

PUBLIC QUESTIONS TO CABINET – 26 November 2020

Question 1

Ms A Thomas, Hereford

To: cabinet member, children and families

In Para 2.27 of the Review of Peer on Peer Abuse Cases, we read this:

“The dependency on implementing the national guidance - but crucially, not looking to go beyond this in a systematic and published fashion – was a potential weakness. For example, there was no full consideration or advice given at that time about additional human rights or equalities legislation.”

In 2018 a Herefordshire school paid compensation to a child for claims made under the Human Rights Act and the Equality Act but it does not appear that since then the Council has provided any advice to schools other than listing the relevant Acts and exhorting Headteachers to take these into consideration.

Is there any evidence that Herefordshire schools have now received “systematic and published” guidance to help them give “full consideration” to human rights and equalities legislation?

Response

Herefordshire schools will be receiving ‘systematic and published’ guidance to help them give ‘full consideration’ to human rights and equalities legislation specifically in the context of peer-on-peer abuse as a consequence of the recommended actions of the Review of Peer on Peer Abuse Cases being implemented.

Since 2018 the council has gone beyond simply listing legislation and asking Headteachers to take them into consideration. There has been a range of conferences, training sessions, advice and guidance issued and we are currently finalising a model guidance - along with help with prevention toolkits and legal advice (via a national specialist). There has also been updates on the national guidance (Keeping Children Safe in Education) and frequent audits.

The next stage will be to issue the model guidance which contains within it the latest updates and then ask schools to adopt and implement it. As an example of the detail involved, the following is what specifically relates to human rights legislation. A lawyer, Andrew Lord, who specialises in peer on peer abuse cases was an invited speaker at the Herefordshire Safeguarding in Education Conference in the autumn of 2019. Both of these Acts were covered in his presentation. The conference was open to all Herefordshire school Dedicated Safeguarding Leads and safeguarding Governors. 162 delegates attended the conference from Herefordshire schools (we have 98 maintained schools). All schools must have an equalities policy/equality information objectives in addition to a child protection and safeguarding policy. All school policies including behaviour and attendance is underpinned by the Human Rights Act

Question 2

Name and address supplied

To: cabinet member, children and families

In the Review of Peer on Peer Abuse Cases, Recommendation 11 suggests that officers should listen to families with lived experience of peer on peer sexual assault with a view to “harnessing the experiences within the county to develop more leading edge practice.”

The cabinet member for children and families will be able to confirm that over 18 months ago two families with lived experience of serious peer on peer sexual assault came forward and met with herself and director children and families in the offices in Plough Lane. They asked to work with the Council to inform practice to ensure that no other child was failed in the way their own children had been failed. Why has the Council not worked with these families to date?

Response

The council continues to try to work with families affected by peer on peer abuse and we do understand that for some what we have done does not meet their expectations. It remains the intention that the families will contribute. Some work has already happened - for example, one of the victim’s accounts was used (with permission) as a shared case study at a designated safeguarding lead event and has been shared with some members of staff to inform practice.

Going forward, as well as quality assuring risk assessments and support offered to victims of peer on peer abuse - Hereford council is auditing cases which will take into account parental/child views. It is acknowledged that we have attempted to seek their contributions during the work already done but this could have happened earlier. It is our intention to do better in the future. There will also need to be a process of reconciliation which is suggested in this final report.

Supplementary question

The families who have campaigned about the quality of the advice being issued by the Council on peer on peer abuse have done so not to keep their own children safe but to prevent other children suffering the same harm as their children did. They deeply regret that Officers and the Cabinet Member have not listened to them on several key points.

For example, in August 2020 one of the families went to a meeting in Plough Lane to discuss the draft of the second version of this report. The family member repeated concerns already expressed in June: namely that the Officers’ definition of appropriate safeguarding advice is inadequate in law and would not keep a child safe.

The family member also pointed out that a review which is about the safeguarding of children which does not report on whether or not children were kept safe is meaningless. Officers and the Cabinet Member are well aware that in at least one case, the failure to separate the victim from the perpetrator effectively, resulted in the victim having to leave the school. To go ahead and publish a report which claimed until last night that, “No children were put or left at risk,” is at best insensitive and at worst looks like an attempt at cover up.

