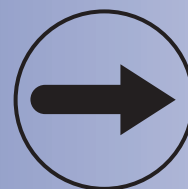


CLYWCH: THE RESPONSE OF THE WELSH ASSEMBLY GOVERNMENT

Date of Issue: 21st September 2004

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**Information
Document**



**Welfare, Health
& Safety**

The Children's Commissioner for Wales' report of his examination into allegations of child sexual abuse in a school setting.

**Presented to the National
Assembly for debate on
21 September 2004.**

CLYWCH

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THE RESPONSE OF THE WELSH ASSEMBLY GOVERNMENT

Presented to the National Assembly for debate on
21 September 2004.

On 1 July 2004 the Children's Commissioner for Wales published the report of his Inquiry into allegations of child sexual abuse at Ysgol Gyfun Rhydfelen in the period leading up to 1991. From the outset, the Assembly Government has been determined to consider this report with the utmost seriousness and to ensure that the lessons from it are learned.

That consideration is now completed and in this document we present our draft responses to the Commissioner's recommendations for plenary consideration and wider consultation with other stakeholders. We are accepting or accepting in principle the great majority of the recommendations that call for action by the Assembly Government. In a small number of cases, we are accepting recommendations for further consideration. We have not sought in this document to comment on those recommendations that call for action from other parties. The Commissioner himself will deal direct with the bodies concerned. We will, however, establish contact with each of these parties to ensure that they are giving full and appropriate consideration to them.

We wish again to pay tribute to the effort devoted by the Commissioner and his team to the conduct of this Inquiry; their determination to carry out a thorough and detailed investigation and making recommendations to avoid similar failures from happening again. We believe that this Inquiry and its outcomes have further cemented the place of the Children's Commissioner for Wales at the heart of public debate in our nation about making Wales a better country for all children and young people.

JANE DAVIDSON AM, Minister for Education and Lifelong Learning

JANE HUTT AM, Minister for Health and Social Services

Chapter 9: The Police Investigation

21.1 I recommend that in any child protection investigation the wishes and views of the child about the conduct of the interview, including their wishes about the nature of the support they prefer, are always sensitively ascertained and recorded and form part of the interview planning process and that the All Wales Child Protection Procedures are amended accordingly within 12 months of the publication of this report.

The Welsh Assembly Government accepts the principle of this recommendation. The core of this recommendation is already covered by joint guidance on the investigative interviewing of vulnerable witnesses, including children: *"Achieving Best Evidence in Criminal Proceedings: Guidance for Vulnerable or Intimidated Witnesses including Children"* (issued by the Home Office, the Lord Chancellor, the Crown Prosecution Service, the National Assembly for Wales and the Department of Health). This guidance was issued in January 2002 to all police forces, social services departments and others who might be involved in the interviewing or preparation for interviewing of children.

In undertaking interviews of children, trained interviewers, whether from the police or other agencies, should take into account their views and wishes. Appropriate intermediaries may be used where this is necessary to ensure that the child understands the process and is able to participate to the fullest possible extent.

A range of special measures is available to ensure that children are fully prepared for and able to make appropriate decisions about how interviews are conducted.

It is good practice that children and young people are asked if they would like to have someone to support them when being interviewed. Interviews should always take place in a setting in which they can relax and at a pace and style of communication commensurate with their level of understanding and distress. Not to do so can be potentially abusive in itself. However it is not always feasible to offer to comply unconditionally. There may be possibilities that the preferred adult could be implicated in some way; the adult may want to protect the perpetrator and communicate with them. The process of ascertaining the child's wishes should be completed and if they cannot be complied with, the reasons noted.

The Welsh Assembly Government has recently funded the preparation and production of a training pack to assist in the application of this guidance.

The *"All Wales Child Protection Procedures"* were commissioned and developed by all ACPCs in Wales and are intended to help deliver a consistent child protection service throughout Wales. ACPCs are responsible for ensuring that the procedures are up to date and comply with extant legislation and guidance. The status of these procedures is advisory, their use by ACPCs voluntary and they have no statutory basis.

The procedures primarily draw on "*Working Together to Safeguard Children*" and "*the Framework for the Assessment of Children in Need and their Families*" which have been issued as statutory guidance, under section 7 of the Local Authority Social Services Act 1970. This is the guidance that child protection agencies in Wales are required to comply with.

