

30 March 2017

Dear Colleague

Additional Learning Needs and Education Tribunal (Wales) Bill: Welsh Government revised healthcare guidance

As part of its consideration of the general principles of the Additional Learning Needs and Education Tribunal (Wales) Bill (the Bill), the Children, Young people and Education Committee has taken oral evidence on the issue of meeting the medical needs of pupils in schools, and how this relates to education provision.

The Committee has also received a co-ordinated call for the inclusion of specific provisions for the medical needs of children and young people in schools to be included within the Bill, and to put the provision on a statutory footing in line with provisions in England. This has included submissions to the Committee's consultation in summer 2016 on Fifth Assembly priorities, and written evidence during the Committee's Stage 1 considerations of the Bill.

Position in England

The current guidance frameworks for the management of children's healthcare needs in a school setting differ in Wales and England. In England, the Children and Families Act 2014 came into force on 1 September 2014. Section 100 contains a statutory duty for appropriate authorities to make arrangements to support pupils at school with medical conditions. In meeting that duty, the appropriate authority must have regard to guidance issued by the Secretary of State.



In practice, this means schools must make additional arrangements for supporting children and young people at schools with healthcare needs. This legislation does not apply to schools in Wales.

Revised Healthcare Guidance in Wales

On 30 March, the Minister for Lifelong Learning and Welsh Language issued new statutory guidance on '**Supporting learners with healthcare needs**'. This guidance is issued in accordance with Section 175 of the Education Act 2002, and replaces the previous non-statutory 2010 guidance: 'Access to Education and Support for Children and Young People with Medical needs'.

Section 175 of the Education Act 2002 places a duty on local authorities and governing bodies to make arrangements to ensure their functions are exercised with a view to safeguarding and promoting the welfare of children in school or another place of learning. This includes supporting children with healthcare needs. In meeting the duties under section 175 of the Education Act 2002, local authorities and governing bodies must have regard to guidance issued by the Welsh Ministers.

In relation to the 'Supporting learners with healthcare needs' guidance, in evidence to the Committee on 22 March the Minister stated that:

By publishing the statutory guidance on meeting healthcare needs within the school environment in March, we're enabling people to take time to look at this guidance at a time when we can amend this Bill if we believe that there is that conflict there, and we can make changes, and we can make changes at Stage 3 in September when we've had an opportunity to allow these things to bed down a bit.

The Minister also stated that:

It's been published in order to provide the guidance, and not simply as a means of aiding the scrutiny of this Bill. It's there to provide the statutory guidance for schools. That's why. That's the driver for publication. However, we recognise that by doing so now, at this process as we're coming to the conclusion stage of the scrutiny of this Bill, we will then have an opportunity, through the summer term, to consider this in more detail and whether we wish to make amendments at Stage 2 in the summer or Stage 3 in the autumn. We will have the opportunity to do so.



Implications for the Bill

Following the publication of the new statutory guidance by Welsh Government, the Committee is seeking your views on how that guidance impacts on the Bill, and on the calls to include specific provisions within the Bill relating to medical needs. The Committee is not, at this stage, undertaking a general consultation on the wider content of the guidance.

However, the Committee is keen to learn your early views on the guidance ahead of Stage 2 and Stage 3 of the Bill, where potential amendments to the Bill may be considered. Stage 2 is likely to take place late June; Stage 3 is scheduled for late September.


In particular, the Committee would like to know:

- whether you consider the Welsh Government’s new statutory guidance ‘Supporting learners with healthcare needs’ meets the calls received in evidence to the Committee to place the healthcare guidance in Wales on a statutory footing;
- your early assessment on whether ‘Supporting learners with healthcare needs’ would sufficiently meet the healthcare needs of learners in Wales, and if not how the Bill could be used to help achieve this; and
- your views on when a full assessment of ‘Supporting learners with healthcare needs’ could be undertaken to effectively assess its level of success.

The Committee must report to the Assembly on its considerations of the Bill by 12 May 2017. In order to feed your views formally into that process, the Committee would be grateful for your response on this matter by 14 April.

This letter has been copied to Dr Dai Lloyd, Chair of the Health, Social Care and Sport Committee.

Yours sincerely



Lynne Neagle AC / AM

Cadeirydd / Chair

