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Education (Wales) Bill : Stage 1
Response from : Welsh Local Government Association

Education (Wales) Bill 2013 NAfW Children and Young People Committee

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WLGA • CLILC

INTRODUCTION

1. The Welsh Local Government Association (WLGA) represents the 22 local authorities in Wales, and the three national park authorities and the three fire and rescue authorities.
2. It seeks to provide representation to local authorities within an emerging policy framework that satisfies the key priorities of our members and delivers a broad range of services that add value to Welsh Local Government and the communities they serve.
3. The WLGA is guided by a number of key principles which underpin the work of the association and inform this response to the Education (Wales) Bill 2013. The WLGA believes that decisions about services should be taken as close point of delivery as possible and that the people and communities using those services should be as engaged as possible in their delivery. It is also our belief that local services should be provided within a democratic framework of local accountability.
4. The WLGA recognises that it is the role of the Welsh Government to set the strategic framework and policy direction for services at a national level and that it is the role of local government to deliver those services taking account of the local circumstances and pressures. It is also recognised that services must be provided within a proportionate but effective regulatory framework to ensure that public resources are used appropriately and that services are delivered effectively and efficiently.
5. The WLGA has consistently argued for an un-hypothecated revenue support grant (RSG) as the best way of funding local government and any new responsibilities or additional burdens placed on local government should be fully costed and appropriately funded.
6. The WLGA recognises that some policy initiatives or strategies need to have funding attached to them for specific periods of time to make sure that they become embedded and are delivered as intended. For this reason, the WLGA, by exception, supports the use of specific grants or the ring fencing of revenue funding for specified purposes on the understanding that funding will eventually return to the RSG.

7. The WLGA welcomes the opportunity to give evidence to the National Assembly for Wales Children and Young People Committee on the proposed Education (Wales) Bill 2013. The Bill covers proposes changes to a number of key areas for education in Wales and this evidence covers each of those areas in turn.

Education Workforce

8. The Bill proposes radical change to the current arrangement for workforce planning, training and development for the education workforce in Wales. The WLGA acknowledges that over the last ten years there has been a rapid change in the make-up of the wider education workforce in Wales and this means that reform is needed in the way that the workforce is supported. The changes in the workforce have been largely due to the introduction of initiatives such as the Foundation Phase, which have resulted in support staff, other than teachers having a significant input into the education of children and young people. Changes to the curriculum for 14 – 19 year olds has also meant an increase in collaboration between educational institutions which has highlighted the differences in the registration and regulation of the staff concerned. *The National Improving Schools Plan* from Welsh Government and recommendations in *The Future Delivery of Education Service in Wales* (the Hill Review) have set ambitious targets for schools and local authorities and in order to achieve these aspirations to whole system will need to work coherently.
9. The WLGA have responded on two previous occasions to Welsh Government on the issue of widening the registration of the education workforce and the associated changes that would be required to the GTCW (General Teaching Council for Wales). A number of concerns were raised through these consultations and although the Bill now sets out a clear direction of travel these concerns are still relevant and articulated below.
10. The WLGA firmly believe that the whole of the education system needs to work together in order to improve standards for all learners in Wales. It is the case, however, that the public sector is facing unprecedented financial pressures which is acknowledged in the cost analysis contained within the Explanatory Memorandum for the Bill. It is welcomed that the preferred option for the creation of the Education Workforce Council is to enhance the existing function of the GTCW. There are still, however, concerns about the lack of detailed costings for such an option, given that the expansion from the current remit of the GTCW would be extensive, not only in terms of costs but also in terms of skills. The costs and benefit analysis states that the

Council will be self-funded from registration fees, for the core functions. It is not clear however, what these core functions would be as it does not seem to cover costs associated with disciplinary work, an estimated £500,000 per year. In addition it is not clear whether registration fees would also cover the extended role of the Council in setting standards or training. While the rest of the public sector is looking to make savings and efficiencies, the Education Workforce Council would be expanding its role, remit and resources.

