

LCO on vulnerable children & child poverty

Evidence from the Equality and Human Rights Commission

Background

The Equality and Human Rights Commission (EHRC) is an independent statutory body established by the 2006 Equalities Act. The Commission commenced its work at the start of October 2007 with both a strong staff presence in Wales and a statutory Wales committee. The Commission's vision is of a society built on fairness and respect, and where its people are confident in all aspects of their diversity. The organisation's aims are to promote equality, reduce inequality, eliminate discrimination, strengthen good relations between people, and to promote and protect human rights. The Equality and Human Rights Commission incorporates the three previous Commissions on race, gender, and disability. It also has new mandates covering age, religion and belief, and sexual orientation and is the only statutory body in Wales with direct responsibility for promoting human rights. It will also work closely with the Welsh Language Board to promote language equality in Wales.

As part of its remit on age, the Commission will promote equality and human rights amongst children and young people. To undertake this work effectively, we will be working closely with the Children's Commissioner in Wales and with voluntary sector organisations whose remits cover children and young people.

Terms of the proposed Order and the policy agenda

The Commission supports the seeking of devolved powers in relation to the social care of children and on countering child poverty. However, we are acutely aware that criminal law aspects relating to the protection of children as well as taxation, benefits, and employment issues relating to child poverty remain reserved responsibilities. Whilst further devolution of power is appropriate, effective mechanisms need to be in place to enhance co-ordination between devolved and reserved functions in order to develop a coherent and comprehensive approach.

When giving evidence to the LCO committee on 25th October, the Deputy Minister stressed that the LCO would apply to Field 15 on social welfare only. However, powers relating to other fields may also need to

be devolved in order to address child poverty. This may include but not be limited to Field 4 (economic development), Field 5 (education & training) and Field 11 (housing). For example;-

- Worklessness and the low wage economy are considered to be the primary causes of child poverty. This LCO addresses the needs and responsibilities of the wider 'family', but would not necessarily enable a Measure to be introduced enhancing the provision of affordable and widely available childcare
- A Health Impact assessment study by Cardiff University on house conditions in the Llynfi valley established linkages between poverty, poor housing conditions, and the health and well-being of children.
- Links between this LCO and the one on Additional Learning Needs seeking to amend Field 5 were raised in committee by Kirsty Williams AM on 25th October. Further links are needed with the field of education and training to address issues such as racial and homophobic bullying (Matter 5.5 one assumes) and better inclusion of Gypsy Traveller children and other disadvantaged groups.
- Protecting children experiencing the direct or indirect consequences of domestic violence will include cross-references to Field 11 (Housing) and Field 9 (Health) as well as action in the largely reserved areas of safer communities and criminal law. Welsh Women's Aid report that children occupy half the spaces within refuges in Wales and that 10% of children have no access to primary care health support in the form of doctors and dentists..

The Commission supports the application of the LCO to the widest possible group of children and young people. We were pleased to hear the Minister confirm that the LCO will cover the needs of Gypsy and Traveller children where the implementation of Government recommendations remains slow. Whilst recognising the potential conflict with the Home Office, we contend that there is slightly more room for manoeuvre in relation to refugee children than the Deputy Minister envisaged.

An assessment of whether a child or young person considers her/himself to be 'vulnerable' is a contested area, and poverty is commonly

considered as a relative rather than an absolute concept. For example, an over-protective approach from the family of a disabled child can enhance potential vulnerability when parents are no longer able to fulfil a caring role. Also the extra costs of caring for a disabled child may force an otherwise affluent family below the poverty line, despite the fact that they may reside in an area considered to be affluent.

We also support the Minister's intention to extend coverage to families of 'vulnerable' children and those facing poverty. There are long established links between poverty, worklessness, low pay, and the generational causes and consequences of persistent child poverty.

Policy-makers often consider countering child poverty solely in the context of identifying geographical areas of social or economic deprivation. Initiatives are then targeted at these areas to attempt to ameliorate poverty. These efforts are often commendable, but may not tackle the underlying poverty faced by some specific groups of children. For example, the Equalities Review 'Fairness and freedom' reveals that whilst class status remains the most important determinant of educational attainment, gender and ethnicity play an important part too. Basing a strategy solely on spatial factors may also ignore the needs of children in seemingly affluent areas which may be subjected to harm and neglect.

