



Llywodraeth Cymru  
Welsh Government

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# Children's rights impact assessment (draft): The Children Act 2004 Children Missing Education Database (Wales) Regulations 2025

An assessment of the regulations and the impact on children's rights.

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# Contents

1. Policy objectives
2. Gathering evidence and engaging with children and young people
3. Analysing the evidence and assessing the impact
4. Ministerial advice and decision
5. Communicating with Children and Young People
6. Monitoring and Review

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# 1. Policy objectives

This Children's Rights Impact Assessment (CRIA) should be read in conjunction with the draft Children Act 2004 Children Missing Education Database regulations 2025.

The Children Act 2004 Children Missing Education Database regulations 2025 will require each local authority to establish and populate a database of all compulsory school age children in their area who are missing education, or the local authority has not been able to establish that they are in receipt of a suitable education. These regulations will also require local health boards (LHBs) to disclose to a local authority (LA) non-medical information to assist LAs in identifying children in their area that they do not know about, that is they are not known to the LA because they are not on a school roll, in education otherwise than at school (EOTAS) provision, known to be electively home-educated (EHE), or attending an independent school. The Education (Information about Children in Independent Schools) (Wales) Regulations 2025 will require independent schools to disclose to a local authority information regarding learners registered at their establishment. Both regulations provide the legal basis for the disclosure of data by local health boards and independent schools to LAs and will be made under existing powers of Welsh Ministers under section 29 of the Children Act 2004.

Once the LA has a reasonably complete database it will then be able to compare education and health data in order to identify children not already known to them and to ensure that they are receiving a suitable education, regardless of where that is delivered. The Welsh Government has considered how best to enable local authorities to ensure children in their area are receiving a suitable education regardless of where that is delivered. We consider this proposal, on balance, to be a reasonable and proportionate approach.

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## 2. Gathering evidence and engaging with children and young people

### What existing research and data on children and young people is available to inform your specific policy?

Local authorities submit annual returns to Data Cymru in relation to learners whose families have elected to home educate during the year. The latest data shows only 23.5% of families who elected to home educate their child(ren) in 2023 cited reasons that could be described as positive, such as lifestyle, ideological, philosophical and religious beliefs. The remainder of families where a reason was recorded (51.7%) cited negative reasons for withdrawing their child(ren) from school, for example, child's anxiety, threat of prosecution, bullying, medical reasons, breakdown in relationship with the school.

A key aspect of Welsh Government policy is that the parental decision to home educate is a positive choice and not considered as an option when children have disengaged from education prior to becoming home educated and parents feel that they had to take this decision. If parents were not prepared to home educate their children the education that they provide may not be efficient or suitable, which then results in the child becoming classed as 'missing education' (CME).

There is already a statutory duty on local authorities in respect of Children Missing Education which is detailed here: [statutory guidance to help prevent children and young people from missing education](#)

## **Using this research, how do you anticipate your policy will affect different groups of children and young people, both positively and negatively?**

The proposal to establish a database for Children Missing Education will positively impact upon learners who are not currently receiving a suitable education as it will require local authorities to record the name of any child where the LA cannot determine whether the education is suitable. The LA must then ensure that they have access to suitable education, either by provision of an appropriate school place or provision of EOTAS (education otherwise than at school). This will initially result in more children who are home educated being recorded as CME, and will prompt the LA to formally assess the education being provided.

The proposal will also positively impact children who are currently missing education and not currently known to the local authority, as the database requirements will result in information about these children being shared with the local authority. Again, the requirement will be that the local authority provides education to that child under section 19 of the 1996 Education Act.

The proposals will not impact upon the majority of home educated learners and their families as the local authority will normally have determined that a suitable and efficient education has been provided by their family. These learners will not be included on the CME database.

The proposals will impact positively upon learners with identified Additional Learning needs (ALN) who have an individual development plan (IDP). Local Authorities have a duty to secure any Additional Learning Provision (ALP) required to meet the learners ALN. When the local authority reviews the child's IDP, this will provide an opportunity to determine whether the education provided is suitable and efficient. If it is not determined to be suitable and efficient then

this child would also be deemed to be a child missing education and the local authority would be required to take action to fulfil its duties under section 19 of the 1996 Education Act. This may result in learners with ALN receiving more support from the local authority, and learning opportunities that meet their specific needs.

These proposals also enable local authorities to ensure that Gypsy, Roma and Traveller (GRT) learners whose families have made the decision to home educate are in receipt of a suitable education. If GRT learners are working, there is relevant legislation which applies to safeguard all children in employment. If the family are citing that the child is engaged in work experience, then the parameters of any work experience to be undertaken should be clearly documented and should not be comparable to child employment. This would be in line with section 4.6, of our guidance which stresses that education, which is manifestly not occupying a significant proportion of a child's life, will probably not meet the section 7 requirement and if this is the case these would be included on the CME database.