Later this year, the Welsh Assembly Government will be preparing, for consultation, draft guidance on the role, functions and responsibilities of Local Safeguarding Children Boards, to be established under the terms of the Children Bill currently before Parliament. We will ensure that the requirements around the investigative interviewing of children are incorporated into that guidance and that it contains appropriate references to the 2002 guidance.

Smoking cigarettes causes the most harm to children and young people. Half the children and young people who now smoke will die prematurely from smoking related diseases.

21.2 I recommend that consideration always be given by the police to informing a child of the outcome of a police investigation, taking great care to explain what has happened and that the All Wales Child Protection Procedures are amended accordingly within 12 months of the publication of this report.

The Welsh Assembly Government accepts the principle of this recommendation. It is addressed in the joint guidance issued in 2002 on the investigative interviewing of vulnerable children. The guidance states that a trained supporter should ensure that, whether or not the witness gave evidence, "the witness is informed of the outcome as quickly as possible and offer the opportunity for a debriefing".

A child or young person should be given information about what has happened by both the police and social services department. This should be given in an age appropriate form which prevents the child feeling to blame for any conviction and punishment, so it may not be appropriate for the police to communicate it.

As with recommendation 21.1, we shall ensure that the new guidance on Local Safeguarding Children Boards also addresses this issue.

Responsibility for the "*All Wales Child Protection Procedures*" and their status is dealt with in the response to recommendation 21.1.

Chapter 11: The Staff of Ysgol Gyfun Rhydfelen

21.3 I recommend that the Welsh Assembly Government and the General Teaching Council for Wales and the DfES take steps to ensure that teachers receive specialist input in their professional qualifying training programme about the way in which abusers operate and that the findings of this report form part of that training, this recommendation to be implemented within 2 years of the publication of this report.

The Welsh Assembly Government accepts this recommendation in relation to initial teacher training in Wales.

In addition, the Minister for Education and Lifelong Learning has written to the Secretary of State for Education and Skills and the Secretary of State for Wales given the implications of this recommendation for administrations in England, Scotland and Northern Ireland, which have similar responsibilities for initial teacher training.

Assembly Government officials will therefore work with their counterparts in England, Scotland and Northern Ireland to encourage them to reflect this recommendation in their teacher training programmes. Discussions will take place before the end of this year.

In Wales, the Assembly Government is responsible for establishing the requirements for qualifying as a teacher to work in maintained schools. The guidance Circular (13/1998) setting out those requirements is currently under review and we are publishing on 17 September the response to the initial consultation on proposals for the way the guidance Circular should be revised. In that response we have specifically identified the need to take account of this recommendation in the new Circular.

We aim to issue the draft new guidance Circular for consultation by December 2004 with the intention that the statutory new Circular takes effect from September 2006. In the meantime we will engage with initial teacher training providers with the aim of ensuring that all courses include such training from September 2005.

The General Teaching Council for Wales has no responsibility for initial teacher training but the action to be taken in relation to this recommendation will be brought to that Council's attention.

21.4 I recommend that local education authorities and Area Child Protection Committees consider how induction, in-house and refresher training in child protection can be provided on a regular basis.

This recommendation is addressed to local education authorities and area child protection committees.

The Assembly Government has sought details from all LEAs, since the publication of the Commissioner's report, about the types of training currently being provided and LEAs' plans for their future development. Returns from LEAs indicate that all LEAs undertake activity in this area and that there is a range of patterns of provision at local level of training for designated teachers, newly qualified teachers, school support staff, governors and other staff. Local authorities have indicated that they will be considering developments to local arrangements as part of their own response to the Commissioner's report.

During Autumn 2004 the Welsh Assembly Government will consult on guidance to accompany the implementation of the new statutory duty under section 175 of the Education Act 2002. This requires local education authorities and governing bodies to safeguard and promote the welfare of children. The consultation will reinforce the Welsh Assembly Government's commitment that appropriate, relevant, and timely training in safeguarding children from abuse should continue to be provided for all those working in the education sector. It will also invite comment on the most effective mechanism and methodology for delivering highest quality training.

Area Child Protection Committees also have responsibility for helping to improve the quality of inter-agency working through specifying needs for inter-agency training and development, and ensuring that training is delivered. A specific ACPC sub-committee is responsible for the planning, design, delivery and evaluation of inter-agency training.

