



Cynulliad National  
Cenedlaethol Assembly for  
Cymru Wales

## **The Petitions Committee**

### **Completion Report**

**Summary of the Petitions Committee's consideration of  
P-03-079 Children's Commissioner for Wales Legal Duties**

**October 2008**

**Date Received**

23 October 2007

**Ruled Admissible**

9 November 2007

**Initial Consideration****21 February 2008**

The Committee decided to take consideration of this petition in private, and agreed to:

- Ask the Minister for Children, Education, Lifelong Learning and Skills to update the Committee on any actions that remain outstanding from the Clywch and Whitehouse inquiry recommendations.
- Write to the Acting Children's Commissioner to ask for her view on the current powers of investigation available to her, and any changes to the law she would like to see.

(See Annex 1 for the relevant extract from the transcript of the meeting on 21 February 2008)

**Further Consideration****2 October 2008**

The Committee considered responses from the Minister for Children, Education, Lifelong Learning and Skills and the Deputy Children's Commissioner, and agreed to close the petition as it was unable to progress the petition any further.

(See Annex 1 for the relevant extract from the transcript of the meeting on 2 October 2008, Annex 2 for the response received from the Minister for Children, Education, Lifelong Learning and Skills and Annex 3 for the response received from the Deputy Children's Commissioner)

**Petitions Clerk**

**October 2008**

## **Annex 1**

## Extracts from Petitions Committee meetings

### 21 February 2008

**Val Lloyd:** Under Standing Order No. 10.37, we must discuss whether we are to take item 6 in private. This is the initial consideration of the petition in relation to the powers of the Children's Commissioner for Wales. I invite Members to express their views.

**Andrew R.T. Davies:** From reading the papers, I am not sure why there is a request to take this petition in private, but I will listen to the advice and be guided by it.

**Val Lloyd:** I will ask for a legal opinion on this, to help us to decide.

**Ms Jackson:** I have read the petition, as have you. The supporting information includes a set of case studies relating to various family proceedings. While there is no identification of children or members of their families, there is identification of social workers and local authorities involved in the proceedings. I would advise that, under those circumstances, you should resolve under Standing Order No. 10.37 to take the initial consideration of the petition in private session.

**Val Lloyd:** That was very clear. Are Members happy to go with the legal advice? I see that you are. I therefore propose that

the committee resolves, under Standing Order No. 10.37, to exclude the public from the discussion on item 6.

I see that you are content. We will take that item in camera.

Derbyniwyd y cynnig.  
Motion carried.

### 2 October 2008

**Val Lloyd:** The next update relates to the petition regarding the Children's Commissioner for Wales. Joanest, will you comment on this please?

**Ms Jackson:** In your papers, you have been alerted to the response of the children's commissioner. You will recall that this petition essentially concerns enhancing the powers of the children's commissioner. Reference is made in particular to areas in which the commissioner, at present, has no jurisdiction to investigate, particularly where such matters are, or have been, before the courts. I understand that, in your papers, there is a link to the evidence given on behalf of the office of the children's commissioner to the legislative committee considering the National Assembly for Wales (Legislative Competence) (Social Welfare and Other Fields) Order 2008, which was previously referred to as the vulnerable children LCO. Members are probably aware that this Order has completed its progress through the Assembly and is awaiting consideration by the Houses of Parliament. If it successfully proceeds through Parliament, it will go to the Privy Council for confirmation. I do not think that there is very much more to say.

The petition concerned the powers of the commissioner. You have seen the response from the Minister for Children, Education, Lifelong Learning and Skills, who referred to the position of the commissioner, setting out that some of the functions are not exercisable when judicial hearings have taken place. In other instances, other

mechanisms are available, such as representations to local authorities or other statutory bodies. Her view is that the position may change if this LCO becomes law. The action that the committee is advised to take is set out for you there, namely that you should close this petition, as you cannot progress any further.

**Val Lloyd:** Does anybody wish to comment on that, or are you all minded to accept that way forward? I see that you are, so we will close this petition. I stress that it is going forward elsewhere, as Joanest has helpfully outlined, namely through the LCO. Therefore, I formally close this petition.

## Annex 2

Jane Hutt AC/AM

Y Gweinidog dros Blant, Addysg, Dysgu Gydol Oes a Sgiliau  
Minister for Children, Education, Lifelong Learning and Skills



Llywodraeth Cynulliad Cymru  
Welsh Assembly Government

Eich cyf/Your ref PET-03-079  
Ein cyf/Our ref JH/00375/08

Val Lloyd AM  
Valerie.Lloyd@Wales.gov.uk

21<sup>st</sup> April 2008

Dear Val,

I am writing in response to your letter of 14 March in respect of a petition submitted to your Committee requesting strengthening of the powers of the Children's Commissioner for Wales.