**What participatory work with children and young people have you used to inform your policy? If you have not engaged with children and young people, please explain why (Article 12 of the UNCRC stipulates that children have a right to express their views, particularly when adults are making decisions that affect them, and to have their opinions taken into account).**

The previous consultation was open to all age groups and stakeholders. However, the consultation did not require respondents to provide their date of birth or age. Therefore, the Welsh Government does not hold this information.

The previous consultation was in relation to a proposed database of all children

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and young people which local authorities' cross reference against their PLASC, EOTAS and Independent School data which would result in a database of learners who would then be presumed to be home educated. The consultation was open to everyone, not just learners. The proposals have been amended following analysis of the previous consultation responses, which included the following question which 78.1% of respondents disagreed with: "The draft regulations require local health boards and independent schools to disclose to local authorities (LAs) the information listed in Schedule 1 to the regulations. This will assist the LA in identifying children of compulsory school age in their locality currently not known to them."

Respondents felt that previous proposals were not proportionate, and as a result, the WG has refined the proposal which results in the database only including learners who are not in receipt of education as stated under article 28 of united nation rights of child.

We will be consulting on the revised proposal, and this will again be open to all children and young people.

### **3. Analysing the evidence and assessing the impact**

**Using the evidence you have gathered, what impact is your policy likely to have on children and young people? What steps will you take to mitigate and/or reduce any negative effects?**

The proposals align with the Welsh Government's Children Missing Education Guidance which states: (paragraph 1.2) "Children and young people not receiving a suitable education are at increased risk of a range of negative

outcomes that could have long-term damaging consequences for their life chances". Proposals will enable local authorities to be aware of all learners within their local authority (potentially including learners that they may not have been aware of previously) and the positive impact will be that the local authority will be able to determine whether they are in receipt of a suitable education.

One identified potential negative effect of the proposals is the potential for families to fail to register with a GP if they felt strongly that they didn't want their details shared with local authorities. This was raised as a concern in responses to the consultation on the initial regulations, although no further information was provided to assess whether this is a risk, and the impact of this. In this instance, the fact that the policy is strongly aligned with Children Missing Education guidance mitigates this potential risk to some extent as this guidance is designed for a much wider audience than education professionals, for example Children and Young People's Partnerships, looked-after children education coordinators, child protection officers, Local Safeguarding Children Boards, youth offending services, youth agencies and Careers Wales - which will reduce the risk of children who are not registered with a GP, going missing. The potential risk is further mitigated as proposals will be piloted with a smaller number of local authorities, ahead of being implemented more widely.

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**How does your proposal enhance or challenge children's rights, as stipulated by the UNCRC articles and its Optional Protocols? Please refer to the [articles](#) to see which ones apply to your own policy.**

## **UNCRC Articles or Optional Protocol**

**Article 1: Everyone under the age of 18 has all the rights in the Convention.**

- Enhances or challenges: enhances
- Explanation: the proposals relate to all children.

**Article 2: The Convention applies to everyone: whatever their race, religion or abilities, whatever they think or say, whatever type of family they come from.**

- Enhances or challenges: enhances
- Explanation: the proposals relate to all children.

**Article 3: The best interests of the child must be a top priority in all things that affect children.**

- Enhances or challenges: enhances
- Explanation: proposals enhance article 3 as education provided by the parents must be suitable and efficient. If local authorities believe that the education being provided is not suitable or efficient then child is regarded as a child missing education and there is a duty on the local authority to engage the family, providing additional advice and support or issue a school attendance order.

**Article 12: Every child has the right to have a say in all matters affecting them, and to have their views taken seriously.**

- Enhances or challenges: enhances and challenges
- Explanation: the proposals enhance article 12 as the child can have their say at consultation phase. Proposals may challenge article 12, if the child stated they didn't want their personal data shared with the local authority by the health board.

**Article 13: Every child must be free to say what they think and to seek and receive all kinds of information, as long as it is within the law.**

- Enhances or challenges: enhances
- Explanation: the consultation would allow the child the opportunity to express views in relating to sharing data.

**Article 16: Every child has the right to privacy. The law should protect the child's private, family and home life.**

- Enhances or challenges: challenges
- Explanation: the proposals may challenge article 16, if child didn't want their personal data shared with the local authority by the health board.

**Article 23: A child with a disability has the right to live a full and decent life with dignity and independence, and to play an active part in the community. Governments must do all they can to provide support to disabled children.**

- Enhances or challenges: enhances
- Explanation: proposals enhance article 23 as education provided by the parents must be suitable and efficient. If local authorities believe that the

education being provided is not suitable or efficient then child is regarded as a child missing education and there is a duty on the local authority to engage the family, providing additional advice and support, determine whether the child has additional needs and then how these needs can be met. The local authority would be responsible for securing any additional learning provision.