The Welsh Assembly Government will consider how to reinforce these arrangements in the guidance for Local Safeguarding Children Boards.

21.5 I recommend that the Welsh Assembly Government issues guidance within 6 months of the publication of this report which requires the governors of all schools, whether they be community, voluntary aided, voluntary controlled, foundation or independent schools and further education colleges to have a whistleblowing policy in place and that all teachers and non teaching staff are informed as to its operation.

The Assembly Government accepts this recommendation. Further Education Institutions have guidance in place on the operation of whistleblowing policies. The Association of Colleges provided guidance to its members on its website in November 2002. This included reference to the need to train staff in the use of whistleblowing procedures. Guidance for governing bodies of maintained schools on whistleblowing policies will be produced in 2005-06.

The Welsh Assembly Government will also issue such guidance to independent schools.

21.6 I recommend that, on appointment in any school or further education college in Wales, every teacher and member of non teaching staff should receive written and oral instruction on whistleblowing procedures and how to operate them. This should then be reinforced on a regular basis.

The Welsh Assembly Government accepts this recommendation along with that at 21.5. The two recommendations will be taken together so that the guidance issued under 21.5 will cover both the matters of publication of schools' whistleblowing policies and their dissemination to school staff.

Chapter 14: The Governors of Ysgol Gyfun Rhydfelen

21.7 I recommend that the Welsh Assembly Government issue guidance within 12 months of the publication of this report on how allegations of child abuse made against teaching and non teaching staff should be investigated. The guidance should consider the:

(i) Joint NEOST /Teacher Union guidance on Education Staff and Child Protection: Staff Facing an Allegation of Abuse

(ii) Practice Guide to Investigating Allegations of Abuse against a Professional or Carer in Relation to Looked After Children

(iii) All Wales ACPC Child Protection Procedures.

(iv) National Assembly for Wales Guidance 'Working Together to Safeguard Children'.

The Assembly Government accepts this recommendation.

Following extensive consultation with interested parties, including the Children's Commissioner, a new guidance Circular (45/2004) is being issued this month to governing bodies on "Staff Disciplinary Procedures in Schools". It draws on the guidance identified in this recommendation in setting out how allegations of child abuse against school staff are to be handled.

The guidance in Circular 45/2004 is non-statutory. Sections 35(8) and 36 (8) of the Education Act 2002, which given the Assembly Government powers to issue statutory guidance, are expected to come into force in 2005. At that time the guidance in Circular 45/2004 will be reissued on a statutory basis. It will also be revised, as necessary, to take into account any changes arising from recommendations in this Inquiry report and the UK Government's response to the inquiry by Sir Michael Bichard following the Soham tragedy.

21.8 I recommend:

- (i) that the responsibility for deciding whether to lay charges and to proceed with an investigation and hearing becomes the responsibility of the local education authority, because of its relationship with teachers, non teaching staff and its membership of the Area Child Protection Committees in Wales**
- (ii) where an investigation is commenced, it should be undertaken by a specialist personnel officer of the local authority who should also present the case unless a solicitor or counsel is instructed.**

The Welsh Assembly Government accepts this recommendation for further consideration.

The changes suggested would require amendment of existing secondary legislation.

New Circular 45/2004 explains how allegations of child abuse are to be handled by schools. If the allegation relates to a potential criminal act or indicates that a child has suffered or is likely to suffer significant harm the matter **must** be referred to the statutory authorities who undertake the necessary investigation and decide whether there should be a criminal prosecution.

In less serious cases, or where there is no decision to prosecute, or a prosecution fails, the allegation **must** be considered by the school's governing body under its disciplinary procedures. Circular 45/2004 sets out the steps to be taken.

The arrangements set out in Circular 45/2004 will be reviewed in light of the recommendation 21.8 (i) and (ii) and in consultation with governing body and local authority representatives. Any change requiring local education authorities to carry out or arrange the investigation where child abuse allegations are involved will be taken into account in considering regulations and guidance to be made in 2005 under sections 35 and 36 of the Education Act 2002.

21.8(iii) that four new independent tribunals be established, covering four parts of Wales, chaired by a legally qualified person and having two other members one of whom will be a teachers' trades union nominee and the other a governor nominee to hear the evidence and to make findings of fact on the balance of probabilities. Those chairing such tribunals to be appointed by a process involving both teachers' trade unions and the local education authorities.