The family members who received so much praise at CYP Scrutiny for their long-standing efforts to raise awareness of the risk to children from poor safeguarding practices have lost all faith in working with the current Director of Children’s Services and the current Cabinet Member for Children. A process of reconciliation starts with clear explanations and accountability. Should the families now give up on expecting that from this Administration?

Response

I understand the dismay and unhappiness with what was put into point 1.3. I hope very much that when we come to the revised version of that if it's accepted or if it's adapted that that will at least help to develop a bit more certainty about what we are going to do and what we accept as our responsibility. I appreciate the unhappiness of where things are but I would ask that you look at what we plan to do and how we want to take this forward and that you judge us on what we do as far as that is concerned.

Question 3

Ms E Rogers, Hereford

To: cabinet member, children and families

The Review into Peer on Peer Abuse Cases focuses on process; outcomes for children are totally missing from this review. For example, the report tells us nothing about whether schools were able to reliably separate victims and if victims felt safe enough to stay in school.

In August 2019, the CEO of West Mercia Rape and Sexual Assault Support Centre, which supports child victims of sexual abuse, wrote this about the handling of peer on peer sexual abuse cases in Herefordshire schools: "Most often children who have been abused leave the school as the response from the school is not appropriate or adequate."

Is the Cabinet satisfied that this Review provides an adequate overview of the handling of peer on peer abuse cases in Herefordshire?

Response

The report focuses on process and outcomes. It mentions the severity of the impact on victims, and provides a detailed overview of the handling of peer on peer cases in the period. It also acknowledges the sensitivities involved and the practical considerations to be taken into account when developing risk assessments for the separation between victim and alleged perpetrators. The review did find that schools had improved considerably in their efforts in this regard and that the advice from the council where recorded was correct. The evidence from schools and external evaluators, including Ofsted suggests that this has improved. It should never be the case that victims have to leave a school. The report does acknowledge however that peer on peer sexual abuse cases are also never the sole responsibility of the schools, but that it should be seen as a wider contextualised safeguarding responsibility which should include the culture of safeguarding beyond the schools response. The council is focused with schools and partners on taking the recommendations of the report and of scrutiny forward to build the approach in Herefordshire.

Supplementary question

Thank you for your response, but your answer talks only in general terms about what needs to be taken into account in cases of peer on peer abuse and does not focus at all on the outcomes for the 28 victims in this report. Specifically it does not tell us whether the actions taken by the Council and school after the victims made their disclosure were sufficient to keep them safe and whether they were able to continue their education in school.

Has this report missed the point?

Response

It is clear that that information isn't there. I think we have to remember this is looking at historic matters. The decision was made not to contact children and families directly, this was looking at

records and going back to ensure that what we were aware of through those records, that the schools were able to reinforce this. It is a good point. It is a matter of concern but the report was not able to do this so I don't think it has actually missed the point. To add to that I think we have learned among many other things from this whole process that the effects on young people and their families is ongoing and we need to find ways of supporting them well beyond the actual occasion and the time that they're probably in school as well.

Question 4

Ms J Liddle, Ledbury

To: leader of the council

At CYP Scrutiny in September, the failure of the Directorate to pass on recommendations in the CSO report was discussed at length.

The Leader of the Council noted that the sole explanation offered for why the recommendations were not circulated to schools in Herefordshire was that the report 'did not belong to the council'. This is still the only reason given in the Review into Peer on Peer Abuse Cases. This claim was described by the Leader of the Council as "extraordinary" which indeed it is since the council funded the report. The Scrutiny Minutes also note that the head of legal services was asked to investigate the suggestion that the report recommendations were not circulated as the report 'did not belong to the council'.

Could the Leader tell us what explanation he has now received from Claire Ward?

Response

This will be the subject of the investigation referred to under recommendation 2 of the scrutiny recommendations.

