



Llywodraeth Cymru
Welsh Government

PUBLICATION

Proposed changes to the suite of Regulations under which independent schools in Wales operate: integrated impact assessment

An assessment of proposed changes to The Independent School Standards (Wales) Regulations, The Independent Schools (Provision of Information) (Wales) (Amendment) Regulations and The Independent Schools (Prohibition on Participation in Management) (Wales) Regulations.

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Section 1: what action is the Welsh Government considering and why?

Background to Independent schools

1. There are currently just over 80 registered independent schools in Wales. This number is fairly equally split between mainstream schools and those providing for children and young people with additional learning needs (ALN) or special educational needs (SEN). The age range catered for varies, with some schools accepting children and young people up to 18 years while others will provide for specific age ranges. There is also significant variation in their size; the smallest is registered for a maximum of four learners and the largest a maximum of 1,500 learners. The latest data shows there are just over 10,000 pupils in the independent sector in Wales. These schools employ approximately 850 teachers and 1,200 support staff.
2. Some independent schools offer boarding provision, and the mainstream boarding schools recruit international learners. Many of the schools who provide for ALN/SEN learners are attached to residential provision, and pupils attending these are usually funded by their local authority.
3. Typically, just over half of these ALN/SEN learners are looked after by their local authority, and they move in and out of the provision regularly, often at short notice, because their care requirements can change rapidly. Research undertaken by the Independent Inquiry into Child Sexual Abuse (IICSA) shows that children with complex needs are at a significantly greater risk of sexual abuse. Disabled children are almost three times more likely to experience sexual violence than non-disabled children. Some children's needs may also mean that the child does not always appreciate or understand why abusive behaviour is inappropriate and might find it difficult to recognise and disclose concerns or sexual abuse. These pupils are therefore some of the most vulnerable young people in Wales and it is crucial that the Welsh Government, local authorities, parents and carers,

practitioners and other stakeholders operate within a framework that ensures that they provide the best possible care and safeguarding for these pupils.

4. The **Independent Inquiry into Child Sexual Abuse** found that “historically, inadequate measures were in place to protect children from the risk of being sexually abused – sometimes there were none at all” IICSA identified that residential school settings in particular faced distinct and complex challenges in relation to safeguarding children. This was particularly the case for residential schools which cater for children with ALN, or complex needs due to the need to consider their higher levels of health and care needs in addition to their education and learning, increasing the amount of contact and time staff spend with children. Children and young people living in residential schools are often a long way from home and are dependent on the school to ensure their safety and well-being.
5. There have been measures in place in independent schools to protect children but there is a need to strengthen governance and safeguarding arrangements to take account of recommendations from the IICSA report and also experience in recent years of dealing with safeguarding concerns in an independent school in North Wales.
6. All independent schools in Wales must be registered with the Welsh Ministers and are subject to a framework of regulations. The principal regulations and order are:
 - **The Independent School Standards (Wales) Regulations 2003**
 - **The Independent Schools (Provision of Information) (Wales) Regulations 2003**
 - **The Independent Schools (Religious Character of Schools) (Designation Procedure) (Wales) Regulations 2003**
 - **The Independent Schools (Publication of Inspection Reports) (Wales) Regulations 2003**
 - **The Education (Independent Schools) (Unsuitable Persons) (Wales) Regulations 2009**
 - **The Designation of Schools Having a Religious Character (Independent**

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Schools) (Wales) Order 2009

7. Amendments to the regulations include those made by:
 - **The Independent Schools (Provision of Information) (Wales) (Amendment) Regulations 2021**
 - **The Independent Schools (Miscellaneous Amendments) (Wales) Regulations 2007**
8. In order to register and remain on the register the school must comply with the regulations and meet independent school standards set out in the Independent School Standards (Wales) Regulations 2003 (“the Standards”).
9. The Welsh Ministers are legally obliged to prescribe standards for independent schools under section 157 of the Education Act 2002. The Standards are in seven parts which reflect the seven matters they must cover:
 - Quality of education provided
 - Spiritual, moral, social and cultural development of pupils
 - Welfare health and safety of pupils
 - Suitability of staff and proprietors
 - Premises and accommodation of schools
 - Provision of information
 - Manner in which complaints are handled

Overview of the proposed regulatory changes

10. The current regulations and the Standards they prescribe have been in place since 2003 and, although they have been amended from time to time during this period, they no longer reflect the current policy and legislative position of the Welsh Government. They need to be revised to reflect related legislation that has been introduced since 2003 such as the Equalities Act 2010, The

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Additional Learning Needs and Education Tribunal Act 2018 and the Keeping Learners Safe statutory guidance issued by Welsh Government that seeks to safeguard and support the wellbeing of learners.