11. There is also an issue in relation to the application of the fees system to fund the Council. At present there are arrangements in place, as part of teachers pay and conditions, which cover a proportion of the costs for teachers registering with the GTCW. As teachers pay and conditions is not a devolved function it is not within the scope of this legislation to amend these conditions in respect of registration fees. Therefore, the situation could arise where a teaching assistant and a teacher working in the same classroom would not have parity in terms of payment of their fees to the Education Workforce Council. It is understood that the Welsh Government will continue to consult on this issue and work with local government, as the employer, to resolve this issue.
12. The Bill outlines an extensive remit for the Education Workforce Council and there are some concerns that the Council may duplicate work that is undertaken elsewhere. For example, the ETS (the Education and Training Standards Committee) accredits training within the youth sector, and many aspects for the training and induction of the wider education workforce are part of national and regional training programmes that are already in place. It is essential that within the current financial climate that duplication of provision is avoided. In addition, there must be clear and transparent quality assurance mechanisms in place to ensure that where the Council does become involved with training it is of high quality, relevant and consistent with recognised standards. It is also essential that the Council have the necessary specialist expertise to develop codes of conduct and practice for distinct sections of the workforce. It is understood that there are a range of skills and behaviours that will be common across the workforce however, previous attempts to develop a generic code of practice for large, diverse workforces have not been successful.
13. Although there are concerns about some aspects of the Bill in relation to the education workforce, the stated aims of the legislation to bring greater coherence and to recognise the contribution of the whole education workforce are supported. There is extensive evidence, contained in the Hill Review and elsewhere, that one of the key

factors in improving education outcomes for children and young people is the quality of teachers and other education professionals. Registration and regulation of the workforce is one route to ensure a high standard of professionalism within the education workforce, but should be viewed in the context of wider change and should be achieved in a way that offers value for money.

Reform of the registration and approval of independent schools in respect to special educational needs

14. The WLGA and local authorities are committed to providing high quality education services for all children and young people, including those with additional educational needs. This section of the Bill aims to reform the way that independent schools register to provide for learners with special educational needs in order to reduce duplication and bureaucracy and to increase transparency. The WLGA supports these aims.
15. The Bill proposes that there is a single system for the registration of independent schools in relation to provision for SEN. The reforms proposed will allow for all independent schools who register to provide for children and young people with a special educational need to be inspected and monitored by Estyn; this approach is supported by the WLGA. This will allow local authorities, learners and parents and carers to have a greater understanding of the type and quality of provision available for those learners with special educational needs, enabling better planning and decision making.

Responsibility for assessing the need for and arranging specialist post-16 education for learners with learning difficulties and/or disabilities

16. The WLGA has stated that education is the number one priority for local authorities in Wales and this commitment includes ensuring that children and young people with special educational needs, and additional learning needs, received high quality education which is appropriate for their needs.
17. Under the current arrangements local authorities work with children and young people of compulsory school age to assess the nature of any special educational need and deliver or commission services which appropriately meets those needs. There is guidance and regulation in place which provides a framework for the provision and there is a system of dispute resolution should parents, or carers, feel that the

provision does not meet the needs of the child or young person or that their needs have not accurately been assessed. This includes the right for parents and carers to appeal to the Special Educational Needs Tribunal for Wales (SENTW). Where possible children and young people are supported within a mainstream educational setting, however, where this is not appropriate they may attend a specialist setting or residential setting.

