

## Public Accounts Committee

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Meeting Venue:  
**Committee Room 3 – Senedd**

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Meeting date:  
**24 September 2012**

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Meeting time:  
**14:00**

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Cynulliad  
Cenedlaethol  
Cymru

National  
Assembly for  
Wales



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### Agenda

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#### **1. Introductions, apologies and substitutions (14:00 – 14:05)**

#### **2. Briefing from the Auditor General for Wales on the Wales Audit Office report 'The educational attainment of looked after children and young people' (14:05 – 14:30) (Pages 1 – 69)**

PAC(4) 17–12 – Paper 1 – Wales Audit Office report 'The educational attainment of looked after children and young people'

Huw Vaughan Thomas, Auditor General for Wales  
Stephen Martin, Manager – Performance Audit

#### **3. Motion under Standing Order 17.42 to resolve to exclude the public from the meeting for the following business:**

Items 4 and 7.

#### **4. Options for handling 'The educational attainment of looked after children and young people' (14:30 – 14:45)**

**Break (14:45 – 15:00)**

#### **Public session**

#### **5. Public Audit (Wales) Bill – Evidence from the Minister for Finance**

## **and Leader of the House (15:00 – 16:00)**

Jane Hutt AM, Minister for Finance and Leader of the House  
Reg Kilpatrick, Director of Local Government & Public Service, Welsh Government  
Nicola Charles, Lawyer, Welsh Government

## **6. Public Audit (Wales) Bill – Evidence from the Auditor General for Wales (16:00 – 17:00)** (Pages 70 – 93)

PAC(4) 17–12 – Paper 2 – Auditor General for Wales

Huw Vaughan Thomas, Auditor General for Wales  
Mike Usher, Group Director – Financial Audit  
Martin Peters, Compliance Manager

## **Private session**

## **7. Consideration of evidence on Public Audit (Wales) Bill (17:00 – 17:15)**

## **8. Papers to note** (Pages 94 – 95)



WALES **AUDIT** OFFICE  
SWYDDFA **ARCHWILIO** CYMRU

Agenda Item 2  
22 August 2012  
[www.wao.gov.uk](http://www.wao.gov.uk)

# The educational attainment of looked after children and young people



# The educational attainment of looked after children and young people

I have prepared this report for presentation to the National Assembly under section 135 of the Government of Wales Act 2006.

The Wales Audit Office study team comprised Steve Martin, Claire Flood-page, Joy Rees, Huw Lloyd Jones and Carol Moseley under the direction of Alan Morris.

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Report presented by the Auditor General for Wales to the National Assembly for Wales on 22 August 2012

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**Report presented by the Auditor General for Wales to the  
National Assembly for Wales on 22 August 2012**



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## Summary

- 1** At 31 March 2011, 5,415 children and young people were looked after<sup>1</sup> in Wales, a rise of five per cent on the previous year and of 20 per cent over the last five years. Local authorities have a statutory duty to safeguard and promote the welfare of looked after children and young people, a role known as 'corporate parenting' whereby the parental responsibility moves from the natural parent to the local authority. The responsibilities of the corporate parent are set out in the Children Act 1989 and subsequent legislation<sup>2</sup> and include:

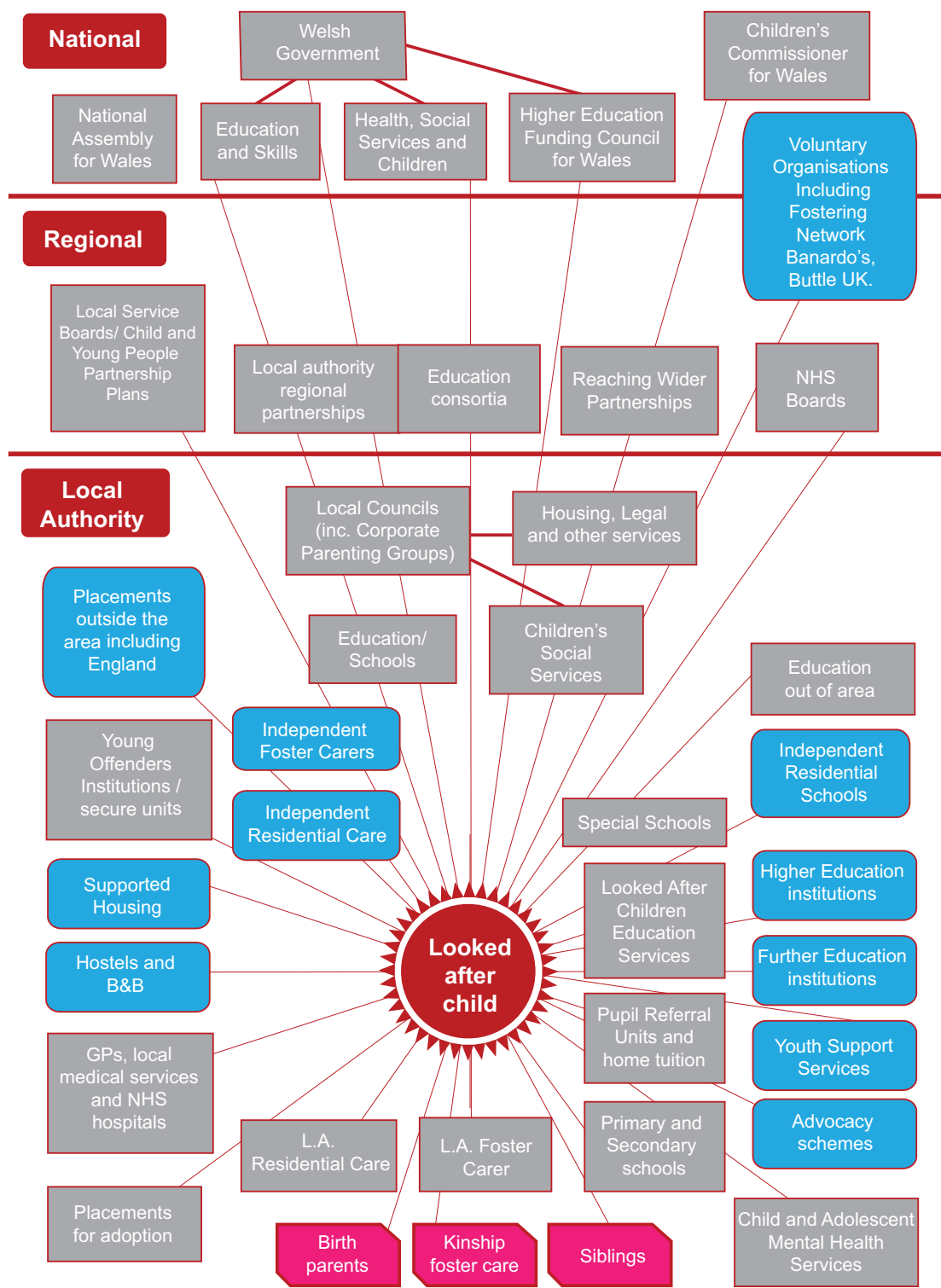
  - safeguarding the welfare of children who are looked after by ensuring safe and supportive placements with foster carers, their own parents or in residential or other homes;
  - supporting the physical and mental health of children and young people who are looked after, in partnership with health authorities;
  - helping looked after children achieve their potential in school and in further and higher education; and
  - helping them to become full and active citizens.
- 2** This report focuses on one element of the responsibilities of the corporate parent: to help children and young people who are looked after achieve their educational potential. Since 1999, the Welsh Government has
- introduced a number of policy initiatives, guidance and specific grant funding which have supported an increased focus on the educational outcomes for children who are looked after. However, educational attainment among looked after children, and other children in need, remains very low.
- 3** Looked after children and young people have a wide range of needs and experiences. Many have complex health, learning and other needs. There are also a small number of young unaccompanied asylum seekers in Wales. They enter a very complex system involving many agencies including foster carers, care providers, parents, social workers, schools, local authorities and the Welsh Government (**Figure 1**). Many will spend only a short period of time in care: research has found that two-thirds of children return home within six months. However, research has also found that the majority of children who spend at least six months in care, will spend a significant period of their childhood in care<sup>3</sup>. Children's and young people's experiences of being in care vary from being very positive to very negative: some have stable placement for many years and a school experience that differs very little from other children and young people but many others have a succession of placement moves, changes of school and time out of full-time education. Significant numbers of looked after children, like other children who receive social services from their local authority, will have been referred for support as a result of factors affecting

<sup>1</sup> 'Looked after' is the term used in the Children Act 1989 to describe all children who are the subject of a care order, or who are provided with accommodation on a voluntary basis for more than 24 hours. Some children are also looked after for the purpose of respite. In the year to 31 March 2011, 642 children received this support but these are not included in the scope of this report.

<sup>2</sup> Further information about the legal context and the numbers, placements and characteristics of looked after children in Wales is in Appendix 3.

<sup>3</sup> Nina Biehal (2006), *Reuniting looked after children with their families*, Joseph Rowntree Foundation, <http://www.jrf.org.uk/sites/files/jrf/0056.pdf>

Figure 1 - Children and young people entering care become part of a complex system of agencies and relationships



Source:Wales Audit Office



their parents including substance or alcohol misuse, learning disabilities, mental ill-health or domestic abuse.

- 4 Research<sup>4</sup> has highlighted that looked after children and young people themselves believe that education is very important. In 2006, the Fostering Network, a charity which provides information about fostering and gives support to foster carers, worked with looked after children in Wales to develop a *Looked After Children's Education Charter* which was presented to the Welsh Government. The introduction said:

'We as fostered young people want the same things in life as other children: success at school, a good job, and a happy family. However, many of us face great upheaval and disruption in our lives. We can experience several moves during a year, resulting in a change of foster carers, school and friends. Despite these difficulties, many of us still go on to fulfil our potential and ... our achievements should be noted and celebrated.'

- 5 Our study examined whether the actions taken across the Welsh public services were enough to improve significantly the educational outcomes for looked after children and young people. We established a reference group with representation from local and national government and a range of other relevant organisations to support our work. We also worked with six local authorities to test self-assessment arrangements and other tools. Further information about our methodology is in [Appendix 2](#). Information about the characteristics of looked after children is in [Appendix 3](#).

- 6 We concluded that initiatives by the Welsh Government and local authorities have contributed to some modest progress but many looked after children are still not achieving their full potential. The lack of clearly defined objectives and weaknesses in planning, performance management and corporate parenting hinder progress.

## **The attainment of looked after children and young people is improving slowly but many are not achieving their potential, there is too much variation in attainment, and weaknesses in data hamper evaluation**

- 7 Changes in data collection and gaps in nationally available information hamper the ability to monitor outcomes for looked after children or make comparisons across the UK. However, statistics reveal that the educational attainment of looked after children and young people is significantly worse than that of all children. At Key Stages 1 (age seven), 2 (age 11) and 3 (age 14), looked after children perform significantly less well than all children. Moreover, their performance falls further behind as they get older. The proportion of children who are looked after who achieve the expected level at Key Stages 2 and 3<sup>5</sup> has increased slightly in recent years, but this improvement is no greater than the increase in attainment for all children at Key Stage 2. At Key Stage 3 the rate of increase for looked after children has been less than the rate of increase for children in general with the result that the gap between their attainment and that of all children has grown.

4 The Social Exclusion Unit found that 'Despite the common perception that children in care are 'uninterested in learning', the vast majority (97 per cent) consider education important, with nearly two-thirds (61 per cent) giving future employment as the reason. Many enjoy school, with around a third (35 per cent) identifying specific subjects or learning as their favourite aspect.' (The Cabinet Office, *A Better Education for Children in Care*, 2003, page 12.)

5 Figures on the performance of looked after children at Key Stage 1 (age seven) are only available in the new Children in Need Census published by the Welsh Government since 2010.

- 8 Young people leaving care aged 16 or over have poorer qualifications than all children and 29 per cent have no qualifications at all, compared to just one per cent of all children. The Children in Need Census 2011<sup>6</sup> showed that in 2010-11, only 23 per cent of looked after children achieved the Level 2 threshold (a volume of qualification equivalent to five GCSEs at grades A\*-C) compared to 67 per cent of all children. Only 10 per cent of looked after children achieve the more demanding Level 2 threshold including GCSEs in maths and English or Welsh compared to 50 per cent of all children.
- 9 The attainment of looked after children varies across Wales and is lower on some measures than elsewhere in the UK. The proportion of those who left care aged 16 to 19 during 2010-11 who achieved five GCSEs at grades A\*-G varied between 21 per cent and 68 per cent across Welsh local authorities (Appendix 4). However, the small number of children looked after by some local authorities in any year cohort means that figures need to be interpreted with care, one or two children attaining the relevant level can make a significant difference to the percentage. At the same time, the attainment of looked after children and young people in some authorities is regularly above the average and in some other authorities regularly below average. Looked after young people in Wales are less likely to achieve qualifications equivalent to five or more GCSEs at grades A\*-C than in England. Latest statistics show that, at Key Stage 4 (age 16), 13.2 per cent of children who had been looked after for six months continuously in England achieved the equivalent of five GCSEs including maths and English compared to 10.4 per cent in Wales.
- 10 Care leavers are more likely to not be in education, employment or training (NEET) than young people in general. Although the proportion of care leavers who were not in education, employment or training on their 19<sup>th</sup> birthday has fallen since 2006, it remains four times higher than the rate for all children. In the year ending 31 March 2011, 48 per cent of care leavers who were in touch with their local authority were not in education, employment or training on their 19<sup>th</sup> birthday compared to 11.5 per cent of all 16-18 year olds. Care leavers in Wales are less likely to be in education, employment or training on their 19<sup>th</sup> birthday than those in England or Northern Ireland. There is very limited evidence about the longer-term educational achievement of young people formerly in care, although the Welsh Government has estimated that approximately 12 (approximately 2.4 per cent) Welsh care leavers enter higher education each year<sup>7</sup>.
- 11 Looked after children's reported school attendance is similar to that of all children but many looked after children still experience disruption in their education. We found no significant issues with the reporting of primary school attendance in the course of our attendance survey conducted in six local authorities but the attendance by secondary school pupils who are looked after was less good than the reported data suggests. The number of permanent exclusions of looked after children and young people has fallen to very low levels partly due to the increased use of managed moves between schools. However, in 2010-11, 14 per cent of looked after children experienced a disruption to their school placement not associated with a planned transition such as that between primary and secondary school.

6 The Wales Children in Need Census was introduced by the Welsh Government in 2010. It uses information on children who receive social services from local authorities, and had an open case for at least three months at 31 March, and data from the National Pupil Database to provide information, including educational attainment, for looked after children, children on the Child Protection Register and other children in need such as children with a disability. Further information on the Census is in paragraph 1.29.

7 National Assembly for Wales, *Explanatory Memorandum to the Children Act 1989 (Higher Education Bursary) (Wales) Regulations, 2011*, Section 5.





## The policies and initiatives of the Welsh Government and local authorities have contributed to some improvement but they lack clearly defined outcomes and whilst there is growing evidence of good practice, the delivery of support is inconsistent

- 12** The Welsh Government and local authorities share a strategic commitment to improving educational attainment for looked after children but do not have clearly defined outcomes against which progress can be assessed. Since its establishment, the Welsh Government has introduced a number of policies and initiatives to improve children's social services generally and to improve the educational performance of looked after children and young people in particular. In 1999, it introduced the Children First programme with the aim of transforming children's social services and provided financial support through ring-fenced funding. That funding included a £1 million annual grant fund targeted to the education of looked after children. At that time, the Welsh Government set two Children First targets for local authorities related to raising the attainment of looked after children. These were that 50 per cent of looked after children should achieve at least two GCSE or GNVQ qualification by 2001 and 75 per cent by 2003; and that children leaving care should achieve no less than the average attainment of children from similar backgrounds in their area. The 2001 Welsh Government policy document *The Learning Country*<sup>8</sup> built on these with a more demanding target: that 75 per cent of looked after children should achieve a minimum of five GCSEs by 2010.
- 13** Subsequently, the Welsh Government published guidance on the education of looked after children<sup>9</sup>. Estyn and the Care and Social Services Inspectorate for Wales (CSSIW) also published a joint inspection report on education provision for looked after children<sup>10</sup>. This made recommendations to support joint working between education and social services in local authorities and to support the planning and co-ordination of services by the Welsh Government and to disseminate best practice.
- 14** The Children First funding was integrated into the block funding provided for local government in 2004-05 and 2005-06. In spring 2006, the Welsh Government announced its RAISE (Raising Achievement and Individual Standards in Education) programme which included a looked after children grant paid to local authorities to improve educational services. Initially this was a two-year programme focused on Key Stage 4 although it was later extended until 31 March 2011. The grant's remit was focused on Key Stage 4 although it was amended so that, while initiatives focused on Key Stage 4, funding could also support work with children in Key Stages 2 and 3 and with care leavers who study for a higher education course through the higher education bursary. RAISE funding was subsequently integrated into the looked after children's element of the School Effectiveness Grant which is available to local authorities to support the education of looked after children of any age.
- 15** In 2006, national targets for the educational attainment of looked after children were dropped as part of the Welsh Government's drive to reduce targets 'to manageable proportions'. In 2011, the Child Poverty Strategy for Wales<sup>11</sup> noted 'there is a broad consensus that the educational attainment of looked-after children and care leavers is

<sup>8</sup> Welsh Assembly Government, *The Learning Country*, 2001.

<sup>9</sup> National Assembly for Wales, *Guidance on the education of children looked after by local authorities*, Circular 2/2001.

<sup>10</sup> National Assembly for Wales, *Educational Provision for Looked After Children, a joint inspection report by CSSIW and Estyn*, 2001.

<sup>11</sup> Welsh Government, *Child Poverty Strategy for Wales*, February 2011, page 31.

unacceptably low in comparison with their peers'. One of the 13 aims of the Strategy is to reduce inequalities in educational attainment generally but the Government has not indicated the outcomes it is seeking to achieve for looked after children.

**16** Also in 2011, the Welsh Government published its Programme for Government<sup>12</sup>. The Programme includes a commitment to take actions to 'improve arrangements for looked after children so that they have more stable lives' with the aim to improve the percentage of care leavers in education, training, or employment at age 19 and reduce the gap at Key Stage 4 between educational outcomes of children in need, looked after children, and the general child population. This is included within the 'Supporting People' part of the programme and the Minister for Health and Social Services, the Deputy Minister for Children and Social Services and the Minister for Local Government and Communities are accountable for it. The Welsh Government has not set specific targets and there is no reference to these aims in the section of the Programme on education.

**17** There is currently no clear plan or strategic document setting out how the different responsibilities within the Welsh Government or between the Government, regional bodies, local authorities and other agencies are aligned to support improved outcomes for looked after children. Within the Welsh Government, overall responsibility for looked after children's educational attainment lies with the Minister for Education and Skills. The Department for Education and Skills supports the targeted funding stream for looked after children's education. However, responsibility for policy for looked after children and young people generally lies within the Department for Health, Social Services and Children and the Deputy Minister for Children and Social

Services has taken a strong lead on corporate parenting. At local and regional level similarly, a range of local authority departments, partnerships and agencies have some responsibility for looked after children.

**18** The Welsh Government has continued to support local authorities in their role as corporate parents through the publication of guidance on legislative responsibilities and best practice. In June 2007, the Welsh Government placed new duties on local authorities, the health bodies and other partners to improve the health, well-being and education of looked after children with the publication of its policy document *Towards a Stable Life and a Brighter Future*. In September 2008, the Deputy Minister for Children and Social Services wrote to councillors and senior local government officers to emphasise the importance of their responsibilities. The Welsh Government worked with the Welsh Local Government Association (WLGA) to launch an updated version of *If This Were My Child*<sup>13</sup> in 2009, containing the latest information on legislation and extensive guidance on being a good corporate parent.

**19** Many local Children and Young People's Partnership plans do not set out the intended outcomes for looked after children. We found that all Children and Young People's Plans for 2011-2014 contain statements about improving educational outcomes for vulnerable children and most referred specifically to improving outcomes for looked after children but only six of the 22 plans contained specific commitment to improve educational outcomes. Additionally few local authorities had included targets for attainment of looked after children or care leavers in their Improvement Agreements or more recent Outcome Agreements<sup>14</sup> with the Welsh Government.

<sup>12</sup> Welsh Government, *Programme for Government*, 2011.

<sup>13</sup> Welsh Government and WLGA, *If this were my child: A Councillor's guide to being a good corporate parent to children in care and care leavers*, June 2009.

<sup>14</sup> Improvement Agreements were structured to demonstrate local authorities' contribution to the Welsh Government's One Wales agenda, with activity around four strategic themes from 2008-09. In April 2010, these were succeeded by three-year Outcome Agreements between the Welsh Government and each individual local authority. Outcome agreements contain 10 over-arching strategic themes originating in the One Wales document. Where possible, Outcome Agreements reflect the authority's existing or identified improvement objectives. Both Improvement and Outcome Agreements have been linked to grant funding.



**20** There is growing evidence of good practice but delivery is inconsistent. Over the last decade local authorities have developed a range of specialist support projects and staff posts and since 2007 they have been required to appoint a looked after children education co-ordinator to work with schools and social work teams. We found examples where these services effectively supported children. Most have been funded through a series of short term grants which has affected the consistency of services. Research over recent years has fairly consistently identified similar key issues to address to improve educational outcomes for looked after children and care leavers. A substantial portfolio of notable practice examples has developed, some of which have been evaluated. These approaches include introducing a Virtual School Head to oversee looked after children's education in a local authority; one-to-one tuition for looked after children; and providing work experience. However, the introduction of these initiatives across Wales is inconsistent.

**21** Substantial progress has been made in widening access to higher education and improved practice is developing in further education and preparation for employment. The Welsh Government, the Higher Education Funding Council Wales (HEFCW), Reaching Higher regional partnerships, higher education institutions and Buttle UK<sup>15</sup> have worked together to identify and overcome some of the barriers that young people who were formerly looked after face when participating in higher education. Since 2006, the HEFCW's Reaching Wider regional partnerships have been active in working with care leavers and universities. By mid-2011, all Welsh universities had obtained

the Buttle UK Quality Mark recognising their commitment to enabling care leavers to access higher education. In June 2011, the Welsh Government amended regulations to require all local authorities to provide a higher education bursary of no less than £2,000 during the course of study. Unfortunately, there is no national reporting of the take up of bursaries or the numbers of care leavers entering or leaving higher education.

**22** Despite growing understanding of what works, there is inconsistency between local authorities in services, arrangements and outcomes. Five local authorities completed a self-assessment of their services for looked after children using a tool produced by the Audit Commission as part of this study. The local authorities varied significantly in their provision and arrangements. Recent reports by the Children's Commissioner for Wales have highlighted inconsistencies in the provision of and access to advocacy services<sup>16</sup> but also that looked after children are benefiting from newly developed school-based counselling services for young people<sup>17</sup>.

## **The Welsh Government and local authorities lack shared delivery plans and have not assessed whether there is the capacity to achieve significant improvement**

**23** It is uncertain whether there is the capacity and resources to deliver significant improvement. Specific funding available to support the education of looked after children in Wales has not increased since 2005-06, and will not be ring-fenced in the future. It is

<sup>15</sup> Buttle UK is a registered charity which provides grants to support vulnerable children and runs Educational Programmes (<http://www.buttleuk.org/pages/grant-programmes.html>) which aim to transform the lives of vulnerable children and young people whose education is suffering due to medical, social, and often economic issues.

<sup>16</sup> Children's Commissioner for Wales, *Missing Voices, a review of independent professional advocacy services for looked after children and young people, care leavers and children in need in Wales*, 2012.

<sup>17</sup> Welsh Government, *School-based Counselling in Wales: a National Strategy*, April 2008.

less than that available for the education of looked after children elsewhere in the UK. The Welsh Government and local authorities have not assessed the likely cost of achieving the *2011 Programme for Government* intention of reducing the gap at Key Stage 4 between the educational outcomes of looked after children, children in need and the general population and other improved outcomes for looked after children.

**24** In addition to specific grant income, local authorities have discretionary funding through the revenue support grant and their own income to fulfil their duty to promote the education of children in their care. Currently, social care budgets are under strain from the increasing number of children entering care as well as from general pressures from real-terms reductions in expenditure across the public sector. Elsewhere the Wales Audit Office has reported that local authority spending on social care and education was expected to fall by around two per cent in real terms in 2011-12<sup>18</sup>.

**25** Although the Welsh Government has made targeted funding available for improving the educational outcomes of looked after children since 2001 through successive grants, the amount available (approximately £1 million annually) has remained constant. This means that over time, its real value has been eroded by a combination of inflation, the increasing numbers of children in care and widening eligibility for funding. The Welsh Government and local authorities are committed to reducing specific grant funding and the looked after children's element of the School Effectiveness grant is only ring-fenced in its first year. Although the Welsh Government has sought to protect education from reductions in real terms funding, the lack of ring-fencing places greater responsibility on local authorities and schools for determining the extent and use of the funding required to fulfil their responsibilities for looked after children.

**26** In England, a 'pupil premium' of £600 per pupil is paid to schools for all looked after children as well as for each pupil eligible for free school meals. About a quarter of looked after children also qualify for free school meals and therefore will receive a 'double premium'. In Wales, the Pupil Deprivation Grant of £450 per pupil has been introduced in 2012-13 for pupils eligible for free school meals but, unlike in England, there is no specific funding in respect of looked after children. We estimate that, if funding was allocated for all looked after children in Wales of school age to the level of the pupil premium in England, Welsh schools would receive approximately £2 million in 2012-13 to support their education.

<sup>18</sup> Wales Audit Office, *Picture of Public Services 2011*, paragraphs 1.18 – 1.24.