In respect of your request for an update on work carried out as a result of the Waterhouse and Clywch inquiries, I attach:

- a) an action grid relating to the Waterhouse Report completed in 2003, recommendations 1 and 2 of which relate to the setting up of and role of a Commissioner;
- b) a report of the Assembly Government setting out responses made by the Assembly Government to recommendations of the Clywch Report prepared by the Children's Commissioner, all of which have now been met.

With reference to the allegations set out in the petition, it is difficult to comment accurately without having more specific details of the allegations being made and the wording is not entirely clear. It would appear that items or aspects of them that do not relate to actions of the courts, or agencies over which he has no powers of examination, could be examined by the Children's Commissioner should he wish to do so using his existing powers.

The Children's Commissioner is specifically prevented from enquiring about matters that are or have been the subject of court proceedings. A system of appeal is already provided within the independent judicial system and the introduction of what would effectively constitute a second appeal process would compromise this. However, the position may change when the Legislative Competence Order for Vulnerable Children and Child Poverty comes into effect.

You refer to the unsubstantiated assertions made in the petition and state that children, social workers and officials are named. Without seeing details it is difficult to provide clear advice in relation to these. However, the Chief Inspector, Care and Social Services Inspectorate (Wales) advises that any allegations made concerning the various agencies involved in particular child abuse and custody cases where children, social workers and

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1NA

English Enquiry Line 0845 010 3300  
Llinell Ymholiadau Cymraeg 0845 010 4400  
Ffacs \* Fax 029 2089 8475  
Correspondence: Jane.Hutt@Wales.gsi.gov.uk

Wedi'i argraffu ar bapur wedi'i ailgylchu (100%)

Printed on 100% recycled paper

other officials involved are named must be referred to the responsible statutory agencies, social services and police, without delay. Allegations about individuals, staff or officials should similarly be referred to the relevant employers without delay.

You write that legal advice recommends that the details provided of these matters should not be considered by the Committee. Before doing so the Committee needs to be certain that this will not prejudice any current or future investigation. Those responsible for the petition should be made aware of the seriousness of such allegations and the importance of reporting them to the agencies responsible for investigating them.

Should you require advice on this aspect you should contact Jonathan Corbett, Assistant Chief Inspector in the Care and Social Services Inspectorate, on 029 2082 5905 or by email at [jonathan.corbett@wales.gsi.gov.uk](mailto:jonathan.corbett@wales.gsi.gov.uk). I would also ask that through him the Committee informs the Inspectorate and policy officials who deal with safeguarding of the action it intends taking in respect of this matter.

Bert Wisher,

Jane



## **Annex 3**

79

RECEIVED  
14 JUL 2008

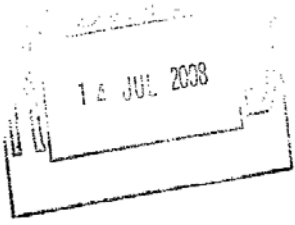
ARJD



Comisiynydd Plant Cymru  
Children's Commissioner for Wales

11-13, The Quadrant, Phoenix Way, Llanhamlet, Swansea SA7 9ES  
11-13, The Quadrant, Phoenix Way, Llanhamlet, Abertawe SA7 9ES  
Tel: 01792 765600 Fax: 01792 765601  
Email: [cc@childcomwales.org.uk](mailto:cc@childcomwales.org.uk)  
Website: [www.childcomwales.org.uk](http://www.childcomwales.org.uk)

11 July 2008



Ms Lloyd AM  
Chair Petitions Committee  
National Assembly for Wales  
Cardiff  
CF99 1NA

Dear Ms Lloyd

**Petition requesting Strengthened Powers for the Children's Commissioner for Wales**

Further to our letter of 17th April please accept my apologies for the delay in replying.

We did meet with the lead petitioner and discussed the current parameters of the Commissioners' powers including the more grey area of our role in relation to CAFCASS Cymru.

I do not wish to supplement the evidence given to the Vulnerable Children LCO except in so far as the further and similar evidence given to the Welsh Affairs Select Committee.

Yours sincerely

Maria Battle  
Deputy Children's Commissioner for Wales

Also at:  
Penrhos Manor, Oak Drive, Colwyn Bay, Conwy LL29 7YW  
Tel: 01492 523333 Fax: 01492 523336  
Email: [cc@childcomwales.org.uk](mailto:cc@childcomwales.org.uk) Website: [www.childcomwales.org.uk](http://www.childcomwales.org.uk)

Penrhos Manor, Conwy LL29 7YW

[www.childcomwales.org.uk](http://www.childcomwales.org.uk)