18. Provision, and funding, for post-16 learners with special education needs is currently managed by the Welsh Government, who contract Careers Wales for the assessment side of the work. The proposal within the Bill is to pass the responsibility for the assessment of post-16 pupils with a special educational need to the local authority, along with a proportion of the funding for provision. It is recognised that having coherence between the systems for pre and post-16 assessment is beneficial however, there are serious concerns about the affordability of these proposals for local government.
19. The concerns about funding this element of the Bill relate to the costs of the initial assessment, the cost of provision and the pressures on the current budgets of the further education sector who are expected to make provision for many of the young people. Local authorities currently assess children and young people of compulsory school age. There are already considerable pressures within local authorities in terms of assessing the needs of learners with special educational needs pre-16. The addition of post-16 assessments without there being additional resource may put a strain on the capacity of some local authorities to perform assessments. There are clear advantages to having assessments for all learners, pre and post-16, performed within one organisation as this will enable smooth and managed transition and also staff undertaking the assessment will be familiar with the needs of the learner. There does however, need to be a realistic assessment of the additional cost for the local authority in performing this function.
20. In addition there is a concern about the affordability of the provision for post-16 learners with special educational needs. Where possible learners are provided for within mainstream institutions, including 6th forms or FEIs (further education institutions). There are however, a proportion of learners who cannot be provided for within these settings and for whom more specialist provision is appropriate. Provision in specialist settings can be costly and at present those costs are managed nationally by Welsh Government. The proposal in the Bill is to shift both the responsibility and the costs on to local authorities. This approach does have advantages in that the costs

can be managed locally by seeking the most appropriate setting for the young person that also offers good value for money. There can also be cost sharing between social services and education budgets where care is also included in the provision. There is however a concern that the actual cost of provision will not necessarily be evenly spread across all local authorities whilst the funding through the revenue support grant (RSG) will be evenly distributed across all 22 local authorities. In addition there is a concern that if costs escalate it will put pressure on local authority budgets.

21. For many young people the most appropriate setting will be within a FEI. As will all publically funding bodies they are also facing funding pressures. The proposals in the Bill will require local authorities and FEIs to work together to manage the provision and costs of placing post-16 learners. There are many examples of where local authorities and the FE sector work well together to provide for all learners, including those with special educational needs. As funding pressures increase however, there is a concern that FE will not have sufficient funding to manage provision for all learners who may be appropriately educated at a FEI. This could then result in the local authority picking up additional costs for provision within an alternative setting which may be more costly.
22. In principle therefore, there are many advantages to local authorities assessing and providing for post-16 learners with special educational needs. This approach could result in a seamless system for learners. The WLGA however, does have serious concerns about the cost implications of this proposal and would like to see further work to explore how this proposal could be realistically funded given the existing funding pressures that local authorities are already facing.

School Term Dates

23. The Bill proposes to give powers to Welsh Ministers to direct local authorities to implement certain, specified dates for school terms, where an agreement on standardised terms dates is not reached. This section of the legislation is welcomed by the WLGA.
24. Local authorities acknowledge that the current system for determining school dates can result in the situation where neighbouring local authorities or regions do not have the coterminous term dates and this can cause difficulties for some families. The proposed legislation outlines changes to the current system which includes giving local authorities, along with foundation and voluntary aided schools, the opportunity to set

dates which are coterminous in the first instance. The WLGA support this approach and would be keen to work in partnership with local authorities and Welsh Government colleagues in order to reach an agreement on term dates. If this is not achieved then this Bill will give Welsh Ministers the power to direct local authorities and the governing bodies of voluntary aided and foundation schools to adhere to prescribed term dates as determined by the Minister.

25. There are a number of issues which influence the setting of term dates and these can be complex. They include adhering to religious holidays and also the dates of prominent culture events such as the Royal Welsh Show. The WLGA supports the proposal in the legislation to allow for some variation in agreed term dates should extraordinary situations arise. Such flexibility will be of benefit to children and young people and is welcomed by local government.

Conclusion

26. The WLGA supports many of the principles that underpin this legislation. There are a few areas of concern with relation to the registration of the education workforce which are largely to do with the affordability and detail of the role and remit of the proposed Education Workforce Council. There are also concerns with the affordability for local government of aspects of assessing post-16 learners with disabilities and/or learning disabilities. It is essential that should this legislation be passed that there is detailed discussion with Welsh Government as to how these proposals can be implemented in a cost effective manner.

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