Supplementary Question

Since the current Director of Children's Services was in post when the CSO report was published in April 2017, can the Cabinet simply ask him the question today? – Why did officers choose not to share the lessons learnt from the CSO report and the pro forma risk assessment with schools to ensure that the same safeguarding mistakes were not repeated? The director will surely have been reflecting on this point since the question was raised at CYP Scrutiny in September; ten weeks after that meeting, it is not unreasonable to ask him for an answer

Response

I would point to one of the recommendations which specifically commits us to an independent review of what actually did happen to the CSO report, how it was used or not, and that is something we will be looking into. I'm not sure I can add any more to that, again it is historic matters but there will be a full review of that by an independent person.

Question 5

Mrs V Wegg-Prosser, Breinton

To: cabinet member, infrastructure and transport

It is not clear why in the Appendix 7 Delivery Plan dashboards the Corporate Risks for the HCCTP (Nos. 48 and 49) are described as being on Likelihood level 4 : Likely, with consequent Impact

: Major, when the HCCTP is nearing completion and Council officers have confirmed that the balance of some £6M on the overall budget of some £40M is available for the scheme. Are there some unspecified reasons for these 'major, likely' categories of risk?

Response

The Hereford City Centre Transport Package (HCCTP) comprises two principal elements; the new city link road and the transport hub and public realm element. The budget is broken down into these elements. At present the construction of the City Link Road element of the project has been completed, the transport hub and public realm element are at an early stage of development. Although the larger proportion of the budget was associated with the CLR element the second element is still to be fully delivered. In addition a number of payments for land acquired through the compulsory purchase process will need to be finalised and the period for disturbance claims resulting from the road construction has yet to expire. In addition the original programme for the scheme delivery has extended with the remaining element to be delivered in a period later than detailed in the original business case. On this basis the risk register reflects that there remains risk associated with scheme costs, including the detail of the transport hub and public realm which is yet to be finalised, that could impact the scheme budget. This risk exists despite there being budget available for the remaining element of the project.

Question 6

Ms B Shore, Bartestree

To: cabinet member, children and families

All the DfE Guidance on peer on peer sexual abuse, including the "Response to Reports" flowchart which has been adopted by the Council, uses the term "victim" rather than "alleged victim". The Council's report recommendation 5 indicates that the response to children who make a disclosure and to their families should be "a starting point of belief". Home Office research shows that the incidence of false allegations is less than 5% of all reported rape. In view of all this, can the wording in the Review into Peer on Peer Abuse Cases replace "alleged victim" with "victim"? This would go some way to address the feeling of victims that they are on trial from the moment that they are courageous enough to disclose."

Response

It was never the intention to worsen the feelings of victims and if that was the effect then we apologise. The use of the term alleged was to reflect the fact that in some of the cases under the terms of this review there was no conclusive outcome. That was the intention of the reports' author. We will ensure that the description "victim" is used in all documentation going forward.

Supplementary Question

I welcome your acknowledgement that the use of "alleged victim" will worsen the feelings of victims. I welcome your apology. I am pleased that you seem to accept that the lack of a conclusive outcome does not mean that there is no victim. You say that you will ensure that the description "victim" is used in all documentation "going forward". I am unclear whether that includes this Review. If you accept that it is right to use "victim" in future documents, will you agree that logically and to ensure consistency and fair treatment, the terminology will also be changed in the current document?

Response

I would certainly be very happy for it to be changed. I think that is what we should do and I would perhaps check with the monitoring officer whether we're able to do that literally. I would certainly feel that we should be doing that, we absolutely see that it should be the wording used.

Question 7

Name and address supplied

To: cabinet member, children and families

"The scope of the Spotlight Review into Peer on Peer Abuse was defined by the Children's Directorate. **It explicitly excluded any review of historic cases, and therefore any review of past safeguarding failings.**

The scope of the current Review of Peer on Peer Abuse Cases has **also** been defined by Officers and has **excluded known cases where a child has not been lawfully safeguarded after a disclosure.**

Both reviews have also avoided any scrutiny of the Directorate's response to the public repeatedly raising the alarm from June 2016 onwards.

The offer of a "process of reconciliation" is a poor substitute for a clear, published analysis of why safeguarding policy and practice continued to fail children long after the alarm was raised. Will Cabinet now listen to what the affected families really want?"