21.9 I recommend that the Welsh Assembly Government establish a task group within 6 months of the publication of this report, with representatives from all interested parties, charged with bringing forward a set of proposals to implement the recommendation I have made in respect of schools' disciplinary tribunals. The interested parties should include:

- (i) all teachers' trade unions**
- (ii) governor representatives**
- (iii) local education authority officials**
- (iv) child protection and legal experts**
- (v) children and young people**
- (vi) General Teaching Council representatives**
- (vii) Welsh Local Government Association**
- (viii) police.**

Matters to be considered by the task group to include the threshold for referrals, appeals, tribunal rules, the interrelationship with police investigations and the recording of investigations on the files of teaching and non teaching staff.

The establishment of tribunals to hear and determine allegations of child abuse against school staff would not be straightforward and would cut across a number of existing legal arrangements. Issues which will need to be explored by Welsh Assembly Government with the stakeholders identified and the Department for Constitutional Affairs include:

- the relationship with the duty of a local authority under section 47 of the Children Act 1989 to undertake enquiries where they *"have reasonable cause to suspect that a child who lives, or is found, in their area is suffering, or is likely to suffer, significant harm"*;
- the volume of cases tribunals might deal with i.e. cases where prosecution did not proceed or failed and cases which were less serious;

- the legal impact of removing an aspect of disciplinary arrangements from the employer (the governing body in the case of voluntary aided and foundation schools and the LEA - with the governing body acting on its behalf - in the case of community and voluntary controlled schools) given that conduct attracting disciplinary action amounts to a breach of the employment contract and may be subject to adjudication by an Employment or Employment Appeals Tribunal;
- the timescale for and cost of introducing tribunals, which would require primary legislation;
- other options for dealing with the deficiencies in current arrangements as identified by the Children's Commissioner.

A meeting between the Minister for Education and Lifelong Learning and representatives of the groups mentioned in recommendation 21.9 has been arranged for 15 September. In light of views expressed at that meeting the Assembly Government will decide how to take forward consultation on the matter, recognising the seriousness of the Commissioner's concerns.

Circular 45/2004 addresses two issues which caused the Commissioner concern:

- the failure of governing bodies to undertake disciplinary consideration where a prosecution does not proceed or fails - the guidance makes it clear that the governing body staff disciplinary committee must consider and determine the case;
- the failure of governing bodies to complete consideration of disciplinary action if a staff member resigns - such consideration must always be completed so that the employer (the LEA or governing body) can fulfil its obligation under The Education (Supply of Information) (Wales) Regulations 2003 to notify the Assembly Government if it dismisses an individual or would have dismissed an individual for misconduct had they not resigned. Where the misconduct in question relates to issues concerning the welfare and safety of children such notification enables the Department for Education and Skills acting on behalf of the Assembly Government to prohibit or restrict the individual from work which includes the education of children or which involves regular contact with children.

Chapter 15: Welsh Joint Education Committee

21.10 I recommend that the WJEC urgently review its internal disciplinary procedures and its contracts with external examiners and ensure that recommendation (20) of Sir Ronald Waterhouse's report 'Lost in Care' is incorporated within 6 months of the publication of this report.

This recommendation is addressed to the WJEC.

21.11 I recommend that the WJEC draw up detailed child protection guidance, policies and procedures for examiners and its employees and ensures that appropriate training is provided within 6 months of the publication of this report. The policy and procedures should include reference to the following:

(i) the National Assembly for Wales Guidance 'Working Together to Safeguard Children' and to the All Wales Child Protection Procedures;

(ii) referral to social services and the police;

(iii) sharing information;

(iv) recording and storage of information of child protection concerns;

(v) the need for and remit of a designated child protection coordinator role;

(vi) child protection training;

(vii) interrelationship between child protection investigations and disciplinary procedures;

(viii) monitoring and review of arrangements;

(ix) rotation of examiners.

This recommendation is addressed to the WJEC.

21.12 I recommend that the Welsh Assembly Government, in partnership with the DfES, ACCAC and the equivalent qualifying curriculum and assessment authorities in Scotland, Northern Ireland and England, consider the role of examining bodies across the UK with regard to child protection arrangements within 12 months of the publication of this report.

The Assembly Government accepts this recommendation. Awarding bodies have a specific interface with young people at important and sometimes stressful points in their lives. They have a part to play in protecting children.

