

SPECIAL EDUCATIONAL NEEDS TRIBUNAL FOR WALES

NOTES FROM FOLLOWING USER GROUP MEETINGS:

North Wales	Wednesday 16 th March 2011 at 10.30AM	Oriel Hotel, St Asaph
South and East Wales	Wednesday 30 th March 2010 at 10.00AM	Cophorne Hotel, Cardiff
Mid and West Wales	Thursday 31 st April 2010 at 10.30AM	Cliff Hotel, Cardigan

1. Welcome and Apologies

As listed at Annex A

2. Notes of the meetings from Spring 2010 – SENTW (10)01

The President welcomed everyone and there were no matters arising from the previous meetings.

3. SENTW meeting with the Welsh Minister for Education – Rhiannon Walker, President

SENTW President, Rhiannon Walker met with the Welsh Minister for Education. Matters discussed included

- The significant increase in appeals about refusal to assess and refusal to statement.
- The need for LA's to ensure careful application of the law and relevant codes of practice when making decisions.
- The use of more pro-active use of disagreement resolutions service amongst parties.
- The need to ensure that decision letters meet statutory requirement to inform parents of their right of appeal
- Preparing for children themselves to be able to make a SEN appeal and disability discrimination claim to the Tribunal. This has created

a large increase in the volume of work for the secretariat. The new rights will initially run as a pilot study in Wrexham and one other LA only. There has been significant delay with preparation of regulations for the pilot and the new procedural regulations for the Tribunal. The Minister expressed commitment to avoiding further delay.

4 Annual Report & Tribunal updates- Sian Mills, SENTW

- Format of SENTW annual report has been changed. Figures and statistics shown through visual charts and graphs. SENTW has circulated the annual report electronically, hard copies are available by request. Annual report is also available on SENTW website. Request made that annual report includes statistics for part 4 only appeals and whether appeals upheld are upheld in full or part. Also that appeals registered statistics are linked to school populations. NB, this is included at page 11 of annual report.
- A summary of the annual report was given along with an update on this Tribunal year to date. This year so far we have received 53 appeals, of which 50 have been registered. We have also carried over 33 appeals from last year. Mid and West Wales accounting for 24% of appeals registered this year, South and East 66% and North 10%. Outcomes of appeals this year are that 21% have been conceded, showing a slight decrease on last year, 22% withdrawn, and 18% decided (of which 87% were upheld). 37% are live cases. We have received 2 disability discrimination claims and carried over a further 3 from last year. Of these 3 were upheld, 1 withdrawn and 1 dismissed. We have not received any applications for review or for permission to appeal to the Upper Tribunal.
- Last year saw the appointment by Welsh Ministers of 3 new specialist members. All have now completed the formal induction programme, which means that they will now be listed on the panel for hearings.

5 Disability Discrimination Claims

Paper circulated giving key changes and useful resources.

The Disability Discrimination Act has been replaced by the Equalities Act 2010. The Equalities Act provides for a 'Questions Procedure'. This can be sent by the claimant to Schools or LA's to ask for further information relating to alleged acts of discrimination. The purpose of the form is to help the claimant to determine whether they have a valid claim. Questions are prescribed on the

form and the answers given can form part of the evidence. Incomplete and non replies can be taken into account by the Tribunal.

The Act includes auxiliary aides and services, but this part of the Act is not yet in force in respect of schools. SENTW is drafting new publications 'How to make a claim' and 'How to respond to a claim' These will be available on SENTW website when finalised.

6 New children's rights/pilots & draft amended Tribunal Procedural Regulations – Llion Hughes, Welsh Assembly Government

- Llion began with background information. Explaining that the Education (Wales) Measure 2009, which gives children the rights to make appeals/claims themselves gave us an opportunity to overhaul the current 4 Statutory Instruments that govern the procedures of the Tribunal. The Regulations need overhauling to ensure they are fit for purpose and reflect current practice which has been developed and refined since the inception of the Tribunal in 2003, it also gives the opportunity to ensure the processes and procedures are family friendly. A number of User Group members had responded to Huw Maguire's note dated 31 July 2009 seeking their initial views.
- Llion explained that it was originally the intention to overhaul the regulations once the Education (Wales) Measure 2009 was made, as part of the suite of subordinate legislation required to implement the pilot phase. Unfortunately, they have had to delay the making of the subordinate legislation, and hence commencement of the pilots, due to unforeseen complexity in the legal relationship between the Education (Wales) Measure 2009, the Disability Discrimination Act 1995 and the Equality Act 2010 (which has now repealed the DDA 1995).
- Llion took the opportunity to specifically thank Sian Mills and the SENTW team, reporting them to have been instrumental in helping get to this stage, the input to date has been extremely valuable and he was most grateful for their input.
- Formal consultation will take place on these Regulations in the near future, to which the Welsh Assembly Government will be seeking the User Group members' views. However, Llion believed that it was important that the people these regulations will have the utmost effect on, i.e. the Tribunal users, have as much time to discuss and express their views on the draft Regulations as possible.

