

INDEPENDENT INVESTIGATION SERVICE IN WALES TO ADDRESS ABUSE ACCUSATIONS AGAINST TEACHERS

INTRODUCTION

This Briefing Paper looks at the legislation and guidance that has been put in place in Wales to address accusations of abuse made against school staff. The legislation was passed in response to recommendations in an Inquiry conducted by the Children's Commissioner¹ following the suicide of a teacher accused of child abuse in Wales in 2001².

LEGISLATION

'The Staffing of Maintained Schools (Wales) Regulations 2006'³ legally requires governing bodies of all maintained schools in Wales to appoint independent investigators where allegations of abuse are made against school staff. With effect from September 2006 this requirement formed part of the school staff disciplinary and dismissal process. The Regulations state in 7(3) and 7(4) that:

(3) Where allegations are made against a member of the school's staff that involve issues of child protection the governing body must appoint an independent investigator to investigate the allegations prior to the hearing of any proceedings relating to those allegations.

(4) A person appointed by the governing body as an independent investigator under paragraph (3) is to be regarded as independent in the following circumstances-

- (a) where the person is not a governor of the school in question;
- (b) where the person is not a parent of a current or former pupil at the school in question;
- (c) where the person is not a current or former member of staff at the school in question;
- (d) where the person is not currently employed by the local education authority that maintains the school in question.

¹ The Clywch Inquiry Report (July 2004) available at:
<http://www.childcomwales.org.uk/uploads/publications/70.pdf>

² Background information - 'Timeline: Clywch inquiry' BBC News available at:
<http://news.bbc.co.uk/1/hi/wales/3853953.stm>

³ The Staffing of Maintained Schools (Wales) Regulations 2006' available at:
<http://www.opsi.gov.uk/legislation/wales/wsi2006/20060873e.htm>

The appointment of independent investigators must not take place until the statutory authorities have completed their investigations and the legislation does not specify that school governors cannot appoint their own investigators. However, if they do not use the service appointed by the Welsh Assembly Government (WAG), they will have to pay for the service out of school funds.

The Independent Investigation Service (IIS) was set up and funded by the WAG as part of its response to recommendations in the 'Clywch Inquiry Report'⁴. The Report contained 31 recommendations, 16 of which fell within the direct responsibility of the WAG, including the setting up of an IIS.

INDEPENDENT INVESTIGATION SERVICE

In November 2006 the Minister for Education, Lifelong Learning and Skills ("the Minister") announced that a contract had been awarded to an organisation called Dream Group Ltd to establish and manage an IIS⁵. The contract was awarded as part of a tendering process for a period of one year, with an option to extend for a further two years subject to a satisfactory performance review⁶.

The role of the Assembly Government's independent investigator is to:

- Examine and review any evidence provided by statutory authorities;
- Undertake their own investigations into allegations on behalf of the governing body;
- Produce a detailed report of their findings for the governing body staff disciplinary/dismissal committee to consider and reach a decision.

In January 2008, in response to a 'Contract Departure Request' in December 2007⁷, the Minister announced that 'Servocadream' (formerly Dream Group Ltd⁸.) could receive more core funding. The Minister's statement explained that:

...The funding of Servocadream was based on payment of a fixed management and administration fee to pay for core costs, and a daily rate for the investigators paid retrospectively on a per case basis. At the time the Assembly Government tendered for the service it was estimated that there would be around 20 cases per year requiring

⁴ The Clywch Inquiry began in March 2002 following the suicide of a teacher who was first suspected of child abuse in 1983, arrested in September 2001 and was found dead in October 2001.

⁵ 'Independent Investigation Service for school child protection allegations announced'; 13 November 2006 on Welsh Assembly website at:

<http://wales.gov.uk/news/archivepress/educationpress/edpress2006/1087470/?jsessionid=vW5FLYJThRnDdRtTydBPDZGh4gK21SwyJTLzkl2ZMy2c02BMf17!2138048893?lang=en>

⁶ A search of the Welsh Assembly Government website (March 2010) found no information on a performance review having been carried out.

⁷ In response to an 'Independent Investigation Service Contract Departure Request – December 2007' available at :

<http://wales.gov.uk/publications/accessinfo/drnewhomepage/educationdrs2/educationdrs2008/1935514/?jsessionid=h8yGLZNfKLvLfqZlBhV3Jv6vMDt1ds1XssBDGSwJYL1v1TnBQk0!-1820637139?lang=en>

⁸ The name Dream Group was found to have unexpected connotations and hence the name change. Servocadream is a subsidiary of Dream Group Ltd whose subsidiary companies include 'Dream Education' recruiting secondary school teachers.

independent investigation. However, in the first year of the contract around 100 referrals were made to Servocadream. Because of the large increase in the number of referrals, the Minister for Children, Education, Lifelong Learning and Skills has considered an increase in future contract core funding should the volume of cases remain higher than originally expected.

The role of the independent investigators is to interview people involved in a child protection allegation and could result in them having to interview or re-interview children. Interviews with children must be dealt with sensitively and requires specialised skills. The Minister has also considered contributing additional financial support for the contractor to arrange specialised training for investigators in interviewing children.

When the contract was awarded in November 2006 the organisation was called Dream Group Ltd. Head of Managed Services for the Dream Group was a former Detective Superintendent with the Metropolitan Police where he was Head of the Metropolitan Police Crime Academy. The announcement on the WAG website also names the Director of Dream Policing Division as a former Assistant Chief Constable of South Wales Police.