The Department for Training and Education will establish a steering group to oversee this exercise. Membership of the group will include ACCAC and, subject to confirmation, the Education Departments and regulatory authorities of England, Northern Ireland and Scotland to whom we have already written inviting their participation. Staff with appropriate expertise will support the steering group. Awarding bodies will be invited to offer views, advice and evidence. The steering group will publish a report on the role of awarding bodies in respect of child protection in Summer 2005.

21.13 I recommend that the Welsh Assembly Government, in partnership with the DfES, ACCAC and the equivalent qualifying curriculum and assessment authorities in Scotland, Northern Ireland and England, consider the way in which drama is taught and examined in schools and further education colleges, with the aim of producing practice guidance within 2 years of the publication of this report that will include consideration of the following issues:

- (i) selection of appropriate drama texts in education and examinations;**
- (ii) adult participation in school drama and drama practical examinations;**
- (iii) safe teaching of drama, in particular the teacher's role in pupil improvisation and method acting;**
- (iv) venues and timings for drama examinations and rehearsals;**
- (v) video recording of children and young people in drama rehearsals and practical examinations and the need to obtain parental consent;**
- (vi) the practice of involving younger pupils in drama practical examinations of older pupils;**
- (vii) monitoring and sanctions in relation to the late submission of scripts for practical examination to examining boards;**
- (viii) express guidance relating to sexual content and language, intimate physical contact and nudity in drama practical examinations and lessons;**
- (ix) the duties of schools and college management in monitoring the implementation and observance of guidance.**

The Assembly Government accepts this recommendation.

The steering group to be established by the Department for Training and Education to oversee work in response to the preceding recommendation will also oversee a project to prepare guidance on the teaching and examining of drama. Staff with appropriate expertise will support the steering group. This will include an experienced Head of Drama and an experienced examiner to undertake the detailed aspects of the work, including a review of good practice in other countries, an analysis of whether existing guidance in respect of child protection in the context of other subjects (e.g.) sport, provides an appropriate template and how an appropriate balance can be struck between essential safeguards and the need to encourage innovation in the delivery of drama. Practitioners, awarding bodies and others will be invited to offer views, advice and evidence. The steering group will publish guidance in Summer 2006.

Chapter 16: After Ysgol Gyfun Rhydfelen

21.14 I recommend that the Welsh Assembly Government issue guidance, within 12 months of the publication of this report, as to what information can be shared where there are allegations of child abuse whether or not findings have been made. Such guidance should include what information can be shared with the voluntary sector and any other body through which the individual has or may have access to children.

The Welsh Assembly Government accepts this recommendation for further consideration in light of this report and of the UK Government's response to the recommendations contained in Sir Michael Bichard's Report following the events at Soham.

Legal advice will be sought as to what it is possible to record and to share with other organisations given the requirements of data protection and human rights legislation.

Where disciplinary action leads to dismissal or would have led to dismissal had the person not resigned, the Department of Education and Skills acting on behalf of the Assembly Government considers whether to direct that an individual be prohibited or restricted under section 142 of the Education Act 2002 (List 99) from work which includes the education of children or brings them regularly into contact with children. An individual subject to such a direction commits a criminal offence if she/he seeks further employment working with children.

Sir Michael Bichard, in his report to the Home Secretary on child protection procedures, including intelligence based record keeping, vetting procedures and information sharing, recommended that:

"The Government should reaffirm the guidance in *Working Together to Safeguard Children* so that the police are notified as soon as possible when a criminal offence has been committed, or is suspected of having been committed, against a child - unless there are exceptional reasons not to do so.

National guidance should be produced to inform the decision as to whether or not to notify the police....."

The Welsh Assembly Government will consider, with the Home Office and the Department for Education and Skills, how this recommendation and the Children's Commissioner's recommendation can be jointly taken forward in Wales.

Chapter 17: 'Pam Fi Duw?'

21.15 I recommend that all sections of the media in Wales incorporate into their current systems effective child protection policies, procedures and training and nominate a designated person to receive and consider any concerns. Child protection procedures to include good practice in relation to risk assessment and disciplinary procedures where allegations are made of child abuse, in particular to incorporate recommendation (20) of Sir Ronald Waterhouse's report 'Lost In Care', within 12 months of the publication of this report.

This recommendation is addressed to the various media organisations in Wales.

