



## **RESPONSE TO CONSULTATION ON PROPOSAL TO RECONFIGURE EAL SERVICE**

Govanhill Law Centre is a free and confidential community legal resource, employing 2 solicitors and a Slovakian speaking Caseworker/Interpreter to provide legal advice and representation to the Govanhill community on housing, employment, education and discrimination, with a focus on Black and Ethnic Minority communities, including the Roma community. We are part of the Govan Law Centre Trust, Scottish Charity number SCO30193. This submission is supported by Govan Law Centre.

In 2010, 38% of our clients identified themselves as Roma. In the past year we have opened over 70 substantial casework files for Roma clients, on topics including complex benefits appeals, defending evictions in court, recovering unpaid wages from rogue employers and working with the police to prevent unlawful evictions and harassment by landlords.

We currently represent Slovak, Romanian, Lithuanian and Czech parents, whose own experience of education has been minimal or entirely lacking. Roma Communities have significantly lower levels of literacy and this hampers their access to job markets and participation in civil society. Our clients' teenage children often speak a high level of English and effectively interpret for their parents and extended family. Many of our clients' children have attended the Bilingual Support Unit (BSU).

Roma Communities living in Govanhill are characterized by high levels of poverty, bad housing and under-employment, with those in work often in poorly paid, temporary contracts. With this backdrop it is truly remarkable that a number of Roma young people have flourished in the school environment, passing exams and having real chance to access higher education. School seems like one of the biggest success stories of Roma migration to Glasgow, with the BSU described by supporters as the "jewel in the Crown" of English as an Additional Language (EAL) provision in the city.

In our experience there are severe barriers to education and employment for Roma families in Glasgow. A saving of £186,000 represents very poor value in relation to the significant benefits gained from specialist language provision to youngsters in our education system with the lowest educational and employment prospects.

In that context Glasgow City Council's current provision, positioned in Shawlands, less than a mile from Govanhill, is ideally placed to help Roma children integrate into society. The Roma community in Glasgow lives almost entirely within a 1/2 square mile in Govanhill area. Govanhill and Pollokshields are two of the most ethnically diverse areas in the city so the location of the Unit is ideal.

We have five particular concerns about the consultation process, namely

- 1) No educational benefits evidenced
- 2) Financial savings alone seem to be driving force
- 3) Flawed consultation process
- 4) Failure to meet with needs of children with little or no English
- 5) Failure to meet needs of Roma children

### **1) No educational benefits evidenced**

At 1.4, the Consultation Report states that changes to the delivery of EAL in primary schools delivered "*both educational and social benefits for the children concerned*". However, no evidence is supplied to support this assertion.

At the meeting of the Children and Families Policy Development Committee on 9<sup>th</sup> June Les McLean argued that the reshaping of provisions for primary pupils along the same lines as the proposed closure had been a success, but campaigners and the EIS point out the difficulties of those with no English understanding secondary classes that use technical and complex language. The BSU supports inclusion by equipping pupils with the linguistic, literacy and social tools required to access mainstream successfully. BSU parents have spoken out at public meetings and in the press about how vital the BSU has been to their children, who are now attending and flourishing in mainstream schools.

Figures in the Report show that the BSU is the only specialist secondary provision in the city. To meet the additional support needs of children with little or no English, and also meet the needs of children in mainstream classes with other needs, a specialist unit is necessary. We are concerned that a child with little or no English would require dedicated support and it is not possible in practice to meet their needs and also meet the needs of all the other children in a mainstream class.

## **2) Financial savings alone seem to be the driving force**

Whilst the Report contains no evidence or arguments about the benefits to education, inclusion or equalities, this is starkly contrasted by the level of detail in relation to funding. Govanhill Law Centre is concerned that financial savings are the main driver in the proposed closure.

At 2.1 the Report states that one of the factors required to be considered is *“the termination of the Asylum Seekers contract by the Home Office and the loss of £186,000 grant per annum”*. At 9.1 the Report states *“the current [EAL] service has an annual operating budget of 5.8M. The proposals contained in this report will cost £5.6M, a reduction of £195,000 of the annual operating costs. £186,000 of this reduction reflects the loss of Home Office grant for asylum seeker services”*.

But Phil Taylor, Regional Director of UK Border Agency wrote to the Herald on 9<sup>th</sup> June to argue this was not the case, saying *“the UKBA has never funded the council to provide language support of any kind. Any withdrawal of funding has nothing to do with UKBA”*.

At 9<sup>th</sup> June meeting of the Children and Families Policy Development Committee, Maureen McKenna Director of Education explained that UKBA gave money to Social Work Services to assist asylum seeker to register at school under the GASSP. As Phil Taylor has denies *“funding the council to provide language support of any kind”*, which appears to contradict the Council’s position.

GCC have stated UKBA’s cut to funding are a factor to be considered, but have failed to address UKBA’s comments. Glasgow City Council must clarify their position here to enable decision makers to make an informed decision, and to address concerns raised by campaigners on this issue.

## **3) Flawed consultation process**

Parents and supporters of the BSU have been shocked by the proposals, coming around 4 weeks before the summer holidays. The Committee met three weeks before the end of term and the consultation meant was initially to close on 1<sup>st</sup> July, although there is no official closing date for the consultation.