11. In addition to strengthening the safeguarding arrangements in independent schools the proposed amendments to the regulations include changes to:
 - strengthen the management and governance of independent schools and clarify who is responsible for ensuring that the Standards are met consistently
 - revise the circumstances in which interventions by the Welsh Government might be triggered as a consequence of raising the standards expected
 - amend the quality of education Standards
12. The overall aim of the proposed amendments to the regulations and the independent schools registration and operational guidance, which are explained in more detail in the consultation document, are to:
 - Help the proprietors and those responsible for the management of independent schools to understand what is required by the regulations and the Standards they prescribe
 - ensure that learners are able to achieve their potential and are equipped with skills for life
 - ensure that learners are taught in a safe environment that supports their well-being
 - reflect the current legislation and policies of the Welsh Government
13. The draft revised Regulations and guidance document have been prepared following the **Call for Evidence** which ran from 9 December 2021 to 4 February 2022. They have also been developed with input from independent schools, parents of pupils and prospective pupils, the inspectorates Estyn and Care Inspectorate Wales (CIW) and other stakeholders including the Children's Commissioner for Wales, Welsh Independent Schools Council (WISC).

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14. We are also proposing to introduce a new set of regulations - The Independent Schools (Prohibition on Participation in Management) (Wales) Regulations 2023 - using the powers conferred on the Welsh Ministers by section 167A of the Education Act 2002 to make regulations that prescribe the grounds on which a direction may be given prohibiting a person from taking part in the management of an independent school in Wales. We consider this an important contribution to the measures that should be taken to safeguard learners.
15. It is not anticipated that the replacement Regulations will place significant additional costs onto independent schools. However, schools that have further to go in order to comply with the revised Regulations will incur greater costs than those who are already nearer compliance to the revised requirements. As part of the consultation, independent schools and other stakeholders and interested parties are being given an opportunity to provide information about any anticipated additional costs as a result of these proposed amendments which will be fed into the Regulatory Impact Assessment which will accompany the final Regulations.

Long term benefits

16. The main long-term benefit of the introduction of these Regulations is that they will help improve the quality of education and the welfare, health and safety of pupils in independent schools in Wales as well as enhancing the governance of independent schools. The stronger governance of independent schools should increase the effective operation and improve the sustainability of the independent school in the future.
17. In the longer-term children will experience respectful relationships in their school and grow up safer and healthier.

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Prevention

18. One of the main aims of the Regulations is to strengthen the safeguarding of children and young people in the independent schools sector. We want to ensure we can prevent safeguarding issues happening and intervene early to prevent them escalating if they do occur. It is important to update the regulatory position to ensure this happens as the Independent Schools Regulations date from 2003 and are no longer consistent with Welsh Government's aspirations to ensure children and young people learn and live in a safe environment.
19. The revised Regulations will strengthen the management and governance of independent schools and will place clear accountability for meeting the Standards on the proprietor of the school. Where the Standards are not met, Welsh Ministers will have more scope to intervene in order to ensure compliance. This will prevent issues escalating in independent schools as compliance to the regulations is tightened.

Integration

20. Taking full account of the initial Call for Evidence, Welsh Government has developed these draft Regulations to help remove some gaps relating to the safety of children and young people. The draft Regulations will provide safeguards to the physical and mental well-being of children and young people learning in the independent schools sector, and therefore support the Welsh Government's commitment, in the **Programme for Government**, to prioritise investment in improving mental health. In addition, improved safeguarding of children and young people directly contributing to objectives such as education reform, protecting vulnerable people and eliminating inequality.

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Collaboration

21. The development of these draft Regulations has been informed by a Call for Evidence which ran between 9 December 2021 and 4 February 2022. Stakeholder events were also held in January 2023, aimed at informing the sector of proposed regulatory changes and encouraging contribution to the consultation. The draft Explanatory Memorandum and Regulatory Impact Assessment for the draft Regulations will also be published for comment. Although the consultation is web-based, the Welsh Government has contacted stakeholders directly, to let them know of the consultation launch and invite responses.

