Cllr. Gail Giles,

Cabinet Member for Education and Skills,

C/o Newport City Council,

Civic Centre,

Newport,

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28th January 2019

Dear Cllr. Giles,

**Re: Sensory and Communication Support for Children in Newport.**

Both Wales Council of the Blind and RNIB Cymru have registered as interested parties in the Judicial Review proceedings issued by Watkins & Gunn on behalf of Master Brogan-Lee Battersby (by his grandmother and litigation friend Dawn Battersby) against Newport City Council regarding the decision to withdraw funding from and participation with Gwent Sensory and Communication Support Service (SenCom).

In addition to our letter of 12th December 2018 and the meeting held with Newport City Council officials on 20th December, we are writing to express our continued concerns around the new service model being proposed by Newport City Council to replace that currently being hosted by Torfaen CBC.

We were invited to meet again with officials of Newport on 29th January but as the deadline for writing to Cabinet is 30th January we feel that the meeting would not give us enough time to submit our formal response. Therefore we are writing this letter that is also circulated to councillors.

We would like to make you aware of a petition that has received 1,861 signatures to date against Newport’s decision to withdraw funding to SenCom. This is a significant voice and we hope that it will be listened to.

Our concerns fall broadly under two headings: consultation process; and scale of service.

**CONSULTATION PROCESS**

A key part of the challenge by Watkins & Gunn is around the lack of consultation with parents and carers of children who receive the current service. Your legal team advised Watkins & Gunn on 9th January, that “there was no consultation with service users and other stakeholders prior to the decision being taken to withdraw from the SenCom joint service because this change of service provider did not affect the services that they were receiving.”

The only consultation that has taken place with parents and carers is a questionnaire and stakeholder events, all of which are taken place after the decision to change the service has been made. Your letter sent to parents and carers of 11/01/2019 gave some suggestions for the kinds of response that could be made to the questions. We are deeply concerned that the questions were leading the respondent in favour of the new service and drawing upon negative images of the present service. This is particularly notable in the suggestions for question 5. While it is reasonable for you to wish to take on areas of concern to improve upon as well as good practice, we feel it is inappropriate to lead the respondent in this way.

Furthermore, it is our view that this consultation would have been better used to inform the decision whether or not to bring the service in-house. We also note that there is a disparity between the dates given in your newsletter of December 2018 and your letter of 11th January for consultation with the service users. Not only is this disparity confusing there was very little notice to arrange attendance.

Furthermore, when we met with Newport officials on 20th December we raised the matter of accessibility and that the newsletter sent to parents would not be accessible to many people with sight loss. We would like to remind the Council of its duties under the Equality Act 2010 to make reasonable adjustments.

We wish to draw your attention to the Gunning Principle cited by Watkins & Gunn that *public bodies need to have an open mind during a consultation and not already made the decision, but have some idea of the proposals*. Also, as listed in Appendix 1, the Welsh Public Sector Equality Duties guidance on Engagement notes that ‘it is established case law that […] consultation must be at a time when proposals are at a formative stage’.

We believe that there shall be *substantial changes to the service* significant enough to have warranted a consultation under the Fairness and Equality Impact Assessment. In the interest of transparency we would like to see the FEIA.

The changes that we would consider significant are detailed below:

**Pre school support (0-3 years)**

There are 22 pre school pupils with vision impairment / multi-sensory impairment (VI/MSI) and 26 hearing impaired (HI) currently supported by SenCom through playgroups at the Service Centre, where children and families have opportunity to meet others with these impairments, home visits and support and training for transition into nursery settings. One of the strengths of the service provided by SenCom is the early years support. This is considered best practice and we seek assurance that Newport will continue to provide this service. If this is not the case, we would consider this to be a significant change in service with considerable impact on the wellbeing of those children and their families at a crucial time in their early development.

**Multiple Sensory Impairment (MSI) (deafblind)**

MSI is mentioned in the Draft ALN Code of Practice for Wales, currently under consultation, in parts 7.59, 7.61 and 5.14. Also, the Social Services and Well-being (Wales) Act 2014 for deafblind people, highlights the importance of monitoring and assessing deafblind children and young people by QTMSIs.

On 20th December you reported that Newport only supports 1 child with MSI. SenCom informs us that there are 13 children with MSI and Sense Cymru report an additional potential three families with children under the age of one who are already exhibiting signs that an MSI approach will be required later on. Children with MSI are currently supported by a Qualified Teacher of MSI and trained MSI intervenors by SenCom You have told us that there will be no specialist MSI support employed by the Council and that it would be outsourced. Clearly there is a considerable underestimation on your part as to the scale of specialist support required. Would you re-calculate the budget to accommodate this significant increase from what you initially estimated? If this is not addressed we would see this as a significant change to the current service provided by SenCom.