Response

The Cabinet is committed to listening to families who have been affected by abuse. For cases of peer-on-peer abuse the recommendations contained in the report offer a means by which families can choose to discuss their experiences with officers experienced in dealing with such matters, and to do so in a confidential and 'safe' environment. By this means families can remain anonymous whilst sharing their experiences through a managed process. The process of reconciliation is a genuine offer and we want to listen to the experience of children and their families. It rests on two important (albeit different) approaches from wider experience and research. It is likely to be a different process for different families and is of course entirely voluntary. As such it is intended to be a space where families and victims could be heard and believed. If the process is effective it is intended to be an opportunity to hear the views of affected families and learn from them.

Supplementary question

The Cabinet says it is committed to listening to families affected by peer on peer sexual abuse but after a year of dialogue with Cabinet Members family members still do not have answers to simple questions such as why the recommendations from the CSO report were not shared, why the learning from the Human Rights Act/Equality Act case have still not been shared with schools and why requests in early 2019 for an urgent review of all cases were turned down.

How much longer will families have to wait for answers?

Response

As far on the CSO report I would refer you to the previous answer which is that we will be looking into that and we'll have an independent view of that particular situation. My understanding is that the learning from the human rights and equality act case have been shared with schools through different mediums. I would need to get the fine detail of that to clarify that absolutely but that is my understanding. The request for an urgent review of all cases, I'm not quite sure what is meant

by that but if it is what we have been doing in this review then that is this particular report that we're going to be looking at. If that is not sufficient I can elaborate in a written answer.

Written response

Thank you for the question. As indicated during the recent Cabinet meeting, we do feel that the new model guidance rests on the equalities and human rights acts in terms of content. In short, the principles and guidance from those acts are included in the overall guidance that has been shared with schools and will be in the new guidance once that is also shared. The review discussed at Cabinet did look at all of the cases. We have committed however to looking at a more detailed independent review of the circumstances of the failure to share the risk assessment from 2017. Details of how that will be carried out are being worked up by the Acting Chief Executive, who has responsibility for this review.

Question 8

Ms C Trumper, Hereford

To: cabinet member, children and families

The director children and families is aware of at least one serious case of peer on peer sexual assault within the period examined by the Review of Peer on Peer Abuse Cases which led to a conviction for the perpetrator. He is aware of this case as he has met the grandmother of the victim and read the victim's first-hand testimony. In this case, the victim was not shielded from the perpetrator in school and to protect herself she ended up moving schools. It is clear from the statistics in Para 2.23 of the Review of Peer on Peer Abuse Cases that this case is not included within the review. Why not?

Response

The case was considered as part of the review but not reported on in detail to avoid possible identification. It is referenced in the confidential appendix. In addition this is referenced in the supplementary statement to the cabinet papers.

Supplementary Question

Thank you for your response, but it is crystal clear from Para 2.23 of the Review of Peer on Peer Abuse Cases that the case in question is either NOT included in the review at all or the information provided in Para 2.23 is inaccurate. Can Officers please explain why they can't include accurate information about police convictions in a report about peer on peer sexual abuse, when they are willing to share information about cases where there is no conviction or a case is still pending?

Response

I'm not sure about how we answer this. I believe that this is because it is still confidential but I would need to have that confirmed for me. Whether we need to reply to that one in writing I'm not quite sure but I believe that is the issue.

Written response

The case in question was considered but the Police requested that social care put a marker on the file asking that the details remain confidential. As such it was difficult to report on that case specifically and without making reference to convictions which would then have led to a breach of confidentiality. That context remains in place now. For this reason we were unable to refer to it explicitly. We cannot legally report on cases whereby a crime has been committed by a child.

The Council would be at risk of unlawful breach of data protection regulations, and breach of both privacy and confidentiality obligations.

Question 9

Mr A Rogers, Hereford

To: cabinet member, children and families

It is clear from the statistics in the Review into Peer on Peer Abuse Cases that there are alleged rapists and sex offenders in our schools. The families of children affected by peer on peer sexual violence have been asking the Council for over 18 months to provide detailed guidance to schools on how to manage this risk, with particular reference to information sharing. Most headteachers are not clear how to manage information sharing in such cases and often do not make staff aware of the potential risk to other children posed by an alleged sex offender, for fear of breaching data protection rules. This is an area which needed urgent attention 18 months ago when it was first raised with the director children and families by families in March 2019. Is there any evidence of written guidance being issued to schools?