- User group members can respond to the formal consultation on the Regulations, which Llion is aiming to commence within the next month. The consultation will be available on the Welsh Assembly Government website. Alternatively, you can feed your comments back via SENTW.
- Some of the points discussed regarding the amended regs included the extension to time limit in bringing an appeal to 3 months if disagreement resolution is used. All persons with parental rights to be informed of appeal. Persons able to attend hearing would include up to 2 witnesses plus an observer, also a person to give voice to the child. There was some confusion between this role and that of an advocate. The role of the case friend. The overriding objective for co-operation between parties, both parties to provide details of steps taken to resolve dispute. New presidential powers.
- **ACTION** – SENTW website to provide link to consultation.

7 **WAG Statutory assessment and statementing pilots – Cliff Warwick, WAG**

- Paper circulated – and presentation of pilot updates. (presentation handouts available) This raised much discussion and Mr Warwick asked that any further feedback be sent to him at cliff.warwick@wales.gsi.gov.uk. Interim reports during pilots will be available via WAG website. Summary of points raised at meeting were:
 - Principles of Change welcomed.
 - Parental perception of what LA's refer to a 'significant need' is varied.
 - Rights of child/parent – where do these stand in Individual Development Plans compared to statements.
 - Most profound needs often relate to health/social services – need same rights in health/SS as in education.
 - Further co-operation between agencies required.
 - Societies (Scope, NAS, NDCS etc) perception of what children should receive.
 - LA's need to devolve more money to schools – statements no longer required.
 - Parents don't feel they will receive the same help from schools without a statement, parents do not understand the systems.
 - Parents feel they lose certain routes to other things without a statement e.g. –DLA, post 16 education.
 - Need to get schools and parents together.
 - LA's reported an increase in requests for statutory assessments (doubled in some areas).

- Disapplication – i.e. pupils with speech/language difficulties could be disapplied from French as inappropriate.
- Parents want/need assurances.
- Some LA's use 'informal parental agreements' successfully
- Children often not included in IEPs etc, mediation required with child involvement.
- Statement required for child to access special schools

8 Tribunal Reform in Wales – Margaret McCabe, Head of Administrative Justice Branch, Welsh Government.

- In March 2010 Cabinet considered the first special report of the Welsh Committee of the Administrative Justice and Tribunals Council (AJTC). Cabinet supported the broad thrust of the Welsh Committee's findings. It was agreed that officials would scope the internal actions needed for the substantive consideration of the recommendations and prepare a draft action plan for Ministerial approval. This action plan for the implementation of recommendations was approved by Cabinet in November 2010.
- The report contains 'core' and 'other' recommendations. The 5 core recommendations for the Assembly Government to pursue have been given highest priority. The remainder, which offer areas for further work and reform, will be treated as special projects and imply a programme of work over 2-3 years.
- Recommendation 1 is that there should be a single focal point for administrative justice within the Assembly Government. This has now been established in the Department of the First Minister and Cabinet (DFMC). The administrative functions for the Special Educational Needs Tribunal, the Registered School Inspectors Appeal and the Registered Nursery Education Inspectors Appeal Tribunals transferred to DFMC on 1 April 2011.

9 Other Business

- 9.1 Case Law – recent overturn of Lewisham ruling. Implications regarding cost of a SENCo when comparing costs of provisions.

ACTION- Mr Ian Davies, Conwy LA to email case summary to SENTW for circulation.

- 9.2 Belonging Regulations – Members agreed it would be useful to have a WAG representative to update on the belonging regulations.

ACTION: SENTW to arrange for representative for next round of meetings.

9.3 It was noted by AJTC that the Tribunal no longer provides syndicate rooms at hearings and that the lack of privacy may be difficult for parties when discussing the case outside of the hearing room. The Tribunal reported that only venues with adequate waiting areas are booked for hearings and that some positive feedback has been received in terms of encouraging discussion between parties. Also that some parties have taken it upon themselves to book their own waiting room.