## **Improvement is undermined by weaknesses in corporate parenting and performance management although recent changes to increase regional collaboration may provide opportunities to achieve better outcomes**

- 27** Weaknesses in corporate parenting, performance management, lack of accountability and insufficient evaluation undermine the delivery of improved outcomes by local authorities. Most local authorities have established corporate parenting groups or committees to oversee their work in this area. However, we found that in some cases, their effectiveness is reduced by a lack of detailed information in reports. Moreover, evidence suggests that establishing a committee is only the start of the improvement journey: effective corporate parenting requires a culture that puts the interests of looked after children first, which can be difficult where councillors and officials face pressures from other priority groups and the pressure to balance budgets.
- 28** In his recent report on the experiences of care leavers<sup>19</sup>, the Children's Commissioner for Wales acknowledges the challenges that local authorities face in fulfilling their corporate parenting role. He calls on local authorities to develop more co-ordinated approaches that include social services, education, housing and other relevant departments as well as involving voluntary sector and private placement providers.
- 29** A new, and potentially more effective, framework for policy delivery is emerging. In 2011, the Welsh Government set out its proposals for greater regional and national

delivery of education and social care. These anticipate the development of regionally-led services encompassing aspects of education and social care with some other aspects delivered on a national basis and others delivered locally. Local authorities are continuing to develop their local planning partnerships and arrangements that, in many areas, include streamlined community strategies that also meet the requirements for Children and Young People's Plans and other statutory plans. Together, these developments provide a new framework with potential to develop clearer, co-ordinated strategies for young people with a focus on outcomes. The changes may lead to clearer accountabilities and responsibilities at local, regional and national levels and, together with the alignment of funding streams, could give the necessary coherence to strategies and plans for improving educational outcomes for all children and young people, including for looked after children. The development of strong regional arrangements also provides an opportunity to identify the best practice to support educational attainment for looked after children and care leavers and to ensure that all local authorities operate to this level.

- 30** However, the risk remains that, despite the specific duty that local authorities have towards looked after children and young people, these vulnerable children may not receive the necessary detailed and individual attention.

<sup>19</sup> Children's Commissioner for Wales, *Lost After Care*, July 2011.

# Recommendations

## To improve the effectiveness of the education of looked after children

- R1** Many public sector and other organisations are involved in delivering services for looked after children. **In setting the policy framework and to improve the effectiveness of this complex service delivery chain, we recommend the Welsh Government should:**
- clearly articulate Ministerial responsibility for the education of looked after children within the Welsh Government and set out the roles of relevant departments in supporting the improved educational outcomes for looked after children and care leavers;
  - publish an overall plan for improving the education of looked after children that recognises the contribution of supporting strategies including the child poverty strategy and the school effectiveness framework;
  - work with local authorities and the regional education consortia to develop clear agreement about their respective roles and responsibilities for improving the educational attainment of looked after children including funding arrangements; and
  - ensure that there are clearly defined outcome targets that are shared by the national, regional and local organisations involved.

## To promote good practice in the education of looked after children and young people

- R2** There is an extensive body of research and growing good practice information in Wales and elsewhere in the UK about interventions and work to improve educational outcomes for looked after children and young people. In April 2011, the Welsh Local Government Association and the Welsh Government published a notable practice compendium on corporate parenting in Wales which included some examples of education practice<sup>20</sup>. **To build on this and spread best practice we recommend the Welsh Government should:**
- in collaboration with its partners both in Wales and elsewhere, develop a focal point for information to support the education of looked after children linked with existing centres for education information and good practice; and
  - encourage local authorities and the regional consortia to develop evidence-based initiatives such as the Virtual School Head and extend one-to-one tuition in Wales.

## To improve monitoring outcomes for looked after children

- R3** Monitoring outcomes is essential to hold corporate parents to account and drive improvement. In turn, this relies on the availability of good outcome data. However, we identified weaknesses in the available information and there are gaps in the data, especially about post-16 education. The many changes in data recorded and published in recent years make it difficult to track changes over time. These data weaknesses limit potential comparisons with the attainment of other groups of children and outcomes for looked after children across the UK. The development of the Children in Need Census, undertaken for the first time in 2010, provides information on attainment at Key Stages 1-4 and will become increasingly useful if the coverage of the census improves. **The Welsh Government should review the availability and reliability of data available at each Key Stage, on secondary school attendance, on those not in employment, education or training at 16, 19 and subsequently, post-16 attainment and entry to, and completion of, further and higher education courses to ensure that appropriate data is available to help monitor and manage progress. It should also establish the validity and reliability of the Children in Need Census and continue to improve data matching to increase its coverage.**

## To improve the effectiveness of the arrangements for assessing progress of looked after children at a national level

- R4** The Welsh Government has the primary responsibility for assessing the effectiveness of their intention to improve the educational outcomes for looked after children. Regulators and inspectors also have a role in monitoring and assessing progress, and this is included in their arrangements for inspection and evaluation at school and local authority level. The framework for assessing progress and learning at national level is less clear. **The Welsh Government should work with audit, inspection and regulatory bodies to consider how the arrangements for assessment of progress and the extent to which looked after children achieve their educational potential can be strengthened.**

<sup>20</sup> WLGA Notable Practice Compendium – Corporate Parenting, 2011.



## Part 1 – The attainment of looked after children and young people is improving slowly but many are not achieving their potential, there is too much variation in attainment, and weaknesses in data hamper evaluation

**1.1** For looked after children, their local authority assumes the responsibilities that the law usually places on parents. The local authority acts as their parent and has a statutory duty to safeguard and promote the welfare of these children, a role known as ‘corporate parenting’. The responsibilities of the corporate parent are set out in the Children Act 1989 and subsequent legislation and include:

- a** safeguarding the welfare of looked after children through ensuring safe and supportive placements with foster carers, in residential or other homes;
- b** supporting the health, including mental health, of the children and young people in partnership with health authorities;
- c** helping children achieve their educational potential at school and in further and higher education; and
- d** helping them become full and active citizens.

**1.2** The effectiveness of corporate parenting has a major impact on the lives of the children and young people concerned. A lack of support to fulfil their potential may contribute to a lack of qualifications, homelessness, offending and, in due course, future poor parenting. This has cost implications and impacts on society. This part of our report examines the educational attainment of children who are looked after. Many children and young people will be looked after for a limited period and may come in and out of care during their childhood as their circumstances change –

further information about the ages, numbers and placements of looked after children is in [Appendix 3](#).

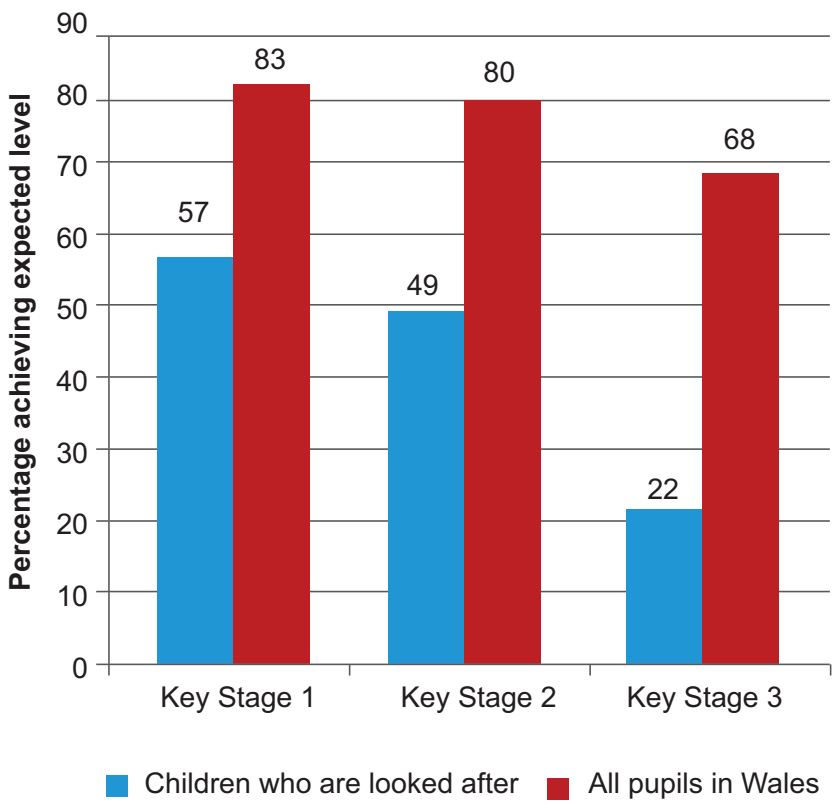
**1.3** This section of the report relies on two main sources of data about looked after children and young people:

- Data on looked after children and care leavers drawn from local authority individual child level data, performance information and individual records. This data is published annually by the Welsh Government as ‘Adoptions, outcomes and placements for children looked after by local authorities’.
- The Wales Children in Need Census which measures the characteristics of children in need and their parents. Children in need are defined as those who receive social services from their local authorities and include looked after children, children on the child protection register and other children in need. The Census is based on information on individual returns from local authorities on children who had a case opened for at least three months at 31 March. This information is then ‘matched’ with the national pupil database to obtain education information. The first Census, related to children looked after in March 2010, was published in February 2011.

**The educational attainment of looked after children and young people is significantly below that of other children and too many have their education disrupted, although there is evidence of modest improvement in attainment**

**1.4** As a group, looked after children perform less well than the average for all children at each stage in their education. **Figure 2** shows that children who are looked after are less likely to achieve the expected level as assessed by teachers at Key Stages 1 (age seven), 2 (age 11) and 3 (age 14). Moreover, the gap increases as the children get older: at Key Stages 1 and 2, the proportion of all children achieving the expected level is almost double that of children of who are looked after but, by Key Stage 3, the ratio is three times as great.

**Figure 2 - The attainment of children who were looked after at 31 March 2011 is lower than for all children at Key Stages 1, 2 and 3**



Source: *Children in Need 2011, Table 14, Statistics Wales*

Notes:  
1 The Core Subject Indicator represents the percentage of pupils achieving the expected level (level 2 at Key Stage 1, level 4 at Key Stage 2 and level 5 at Key Stage 3) or above in English or Welsh (first language), maths and science in combination.  
2 The local authority-collected data published by the Welsh Government says that at Key Stage 2, 44 per cent of looked after children achieving the Core Subject Indicator. The Key Stage 3 attainment is 22 per cent, the same as the Children in Need Census. Key Stage 1 information is not collected directly by local authorities.



**1.5** Children may come into care from difficult situations and many have disabilities and additional learning needs. Their educational progress is therefore likely to be slower than for many other children. This highlights the importance of support for pupils throughout in their education. (Figure 3 explains some of the forms of support available for children in school.) The 2011 Wales Children in Need Census found that in March 2011, 21 per cent of looked after children of school age had statements of special educational needs compared to three per cent of all pupils. A further 43 per cent were on School Action or School Action Plus arrangements compared to 22 per cent of all pupils<sup>21</sup>.

**1.6** The attainment of looked after children and young people as a whole group tends to be lower than for the group of children on the SEN register. This suggests the low achievement of looked after children is not accounted for by the relatively high proportion who have additional learning needs and indicates that some looked after children are not achieving their potential. The evaluation of the Welsh Government RAISE programme<sup>22</sup> found 'there was only a weak relationship between factors such as the incidence of special educational needs and attainment' of looked after children and young people. For example, in 2010 at Key Stage 4, the proportion achieving the Level 1 threshold (qualifications equivalent to

**Figure 3 - There are a number of forms of support for children who have additional learning needs at school and also for children who are looked after by local authorities**

Children have **special educational needs (SEN)** if they have a learning difficulty that calls for special educational provision to be made for them. Such children are entered in an SEN Register and they receive appropriate levels of support. This can include the issuing of a statement of special educational needs that sets out what these needs are and how they will be met. Every school has a special educational needs co-ordinator (SENCO) with responsibility for these pupils throughout the school. The *SEN Code of Practice for Wales*<sup>23</sup> is designed to offer clear guidance for early years providers, primary school and secondary school teachers, local education authorities, families, and all those involved in providing for children's special educational needs. The progress of all children with special needs should be reviewed regularly and the nature and level of support modified accordingly.

**School Action** – Where the class or subject teacher identifies that a child is not making progress without additional provision that is different from the school's normal differentiated curriculum, they will work with the SENCO to identify strategies and interventions to support the child within the school. The Individual Education Plan records additional support.

**School Action Plus** – Where the teacher and the SENCO identify that the child requires support from an external source to support their learning. Again, additional support is recorded in the Individual Education Plan.

**Designated member of staff for looked after children** – A senior member of staff who is responsible for co-ordinating services and support for children who are looked after, acting as an advocate within the school and ensuring that every looked after child has a personal education plan and drawing up a home-school agreement with the carer. Further education institutions and higher education institutions who have achieved the Buttle UK Quality Mark will also have a designated member of staff for looked after young people and care leavers.

Source: Welsh Government, *Effective managed moves: A fresh start at school for children and young people*, February 2011

<sup>21</sup> Statistics for Wales, *Wales Children in Need Census*, 2011 SDR 32/2012, February 2012.

<sup>22</sup> Welsh Government Social Research report 15/2012, *Evaluation of the first three years of RAISE: Final Report*, conducted by the People and Work Unit, paragraph 11.14.

<sup>23</sup> Welsh Government, *SEN Code of Practice for Wales*, 2004.



five or more GCSE passes at grades A\*-G) was 45 per cent for children with Statements of Special Educational Need, 67 per cent for children on School Action Plus, 83 per cent for those on School Action, but only 35 per cent for looked after children and young people<sup>24</sup>.

**1.7** The published local authority data shows that the proportion of children in Wales who are looked after and achieve the expected level at each Key Stage<sup>25</sup> has increased slightly in recent years: the proportion achieving the expected level at Key Stage 2 (age 11) has risen from 40 per cent in 2009 to 44 per cent in 2011 and at Key Stage 3 (age 14) from 20 per cent in 2009 to 22 per cent in 2011. However, this improvement is mirrored by increases

generally in the proportion of pupils achieving the expected level at each Key Stage in Wales. The gap between the achievements of looked after children and that of all children has therefore remained virtually unchanged (Figure 4). At Key Stage 2, the gap between the attainment of looked after children and all children has reduced by just one percentage point since 2007 while it has increased by three percentage points at Key Stage 3.

**1.8** The performance of children leaving care at age 16 or more has also shown some improvement in recent years. Since 2002-03, the percentage of care leavers who achieved at least one GCSE or GNVQ qualification has increased from 38 per cent to 56 per cent

**Figure 4 - The attainment of looked after children at Key Stages 2 and 3<sup>1</sup> has improved slightly but the gap between their attainment and that of all children<sup>2</sup> remains virtually unchanged**

Percentage of eligible children achieving the expected level (the Core Subject Indicator – CSI)				
	2007	2008	2009	2010
<b>Key stage 2 (age 11)</b>				
Looked after children <sup>3</sup>	39	40	44	44
All children	74	76	77	78
<b>Attainment gap at Key Stage 2</b>	<b>35</b>	<b>36</b>	<b>33</b>	<b>34</b>
<b>Key stage 3 (age 14)</b>				
Looked after children	18	21	25	22
All children	57	60	61	64
<b>Attainment gap at Key Stage 3</b>	<b>39</b>	<b>39</b>	<b>36</b>	<b>42</b>

Notes:

1 Source: Welsh Government Statistics for Wales, Adoptions, Outcomes and Placements for Children Looked after by Local Authorities: year ending March 2011, SDR 166/2011. Figures are for children in state maintained schools only. The numbers of looked after children is small and therefore figures are liable to fluctuate: in 2010-11, 250 at Key Stage 2 (age 11) and 313 at Key Stage 3 (age 14).

2 For looked after children the information is for those looked after at 31 March who were assessed in the past year, so for 2010-11 it refers to looked after children and young people assessments in 2010 and is therefore compared with the published 'all children' data for 2010.

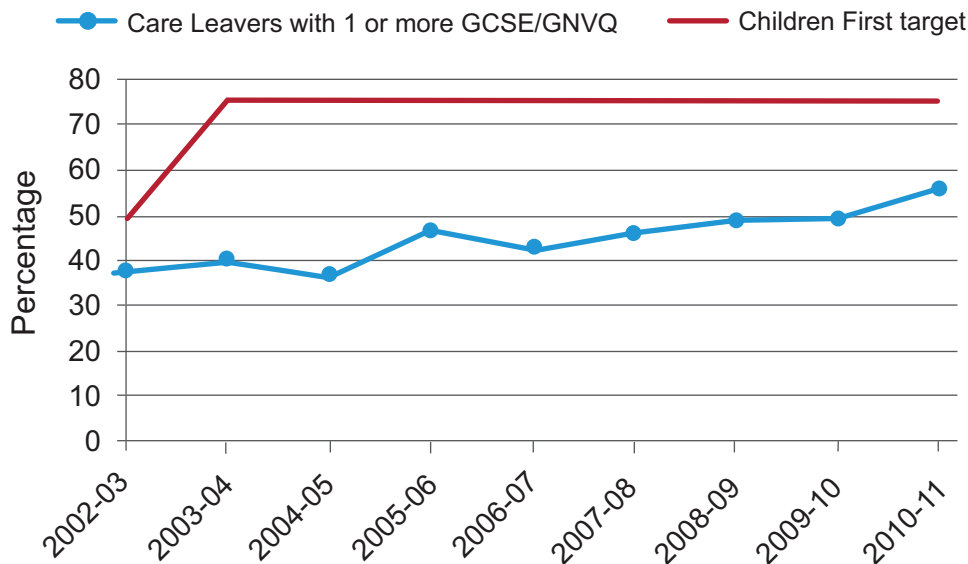
3 The Children in Need Census experimental data gave a lower (42 per cent) figure for Key Stage 2 in 2009 and a higher (49 per cent) figure for 2010. At Key Stage 3, the Census gave a lower (22 per cent) figure for 2009 and the same (22 per cent) for 2010.

24 Figures for all children - Welsh Government, *Academic Achievement by Pupil Characteristics*, 2011, March 2012. Figures for looked after children - Welsh Government, *Adoptions, outcomes and placements for children looked after by local authorities: year ending 31 March 2011*, SDR 166/2011, September 2011.

25 Statistics have only been available on achievement of children who are looked after at Key Stage 1 since 2010.



**Figure 5 - The proportion of looked after children and young people who left care aged 16-19 with at least one GCSE qualification has increased since 2002-03 but is still well short of the target set in 2001**



Source: Statistics for Wales

(Figure 5) although this still means that 44 per cent of care leavers had not a single GCSE or GNVQ qualification. The increase is welcome but has fallen short of the Welsh Government targets for the Children First programme that the proportion of care leavers achieving at least two GCSE/GNVQ qualifications should reach 50 per cent by 2002 and 75 per cent by 2003<sup>26</sup>.

**1.9** There has also been an increase over the same period in the proportion of care leavers achieving five or more GCSEs at grades A\*-G from 24 per cent in 2002-03 to 35 per cent in 2010-11. The proportion of 'all children' who achieved five or more GCSEs grades A\*-G aged 16 rose during the same period from 85 per cent to 90 per cent.

**1.10** The proportion of care leavers with qualifications equivalent to five or more GCSEs or equivalent at grades A\*-C ('Level 2 threshold') has risen six percentage points to 10 per cent between 2002-03

and 2010-11. During the same period, the proportion of all children achieving this level when aged 16 rose from 51 per cent to 67 per cent.

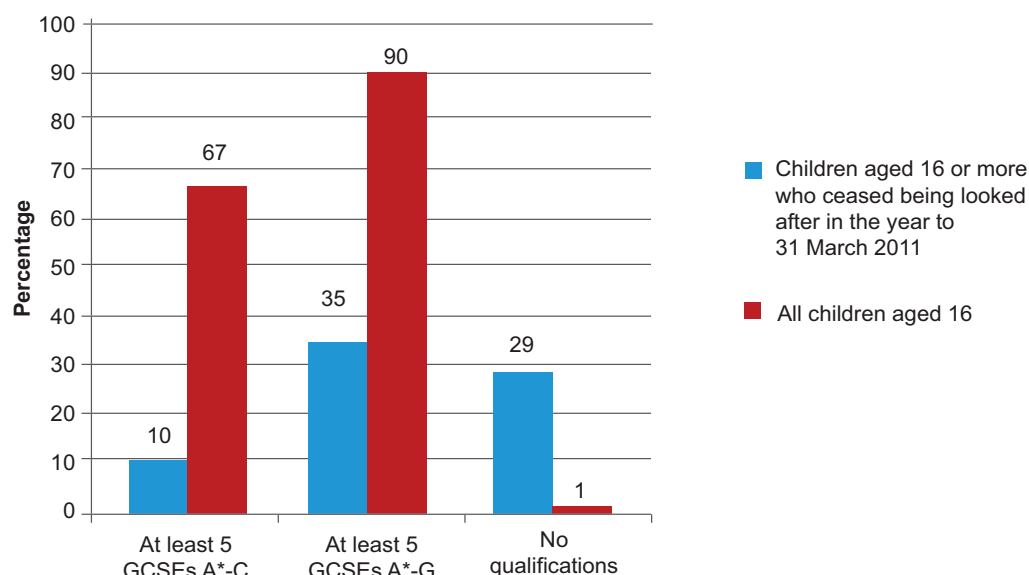
**1.11** Figure 6 shows the attainment gap between looked after children and all children in 2010: just under a third of looked after children (29 per cent) do not have any qualifications (including vocational and other qualifications as well as GCSE or GNVQ) when they leave care, compared to under one per cent (0.8 per cent) of all school leavers in 2010-11<sup>27</sup>.

**1.12** However, the Children in Need Census 2011, based on information on looked after children and young people aged 16, found that 23 per cent of looked after children aged 15 achieved the Level 2 threshold (equivalent to five GCSEs at grade A\*-C). The extent to which this higher outcome level is due to differences between the statistical sources, including changes in the cohort (for example

<sup>26</sup> Data on achieving at least two GCSE/GNVQ qualifications is no longer recorded hence our information is based on achievement of one GCSE/GNVQ.

<sup>27</sup> Figures provided by Statistics for Wales, *Pupils leaving school without qualifications*.

**Figure 6 - Children aged 16 or older who cease being looked after are much less likely to have educational qualifications than all children**



Source: Statistics for Wales with additional analysis by Wales Audit Office

the different eligibility criteria), the inclusion of a wider range of qualifications as well as the incomplete coverage of the census, is currently unknown.

**1.13** A new measure of pupils' attainment – the 'average point score' – at Key Stage 4 (age 16) was introduced in 2007-08. This is calculated from the range of qualifications achieved and includes qualifications other than GNVQs and GCSEs<sup>28</sup>. The wider average point score of looked after children aged 16 in a local authority maintained setting was 183 in 2011 compared to 423 for all children<sup>29</sup>. A criticism of the wider average point score is that it can be skewed by a small number of high-achieving children. The 'capped average points score' is based on the eight highest qualifications obtained and so is less affected by very high achievers. The Children in Need Census 2011 found that the average capped point score for looked after children at Key Stage 4 was 178 for looked after children compared to 312 for all children.

**The reported school attendance of looked after children and young people has improved but there is evidence that statistics may overstate attendance, at least at secondary school**

**1.14** Data provided by local authorities to the local government data unit for 2010-11 suggests that attendance by looked after children at primary school is slightly higher than by all pupils: looked after pupils missed 5.8 per cent of sessions compared to an average for all children of 6.8 per cent of sessions. For secondary schools, attendance by children who are looked after is just below that of all children: looked after children missed 9.9 per cent of sessions compared to 8.6 per cent for all children. The reported attendance of looked after children and young people has improved since 2006-07 when 6.2 per cent of primary sessions and 12.4 per cent of secondary school sessions were missed.

**1.15** However, in the data returns, the total potential attendance of the pupils does not always match the level that might be expected. In some councils the attendance data is based

<sup>28</sup> Other qualifications include National Vocational Qualifications (NVQs), BTEC certificates, and Key Skills results. Each is assessed at a value which can be totalled to give a points score. For example a GCSE grade A = 50 points, grade F = 22, an Intermediate GNVQ merit = 196 points, BTEC First Certificate in applied science = 98, and Key Skills pass at level 2 = 34 points.

<sup>29</sup> Figures for all children are from *Examination results in Wales 2010/11*, Statistics for Wales 221/2011. Figures for looked after children are from *Wales Children in Need 2011*, Statistics for Wales, SDR 32/2012, February 2012.





on significantly less school sessions than expected for the number of school age looked after children; for other councils the number of sessions is higher than the expected total. We have not been able to explain this range which cannot be accounted for by the fluctuations in numbers of looked after children during the year or variations in the proportion in special education.

- 1.16** In our work with six local authorities, a sample survey of actual attendance found no significant issues with the primary attendance figures and an attendance of 94.9 per cent was recorded. In contrast, at secondary schools, attendance was 85 per cent, about five percentage points below the most recent recorded data for the authorities concerned. The main discrepancies were for pupils registered with mainstream secondary schools but who are expected to attend pupil referral units and alternative provision for all or part of the week. Further work should be undertaken to assess the reliability of secondary school attendance data for looked after children and young people.

**The number of permanent exclusions from school has fallen but many looked after children and young people still experience disruption through many changes of school and there is inconsistent planning to improve the continuity of education**

- 1.17** The number of both all pupils and of looked after children who are permanently excluded from school has fallen in recent years, partly because there has been greater use of 'managed moves' and fixed term exclusions (see [Figure 7](#)). In 2010-11, only three looked after children and young people were subject to permanent exclusions across Wales compared to 11 in 2007-08.
- 1.18** However, the number of fixed term exclusions of looked after children has risen in recent years from 232 in 2007-08 to 304 in 2010-11. The average length of each exclusion was 7.6 school days compared to 7.1 in 2009-10. The number of looked after children who are excluded for a fixed period is not known, as a child or young person may be excluded on more than one occasion in the year. The attendance survey with participating councils found that, during the census week, five of 111 secondary school age looked after children were excluded for part of that week.

