

CYPE(5)-19-20 - Papur i'w nodi 4

Kirsty Williams AS/MS
Y Gweinidog Addysg
Minister for Education



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref
Ein cyf/Our ref
Lynne Neagle AS
Cadeirydd y Pwyllgor Plant, Pobl Ifanc ac Addysg

Government.Committee.Business@llyw.cymru

15 Gorffennaf 2020

Annwyl Lynne

Diolch am eich llythyr dyddiedig 8 Gorffennaf ynghylch y cyhoeddiad diweddar i atal y gwaith ar y cynigion ar gyfer canllawiau statudol ar addysg yn y cartref a'r rheoliadau cronfa ddata drafft am y tro.

Ni wnaed y penderfyniad hwn ar chwarae bach ac roedd gwneud y penderfyniad anodd hwn o atal y gwaith diwygio am y tro yn destun siom i mi.

Yn ôl eich cais, dyma gopi o'r ohebiaeth gyda'r Comisiynydd Plant.



Yn gywir

Kirsty Williams AS/MS
Y Gweinidog Addysg
Minister for Education

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

Gohebiaeth.Kirsty.Williams@llyw.cymru
Correspondence.Kirsty.Williams@gov.wales

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.

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Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref KW/03194/20
Sally Holland
Children's Commissioner for Wales

Ceirios.Williams@childcomwales.org.uk

01 July 2020

Dear Sally Holland,

Thank you for your letter of 16 June regarding your concerns about the decision to pause the development of the home education reforms.

As I outlined at our meeting on 4 June, developing the national response to Covid19 has had significant implications on resources within Welsh Government – this includes, financial, policy and of course on the legislative plans for this Government term. Given the new and unprecedented pressures on the day-to-day work within the Government, the Cabinet undertook a prioritisation exercise to evaluate what was and was not deliverable and to analyse the potential options for alternative solutions.

I would like to assure you that home education remains one of my priorities and I was extremely disappointed that I had to take the difficult decision to pause work on the reforms. I can confirm that I considered a range of scenarios and mitigating actions, including options for alternative support, but ultimately I had to take the decision to focus limited resources on the Government response to Covid19 and to ensure that schools were able to operate in the current circumstances. The unprecedented situation we find ourselves in unfortunately means that there are limited resources for other areas of work within Welsh Government.

I do not think that the work that we have carried out to date is a waste of resources and whilst it is not possible to continue with these proposals at this time, I believe that we have provided a solid foundation for future work in this area. I will continue to promote children's rights and will ensure that local authorities are accountable for the delivery of their statutory responsibility to ensure that all children in their locality are receiving a suitable education regardless of where that may be provided

I would like to confirm that I hope that work can re-start towards the start of the next financial year if resources allow and I understand that my officials are shortly meeting with counterparts in Social Services to discuss key themes and next steps for home education following a meeting with the Deputy Minister for Health and Social Services.

I was pleased that the Welsh Government was able to welcome and accept the recommendations made in your 2018/19 report and I made sure that resources were made available to ensure that we were able to deliver on the response. At the time our response

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was published, on 3 December, it was our intention to publish both guidance and regulations in 2020. However, as I have outlined in this letter, unfortunately the unforeseen onset of Covid19 has changed the landscape for everyone in terms of what can and cannot be delivered.

You asked a number of questions in your letter, let me answer them in order.

1. When was the decision taken not to take these changes forward?

This decision was taken at a Ministerial meeting to discuss the legislative programme on the 30 April. This meeting was chaired by the First Minister and covered the legislative portfolios of a number of Ministers (all of whom were in attendance).

2. How was the decision to not take these changes forward reached and by whom?

Let me assure you, the decision to pause the home education proposals was not taken lightly or in isolation. It was reached following a cross Government exercise which evaluated current resources against workload in light of the unprecedented need to respond to Covid19 and the potential implications of the ending of the EU transitional period.

This means that we have had to make some really difficult decisions, including legislative prioritisation across the Government. In my portfolio, my priority has to be ensuring delivery of the curriculum and reforms to the ALN system.

3. What information was presented to the decision makers in order for that decision to be taken?

Ministers were presented with a range of information to take into account before making a final decision on priorities including a range of scenarios and mitigating actions. As part of the decision making process, we were also provided with information on the amount of Welsh Government resource and an analysis of the level of complexity involved in each of the areas, for example in this instance, there was a high probability that the proposals would be subject to legal challenge (judicial review/JR).

Additionally, confirmation was provided that officials have not been able to progress with necessary engagement with local authorities, local health boards and other stakeholders, due to Covid19. This information highlighted that local authorities are not able to prioritise this work, given the current demands that the Covid19 outbreak is placing on them, and all available local authority resources are now focused on maintaining critical services. Local authorities will continue to prioritise their response to Covid19 for the foreseeable future, including putting in place arrangements for the safe increased operation of schools, prioritising the health and wellbeing of learners and education staff.

It was also clear that local health boards have experienced the biggest impact of the pandemic, and this will remain a significant issue for them as they continue to focus on front line working to mitigate and manage the impact of Covid19.

4. What was the weighting to any decision making; was there consideration of work already undertaken and public commitments to actions for example?

The response to Covid19 has, by necessity, taken priority over the majority of all other Welsh Government programmes of work. Weighting of decisions was based on the need to prioritise;

- the response to Covid19;
- legislation required for European transition; and
- legislation, which is a legal necessity that must be made under any circumstances.

New and substantial legislative workstreams have arisen because of Covid19 which needed to take priority including making amendments to existing powers as well as utilising the notice powers under Schedule 17 to the Coronavirus Act 2020.

