

To: Julie Morgan

Deputy Minister for
Health and Social
Services

Via email only

22 May 2020

Dear Deputy Minister,

Thank you for continuing to meet with me on a weekly basis throughout the Coronavirus pandemic. I welcome the opportunity to share issues that are arising from children and families in a timely way as well as to discuss how the Welsh Government can respond to a whole range of children's rights matters.

Ordinarily we would be due to have our quarterly meeting on 4th June 2020, but I understand that the pandemic response means that a formal meeting is unable to take place. On that basis I wanted to write to you on a few matters related to your portfolio but not directly related to Coronavirus, as part of my ongoing role in scrutinising and holding the Government to account.

The first matter relates to the recommendation in my 2018-19 annual report on joint commissioning by health and social care services of safe accommodation for children with complex needs. This is the work in which the Government commissioned Jack Straw and Phil Evans to undertake a scoping study. I am aware that their findings were presented to the Government as planned and would be keen to seek an update as to the next steps for this work please. When I have raised this with officials I have been told that the work is ongoing but is delayed.

The pandemic highlights acutely the importance of meeting children's emotional health and well-being needs, and ensuring that there is sufficient provision within the sector in order to do so. Quite rightly, a number of professionals have asked my team about the progress of the scoping work at this time. Concerns have also been expressed to my team this week about placement sufficiency being affected by the pandemic and reluctance by some providers to accept new placements, meaning children are reportedly being escalated up the system towards secure accommodation in lieu of any other suitable placement options for them. I would therefore welcome an update on how this work is to be taken forward into the next phase please.

The second matter is in relation to the Government's use of Children's Rights Impact Assessments (CRIA) at this time. My team have had a number of conversations with officials in education and childcare, who have been asked to complete CRIA retrospectively for the decisions taken at the outset of the lockdown period. Whilst I welcome the ongoing consideration of children's



Tŷ Ystumllwynarth/Oystermouth House
Llys Siarter/Charter Court, Phoenix Way
Abertawe/Swansea SA7 9FS

I&S

post@comisiynyddplant.cymru
post@childrenscommissioner.wales

comisiynyddplant.cymru
childrenscommissioner.wales

Croesawn ohebiaeth yn y Gymraeg yn ogystal â'r Saesneg ac mewn amryw o fformatau
We welcome correspondence in the medium of Welsh and English as well as alternative formats

rights within policy departments, I understand that the proposal is to publish a retrospective impact assessment by the end of May. A number of decisions will have been taken since that point, and it is important that rights are being actively considered throughout the process of policy-making and not retrospectively.

My team have given the following advice to officials:

- Impact assessments don't always have to follow the full template document particularly where time is of the essence; the important thing is that the thinking about children's rights and the groups of children that could potentially miss out or be excluded informs the policy making and that mitigating action is taken wherever possible.
- Any completion of CRIA cannot be about retro fitting children's rights considerations into decisions that never had this in mind.
- Many of the decisions made and actions taken at the outset of the pandemic were dictated by the declaration of a public health emergency and were therefore absolutely necessary to enact urgently. It would have been difficult for CRIAs to feed into those decisions in any depth given the urgency and I wouldn't have expected that to be the case in those circumstances. However it is important to now consider who is most affected by those decisions and how this could potentially be changed through amendments to policies and guidance via the 3-weekly review process that is required.
- As part of the ongoing review officials should be considering how positive reach can be maximised and negative impact can be mitigated for future decisions that flow from those initial moves.
- My ongoing meetings with children's services in the statutory and voluntary sector and early results from the nationwide survey of children make it clear that the current restrictions have a more negative impact on some groups of children and young people than others. It is therefore vital that the likely varied impact of any changes to the current restrictions on children's circumstances is being actively considered during the decision-making process.
- It is important for the Government to show transparency in their decision making by publishing impact assessments. If assessments are not published it creates a growing concern that these considerations have not been thought about, whether or not that is the case.
- Where the views of children and families could not be gathered at the outset of making a decision, officials should now be considering how they will gather feedback on how the policy is being implemented instead, with a view to learning lessons that way and identifying whether there are groups of children currently missing out, particularly where this may not have been anticipated or intended. The survey we



are currently collaborating on will be an excellent source of data for this, although it is likely that more in-depth, follow-up methods such as focus groups may be needed to test some impacts.

My team are happy to support and advise officials at this time, including by reviewing draft CRIA and draft guidance as a critical friend.

I have raised this matter in discussions with officials already and have been told that conversations are ongoing as to how CRIA can be done in this period to inform better policy making. I wanted to raise it with you directly however to ensure that there is a clear Ministerial direction and expectation across Government departments about the benefits of using impact assessments to consider how policies and decisions will affect different groups of people including children, and crucially how any potential negative impact can be mitigated at the time and through future decisions.

Our quarterly meeting with our link Branch officials have continued and we've updated the team there on other elements of our work, including our response to the pandemic, our work plan and our work on our annual report. We're keeping in weekly contact with those officials, on the survey work but also on our wider policy work, including the range of draft Government guidance that my team has been reviewing and commenting upon in order to assist the Government in ensuring children's rights, needs and views are actively being considered at every possible stage of policy making and guidance.

Finally, I wanted to make you aware that I have received a verbal indication this week that the Government will not be proceeding with regulations and statutory guidance to protect the rights of electively home educated children, despite the years of detailed work that have gone into developing and consulting on these. As the Government's safeguarding lead I know you take a keen interest in this matter. I will wait for confirmation in writing from the Minister for Education before I consider what further questions I will have for Government on this decision, but I would anticipate that I will wish to discuss the safeguarding implications with you and your officials.

Yours sincerely,

Personal Data

Sally

Sally Holland
Comisiynydd Plant Cymru
Children's Commissioner for Wales

cc. Karen Cornish, Deputy Director, Children & Families Division, Welsh Government