**Figure 7 - Exclusion from school can take a number of forms and the number can be reduced by managed moves between schools**

**Fixed term exclusion from school** – A child who gets into serious trouble at school can be excluded for a fixed time. Schools can exclude a child if they have seriously broken school rules or if allowing them to remain in school would seriously damage their welfare or that of other pupils.

**Permanent exclusion from school** – A school will usually only exclude a child permanently after trying to change their behaviour through other means. However there are exceptional circumstances where a pupil can be permanently excluded for a 'one-off' incident.

**Managed moves** – The careful and planned transfer of a pupil to a new school to enable a new start. The Welsh Government recommends the use of managed moves for children at risk of permanent exclusion as well as where behavioural or other issues are not being successfully addressed in their current school or where the pupil finds that attendance at a school is damaging to their emotional welfare (e.g. because of bullying). Managed moves may reduce the number of permanent exclusions by allowing a planned transition and reduce time out of school.

*Source: Welsh Government, Effective managed moves: A fresh start at school for children and young people, February 2011*

**1.19** Many children who are looked after face repeated disruptions in their lives, and their education can be unsettled by changes in where and with whom they live, some of which may result in a change of school. In the year to 31 March 2011, nine per cent of looked after children experienced at least three such placement moves<sup>30</sup>. Looked after children often complain that decisions about placements are made without sufficient consideration being given to the impact of their having to move school. Occasionally children may change schools to allow a new start, but research suggests that most children who are looked after experience changing schools negatively<sup>31</sup>. In 2010-11, 14 per cent of looked after children experienced at least one school move that was not associated with transitional arrangements such as the move from primary to secondary school. This proportion has remained within the range 13.1 per cent to 14.4 per cent throughout the last six years despite this being one of the National Strategic Indicators – the key measures of local authority performance.

**1.20** Recognising the disruptive effect of changing schools for pupils, in 2000 the Welsh Government introduced a requirement that local authorities should draw up personal education plans (PEPs) for children who are looked after to help ease any transition. The PEP records information about the child, their progress and achievements to date and long and short-term targets for their education. The designated member of staff is responsible for ensuring that each looked after child in their school has a PEP within 20 days of their entering care or starting at a new school when already in care. Plans are reassessed at least every six months and local authorities are expected to report on how far this requirement is being met. Following the introduction of PEPs, the figure for PEPs issued within 20 days increased to 65 per cent in 2008-09

but has fallen since then. In 2010-11, 1,326 school-aged children entered care or changed school but only 60 per cent of these had a PEP in place within 20 days. The proportion of PEPs in place within 20 days in 2010-11 in local authorities ranged between 16 per cent for the lowest authority to 98 per cent for the highest<sup>32</sup>. It is impossible to tell from the available figures whether the remaining PEPs are produced after the 20 day target or whether some looked after children do not have PEPs.

**1.21** We found widespread variation in the format, completeness and use of the PEPs. We concluded that the current indicator for the timeliness of PEPs was of limited value at a national level. More attention should be paid to the quality of the PEPs and whether they are used effectively to support the education of the child or young person concerned.

### **After leaving care, nearly half of care leavers are likely to not be in education, employment or training**

**1.22** Local authorities have on-going responsibility to support care leavers beyond their 16<sup>th</sup> birthday and are in touch with over 90 per cent of care leavers on their 19<sup>th</sup> birthdays. In 2010-11, just under half of care leavers were in education, training or employment on their 19<sup>th</sup> birthday, of which six per cent were in part-time rather than full-time occupations. The proportion not in education, employment and training reduced between 2006 and 2007 (Figure 8) but has changed little since then and remains much higher than the proportion of all children. In 2010-11, 48 per cent of care leavers still in touch with local authorities were not in education, employment or training on their 19<sup>th</sup> birthday compared to 11 per cent of all 16-18 year olds at the end of 2010 and 23 per cent of 19-24<sup>33</sup> year olds. This group will include a sizeable number of young parents: some research has found that up to a quarter

<sup>30</sup> Statistics Wales, *Adoptions, Outcomes and Placements of Children Looked After by Local Authorities: year ending 31 March 2011*, Table 1.

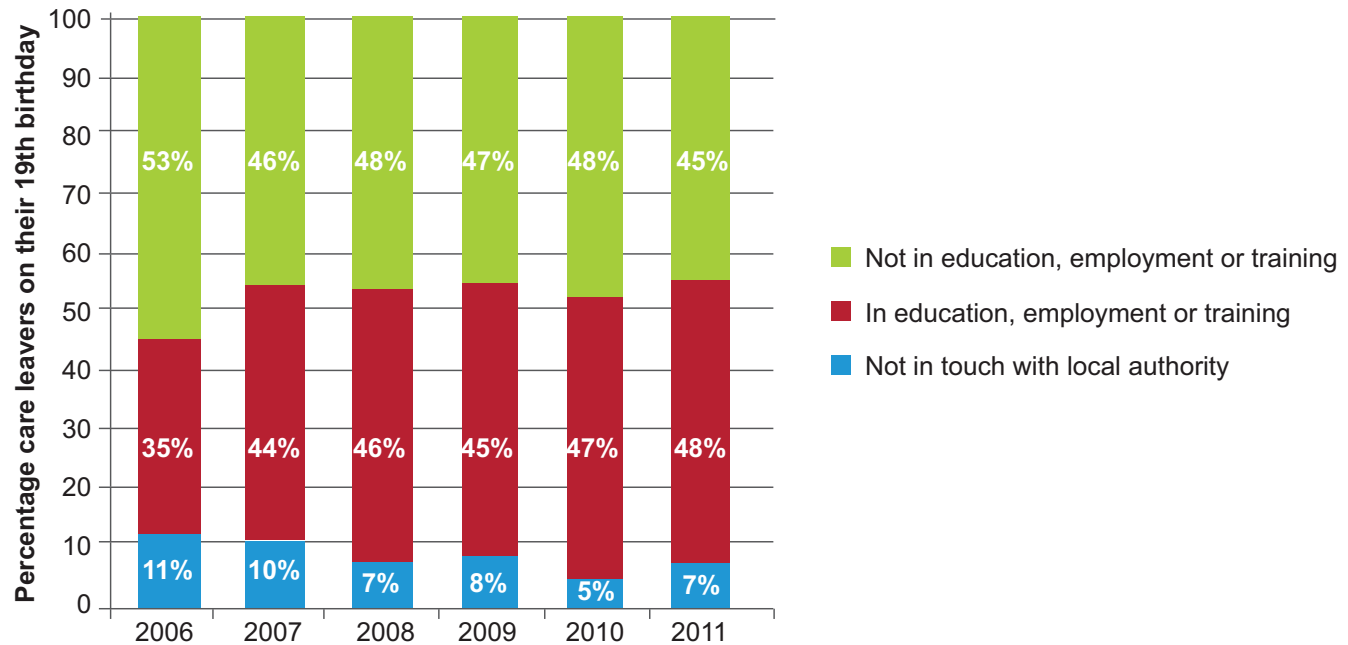
<sup>31</sup> Holland, S, Floris, C, Crowley, A, and Renold, A, *How was your day? Learning from experience: lessons for preventative policies and practice from analysing critical moments in care leavers life histories*, Voices from Care Cymru and Cardiff University, June 2010, page 24.

<sup>32</sup> Figures from Local Government Data Unit Performance indicators SCC/022a and SCC/024b and Statistics Wales key education statistics (see Appendix 4).

<sup>33</sup> Figures for all school leavers are from Welsh Government, *Young people not in education, employment or training: year ending 31 December 2010*, July 2011, SB 67/2011.



**Figure 8 - Just under half of care leavers are not in education, employment or training at their 19<sup>th</sup> birthday although the proportion has fallen since 2006**



Source: Statistics for Wales with additional analysis by Wales Audit Office

of care leavers aged under 20 are parents. This rises to 40 per cent of young female care leavers<sup>34</sup>.

### There is little information about the performance of care leavers and looked after young people in further or higher education

**1.23** There is little information available to estimate the numbers of children formerly looked after by Welsh local authorities who enter higher education. The Welsh Government estimates that approximately 12 Welsh care leavers enter higher education each year<sup>35</sup>. This would equate to approximately two per cent of care leavers aged over 16 in the year to 31 March 2011. In England, the information is collected for care leavers on their 19<sup>th</sup> birthday. In 2010-11, 6.2 per cent were in higher education. In Scotland, five per cent of care leavers receiving aftercare aged 15-21 (103 individuals) were in higher education in 2009-10.

## The attainment of looked after children varies across Wales and is lower on some measures than elsewhere in the UK

**1.24** Attainment for looked after children varies considerably between local authorities (see [Appendix 4](#)). The proportion of care leavers aged 16-19 achieving at least one qualification (including vocational qualifications) varied between 100 per cent and 40 per cent across Wales in 2010-11, while the percentage achieving the equivalent of five GCSEs grades A\*-G (threshold 1) varied between 21 per cent and 68 per cent. The reported wider average point score varied between 72 and 275 for looked after children at Key Stage 4 ([Appendix 4](#)).

<sup>34</sup> R Barn et al, (2005) *An exploration of the post-care experiences of young people from different minority ethnic backgrounds*, Joseph Rowntree Foundation.

<sup>35</sup> National Assembly for Wales, *Explanatory Memorandum to the Children Act 1989 (Higher Education Bursary) (Wales) Regulations, 2011*, section 5.

**1.25** Differences in the type of data collected and in the care and educational systems in the UK make it difficult to compare educational performance and outcomes across the UK. However, the available data suggests that educational outcomes for children who are looked after in England are better than in Wales. Comparable information is not available at Key Stages 1, 2 or 3. However, allowing for differences in the way in which figures are collected, the qualifications of care leavers in Wales are poorer than those in England<sup>36</sup>, but slightly above those in Northern Ireland<sup>37</sup>. (The different education system in Scotland means direct comparison is not possible):

- in Wales, 23 per cent of looked after children achieved qualifications equivalent to five GCSEs at grades A\*-C at Key Stage 4 compared to 31.5 per cent in England and 20 per cent in Northern Ireland; and
- in Wales, 10.4 per cent of children looked after had qualifications equivalent to five GCSEs including maths and English or Welsh compared to 13.2 per cent in England.

**1.26** Statistics also suggest that a higher proportion of care leavers in Wales are not in employment, education or training at age 19 than in England or Northern Ireland. There is no comparable information for Scotland:

- In Wales 48 per cent of care leavers who were in touch with social services on their 19<sup>th</sup> birthday were not in education, employment or training.
- In England, 38 per cent of former care leavers aged 19 who were in care on 1 April in their 17<sup>th</sup> year were not in education, employment or training<sup>38</sup>.

- In Northern Ireland in 2009-10, 36 per cent of care leavers in contact with the local authority aged 16-18 were not in education, employment or training when they left care. Of these almost a third (11 per cent of the total) were classed as economically inactive because they were carers, parents, sick or disabled<sup>39</sup>.

## Changes in data collection and gaps in nationally available information hamper the ability to monitor improvements in attainment and reduce scope for comparison across the UK

**1.27** There have been a number of changes in the data collection and publication arrangements related to the educational outcomes for looked after children and young people in recent years. While some of these changes have improved the reliability of available information, others have limited the ability to monitor progress, particularly at Key Stage 4 where the main published statistics on attainment of GCSE or equivalent passes no longer reflects the main indicators that were used for the Children First targets. Comparing outcomes with all children has improved since 2010 because the new Children in Need Census reports the same data for looked after children as for all children. Our ability to compare outcomes for looked after children across the UK continues to be hampered by differences in education data collected in each nation. Overall, areas where either a lack of data or changes in data collection make monitoring progress and comparing outcomes difficult are:

<sup>36</sup> Figures for Wales are taken from the Children in Need Census 2011 and for England from the Department for Education publication, *Outcomes for Children Looked After by Local Authorities in England, as at 31 March 2011* (SFR 30/2011), published December 2011. The data for Wales is for those who have been looked after for at least three months. For England, the information is for those looked after continuously for at least six months.

<sup>37</sup> Figures for Northern Ireland are taken from *Children in care in Northern Ireland 2009-10: Statistical bulletin*, (published January 2012), Figure 4.4. These are for those looked after continuously for 12 months to 30 September 2010.

<sup>38</sup> Source: Department for Education.

<sup>39</sup> Source: Northern Ireland Research and Statistics Agency, *Care leavers aged 16-18, 2009-10*.





- **At Key Stages 1, 2 and 3** – Indicators for children who are looked after were introduced in the main local authority data collection for Key Stages 2 and 3 in 2007. The Children in Need Census now also collects this information and also Key Stage 1 data. These are the same indicators as for all pupils in Wales. However, the indicators in Wales are different from those used in England and Northern Ireland reducing the scope for comparison across the UK.
- **At Key Stage 4 and post-16** – The performance indicators for looked after children's educational attainment have changed over recent years and, until recently, were different to those for all children. In 2001, the Welsh Government published outcome objectives for children who were looked after based on improving the proportion of looked after children achieving two or more GCSEs or equivalent<sup>40</sup>. In 2005, this outcome measure was dropped in favour of recording the average points score achieved at Key Stage 4. The basis of calculating the average points score changed in 2007 and difficulties in recording mean that data was not available for all local authorities until 2009-10.
- The Welsh Government's main outcome measures for all children and looked after children at Key Stage 4 are currently the proportions of pupils achieving the Level 1 threshold (qualifications equivalent to five GCSEs at grade A\*-G) and Level 2 threshold (qualifications equivalent to five GCSEs at grades A\*-C). Additional focus is now placed on the achievement of Level 2 including GCSEs in English/Welsh and maths. These indicators were collected for the first time in 2010 as part of the Children in Need Census. Information on GCSE/ GNVQ attainment is also collected for those leaving care aged 16-19 in England, Wales and Northern Ireland.

No information is collected or published on attainment post-16 including A levels and equivalent or other attainment in further education.

- **Higher education** – The Welsh Government does not collect any figures routinely about the number of care leavers entering or completing higher education in Wales or elsewhere.

- 1.28** One National Strategic Indicator relating to the educational achievement of looked after children has been 'the proportion of children and young people pupils in local authority care aged 15 on 31 August and on roll in any local authority maintained school, who leave compulsory education without an approved external qualification and do not continue in education, training or work-based learning'. This figure has reduced from 12 per cent in 2008-09 to 6.5 per cent in 2010-11. However, this measure is of limited value because many looked after children and young people continue in education post-16 but still do not achieve any qualification. Many of these young people are recorded as not in employment education or training when they subsequently leave care.
- 1.29** In 2010, the Welsh Government published information on the first Children in Need Census in Wales which includes looked after children, children on the child protection register and children in need who are not looked after. The Census includes information for looked after children drawn from the National Pupil Database. In 2011, 86 per cent of children in need could be matched using their unique pupil number with the information systems used by social services departments, an increase of one per cent on the previous year. Bringing together these two data sources provides a rich body of information about the lives and outcomes for Children in Need in Wales. However it is possible that the unmatched group may include a significant proportion of children who are not in stable

40 Welsh Assembly Government, *A Learning Country*, 2001.

placements who may be more likely to have lower attainment levels than the matched group of looked after children. Other factors that may also contribute to differences in the Census results compared to other data sources include the different range of qualifications included at Key Stage 4. The Census includes children looked after for at least three months on 31 March whereas other data sources included children looked after continuously for six or twelve months. At present the statistics are regarded by the Welsh Government as experimental and subject to evaluation. However, the Census does include data on indicators not available elsewhere including the attainment at Key Stage 1 (age seven) and for the Level 2 threshold including English and Welsh first language and maths.

validity and reliability of the Children in Need Census and to achieve a higher level of data matching.

**1.30** Our analysis suggests that it would be appropriate for the Welsh Government and local authorities to review the range of information on the educational attainment of looked after children and young people and specifically to consider:

- discontinuing the national collection of the recording of the timeliness of PEPs as this is of limited value ([paragraph 1.19](#));
- discontinuing the national collection of attendance information for looked after children at primary school, other than through the Children in Need Census, as we found attendance was similar to all children and there were no significant reporting issues ([paragraphs 1.12-1.14](#));
- undertake work to assess the accuracy of attendance data at secondary level;
- develop arrangements for the collection of information on post-16 attainment including further and higher education; and
- continue to research and evaluate the



## Part 2 – The policies and initiatives of the Welsh Government and local authorities have contributed to some improvement but they lack clearly defined outcomes and whilst there is growing evidence of good practice, the delivery of support is inconsistent

**2.1** Local authorities bear the statutory duty to act as a corporate parent for individual looked after children and young people. Identifying need and determining services in an area is the responsibility of locally elected councillors. The Welsh Government has responsibility for the overall policy framework to improve educational outcomes both for all children and for looked after children in particular. The Welsh Government also monitors outcomes for looked after children and young people through performance indicators, strategic outcome indicators and statistical returns. However, many other national and local organisations as well as schools, foster carers and looked after children and young people themselves also have a role to play in improving educational outcomes.

**2.2** In April 1999, the then Secretary of State for Wales wrote to elected members setting out some of the responsibilities involved:

‘Central Government must take responsibility for providing the legislative and structural framework through which services can be delivered; for setting objectives and standards; for monitoring and inspecting services and outcomes; and for ensuring that resources are available to do the job. For your part, local government is responsible for delivering high quality services in line with national objectives and standards to meet local needs. Assessing those needs, planning and securing service improvements, and monitoring progress in terms of the outcomes you secure for children.’

**2.3** In the following parts of our report, we examine the effectiveness of the public sector in delivering improvement in this complex area. ([Appendix 2](#) outlines our approach to evaluating complex delivery chains.) Factors that we considered important in evaluating the effectiveness of delivery arrangements were:

- the extent to which there are clearly defined and shared outcomes for the organisations;
- if there is an evidence base of what works to inform future policy developments;
- if there is sufficient capacity to deliver; and
- the extent to which organisations have a shared operational plan.

## The Welsh Government and local authorities share a strategic commitment to improving educational attainment for looked after children but do not have clearly defined outcomes against which progress can be assessed

**2.4** The Welsh Government has introduced a number of policies and initiatives in recent years aiming to improve children's social services generally and, more particularly, to improve the educational performance of looked after children and young people in particular. Some of these policies have mirrored developments in the rest of the UK and were, at least in part, developed in response to a succession of reports and inquiries into children's social services. These included the report of the Children's Safeguards Review by Sir William Utting (1997)<sup>41</sup>, the report of the North Wales Child Abuse Tribunal of Inquiry led by Sir Ronald Waterhouse (2000)<sup>42</sup> and reports of inquiries into child deaths in the UK including those on the death of Victoria Climbié in 2003<sup>43</sup> and Peter Connolly in 2009<sup>44</sup>.

**Between 1998 and 2004, a clear strategic vision was developed, backed by success measures, funding support, delivery plans and an understanding of good practice and standards for the assessment of likely improvement**

**2.5** In April 1999, the then Secretary of State for Wales outlined the responsibilities of a corporate parent in a letter written to all Councillors in Wales, including requirements to:

- provide care, a home and access to health and education and other public services to which all children are entitled according to their needs;

- celebrate and share their children's achievements, supporting them when they are down; and
- be ambitious for them and encourage and support their efforts to get on and reach their potential, whether through education, training or employment.

**2.6** In his letter, the Secretary of State also announced the launch of the Children First initiative, the Children and Young People Partnership Fund and Sure Start in Wales. The aim of Children First was to transform services for vulnerable children and their families, thereby enabling those children to lead fuller, more successful lives as adults. The eight objectives for the initiative included:

- to ensure that looked after children gain maximum life chance benefits from education opportunities, health care and social care; and
- to ensure that young people leaving care, as they enter adulthood, are not isolated and are able to participate socially and economically as citizens.

**2.7** One of the central aims of the Children First programme was to raise the educational standards of looked after children. The Welsh Government set a range of targets for local authorities in response to the Children First programme, two of which focused on raising the educational performance of looked after children:

- 50 per cent of looked after children should achieve at least two GCSE or GNVQ qualification by 2001 and 75 per cent by 2003; and that
- children leaving care should achieve no less than the average attainment of children from similar backgrounds in their area.

<sup>41</sup> The Stationery Office, Sir William Utting et al, *People Like Us: The Report of the Review of the Safeguards for Children Living Away From Home*, 1997.

<sup>42</sup> Department of Health, *Lost in care, report of the tribunal of inquiry into the abuse of children in care in the former county council areas of Gwynedd and Clwyd since 1974: Report by The Honourable, Sir Ronald Waterhouse (Chair)*, February 2000.

<sup>43</sup> Department of Health and the Home Office, *The Victoria Climbié Inquiry: Report of an Inquiry by Lord Laming*, Cm 5730, January 2003

<sup>44</sup> The Stationery Office, Lord Laming, *The Protection of Children in England: A Progress Report*, March 2009.





**2.8** These targets were repeated and extended in the 2001 Welsh Government policy document *The Learning Country*<sup>45</sup> in which the Government set out its strategy to transform education and lifelong learning in Wales more generally. The document repeated the Welsh Government's target that 75 per cent of looked after children should leave school with at least two GCSEs or equivalent by 2003. The strategy also set new, more demanding targets for the future: that 75 per cent of looked after children should achieve 'a range of qualifications at levels 2 and 3 and a minimum of five GCSEs or equivalent by 2010'.

**2.9** In November 2001, the Welsh Government published guidance on the education of looked after children<sup>46</sup>. Local authorities were required to ensure that all looked after children had a personal education plan and that every child should have an education placement within 20 days of entering care or within 20 days of a care placement or educational placement breaking down. They were also required to develop protocols for sharing information about the care and education of looked after children in their care and develop Management Action Plans which the Welsh Government had to approve before funding to support improvement was released.

**Between 2004 and 2010 the Children First programme was succeeded by other policy developments but without any overall outcome or success measures for the educational attainments of looked after children**

**2.10** After 2004, the Children First programme was superseded by other policies for social services and its funding for children's social services was integrated into the Revenue Support Grant in 2004-05 and 2005-06. The Welsh Government discontinued its requirement on local authorities to produce Children First Management Action Plans.

**2.11** In Spring 2006, the Welsh Government announced its RAISE (Raising Attainment and Individual Standards in Education) programme. The RAISE grant was approximately £16 million each year and was initially for two years. Its main focus was to tackle the link between socio-economic disadvantage and educational under-achievement by providing additional funding for schools in the most deprived areas (where at least 20 per cent of pupils were eligible for free-school meals). It also aimed to support local authorities to improve educational outcomes for looked after children and provided ring-fenced funding of £1 million to be divided between local authorities. The looked after children element of the RAISE grant initially focused on 14-16 year olds (Year 10 and 11) although this age restriction was dropped as it became apparent that educational disadvantage began earlier in secondary school and at the transition from primary to secondary education. Funding was also permitted to be used to support care leavers pursuing higher education.

**2.12** At the same time as the Welsh Government introduced the RAISE programme, it also dropped national targets to measure outcomes for looked after children and young people from its updated learning strategy outlined in *The Learning Country: Vision into Action* as part of a reduction in the number of targets 'to manageable proportions'. This approach contrasted with that in England where, in 1999, the Minister set targets for improved outcomes which were updated in 2007 and incorporated in the Public Service Agreement targets. Each local authority was required to develop plans to support achieving these national targets<sup>47</sup>. Although the UK Government ended the system of Public Service Agreements in 2010, the Department for Education currently has key performance indicators 'to reduce the attainment gap between looked after and other children'.

<sup>45</sup> Welsh Government, *The Learning Country*, 2001.

<sup>46</sup> National Assembly for Wales Circular 2/2001, *Guidance on the education of children looked after by local authorities*.

<sup>47</sup> Public Service Agreement 11 aimed to narrow the gap in educational achievement between children from low income and disadvantaged backgrounds and their peers. Specific targets were set for the achievement of looked after children at Key Stage 2 (age 11) and at Key Stage 4 (age 16).

It also publishes data comparing the outcomes for looked after children at a national level and by local authority<sup>48</sup>.

- tailoring teaching and learning to the specific needs of looked-after children and directing them towards recognised qualifications that are more meaningful to potential employers.

**2.13** The main schools element of the RAISE programme was scaled down from 2009-10 and ceased in 2010-11, although the looked after children's element of the RAISE programme was maintained at the same level until March 2011.

**2.14** In 2008, the Welsh Government announced the School Effectiveness Framework as the overarching framework that seeks to transform educational standards and provision in Wales. Following pilot projects and evaluation, the School Effectiveness Framework is being implemented across Wales and, from 2011-12, supported by the grant funding from the Welsh Government of £24.6 million a year. Grant funding of £1 million for supporting the education of looked after children under the RAISE programme was integrated into the School Effectiveness Grant - Looked After Children. Local authorities have submitted a three-year action plan to cover the period 1 September 2011 to 31 August 2014 as part of the grant process. This grant has a number of aims:

- strengthening multi-agency working and home-school links to ensure more effective support for looked after-children, especially those in out-of-county placements;
- providing individual looked-after children with personalised study support and, where required, statutory higher education bursaries;
- improving the arrangements for gathering, recording, analysing, using and sharing information about the progress of looked-after children, especially those who reside outside the corporate-parent local authority; and

**The 'unacceptably low' educational attainment of looked after children and care leavers is recognised in the 2011 Programme for Government and has been one of the factors leading to the 2011 Child Poverty Strategy for Wales, although these do not indicate the outcomes they are seeking to achieve**

**2.15** The Welsh Government's *2011 Programme for Government* includes a commitment, in the 'Supporting People' section, to take actions to 'improve arrangements for looked after children so that they have more stable lives'. It notes actions are needed to improve the percentage of care leavers in education, training, or employment at age 19 and reduce the gap at Key Stage 4 between educational outcomes of children in need, looked after children, and the general child population. There are no specific targets set and there is no reference to these aims in the section of the Programme on education.

**2.16** Neither the Child Poverty Strategy for Wales or the School Effectiveness Framework provide the necessary statement of clearly defined and shared outcomes or the shared operational plan on which the Government, local authorities and other partners and stakeholders can base their plans and actions.