5. What was the conclusion of the Children's Rights Impact Assessment that accompanied that decision? I would like to see a copy of that impact assessment in full. If no such report exists I would like to know how the decision took into account the different considerations of children's rights and the necessary balancing exercise in deciding which pieces of legislation and guidance would be prioritised.

During the initial stages of Covid19, Ministers have been keen to ensure that we continue to meet our statutory obligations, and as you are aware, an Integrated Impact Assessment (IIA) has been drafted for decisions taken early in the pandemic. Unlike normal IIA's, this will set out the impact of decisions that have been taken, rather than proposed policy proposals, to provide a transparent account of the actions and mitigations that the Welsh Government has had to take during this emergency period. This will of course include the CRIA.

Decisions taken after this initial period will be subject to individual IIA's and CRIA's

In this instance, the CRIA had not been conducted at the time of the Ministerial meeting on the 30 April. The decision was taken because Welsh Government had to urgently move resources to other areas to support the priority response to the pandemic and on balance, it was decided to proceed with the Curriculum Bill and the reforms to ALN

You will also be aware from the work my officials have been engaged in with your office regarding integrated impact assessments that understanding the impact of the pandemic and our subsequent response on children's rights and how this can be mitigated, has been at the forefront of our decisions. I am grateful for the responsive way your office is working with us during this emergency period to help inform our decision making.

The best interests of the child remains at the heart of Welsh Government decision making and the home education proposals were fundamentally about ensuring compliance with children's rights and, in doing so, ensuring that children of compulsory school age receive a suitable education. This consideration will be reflected in the CRIA, which will be published in due course.

6 Given the explanation that constraints around legal resourcing has been a driving factor behind this decision, has there been specific consideration of sourcing additional legal capacity specifically to work on the statutory changes around home education, in order to ensure that work undertaken to date will not be lost, and that the protections being taken forward by the statutory guidance and regulations can be maintained

I considered a range of scenarios and mitigating actions, including options for alternative support before I reached the difficult decision to pause work on home education. However, ultimately I had to take the decision to focus limited resources on the Government response

to Covid19, on ensuring that schools were able to operate in the current circumstances and on the implications relating to EU transition.

7. How has safeguarding been directly considered in reaching this decision?

The proposals have always primarily been about ensuring home educated children receive a suitable education. As I have said previously, safeguarding remains everyone's responsibility. In November, the Welsh Government published [Working Together to Safeguard People](#) guidance, which reinforces the requirements already in place.

While I am disappointed we cannot continue the development of the home education proposals at this time, where pressures and resources allow, my officials will continue to work to try to make improvements and aim to;

- provide supplementary advice to the current guidance on safeguarding;
- publish the handbook for parents who are home educating;
- continue to fund the home education post in Careers Wales specifically for home educated young people;
- take forward work on the DEWI system to ensure it has the functionality so that when the database regulations are taken forward the system is in place to process the data from the outset.

In addition, my officials will be contacting local authorities to gather information about some of the issues home educating families may be experiencing as a result of Covid19. This will focus on the wellbeing of these children, and awareness and access to information and will help identify whether we need to do some targeted work with home educating communities during this time.

Independent Schools

Updating the independent school standard regulations has also been a priority for me; however, as with the home education proposals intensified pressures have now meant that this work cannot be taken forward in this term.

Further legislation in relation to the powers and scope of the Education Workforce Council (EWC) was another area that was due to be advanced this year. Some elements are still moving forward. For example, consideration of providing a new power for the EWC allowing the imposition of interim suspension orders on registrants. Where required, relevant legislative procedures will be progressed.


However, other potential legislative changes are less likely to be taken forward in this term, particularly where a non-legislative approach could go some way to achieving the overall aim. This is the case in relation to introducing a regulatory requirement on staff at independent schools to register with EWC. My officials are considering a potential interim measure of encouraging independent schools as responsible employers to require that their staff are registered with EWC. Such a move would prepare the sector for any future legislative requirements as well as go some way to achieving the aims referred to in your letter.

In terms of your point about non-qualified youth workers, our Youth Work Strategy, 2019, commits us to 'consider the future role of registration in professionalising and supporting voluntary and paid professional youth work staff in Wales'. To support implementation of the strategy we established a number of sector-led Strategy Participation Groups (SPG's), and one of these, the Workforce Development Group, is actively considering this area of work. This includes looking at a number of issues which you raise – the registration of non-

qualified youth workers – but also other important areas of work like the Schedule of Qualifications that supports registration but which needs updating. Members of the Workforce Development SPG, including the Education Workforce Council and Education Training Standards Cymru, are currently compiling an up-to-date list of qualification from around the UK that will support an update to the Schedule of Qualifications at an appropriate time. While the work of the majority of Strategy Participation Groups has been temporarily suspended to enable members to deliver key frontline services to young people during Covid-19, the Workforce Development SPG will no doubt be returning to consider the wider issues with registration in due course. They will include giving careful consideration to the potential role of registration in supporting and professionalising the work of non-qualified youth workers and those working towards qualification.

In these unprecedented times, I would like to finish by once again reiterating that children's rights remain at the forefront of my thinking but difficult decisions have had to be made. Whilst I am disappointed that work has paused on the reforms I remain committed to working with you to ensure that we can tackle the issues raised during the reforms and be in a position to resume work in this area as soon as resources allow.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Kirsty Williams'.

Kirsty Williams AS/MS
The Minister for Education
Y Gweinidog Addysg