



Ymateb i Ymgynghoriad / Consultation Response

Date / Dyddiad: 28 October 2020

Subject / Pwnc: Additional Questions from the Senedd CYPE Committee in relation to the Stage 1 scrutiny of the Curriculum and Assessment Bill.

Background information about the Children's Commissioner for Wales

The Children's Commissioner for Wales' principal aim is to safeguard and promote the rights and welfare of children. In exercising their functions, the Commissioner must have regard to the United Nations Convention on the Rights of the Child (UNCRC). The Commissioner's remit covers all areas of the devolved powers of the Senedd that affect children's rights and welfare.

The UNCRC is an international human rights treaty that applies to all children and young people up to the age of 18. The Welsh Government has adopted the UNCRC as the basis of all policy making for children and young people and the Rights of Children and Young Persons (Wales) Measure 2011 places a duty on Welsh Ministers, in exercising their functions, to have 'due regard' to the UNCRC.

This response is not confidential.

Context of Response

The Children's Commissioner submitted detailed [written](#) and [oral](#) evidence to the Stage 1 scrutiny of the Curriculum and Assessment Bill. This evidence is submitted in response to additional questions from the Committee about Religion, Values and Ethics.

Additional Questions for Children's Commissioner

- whether she is aware of the extent to which children are withdrawn from religious and sex education in Wales under current arrangements;
- the evidence underpinning the concerns she has expressed about how pluralistic current provision of religious education is in Wales's schools and how pluralistic denominational RVE under the new curriculum is likely to be.

Summary of position in relation to the two areas in question (RSE and RVE).

I do not have concerns about the provisions in the Bill in relation to Relationships and Sexuality Education. **The provision to mandate RSE in the Bill has my full support** and will help realise the provisions of the UNCRC to which all children in Wales are entitled.

I have significant concerns about the provision in the Bill around Religion, Values and Ethics relating to settings that are religious in character. These provisions are not compliant with the UNCRC and are in fact in direct contradiction to it. This is because the provisions of this Bill mean that children in faith settings will not necessarily have access to a pluralistic education in line with human rights requirements under the UNCRC¹; second, because their parents can determine the RVE curriculum they experience. To rectify this **there must be an amendment to Schedule 1 of the Bill.**

Extent to which children are withdrawn under current arrangements.

I do not have information about the extent to which children and young people are withdrawn from RSE or RVE under current arrangements. This information was not included in the impact assessment² that accompanied the Welsh Government consultation (Nov 2019) on ensuring access to the full curriculum, and nor has it been included in other assessments of this legislative change. The Committee would need to seek this information from local authorities or from Welsh Government.

However, even if the numbers of children that are withdrawn are currently very low, this still means that these children are **not receiving an education that is in line with their rights under the UNCRC.** When a child is withdrawn from RSE it means that they do not have access to information they need to make safe, informed choices about their own lives. When a child is withdrawn from pluralistic RVE they do not have the opportunity to develop their understanding of different faiths and worldviews, and they will not have facilitated opportunities to explore and challenge opinions that they may encounter within out of school settings, both online and offline. As outlined in my full response to the Stage 1 scrutiny, ensuring access to the full curriculum for all in both of these areas is a safeguarding as well as an educational necessity. We should not feel comfortable in allowing legislation to pass with blanket provision relating to the religious character of settings, which does not account for the rights of individual children, and which could prevent some children from accessing this education.

This Bill will establish the entitlements that children and young people will experience through an education in Wales. Legislation on its own won't realise those entitlements, that will come with their implementation – but it is incumbent on the Welsh Government, under the Rights of Children and Young Persons (Wales) Measure 2011, that these entitlements enable the realisation of rights. They should certainly not contain provision that can

¹[https://www.ohchr.org/EN/Issues/Education/Training/Compilation/Pages/a\)GeneralCommentNo1TheAimsofEducation\(article29\)\(2001\).aspx](https://www.ohchr.org/EN/Issues/Education/Training/Compilation/Pages/a)GeneralCommentNo1TheAimsofEducation(article29)(2001).aspx)

² <https://gov.wales/sites/default/files/consultations/2019-10/integrated-impact-assessment-ensuring-access-to-the-full-curriculum.pdf>

prevent some children from receiving their rights, and in order to do this Schedule 1 needs amendment to ensure children in all settings receive pluralistic RVE.

Evidence underpinning concerns about how pluralistic current provision of religious education is in Wales's schools and how pluralistic denominational RVE under the new curriculum is likely to be.

The Bill will improve the pluralism of religious education in Wales' school without a religious character. This is because the current law enables children and young people in schools without a religious character to receive a denominational provision under certain circumstances, as set out in Schedule 19 to the School Standards and Framework Act 1998. This will be removed under this Bill and this I welcome.