21.16 I recommend each local education authority retain a register of chaperones whose registration is conditional upon them being criminal records bureau checked, having satisfactory references, basic child protection training and knowledge of their legal duties and responsibilities, within 12 months of the publication of this report.

This recommendation is addressed to local education authorities.

21.17 I recommend the Welsh Assembly Government review the Children (Performances) Regulations 1968 and the guidance thereto so as to address the weaknesses outlined in my report in the current arrangements for safeguarding the welfare of children in Wales when performing in television or other media, within 12 months of the publication of this report.

The Welsh Assembly Government accepts this recommendation. It will consider in detail the Commissioner's views on the weaknesses he identifies in the current arrangements for safeguarding the welfare of children in Wales who perform in television or other media. In reviewing the 1968 Regulations and associated guidance, we shall consult key stakeholders in central and local government, the media, children's voluntary organisations, the Commissioner, and representatives of children who have experience of this work.

The conclusions of that review will be published in June 2005, together with any proposals for amendment to the Regulations and guidance in Wales plus a timetable for achieving change.

21.18 I recommend local education authorities to be issued with guidance by the Welsh Assembly Government on best practice to fulfil their current duties and responsibilities under the Children (Performances) Regulations 1968 within 6 months of the publication of this report.

The Welsh Assembly Government accepts this recommendation. It will consult local education authorities on draft best practice guidance on the discharge of their current duties under the 1968 Regulations. The aim will be to issue guidance formally early in 2005.

Chapter 18: Rhondda Cynon Taff Area Child Protection Committee Serious Case Review

21.19 I recommend that the chairs of all ACPCs in Wales review existing procedures relating to Allegations Against Professionals to establish clear responses when dealing with such allegations within 6 months of publication of this report. Policies, procedures and practice should be unambiguous, realistic and should not conflict with local or national agency procedures.

This recommendation is addressed to ACPCs.

21.20 I recommend that the chairs of all ACPCs ensure that all agencies represented on their ACPCs establish within 6 months of the publication of this report that any policy, procedure or guidance documentation relating to child protection clearly states:

(i) date of publication;

(ii) author of documentation;

(iii) previous documentation that the new documentation supersedes.

As new documentation is introduced agencies should have a clear procedure for the storage and archiving of old policies ensuring that staff use those which are current.

The recommendation is addressed to ACPCs.

The Laming Report into the death of Victoria Climbié also highlighted the dangers of staff working to old and outdated guidance and we want to avoid this happening again. The Welsh Assembly Government will incorporate advice on this issue of storage and archiving of old policies into the draft guidance for Local Safeguarding Children Boards to be issued for consultation in 2005.

21.21 I recommend to chairs of ACPCs that if a serious case review is undertaken the independent writer for the overview report should participate in the review group meetings.

This recommendation is addressed to ACPCs. However, the Welsh Assembly Government will be developing draft guidance for Local Safeguard Children Boards to be issued for consultation in 2005. The Welsh Assembly Government will be preparing practice guidance for ACPCs on the preparation of serious case reviews and will consider this recommendation as part of this work. Work on this guidance will commence in early 2005 and will be subject to consultation with agencies.

21.22 I recommend that all Chief Executives and Directors of Education in Wales or their equivalents within 3 months of the publication of this report:

- (i) establish and maintain an authority wide database relating to all schools, stating the name of the designated liaison teacher for child protection, the level of training undertaken and the dates on which training was given;**
- (ii) develop and implement an action plan to ensure that all staff employed within education and children's services who are in direct contact with children and young people and those personnel with a policy/management role in relation to schools and the education service, are trained in child protection as appropriate to their duties;**
- (iii) carry out an audit of all schools to identify the nominated governor for child protection. Once this information is established, a programme should be put in place to ensure that nominated governors have the opportunity to attend child protection training to include training in dealing with allegations against teaching and non teaching staff. In addition, an opportunity to attend child protection training should be made available to all governors.**

The recommendation is addressed to local authorities. However, the Assembly Government proposes to issue guidance to support implementation of these recommendations locally.

Relevant and appropriate multi-agency child protection training for designated teachers and other education staff is essential to ensure the workforce can recognise the potential indicators of abuse and neglect, and confidently report their concerns or suspicions to the responsible body.

A protocol for governor training which the Assembly Government hopes to disseminate early in 2005 will take account of the recommendations of the Clywch Inquiry on governor training.