Involvement

22. As noted above, there has been significant involvement with stakeholders in the development of these draft Regulations, including during a Call for Evidence, stakeholder events in relation to the guidance held in January 2023 and the establishment of a Heads of Independent Schools Task and Finish Group, in addition to a full public consultation. The outputs from the Call for Evidence demonstrated that the independent schools sector was largely in favour of the plans to strengthen or extend the existing legislation. Estyn have also been fully engaged in the process to develop the draft Regulations and revised operational guidance. Officials will continue to meet with stakeholders as the legislation progresses to discuss its potential impact.

Section 8: conclusion

1. To inform the development of these draft Regulations, targeted engagement

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sessions were held for independent schools, local authorities, WISC and the Boarding Schools Association in November 2021 in advance of publishing a Call for Evidence on the Welsh Government website on 9 December 2021. Officials undertook a targeted e-mail exercise encouraging independent schools to share information about the Call for Evidence with learners and parents. We also engaged with Estyn, Children's Commissioner for Wales, Care Inspectorate Wales at the outset of the process.

How have people most likely to be affected by the proposal been involved in developing it?

2. Welsh Government held a Call for Evidence open to all interested parties in 2021 to 2022 and stakeholder events in November 2021 and January 2023 seeking views from the sector on the proposed changes, the latter being facilitated by Estyn. Welsh Government officials also presented information about the proposed regulatory changes at conferences held by the Welsh Independent Schools Council (WISC) in 2021 and 2022 and have established a Heads of Independent Schools Task and Finish Group to provide expert insight and assist in the development of the final Regulations.
3. As part of the ongoing development of the CRIA, officials are working with Children in Wales to ensure that children and young people in independent schools have an opportunity to make their views on the revised regulations known

What are the most significant impacts, positive and negative?

4. The most significant positive impact will be increased safeguards in place for all children and young people learning in the independent school sector in Wales as well as enhancements to governance arrangements for the

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independent schools themselves. The Regulations will address deficiencies identified in the existing Regulations by the Children's Commissioner for Wales and will also respond to issues highlighted by the IICSA.

5. Disabled children and young people, looked after children, as well as girls and young women will benefit the most from the strengthening of the regulations as safeguards to prevent sexual abuse will be increased.
6. The overall aims of the draft Regulations are to strengthen existing legislation so as to improve governance of independent schools and safeguard and support the wellbeing of learners. This will be achieved by regulatory changes that will:
 - Help the proprietors and those responsible for the management of independent schools to understand what is required by the regulations and the standards they prescribe; this will include setting out clearly the role of the proprietor in ensuring requirements under the standards are met
 - ensure that learners are able to achieve their potential and are equipped with skills for life
 - ensure that learners are taught and, where appropriate, reside, in a safe environment that supports their well-being
 - reflect the current legislation and policies of the Welsh Government.
7. In terms of negative impacts, the draft Regulations will result in some costs to independent schools, for example in terms of more frequent DBS checking, and these are considered in the cost and benefit analysis section of the RIA. Independent schools will attract these costs to varying degrees, depending on their existing arrangements and how much additional work they will need to do as a consequence. No other negative impacts have been identified.

In light of the impacts identified, how will the proposal:

- **maximise contribution to our well-being objectives and the seven**

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well-being goals; and/or,

- **avoid, reduce or mitigate any negative impacts?**

8. We are making these changes to legislation in order to help ensure children and young people learning and or residing in the independent schools sector in Wales do so in a safe environment. The revised Regulations will strengthen the safeguarding arrangements in independent schools and amend the quality of education Standards so as to revise the interventions available to Welsh Ministers in cases where an independent school fails to meet those Standards.
9. They will also strengthen the management and governance of independent schools and clarify who is responsible for ensuring that the Standards are met consistently, placing the onus for compliance with the requirements of the draft Regulations clearly with the proprietor of the school. These outcomes will help keep children safe and will have a positive impact on their well-being.
10. Officials consider that any costs for independent schools as a consequence of these legislative changes will be heavily outweighed by the positive impact of more effective safeguarding for the children and young people learning in the sector and enhanced mechanisms for ensuring independent schools operate in accordance with the Standards.

How will the impact of the proposal be monitored and evaluated as it progresses and when it concludes?

11. The Welsh Government will work with Estyn to monitor, review, and evaluate the legislative changes following the coming into force date of these amended Regulations. Inspections by Estyn will be the most quantifiable

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indicator of compliance with the revised regulations. This approach will aim to measure their effectiveness and capture its real impact, and, in particular, whether the policy aims are being met.