Response

Training opportunities and guidance have been issued to designated safeguarding leads within our schools and this will shortly be followed up by the issuing of a model guidance document which has been written in partnership with The University of Bedfordshire and other Local Authorities. The model guidance is detailed and has been consulted upon (hence some of the delay) but will be issued shortly. The model guidance includes elements of prevention and establishing a safeguarding culture. To be fully effective it does need to be interpreted and implemented by schools and further training is planned to help do this effectively.

All schools have to have a person responsible for managing information to ensure compliance with legislation e.g. General Data Protection (GDPR). When GDPR was implemented, all schools undertook training to ensure that they were compliant. Headteachers and Safeguarding leads are, therefore well versed in information sharing but also they do need to seek appropriate advice on specific matters from MASH, their legal services provider and their Data Protection Officer when required. Herefordshire Information Governance has worked closely with schools and still supports many schools in this area.

Data protection is not a barrier to safeguarding individuals, it is a set of legal requirements to ensure that appropriate safeguards and processes are followed while processing personal data for a specific purpose (in this case to safeguard individuals). As with all safeguarding concerns, information is shared by school safeguarding leads and Leadership teams with school staff on a need to know basis – some staff members will need to be made aware of more detail than others to facilitate appropriate safeguarding measures in specific situations. Everyone has the right to have their personal data (which would include allegations) protected and processed according to the data protection legislation. Allegations that an individual has abused someone (physically or otherwise) could fall into special category data which requires additional processing conditions to be met for appropriate data handling; as would information about a victim / alleged victim. However safeguarding all individuals (including victims, alleged abusers, their families and alleged victims) is paramount in schools and necessary steps to safeguard is not prohibited by data protection laws and compliance.

The June education safeguarding meeting (attended by safeguarding leads from schools) revisited information sharing and as a result of discussions, a letter was sent to all secondary schools regarding the transfer of safeguarding information for Year 11 pupils to colleges which included a new safeguarding profile form for transfer of such data. The section 175 annual audit

of school safeguarding includes a section on information sharing. Quality assurance of the section 175 audit by the council looks at information sharing practices and compliance in schools that are visited for a quality assurance discussion.

The risk in schools is managed through preventative measures such as the personal, health, social and education (PHSE)/ relationship and sex education (RSE) curriculum taught in schools, through pastoral support, outside agency involvement, support from the Multi Agency Safeguarding Hub (MASH) and the safeguarding team and through training events such as education safeguarding meetings and conferences. Response to events are managed through risk assessments and advice and guidance sought from the MASH, the education safeguarding lead and multi agencies.

Supplementary Question

My question asked whether written guidance has been issued to schools to help headteachers manage a very specific risk: the risk associated with having an alleged or convicted sex offender in school alongside other students. As I stated in my question, there are some difficult legal issues for headteachers to manage in these situations, and clear written guidance is needed to help manage the risks.

Please can you clarify: have you issued written guidance to schools about managing the risk of having an alleged or convicted sex offender in school?

Response

Clearly a very important point you've raised and very important for head teachers and those managing these situations. I understand this is the case but again given that this is so important I would like to absolutely check on that and give you a written answer to that.

Written response

We have issued guidance to all schools but this is also about to be refreshed. We are currently working on the model guidance which takes account of new national guidance and other expertise. This does cover how schools should take account of the risks you refer to. The risk assessment issued to schools has been provided to support safeguarding leads and headteachers manage and identify risks relating to peer on peer abuse. These risk assessments have been issued alongside regular safeguarding meetings in which peer on peer abuse is discussed. The risk assessment is informed by and to be used in accordance with the statutory guidance 'keeping children safe in education' and 'sexual violence and harassment in schools and colleges'. In the coming weeks the new guidance for schools will be issued alongside the risk assessment and this will provide additional guidance on managing risks.