Arrangements are being made for regular discussion between Assembly Government officials and the Association of Directors of Education in Wales about follow up action to the Clywch Inquiry recommendations. The Minister for Education and Lifelong Learning will take the opportunity to discuss the action being taken by local authorities in her regular meetings with the Welsh Local Government Association and ADEW representatives.

21.23 I recommend that all Chief Executives and Directors of Education in Wales or their equivalents appoint a child protection coordinator within 6 months of the publication of this report with a specific responsibility for schools, to increase the capacity of local authorities to support and develop school related child protection issues.

The recommendation is addressed to local authorities. Current and forthcoming guidance provides effective support for the recommendation to be implemented locally.

In developing the guidance outlined in our response to recommendation 21.4 we will reinforce the key priorities and responsibilities of child protection co-ordinators for providing support and advice to designated teachers and for developing effective relationships with partner agencies. We shall also invite comments on the extent to which such individuals are best placed to co-ordinate local authority responses to the Clywch Report particularly as regards recommendations 21.4 and 21.22.

21.24 I recommend that ACPC chairs ensure that the All Wales Child Protection Procedures are amended within 6 months of the publication of this report to give guidance on the retention and storage of documents which would allow for cases to be reviewed as appropriate over a long period.

This recommendation is addressed to the Chairs of ACPCs.

The retention and storage of records covering children and employees is covered in a range of regulations and guidance. All care settings that are subject to regulation and registration under the Care Standards Act (including children's homes, fostering services and adoption services) are required by regulation to retain records for minimum periods. Generally this ranges from a minimum of 10 to 15 years in respect of records covering children, employees and carers.

Social Services Departments are required under the "Arrangements for Placement of Children (General) Regulations 1999", to retain case records on children who have been placed until the 75th anniversary of the child's birth or for 15 years after death if the child dies before age 18.

"Working Together to Safeguard Children" also contains general advice on record keeping. This will be expanded and reinforced in the guidance to be produced for Local Safeguarding Children Boards.

Chapter 19: The Children's Parents

21.25 I recommend that the Welsh Assembly Government's 'Guidance on Procedures for Dealing With Complaints to Governing Bodies' be amended to include clear and unambiguous guidance on the responsibilities of relevant parties if complaints raise child protection concerns.

21.26 I recommend that the Welsh Assembly Government's 'Guidance on Procedures for Dealing With Complaints to Governing Bodies' is amended to make it clear that the Children's Commissioner for Wales has powers, under the Care Standards Act 2000 and the Children's Commissioner for Wales Act 2001, to review complaints procedures in schools and to review individual cases.

21.27 The Welsh Assembly Government's 'Guidance on Procedures for Dealing with Complaints to Governing Bodies' shows an awareness of the difficulties in achieving sufficient independence in all stages of the investigative process of a complaint and in adjudication in schools, especially small schools. I share this concern but remain unconvinced that the remedies proposed will prove practicable and effective. Nonetheless, I feel the arrangements proposed should, amended as I have suggested, be given the chance to be tested and therefore that they, together with "Complaints Involving Pupils' should be issued as statutory guidance without delay and not later than 1 September 2004. My office will conduct a Review of these arrangements after they have been in force for 1 year.

21.28 I recommend that the Welsh Assembly Government takes the necessary steps to ensure that all the proposals within its consultation document 'Procedures for Complaints involving Pupils' are placed on a statutory footing.

The Welsh Assembly Government accepts recommendations 21.25, 21.26, 21.27 and 21.28. A number of the issues are already addressed in Circular 03/2004 "School Governing Bodies Complaints Procedures" issued in May 2004.

- The guidance Circular makes clear (paragraph 55) that if a complaint is about a matter which should be dealt with under staff disciplinary procedures, that procedure must apply. As described in the response to recommendation 21.7, arrangements for dealing with allegations against staff of child abuse are set out in the new guidance circular 45/2004.
- The role of the Children's Commissioner to review procedures and individual cases is set out in Annex A to guidance Circular 03/2004 which deals with the responsibilities of a range of public bodies in relation to complaints about schools. This information will be restated (and clarified as necessary) in supplementary guidance to be issued on pupil complaints.