10 Date of Next Meetings:

- South & East Wales Region: 19th October 2011, Cardiff
- North Wales Region: 12th October 2011, St Asaph
- Mid Wales Region: 20th October 2011, Llanelli

SEN TRIBUNAL FOR WALES

SUMMARY NOTES FROM REGIONAL USER GROUP MEETINGS

ATTENDANCE:

Lesley Cheshire	Cardiff LA	South Wales Region
Paula Blackmore	Blaenau Gwent LA	South Wales Region
Gavin Metherringham	Torfaen LA	South Wales Region
Ruth Mitchard	Caerphilly LA	South Wales Region
Bev Lane	Caerphilly LA	South Wales Region
Andre Mundy	Neath Port Talbot LA	South Wales Region
Susan Jablonski	Merthyr Tydfil & Rhondda Cynon Taf LA	South Wales Region
Ann Rhodes	SEN Advisor	South Wales Region
Gaynor Davies	Rhondda Cynon Taf LA	South Wales Region
Nathan Kethro	Newport LA	South Wales Region
Tim Spinks	Independent Parental Representative	South Wales Region
Steven Monnery	The National Autistic Society	South Wales Region
Debbie Green	NDCS	South Wales Region
Bob Grover	Vale of Glamorgan LA	South Wales Region
Derek Tilley	SNAP Cymru	South Wales Region
Mary Greening	AEP	South Wales Region
Marie Macey	Parent	South Wales region
Sue Watt	Parent Governor, Craig y Parc School	South Wales Region
Paul Jones	WAG	South Wales Region

Margaret McCabe	WAG	South Wales Region Mid & West Wales Region
Angharad Behnan	Gwynedd and Anglesey LA	North Wales Region
Ann Neal	Wrexham LA	North Wales Region
Ann Pumford	Wrexham LA	North Wales Region
Denise Hawkins	Flintshire LA	North Wales Region
Ailsa Fisher	Flintshire Parent Partnership	North Wales Region
Karen Parry	Flintshire LA	North Wales Region
Bethan Perkins	Snap Cymru	North Wales Region
Ian Davies	Conwy LA	North Wales Region
Jil Timothy	Denbighshire LA	North Wales Region
Kate Wyke	Wrexham Parent Partnership	North Wales Region
Mair Read	Ynys Mon LA	North Wales Region
Liz Harrison	NYAS	North Wales Region
Gareth Lewis	AJTC	Mid & West Wales Region
Kay Williams	Childrens Commission for Wales	Mid & West Wales Region
Dee Polocarz	Pembrokeshire LA	Mid & West Wales Region
Jayne Ciccotti	Pembrokeshire LA	Mid & West Wales Region
Ann Thomas	Powys LA	Mid & West Wales Region
Lynwen Roberts	Ceredigion LA	Mid & West Wales Region
Cheryl Hopkins	Carmarthenshire LA	Mid & West Wales Region
Cliff Warwick	WAG	All Regions
Llion Hughes	WAG	South Wales Region Mid & West Wales Region North Wales (via telephone)

SEN TRIBUNAL FOR WALES:

Rhiannon Walker	President	All Regions
Sian Mills	Secretary to the Tribunal	All Regions
Tania Ryland	Clerk to the Tribunal	All Regions
Norman Donovan	Panel Lay Member	South Wales Region
Sian Wyn Siencyn	Panel Lay Member	South Wales Region
Gareth Roberts	Panel Lay Member	South Wales Region
Andrew Wilson	Panel Lay Member	South Wales Region
Sandy Boyle	Panel Lay Member	SouthWales Region
Gwyn Davies	Panel Chairperson	South Wales Region
Gwyn Griffiths	Panel Lay Member	South Wales Region
Sue Taylor	Panel Lay Member	South Wales Region
Hilary Hayward	Panel Lay Member	South Wales Region
Richard Ellis-Owen	Panel Lay Member	South Wales Region
Catrin Lewis	Panel Lay Member	South Wales Region

APOLOGIES:

Meleri Tudur	SENTW	South Wales Region
Mark Allen	SENTW	South Wales Region
Jacqueline Blackmore	SENTW	South Wales Region
Sally Hughes	Bridgend LA	South Wales Region
Jeanette Carr	AFASIC CYMRU	South Wales Region
Sharon Davies	Swansea LA	Mid & West Wales Region
Claire Lucignoli	Parent	Mid & West Wales Region
Marion Bowden	Pembrokeshire LA	Mid & West Wales Region
Margaret Denholm	Carmarthenshire LA	Mid & West Wales Region
Maggie Bowen	Autism Cymru	North Wales Region
Rhys Wyn Parri	Snap Cymru	North Wales Region