



Llywodraeth Cymru
Welsh Government

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Integrated impact assessment summary: The Children Act 2004 Children Missing Education Database (Wales) Regulations 2025

An assessment of the proposals and the impact they have on local authorities and health boards.

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Section 1

What action is the Welsh Government considering and why?

Making of regulations that would require local authorities in Wales to establish a database of children who may be missing education, that is, they are not on roll at school, in receipt of provision other than at school (EOTAS) or home educated (EHE) and determined by the local authority to be in receipt of a suitable education. To enable local authorities to establish the databases, the regulations will also require local authority partners to provide non-sensitive and non-clinical information about children who are registered with them. The Children Act 2004 Children Missing Education Database (Wales) Regulations 2025 will provide the legal framework for these proposals.

The regulations will provide a mechanism for local authorities to identify children who may be missing education, and help ensure that children and young people in Wales receive an education in line with Article 28 of the United Nations Convention on the Rights of the Child and Article 2 of the European Convention of Human Rights. Children and young people not receiving a suitable education may not fulfil their potential and are less likely to be in an environment which enables local agencies to safeguard and promote their wellbeing. The main purpose of the regulations is to help local authorities meet their duty under section 175 of the Education Act 2002. This places a requirement on local authorities to undertake their education functions with a view to safeguarding and promoting the welfare of children.

Local authorities will cross-reference the information received against existing education data, and remove all children who are not missing education. The remaining information will provide a cohort of learners who are a) not already known to the local authority, and b) known to the local authority but they have

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been unable to establish that they are in receipt of a suitable education. These names will be included on the local authority's Children Missing Education (CME) Database.

The Welsh Ministers are also required to have due regard to the UNCRC when exercising any of their functions as encapsulated in the Rights of Children and Young Persons (Wales) Measure 2011. This is supported by the overarching objective of securing the child's right to education and to develop healthily as outlined in the United Nations Convention on the Rights of the Child (UNCRC). In addition, for those children who may be seen by professionals, there may be an ancillary safeguarding benefit. These objectives are driven by the overarching objective of securing the child's right to development through education.

Integration

The proposal directly contributes to policy agendas as set out in the Programme for Government. These proposals support the goal of a more equal Wales, a society that enables children and young people to realise their rights, and in particular their right to education, and to fulfil their potential no matter what their background or circumstances.

Collaboration

The Welsh Government consulted on proposals for database regulations in 2020. Following the consultation, the Minister for Education and Welsh Language agreed that the scope of the database would be reduced and that the rationale for the proposals would more closely align to the policy intent, which is to ensure that children are not missing education. As such, the views of stakeholders and the public have informed the development of the policy and the revised proposals seek to address the main concerns that were raised. The Welsh Government has discussed plans internally with health policy officials,

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data protection officials and legal services. Additionally, all local authorities have been consulted and advised on the revised proposals, with feedback requested from the education welfare officers working group, national steering group for EHE, and CME Stakeholder group (November to December 2023). Separately, six local authorities have met with the Welsh Government to discuss piloting the proposals, and to discuss how these could be undertaken. We will continue to engage stakeholders throughout the development of the database regulations, via our agreed social partnership arrangements. We will be undertaking a further consultation from January to April 2024) on our proposals.

Involvement

In order to help inform policy development prior to any formal consultation, officials sought to engage with and gather the views of the home education community. The views of the community have been considered in full following that engagement and the first consultation on the initial database proposals. Welsh Government officials have also been engaged in ongoing discussions with the Children's Commissioner for Wales (CCfW).

Impact

Local authorities have reported that they cannot undertake their statutory duties in relation to education, safeguarding and promoting welfare of children if they are not aware of children residing in their local authority areas. The regulations will ensure that local authorities are able to undertake their statutory duties by making them aware of children who are not currently included in any education data. The regulations will support local authorities with implementation and application of the Welsh Government's statutory guidance to 'Help prevent children and young people from missing education'. These proposals do not provide local authorities with new powers, but will make it clearer what existing duties are on local authorities, and the actions they should be taking to fulfill

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those duties.

