

Alun Davies AM
Minister for Lifelong Learning and Welsh Language

13 March 2017

Dear Alun

Additional Learning Needs and Education Tribunal (Wales) Bill: Additional Information

As part of the Stage 1 scrutiny currently being undertaken by the Children, Young People and Education Committee, it would be very helpful if you could provide the Committee with some additional information on a number of areas.

As you will be aware, the Committee is due to report by 12 May. However, due to the Easter recess period we will need to complete our evidence gathering by the end of March. You are due to give evidence to the Committee on 22 March, and it would be helpful if the additional information requested could be provided in advance of your appearance before Committee.

Costs in the Regulatory Impact Assessment on Dispute Resolution and Independent Advocacy

The Committee has received representations from SNAP Cymru expressing their concern that the information found in the RIA relating to funding for disagreement resolution services is incorrect, and misleading. An extract from SNAP Cymru's written evidence is attached at Annex 1. The Committee would be grateful for your response to their comments.

Dispute resolution is likely to remain a vital part of the new ALN system. Evidence received suggests that it is not clear whether the new system will result in fewer disputes, with some witnesses suggesting potential increases in dispute levels, before and immediately following implementation.



Given the importance of this area, it is vital that the information contained in the RIA is accurate. As such, the Committee would very much welcome confirmation on whether the costs in the RIA are accurate, or if not, that they will be corrected accordingly.

Linked to this, is the provision of independent advocacy services under Section 62 of the Bill. Evidence the Committee has received suggests that it is unclear how independent advocacy services will be delivered. The Committee is concerned by this, given the wider problems of advocacy provision more generally. In relation to ALN specifically, it is also not clear from the RIA how the Welsh Government has budgeted for the provision of advocacy services going forward. The Committee would welcome further clarity on this.

Pilot Schemes undertaken in Health Boards on the role of the DECLO

Concern has been raised during Stage 1 that there is a lack of clarity in the Bill, and the draft ALN Code, regarding the new role of Designated Education Clinical Lead Officer (DECLO). This new role is seen to be vital in ensuring collaborative working between health and education, and it is essential that there is clarity on how this role will operate.

To inform Stage 1 scrutiny, it would be very helpful if you could provide information / analysis on the two pilots that we understand have been on-going in Aneurin Bevan University Health Board and Betsi Cadwaladr University Health Board in relation to the DECLO role. The Committee believes it is vital these pilot schemes are thoroughly assessed and analysed to ensure the Bill and the Code provide a robust basis for the DECLO.

Pilot schemes for IDPs

The Committee is aware that some local authorities piloted IDPs in the past to help the development of the reforms, and of the Bill itself. Could you please clarify whether there are any pilots of IDPs or other aspects of the new arrangements going on at present? And if so, whether you are able to provide details of these.

I look forward to your early response on this matter.

Yours sincerely



Lynne Neagle AC / AM
Cadeirydd / Chair



Annex 1: Extract from SNAP Cymru Evidence

Funding Disagreement Resolution Services

51. SNAP Cymru disputes the information found in the ALN and ET (Wales) Bill Explanatory Memorandum incorporating the RIA and explanatory notes (Pages 115 onwards incorporating 8.72 – 8.103):

52. *RIA 8.76 During the 30-month period October 2013 to April 2016, SNAP Cymru dealt with approximately 12,600 cases on behalf of 20 local authorities. The following is disputed:*

- a. For information the 12,600 refers to the number of cases available to the responder from the electronic data base and the source of the percentages given, and not the number of cases received in a 30 month period.

53. *RIA 8.77 states: The primary reason for 3,485 of these was the resolution of disagreements around wanting or having a statement of SEN. The average cost per case, where appeal to SENTW is avoided, is £2,000. Thus, 20 of the 22 local authorities in Wales spent an average of approximately £2,788,000 a year funding disagreement resolutions services for 1,394 disagreements around wanting or having a statement. Grossing these figures up from 20 local authorities to 22 local authorities equates to £3,066,800 per year for funding disagreement resolutions services for 1,533 disagreements across 22 local authorities. This is equivalent to £3,164,000 in 2016-17 prices.*

SNAP Cymru Response

54. The above implies that the 20 Local Authorities have funded SNAP Cymru (as the major provider) to provide disagreement resolution services at the total cost of £2,788.000 per year (2013 – 15 prices) and £2,876.400 (2016 -17 prices) (Table 15 Page 139).

55. This is not the case and brings this and further sections of the assessment report into disrepute. Clearly there has been misunderstanding in the information gained which is disappointing to SNAP Cymru as the misinformation /interpretation has set our service practice in a very poor light in relation cost implications for Local Authorities and families. The committee should consider the following:



True cost of supporting families

56.1 where a case progresses to SENTW - Average cost of supporting a family from their initial concerns or complaints through to SENTW appeal is £4,125 (118 hours average)

57.2 where a case is resolved through formal disagreement resolution without recourse to tribunal - Average cost of supporting a family who want to appeal to tribunal but where we provide a successful formal mediation session (average 57 hours) £2000

Total number of cases in these two categories in the period described - 30 months, was 20

NB. PLEASE NOTE THIS IS THE COST TO SNAP CYMRU BASED ON INDICATIVE STAFF COSTS AND NOT THE AMOUNT BEING PAID BY THE LOCAL AUTHORITIES IN WALES.

