 99-106 of the Explanatory Memorandum)

Chapter 2 'School Organisation Proposals'

Section 40 'restriction on establishment, alteration, and discontinuance of maintained schools'.

Clause 1 enables the establishment of new foundation special schools whilst clause 2 states that no new foundation schools will be established. These two clauses suggest that new foundation special schools can continue to be established, whilst foundation mainstream schools cannot. We question the rationale for this, suggesting that the model of foundation schools should occur equitably across both mainstream and specialist sectors. If there is a strong argument for not maintaining the foundation school model for mainstream pupils why does this not apply to SEN pupils?

Chapter 2 'School Organisation Proposals' sections 53- 57 refer to the local determination panel and the explanatory memorandum details the make up of this panel and how objections and proposals will proceed. Whilst decisions of this nature need to be made locally we have concerns regarding the representativeness of the panel and the need for independence. We therefore suggest that the panels exist at the consortium level affording a degree of independence from the local authority that is making the proposals. We also suggest that not only is the panel's decision made public but that the process is also public. Should the objectors not be satisfied with the outcome of the panel's decision we would suggest an appeal system, rather than just a complaints system, culminating with the Public Services Ombudsman for Wales.

Chapter 4 'Regional provision for special educational needs' sections 65- 71 raises concerns with regard to pupil well being. It is already documented and known that children and young people currently attending special schools regularly feel disconnected from their communities, towns and cities and find the journey to school takes some considerable time, adding to the length of their school day which their non disabled peers attending mainstream schools do not have to contend with. Long school days impact upon children's opportunities to play and access leisure activities, as well as sometimes impacting upon their health needs, emotional well being and ability to learn in school.

The negative impacts of school journeys will be increased if regional provision means longer journeys to school for pupils attending special schools. In instances where SEN pupils attend residential education facilities, regional provision could impact upon the regularity of visits home or family visits, particularly if public transport across local authorities is poor.

We would therefore suggest that a new section is inserted between section 65 and section 66 entitled 'the welfare of children and young people who would be affected by regional provision'. This would evidence ministerial compliance with the Children and Young People's Rights (Wales) Measures 2011 and the requirement for ministers to have due regard to the UNCRC. We would suggest the following two insertions as separate clauses within this new section:

'Welsh ministers must give due consideration to the health, well being, social needs, learning needs and family life of the children and young people who may be affected by a direction to consider making regional provision, or a proposal to secure regional provision.'

'Local authorities responding to a direction to consider making regional provision or directions to make proposals to secure regional provision must undertake a pupil impact assessment that details the potential impact to affected pupils on their health, well being, social needs, learning needs and right to family life. This pupil impact assessment must be given to Welsh ministers and referred to as part of the decision making process when proposals for regional provision are rejected or adopted'

Chapter 5, 'proposals for restructuring 6th form education' section 72 'Welsh Ministers' powers to restructure sixth form education'

Clause 1a) raises questions for us regarding the creation of sixth form special schools. It is currently known that disabled young people find it hard to access course based study and qualifications at further education level alongside their non disabled peers and that disabled young people with multiple support needs find it hard to access any further education (mainstream or specialist). We do not have an evidence base to know whether the creation of special school sixth forms will counteract or compound these difficulties faced by disabled young people.

***Part 4 – Welsh in Education Strategic Plans (sections 85-88)
(see pages 21-25, 106-107 of the Explanatory Memorandum)***

No comments to make.

***Part 5 – Miscellaneous School Functions (sections 89 – 97)
(see pages 25-31, 107-109 of the Explanatory Memorandum)***

'Free breakfasts in primary schools', section 89 'duty to provide free breakfasts for pupils in primary schools' Clause 2b), states that the local authority duty to supply free breakfasts does not apply if it is 'unreasonable' for the local authority to provide the breakfasts. We question what is meant by 'unreasonable' and in what specific circumstances a local authority can claim it will be 'unreasonable'. The answers to these questions should be included within the Bill in the form of a definition of what is considered 'unreasonable'. Additionally, we suggest that where it is unreasonable for the local authority to supply free breakfasts a third sub clause is added to 2b) that states:

iii 'Local authorities must evidence why it is unreasonable.'

'School based counseling', sections 93 Clause 1, requires local authorities to 'secure reasonable provision' for a service. We would advocate the inclusion of a definition of 'reasonable provision' to be included within this Bill. The explanatory memorandum on sections 93 and 94 state that money for the independent counseling service will be transferred to RSG. We would caution that this could affect the delivery of the independent counseling services and could impact upon national consistency and standards of school based counseling. The explanatory memorandum also states that counseling services are to be sited at secondary schools with other locations being discretionary. We question the practicalities of year 6 pupils and pupils receiving alternative curriculum provision having information about, and accessing a counseling service if they are only sited in secondary schools. There is anecdotal evidence that some SEN pupils attending special schools do not know about school

based counseling and we would want to ensure that provision of this service is made for all pupils.

'Parents meetings' section 95 'duty of governing body of maintained schools to hold meetings following petition by parents' assumes that parents will be familiar enough to each other to be able to join together and petition for a meeting with school governors. Whilst this may be the case in extreme situations of serious concern to parents, it is unlikely, particularly at secondary schools, for parents to be so familiar to each other as to be able to do this for less serious matters. We agree with the reason for this suggestion as it is anecdotally known that parents do not attend annual parent's meetings.

However, we do not think that the suggested alternative of petition in this Bill will function practically. We would urge that clarity is given within this Bill for the process of how parents can raise concerns with the school and then whether they have recourse to governors or the local authority and how to take complaints or concerns forward. The explanatory memorandum outlines mechanisms for parents to be communicated with, citing written annual reports and parents evenings, but these tend to be top-down information giving mechanisms rather than tools for parental engagement. Guidance should be issued after the passing of this Bill that specifically details parental engagement within school organization and structures.

Part 6 – General (sections 98-102) (see pages 109-110 of the Explanatory Memorandum)

No comments to make.

4. What are the potential barriers to implementing the provisions of the Bill (if any) and does the Bill take account of them?

Explanatory memorandum on p.27 discusses 'The protocol on hypothecated grants'. Without statutory duties laid out for example for free primary school breakfasts, support for SEN pupils in further education, independent counseling services etc there is a high risk of these services not functioning as planned. Additionally, the 2008 UNCRC concluding observations report makes a number of references to the necessity for the state parties to have transparent monitoring and evaluation of budgets spent on children in order to alleviate child poverty and implement the realisation of children's

rights. This cannot be undertaken if monies are transferred to RSG with no checks or monitoring requirements explicitly put in place.

Powers to make subordinate legislation

5. What are your views on powers in the Bill for Welsh Ministers to make subordinate legislation (i.e. statutory instruments, including regulations, orders and directions)? In answering this question, you may wish to consider Part 1, Section 5 of the Explanatory Memorandum, which contains a table summarising the powers delegated to Welsh Ministers in the Bill to make orders and regulations, etc.

We feel that these powers need to be in place in order to ensure a consistent national standard with the education system.

Financial Implications

6. What are your views on the financial implications of the Bill?

In answering this question you may wish to consider Part 2 of the Explanatory Memorandum (the Regulatory Impact Assessment), which estimates the costs and benefits of implementation of the Bill.

No comments to make.

Other comments

7. Are there any other comments you wish to make about specific sections of the Bill?

No more comments to make.