**2.17** The Children and Families (Wales) Measure 2010 placed a duty upon the Welsh Government and other Welsh authorities to publish a strategy for addressing child poverty. The Measure had 13 broad aims, one of which was to reduce inequalities in educational attainment between children and young people. The Welsh Government issued its new Child Poverty Strategy for Wales<sup>49</sup> in February

<sup>48</sup> Department for Education, *Children in Care and Adoption Performance Tables*, 2011.

<sup>49</sup> Welsh Government, *Child Poverty Strategy for Wales*, February 2011.



2011. The strategy acknowledges that there is a broad consensus that the educational attainment of looked after children and care leavers is unacceptably low in comparison with their peers and refers to the £1 million RAISE looked after children grant that will continue through the provision of the School Effectiveness Grant for Looked After Children. The strategy asserted that outcomes had significantly improved since the grant was introduced, although no evidence was offered to support this claim.

**2.18** The Child Poverty Strategy for Wales provides a summary of the range of activities the Welsh Government and other stakeholders are taking to tackle inequality. However, apart from the reference to the School Effectiveness Grant for Looked After Children, there is no specific reference to the wider School Effectiveness Framework and while it includes a group of key indicators for measuring progress, none of these specifically relates to outcomes for looked after children and care leavers. The Strategy does not provide the statement of shared outcomes for looked after children that is necessary to achieve effective delivery of improvement across the complex system of organisations involved.

**2.19** The School Effectiveness Framework<sup>50</sup> main document sets out the vision and an implementation schedule for putting school effectiveness based on tri-level reform into action. Tri-level reform is the whole of the education community (schools, local authorities and the Welsh Government) working collaboratively and in alignment. The Framework describes the key characteristics required to build on existing good practice and improve children's and young people's learning and wellbeing throughout Wales, and each partner's contribution to securing that. However, it makes no reference at all to looked after children and how improving school effectiveness will contribute to improving their outcomes.

**There is no clear overall plan or strategic document setting out how the different responsibilities within the Welsh Government or between the Government, regional bodies, local authorities and other agencies are aligned to support improved outcomes for looked after children**

**2.20** As noted above, achieving improved outcomes for looked after children involves many agencies and services. Each agency and sector has its own priorities, performance measures, and accountability arrangements. The total number of looked after children and care leavers is relatively small and the numbers involved with any single agency or service can be very small. It is therefore vital that there is a clear and coherent set of policies, success measures, delivery plans and monitoring activity crossing departmental and organisational. However, we found that this clear framework was lacking.

**2.21** Within the Welsh Government, the Minister for Education and Skills has overall responsibility for educational attainment for children and young people, including looked after children. The Department for Education and Skills administers the funding stream for looked after children's education. Responsibility for policy for looked after children and young people generally lies within the Department for Health, Social Services and Children and in recent years the Deputy Minister for Children and Social Services has taken a strong lead on corporate parenting. However, there is no clear overall plan or strategic document setting out how the different responsibilities either within the Welsh Government or between the Government, local authorities and other organisations are aligned to support improved outcomes for looked after children. A cross-departmental and multi-agency Stakeholder Group on the Education of Looked After Children has met occasionally but it has not been used to ensure a co-ordinated approach is being used across the Government.

<sup>50</sup> Welsh Government, *School Effectiveness Framework: building effective learning communities together*, 2008.

**2.22** Within local authorities, responsibility for achieving improved outcomes for looked after children is dispersed across departments with the associated risk that this group of vulnerable children may fall between service priorities. This risk may be magnified where agencies have relatively small numbers of looked after children and care leavers. We reviewed local authorities' current strategic plans and found that these often made no reference to achieving improved outcomes for their looked after children, either in education or social care. Education priorities tended to focus on improving the attainment of all pupils and, where pupils with additional learning needs are reported, strategic plans tended to prioritise other groups, for example children with disabilities. Social care priorities for children generally tended to focus on safeguarding issues and containing the costs of the rising numbers children in care. There has been little evidence of focus on care leavers in the priorities of post-16 education, employment, or youth justice. For example, the Welsh Government's strategy for reducing the numbers of young people who are not in education, employment and training, *Skills That Work for Wales*<sup>51</sup>, makes no specific reference to looked after children or care leavers other than an acknowledgement that they are particularly at risk.

**The Welsh Government and inspection and regulation bodies have provided a range of information on the educational attainment of looked after children but progress has not been regularly and consistently assessed at a national level**

**2.23** The Welsh Government has the primary responsibility for assessing the effectiveness of their intention to improve the educational outcomes for looked after children. The Welsh Government publishes statistical information

through bulletins and reports including the annual reports on *Adoptions, Outcomes and Placements for Children Looked After by Local Authorities* which includes information on attainment at Key Stages 2 and 3, the average points score at Key Stage 4 and outcomes for care leavers. The Children in Need Census has provided additional information since 2011. The *Programme for Government Progress Report, May 2012* provides a commentary on the actions and progress on the Welsh Government's programme from 2011. The main regulatory bodies responsible for inspection of standards for supporting education of looked after children are Estyn, which is responsible for inspecting education bodies, and the CSSIW, which inspects social care settings. In July 2001, Estyn and the CSSIW published a joint inspection report on education provision for looked after children, based on inspection work in four local authorities between November 1999 and January 2000<sup>52</sup>. The joint inspection team made a number of recommendations for local authorities, in particular to support joint working between education and social services and for the Welsh Government to support planning and co-ordination of services and disseminate best practice.

**2.24** Currently, educational outcomes for looked after children and young people feature in the inspection frameworks of each body. The Estyn framework for inspecting schools and local authority education services requires inspectors to consider how well schools meet the needs of learners with additional learning needs, which includes their looked after children. Estyn also considered the arrangements for supporting attainment by looked after children in a 2008 report on education provision in children's homes, a 2010 report which evaluated how well local authorities are ensuring that all learners

<sup>51</sup> Welsh Government, *Skills That Work for Wales - A Skills and Employment Strategy and Action Plan*, 2009.

<sup>52</sup> National Assembly for Wales, *Educational Provision for Looked After Children, a joint inspection report by CSSIW and Estyn*, 2001.





achieved their potential and a 2011 report on tackling poverty and disadvantage in schools. These, and other reports, have highlighted concerns such as weaknesses in the use of data and assessment systems.

**2.25** CSSIW reports on the arrangements and outcomes for looked after children and care leavers in the *Annual Review and Evaluation of Performance* issued annually for each local authority. Outcomes for looked after children have been assessed in inspections of children's services and CSSIW reports including the 2009 report on *Services for children and young people with emotional and mental health needs*. Current activities include an 'improving outcomes for children review' which will draw on fieldwork in all local authorities and is due to report in 2013.

**2.26** The Wales Audit Office provides an Annual Improvement Report on local authority progress drawing on information from CSSIW and Estyn. The inspection and regulation bodies co-ordinate work to improve analysis and reduce duplication.

**2.27** The assessment of progress for looked after children at school and local authority level is addressed in the existing framework but the assessment arrangements at national level are less clear. As noted above, there is not a shared, clear overall plan or strategic document and national targets have not been set. Whilst there is a short comment in the *Programme for Government Progress Report, May 2012* there has not been a more substantial Welsh Government report on educational attainment since the completion of the Children First programme. Consideration should be given to specific arrangements for national reporting on the attainment of looked after children because of their particular legal position where the local authority acts as their corporate parent.

### **Many local partnership plans do not set out the outcomes for looked after children and care leavers that partners intend to achieve**

**2.28** The requirement for local authorities and their partners to publish Children and Young People's Plans was initially introduced by the Children Act 2004<sup>53</sup>. The Children and Young People's Plan is the key local statement for authorities to set out their priorities for improving the wellbeing of children and young people. The 2004 Act also places a duty on local authorities to promote looked after children's educational achievement<sup>54</sup>. The guide to being a good corporate parent produced by the Welsh Government and the WLGA<sup>55</sup> notes that the statutory guidance<sup>56</sup> on Children and Young People's Plans:

- Requires Children and Young People's Partnerships to set out their policies for the provision of education for looked after children.
- Requires local authorities to set out their policies for the provision of education for looked after children and to set appropriate local attainment targets for these pupils at Key Stage 4 (GCSE). The local authority must state the arrangements for monitoring their educational standards. Local authorities are also asked to provide an update on progress made to date in introducing Personal Education Plans.

**2.29** We found that all the Children and Young People's Plans for 2008-2011 contained statements about improving educational outcomes for vulnerable children and most referred specifically to improving outcomes for looked after children. About half of the plans contained specific outcome targets, although most of these focused on attendance, completion of Personal Education Plans or the proportion of care leavers known to be in

<sup>53</sup> The Stationery Office, *Children Act 2004*, Section 26.

<sup>54</sup> The Stationery Office, *Children Act 2004*, Section 52.

<sup>55</sup> Welsh Government and WLGA, *If this were my child: A Councillor's guide to being a good corporate parent to children in care and care leavers*, June 2009.

<sup>56</sup> Welsh Government, *Shared Planning for Better Outcomes: Planning Guidance and Regulations for Local Authorities and their Partners on Children and Young People's Plans*. Circular 31/2007, 2007.

employment, education and training at age 19. Few had targets for attainment levels in school.

**2.30** The Welsh Government issued further Guidance<sup>57</sup> in 2011, which states that Children and Young People's Plans must set out the overarching vision and strategic direction of the Children and Young People's Partnership, its aspirations and priorities. The most recent plans, for 2011-2014 have a range of formats with some being incorporated with other strategic plans. There is also considerable variation in the content of the plans. Three of the 22 Plans give detailed information about their targets for looked after children and the dedicated resources that are available to achieve them. By contrast, two of the Plans do not refer to looked after children at all. Only five Plans refer to corporate parenting. Only six Plans include indicators for the education of looked after children or refer to specific resources for them. It is possible that authorities and their partners have chosen to focus on indicators that apply to larger numbers of children and young people, such as attainment for all pupils or those eligible for free school meals. However, our review of the Plans suggests that despite the the statutory duty placed on them, for many local authorities the education of looked after children is not being identified as a key strategic priority that requires effective corporate parenting, specific targets and monitoring and dedicated resources.

**2.31** In 2010-11, the Welsh Government entered into 'Outcome Agreements' with local authorities that include two broad outcomes that local authorities can focus on in the prospectus for the agreements<sup>58</sup>. Two outcomes relate to children and education. However, we found that only one council (Monmouthshire) had included a measure for the education of looked after

children as one of the success criteria in its Outcome Agreement with the Welsh Government. Again, this suggests that, in most cases, improving educational outcomes for looked after children and young people has not been seen as a priority for focus through the Outcome Agreements.

## There is growing evidence of good practice but delivery is inconsistent

### There is a lot of evidence about the key issues to address in improving educational performance

**2.32** In recent years, a number of reports have fairly consistently identified key factors affecting educational outcomes for looked after children and care leavers (Appendix 2). In 2003, an influential report by the Cabinet Office's Social Exclusion Unit identified five reasons why looked after children and young people underachieve and five barriers to achievement (Figure 9).

**2.33** Other issues that have also been regularly cited in research and reports as vital to supporting improvement are:

- effective and timely assessment and care planning;
- accurate information and performance management;
- listening to children (advocacy); and
- supporting looked after children moving to training, further and higher education or employment.

**2.34** Many reports have provided insight into foster carers and young people's views of education. These show that looked after children and young people often value education highly but many believe that they are not listened to

<sup>57</sup> Welsh Government, *Children and Young People's Planning Guidance: 2011-2014. Circular 016/2011*, 2011.

<sup>58</sup> Improvement Agreements were structured to demonstrate local authorities' contribution to the One Wales agenda, with activity around four strategic themes from 2008-09. They were succeeded in 2010 by Outcome Agreements between each individual local authority and the Welsh Government for three years, ending in March 2013. Outcome Agreements contain 10 over-arching strategic themes originally taken from the One Wales document, and, where possible, reflecting the Authority's existing or identified improvement objectives. The Welsh Government has linked Improvement Agreements and Outcome Agreements to eligibility for grant funding.



**Figure 9 - In 2003, the Cabinet Office's Social Exclusion Unit produced an influential report that identified key reasons why looked after children and young people underachieve and five barriers to achievement**

The five big reasons why children in care underachieve in education:

- too many young people's lives are characterised by **instability**;
- young people in care spend too much **time out of school** or other place of learning;
- children do not have sufficient **help with their education** if they get behind;
- carers are not expected, or equipped, to provide sufficient **support and encouragement** at home for learning and development; and
- children in care need more help with their **emotional, mental or physical health and wellbeing**.

Five underlying factors have inhibited change and led to slow progress:

- **capacity** – extremely high vacancy rates in the children's social care workforce and insufficient staff training about the educational needs of children in care;
- **management and leadership** – lack of commitment and time at a senior level, staff feeling powerless to affect change compounded by a lack of understanding between frontline staff and managers;
- **resources** – while funding has increased in real terms, some areas struggle to deliver an adequate service, exacerbated by a lack of strategic planning and poor use of resources;
- **systems and structures** – a widespread lack of joint working between frontline workers and between local authority officers in different departments; and
- **attitudes** – many carers and social workers are positive about children in care, but negative attitudes and low expectations can be commonly found among professionals and wider society.

Source: Cabinet Office, *A better education for children in care*, Social Exclusion Unit Report, September 2003

sufficiently and that decisions about their care can be made with too little attention being paid to educational issues. Our own survey of foster carers that showed that they place a high value on education. The majority of foster carers had concerns about the child's learning or developmental needs or behaviour and most of the children (39 out of 43) received additional help at school.

**2.35** The Fostering Network has undertaken work over many years to assist foster carers to support the education of looked after children in their care. A recent report, *Fostering higher education: success in Wales*<sup>59</sup> found

that foster carers need to be equipped with the skills to provide effective support and encouragement for progressing the child's educational learning and development. Foster carers perceived low expectations of academic attainment of looked after children from teachers and social workers. They suggested that, if looked after children are to achieve in the education system, they needed extra support, especially for those few looked after children who go onto higher education.

<sup>59</sup> Fostering Network and Cardiff Metropolitan University, *Fostering higher education: success in Wales. A report of foster carer's views of supporting the education of looked after children*, 2012.

**Figure 10 - Some examples of developments that have been evaluated as having a positive impact**

### **Introducing a Virtual School Head for all looked after children within a local authority has been shown to improve education**

The Virtual School Head acts as a local authority co-ordinator and champion to bring about improvements in the education of looked after children. The Department for Education in England funded 11 pilot programmes from 2007-2009. An evaluation<sup>1</sup> found that the pilot Virtual School Heads had successfully raised the priority of educating looked after children. Heads appointed at a senior level and with a strong educational background were at an advantage in liaising with other professionals and engaging their co-operation. A Virtual School project has been started by Conwy County Borough Council (see Figure 12).

### **Individual tutoring has been effective in improving performance**

The Department for Education in England also supported pilots for individual tutoring for looked after children. An evaluation found that this was very successful: the majority of the children offered individual tutoring accepted it and feedback was very positive from both children and social workers. The tutoring provided varied from short courses (for example, 10 one-hour sessions) to extending over a whole year. Some tutors were teachers already known to the children or else other teachers in the authority or private tutors. Tutoring was more difficult to arrange for children and young people placed out of the Authority or for those with complex needs. Social workers reported improvements in both attainment and in confidence and self-esteem as the children benefited from an on-going relationship with a concerned adult<sup>2</sup>.

An individualised approach to support was also given some affirmation in the interim external evaluation of RAISE projects<sup>3</sup> which found that local authorities whose looked after children's attainment was above or well above average for 2006-07 and 2007-08 had adopted more individualised support and learning for looked after children.

### **Providing work experience can support looked after children and young people**

The Welsh Government funded the charity 'Business in the Community' to work with local authorities and employers to pilot the Best Chance programme to provide work experience placements for looked after children. In the first pilot programme in 2009, five businesses provided work placements for 32 looked after children and care leavers aged 16-20 with 21 completing them. Ten of these young people subsequently went on to further education and two to employment. Four local authorities took part in a second programme in 2010-11 providing placements for 28 care leavers: 19 completed the placements; eight went into employment and six to further education or learning. The Welsh Government's funding did not continue in 2011-12. However, several local authorities have provided work experience for their looked after children, some of who have progressed to modern apprenticeships with the authority<sup>4</sup>. The Rhondda Cynon Taf Council 'Step in the Right Direction Programme' offers six young people leaving care a two-year training programme within the council workforce.

#### Notes

<sup>1</sup> Berridge, D, Henry, L, Jackson, S and Turney, D, *Looked After and Learning: Evaluation of the Virtual Head Pilot*, University of Bristol, 2009.

<sup>2</sup> Berridge, D, Henry, L, Jackson, S and Turney, D, *Looked After and Learning: Evaluation of the Virtual Head Pilot*, University of Bristol, 2009.

<sup>3</sup> Welsh Government, *External Evaluation of RAISE - Thematic Report on Learning Support for Looked After Children*, People and Work Unit, 2009.

<sup>4</sup> Thurrock Council quoted in: *If this were my child: A Councillor's guide to being a good corporate parent to children in care and care leavers*, Welsh Government/WLGA, June 2009, page 19 [http://ssia.wlga.gov.uk/media/pdf/2/g/corporate\\_parenting.pdf](http://ssia.wlga.gov.uk/media/pdf/2/g/corporate_parenting.pdf)





**There is a substantial portfolio of notable practice examples, some of which have been evaluated**

**2.36** The extensive range of research reports and pilot programmes have contributed to a growing body of good practice information in Wales and elsewhere in the UK. In particular, in April 2011, the WLGA published a notable practice compendium on corporate parenting in Wales that included examples relating to education<sup>60</sup>. Developments that have been evaluated and found to be effective include introducing cross-departmental teams to support education for looked after children; introducing virtual head teachers and one-to-one tuition for looked after children (Figure 10).

**Looked after children education services have delivered effective educational support services for looked after children**

**2.37** Since 1999, local authorities have developed a range of specialist support projects and staff posts to help improve educational outcomes for looked after children. These arrangements have changed in response to fluctuations in funding from the Welsh Government, local authorities and other sources. Since 2007, all local authorities have been obliged to appoint a looked after education co-ordinator to work with schools and social work teams to improve the educational attainment of looked after children and young people in the authority. Local authorities in Wales have developed specialist looked after children education services to support looked after children, sometimes in collaboration with voluntary sector organisations. These teams provide a range of support services: some focus on providing services to individuals and others on supporting schools and carers. Looked after children education service co-ordinators come from a variety of backgrounds - teachers, health visitors or educational psychologists.

**2.38** Most of the current looked after children education services were funded, at least partly, by the RAISE looked after children grant until September 2011 and subsequently by the School Effectiveness Grant - looked after children. Some early services were developed as part of Children First initiatives or had Cymorth<sup>61</sup> grant funding.

**2.39** In our work for this report, we found examples where looked after children education teams were providing effective support for individual looked after children and had helped improve their outcomes (Figure 11).

**2.40** The looked after children education service teams' impact is likely to extend beyond attainment in tests and examinations. The recently published evaluation of the Welsh Government's RAISE Programme<sup>62</sup> found that 'overall, although the evidence of a positive impact upon of the attainment of children looked after by Local Authorities is limited, there is stronger evidence from both RAISE Looked After Children's Coordinators and children looked after by Local Authorities, that RAISE has had a positive impact upon their educational experiences and their social and emotional skills and dispositions'.

**Substantial progress has been made in opening access to higher education and improved practice is developing in further education and preparation for employment**

**2.41** Widening access to higher education for care leavers has been greatly improved by well co-ordinated work by the Welsh Government, the Higher Education Funding Council for Wales (HEFCW), Reaching Wider regional partnerships, higher education institutions and the involvement of other organisations and professionals. They have developed practices and policies to overcome some of the barriers that looked after young people and those who were formerly in care face in aspiring to, and

<sup>60</sup> WLGA, *WLGA Notable Practice Compendium – Corporate Parenting 2011*.

<sup>61</sup> Cymorth is the Children and Youth Support Fund. It aims to provide a network of targeted support to improve the lives of children and young people from disadvantaged families. From April 2012, Cymorth funding was replaced by the Families First programme.

<sup>62</sup> Welsh Government Social Research, *Evaluation of the first three years of RAISE: Final Report*, conducted by the People and Work Unit, report 15/2012 paragraph 2.20.

### Figure 11 - Examples of initiatives to support the education of looked after children

Bridgend County Borough Council provides a summer activity holiday for looked after children and young people every year. The young people are fully occupied with activities every day and are in the constant care and supervision of fully qualified and experienced instructors and Looked After Children Education Team staff. The activities include rock climbing, abseiling, sailing, coasteering, surfing and kayaking. For some young people it might have been their first holiday or opportunity to participate in such activities. In 2012, 12 young people attended the holiday in Pembrokeshire. The holiday offers the young people the opportunity to achieve outside of formal education providing an exciting, physical medium for learning and building confidence and self esteem.

Bridgend Council has also provided a 'base' to support the education of looked after children for many years. It is used to offer a wide range of support including help for young people who would benefit from one-to-one support who are at risk of exclusion, excluded from school, or on an alternative curriculum. The venue for the base has changed over the years and the current base is also used for afterschool clubs for primary age and secondary age looked after children and young people. Overall, the base has contributed to the successful reintegration of young people back into mainstream school, improved educational outcomes for the individuals involved, and improved links with designated teaching staff.

Conwy County Borough Council introduced a form of 'Virtual School' for looked after children in November 2010. Headed by the Council's Assistant Principal Psychologist, the project aims to champion and improve the education of looked after children. The Head liaises with relevant parties including three elected members, managers from the social services, education services and additional needs departments, the education co-ordinator for looked after children and other relevant people and agencies.

The Virtual School arrangement ensures that there are processes and structures in place to:

- respond immediately if any pupil has a major problem at school;
- provide learning mentors to provide support in the classroom or on a one-to-one basis where needed urgently;
- organise support to help raise students' attainment including additional one-to-one tuition, IT support and software for literacy support in Key Stages 2 and 3 and revision in Key Stage 4;
- provide support when there are behaviour issues concerning the pupil that could, for example, lead to exclusion; and
- provide counselling and mentoring support when the school's own provision is fully stretched.

The Council believes that the Virtual School has raised the priority of looked after children's education and awareness of their needs, although it is too early to tell whether the Virtual School is achieving improved attainment.

*Source: Bridgend County Borough Council and Conwy County Borough Council*



participating in higher education including mentoring and supporting those young people with low aspirations and poor attainment. Practical barriers include being required to leave care and live independently whilst studying, accessing student accommodation all year rather than only termly, as well as financial barriers.

**2.42** HEFCW has supported a number of initiatives to increase access to higher education for care leavers including the 'Reaching Wider' programme established in 2002 to widen access to higher education. HEFCW has worked directly with universities and through regional partnerships and, although care leavers were not amongst the initial widening access target groups, since 2006 it has encouraged universities and others to take account of the needs of care leavers. The 'Reaching Wider' regional partnerships have been active in working with care leavers and universities (Figure 12) and HEFCW's

prioritisation of care leavers is set out in HEFCW's *Strategic Approach and Plan for Widening Access to Higher Education 2010/11 to 2012/13*. The South West Wales Reaching Wider Partnership has produced a guide to further and higher education for young people in and leaving care in Wales. North and Mid Wales Reaching Wider Partnership has produced a toolkit to support the carers of looked after children to understand educational opportunities available to looked after children and the South East Wales Reaching Wider Partnership 'First Campus' works with foster care teams to raise awareness of opportunities in higher education.

**2.43** In December 2007, HEFCW, in collaboration with the Buttle UK, launched Buttle UK Quality Mark for Care Leavers in Higher Education in Wales (Figure 13). By mid-2011, all Welsh universities had obtained the Quality Mark to demonstrate their commitment to opening access to young people formerly in care.

### Figure 12 - Some Looked After Children Education Service teams have encouraged looked after children and young people to consider going into higher education

The Bridgend Council looked after children education (LACE) team has forged links with Cardiff University Coursework Mentoring Club and the University 'Confident Futures Summer School'. Up to six looked after young people attended the monthly group meetings at the University in 2011. Each is supported by a student mentor studying in their third year. The monthly meetings are an opportunity to meet up, eat, chat and get help with their course work, inspire and encourage them to achieve their goals. It also offers the opportunity to experience the university environment, meet and make friends whilst offering an insight into life at university and raise aspirations. At the end of the mentoring the programme, the young people are given the opportunity to attend the 'Confident Futures Summer School'. This is a two day event aimed at giving young people in care the chance to experience student life in a safe and supported environment and six young people from Bridgend attended the summer school in July 2012.

The Bridgend LACE team arranged four workshop carousels with Glamorgan University through the HEFCW 'Reaching Wider – Reaching Higher' project. Up to ten young people at Key Stage 4 were invited to the events and enjoy a day at the university sampling a range of courses such as, drama, animation, music and film-making. The South East Wales Reaching Wider Partnership, First Campus, and Newport University held an open day attended by nine looked after children and their carers and explained the support available for care leavers in higher education.

Source: Bridgend County Borough Council WLGA Notable Practice Compendium – Corporate Parenting 2011; First Campus - <http://www.firstcampus.org/newport-care-leavers-open-day/>

**2.44** In some areas, there is close and effective working between local authorities and further education (FE) colleges and a small number of FE colleges in Wales have obtained a Buttle UK Quality Mark in a pilot for a FE version of the Quality Mark.

**Despite growing understanding of what works, there is inconsistency in services, arrangements and outcomes**

**2.45** This understanding of the key issues and the effectiveness of some of the interventions has helped inform the changes to the legislation, regulations and Welsh Government guidance such as in *Towards a Stable Life and a Brighter Future* (2007) and has informed the Welsh Government funding programmes, local

strategies and plans. However, there remains significant inconsistency in the range and quality of services provided to support looked after children.