12. As the registration authority, the Welsh Government may require Estyn to inspect any registered school relating to any, or all, of the Independent School Standards. Estyn will be required to report to the Welsh Government on the extent to which the school meets the Independent School Standards and to arrange for publication of the inspection report if required.
13. The purpose of the review will be to assess whether the regulations are being adhered to and whether they are fit for purpose. This will be for Estyn to establish during their forthcoming inspections. The review will be on-going: because at each (roughly termly) meeting between the Welsh Government, Estyn and CIW, the inspectorates will provide a programme of forthcoming inspections of independent schools planned for the following term.
14. Estyn will also provide advice every term on the publication schedule for Section 163 inspection reports and notes of annual monitoring visits. This will enable Welsh Ministers to be alerted to any contentious issues before the report becomes public, and to begin any follow-up action required.

Children's Rights Impact Assessment

Background

1. This assessment considers the impact of the review and revision of the legislative framework for independent schools in Wales on children and young people learning in that setting in Wales. The current regulations and the standards they prescribe have been in place since 2003 and, although they have been amended from time to time during this period, they no longer reflect the current policy and legislative position of the Welsh Government.

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They need to be revised to reflect related legislation that has been introduced since 2003 such as the Equalities Act 2010, The Additional Learning Needs and Education Tribunal Act 2018 and the Keeping Learners Safe statutory guidance issued by Welsh Government that seeks to safeguard and support the wellbeing of learners.

2. The principal regulations and order that form part of this review are as follows:

- **The Independent School Standards (Wales) Regulations 2003**
- **The Independent Schools (Provision of Information) (Wales) Regulations 2003**
- **The Independent Schools (Religious Character of Schools) (Designation Procedure) (Wales) Regulations 2003**
- **The Independent Schools (Publication of Inspection Reports) (Wales) Regulations 2003**
- **The Education (Independent Schools) (Unsuitable Persons) (Wales) Regulations 2009**
- **The Designation of Schools Having a Religious Character (Independent Schools) (Wales) Order 2009**

3. The amendments to the regulations include those made by:

- **The Independent Schools (Provision of Information) (Wales) (Amendment) Regulations 2021**
- **The Independent Schools (Miscellaneous Amendments) (Wales) Regulations 2007**

4. We are also proposing to introduce a new set of regulations, the **Independent Schools (Prohibition on Participation in Management) (Wales) Regulations 2023**, using the powers conferred on the Welsh Ministers by section 167A of the Education Act 2002 to make regulations that prescribe the grounds on which a direction may be given prohibiting a person from taking part in the management of an independent school in

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Wales. We consider this an important contribution to the measures that should be taken to safeguard learners.

5. One of the main aims of the Regulations is to strengthen the safeguarding of children and young people in independent schools. We want to ensure we can prevent safeguarding issues happening and prevent them escalating if they do occur. It is important to update the regulatory position to ensure this happens.
6. The Regulations will also strengthen the management and governance of independent schools and will place clear accountability for meeting the Standards on the proprietor of the school. Where the Standards are not met, Welsh Ministers will have more scope to intervene in order to ensure compliance.
7. The Regulations will align with other work being done to introduce the Education Workforce Council (Additional Categories of Registration) (Wales) Order 2023, which will give the Education Workforce Council (EWC) the power to regulate additional groups of professionals, including teachers in independent schools, and include them in the education workforce register. Taken together, this will provide the public with a high level of confidence that children and young people learning in independent schools will do so in a safe environment.

Children's Commissioner for Wales

8. In February 2021 the Children's Commissioner for Wales published the [Review of the Welsh Government's exercise of its functions, by the Children's Commissioner for Wales, February 2021](#). The report was critical of the Welsh Government's lack of progress in reviewing the independent schools regulations saying that it had 'failed to respond adequately to the safeguarding concerns related to independent schools that they have known about since at least 2014'. In its [response](#) to the Review the Welsh Government acknowledged the need for fundamental reform to

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update the regulatory system for independent schools. This CRIA forms part of the supporting documentation in relation to the development of the revised Regulations which will help address the Commissioner's concerns.