**Speech and language**

Communication Intervention Team (ComIT) aims to meet the additional needs of children and young people aged 3-16 with a non-clinical diagnosis and primary need of speech, language and communication when that need is severely impacting on the child’s learning. We understand that there is no proposed specialist Teaching Assistant for speech and language. This is a change to the current structure as a lot of ComIT work is delivered by Specialist Communication Intervention Teaching Assistants. How will Newport continue to deliver this specialist service?

**Out of school and holiday clubs and activities**

We have strong evidence of the value of support outside of school provided by after-school and holiday clubs, sport and leisure activities, holiday schemes, help and advice from birth and much more. These not only benefit the child but serve as an important opportunity for parents and carers to share experiences and information and help relieve isolation. Another benefit of the regional footprint is that opportunities will draw in people from a number of local authorities such as sports and leisure activities and holiday schemes. Would the Newport model result in a devaluing of these services and does Newport intend to continue to provide them?

**Digital Inclusion**

SenCom provides a digital skills officer. This officer works one-to-one with children to teach them the skills necessary to access the curriculum; including touch-typing, keyboard shortcuts, using access technologies, including specialist software. This support is invaluable and, with less than 25% of adults of working age with sight loss in employment, must be continued. You said you were unaware of this aspect of the service, therefore we seek assurance that this level of support will continue. How do you intend to provide this specialist support?

**Resource need**

We are aware that there is a resource base for those with hearing impairment in Torfaen. However, there are no such bases in the region for children with vision impairment. Therefore, SenCom VI Service (formerly known as Gwent Visual Impairment Service) have always supported the highest need (Tier 4) VI and Multi-Sensory Impaired pupils entirely within a mainstream or special school setting. This requires specialist input from the VI service daily and SenCom have the capacity (thanks to regional working) to provide a full time specialist VI Teaching Assistant from the service in school for 100% of their time if required, as is currently the case in the region. This is often what is required for braille users. SenCom VI Service staff produce modified large print and embossed braille materials for pupils using specialist software and hardware, in addition to providing direct support and teaching of VI specific learner outcomes. Teaching and learning braille requires specialist support that has proven practically impossible to build within the capacity of schools and is crucially required from a VI specialist service. We are concerned that the staffing structure does not allow for this continued provision and we would see this as a significant change in service to pupils with significant sight loss and their schools.

**Emotional impact on children**

Disabled children benefit from continuity of service where personnel are consistent, enabling a strong rapport and trust to be forged between them and the child. This is particularly important where children present other impairments such as autism as a change of routine can significantly disturb them and impede their development. The proposed change of service will almost certainly have a negative impact on such relationships.

**Welsh Language**

One benefit of working regionally is sharing resources and expertise. This has enabled SenCom to provide a Welsh language service across Gwent including the production of modified large print and braille materials in Welsh. We are concerned that pupils who currently have access to fluent Welsh language support will no longer receive this support under the new model. We know of one pupil with MSI who receives specialist MSI support in Welsh, in a Welsh language school, from a Welsh-speaking MSI worker. Will Newport be appointing, under TUPE or otherwise, Welsh speaking MSI, QTVI and Specialist VI Teaching Assistant? If specialist one-to-one support is not provided in Welsh language, we believe that this would be a significant change of service. Has a Welsh Language Impact Assessment been conducted for this change in service?

We feel that these changes would have a significant impact on the service user and affect their future life chances resulting in a further impact on other services. We do not accept your view that a pre-decision consultation was not required on the grounds of it being an unchanged service.

**SCALE OF SERVICE**

Due to the wild discrepancy between the figures by yourselves and those provided by SenCom concerning the number of children supported, we believe that whatever budget you have arrived at must certainly be in considerable error.

At the meeting held on 20th December, you reported that there were 167 children and young people with sensory loss supported by the SenCom service; 80 had vision impairment, 86 were hearing impaired and 1 had Multiple Sensory Impairment (MSI). We have sought clarity on these figures from the SenCom service. They reported that they supported 475 children with sensory loss; 135 pupils with sight loss, 327 pupils with hearing loss and 13 with MSI. There is considerable disparity between the figures and we seek clarity. We believe that the proposed staffing structure will not be able to support such high numbers of children. To support our assertion, we understand that the Education Achievement Service PLASC data is considerably closer to the figures provided by SenCom.

**Tier 1 support**

According to their figures, SenCom currently works with 182 children with sensory loss supported at Tier 1, with an additional 172 children with HI on a monitored caseload. In our meeting you reported 4 such children that will be reviewed annually by the new service. We are at a loss to understand how this discrepancy has arisen and would be interested to know the impact this would have on workforce planning and the budget? It is essential that children are reviewed regularly so that changes in circumstances and need are addressed by the service.

**Staffing structure**

Your recent parents’ newsletter updates families on the design and preparation of your local Newport service which will begin in April 2019.

We remain deeply concerned that the proposed staffing structure is not sufficient to provide an equitable service in Newport. In addition to this, we understand that only the Habilitation Specialist, to date, has agreed to be transferred over to Newport under the terms and conditions of TUPE. We also understand that discussions are still ongoing with all other SenCom employees who are affected by this change to service provision.