**2.46** As noted earlier, there is significant variation in the attainment of looked after children between local authorities. The interim External Evaluation of the RAISE grant programme found that these variations could not be explained entirely by cohort characteristics and concluded that at least some of the variation in local authority performance is likely to be due to variations in the quality of support and care that looked after children receive<sup>63</sup>. Importantly, the research found that there was often a weak link between the range of factors that local authorities perceive as contributing

**Figure 13 - Universities have shown their commitment to supporting access to higher education by successfully meeting the standards for the Buttle UK Quality Mark for Care Leavers in Higher Education in Wales**

To achieve the Buttle UK Quality Mark for Care Leavers, universities must demonstrate their commitment to attracting and supporting students who are care leavers. Assistance offered varies but may include:

- taster sessions and involvement with looked after children to introduce the world of higher education and to raise expectations;
- pre-application advice and guidance;
- credit points towards UCAS tariff scores;
- contact at the application stage to introduce advisers and services;
- financial support for interviews and open days;
- personal mentor or adviser;
- help with planning and arranging accommodation in term and vacation times with the option of guaranteed 365 day university accommodation;
- help finding financial support and part-time work; and
- care leaver bursaries.

All higher education institutions in Wales have now achieved the Quality Mark for care leavers in higher education.

Source: Buttle UK

63 Welsh Government, *External Evaluation of RAISE - Thematic Report on Learning Support for Looked After Children*, People and Work Unit, 2009.





to the poor educational attainment of looked after children and the support they actually offer. For example, although local authorities may recognise the detrimental impact of placement moves and for looked after children entering care during the later stages of their education, few local authorities had strategies in place to reduce the number of placements at this stage.

**2.47** As part of our review, five of the six Welsh local authorities who assisted us completed a version of a self-assessment tool developed by the Audit Commission<sup>64</sup> and modified for use in Wales. The local authorities reported considerable variation in their assessments of their provision.

**2.48** None of the five local authorities said that their local Child and Adolescent Mental Health (CAMHS) strategy addressed the needs of looked after children effectively. A joint study by Wales Audit Office, Healthcare Inspectorate Wales, Estyn and CSSIW published in 2009 found that child and adolescent mental services, mainly provided through the NHS, fail many children and young people generally. The report noted that, while there have been some positive developments in specialist services for looked after children, these are inconsistent and there are weaknesses in overall policies, strategies and delivery<sup>65</sup>. A subsequent report by the Children's Commissioner for Wales (July 2011) pointed to the particular problems that children placed out of their Authority can have in accessing support services, including child and adolescent mental health services. Long

waiting lists and lack of forward planning often leave young people travelling long distances to visit child and adolescent mental health practitioners from their home county or finding themselves without any continuity of care as the placing authority have failed to inform and plan the move appropriately<sup>66</sup>.

**2.49** Shortcomings have also been identified in the provision of advocacy services for looked after children and young people. The recent report by the Children's Commissioner for Wales<sup>67</sup> found significant inconsistencies and concluded that 'looked after children who want the support of an independent professional advocate to help them have their voice heard are being badly let down'.

**2.50** One recent development that is helping support looked after children and young people is the establishment of school-based counselling services. The Welsh Government developed the strategy for the services and made £1 million available in 2008-09<sup>68</sup>, £2.5 million in 2009-10 and £3 million in 2010-11 to fund the development of services, including training counsellors. In future, the Welsh Government intends that funding for school-based counselling will be provided to local authorities through the revenue support grant following the commencement of the School Standards and Organisation Bill. Currently, most secondary schools have a counsellor working on at least a part-time basis while most local authorities have outreach counsellors available for those outside of mainstream education. Pilots are now also running in some primary schools.

<sup>64</sup> The Audit Commission report and toolkit including the self-assessment tool are available from the Audit Commission. The tool was first developed in 2003 and has been updated on several occasions, most recently in 2010. <http://www.audit-commission.gov.uk/childrenandyoungpeople/lactoolkit/Pages/default.aspx>

<sup>65</sup> Auditor General for Wales, *Services for children and young people with emotional and mental health needs*, November 2009 [http://www.wao.gov.uk/assets/englishdocuments/CAMHS\\_eng.pdf](http://www.wao.gov.uk/assets/englishdocuments/CAMHS_eng.pdf)

<sup>66</sup> The Children's Commissioner for Wales, *Lost After Care*, July 2011, page 58.

<sup>67</sup> The Children's Commissioner for Wales, *Missing Voices, a review of independent professional advocacy services for looked after children and young people, care leavers and children in need in Wales*, 2012.

<sup>68</sup> Welsh Government, *School-based Counselling in Wales: A National Strategy*, April 2008.



An evaluation found that attending counselling was associated with reduced distress and that clients, teachers and counsellors reported high levels of satisfaction with the service.

The majority of young people were referred to the service by teachers and school staff.

Looked after children and young people seemed more likely than others to use the service: just under five per cent of the episodes of therapy were delivered to young people who were looked after, a higher proportion than would have been expected<sup>69</sup>.

This represents 10.5 per cent of the number of looked after children and young people of secondary school age in Wales whereas the take up of counselling by the general secondary school population was 2.9 per cent<sup>70</sup>.

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69 Welsh Government Social Research 23/2011, Hill, A et al, Evaluation of the Welsh School-based Counselling Strategy: Final Report, 2011.

70 Figures quoted in: Lost after Care, July 2011, by the Children's Commissioner for Wales.



## Part 3 – The Welsh Government and local authorities have not assessed whether there is the capacity to achieve significant improvement and lack shared delivery plans

### It is uncertain whether there is the capacity and resources to deliver significant improvements

- 3.1** The Welsh Government has not assessed the likely cost of the *2011 Programme for Government* intention of reducing the gap at Key Stage 4 between the educational outcomes of looked after children, children in need and the general population and of improving other outcomes for looked after children.
- 3.2** In addition to specific grant income, local authorities have discretionary funding through the revenue support grant and their own income to fulfil their duty to promote the education of children in their care. We found that local authorities funding is under strain and also that few authorities are well placed to assess the impact of changes to projects and services.

### The increasing number of children entering care, as well as general economic pressures are increasing strain on social care staffing and budgets

- 3.3** Over the last five years, the number of children in care has risen by 20 per cent and rose by five per cent in the year to March 2011 alone. The Chief Inspector of Care and Social Services noted in her 2009-10 Annual Report<sup>71</sup> 'if current trends continue, it will raise serious questions about the sustainability of services as they are currently configured

and delivered'. More recently, the Fostering Network (December 2011) has highlighted the potential lack of foster carers for looked after children in Wales and elsewhere in the UK.

- 3.4** The Who Cares? Trust, a charity that represents those in care and formerly in care, has expressed a concern that local authorities will find it difficult to prioritise expenditure on looked after children in the face of these budgetary pressures (Figure 14).
- 3.5** In addition to rising demand for services, national and local budgets are adjusting to a period in which there will be a real terms reduction in expenditure. National government and local authorities are having to make significant efficiencies and cuts and to focus attention on their top priorities. The Wales Audit Office found that, while local authorities have afforded most protection to education and social services budgets, overall, local authority spending on social care and education was expected to fall by around two per cent in real terms in 2011-12. Only six of the 22 local authorities in Wales are planning real-term increases in social services budgets to meet rising demands while only one is planning real-terms increases in the education budget<sup>72</sup>.

<sup>71</sup> Welsh Government, *The Care and Social Services Inspectorate Wales Annual Report 2009-2010*, page 14.

<sup>72</sup> Wales Audit Office, *Picture of Public Services 2011*, October 2011, paragraphs 1.18 – 1.24.

**Figure 14 - The Who Cares? Trust has expressed concern that services for looked after children will suffer because of local authority budgetary cuts**

As the 2009 recession bit, one of the few things still selling well was children's clothes. Parents instinctively put their children first.

The 'corporate parent' has no such instinct; it is constrained by budgets and cost-effectiveness strategies – and in practice is forced to give the happiness of children in its care equal time with rubbish removal and street lighting.

Legislation to support children in care is already very strong. But it's not consistently translated into reality on the ground. The decision to overlook the needs of some children until there's a noisy, unavoidable crisis will ultimately create even greater costs for society as they struggle with the results of a small number of people feeling and generating a great deal of distress. Often this leads to a new generation of children born to parents who have no idea how to raise a child.

*Source: The Who Cares? Trust, Making it better - how can the system improve, <http://www.thewhocarestrust.org.uk>*

**3.6** A number of initiatives have sought to reduce the identified shortage of qualified children's social workers and to increase the number and range of placements available. These include the Children's Commissioning Support Resource that aims to support the process of finding appropriate care settings for looked after children in Wales. It is a successful joined-up government initiative, with partners including the Welsh Government, the WLGA and the Association of Directors of Social Services in Wales. The Local Government Data Unit provides the service which is centred around a real-time database that allows users to match children with provision based on a profile of their requirements.

**Specific funding available to support the education of looked after children Wales has not increased since 2005-06, will not be ring-fenced in future and is less than that available for the education of looked after children elsewhere in the UK**

**3.7** In the past decade, the Welsh Government has made additional funding available for improving the educational outcomes of looked after children, initially in the Children First

programme which included a £1 million to support the education of looked after children. This level of funding was continued in the RAISE Looked After Children grant (2006-2011) and, from September 2011, in the School Effectiveness Framework Looked After Children grant. Each grant has had slightly different terms and eligibility. The total amount available has been flat-lined since 2002 but its value in real terms has been eroded by a combination of inflation over the period, increasing numbers of children in care generally and the wider eligibility criteria. From 2012-13, the School Effectiveness Grant for Looked After Children will no longer be ring fenced within the School Effectiveness Fund.

**3.8** In England, all school age looked after children have been eligible for a 'pupil premium' from 2010-11, paid, in the main, directly to schools (Figure 15). The Pupil Deprivation Grant, introduced in Wales in April 2012, will provide funding of £450 directly to schools for every pupil registered to receive free schools meals. Schools do not have to spend their grant on these pupils but will have to account for how the money has been used



to support improvement. The Pupil Deprivation Grant will not be paid in respect of looked after children as a separate group and, in practice, schools will only receive the premium in relation to a quarter of looked after children as the majority of looked after children are not eligible for free school meals<sup>73</sup>. The Pupil Premium in England is £600 per pupil for 2012-13 and is paid in respect of all pupils entitled to free school meals and for looked after children. We estimate that, if all looked after children in Wales of school age received funding to the level of the pupil premium in England, Welsh schools would receive additional funding of around £2 million in 2012-13 to support their education.

**3.9** In Wales, the Government and local authorities are committed to reducing specific grant funding and the Welsh Government has sought to protect education from reductions in real terms funding. This places greater responsibility for determining the extent and use of funding required for authorities to fulfil their responsibilities for looked after children on local authorities and schools.

**3.10** In Wales, young people starting further education aged 16-18 may be eligible to apply for the Educational Maintenance Allowance. This is a weekly allowance of £30 per week but subject to a means-test for households where the income is less than £20,817 (or £23,077 if there is more than one dependent child or young person). Young people in care and care leavers who have a bank account, apply and provide the necessary information from their local authority are entitled to the full allowance and the Student Loans Company operates a fast-track applications procedure for them. Older care leavers are also eligible for the Assembly Learning Grant introduced in 2002-03 to encourage people living in Wales aged 19 and over to start further education although, in practice many will also qualify for this Grant on the basis of low household income.

**3.11** In England, care leavers entering higher education before their 25<sup>th</sup> birthday have been eligible for a £2,000 bursary in addition to any other funding provided by their local authority since 2008. In June 2011, the Welsh Government changed regulations to ensure

### Figure 15 - The 'pupil premium' in England is provided for all looked after children

The pupil premium is additional school funding paid, in the main, directly to schools for the children from the poorest families (those with a household income less than £16,500 per year). It aims to tackle the disparity in outcomes between children from families who qualify for free school meals and other children. The school can decide how it will spend the pupil premium but will be held accountable for how they have supported the poorest pupils. In addition, all children who are looked after for more than six months continuously are eligible for the pupil premium. It was £480 in 2010-11 and increased to £600 from April 2012. Where a child is in a non-maintained setting, the local authority can decide how to spend the funding most effectively.

Source: Department for Education, *Pupil premium, What you need to know*, November 2011

<sup>73</sup> Twenty-five per cent of looked after children are in receipt of free schools meals compared to 20 per cent of all pupils of statutory age. Source: *Wales Children in Need Census 2011*, Table 12, Statistics for Wales SDR 32/2012.

that all local authorities had to give care leavers a Higher Education Bursary of at least £2,000. This can be paid from the Schools Effectiveness grant. Importantly, the Higher Education bursary does not have to be repaid by the student.

### **Many looked after children education services depend on short-term funding which has an impact on consistency and quality of provision**

**3.12** Although the Welsh Government has continued to provide funding to support improved outcomes for looked after children at the same level since 2002, the funding streams supporting work to raise attainment for looked after children – Children First, RAISE and now the looked after children’s element of the Schools Effectiveness Grant – have been primarily short term, typically for one, two or three years. Local authorities, staff and projects have faced inevitable uncertainty as the grant comes near its end. Similarly, where local authorities and schools have accessed funding from other Welsh Government grants (for example Cymorth and Better Schools Fund) or from charitable sources, this has also been for short periods. The evaluation of the RAISE programme notes that the short-term nature of RAISE funding was consistently identified as a challenge and that it had been highlighted as a concern by the Association of Directors of education and the WLGA in their submission to a National Assembly Finance Committee inquiry into specific grants in education<sup>74</sup>.

**3.13** A number of other Welsh Government funding decisions also benefit looked after children. For example, the Welsh Government is providing a grant of £586,000 for the Booktrust Cymru’s Bookstart and Letterbox Club programmes over three years from

2012-2015. The Letterbox Club<sup>75</sup> programme focuses on improving the educational outlook for children aged 7-13 in foster families by providing them with a bilingual parcel of books, maths activities and stationery items once every month for six months.

### **Since the Children First programme ended, organisations involved in improving educational outcomes for looked after children have lacked a shared operational delivery plan**

**3.14** One of the important factors that can support the delivery of improvement across complex delivery chains is the presence of shared operational delivery plans which clarify the expectations on each part of the delivery system. We have found that there is not currently any shared delivery plan to support improved educational outcomes for looked after children.

### **The relationships between national and local government and with other partners have not been used to ensure each partner contributes to a clear plan with shared outcomes**

**3.15** In a recent report, *Learning to Improve: An Independent Assessment of the Welsh Government’s Policy for Local Government*<sup>76</sup>, it was suggested that the relationship between central and local government can be organised in four very different ways:

- autonomy: the Welsh Government may give local government the autonomy to determine its own policy and practice;

<sup>74</sup> Welsh Government Social Research, report 15/2012, *Evaluation of the first three years of RAISE: Final Report*, conducted by the People and Work Unit, paragraph 17.24 - refers to the WLGA and the Association of Directors of Education Wales (ADEW) evidence to the National Assembly for Wales Finance Committee Hypothecated Education Grants Inquiry in 2009, reference: FIN(3) 03-09 (page 3).

<sup>75</sup> <http://www.letterboxclub.org.uk/letterbox-worldwide/wales/>

<sup>76</sup> Centre for Local and Regional Government Research Cardiff Business School, *Learning to Improve: An Independent Assessment of the Welsh Government’s Policy for Local Government*, First Report, 2009.





- command: the Welsh Government may seek to maximise accountability and control through hierarchical instruments;
- partnership: the Welsh Government may seek to negotiate collaborative relationships through the elaboration of common goals and the voluntary exchange of resources; and
- competition: the Welsh Government can try to foster efficiency and effectiveness by encouraging competition between rival public service providers.

**3.16** The arrangements for improving outcomes for looked after children have included elements of the first three approaches. Between 1999 and 2004, the Welsh Government adopted a leadership role with the Secretary of State's letter, national targets, funding streams, and approval systems for Children First Management Action Plans. However, subsequently there has been greater emphasis on a partnership approach in which the Welsh Government has supported local authorities in their role as corporate parents. However, this has not extended to the Welsh Government, local authorities and other partners developing an overall strategy that brings together policies and plans developed over time nor outcome measures for looked after children and care leavers in Wales. This absence has left a weakness in the overall framework for achieving improvement with a lack of an overall operational plan to hold the many different developments together and link them to a common set of outcomes.

**A range of plans and documents contain elements of shared planning but there is not a coherent and comprehensive planning framework across relevant agencies and levels of government**

**3.17** Local authorities are expected to produce a range of strategic and operational plans, either as single organisations or with partners, which have some level of approval or consultation with the Welsh Government. These include:

- Children First Management Action Plans (until 2005-06); Proposals for the use of RAISE looked after children grant funding (2006-2011); School Effectiveness Grant – Looked After Children Proposals 2011-2014;
- Improvement Agreements (2008-2010) and Outcome Agreements (2010-2013);
- Children and Young People's Plans 2008-2011 and 2011-2014; and
- 14-19 Network development plans.

**3.18** However, whilst each may contain elements of shared planning, none of these provide a shared delivery plan that crosses the boundaries of central and local government and other agencies and sets out the range of expectations for all the key factors relating to the education of looked after children. In other parts of the UK different approaches have been followed; in Scotland, for example, work has been undertaken to develop a shared policy framework and arrangements (Figure 16).

**Figure 16 - The Scottish Government have worked with local authorities and a range of partners to put in place a common policy framework and support arrangements to promote improved outcomes for looked after children**

A common policy framework for work with children in Scotland is in place: *Getting It Right For Every Child* relates to a broad spectrum of agencies providing services to children and their families and a shared set of values and principles is essential to making it work. The values are intended to support reflection and self-challenge for any professional with a part to play in promoting the well-being of children and provide a useful basis for cross agency engagement. Similar values underpin national policy reports entitled: *We Can and Must Do Better* and the *National Residential Child Care Initiative* which apply this shared approach to looked after children more specifically.

In Scotland, the reports mentioned above led to the establishment of a shared unit to develop policy, training and to identify good practice. This was initially hosted by the Scottish Government but has been transferred to CELCIS, the Centre for Excellence for Looked after Children in Scotland that was established in 2011, based at the University of Strathclyde (<http://www.celcis.org>). The Centre also provides the programme office for the Looked After Children Strategic Implementation Group established by the Scottish Government. These developments have the active membership and involvement of the Scottish Government, local authorities, universities, relevant voluntary organisations, and the Scottish Children's Reporter Administration (which has an important role within the Scottish legal system). Amongst other activities CELCIS also provides courses and events including training for a range of staff, managers and Councillors in 'Improving the Educational Outcomes of Our Looked After Children and Young People' and other relevant matters.

Source: The Centre for Excellence for Looked after Children in Scotland, <http://www.celcis.org>



## Part 4 – Improvement is undermined by weaknesses in corporate parenting and performance management although recent changes to increase regional collaboration may provide opportunities to achieve better outcomes

### Delivery of improved outcomes is undermined by weaknesses in corporate parenting, performance management, lack of accountability, and insufficient evaluation

#### Corporate Parenting is developing but not yet fully effective

**4.1** The expectations on 'corporate parents' were emphasised in the Children First programme from 1999-2006. The Welsh Government and the WLGA have emphasised the importance of the corporate parent role in the 'If this were my child...' guide for councillors published in 2005 (and subsequently updated in 2009). This says that 'the role of the corporate parent is to seek for children in public care the outcomes every good parent would want for their own children. The local authority has a legal and moral duty to provide such support to the children it looks after'. Training material

produced by the WLGA and the Fostering Network to accompany the guide sets out the responsibilities of this difficult and challenging role including the requirement that the needs of the looked after child are prioritised in the short, medium and long term (Figure 17).

**4.2** Corporate parenting is not straightforward: a briefing on corporate parenting notes that 'the concept of corporate parenting is inherently paradoxical: good parenting demands continuity, but organisations by their nature are continuously changing. Members of staff move on, elected members change, structures change, procedures change... One challenge of being a good corporate parent is to manage these changes while giving each individual child or young person a sense of stability.'<sup>77</sup>

**4.3** In June 2007, the Welsh Government published *Towards a Stable Life and a Brighter Future*<sup>78</sup> which placed new duties on local authorities, the health bodies and other partners to improve the health, well-being and education of looked after children. It provided

#### Figure 17 - The Welsh Government and the WLGA have set out the key responsibilities of corporate parents

- to prioritise the needs of looked after children in decision making;
- to accept responsibility for their wellbeing and future development;
- to find ways to support their growth and attainment;
- to ensure they have access to services; and
- to ensure their voice is heard.

Source: Corporate Parenting Training Module, WLGA and the Fostering Network, Oct 2009

<sup>77</sup> CELCIS briefing on corporate parenting, [http://www.celcis.org/index.php/looked\\_after\\_children/corporate\\_parenting/](http://www.celcis.org/index.php/looked_after_children/corporate_parenting/)

<sup>78</sup> Welsh Government, *Towards a Stable Life and a Brighter Future*, 2007.

new guidance and regulations building on the powers under the Children Act 2004 to ensure that all agencies co-operate and fully deliver their corporate parenting responsibilities.

**4.4** While *Towards a Stable Life and Brighter Future* set out detailed regulations, in September 2008, the Deputy Minister for Children and Social Services wrote to councillors and senior local government officers to emphasise the importance of the corporate parent responsibilities. The letter included the list of questions to which councillors should expect to receive answers (Figure 18).

**4.5** Most local authorities have established corporate parenting groups or committees, although these vary in composition and in how they link into the formal structures of each council. However, corporate parenting is as much about culture as it is about structures. Prioritising the needs of looked after children and young people can be a difficult role for officials and councillors who are also charged with managing the budgets and services for looked after children and others in need (Figure 19).

**Figure 18 - In September 2008, the Deputy Minister for Children and Social Services wrote to Councillors to remind them of the questions about looked after children to which they should expect to receive answers**

- Are children safe?
- Have they got good homes in a secure and caring environment?
- Are they placed within the local authority area, close to their homes and communities; if not, why not?
- Do they get decent schooling?
- Are they being drawn out of antisocial behaviour?
- Are they healthy?
- Are they thriving and developing socially and emotionally as they should?
- Are we giving them enough help to cope with the problems they have in growing up?
- How well do we prepare them for their transition to adulthood?
- Are we ambitious enough for them?
- Do we help them achieve to the maximum of their ability?
- Do we have high aspirations for them and show pride in their achievements?
- Can we help them cope with their failures?
- Can we cope with the problems they give us?

Source: Letter by Deputy Minister for Children and Social Services to Councillors in Wales, 29 September 2008



**Figure 19 - Swansea Council's Children and Family Services Overview and Scrutiny Board undertook a review - 'Care to help' – with the aim of strengthening Councillors' corporate parenting role**

The City and County of Swansea's Children and Family Services Overview and Scrutiny Board considered good practice from other local authorities in England and elsewhere in Wales including Newport, Denbighshire and Carmarthenshire. For example, Denbighshire established a Councillors' forum in 2007 and initiated the development of schools governors as corporate parents. Councillors visited children's homes to see the support offered to looked after children and understand the challenges of working in such an environment. Following the visits, councillors discussed how they could discharge their responsibilities as corporate parents.

The Board recommended that key corporate parent responsibilities are included in the job descriptions for councillors and in the nomination and induction packs as well as offering training and a guide to corporate parenting. Councillors should regularly receive performance information about children's progress. The Board also recommended a change in the terms of reference for the Corporate Parenting Forum to strengthen its focus on embedding the corporate parenting agenda across the Council by scrutinising and monitoring performance. The Cabinet and the Council accepted the report in March 2011 and is implementing an action plan to progress the recommendations.

*Source: Making a difference – annual performance report 2010-11, City and County of Swansea, paragraphs 7.4-7.6*

**4.6** We found that reports to corporate parenting groups often contain inadequate information about outcomes including educational attainment. Where information is provided, it may note the support provided but often offers little evidence or challenge to assess what support might have been provided to achieve better outcomes.

**4.7** In his 2011 report on the experience of care leavers<sup>79</sup>, the Children's Commissioner for Wales, found that, while many looked after children and young people can do well with support from foster carers, professionals and corporate parents, many fail to succeed in life after care. In the report, he called on local authorities to develop a more co-ordinated approach across the whole authority including social services, education, housing and other relevant departments to ensure that looked after children, young people and those moving on to independent living receive support and

advice of the highest quality for all their needs. He also recognised that local authorities need to work with voluntary and private providers to provide effective services.

**4.8** In some local authorities in England and Wales, senior officers take a direct interest in the progress of one or more looked after children and young people through initiatives such as 'Education Champions' (Figure 20).

### **Performance management is often unsatisfactory**

**4.9** To be effective corporate parents, councillors need a good understanding of the children in the care of the authority, their progress, and needs. Yet, many local authorities do not provide relevant councillors and senior officers with the detailed information to answer the questions that either Ministers (see paragraph 4.4.) or the Welsh Government's

<sup>79</sup> The Children's Commissioner for Wales, *Lost After Care*, July 2011.



**Figure 20 - Education Champions schemes involve senior leaders in supporting the progress of individual looked after children**

The 'Education Champions' initiative is one approach to encouraging councillors and senior local authority officials to engage more actively in supporting looked after children. This initiative was developed in some local authorities in England and has been taken up in Wales by Denbighshire County Council. Each member of the Corporate Executive Team becomes an 'Education Champion' for a year 11 pupil who is looked after. They act as a 'concerned parent' and track the progress and development of the young person in respect of education and other key outcomes. They have regular contact with key people working with their young person - teachers, social workers, foster carers and health professionals - to ask questions, challenge progress and try to help remove any barriers to achievement.

guidance (paragraph 2.26) suggest that councillors and corporate parents should ask. We also found that there was an absence of effective challenge or scrutiny in some local authorities. In many local authorities, reporting on the educational outcomes for looked after children was inadequate: reports were sometimes limited to providing the statutory performance indicator information with little or no commentary or did not include information on children placed out of the Authority. Some local authorities reported on an individual's actual attainment but without reference to their predicted outcomes so limiting a realistic assessment of progress. Often reports gave the small number of children in a cohort to explain low performance.