Hugh Donnelly, Chair of the Glasgow branch of the EIS has expressed concern at the lack to be any clear timescales for the consultation, a concern echoed by Councillor Dunn at the Committee meeting on 9<sup>th</sup> June. When Councillor Dunn stated her concern that the Report was rushed and needed more detail before going out to consultation, GCC’s position was that *“delay in the process and uncertainty would*

*give cause for concern.*” Statements like this do little to reassure those who feel the consultation was rushed.

Campaigners say there has been no promotion of pupil and parent consultation as neither group was consulted prior to the proposal. A hastily convened parent meeting at the end of terms has been seen by parents and BSU supporters as ‘too little, too late’. It is our position that the public have a right to be properly and meaningfully consulted.

At 9<sup>th</sup> June Committee meeting, Maureen McKenna said GCC had been talking to staff and to young people. It would be helpful for those views to be published, in order for the consultation process to be transparent and publicly accountable. We would invite GCC to publish the all views gathered, and provide more detail as regards the methodology of the consultation with staff and young people, and the number of views gathered.

At the 9<sup>th</sup> June 2011 meeting Maureen McKenna said *“this is not a statutory consultation so it is not a public consultation. It is good practice for service reform”*.

Glasgow City Council’s public sector duty under the Equality Act 2010 states that an Equality Impact Assessment document should be produced, containing sufficient information to show it has paid ‘due regard’ to equality duties in its decision making. In that regard, we would refer the Council to the recent case of *R (W) v. Birmingham City Council* [2011] EWHC 1147 where the High Court found that ‘where a decision may affect large numbers of vulnerable people ... the due regard necessary is very high’ (at para 151). We believe that is the case here. Further, the court held that ‘consideration of the duty must be an integral part of the formulation of a proposed policy ...’.

The Equality and Human Rights Commission’s guide for decision makers states *“whether it is proportionate for an authority to conduct an assessment of a financial decision depends on its relevance to the authority’s particular function and its likely impact”*. We would argue that as the proposal is likely to have a significantly adverse impact on the learning of all of the pupils who attend the BSU and future pupils, we believe the ‘due regard’ duty is very high, and accordingly GCC are required to carry out an equality impact assessment.

The only mention in the document of the Equality Act 2010 is as follows: “The proposed Service reconfiguration supports the Council’s responsibilities under the Education (Additional Support for Learning) Scotland Act 2004 (Amended 2009) and the Equality Act 2010”. This bald statement in our

view, completely fails to demonstrate whether GCC have given “due regard” to their legal duties to equalities; particularly where the due regard duty is ‘very high’

We would hope GCC will produce an Equality Impact Assessment, and make its consultation public, otherwise it may render itself vulnerable to legal challenge under the 2010 Act

#### **4) Failure to comply with meet needs of children with little or no English**

In 2001, 7% of Glasgow’s school population had EAL. In 2010, 15.3% of school population had EAL, affecting more than 10,500 children and young people. In fact, 250 secondary age children in Glasgow were identified as having little or no English, but less than 100 pupils accessed the BSU. GCC argue this shows that only a minority of young people currently have their needs met, and their needs would be better met by re-deploying specialist staff at different schools.

At 9<sup>th</sup> June meeting Maureen McKenna said there was “*always a need for more EAL teachers to meet the needs of children*”. Increased demand would be an irrational reason for cutting specialist units. Instead of closing the BSU, GCC should increase provision and replicate the award winning BSU in other parts of the City.

We believe the BSU must be maintained, or service provision increased to meet the demands of the population, for GCC to discharge their legal duties to children with little or no English.

#### **5) Failure to comply with meet needs of Roma children**

Promoting the attendance of secondary age Roma children, particularly girls, has been a focus of GCC’s Education Department, with lots of success. Educational attainment of Roma children is a live issue internationally, with the UN Committee on the Rights of the Child focused on issues of discrimination of Roma children accessing education:

*“The Committee noted that despite its previous recommendations, and a judgment from the European Court of Human Rights, “there continues to be serious and widespread issues of discrimination, particularly against the minority Roma children in the [Czech Republic], including the systemic and unlawful segregation of children of Roma origin from mainstream education”.*<sup>1</sup>

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<sup>1</sup> <http://www.errc.org/cikk.php?cikk=3891>, 23<sup>rd</sup> June 2011

The Equality Act confers legal duties upon local authorities to pay “due regard” to the need to eliminate discrimination and promote equality with regards to race and gender. If it is a stated aim of Glasgow City Council to increase the attendance and attainment of Roma young people, particularly girls, they must have a duty to maintain the BSU, to promote equality of access to education. We are of the view that this is a requirement not only in terms of the Equality Act 2010, but also in relation to international human rights instruments.

The Equality Act 2010 compels GCC to “foster good relations” between communities, yet good relations cannot be fostered if Roma young people are placed in mainstream classes they cannot understand.

We note that GCC have said they welcome alternative proposals. But those opposed to the cuts have no legal requirement to find the savings from elsewhere. This duty lies solely with GCC.

### **Conclusion**

Glasgow is currently participating in *Romanet*, a European initiative involving other cities with Roma communities:

*“An overarching objective of our partnership of nine European cities is to inform and support our City partners to develop local action plans that facilitate better services, through improved access and integrated approach, **to support the social inclusion of young Roma and their transition into active adult citizens.**”*

Romanet delegates from all over Europe will be meeting in Glasgow in November 2011. With success stories thin on the ground, GCC has the chance to highlight the fantastic work the BSU is doing to “*to support the social inclusion of young Roma and their transition into active adult citizens*”.

We urge Glasgow City Council to reconsider their proposals in light of our submission.