Independent Inquiry into Child Sexual Abuse (IICSA)

9. On 1 March 2022 IICSA published **The residential Schools investigation report**. The investigation examined the nature and extent of incidents of child sexual abuse in residential schools, and the responses to those allegations by the schools and other organisations. The themes considered included governance and management of schools, inspection and monitoring, training and recruitment of staff, whistleblowing and reporting, school culture, and good safeguarding practice. The inquiry considered evidence relating to a boarding school in Wales, where safeguarding issues arose in 2019 which led to the dismissal of the headteacher in February 2020.
10. In its final report the Inquiry made seven recommendations, six of which are for both the Department of Education and Welsh Government and one recommendation which is for the Welsh Government only.
11. The proposed changes to the Independent Schools Regulations take account of the various IICSA recommendations and introduce more frequent DBS checking, improved safeguarding arrangements and greater emphasis on good governance in independent schools, with duties being placed on the proprietor, rather than on the school itself.

Gathering evidence and engaging with children and young people

12. The Children's Commissioner for Wales has advocated for many of the proposed changes and provided a detailed and helpful response to the Call

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for Evidence. The Children's Commissioner is an influential advocate for children and young people, with a sound knowledge of issues relating to children and young people across Wales.

13. Evidence to inform the review of the independent school's regulations and the potential impact of proposed changes on children has been gathered from a range of sources, including engagement with children and young people themselves.

Engagement with learners from independent schools

14. Several independent schools across Wales have agreed to take part in focus groups where children aged 10-18 will be provided with information about the regulatory changes and will be asked their views. These groups will commence running in late Spring 2023 and the outputs will contribute to the development of the final Regulations.

General engagement with stakeholders

15. Welsh Government ran a **Call for Evidence** between 9 December 2021 and 4 February 2022, which gave all interested parties an opportunity to submit views, supporting evidence and suggestions on potential changes to the legislative framework and guidance. All independent schools were invited to attend one of a series of engagement sessions in November 2021 and were encouraged to share the Call for Evidence with their pupils and parents. Sessions were also held with local authorities, umbrella bodies, the Children's Commissioner and other stakeholders to raise awareness of the review and to set out the main themes.
16. A **summary of responses** to the Call for Evidence was published in March 2022. The overall findings from the Call for Evidence showed that there was general agreement that the regulations required updating and that strengthening regulations around the governance and management of

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schools and ensuring the safety and well-being of learners were the key areas of concern. The responses broadly supported the proposals to:

- strengthen safeguarding training requirement for staff, school leadership and learners
- consider who should have a Disclosure and Barring Service (DBS) check and increase the frequency of DBS checks to every three years
- strengthen the regulations to ensure that schools actively promote safeguarding of learners
- amend the wording in standards to make it clear that the proprietor is ultimately responsible for compliance
- making regulations around participation in the management of independent schools

Consultation on draft regulations

17. A public consultation on the proposed changes to the Regulations is being held between May and July 2023. All responses will be considered and will be used to help shape the final draft of the Regulations.

Analysing the evidence and assessing the impact

18. All the proposed changes to the regulations and the introduction of a new set of regulations are intended to strengthen the mechanisms to safeguard learners and ensure a high quality of education in independent schools, therefore having a positive impact on children and young people who are learning in that sector. No negative impacts or conflict with the articles in the UNCRC have been identified.
19. A school's compliance with the Standards will be tested during inspections by Estyn, which should reduce the risk of schools failing to act in accordance with the requirements of the Regulations. Failure to comply with the

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Standards could however result in action by Welsh Ministers, as set out previously.

20. Impacts on Articles in the UNCRC are set out in the table below.

Impacts on Articles in the UNCRC

| UNCRC Articles or Optional Protocol | Enhances (X) | Challenges (X) | Explanation |
|---|--------------|----------------|--|
| Article 1 Everyone under the age of 18 has all the rights in the Convention. | X | N/A | The revised regulations apply equally to all independent schools and to all learners within those schools |
| Article 3 All organisations concerned with children should work towards what is best for each child | X | N/A | The draft Regulations require independent schools to put the best interests of the child at the forefront of all decisions. Of particular significance are the changes made to the requirements in the Welfare, Health and Safety of Pupils standard and the introduction of a requirement that schools must consider the impact of any policies or decisions they make on the welfare of their pupils. |
| Article 12 Children have the right to say what they think should happen, when adults are making decisions that affect | X | N/A | The proposed regulations require independent schools to enable the child to develop their self-knowledge, and self-confidence self-esteem thereby encouraging them to have a voice. |