Costs and Savings

Costs of the proposals have not been identified. There will be costs in terms of staff time for health boards to provide data to local authorities and for local authorities to cross reference this data against children already known to them. The proposals aim to support local authorities to undertake their existing statutory duties by introducing a mechanism to identify children who are missing education. Discussions have taken place with local authorities and we have established that CME processes are in place, and these regulations will place a greater focus on them.

Mechanism

Secondary legislation will be introduced by way of an Order to bring section 29 of the Children Act 2004 into effect, and two sets of regulations.

Section 8: conclusion

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

The proposal will affect local authorities, local health boards, general practitioners, families with children of compulsory school age, and children of compulsory school age if they are missing education or deemed to not be in receipt of a suitable education.

A consultation was undertaken in 2020 on the initial database proposals, and

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following this consultation, the Minister for Education and Welsh Language agreed that the scope of the database would be reduced and that the rationale for the proposals would more closely align to the policy intent, which is to ensure that children are not missing education. As such, the views of stakeholders and the public have informed the development of the policy, and the revised proposals seek to address the main concerns that were raised. The Welsh Government has discussed plans internally with health policy officials, data protection officials and legal services. Additionally, all local authorities have been consulted and advised on the revised proposals, with feedback requested from the education welfare officers working group, national steering group for Elective Home Education, and Children Missing Education Stakeholder group (November to December 2023), in addition to wider engagement with home educating families, the Children's Commissioner for Wales, the Information Commissioner's Office and the General Medical Council.

It is not anticipated that the proposal will impact people with protected characteristics under the Equality Act 2010, or Welsh speakers and Welsh language specialist groups.

What are the most significant impacts, positive and negative?

The proposal aims to ensure that local authorities are aware of all children they are responsible for (those resident in their LA area) so that they can establish that they are not missing education and/or establish that the education being received is suitable. Missing education is a welfare concern as those children are not able to reach their potential, or may not be in an environment where their welfare is prioritised.

The regulations will provide a mechanism for LAs to undertake their section 175 duty under the Education Act 2002, which is to undertake their education functions with a view to safeguarding and promoting the welfare of children.

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Local authorities have reported that they currently are unable to do this as they are not aware of all children they are responsible for. The requirements in the regulations will make local authorities aware of children who were previously unknown to them and enable them to undertake their statutory duties. This will result in improved safeguarding and reduce the risk of harm to some children who were not previously known to the local authority.

The proposals will strengthen processes around determining suitability of education provision. There may be families who have chosen to home educate their children as they felt that their child's needs could not be met within a school environment. These families could request that their children's needs be determined, and this may result in local authorities having to develop an individual development plan outlining the child's identified needs and the provision of any additional learning provision which may be required to meet these identified needs.

The local authority could deem that the decision to home educate addresses the need and no additional learning provision is required, or that the additional learning provision is provided by training for parents, outreach from a local authority's specialist support services, from the child attending a setting to receive support, or even attending a special school.

The above would result in positive outcomes for learners, but could also increase workload and put financial pressures on local authority services as they would need to process any requests for determination of a child's needs and provide for any subsequent additional learning provision.

Some parents could request that their child's needs are determined through the medium of Welsh which could put pressures on local authorities. This may impact some local authorities more adversely than others.

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

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- maximise contribution to our well-being objectives and the seven well-being goals and/or
- avoid, reduce or mitigate any negative impacts?

The Welsh Government is working towards a more equal Wales, that is a society that enables people to fulfil their potential no matter what their background or circumstances. The database will support LAs to identify children who might be missing education and thus ensure all children in Wales are receiving an education, regardless of their situation or how they receive their education. This would also allow the local authority to be aware of learners and take the necessary steps to ensure that the education being provided is suitable, where required referrals can be made to appropriate agencies so that relevant agencies and services can be identified to provide the necessary support and intervention.

Welsh Government's aspiration is to engage and inspire the next generation of learners for a more prosperous and equal Wales and to deliver on this for all learners.

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

Welsh Government will pilot the database proposals with a select number of local authorities prior to full implementation. The pilot will be evaluated independently, to inform any changes that may be required.

The proposal will be monitored by policy officials through engagement with local authority officers. Local authorities will be asked to report the number of children they have been made aware of as a direct result of the proposal. This will help determine whether the measures are helping local authorities to identify numbers of children missing education. The proposals will also be monitored via the annual Data Cymru returns that are submitted by local authorities.

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