58. The costs to Local Authorities for Formal Disagreement Resolution is £600 for each case. These are very few. Of the fewer cases where SNAP Cymru has been involved in Tribunal there has been no additional costs to the Local Authority above the agreed SLA commissioned services for Parent Partnership Services. All services provided by SNAP Cymru have been free at the point of delivery for the last 30 years. The vast majority of cases brought to SNAP Cymru are resolved informally at local level. We have delivered a successful avoidance of formal dispute service through an independent, objective but impartial services. Practice is based on an empowerment model providing key working and or advocacy when required and as funding allows. The Parent Partnership Services have been enhanced by additional funding including fundraising, volunteering and Welsh Government/Local Authority Family First and Disability Discrimination Advice funding.

Looking back 30 months from February 17.

59. Almost all cases - totalling 7,135 were resolved in times ranging from 2 to 180 hours, without appealing to SENTW, at a cost of £70 to £4,400 to SNAP Cymru. The average case time is around 10 hours outside of Families First contracts. Of the 7,125 cases that did not result in an appeal to SENTW around 71% received informal disagreement resolution. These cases brought 17,000+ matters seeking resolution: ranging from education provision and exclusion through to complaints and appeals.



60. The costs to Local Authorities for Formal Disagreement Resolution is £600 for each case (17/18 cost to LA.) This cost is split between preparatory casework with all parties including administration and the dispute resolution session with all parties. These Formal sessions are very few and some of these can be resolved at the preparatory stages, reducing the costs to LAs by 50%. On the fewer cases where SNAP Cymru has been involved in Tribunal there has been no additional costs to the Local Authority above the agreed SLA commissioned services for Parent Partnership Services including volunteer Independent Parental Supporters (IPS). All services provided by SNAP Cymru have been free at the point of delivery for the last 30 years. The vast majority of cases brought to SNAP Cymru are resolved informally at local level. We have delivered a successful avoidance of Formal Dispute service through an independent, objective but impartial service based on an empowerment model providing keyworking and or advocacy when required and as funding allows. The Parent Partnership Services have been enhanced by additional funding including fundraising, volunteering and Welsh Government/Local Authority Family First and Disability Discrimination Advice funding.

61. This case load, when costed at a true cost of fully funded service delivery, should cost over £1.6 million per year but as it is supported by volunteering activity plus subsidised by other charitable giving, grants and sale of services and goods it is delivered at well below these costs to LA Commissioners. However, in these past two years SNAP Cymru has used its reserves to continue to provide services in each of the last two financial years and will do so again in this current financial year:

14/15 = - £40,548

15/16 = - £21,680

62. The use of reserves to subsidise Local Authority work is unsustainable, our reserves are now depleted to 3 months running costs. We are running a very tight ship and getting exceptional value for every £ spent. The actual costs funded by local authorities in 2014-2015 was £720,000 and £823,000 in 2015-16. Thus it is clear that local authorities are getting amazing value for money but also that their level of funding will need to increase if they want the same number, or more, cases dealt with in the future. SNAP Cymru's total income for the 30-month period specified in the RIA document was £2,502,057



63. Within the Welsh Government Explanatory Memorandum and Regulatory Impact Assessment dated December 2016 it is stated that Local Authorities have been funding SNAP Cymru to the tune of £2.7 Million pounds, per annum, strictly for the handling of approximately 1,394 cases per annum. Unfortunately, this is not possible. Whilst we would dearly love to be so well funded, it is not a reflection on reality. Within the time-period specified (30 months), SNAP Cymru has received, from all sources (Including grants, fundraising, donations & Charity shops), 2.5 Million pounds in income. This 2.5 million pounds has provided casework, advice and disagreement resolution services to 12,600 cases across Wales. It is simply not reasonable to suggest that 1,394 instances of disagreement resolution, has cost Local Authorities 2.7 Million pounds per year, when the total amount of money they provide to the purveyors of this service is, on average, £574,434 per annum. This is the amount of money we receive for provision of Parent Partnership services from Local Authorities. This service is enhanced by funding from the Families First project which enables us to provide additional support for the most vulnerable families. However, even with this included, the total funding for the Provision of all Parent Partnership Services, including disagreement resolution, is just £814,201 per annum.

64. The figures arrived at within this report form the basis for a great deal of mathematical calculations made regarding how much services cost and projections about how much money could be saved under alternative models. However, as demonstrated above, the central claim regarding the amount of cost incurred by local authorities, is not backed up by any evidence. The attribution of a £2.7 Million pounds cost per annum for services provided to 1,394 cases has absolutely no basis in reality and is in fact an order of magnitude away from offering even a partial representation of the true funding picture. Reliable data is the cornerstone of good decision making. As such, all conclusions drawn from this grossly misrepresentative figure, cannot be considered sound.

Cost

65. The actual costs funded by local authorities in 2014-2015 was £720,000 and £823,000 in 2015-16. Thus it is clear that local authorities are getting amazing value for money but also that their level of funding will need to increase if they want the same number, or more, cases dealt with in the future.



66.The actual total funding received from Local Authorities in relation to Parent Partnership Services and Disagreement Resolution is:

2012/2013 £678,800.88

2013/2014 £674,786.48

2014/2015 £554,840.74

2015/2016 £591,482.10

2016/2017 £595,465.39

67.Additional funding from a range of source including fundraising and Welsh Government, (Disability Discrimination Advice, Inclusive Play, Families First) enhances this service.

2012/2013 £166,354.50 + ESF Convergence £430,245.00

2013/2014 £221,398.67

2014/2015 £203,419.54

2015/2016 £227,141.67

2016/2017 £214,921.00

Audited accounts available upon request from Denise Inger, Chief Executive Officer, SNAP Cymru email denise.inger@snapcymru.org and, also available via the Charities Commission website as public documents.