- 4.10** The weaknesses in performance management at local authority level often contrasted with the detailed knowledge and information known by looked after children education service teams, some of whom worked imaginatively and effectively with looked after children. In some cases, team members felt that they were expected to provide positive information on the looked after children but were frustrated that there was insufficient attention given to how further improvements could be made through reducing the number of placement moves that disrupt education or through extending the quantity of support available.

**Some local authorities and corporate parents have used self-assessment tools to identify their strengths and weaknesses and draw up plans for improvement**

- 4.11** Several organisations have developed self assessment tools to help local authorities and corporate parents assess their current services and develop improvement plans. We found that undertaking a self-assessment can raise awareness of strengths and weakness and when carried out jointly across departments and organisation it identify ways to work together to improve outcomes for looked after children:

- The Audit Commission produced a toolkit for local authorities in 2003-04 which has been updated, most recently in February 2010<sup>80</sup>. It includes a self-assessment tool to help agencies assess their position against standards for the key issues as well as tools to undertake a survey of looked after children, a census of pupil attendance, track cases and develop action plans. We worked with six local authorities who used the toolkit and reported that it was helpful. For some, it provided the basis of action plans for improvement.

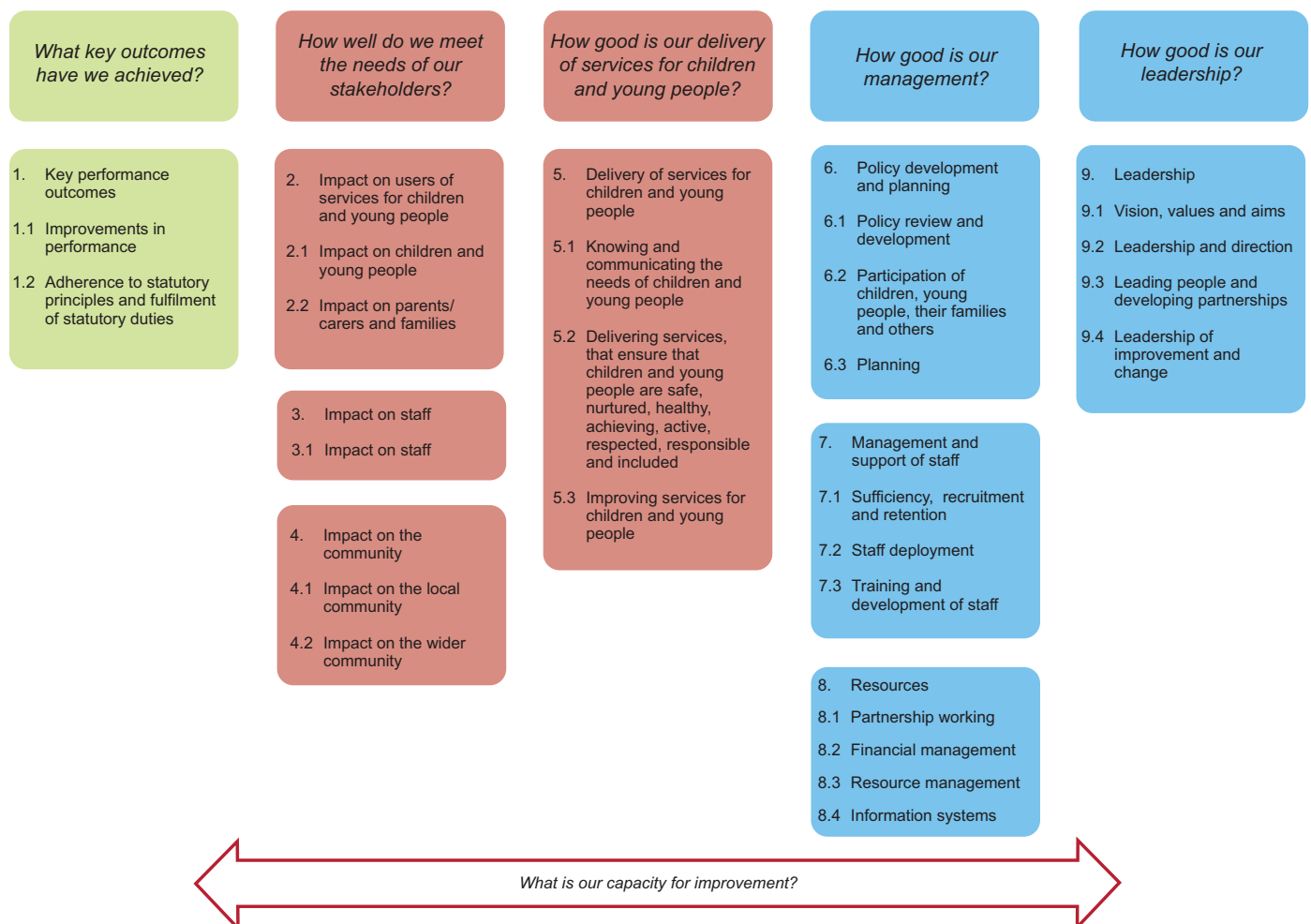
<sup>80</sup> Audit Commission, *Education of looked after children toolkit*, February 2010, <http://www.audit-commission.gov.uk/localgov/audit/childrenandyoungpeople/lactoolkit/pages/default.aspx>



- In Scotland, Her Majesty's Inspectorate for Education produced a useful tool for self-assessing performance against a set of quality indicators (Figure 21)<sup>81</sup>. In 2011, the Inspectorate became part of Education Scotland, the key national body supporting quality and improvement in Scottish education.

**4.12** The Centre for Excellence in Children and Young People's Services (C4EO) has encouraged the use of a set of Outcomes Based Accountability questions and provided guidance on how local authorities and partners can assess their present work and plan for improvement (Figure 22)<sup>82</sup>.

**Figure 21 - Education Scotland has produced a tool assessing performance against a set of quality indicators**



<sup>81</sup> Source - Education Scotland, *Improving services for children. How good is our corporate parenting? How good can we be?*, 2009.

<sup>82</sup> C4EO - *What is OBA? and Vulnerable/Looked After Children – Director's Summary 4*, November 2009, [www.C4EO.org.uk](http://www.C4EO.org.uk)

**Figure 22 - The Centre for Excellence in Children and Young People's Services (C4EO) has encouraged corporate parents to ask seven questions to help to assess objectives, performance and to help planning**

- What is your vision for improving the lives of looked after children and young people in your locality? What outcomes (quality of life conditions) do you want for them?
- What would the outcomes look like if you could see or experience them?
- And how can you measure them?
- Where are you now? How are you currently doing on the most important measures?
- Who are the partners for improvement?
- What really works to improve the outcomes you want?
- What do you propose to do next?

Source: C4EO.org.uk, *Vulnerable/looked after children – Director's Summary 4, November 2009*

### **There is regular contact between Looked After Children Education Service teams but other feedback and learning systems are insufficient**

**4.13** The Welsh Government has supported the national and regional networks of local authority looked after children's education officers through its officer supporting the RAISE Grant process, and now the Looked After Children's element of the School Effectiveness Grant. These have been effective forums for sharing policy information and operational practice although not all local authorities are regularly represented at the Looked After Children Education Services network meetings and the officers attending these meetings are often not sufficiently senior to ensure that information is acted upon. Other networks for groups of specialist officers (e.g. those with special educational needs responsibilities) are supported through the Association of Directors of Education and the WLGA. The occasional meetings of the Welsh Government's Stakeholders Group on the Education of Looked After Children also provide an occasion to discuss developments and share information. However, the Stakeholder Group does not have mechanisms in place to disseminate information more widely.

### **New local, regional and national delivery arrangements provide opportunities to improve co-ordinated planning to achieve better outcomes for looked after children and care leavers**

**Many Welsh Government policies and initiatives can help improve outcomes for looked after children and young people but more can be done to lead and co-ordinate improvement**

**4.14** The Welsh Government has an important role to play in co-ordinating and supporting effective corporate parenting. As stated previously, responsibility for the educational achievement of looked after children is held by the Minister for Education but other ministers and many departments have important contributions to make and there is no published document that shows how the roles of different departments and funding streams can be co-ordinated to maximise support for improved outcomes for looked after children. Additionally, some policy developments do not have appear to have initially been recognised as relevant for looked after children, for example looked after children



and care leavers were initially omitted from the remit of the 'Reaching Wider' initiative for higher education. Policy areas with particular relevance for looked after children include:

- initiatives to reduce worklessness;
- supporting youth engagement and employment;
- arrangements for supported housing and tackling homelessness;
- widening access to higher education;
- integrated family support services;
- narrowing the attainment gap and the School Effectiveness Framework; and
- supporting the health outcomes of children and young people.

**4.15** Many of these policy areas form strands of the Child Poverty Strategy for Wales. The Strategy could be developed to co-ordinate policies to raise educational attainment of looked after children more explicitly.

### **A new framework for policy delivery is emerging**

**4.16** New arrangements are emerging for the delivery arrangements for local services and for relationships with the Welsh Government. In 2011, two independent groups reported on the organisation of social services<sup>83</sup> and education services<sup>84</sup> in Wales. These reports, and subsequent discussions between Ministers, the WLGA and other relevant bodies, anticipate the development of regionally-led services encompassing aspects of education and social care, with other aspects delivered on a national basis and others delivered locally.

**4.17** In addition, other policies and strategies are redefining local authorities' relationships with the Welsh Government. The Welsh Government's Child Poverty Strategy for Wales sets out a framework which places the educational attainment of looked after children within a wider policy of narrowing the gap between disadvantaged groups of children and their peers. This in turn is part of the wider strategy to reduce inequalities in outcomes for children.

**4.18** The School Effectiveness Framework is the overarching policy framework for transforming educational standards and provision in Wales. Its focus is on improving literacy and numeracy and reducing the impact of poverty on educational attainment. The guidance on the School Effectiveness Grant and Pupil Deprivation Grant for 2012-13<sup>85</sup> notes that for the first year (2011-12) 'consortia reporting must include predicted and actual outcomes for looked-after children and the activities implemented to raise the attainment levels of all looked after children residing in the local consortia area' but there is no corresponding requirement for 2012-13 and 2013-14.

**4.19** The regional consortia are also leading the development of regional school effectiveness and improvement services during 2012-13. The full business case for the proposed North Wales service notes that thematic interventions, such as those concerned with looked after children, will be included in the scope of the new service. The business case for the South East Wales Integrated Achievement Service notes that the performance of looked after children at all key stages will be amongst the success criteria to be increasingly considered at consortium level.

<sup>83</sup> Welsh Government, *Local, regional, national: what services are best delivered where?*, March 2011.

<sup>84</sup> Welsh Government, *The Structure of Education Services in Wales: an independent task and finish group report*, March 2011.

<sup>85</sup> Welsh Government, *School Effectiveness Grant and Pupil Deprivation Grant 2012-13 Guidance*, March 2012.

**4.20** Regional educational consortia are leading the implementation of the School Effectiveness Framework. The School Standards Unit within Welsh Government focuses on policy implementation. The Unit has responsibility for sharpening the use of data, strengthening accountability, ensuring consistent sharing of high-impact practice and evaluating policy implementation. The initial focus of the Unit's termly stocktaking reports has been on the gap between pupils receiving free school meals and all pupils but during 2012-13 it is intended to look at the attainment of specific groups of pupils including the more vulnerable and looked after children.

**4.21** The Welsh Government has proposed an alignment of the education consortium areas with other regional partnerships and with coterminous boundaries with health boards. Discussions are continuing with local government representatives about the framework for regional collaboration and this should lead to greater clarity about the extent of national and regional roles in delivery of services.

**4.22** Local authorities are continuing to develop their local planning partnerships and arrangements. In many areas, they are developing streamlined community strategies that also meet the requirements for Children and Young People's Plans and other statutory plans.

**4.23** These developments provide a new framework within which there may be potentially clearer, co-ordinated strategies for young people with a focus on outcomes. Together with aligning funding streams, these changes could give the necessary coherence to strategies and plans for improving outcomes for children and young people, including the educational outcomes for looked after children. There may also be clearer accountabilities and responsibilities at local, regional and national

levels although this is not certain and will be hindered where education consortia and other regional collaborations do not align. Having different regional groupings for education and health and social care could make decision-making and accountability more complex. The risk also remains that, despite the specific duty that local authorities have, looked after children may not be given the necessary detailed attention. It is notable that neither the report of the reorganisation of social services or education services made any reference to the education of looked after children in their recommendations.

**4.24** The expected increase in the role of regional consortia and partnerships brings several opportunities, including potentially improving joint working and delivery with other regional bodies. Greater collaboration, for example with health boards could lead to developing much more effective multi-disciplinary services, including child and adolescent mental health services for looked after children and young people. Some individual local authorities in Wales have been considered too small to operate the 'virtual school head' model (Figure 10). However, Virtual Head Teachers could more feasibly operate at a regional level where the greater numbers of looked after children could support the appointment of a head teacher sufficiently senior to monitor looked after children's progress, engage with schools and challenge practice where best corporate parenting is not evident.





**4.25** The development of strong regional arrangements also provides an opportunity to identify the best practice to support educational attainment for looked after children and care leavers and then support all local authorities to operate at that level. Aggregating data at a regional level will allow comparison and publication of performance information more readily. If the Welsh Government, regional consortia and partnerships have high expectations of improved outcomes and ensure there are appropriate resources and capabilities to support these expectations, this should overcome some of the inconsistencies referred to earlier by raising achievement across each region.

## Appendix 1 – Glossary

Looked after child	Term used by the 1989 Children Act to include all children subject to a care order or provided with accommodation on a voluntary basis for more than 24 hours.
Children in need	Comprises a wider group of children who are unlikely to achieve or maintain a reasonable state of health or development without assistance from social services. This group includes children with disabilities and children on the at risk register. The Wales Children in Need Census is based on the collection of data on children receiving support that is financed from children's social services budgets, including those supported in their families or independently, children on the child protection register and looked after children.
Care leavers	Young people who have been in care. Local authorities have a responsibility to be in touch with care leavers and offer assistance up until the age of 21 or later if they are still in education or training.
GCSE	General Certificate of Secondary Education – usually taken at the end of Year 11.
Wider points score	The wider points score includes all qualifications approved for pre-16 use in Wales.
Capped points score	The total number of points from the highest-ranking eight qualifications achieved. It is less affected than the total wider score by young people who achieve very high levels of qualifications.
Key Stage 2 Core Subject Indicator (CSI)	Achieving level 4 or above in the core subjects of English or Welsh, maths and science (combined).
Key Stage 3 Core Subject Indicator (CSI)	Achieving level 5 or above in the core subjects of English or Welsh, maths and science (combined).
GNVQ	General National Vocational Qualification.



## Appendix 2 – Methodology

### Literature review

We reviewed a wide range of Welsh Government policy, strategy, research and guidance documents in the course of our work, as well as relevant research and guidance from other sources and statistical data from other countries in the UK.

Several research-based reports in recent years have fairly consistently identified factors that are associated with improving educational outcomes for looked after children and these are referred to in [paragraphs 2.30-2.32](#). Some of the most significant reports have been:

1. *Joint Inspection Report on Educational provision for looked after children*, Social Services Inspectorate for Wales and Estyn, 2001  
<http://wales.gov.uk/docrepos/40382/dhss/socialservices/reportsenglish/children-e.pdf;jsessionid=P2MJTxyC8VjMhJ1TGh2QIPN31FN2gYIL4tk6nDMTrJJpBrT5GyCC!-1658114170?lang=en>
2. *A better education for children in care*, Social Exclusion Unit Report, 2003  
<https://www.education.gov.uk/publications/standard/publicationdetail/page1/SEU-Report>
3. *If this were my child: A Councillor's guide to being a good corporate parent to children in care and care leavers*, A joint publication from the Welsh Assembly Government and the Welsh Local Government Association (based on original work by the Department for Education and Skills and the Local Government Information Unit), June 2009  
[http://ssia.wlga.gov.uk/media/pdf/2/g/corporate\\_parenting.pdf](http://ssia.wlga.gov.uk/media/pdf/2/g/corporate_parenting.pdf)
4. Centre for Excellence and Outcomes in Children (C4EO) and Young People's Services, *Directors' Summary 4 on Vulnerable/Looked After Children*, November 2009, [www.C4EO.org.uk](http://www.C4EO.org.uk)
5. Education of Looked After Children toolkit, Audit Commission (updated 2010)  
<http://www.audit-commission.gov.uk/childrenandyoungpeople/lactoolkit/Pages/default.aspx>

## Evaluating delivery across complex delivery systems

In determining the scope of our work, we took account of the National Audit Office's 2006 report<sup>86</sup> examining service delivery through complex public sector delivery chains. This outlines factors that are required for effective delivery and looks for evidence of:

- clearly defined outcomes;
- a robust evidence base of what works;
- sufficient capacity, including resources, to deliver; and
- a shared operational plan.

The report considers the different kinds of relationships between those involved in delivering change and the need for a funding strategy to influence activity in line with the objective. To support fully effective delivery, the report encourages partners to consider whether they have:

- good communication and co-ordination;
- levers and incentives that are fit for purpose;
- well understood and managed risks;
- effective performance management systems;
- strong leadership accountable through clear governance structures; and
- mechanisms for regular feedback and learning.

## Reference Group

We established a Reference Group including representatives of local and national government, academic institutions, voluntary and charitable bodies, organisations representing looked after children, and inspection and regulatory bodies. This group helped scope our approach and provided guidance towards relevant material and activities.

The reference group included organisations that work directly with, and represent, looked after children and care leavers. We have considered the views of young people through these organisations and from research projects and studies that have worked directly with looked after children and care leavers and we have included relevant sources quotes from such material where appropriate.

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<sup>86</sup> The National Audit Office and Audit Commission, *Delivering Efficiently: Strengthening the links in public service delivery chains*, March 2006. [http://www.nao.org.uk/publications/0506/delivering\\_efficiently-strengt.aspx](http://www.nao.org.uk/publications/0506/delivering_efficiently-strengt.aspx)



## Investigating service provision in local authorities

Six local authorities attended workshops, carried out a self-assessment and provided information on their educational provision for looked after children, young people and care leavers. The local authorities involved were:

- Bridgend County Borough Council
- Cardiff City Council
- Gwynedd Council
- Pembrokeshire County Council
- Powys County Council
- Torfaen County Borough Council

## Sources of information on good practice

We drew upon a number of sources of information about good practice in improving the education of looked after children and young people including:

Good Practice Wales:

<http://www.goodpracticewales.com/Home.aspx>

Social care institute for excellence: looked after and adopted children and young people

<http://www.scie.org.uk/publications/guides/guide40/index.asp>

Centre for Excellence and Outcomes in Children and Young People's Services

<http://www.c4eo.org.uk/themes/vulnerablechildren/educationaloutcomes/resources.aspx?priorityid=7&accesstypeid=1>

Social Services Improvement Agency was established in 2006 to support local authorities increase the pace of improvement and promotes excellence within social services. It is hosted by the WLGA and provides a compendium of notable practice.

[http://www.ssiacymru.org.uk/media/pdf/1/1/100406\\_Getting\\_Engaged\\_Notable\\_Practice\\_Compendium.pdf](http://www.ssiacymru.org.uk/media/pdf/1/1/100406_Getting_Engaged_Notable_Practice_Compendium.pdf)

WLGA (2011) published a compendium of notable practice in relation to corporate parenting

[http://www.ssiacymru.org.uk/media/pdf/o/8/WLGA\\_NOTABLE\\_PRACTICE\\_\\_COMPENDIUM\\_\\_CORPORATE\\_PARENTING\\_2011.pdf](http://www.ssiacymru.org.uk/media/pdf/o/8/WLGA_NOTABLE_PRACTICE__COMPENDIUM__CORPORATE_PARENTING_2011.pdf)



## Appendix 3 – Children who are looked after in Wales

Expectations about the education of looked after children are defined in legislation and Guidance:

*'Looked after children are those children who are looked after by the local authority through a care order made by a court or by agreement with their parent(s), whether they are living in a residential home, with other members of their extended family or with foster carers.'*<sup>87</sup>

When a child is looked after, parental responsibility is held by the local authority or is shared with natural parents or others. This is corporate parenting. The Children Act 1989<sup>88</sup> imposes a statutory duty on local authorities to safeguard and promote the welfare of looked after children; to behave as good parents do. This duty applies to all councillors. The corporate parenting responsibility is towards care leavers as well as looked after children. Additional statutory duties for councillors were introduced in the Children Act 2004<sup>89</sup> which places a positive duty on local authorities to promote the educational achievement of looked after children. The Children and Young People Act 2008<sup>90</sup> further reformed the care system to ensure that children and young people receive high quality care and support and to drive improvements in services focused on the needs of the child, giving priority to improving educational experience and attainment.

On 31 March 2011, 5,415 children were looked after by local authorities in Wales on 31 March 2011, a five per cent increase on the year previously. The number of children who are looked after has risen by 20 per cent in the last five years. This represents a current rate of 87 per 10,000 of the population of children under 18, compared to 55 per 10,000 in England. 1,885 children started to be looked after in 2010-11. The main reason why social services first engaged with these children was due to abuse or neglect (Figure 24). The number of looked after children has risen every year but one since 1998. The rate of looked after children per 10,000 of population of children under 18 in Wales has increased from 45 in 1997 to 87 in 2011.

The majority (80 per cent) of children who are looked after are in foster care placements, while a further nine per cent live with their parents or another person with parental responsibility, often a family member. Three-quarters are of school age and more than half (55 per cent) are aged 10 and over. Six per cent of children who are looked after are not white, compared to 2.7 per cent of the general population in Wales. Five per cent of looked after children are placed out of Wales, mainly in England.

About two-thirds of looked after children are subject to a Care Order which gives a council the legal responsibility, solely or with others, to have the parental responsibility for the children. A further 27 per cent are looked after under a voluntary agreement with their parents while small numbers are looked after under other legal provisions or are detained on remand (Figure 23).

<sup>87</sup> Welsh Government and WLGA, *If this were my child: A Councillor's guide to being a good corporate parent to children in care and care leavers*, June 2009, paragraph 1.1.

<sup>88</sup> The Stationary Office, *Children Act 1989*, section 22.

<sup>89</sup> The Stationary Office, *Children Act 2004*, section 52.

<sup>90</sup> The Stationary Office, *Children and Young People Act 2008*, sections 20-23.



**Figure 23 - Placements of looked after children, at 31 March 2011<sup>1</sup>**

	Number	%
Foster care placements	4,311	80
Placed with their own parents with parental responsibility	498	9
Secure homes, children's homes or hostels	214	4
Placed for adoption	183	3
Living independently	68	1
Residential schools	67	1
Other placements <sup>2</sup>	78	1
<b>Three or more placements in year to 31 March 2011</b>	<b>499</b>	<b>9</b>

Notes

1 Excluding children on short-term placements

2 Other placements include residential care home, NHS/Health Trust, family centre or mother and baby unit, Youth Offenders Institution or their whereabouts is unknown

Source: *Adoptions, outcomes and placements for children looked after by local authorities: Year ending 31 March 2011, Table 1*  
<http://wales.gov.uk/docs/statistics/2011/110915sdr1662011en.pdf>

Looked after children are affected by a range of difficulties. The main reason why social services first engaged with looked after children was because of abuse or neglect for 59 per cent of children. Twenty-six per cent of looked after children came from families in acute distress or dysfunction. Research by the Office for National Statistics for the Welsh Government<sup>91</sup> has found that 49 per cent of a sample of looked after children in Wales were assessed as having a mental disorder, including mental illness or an emotional or behaviour disorder. The Children in Need Census 2011 found that 64 per cent of looked after children had a Special Educational Needs (SEN) statement or were in the categories of School Action or School Action Plus (Figure 24).

**Figure 24 - Characteristics of children who are looked after, at 31 March 2011**

	%
<b>Age<sup>1</sup></b>	
Under 1	5
1-4 years	20
5-9 years	21
10-15 years	39
16-17 years	15
18-20 years	1
<b>Primary need of children starting to be looked after<sup>2</sup></b>	
Abuse or neglect	59
Parental illness, disability or stress	8
Family in acute stress or dysfunction	26
Social unacceptable behaviour	5
Other	2
<b>Special educational provision<sup>1</sup></b>	
No special educational needs	36
School action or school action plus	43
Statement of special educational needs	21

Notes:

1 Statistics for Wales, Wales Children in Need Census, 2011 SDR 32/2012, February 2012  
<http://wales.gov.uk/docs/statistics/2012/120229sdr322012en.pdf>

2 Statistics for Wales, Adoptions, Outcomes and Placements for Children Looked After by Local Authorities: year ending 31 March 2011, 116/2011, September 2011 <http://wales.gov.uk/docs/statistics/2011/110915sdr1662011en.pdf>

SDR

91 The mental health of young people looked after by local authorities in Wales: 2003, Office for National Statistics.



## Appendix 4 – Education of looked after children data by local authorities in Wales

There is substantial variation between local authorities in Wales in the proportion of children who are looked after who achieve the expected level at various stages throughout their education. Some of this variation is due to the small number of children looked after by some local authorities: for example across Wales, only 250 children were eligible to be assessed at Key Stage 2 and 313 at Key Stage 3 in 2010-11

**Figure 25 - Outcomes for looked after children by local authority area**

	Number of looked after children at 31 March 2011 <sup>1</sup>	Number of looked after children of compulsory school age at 31 March 2011 <sup>2</sup>	% sessions looked after children in primary schools could have attended in the most recent school year whilst looked after but did not <sup>3</sup>	% sessions looked after children in secondary schools could have attended in the most recent school year whilst looked after but did not <sup>4</sup>	% eligible children achieving the required level at Key Stage 2 by teacher assessment <sup>5</sup>	% eligible children achieving the required level at Key Stage 3 by teacher assessment <sup>6</sup>	% care leavers aged 16-19 achieving at least one qualification (including vocational qualifications) <sup>7</sup>	% care leavers aged 16-19 achieving 5 or more GCSEs at grades A*-G <sup>8</sup>	Average number of points scored in external qualifications by looked after children aged 15 on 31 August <sup>9</sup>
<b>Wales</b>	<b>5415</b>	<b>3503</b>	<b>5.8</b>	<b>9.9</b>	<b>44</b>	<b>22</b>	<b>71</b>	<b>35</b>	<b>183</b>
Isle of Anglesey	80	46	6.8	16.9	33	50	82	*	172
Gwynedd	175	113	3.7	12.4	40	31	40	33	188
Conwy	165	134	3.7	7.4	80	33	96	44	219
Denbighshire	175	106	4.9	8.9	50	20	73	*	193
Flintshire	160	121	3.3	7.5	0	25	*	*	*
Wrexham	160	99	7.6	9.2	33	13	69	*	*
Powys	170	114	2.7	5.2	50	50	91	45	183
Ceredigion	80	53	0.9	10.5	60	0	50	38	72
Pembrokeshire	155	102	3.6	10.3	36	29	85	39	179
Carmarthenshire	260	176	4.1	9.4	36	10	70	40	158
Swansea	580	346	8.0	13.8	38	21	80	31	156
Neath Port Talbot	410	256	5.3	8.9	43	19	80	37	197
Bridgend	325	208	5.2	10.3	88	25	69	28	185
Vale of Glamorgan	200	120	6.5	8.2	78	22	65	41	275
Cardiff	520	339	8.7	13.8	42	14	56	38	128

### Notes

\* = Information not available due to low numbers of eligible children or young people.