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| UNCRC Articles or Optional Protocol | Enhances (X) | Challenges (X) | Explanation |
|--|--------------|----------------|--|
| them, and to have their opinions taken into account. | | | |
| Article 19 Governments must do all they can to ensure that children are protected from all forms of violence, abuse, neglect and bad treatment by their parents or anyone else who looks after them. | X | N/A | <p>The draft Regulations will require that independent schools go further to protect the welfare, health and safety of pupils and actively implement the latest safeguarding arrangements. There will in turn be strengthened regulatory action on schools where, upon inspection, these are found to be missing or ineffective.</p> <p>In addition, the draft Regulations will strengthen the requirement for all staff in the school to undergo the appropriate DBS checks before or as soon as practicable after their appointment.</p> |
| Article 28 The right of the child to education | X | N/A | <p>The proposed Regulations positively promote good quality education that encourages and supports learners with their educational and emotional development to help them achieve their full learning potential.</p> |
| Article 29 Education must develop | X | N/A | <p>The draft Regulations enhance existing standards relating to respecting others and their own and</p> |

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| UNCRC Articles or Optional Protocol | Enhances (X) | Challenges (X) | Explanation |
|--|--------------|----------------|---|
| every child's personality, talents and abilities to the full. It must encourage the child's respect for human rights, as well as respect for their parents, their own and other cultures, and the environment. | | | other peoples' cultures to promote harmony between different cultural traditions and encourage increased involvement in the community where the school is situated. |
| Article 34 Governments must protect children from sexual abuse and exploitation | X | N/A | The draft Regulations strengthen the requirement on the proprietor of an independent school to have regard to updated guidance on safeguarding children and handling allegations of abuse against teachers and other staff. |

Equality Impact Assessment

Describe and explain the impact of the proposal on people with protected characteristics as described in the Equality Act 2010

1. The proposed changes in the draft Regulations in terms of strengthened safeguarding and improved governance of independent schools will have a

positive impact for all children who learn in an independent school setting. However, the impacts may vary across various groups. For example, there is strong evidence to indicate that certain groups, For example, young women and girls, trans children and young people, children and young people with disabilities and LGBT children and young people, are more likely to experience sexual abuse. The impacts of the enhanced safeguarding and governance requirements will therefore be greater for them.

2. These draft regulatory changes will introduce better safeguarding arrangements and governance in independent schools in Wales, which will ensure all children who learn and/or reside in the independent school sector will be better protected.

Record of Impacts by protected characteristic:

| Protected characteristic or group | What are the positive or negative impacts of the proposal? | Reasons for your decision (including evidence) | How will you mitigate Impacts? |
|---|---|--|--------------------------------------|
| Age (think about different age groups) | All children and young people learning in independent schools will have enhanced safeguards as a consequence of the draft Regulations. | The proposed changes to the Regulations apply equally to all independent schools in Wales. | No negative impacts are anticipated. |
| Disability (consider the social model of disability (Welsh Government uses the social model of disability. We understand | Some independent schools are specifically organised to make additional learning provision for pupils with ALN. They cater for learners with | The proposed changes to the Regulations apply equally | No negative impacts are anticipated. |

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| Protected characteristic or group | What are the positive or negative impacts of the proposal? | Reasons for your decision (including evidence) | How will you mitigate Impacts? |
|---|---|--|--------------------------------|
| <p>that disabled people are not disabled by their impairments but by barriers that they encounter in society. Ensuring that your proposal removes barriers, rather than creating them, is the best way to improve equality for disabled people. For more information, go to the intranet and search ‘social model’.) and the way in which your proposal could inadvertently cause, or could be used to proactively remove, the barriers that disable people with different types of impairments)</p> | <p>complex needs who may have profound or multiple learning difficulties or disabilities that require significant daily support or have needs which will only be met by such specialist establishments. Therefore, the Regulations will have a positive impact specifically on disabled children and young people, who in turn are also known to be more at risk of sexual abuse.</p> | <p>to all independent schools in Wales.</p> <p>All independent schools are expected to cater for the majority of pupils who have more typical or less complex ALN.</p> <p>The legislative changes will have a positive impact on disabled children as they introduce a requirement for school premises to be fully accessible to all pupils.</p> | |