EVALUATION OF THE SERVICE

In 2006 when 'Servocadream' were appointed it was to have been for a period of one year, with a further two years subject to a satisfactory performance review. However, no performance review was ever carried out and 'Servocadream' held the contract for the whole of the three year period from 2006 until 2009.

Prior to a tendering process for a new contract in the summer of 2009, a working group was established by the WAG to draw up Terms of Reference for the tendering process to appoint an IIS for a further three years. The working group consisted of school governors, teachers' union officials, social service staff and the police.

As a result of the tendering process, 'Servocadream' were again appointed to manage the IIS⁹.

LESSONS LEARNED FROM THE ESTABLISHMENT OF AN IIS IN WALES

When the IIS was first introduced in Wales it was viewed with an element of suspicion by the teaching unions, social services and the police. This has been put down to a lack of consultation with these groups during the development stage¹⁰.

GUIDANCE

Guidance has been supplemented in the form of letters to school governing bodies from the WAG explaining how the IIS works. Three letters have been issued on 19 November 2006, 30 March 2007 and 30 August 2007. The first letter in November 2006 explains the role of the IIS.

⁹ Telephone conversation with official from the Welsh Assembly, 12 March 2010.

¹⁰ As above.

The second letter in March 2007 addresses concerns in some local Social Services Departments and police forces that the IIS may impinge on their investigations. The letter makes it clear that the IIS will not commence its investigation until after the statutory authorities have completed theirs.

The most recent letter in August 2007 addressed additional concerns raised by representatives from education, social services, health sectors and the police about the IIS and the interface between existing local safeguarding and child protection procedures and the effect on governing body staff disciplinary and dismissal procedures¹¹.

HOUSE OF COMMONS REPORT

The Children, Schools and Families Committee in the House of Commons held an Inquiry into 'Allegations Against School Staff'¹² when it was found that a recurring theme in the evidence provided by witnesses was the protracted nature of the various investigatory processes. During the Inquiry the Committee's attention was drawn to the existence of the IIS in Wales.

There was criticism of the methods used for selecting independent investigators in England, where Departmental guidance says that *"many local authorities already provide for an independent investigation of allegations in some way, often as part of the personnel services that schools and FE colleges can buy in from the authority"*. The National Union of Teachers (NUT) *"questioned whether engaging a representative of a body such as a children's charity or any other agency with an interest in child protection to carry out an investigation might raise fears and heighten tensions"*. A Chairman of Governors at a primary school claimed that independent investigators *"tend to be drawn from organisations that are built on a presupposition of adult guilt, or are ex-employees of the commissioning authority."*¹³

The NASUWT drew the Committee's attention to the IIS in Wales. In its Report the Committee noted that *"Servocadream describes its 'consultants' as having 'extensive experience in law enforcement, ranging from leading complex fraud, corporate and financial investigations, to carrying surveillance operations'"*.¹⁴ The Committee concluded that¹⁵:

We believe that the criteria qualifying a person to conduct investigations should be relevant expertise and objectivity. We are not persuaded that it is conducive to confidence in the process for handling allegations if independent investigators appear to be sourced from organizations which might have a particular viewpoint.

¹¹ All three letters are available on the Governor's Wales website at:
<http://www.governorswales.org.uk/publications/2007/08/30/investigation-child-protection-allegations/>

¹² House of Commons Children, Schools and Families Committee – Allegations Against School Staff Fifth Report of Session 2008-09 (6 July 2009) available at:
<http://www.publications.parliament.uk/pa/cm200809/cmselect/cmchilsch/695/695.pdf>

¹³ As above (paragraph 68)

¹⁴ As above (paragraph 70)

¹⁵ As above (paragraph 71)

Nor are we convinced that this is a task that should be contracted out to unknown third parties.

CURRENT GUIDANCE IN NORTHERN IRELAND

The Child Support Service for Schools to address 'child protection' issues in Northern Ireland came into operation in April 2006. This followed a review of the arrangements for providing child support and advice to schools. Each Education and Library Board has three designated officers for child protection who work under the supervision of the Chief Education Welfare Officer. They provide training and advice to schools.

Section 3 of 'Pastoral Care in Schools: Child Protection'¹⁶ addresses complaints against school staff. If there is a complaint against a member of staff and the school Principal decides that a formal referral is necessary, it is their responsibility to inform:

- The social services or, especially where physical or sexual abuse is suspected or alleged, the Police; and
- The designated officer of the Education and Library Board and CCMS as appropriate.

The Chairperson of the Board of Governors should also bring it to the attention of the Board at the first opportunity.

Once a complaint has been made, the school can conduct their own internal inquiries. These must be:

...undertaken in such a way that it does not prejudice any such subsequent action. In particular, there must be no interference with evidence'. Any investigation by the Police or Social Services will take priority over internal inquiries by the school. Normally any internal inquiries should be held in abeyance pending the outcome of the external investigation.¹⁷

Where a complaint does not result in official action, the school may still pursue disciplinary action that could ultimately result in dismissal of the member of staff. If a teacher is dismissed, the employing authority must inform DENI for consideration as to whether their further employment as a teacher should be prohibited or restricted.

There is currently no provision for external independent investigators, other than the Police and Social Services, to be involved in an allegation against a member of staff in a school in Northern Ireland.

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¹⁶ Available on the DENI website at: <http://www.deni.gov.uk/dc1999-10-5.pdf>

¹⁷ Section 3 of 'Pastoral Care in Schools: Child Protection' (p27)