**Figure 25 - Outcomes for looked after children by local authority area (cont...)**

	Number of looked after children at 31 March 2011 <sup>1</sup>	Number of looked after children of compulsory school age at 31 March 2011 <sup>2</sup>	% sessions looked after children in primary schools could have attended in the most recent school year whilst looked after but did not <sup>3</sup>	% sessions looked after children in secondary schools could have attended in the most recent school year whilst looked after but did not <sup>4</sup>	% eligible children achieving the required level at Key Stage 2 by teacher assessment <sup>5</sup>	% eligible children achieving the required level at Key Stage 3 by teacher assessment <sup>6</sup>	% care leavers aged 16-19 achieving at least one qualification (including vocational qualifications) <sup>7</sup>	% care leavers aged 16-19 achieving 5 or more GCSEs at grades A*-G <sup>8</sup>	Average number of points scored in external qualifications by looked after children aged 15 on 31 August <sup>9</sup>
Rhondda Cynon Taf	550	322	6.2	8.2	32	15	63	40	190
Merthyr Tydfil	165	105	4.4	8.7	42	18	91	68	184
Caerphilly	300	241	5.4	9.5	38	27	72	42	230
Blaenau Gwent	130	81	5.1	7.9	40	38	100	*	182
Torfaen	290	200	7.7	9.9	55	44	67	21	195
Monmouthshire	80	51	8.3	10.8	50	14	81	*	141
Newport	285	170	7.6	7.7	50	14	48	23	216

**Notes**

\* = Information not available due to low numbers of eligible children or young people.

1 Welsh Government, Stats Wales, SSDA903 return, table 024382

2 Welsh Government, Stats Wales, PM1 return, table 024694

3 Local Government Data Unit, Social Care, Children's Services data, (SCC/022a)

4 Local Government Data Unit, Social Care, Children's Services data, (SCC/022b)

5 Local Government Data Unit, Social Care, Children's Services data, (SCC/035)

6 Local Government Data Unit, Social Care, Children's Services data, (SCC/036)

7 Welsh Government, Stats Wales, OC1 return, table 24551

8 Welsh Government, Stats Wales, OC1 return, table 24551

9 Local Government Data Unit, Social Care, National Strategic Indicators data, (EDU/011)

Source: Wales Audit Office analysis of performance indicator data available from the Local Government Data Unit (<http://dissemination.dataunitwales.gov.uk/webview/index.jsp>) and Statistics Wales (<http://www.statswales.wales.gov.uk/ReportFolders/reportFolders.aspx> and <http://www.statswales.wales.gov.uk/ReportFolders/reportFolders.aspx>)





# Agenda Item 6



**WALES AUDIT OFFICE**  
**SWYDDFA ARCHWILIO CYMRU**

**Wales Audit Office / Swyddfa Archwilio Cymru**

Date: 5 September 2012  
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Mr Darren Millar AM  
Chair, Public Accounts Committee  
National Assembly for Wales  
Cardiff Bay  
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## **PAC INQUIRY INTO THE GENERAL PRINCIPLES OF THE PUBLIC AUDIT (WALES) BILL**

1. I am very grateful for the Committee's invitation to provide evidence to support its inquiry into the principles of the Public Audit (Wales) Bill. I welcome the stated intention of the Bill to place the governance arrangements of the Wales Audit Office onto a statutory footing. I do, however, have some points of concern regarding the Welsh Government's proposals, which I set out below. I also attach comments on individual clauses at annex A and a summary of the financial implications of the Bill at annex B. Annexes C and D provide further comments in respect of governance models. I hope that this material will be of assistance to the Committee in drawing up its report on the Bill.

### **Legislation to strengthen the governance and accountability of the Wales Audit Office would be beneficial**

2. I believe that it would be beneficial to have legislation to strengthen the accountability and governance arrangements relating to the office of AGW and the Wales Audit Office. In particular, I think it is highly appropriate to establish a board for the WAO on a statutory basis, as this will enable the firm institution of governance arrangements to provide oversight of the AGW and senior management of the organisation. This would overcome the principal weakness of the current legislation, which is that while it enables the AGW to establish governance arrangements, such as advisory committees, it also enables the AGW to abandon or bypass them.

### **The proposals in the Bill, however, present some significant problems**

3. While the broad intentions behind the Bill are sound, the detailed proposals are rather problematic. Most fundamentally, the Bill provides for a WAO board with executive functions of running the audit office, while at the same time specifying that the board will consist predominantly of non-executive members. The proposed board therefore falls between two objectives—oversight of the AGW (the function of a 'supervisory' board)

and running the Audit Office (the function of an ‘executive’ board)—and is likely to serve neither particularly effectively. The oversight functions of the proposed board will also be compromised by its executive functions.

4. While the proposals have some similarities with the UK National Audit Office’s arrangements, there are substantial differences. For example, with the NAO, a statutory code deals with the relationship between the Comptroller & Auditor General (C&AG) and NAO board. This code applies to the preparation of a strategy and estimate of income and expenditure by the C&AG and NAO board, and other key activities, and it is required to reflect the C&AG’s audit independence. The existence of this code is an indication of the need to manage the tension that the corporate body places on the C&AG’s independence. There is no equivalent provision for such a code in the Bill. Instead, the Bill prescribes procedures and gives the WAO board functions that undermine the audit independence of the AGW.
5. In addition, the provisions in the Bill for the transfer of staff to employment by the WAO board may sow the seeds for legal disputes. And more widely, the proposals are likely to be more expensive than as set out in the Government’s Explanatory Memorandum.
6. I explore these issues further below, along with some suggestions for addressing them either by making the WAO board focus on supervisory functions or by making it an executive board with a more appropriate composition.

**The board as proposed in the Bill will not have enough executive members to ensure effective exercise of its executive functions**

7. The WAO board is to have a composition that is predominantly “non-executive”: 5 non-executives versus the AGW, with an employee member to “ensure that employee experience is able to inform the board’s activities and actions” (Schedule 1 (para 1)). This is highly problematic because while such composition might be appropriate for a supervisory board, the Government intends that the board has executive functions of running the organisation, such as employing staff and agreeing the annual plan. The proposed composition, however, means that the board does not have a sufficient number of executive members to ensure that senior managers responsible for implementing decisions have a meaningful share of ownership in those decisions. This contrasts with the composition of the NAO board, which has three employee members, who, as they must be recommended by the C&AG, the C&AG may ensure are appropriate senior managers.

**A supervisory-type board would be a more cost-effective option, allowing robust oversight of the Auditor General**

8. I believe that it would be best if the board’s functions were focused on supervisory functions, rather than also having functions of running the organisation. This would allow the board to concentrate on considering whether the AGW was running the organisation properly and advising the AGW and the Assembly accordingly, rather than being compromised in that important oversight role by taking part in decisions on the running

of the organisation. As set out in annex C, the board's functions could include advising the National Assembly in support of its consideration of the AGW's estimate and annual reporting, and reporting as and when required to the National Assembly on any matters of concern regarding the AGW. This would strengthen oversight beyond the level provided by a corporate body, and it would help alleviate the detailed oversight burden on the National Assembly.

9. Focusing on supervisory functions would also probably be a more affordable option, as the board members' fees would not need to include a component to recognise their decision-making responsibilities. Certain significant costs arising from implementation, including the costs of transferring staff, assets and liabilities, would also not be incurred (see para B13 of annex B), and implementation would be more straightforward and quicker to achieve than with a corporate body board.

**If an executive board is to be implemented, then significant changes to the Bill are needed to make it fit for purpose**

10. If, however, the Welsh Government's preference to have a board to run Wales' audit organisation is to prevail, changes will be needed in the Bill in relation to the composition of the board to make it fit for purpose. In particular, such a board should have sufficient executive members not just to inform decisions but also to ensure that those responsible for implementing decisions have a meaningful share of ownership in those decisions. It would also be appropriate to make changes to address some of the risks and costs that may arise from the employment and transfer arrangements as currently drafted. Further details of more workable corporate body arrangements than those set out in the Bill are at annex D. It is, however, likely that any corporate body option will be more expensive than a supervisory board because of the need to pay board members a greater rate to reflect responsibilities relating to the running of the organisation and because of the expense of implementing a transfer of staff, assets and liabilities (see para B14 of annex B).

**Under the Bill, audit independence will be undermined by the board's ability to reject the AGW's work programme, while the requirement for agreement is potentially unworkable**

11. Confidence in auditing rests to a great degree on the independence of the auditor, and independence is a key requirement of international and UK ethical and professional auditing standards. Historically, the importance of audit independence has been reflected in the constitutional position of Auditors General in western democracies. The Welsh Government appears to recognise that this is an issue in some features of the Bill. At clause 26 they have sought to temper the WAO board's ability to interfere in the AGW's judgements about his work programme by stipulating that the WAO board is only able to reject the AGW's statement of his work programme if the statement, or a part of it, is "unreasonable". Unfortunately, this is not adequate protection of the AGW's audit independence, as the clause still allows the WAO board to reject the AGW's judgement of what matters merit examination.

12. Clause 26 is also problematic in that it raises the prospect of dispute without providing a means of resolution. Other than compromise, the only realistic means of resolving a difference of opinion on the work programme is the resignation of either the AGW or other members of the board. The suggestion that differences could be resolved in court, as put forward by the Welsh Government to PAC on 1 May 2012, is not a practical proposition because of the innate conflict of interest that stems from AGW having to rely on legal advice contracted to the WAO.
13. The specific requirement for agreement of the overall annual plan under clause 25 also undermines audit independence. Requiring agreement makes it likely that there will be a need for compromise, and this compromises the audit independence and judgement of an Auditor General.
14. These problems could be avoided through adopting the model of a supervisory board. Alternatively, they could be better managed if the Bill followed the NAO arrangements more closely, particularly if it required a code to protect the AGW's independence in key decision-making activities.

**The audit independence of the AGW will also be undermined by the board's ability to shape the exercise of the AGW's functions**

15. For the AGW to delegate his or her work, which is a practical necessity, under clause 18(2) he or she must have a scheme of delegation approved by the WAO board. This brings the board into the details of the running of the organisation, and is a significant potential constraint on the way the AGW exercises his or her functions. It could, for example, prevent the AGW participating in the UK-wide National Fraud Initiative, and this is explored further in paragraphs A37 to A41 in annex A.
16. Conversely, under clause 19, the WAO board is given the power to arrange with public bodies for the AGW to provide services to those bodies. But this clause does not require the AGW's agreement—AGW may be outvoted by the rest of the board. The clause could therefore lead to significant conflicts of interest that would undermine the AGW's audit work. For example, the WAO board could arrange, despite the AGW's opposition, for the AGW to provide the payroll administration of a body that he audits. This would be a major ethical issue and would contravene international professional standards as it would involve the AGW auditing services that he himself has provided.
17. Under clause 21 and para 20 of Schedule 1 the WAO board is to be the employer of all WAO staff, and clauses 14 and 21 give it other functions such as "securing" services. This further constrains the AGW's ability to meet professional requirements. In particular, the AGW (who is the person who will provide audit opinions) will not be able to employ anyone directly to assess the quality of staff and services provided by the



WAO board (this is precluded by clause 9(2)), and this is a potential barrier to compliance with international professional standards<sup>1</sup>.

18. The problems of ensuring appropriate staff support for the AGW might to some degree be overcome if the board delegated to the AGW, as Chief Executive of the organisation, the authority to institute measures such as engaging independent quality assurance inspections. As the Bill is currently drafted, however, the necessary authority is not guaranteed, and this raises a wider issue of a lack of balance of authority with responsibility and accountability. The AGW will bear the ultimate responsibility of delivering audits and studies without the full authority to meet those responsibilities.

**The Bill does not provide adequate TUPE- equivalent safeguards for the staff transferring to the new WAO, and this may lead to expensive legal disputes**

19. Staff employed by the AGW are to be transferred to employment by the proposed WAO board (para 5 of Schedule 3). The transfer scheme does not provide the same protection as the TUPE regulations (see para A33 of annex A), and it is unlikely that the TUPE regulations themselves apply. The Bill therefore seems to be at odds with the Welsh Government's statement in para 242 of its consultation document on its draft bill of 15 March 2012 that "provision will be made so that the transfer of employment will be on no less favourable terms than would be the case if TUPE applied".
20. In addition, the requirement for the proposed WAO to ensure that terms of employment are broadly in line with those of the Welsh Government (para 20 of Schedule 1) creates a tension if any terms of transferring staff are found not to be broadly in line with Welsh Government terms (see paras A14 and A15 of annex A). We have asked the Welsh Government for clarification of its intentions in this area. In any event, however, the Bill as drafted is not clear on this matter, and this may be a recipe for expensive legal dispute.

**The cost of the Bill as it stands is likely to be significantly higher than that estimated in the explanatory memorandum**

21. The corporate body put forward in the Bill will inevitably incur costs. I estimate that the set-up and transitional costs (including the AGW's costs of the Bill itself) would lie between £180,000 and £350,000, and that the ongoing annual recurring cost lies between £200,000 and £650,000, with something nearer the lower figure more likely but not guaranteed (see annex B for further details). The higher ongoing cost figures largely reflect the risks of disputes, taxation of travel and subsistence expenses, and the possible need to bring employment terms closer in line with Welsh Government terms, all of which stem from the proposed transfer of staff from employment by the AGW to employment by the WAO board. The cost of the board itself in terms of such things as

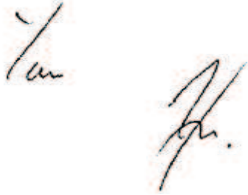
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<sup>1</sup> International Standard on Quality Control 1 (ISQC1) and International Standard on Auditing (ISA220), as applied through Practice Note 10

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board members' fees is also likely to be higher than as set out in the Welsh Government's Explanatory Memorandum.

22. I should be very happy to provide further information to the Committee to support its inquiry so as to help ensure that the Bill develops into legislation that is fit for purpose.

A handwritten signature in black ink, appearing to read 'Hu' followed by a stylized flourish.

**HUW VAUGHAN THOMAS**  
**AUDITOR GENERAL FOR WALES**

## Comments on individual provisions of the Bill

### Sections 2-12—the Auditor General for Wales

- A1. In my view clauses 2 to 7 make sensible provision for the continuation of the office of the AGW, and the appointment, resignation, removal, disqualification, restrictions on subsequent employment, status and remuneration of the AGW.
- A2. Clause 8 provides that the AGW has complete discretion as to the manner in which his or her functions are exercised and is not subject to the direction or control of the National Assembly or Welsh Government. My concern is that this is a shade less explicit than the equivalent provision for the UK's Comptroller & Auditor General (C&AG) (section 17 of the Budget Responsibility and National Audit Act 2011—the BRANA Act), which makes clear that the C&AG has complete discretion in the carrying out of functions (not just the manner), including, significantly, in determining whether to carry out value for money examinations:

#### *17 How functions are to be exercised*

*(1) The Comptroller and Auditor General has complete discretion in the carrying out of the functions of that office, including in determining whether to carry out an examination under Part 2 of the National Audit Act 1983 and as to the manner in which any such examination is carried out.*

- A3. I should prefer clause 8 to reflect something like the reference to examinations in section 17 of the BRANA Act.
- A4. Clause 9(1) makes appropriate provision for supplementary powers for the AGW, but clause 9(2) prohibits the AGW from doing anything that is the responsibility of the WAO board under clause 21(2)(a) to (c), which includes employing staff and securing services. As it is not clear what exactly “employing staff” and “securing services” mean in this context, this potentially undermines the ability of the AGW to perform functions delegated to him by the proposed WAO board (delegated under para 29 of Schedule 1), which would undermine his position as Chief Executive. For example, it is not clear whether the AGW will be able to instruct contractors to undertake tasks at particular times or else have their contracts terminated. This is a further potential impediment to AGW's participation in the National Fraud Initiative, as set out in paragraphs A37 to A41 below. There is no equivalent of clause 9(2) in the NAO's legislation (the BRANA Act 2011).
- A5. Clause 10 requires the AGW to issue a code of audit practice prescribing the way in which the functions of the AGW are to be carried out. Such a code has considerable merit, as it provides a basis for the AGW to ensure audits are undertaken by staff and contractors to a good standard. However, as drafted, the proposed scope of the code is excessively wide and covers matters that go well beyond audit practice. For example, it covers the provision of

advice and assistance to registered social landlords under section 145D of the Government of Wales Act 1998. This unnecessarily wide scope is likely to lead to a voluminous code that will be more expensive than necessary to prepare and maintain, and which may be hard to follow. I would therefore suggest that the clause is amended so as to omit 10(2)(c)(ii) to (vi), 10(2)(d)(iii) and 10(2)(e)(i). The last reference concerns the AGW's statutory rights of access to documents. The requirement to include prescription covering the exercise of such rights in a code of audit practice is likely to be counterproductive as it would be an item on which persons seeking to avoid their access obligations could try to challenge the AGW's statutory access rights, potentially delaying audits and increasing their cost.

- A6. Clause 11 makes the AGW the auditor of local government bodies in place of appointed auditors. At the moment, the presence of two auditors in local government leads to confusion and frustration among the public, and so this clause should helpfully enable greater clarity.
- A7. Clause 12 appropriately provides for the AGW to be consulted before Welsh Ministers transfer supervisory functions to the AGW. This should help prevent functions that are incompatible with the AGW's independence being transferred.

**Clauses 13-28— the Wales Audit Office and its relationship with the AGW**

- A8. Clause 13 establishes a new WAO as a corporate body, which is to be an additional public body intertwined with the AGW, who will continue to be a public body. Clause 13 introduces Schedule 1, which details the nature of the WAO, and elements of this are problematic.
- A9. Schedule 1 (para 1) gives the WAO board a composition that is predominantly “non-executive”. This is problematic because the board is to have functions of running the organisation (e.g., employing staff etc, as set out in clause 21 and agreeing the annual plan (clauses 25 and 26)). The proposed composition would mean that the board did not have a sufficient number of executive members to ensure senior managers charged with implementing decisions had a sufficient share of ownership in those decisions. (The board composition would not be so problematic if the board were not to have functions relating to the running of the organisation.)
- A10. Under para 1 of Schedule 1 one member is to be an employee of the WAO. The Welsh Government's explanatory notes indicate that this person is “to ensure that employee experience is able to inform the board's activities and actions.” This statement, together with the provision that the employee member is to be appointed by the non-executive members, indicates that there may well be no senior management member, such as a director of finance, on the board. This means that other than the AGW, who is to be the Chief Executive, there would be a lack of members with responsibility for implementing the board's decisions. This contrasts with the composition of the NAO board, which has three

employee members, who, as they must be recommended by the C&AG, the C&AG may ensure are appropriate senior managers.

- A11. It is also not clear how the employee member is to be appointed by the non-executive members “on merit”, as required by para 2(2) of Sch 1. The lack of clarity on this point may lead to disputes between the board and the WAO workforce, causing expense, and loss of efficiency and effectiveness.
- A12. If a supervisory board is to be pursued, then it would be appropriate for the legislation to provide criteria for the basis of the appointment of the employee member to reflect employees’ interests and experience. If, however, a board with executive functions is to be pursued, I would suggest that it would be preferable for there to be at least two employee members who would only be appointable if recommended by the AGW. This would enable the AGW to ensure sufficient management representation on the board, while maintaining a non-executive majority.
- A13. Para 20 of Schedule 1 and clause 21 make the WAO board the employer of staff, and clauses 14 and 21 give it other functions, including securing services. As the AGW (who is the person who will provide audit opinions) will not be able to employ anyone directly to assess the quality of staff and services provided by the WAO board (this is precluded by clause 9(2)), this is a potential barrier to compliance with international professional standards<sup>2</sup>. Those standards require, among other things, the AGW to establish policies and procedures to provide the AGW with assurance that he or she has sufficient personnel with the necessary professional competence and commitment to ethical principles. This might be overcome if the board were to delegate to the AGW, as chief executive of the organisation, the authority to institute measures such as contracting in independent quality assurance inspections. As the Bill is currently drafted, however, the necessary authority is not guaranteed because it is entirely at the discretion of the Board.
- A14. Para 20 of Schedule 1 also requires that the proposed WAO ensures that staff terms of employment are “broadly in line” with those of the members of staff of the Welsh Government. Aside from the question of whether the Welsh Government is an appropriate comparator (generally, the work of the WAO is quite different from the work of the Welsh Government), this provision is ambiguous but still prescriptive enough to cause problems. As “broadly in line” is not defined in the Bill or anywhere else, it leaves the WAO open to ongoing uncertainty, which would be exacerbated every time the Welsh Government changed its terms. In particular, the WAO would be exposed to potential judicial review claims from staff, trade unions or pressure groups. It might be assumed that “broadly in line”

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<sup>2</sup> International Standard on Quality Control 1 (ISQC1) and International Standard on Auditing (ISA220), as applied through Practice Note 10



has the meaning that a reasonable person would give the phrase, and on that basis I believe the existing terms of my staff are broadly in line with those of the Welsh Government. However, there is no guarantee that a Judge would be of the same view.

- A15. To address this, I strongly suggest that if there is to be any “broadly in line” provision, then it should follow the more pragmatic wording set out in para 17 of Sch 2 to the BRANA Act 2011:

*In determining the terms of employment of any staff, NAO must have regard to the desirability of keeping the terms broadly in line with those applying to civil servants.*

(Emphasis added)

This would much reduce the risk of judicial review and consequent public expense.

- A16. As noted in my response to the consultation on the draft bill, the disqualification provisions for members of the WAO (para 24 of Schedule 1) would be made more relevant by including members or employees of bodies audited by the AGW.
- A17. The phrase in para 31(5) of Schedule 1, “as that person considers appropriate” in relation to the auditor of the WAO’s accounts, seems to provide too much latitude and may result in poor quality audit.
- A18. Conversely, para 32(3) of Sch 1 should have the words “in all material respects” added after “satisfied” so as to ensure that the legislation provides for a realistically achievable audit that is in line with professional auditing standards.
- A19. Clause 16 makes the AGW the Chief Executive of the WAO, para 1 of Sch 1 to the Bill makes the AGW a WAO board member, and para 30 of Sch 1 makes the AGW the Accounting Officer of the WAO. The AGW therefore holds four key roles: (a) as Auditor General, the person who is ultimately responsible for delivering audits and studies, (b) as Accounting Officer, the steward of the organisation’s resources, (c) as Chief Executive, the chief manager of the organisation and (d) as board member, a participant in board discussion and decisions. There is no innate contradiction between roles (a) to (c), but there are problems with them in the proposed executive board set-up. Under the proposed set-up, the AGW, as Chief Executive is subject to the decisions of the board regarding the work programme, its resourcing and the general running of the organisation. Therefore, as Chief Executive, his ability to meet his professional requirements as Auditor General is constrained by the need for board agreement on key management issues, such as the recruitment and training of staff.
- A20. Furthermore, the AGW will bear the ultimate responsibility of delivering audits and studies without the full authority to meet those responsibilities. This ultimate personal responsibility

also extends to regulatory requirements, such as compliance with the Data Protection Act, and again with the same lack of full authority.