However, if the Bill passes without an amendment to Schedule 1 the Senedd will have passed a Bill that enables some schools (voluntary aided schools of a religious character) to have a default RVE curriculum that does not need to pay regard to the Agreed Syllabus and is therefore not necessarily pluralistic. It also requires other schools (foundation and voluntary controlled schools of a religious character) to offer a curriculum that is in line with the trust deeds or tenets of the faith, if a parent so requires.

The primary evidence therefore that underpins my concerns is the draft legislation itself. The Curriculum and Assessment Bill is anticipated to endure in legislation for some time and this year alone has reinforced the fact that we cannot accurately anticipate societal change. On that basis a Bill should not pass with proposals that, in addition to failing to uphold the provisions of the UNCRC to participation, education and equality, also fail to take account of the safeguarding role of pluralistic religious education in creating cohesive communities both within and outside the education setting. This would undermine the PREVENT agenda, an equalities approach to anti-bullying education, and the principles of the Well-being of Future Generations (Wales) Act.

My secondary evidence for this concern comes from the context in which we live now. Whilst I do not have data around the extent to which pluralistic RVE is already provided, there is plentiful data that illustrate the necessity to increase access to pluralistic RVE and not decrease this. At a national level, we must take all available educational opportunities to respond to discrimination and bullying, and also to radicalisation of all types, including on the far and extreme right. As illustrated by cases published to illustrate the PREVENT programme³ in Wales, far and extreme right ideology is having an impact on the views of children and young people in Wales. Research by the charity Show Racism the Red Card⁴ in 2020 shows that racist incidents related to faith occur frequently in Welsh schools and may be rising in prevalence. In a survey of 1,058 teachers in Wales, 39% of respondents said their pupils had expressed misconceptions or stereotypes relating to religion and 25% had responded to a racist incident in the last month. Of the 1,058 teachers, 159 chose to add additional comments, of those, 66% (105) described anti-Islamic behaviour or expressions

³ <https://www.gwent.police.uk/en/advice/advice/t-z-terrorism-witness-of-crime/terrorism/prevent/>

⁴ [Racism in Wales: exploring prejudice in the Welsh Education System, May 2020](#)

within their learning communities and 12.6% (19) raised issues of anti-Semitism. This is notable as anti-Semitism was not mentioned at all in a previous 2016 survey⁵ conducted by the charity.

This research echoes several of the findings of a 2018 report, Experience of Race and Racism in Schools in Wales⁶, which was jointly authored by a collaboration between Welsh equalities organisations. This report shows that some children and young people in Wales experience racism on a daily basis due to their religion, and it highlights aspects of the profound impact of this on children's wellbeing and their experience of education. It includes an account of a young woman whose hijab was forcibly pulled off her by one of her peers and her own interpretation that her school needed to address this not only through discipline, but through developing an understanding of her religion among her peer group. This desire is reinforced throughout the report, with other expressions from children and young people about the need for additional education about religion to develop understanding between and across faith communities.

The issue of representation should also be considered: many children and young people attending schools of a religious character come from faith backgrounds that are not the same faith reflected in the tenets or trust deeds of the school. The experiences and religious identity of these children and young people must not be excluded in the syllabus of the school and a requirement that all children receive a pluralistic learning experience is the only way in which this can be ensured – without this it will be left to chance and to individual parental preference.

Finally, my evidence for the need for this to be addressed is based in the UNCRC itself. Schedule 1 must be amended to ensure that a pluralistic requirement applies to education in all settings, and that the ability of parents to decide what type of RVE their child receives is removed, as it is not consistent with the human rights of children and young people to themselves take part in decision making which will affect their life (Article 12); nor is it consistent with the human right of children to an holistic education that promotes understanding among 'among all peoples, ethnic, national and religious groups and persons of indigenous origin' (Article 29).

Additional amendment to ensure RSE

Although not directly part of the two questions I would also like to flag one additional amendment to the Bill that will help safeguard the provision made in the Bill for RSE. **I am concerned about the power of Ministers under section 5 of the Bill to make Regulations to add, remove or revise the identified areas of learning and experience, mandatory elements and cross-curricular skills.**

⁵ Racism and Anti-racism in the Welsh Education System: Research Report September 2016, Show Racism the Red Card

⁶ <http://eyst.org.uk/assets/experiences-of-racism-and-race-in-schools-in-wales.pdf>

I am concerned that this could create a risk for some Areas of Learning and Experience and other mandatory elements that are less well-established. The mandatory element of RSE may be particularly vulnerable to political change and challenge.

Welsh Ministers are separately, under Section 6 (1) of the Bill, conferred with powers to revise the codes relating to the Bill, which set out learning under each area. I question if it is necessary for regulations to also include the power to **remove** whole mandatory elements. An amendment to this power so that it enables the addition and revision of an AoLE or of a mandatory element **but not removal** would still enable flexibility and would also ensure that young people do receive the current AoLEs and mandatory elements – all of which have been determined through the long process of consultation and public engagement. This would better safeguard children and young people’s wellbeing in the long term.

Submitted by:



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Children’s Commissioner for Wales