Has there been a QTVI identified to TUPE across? If they have, when will they be transferred across? If there is no one identified we believe that it would be impossible for Newport to appoint a QTVI in line with a start date of 1st April.

At our meeting, we stressed that there is a lack of specialists in Wales such as QTVI and Habilitation Specialists. We remain deeply concerned that if Newport have to go through a recruitment process it is extremely unlikely that they would be in post for the beginning of the new service. This will be detrimental to the children at a key stage in their development in relation to transition and examinations. We request an update on the staffing structure in the light of this.

The Head of VI Service at SenCom is a qualified, experienced specialist throughout the field of VI education and as such understands the roles that specialist staff must undertake to meet the varied needs of children with VI. As an expert in this field she contributes to the mandatory VI qualification course delivered by Birmingham University. We do not believe that this level of expertise can be replaced by training alone.

Recent State of the Nation data from across Wales suggests that the average number of QTVIs relative to the number of children on a VI caseload is 1:50. Cardiff has 190 children known to them and has 6.6 FTE QTVIs. Newport’s proposed structure of 1 QTVI is therefore inadequate relative to other services across Wales.

Another benefit of the regional footprint is that the SenCom service is flexible enough to cover staff shortages through sickness, adapt to increased local demand, as well as provide workers to offer more intensive intervention and support for a child, without diminishing the support for other children. Can Newport guarantee this kind of flexibility under the new system?

**Exit costs**

We are aware that Newport will be responsible for exit costs associated with the withdrawal from the SenCom Service Level Agreement (SLA). Do you know what your costs associated with the withdrawal from the SLA are and are these costs factored into your budget? We believe these costs will be significant and may indeed exceed the amount of your proposed savings.

In summary, we believe that the consultation process was a requirement due to the extent of the changes to the service; and that the scale of the service has not been properly assessed and accounted for. As a result we feel that the children and young people will receive an inferior service and that it is in the best interests of service users and their families for the decision to be reversed.

Yours sincerely,

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| OJWsig |  |
| Owen Williams  Director, Wales Council of the Blind  Chair, Wales Vision Forum | Ansley Workman  Director, RNIB Cymru |
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| Jonathan Mudd  Head of Guide Dogs Cymru | Sharon Beckett  CEO, Sight Cymru |
|  |  |
| Jane Latham  UCAN Productions | Simon Carnell  Head of Wales, Sense Cymru |
|  |  |
| Phil Ambler  Director Evidence and Policy,  Thomas Pocklington Trust | Matt Broom  CEO, Vision UK |
| C:\Users\Russell.Cable\Downloads\Fiona signature-page-001.jpg |  |
| Fiona Sandford  CEO  Visionary |  |

**Cc.**

Sarah Morgan, Head of Education

Katy Rees - Assistant Head of Education – Inclusion

John Griffiths AM

Jayne Bryant AM

Dai Lloyd AM, Chair of the Cross Party Group on Vision

Kirsty Williams AM, Cabinet Secretary for Education

Lynne Neagle, AM, Chair of the Children's Committee

Heather Payne, Chair of Children’s Advisory Group

Newport County Councillors

Matthew Hockridge, Wales Audit Office

Professor Sally Holland, Children’s Commissioner for Wales

**Appendix 1 - background information on the Welsh PSED that is drawn from the Commission’s guidance setting out the steps public bodies must take to meet the specific duties.**

Under the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011, commonly referred to as the Welsh Public Sector Equality Duties, listed bodies have a number of specific duties they must meet. These specific duties include duties on Engagement; and Assessing Impact.

The Equality and Human Rights Commission is the regulator of the Welsh Public Sector Equality Duties. The Commission’s guidance to listed bodies clarifies the law and outlines what actions listed bodies must take to meet the duties.

In relation to the Engagement Duty the guidance states that a listed body ‘must involve people who it considers representative of those with different protected characteristics and those who have an interest in how an authority carries out its functions.’ ‘This engagement must take place in relation to assessing the likely impact on equality of any policies or practices being proposed **or reviewed**.

The guidance notes that ‘it is established case law[[1]](#footnote-1) that where a public body consults, it must comply with the following overarching obligations:

* consultation must be at a time when proposals are at a **formative stage**
* the proposer must give sufficient reasons for its proposals to allow consultees to understand them and respond to them properly
* consultees must be given sufficient time for responses to be made and considered
* responses must be conscientiously taken into account in finalising the decision[[2]](#footnote-2)

The guidance to listed bodies on the duty to Assess Impact states that ‘a listed body in Wales must assess the likely impact of proposed policies and practices on its ability to comply with the general duty.’ Furthermore, the Commission’s guidance states that ‘the specific duties require listed bodies to meet the engagement provisions as part of assessing the impact on people with protected characteristics.

1. R v North and East Devon Health Authority, ex parte Coughlan [2001] QB 213. [↑](#footnote-ref-1)
2. R v London Borough of Lambeth, ex parte N 1996 ELR 299. [↑](#footnote-ref-2)