- A21. Unlike with the NAO, the Bill does not provide a code that may help ameliorate the innate tensions arising from having an auditor general within and subject to a corporate body board. Para 10 of Sch 3 to the BRANA Act provides for a code to deal with the relationship between the C&AG and the NAO, and this is specifically required to reflect the principles set out in section 17 of the BRANA Act (see quote at A2 above), i.e. the C&AG's complete discretion in the carrying out of functions. The code is an indication of the need to manage the tension that the corporate body places on the C&AG's independence.
- A22. Clause 16(2) introduces Schedule 2, para 1 of which requires AGW and the chair of the WAO to jointly prepare annual and interim reports. As with the joint preparation and laying of estimates (clause 20), joint laying of the annual plan (clause 27), and the chair's submission of annual accounts for audit (para 32(1)(b) of Schedule 1), joint preparation of reports undermines the AGW's clear personal accountability as Accounting Officer. The requirement for interim reports is also likely to be poor value for money. Annual reports should be sufficient to provide account of the AGW's and wider organisation's activities. Frequent set-piece interim reporting is unlikely to provide the value that would be provided by the ad hoc reporting to the Assembly of issues of concern by a supervisory board, as envisaged in paragraph C4.ii of annex C.
- A23. Clause 18(2) requires any scheme of delegation of the AGW to be approved by the WAO board. This is a significant constraint on the way the AGW exercises his or her functions. Among other things, it may prevent the AGW participating in the UK-wide National Fraud Initiative, which is explored further in paragraphs A37 to A41 below.
- A24. Clause 19 enables the WAO board to arrange with public bodies for the AGW to provide services to those bodies. But this clause does not require the AGW's agreement—the AGW may be outvoted by the rest of the board. The clause could lead to significant conflicts of interest that would undermine the AGW's audit independence. For example, the WAO board could arrange, despite the AGW's opposition, for the AGW to provide the payroll administration of a body that he or she audits. This would be a significant ethical issue and would conflict with international standards as it would involve the AGW auditing services that he has himself provided.
- A25. I also think the definition of "relevant authority" in clause 19 could be expanded so as to cover, for example, international development agencies that are not public bodies under UK law.
- A26. Clause 25 requires the organisation's annual plan to be agreed between the AGW and the WAO board. The AGW's work programme, including the studies that the AGW plans to undertake, is therefore subject to the WAO board's agreement. This infringes the AGW's

audit independence by fettering his judgement to select particular issues for examination. Clause 25 also requires that the resources to be allocated to the AGW's work programme are subject to the WAO board's agreement.

- A27. Related to clause 25, clause 26 requires the AGW's annual plan and funding to be subject to a procedure under which the AGW must submit to the board a statement of his or her work programme and an estimate of the maximum amount of resources required for it. While clause 26 seems to attempt to temper the WAO board's ability to interfere in the AGW's judgements about his work programme by saying that the WAO board may only reject a statement if it, or a part of it, is "unreasonable", this does not represent adequate protection of the AGW's audit independence. It still allows the WAO board to reject the AGW's judgement of what matters merit examination. It is also unsatisfactory in that it raises the prospect of dispute without providing a means of resolution.
- A28. The provision for rejection under clause 26 and the requirement for agreement under clause 25 both indicate that the only realistic means of resolving a difference of opinion on the work programme, other than compromise, which in the case of the AGW would mean compromising the independence of his or her judgement, is resignation of either the AGW or other members of the board. The suggestion that differences could be resolved in court, as put forward by the Welsh Government to PAC on 1 May 2012, is probably unworkable because of the innate conflict of interest that stems from AGW having to rely on legal advice contracted to the WAO, which is the body with which the AGW would be in dispute. At best, resort to court action is impractical and expensive.

**Clauses 29 to 37—miscellaneous and general provision**

- A29. Clause 29 enables the National Assembly to determine through Standing Orders how its functions under the Bill are to be exercised. I think this is appropriate as it helps remove the high degree of prescription of the Committee's work that was present in the draft Bill.
- A30. Clause 34 introduces Schedule 3, and para 5 of Schedule 3 provides for the transfer of staff from employment by the AGW to employment by the proposed WAO. These provisions would not be necessary if the proposed WAO were not to become the employer of staff, but if that is to proceed, it is important to note that they contain some problems that may lead to expensive disputes.
- A31. Para 5(2) of Sch 3 sets out that contracts of employment transfer from the AGW to the proposed WAO and will have effect as if originally made between the employee and the proposed WAO. It is arguable that this provides staff with some protection from adverse variations in their employment contracts, as under common law any changes in an employment contract must be agreed by both employee and employer. (But it falls short of the protection provided by Regulation 4(4) of TUPE.) At the same time, however, para 20 of Schedule 1 requires the proposed WAO to ensure that terms of employment are broadly in

line with those of the Welsh Government. This creates a tension if any terms of transferring staff are not broadly in line with Welsh Government terms, and the provisions may therefore set the new organisation on course for dispute with its staff.

- A32. Such tension may not be intended. The Welsh Government may intend para 20(5) of Schedule 1 to only apply to new starters, or be of the view that terms are already sufficiently in line to avoid any legal challenge. We have asked the Welsh Government for clarification of its intentions in this area. In any event, however, the Bill as drafted is not clear on this matter, and this may be a recipe for expensive legal dispute.
- A33. Another transfer issue is that the Bill does not provide the TUPE-like provisions that would be expected to give reassurance to staff. The Bill does provide the right for members of staff to object to their transfer (para 5(4) and (5) of Sch 3) as in the TUPE regulations. This reflects a fundamental right to choose whether to work for a particular employer, but it is one of little practical value to either employee or employer, as it adds nothing substantive to the right to resign. It does not help ensure that the organisation has adequate numbers of suitably qualified staff, and it does not help alleviate staff fears about job security. In the same vein, the Bill does not include TUPE-like provisions that are more reassuring to staff, such as those relating to protection of terms and conditions of employment, and protection from dismissal. This seems to be at odds with the Welsh Government's statement in para 242 of its consultation document on the draft bill of 15 March 2012 that "provision will be made so that the transfer of employment will be on no less favourable terms than would be the case if TUPE applied".
- A34. I think it would be helpful if the transfer provisions in Schedule 3 explicitly recognised that the transfer was the result of administrative reorganisation of public administrative authorities. This is important to provide clarity for pension administration purposes in dealings with both the Department for Work and Pensions and the pension scheme administrators.
- A35. Similarly, it would be helpful if para 5(2)(b) were changed so as to explicitly recognise previously transferred periods of employment. It is not clear from the existing provision that periods of employment of staff that transferred to AGW from the Audit Commission and NAO in 2005 are to be treated as continuous employment with the new WAO. This uncertainty is a cause for concern for such staff, who make up a majority of the current organisation.
- A36. Clause 35 introduces Schedule 4, minor and consequential amendments. While generally dealing with the consequential details of the main provisions outlined above, some of these are worth noting in particular.

*Amendments to Data Matching (National Fraud Initiative—NFI)*

- A37. Para 59 of Schedule 4 to the Bill amends section 64A(1) of the Public Audit (Wales) Act 2004 so as to remove provision for the AGW to arrange for persons to conduct data matching exercises on his behalf. (And paras 60 to 62 remove related provisions in Part 3A of the Public Audit (Wales) Act 2004, with the effect of preventing bodies providing information to a person acting on behalf of the AGW.) This is reinforced by the prohibition in clause 9(2) on the AGW doing anything that could become the responsibility of the WAO. My particular concern is that the practical effect of this may be to end the AGW's participation in the National Fraud Initiative (NFI), as such participation is only practicable if the AGW can engage the same service provider as that engaged by other UK audit agencies to undertake the data processing required on his or her behalf. The most recent NFI exercise resulted in the identification of £6 million of fraud and overpayments in Wales, so the loss of this participation would be most regrettable. The main NFI exercise is conducted once every two years.
- A38. Clause 18 of the Bill may overcome this as it enables the AGW to delegate his functions to contractors to the proposed corporate WAO, subject to approval of a scheme approved by the WAO. However, approval by the proposed WAO means that the AGW's participation in the NFI is subject to the agreement of the WAO board. In my view, this represents a serious potential infringement of the AGW's independence and a potential threat to the UK-wide approach to data matching to tackle fraud.
- A39. It is not clear, however, that AGW's delegation of his data matching functions to a contractor of the proposed corporate WAO would meet the requirements of the data matching legislation (Part 3A of the 2004 Act) and other legislation (including the Data Protection Act 1998). This lack of clarity has been confirmed to me by independent legal advice. Data matching is a very sensitive area that tends to attract legal challenge. The legislation therefore needs to be very clear so as to ensure that the work does not fall foul of data protection law, particularly where non-public sector bodies are involved.
- A40. As it stands, Part 3A of the 2004 Act is very specific in only permitting the information needed for matching to be disclosed to the AGW or a person acting on his behalf. Removing the provision for information to be disclosed to a person acting on behalf of the AGW, as proposed in the Bill, may be interpreted by a court as having precisely that effect. It is quite likely that citing the ability of the AGW to delegate his functions under clause 18 of the Bill would not be held to meet the specific requirements of Part 3A of the 2004 Act once the provision for AGW to arrange for data matching to be conducted on his behalf has been removed from that Act. Comparing the revised provisions of the 2004 Act against their equivalents in, for example, the Public Finance and Accountability (Scotland) Act 2000 would indicate that no provision of information to persons acting on behalf of the AGW is permitted. It could also be argued by anyone wanting to escape the scope of NFI that the service provider being contracted to the corporate WAO would be acting on behalf of the corporate WAO rather than the AGW.



- A41. A similar problem arises in terms of the results of data matching: the other participating audit bodies may not legally be able to share results with a contractor acting for the corporate WAO. It would be particularly awkward to try and address this problem through amendments aimed at substituting the corporate WAO for the AGW in the wider body of data matching legislation, as such amendments would be required to UK, Scottish and Northern Irish legislation. To avoid the loss of data matching in Wales, I would suggest the omission of paras 59 to 62 of Sch 4 to the Bill and omission or amendment of clause 9(2).

*Amendment to the Equality Act 2010*

- A42. Para 88 of Schedule 4 to the Bill amends Part 2 of Schedule 19 to the Equality Act 2010, which provides an example of how the Bill leads to an expansion of existing regulatory requirements because it creates an additional public body (the proposed WAO) alongside the AGW. The effect of para 88 is to add the proposed corporate WAO, in addition to the AGW, to the list of bodies designated as public authorities under the 2010 Act. This has the consequence of making both the corporate WAO and the AGW subject to the requirements of the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011. The practical effect of this is to require the corporate WAO and the AGW each to prepare and report progress on a strategic equality plan. They will also each have to engage with persons representing the interests of persons with protected characteristics regarding a range of duties, such as undertaking equality impact assessments of work plans. While it might be possible to share some of this work between the corporate WAO and the AGW, this amendment is likely to lead to an increase in the cost of arrangements needed to meet equality legislation.

*Amendment of the Freedom of Information Act 2000*

- A43. A similar effect arises from para 16 of Sch 4 to the Bill. This makes the proposed WAO a public body subject to the Freedom of Information Act. That in itself is appropriate, but it does effectively mean that Wales' public audit institution is subject to a double dose of regulation as both the AGW and the proposed WAO will need to prepare and maintain publication schemes, which, even if joint schemes can be agreed, will be an additional call on public money.
- A44. In terms of FOIA, the creation of a second public body within the same organisation with functions of holding information (clause 21(2)(d) and (e)) is also likely to lead to confusion as to which body holds particular requested information. For example, it would not be clear in the case of someone who sends a request to the WAO for a copy of a draft AGW study report (assuming AGW has prepared such a report but not provided it to Board colleagues) whether it would be correct for the WAO to respond to the requester to say that it does not hold the draft report. Practically, the draft is likely to be in the possession of WAO employees, but that alone would be unlikely to lead it being deemed to be held by the WAO. It might also be argued that the AGW as Chief Executive and board member of the WAO is part of the WAO, but this runs counter to the concept of the AGW being a separate public

authority under FOIA. Altogether, there is considerable scope for confusion and potentially expensive appeals to the Information Commissioner and Tribunal.

- A45. These amendments in respect of regulatory matters (paras 16 and 88 of Sch 4) raise wider issues regarding the increased burden of regulation that arises from moving from one public body to two. In addition to the specific amendments, other duplicate obligations will arise automatically from the creation of a corporate body alongside the AGW. For example, the proposed WAO will need to register with the Information Commissioner under the Data Protection Act 1998, but this will be alongside the AGW's own existing registration.
- A46. Another related issue is that the AGW will continue to be subject to regulatory calls on resources, such as the preparation of a strategic equality plan, but will not have his own resources to meet those statutory requirements. Under clause 18, the AGW will not be able to delegate the work necessary to achieve compliance with such requirements unless that delegation is approved by the corporate WAO. The AGW's compliance will therefore only be achieved if permitted by the proposed WAO board.

**The appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation**

- A47. The three provisions for making subordinate legislation—clause 19(7) (approving bodies of accountants for the provision of services), clause 34(2) (supplementary etc provision) and clause 36(2) (commencement)—are all appropriate. However, as the AGW's quintessential purpose is reporting to the public and its representatives on government's use of resources, it would be preferable from the point of view of ensuring independence and audit effectiveness if these powers lay with the National Assembly rather than the Welsh Ministers.

## Annex B

### The financial implications of the Bill

- B1. The impact assessment provided by the Welsh Government almost certainly significantly underestimates the cost of implementing the Bill. I should also note that the Welsh Government has not requested any comment from me regarding its costings.
- B2. The Welsh Government's impact assessment assumes that board members are paid £24,000 a year, and £30,000 in case of the Chair, yet they are to have the responsibility of running an organisation with a budget of some £24 million without a substantial executive presence (other than the AGW) on the board. I estimate that the fees would need to be somewhere in the region of 50 per cent higher than those identified by the Welsh Government (i.e. £600 and £750 a day for non-executive members and chair respectively). This would be in order to attract suitable candidates prepared to have a role that involves agreeing the organisation's annual plan, potentially rejecting the AGW's statement of work programme and resources, agreeing the delegation of the AGW's functions and having direct responsibility for employing staff, with all the legal responsibilities that those roles involve. There would also need to be payments in respect of National Insurance and travel and subsistence, which may add something of the order of a further 20 per cent to the base fees.
- B3. I also suspect that the Welsh Government's estimate of five days a month of input for such roles is on the low side. Also, the Board is likely to need to co-opt two independent members for its audit committee. Co-opted members will require remuneration, and I estimate that this will amount to some £10,000 including National Insurance and travel and subsistence.
- B4. The Welsh Government's estimate of the cost of support for the board of a corporate body (£29,000) is also likely to be too low. Such a board will need not only a secretariat providing administrative support, but it is also likely to require a substantial level of ongoing expert legal and technical advice on the proper exercise of its functions. I estimate that the secretariat employment costs will be in the region of £60,000 (including National Insurance etc) and that legal advice amounting to some £10,000 a year will be needed.
- B5. The Welsh Government has not included any amounts for the cost to the AGW of dealing with the legislative process in staff time and of obtaining external legal advice, which I estimate to be at least £30,000. No doubt it also has its own costs arising from pursuing the legislation, but I am not in a position to provide an estimate of such costs.
- B6. The Welsh Government has also not included any amounts for the cost of implementing the legislation. This will include WAO staff time and legal costs of dealing with the transfer scheme, revising the code of audit practice (required by clause 10), revising or producing new internal technical and HR policies for the new WAO, the creation of standing orders for the new board (required by para 25 of Sch 1), and other matters such as ensuring

compliance of both the AGW and the proposed WAO with equality legislation (see paragraph A42 above). I estimate that the cost of these items will be around £200,000.

- B7. There may also be some tax-related costs. Unlike the BRANA Act 2011, the Bill provides no protection from Corporation Tax and Capital Gains Tax liabilities arising from the transfer of assets. I have raised this issue with HMRC but do not yet have an indication of the likely approach to be taken by HMRC with the Bill as it stands, and I cannot therefore give an estimate of likely liability.
- B8. Similarly, if HMRC do not agree a dispensation with the proposed WAO in respect of the taxation of staff travel and subsistence expense payments incurred in respect of work for the AGW (rather than for WAO), then there will be an additional tax liability. Where one legal person pays expenses to its staff and those staff undertake work for another legal person, those expenses could become taxable in the hands of the recipients. In the absence of any agreed HMRC dispensation, under UK tax rules this would need to be met by staff personally, which would be out of line with Welsh Government terms and so a potential source of expensive dispute. Resolution might involve HMRC agreeing to WAO paying the tax for staff. I am hopeful that HMRC would agree to such a dispensation, and it is very difficult to identify the potential cost with any certainty, but it is possible that an additional cost to the WAO of up to £380,000 may arise.
- B9. Unless the tensions in the employment provisions of the Bill are satisfactorily addressed (see para 20 of the body of my letter and paras A14 and A15 of annex A), additional costs for staff time and legal services may be incurred due to the need to deal with disputes regarding terms. It is difficult to estimate the costs of such disputes with any certainty, but it would not be unrealistic to envisage two or three disputes arising, with each costing around £20,000 in staff time and legal costs.
- B10. The requirement for terms to be “broadly in line” with those of the Welsh Government may also incur significant additional costs if a Judge were to determine, contrary to my view, that existing terms are already broadly in line. In the absence of any such Judgment, however, I am not in a position to estimate the effect of the requirement to ensure terms are broadly in line with those of the Welsh Government.
- B11. Altogether, I estimate that the initial cost of the Bill as it stands lies between £180,000 and £350,000. I estimate that the ongoing cost lies between £200,000 and £650,000, with something nearer the lower figure more likely but not guaranteed (see summary table below). All increases in the cost base of the WAO will need to be financed by some combination of audit fee increases, efficiency savings and charges on the Welsh Consolidated Fund (via the annual estimate).

### **Summary of cost estimates**

#### **One-off items**

Item	Lower Estimated Amount £000	Upper Estimated Amount £000
Cost of legislative process (WAO only)	30	40
Implementation	150	250
Disputes	0	60
Total	180	350

#### **Recurring items**

Item	Lower Estimated Amount £000	Upper Estimated Amount £000
Board members' fees, expenses and NI	155	185
Co-opted members fees, expenses and NI	5	15
Board secretariat	40	70
Travel and subsistence taxation	0	380
Total	200	650

- B12. In addition, if the Bill prevents the AGW from participating in the National Fraud Initiative, as described in paragraphs A37 to A41 above, then this will have a cost to the taxpayer of lost savings amounting to some £3 million every year.
- B13. If the Bill were changed so as to provide a supervisory board, initial costs would be likely to be significantly lower, especially as no transfers of staff, assets or liabilities would be needed and the attendant risk of disputes would be removed. Similarly, on an ongoing basis, the cost is very likely to be at the lower estimated amount of £200,000, as board members' fees will not need to reflect business decision-making and employment responsibilities, and the



absence of a transfer of staff to the employment by the board will remove the risk of additional costs from a requirement to harmonise terms.

- B14. If the Bill were changed so as to provide a more fit for purpose corporate body (see annex D), then while ongoing costs would still be likely to be in the range of £200,000 and £650,000 a year, initial set up costs would be likely to be at the lower end of the range of £180,000 to £350,000. This would be because, as set out in annex D, the risk of staff-related disputes would be lower because the Board would not face a requirement to ensure WAO staff terms were in line with Welsh Government terms, and staff would be transferred under more TUPE-like provisions, reducing the scope for dispute. Other implementation matters, such as drafting or revising HR policies, may also be somewhat more straightforward and therefore incur less expense.

### Outline of the features of a supervisory board

- C1. I suggest that to help ensure their independence and overall suitability for carrying out a supervisory scrutiny role, the seven members of the board should be appointed by the National Assembly, as with the non-executive members under Schedule 1 of the Bill. Similarly, the National Assembly should determine the members' terms and conditions of office.
- C2. To maximise board objectivity and clarity of accountability of the AGW, I suggest that the AGW should not be a board member. At the same time, the range of membership may be enhanced so as to allow a greater range of stakeholder input.
- C3. I suggest that the board should have statutory powers to:
- i. monitor and advise the AGW regarding the exercise of the AGW's functions (as in clause 17 of the Bill);
  - ii. require information and explanation from the AGW and other persons (AGW staff, suppliers and auditor) regarding the exercise of the AGW's functions;
  - iii. specify, in relation to the AGW's functions, the types of information that should be included in a report from the AGW to accompany the AGW's published annual accounts
  - iv. advise the National Assembly in support of its consideration of the AGW's estimate and annual report;
  - v. require the external auditor of the AGW to examine any matters of concern.
- C4. The board should also have duties to:
- i. establish audit and remuneration committees;
  - ii. report to the National Assembly any matters of concern regarding the AGW.
- C5. I would also suggest that the National Assembly should be empowered to request the external auditor of the AGW to examine any matters of concern brought to the PAC's attention by the Board.
- C6. To maximise the Board's objectivity and the clarity of accountability of the AGW, the Board should not have executive functions, such as agreeing the AGW's annual plan, rejecting the AGW's work programme, charging and setting fees, and employing staff. Similarly, the board or its chair should not have functions of being substantively involved in preparing and laying estimates of income and expenses, laying the annual plan, submitting accounts for audit and

preparing annual reports. All such functions should lie with the AGW. And in keeping with this, the AGW should be Accounting Officer for the organisation.

- C7. The board could be appropriately funded through its own separate estimate, or perhaps more pragmatically through a separate ring-fenced line within the annual estimate submitted by the AGW (but not determined by the AGW) to the National Assembly for its consideration.

**Outline of more workable corporate body arrangements**

- D1. I am firmly of the view that the AGW should be able to set his work programme, other than perhaps for ancillary work, independently. For this, there needs to be:
- i. removal of the clause 26 provision for the WAO board to reject the AGW's statement of work programme and resources;
  - ii. removal of the provision for the agreement of the annual plan by the WAO board (i.e. amend clause 25(1)) (but the requirement to take account of the advice of the board in setting the plan and estimate would remain).
- D2. The AGW should be able to delegate his statutory functions, other than perhaps in respect of ancillary work, to staff and contractors without needing to obtain the approval of the WAO board (i.e. clause 18(2) should be omitted).
- D3. Any arrangement for the AGW to provide services should, if the WAO board is to make such arrangements, be required to be made with the AGW's approval. (This could be achieved by amending clause 19.) This is necessary to prevent the AGW being subject to arrangements that compromise the AGW's independence, e.g. an agreement for the AGW to provide the payroll function for an audited body.
- D4. The WAO composition should be made more balanced so that there are some management members in addition to the AGW. This could be done by requiring at least two employee members, each to be nominated by the AGW. (In other words, para 1 of Sch 1 should be amended so as to change the board composition and para 14 of Sch 1 should be changed so that non-executives may only appoint employee members nominated by the AGW). However, the principle that non-executives will comprise the majority of the board must be maintained.
- D5. If the WAO board is to be the employee of staff, then for the sake of avoiding poor industrial relations and expensive litigation:
- i. the WAO should either not be subject to any "in line" requirements in respect of terms of employment, or else be required, in determining the terms of employment, to have regard to the desirability of keeping the terms broadly in line with those applying to staff of the Welsh Government (i.e. para 20(5) of Sch 1 to the Bill should be made much more like para 17 of Sch 2 to the BRANA act 2011);

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- ii. the staff transfer provisions (para 5 of Sch 3 to the Bill) should provide more TUPE-like protections that are reassuring for staff, especially in respect of protection of terms as under Regulation 4(4) of TUPE.
- D6. To protect AGW's participation in NFI, the amendment of Part 3A of the Public Audit (Wales) Act 2004 by paras 59 to 62 of Sch 4 to the Bill, which prevents AGW from arranging persons to conduct data matching exercises on his behalf, should be omitted. Clause 9(2) will also need to be omitted or amended so as not to contradict this.



# Agenda Item 8

## Public Accounts Committee

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Meeting Venue: **Committee Room 3 – Senedd**

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Meeting date: **Tuesday, 17 July 2012**

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Meeting time: **09: – 11:00**

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This meeting can be viewed on Senedd TV at:

[http://www.senedd.tv/archiveplayer.jsf?v=en\\_400000\\_17\\_07\\_2012&t=0&l=en](http://www.senedd.tv/archiveplayer.jsf?v=en_400000_17_07_2012&t=0&l=en)

Cynulliad  
Cenedlaethol  
Cymru

National  
Assembly for  
Wales



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### Concise Minutes:

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#### Assembly Members:

**Darren Millar (Chair)**  
**Mohammad Asghar (Oscar) AM**  
**Mike Hedges**  
**Julie Morgan**  
**Gwyn R Price**  
**Jenny Rathbone**  
**Aled Roberts**  
**Lindsay Whittle**

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#### Witnesses:

**Huw Vaughan Thomas, Auditor General for Wales, Wales Audit Office**  
**Gillian Body, Assistant Auditor General, Wales Audit Office**  
**Matthew Coe, Wales Audit Office**

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#### Committee Staff:

**Tom Jackson (Clerk)**  
**Sarah Beasley (Clerk)**  
**Daniel Collier (Deputy Clerk)**  
**Sarah Sargent (Deputy Clerk)**  
**Joanest Jackson (Legal Advisor)**

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### 1. Introductions, apologies and substitutions

1.1 The Chair welcomed Members and members of the public to the meeting.

### 2. Motion under Standing Order 17.42 to resolve to exclude the public from the meeting for the following business:

Items 3,4, 5 and 7.

### **3. Consideration of the Public Audit (Wales) Bill**

3.1 The Committee agreed its terms of reference and approach to scrutiny of the Public Audit (Wales) Bill and agreed to launch a public consultation shortly.

### **4. Consideration of draft report 'Grants Management in Wales'**

4.1 The Committee commented on and agreed amendments to its draft report 'Grants Management in Wales', which would be published shortly.

### **5. Consideration of draft report 'Progress in delivering the Welsh Housing Quality Standard'**

5.1 The Committee commented on and agreed a report of its inquiry into 'Progress in delivering the Welsh Housing Quality Standard', which would be considered further via email.

### **6. Briefing from the Auditor General for Wales on the Wales Audit Office report 'Health Finances'**

6.1 The Chair invited the Auditor General for Wales (supported by Gillian Body, Assistant Auditor General; and Matthew Coe, Financial Audit Manager) to brief the Committee on the Wales Audit Office's report 'Health Finances.'

6.2 The Auditor General briefed the Committee on key issues arising from his report and responded to Members' questions.

#### **Action point:**

The Auditor General for Wales agreed to provide:

- A note on when Local Health Boards were offered brokerage by the Welsh Government.

### **7. Options for handling the Wales Audit Office report 'Health Finances'**

7.1 The Committee agreed to undertake an inquiry into Health Finances.

### **8. Papers to note**

8.1 The Committee noted the correspondence on the Welsh Housing Quality Standard.

8.2 The Committee ratified the minutes of the meeting on 10 July 2012.

#### **TRANSCRIPT**

View the [meeting transcript](#).