#### **Article 24: Every child has the right to the best possible health.**

- Enhances or challenges: challenges
- Explanation: the proposals may result in a child not receiving their article 24 right, if families fail to register their children with health practitioners if didn't want their personal data shared.

#### **Article 28: Every child has the right to an education.**

- Enhances or challenges: enhances
- Explanation: the proposals enhance Article 28 as the establishment of this process would ensure that the local authority is aware of all learners and can ensure that they have access to a suitable and efficient education.

#### **Article 29: Education must develop every child's personality, talents and abilities to the full.**

- Enhances or challenges: enhances
- Explanation: the proposals enhance article 29 as the establishment of this process allows for local authorities to be aware of families that they may not have been previously aware of and the local authority can remind these families that the Education must develop every child's personality, talents and abilities to the full.

**Article 30: Every child has the right to learn and use the language, customs and religion of their family, regardless of whether these are shared by the majority of the people in the country where they live.**

- Enhances or challenges: enhances
- Explanation: proposals would enhance article 30 by ensuring minority or indigenous groups are in receipt of education and that those children are not disadvantaged.

**Article 31: Every child has the right to relax, play and take part in a wide range of cultural and artistic activities.**

- Enhances or challenges: enhances
- Explanation: proposals would enhance article 31 as a suitable education includes socialisation and ensuring the child can operate in modern life. The proposals will help LAs identify previously unknown EHE children and enable them to assess provision to ensure that these elements are provided by the parent.

**Article 32: Governments must protect children from work that is dangerous or might harm their health or education.**

- Enhances or challenges: enhances
- Explanation: proposals would enhance article 32 as local authorities would be made aware of children who are missing education. These children may have been exploited and possibly in employment. The local authority can ensure that any children who are working are doing so in line with child employment regulations.

**Articles (33, 34, 35 and 36): (drug abuse, sexual exploitation, abduction, sale**

**and trafficking, other forms of exploitation).**

- Enhances or challenges: enhances
- Explanation: proposals would enhance articles 33,34,35, and 36 as local authorities will be made aware of previously unknown children as a result of this process. The proposals ensure that local safeguarding systems and processes can be utilised if professionals have concerns.

**Article 39: Children neglected, abused, exploited, tortured or who are victims of war must receive special help to help them recover their health, dignity and self-respect.**

- Enhances or challenges: enhances
- Explanation: proposals would enhance article 39 as local authority would be made aware of children missing education and would be required to provide appropriate support.

**Article 40: A child accused or guilty of breaking the law must be treated with dignity and respect.**

- Enhances or challenges: enhances
- Explanation: proposals would enhance article 40 as local authority would be made aware of children who could be placed in/moved into an LA and would be required to provide appropriate support from specialist YOS officers.

The following are taken from the EU strategy on the rights of the child and are cross referenced with the UNCRC articles:

“ Participation in political and democratic life: an EU that empowers children to be active citizens and members of democratic societies, this aligns

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article 12.

“ Socio-economic inclusion, health and education: an EU that fights child poverty, promotes inclusive and child-friendly societies, health and education systems, this aligns with articles 24 and 28.

“ Combating violence against children and ensuring child protection: an EU that helps children grow free from violence this aligns with articles 33,34,35,36 and 39.

“ Child-friendly justice: an EU where the justice system upholds the rights and needs of children, aligns with article 40. ”

## 4. Ministerial advice and decision

The impact of the proposals on children’s rights will be incorporated into ministerial advice and the development of the consultation documents. This will ensure that the welfare and rights of children have been fully considered, and any identified issues are addressed.

## 5. Communicating with Children and Young People

The previous consultation was open to all age groups and stakeholders. However, the consultation did not require respondents to provide their date of birth or age. Therefore, the Welsh Government does not hold this information.

Respondents felt that previous proposals were not proportionate, and as a result, the WG has refined the proposal which results in the database only

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including learners who are not in receipt of education as stated under article 28 of united nation rights of child.

We will be consulting on the revised proposal, and this will again be open to all children and young people.

Given the complex nature of this work, we intend to undertake a targeted consultation with children and young people on these proposals as this is likely to be more effective in gauging and collating views. A child friendly version of the consultation documentation will be prepared to support this engagement.

## **6. Monitoring and Review**

### **Please outline what monitoring and review mechanism you will put in place to review this CRIA**

Using existing networks the impact and implementation of the database will be discussed with local authorities. Feedback from this engagement will go on to inform any further iterations of this CRIA.

### **Following this review, are there any revisions required to the policy or its implementation?**

Not applicable at this time.

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