| Protected characteristic or group | What are the positive or negative impacts of the proposal? | Reasons for your decision (including evidence) | How will you mitigate Impacts? |
|--|---|---|---|
| Gender Reassignment (the act of transitioning and Transgender people) | <p>There is evidence from such organisations as the NSPCC, that trans children and young people can be at more risk of sexual abuse than their peers. The improved safeguarding requirements in the draft Regulations will therefore have a positive benefit in ensuring that these children and young people in particular are better protected.</p> <p>In addition, the requirements in the Regulations in relation to ensuring respectful relationships will also have a beneficial impact on trans children and young people.</p> | <p>The draft Regulations will ensure all children who learn in the independent setting in Wales will be better protected.</p> | <p>No negative impacts are anticipated.</p> |
| Pregnancy and maternity | <p>There is no evidence to suggest that the proposed amendments to the Regulation will have a negative or positive effect on pregnant women or those on maternity leave.</p> | <p>The draft Regulations concern changes to the rules governing independent schools and have no impact on</p> | <p>No negative impacts are anticipated.</p> |

| Protected characteristic or group | What are the positive or negative impacts of the proposal? | Reasons for your decision (including evidence) | How will you mitigate Impacts? |
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pregnancy or maternity.

| | | | |
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| Race (include different ethnic minorities, Gypsies and Travellers and Migrants, Asylum seekers and Refugees) | It is anticipated that the proposed changes to the requirements in the Spiritual, moral, social and cultural development of pupils will have a beneficial effect as they aim to strengthen respect and tolerance of those of different race. | Many independent schools recruit learners from across the globe creating diverse and multi-ethnic communities. The proposed introduction of a new requirement to encourage pupils to respect those with different faiths and beliefs will strengthen the existing requirement to promote further tolerance and harmony between | No negative impacts are anticipated. |
|---|--|--|--------------------------------------|

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| Protected characteristic or group | What are the positive or negative impacts of the proposal? | Reasons for your decision (including evidence) | How will you mitigate Impacts? |
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different cultural traditions.

Religion, belief and non-belief

It is anticipated that the proposed changes to the requirements in the Quality of education provided and Spiritual, moral, social and cultural development of pupils will have a beneficial effect as they aim to strengthen respect and tolerance of those with different faiths and beliefs.

Independent schools have the option to apply to the Welsh Government to be designated as a school with a religious character. No negative impacts are anticipated.

The proposed changes to the Independent Schools Regulations apply equally to schools who have chosen to be designated as a school with a religious character or have chosen

| Protected characteristic or group | What are the positive or negative impacts of the proposal? | Reasons for your decision (including evidence) | How will you mitigate Impacts? |
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not to be designated.

Changes to the requirements in the Quality of education provided and Spiritual, moral, social and cultural development of pupils aim to strengthen the promotion of respect and tolerance of those with different faiths and beliefs.

The exception for schools with a religious character to have admission criteria which give preference to

| Protected characteristic or group | What are the positive or negative impacts of the proposal? | Reasons for your decision (including evidence) | How will you mitigate Impacts? |
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members of their own religion will remain.

Sex or Gender

There is significant evidence that young women and girls experience far higher levels of sexual abuse than their male peers and therefore the increased safeguards provided by the draft Regulations will have a greater positive impact on them.

Independent schools have the option of registering as a single sex school or a co-educational school.

No negative impacts are anticipated.

These options will remain, and the proposed changes will apply equally to all types of interdependent schools. The exception for single sex schools to have admission criteria which restricts

| Protected characteristic or group | What are the positive or negative impacts of the proposal? | Reasons for your decision (including evidence) | How will you mitigate impacts? |
|---|---|---|---|
| Sexual orientation (Lesbian, Gay and Bisexual) | <p>There is evidence that LGBT children and young people are more likely to experience sexual abuse and so the increased safeguards provided by the draft Regulations will have a significant positive impact on them.</p> <p>In addition, the requirements in the Regulations in relation to ensuring respectful relationships will also have a beneficial impact on LGBT children and young people.</p> | <p>The draft Regulations will ensure all children who learn in the independent setting in Wales will be better protected.</p> | <p>No negative impacts are anticipated.</p> |
| Marriage and civil partnership | <p>This is not a protected characteristic for school provision.</p> | <p>The draft Regulations are concerned with safeguarding children in the independent school setting and have no</p> | <p>No negative impacts are anticipated.</p> |