Support provided at an early stage can prevent clumsy and heavy handed interventions by local authorities such as a Nottinghamshire case where a child was removed from a family where both parents had learning disabilities on the basis that they were deemed 'too slow' to cope. In giving evidence to the committee, the Minister mentioned that the behavioural capacity of the family could be taken into account. In our view, this should only occur when all forms of support and adjustment had been considered for family members.

We trust that any definition of 'family' will encompass lone parent families, children cared for by same sex couples, and cohabiting couples.

The listing of matters within Schedule 5 is now quite spurious. If this LCO is approved, then social care will join education and health in having detailed sub clauses specifying named devolved policy areas.

We would then look for reassurance that by including these matters, other aspects of social care policy such as support for vulnerable adults and older people would not be sidelined.

Matter 15.1. The Commission would advocate a wide interpretation of what may constitute 'harm and neglect'.

Matter 15.3. Again we would anticipate a wide interpretation of who may care for children.

Matters 15.5 and 15.6 Real concerns have been expressed about the lack of consistency in social care provision between children and adults. This is of particular concern in relation to the treatment of disabled young people and those from Gypsy Traveller families. The Commission is pleased that the Ministerial External Reference Group on Transitions for disabled people will address continuity of social care provision. However, at this stage we would want to confirm that the LCO is cast sufficiently wide to enable a future measure to establish more consistent and meaningful transitional social care planning.

Although Matter 15.7 mentions the role of children and young people in complaints, the list lacks a specific reference to ensuring that young people have a voice in the planning and implementation of their social care.

On Matter 15.8 relating to promoting equality amongst children and young people relating to their well-being, we would like confirmation that this may include narrowing levels of inequality between the poorest and the most affluent within Welsh society. It is commonly recognised by parents organisations in Wales that a 's/he who shouts loudest' policy applies by default in the provision of educational and social care support for disabled children. By addressing issues on equality in well-being, we trust that a future Measure may assist in restoring this imbalance as many of the 'loud shouters' come from more affluent backgrounds.

Whilst we recognise that the Children in Care Bill currently passing through Westminster has the potential of strengthening inspection arrangements, we would like the case made for adding a further Matter to the list covering inspection and evaluation.

Definitional issues

We were pleased to hear reassurances from the Minister that definitions of 'harm and neglect' should encompass the psychological impact of witnessing violence in the home. A research report on domestic violence by the Equal Opportunities Commission in Wales (August 2007) cited research that in 90% of domestic assaults on women occurring in the home, children are in the same or an adjacent room. Nearly three quarters of children on the child protection register live in households where domestic violence occurs. According to Welsh Women's Aid research, securing the safety of the mother is typically the most effective way of guaranteeing the protection of the child in these circumstances.

It may be useful to explore to what extent other forms of anti-social behaviour might relate to forms of neglect also.

Some care is needed in drawing categorical distinctions in age categorisations between children and young people. Whilst we would support having definitions, they must recognise that a significant number of young people may remain in the secondary education system at the age of 19.

For reasons stated earlier in this briefing, we would resist any attempt to define 'vulnerable children' and 'child poverty' in this LCO as we deem it more appropriate that such discussions take place when a Measure is introduced which may have more limited scope.

We are very pleased that securing rights is covered within the definition of well-being but would wish to ensure that this is extended to cover the effective execution of rights and the onus to involve and provide feedback for children and young people at all stages of service delivery and planning.

We would also advocate the setting of the age limit for a young person as 25 and not 24 as stipulated in the definition. This is especially important in terms of some disabled young people who may take longer to access education and training or who are more dependent on social care services.

Exemptions

Most of these seem self-explanatory. Would we be right in assuming that Housing Benefit and Disabled facilities Grants would not be exempt?

The decision by the Assembly Government to end means testing for home adaptations for households including a disabled child has been one of many initiatives to help some families from poverty

For further information please contact Alun Thomas or Sophie Howe on 029 2066 3774 or 0777 617 1275