- A commitment is given in guidance Circular 03/2004 (paragraph 33) to issue separate guidance on arrangements for dealing with complaints involving pupils. The draft guidance will be issued for consultation in November - the consultation will include young people. The intention is to issue the final guidance in spring 2005. The guidance will cover handling of complaints relating to child abuse, including complaints about abuse unrelated to the school setting which are not the responsibility of the school.
- The matter of the independence and impartiality of governors involved in resolving complaints is dealt with in paragraphs 26 - 28 of Circular guidance 03/2004. This makes clear that governors must be impartial in order to give a fair and balanced consideration to a complaint. The expectation is that where there is difficulty in finding sufficient governors who are impartial, governing bodies should consult the LEA and look for other ways acceptable to the complainant of investigating the complaint e.g. through the LEA or another governing body.

Guidance on governing body complaints procedures is issued in accordance with section 29 of the Education Act 2002. Section 29(2) requires governing bodies to have regard to guidance from the National Assembly about establishing and publicising complaints procedures. The elements of guidance Circular 03/2004 that have statutory force relate to the content and publication of governing body complaints procedures. In taking decisions on their procedures, governing bodies must consider the guidance on these issues and give due weight to it.

The Assembly Government will review the question of whether other elements of the guidance Circular 03/2004 should be made statutory within the terms of section 29(2). Consideration will also be given to whether elements of the supplementary guidance on dealing with pupil complaints should be given statutory effect within the terms of section 29(2). This matter will be addressed in the consultation referred to above.

The Assembly Government welcomes the intention of the Children's Commissioner to review the operation of complaints procedures in schools as they relate to pupils, and in particular the issue of whether the investigation and resolution of complaints is carried out in a fair and impartial way.

21.29 I recommend that the Welsh Assembly Government devise a national strategy for the provision of an independent children's counselling service for children and young people in education including provision of appropriate support to children during disciplinary, child protection, complaints and exclusion processes within 12 months of the publication of this report. This national strategy should also consider teachers' pastoral care skills, training and support and the respective roles within pastoral care of teaching staff, counsellors and educational welfare staff.

The Welsh Assembly Government accepts this recommendation for further consideration in the light of ongoing work being undertaken on the provision of advocacy services for children and young people across health, social care and education settings. An advocacy unit is being set from the Autumn to review and develop the future provision of advocacy services for children and young people in Wales to ensure that services are effective and seamless.

21.30 I recommend that the Welsh Assembly Government within 3 months of the publication of this report require all school governing bodies to ensure that children are informed in their school of the availability and purpose of relevant services, including ChildLine, the NSPCC Child Protection Helpline, social services, the Children's Commissioner for Wales and advocacy services.

This recommendation cannot be actioned by the Assembly Government in the form of a requirement but we will address it through guidance.

The decision to make information available to pupils about particular organisations or services, other than where there is a statutory duty to do so, is a matter for individual head teachers and governing bodies. However, we will encourage the information to be publicly displayed and available to all pupils.

Reference to advocacy services will be contained in the Assembly Government's proposed guidance on dealing with complaints from pupils. The guidance will also recommend that all schools should make available to pupils information about child protection services - the information to be suited to the age and understanding of the pupils involved.

Circular guidance 52/1995 already advises that pupils should be made aware of local and national helplines and, where appropriate, given access to a telephone to make calls in private. As part of the proposed Section 175 circular guidance on Safeguarding and Protecting Children, we will reinforce the need for the availability of such services in a manner suited to the age and understanding of the pupils involved.

21.31 I recommend that ACCAC within 12 months of the publication of this report review its Personal and Social Education Framework in light of my report and decide whether changes or additions need to be made.

The Welsh Assembly Government accept this recommendation and will address it through the sponsorship arrangements it has in place with ACCAC.

The Assembly Government agrees that the PSE Framework should be reviewed by ACCAC in the light of the Commissioner's report. We believe that this should be done as an integral part of forthcoming work by ACCAC to revise the school curriculum in Wales. We are currently considering advice from ACCAC about the scope and nature of revisions to the curriculum and the timescale for their introduction. We anticipate that changes to the key curriculum documents (the national curriculum programmes of study and Work Related Education, Personal and Social Education and Careers Education Guidance frameworks) would be introduced for September 2008. Substantial lead-in times are key to ensuring that any curriculum change is well considered and developed and that schools have ample time to plan for and implement change.

We will be making a full response to ACCAC's advice this autumn and will subsequently remit ACCAC on how it should make progress with revising the curriculum. We will remit ACCAC to take the Commissioner's report into account in reviewing the PSE Framework.