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| Protected characteristic or group | What are the positive or negative impacts of the proposal? | Reasons for your decision (including evidence) | How will you mitigate Impacts? |
|---|---|---|--------------------------------------|
| Children and young people up to the age of 18 | A full Children's Rights Impact Assessment has been produced. | The draft Regulations will ensure all children who learn in the independent setting in Wales will be better protected. | No negative impacts are anticipated. |
| Low-income households | Some learners with additional learning needs maybe placed in an independent school, usually one that is specifically organised to make additional learning provision for pupils with additional learning needs by the local education authority. These are schools who can cater for learners with complex needs who may have profound or multiple learning difficulties or disabilities that cannot be | Independent schools are funded through charging fees and through other income generation. It is therefore unlikely that learners from low-income households will chose to | No negative impacts are anticipated. |

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| Protected characteristic or group | What are the positive or negative impacts of the proposal? | Reasons for your decision (including evidence) | How will you mitigate Impacts? |
|-----------------------------------|--|--|--------------------------------|
| | <p>catered for in the maintained sector. The fees and costs of such a placement are funded by the relevant local authority. Therefore, strengthening the governance, education and safeguards for these children who might be from low income families is essential and will have a positive impact on them.</p> | <p>attend an independent school.</p> | |

Human Rights and UN Conventions

Do you think that this policy will have a positive or negative impact on people's human rights? (Please refer to point 1.4 of the EIA Guidance for further information about [Human Rights](#) and the [UN Conventions](#)).

Human Rights and UN Conventions

| Human Rights | What are the positive or negative impacts of the proposal? | Reasons for your decision (including evidence) | How will you mitigate negative impacts? |
|--|--|--|---|
| Article 2 Protocol 1 – the right to education | Children and young people across all sectors will benefit from the increased safeguarding arrangements introduced by the revised Regulations. The clarification of specific roles and duties within independent schools and the requirement for more frequent DBS checks and training will be also helpful in this regard. | The Independent Inquiry into Child Sexual Abuse and the Children’s Commissioner for Wales have all recommended that the existing Independent Schools Regulations should be strengthened to ensure children are safe when learning in the sector. | No negative impacts have been identified. |

The proposed legislative changes aim to help ensure that children who learn and/or reside in the independent school sector in Wales are effectively safeguarded. In this way, they are consistent with Article 7 of the UN Convention on the Rights of Persons with Disabilities, for example, children with disabilities, as they will help ensure that such children, who are known to be at greater risk of sexual abuse, will be better protected.

Welsh Language Impact Assessment

Does the proposal demonstrate a clear link with the Welsh Government’s strategy for the Welsh language? –

Cymraeg 2050 A million Welsh speakers and the related Work Programme for 2017-2021?

1. This proposal is not specifically linked to any Welsh language strategy.
2. The process by which the Welsh Government registers Independent Schools complies with Welsh language standards covering service delivery, operational, policy making, record keeping and promotion.
3. Independent Schools are free to design and deliver their own curriculum and are not required to adopt the curriculum taught in maintained schools in Wales or to teach the Welsh language. The proposed amendment to the draft Regulations aims to strengthen the link between the school and the local community. The amendments require schools to help pupils to understand how they can contribute positively to the communities where the school is situated and encourage pupils to respect the values of democracy, mutual respect and tolerance of different cultures, faiths and beliefs and avoid and resist racism and other cultural tensions.
4. Increased involvement in the local community will raise learners' awareness of the unique culture of the local community, Wales and its language.

Describe and explain the impact of the proposal on the Welsh language and explain how you will address these impacts in order to improve outcomes for the Welsh language. How will the proposal affect Welsh speakers of all ages (both positive and/or adverse effects)?

5. We do not believe the draft Regulations will affect compliance with the Welsh Language Standards for the Independent Schools registration process or ongoing monitoring, or that there will be any other negative impacts on the Welsh language that might arise as a result. Moreover, we do not consider there is a way in which the draft Regulations could have any harmful effect

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on the Welsh language.

6. These proposals are expected to safeguard children and their families. The impact on those persons who are protected is expected to be the same whether those individuals reside in Welsh speaking communities, use, or teach in Welsh medium education, or need to access services in Welsh.
7. The proposed amendments to the Independent Schools Regulations will increase the involvement of learners in their local communities which in turn will raise awareness of the language and culture of Wales. Although this may not lead to a significant increase in the use of the language, it will contribute towards an understanding of the important part the language plays in the nation's identity and increase respect towards a different culture. It will also increase the international awareness of the Welsh language and culture as many of the independent boarding schools attract learners from countries across the world.
8. We have not identified any impact, either positive or negative, on the sustainability of Welsh speaking communities, Welsh Medium education, or access to any services in Welsh.

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