

Elective Home Education Wales

Home Education in Wales



Changes Dropped

On June 22nd 2020 the Welsh Government published [a statement](#) saying that *"it will not now be possible to complete the planned work on the home education statutory guidance and database regulations within this Government term."*

Effectively what this means is that the proposed changes have been dropped.

Home Education Guidance 2017

[Home education guidance](#) for Wales was published on January 9th 2017. At the time of writing on June 23rd 2020 this remains current. NB on June 22nd 2020 the Welsh Government abandoned proposals to change the guidance.

Database Consultation

On January 30th 2020 the Welsh Government launched [a public consultation](#) inviting comments on new draft regulations which would require each local authority to set up a database of all compulsory school age children in their area to assist them in identifying children not on any maintained school's roll, education other than at school (EOTAS) roll, or independent school roll.

Regulation-making powers for Wales in this respect are contained in section 29 of the Children Act 2004 which is on the statute book but has not yet been brought into law.

(Equivalent powers for England - ContactPoint - were set out in section 10 of the Act and was [rejected by the English government in 2010](#))

The [consultation page](#) includes a [consultation document](#); [draft regulations](#); [consultation questions](#) and a variety of impact assessments.

The consultation runs till April 22nd 2020.

CONSULTATION MEETINGS A/ FOR CHILDREN AND YOUNG PEOPLE AND B/ FOR ADULTS: LLANDUDNO MARCH 6TH; SWANSEA MARCH 13TH; MERTHYR TYDFIL MARCH 26TH. MORE DETAILS [HERE](#) VIA [consultation page](#)

The consultation document says that access to the database will be restricted to LA officers who require access to do their job in respect of school admissions and attendance, duties in relation to welfare of children and additional learning needs.

The Children's Rights Impact Assessment says that 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 Integrated Impact Assessment refers to this as "cross matching education and health data")

The Integrated Impact Assessment also says that any increase in administration costs associated with maintaining a database of all children should not be significant.

Neither a Regulatory Impact Assessment (RIA) nor a Data Privacy Impact Assessment (DPIA) has been done at this time but apparently this consultation will help inform the completion of the RIA and the DPIA [source = IIA as above].

Database Consultation Questions

Question 1: 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. i) Do you think that the information requested is reasonable and proportionate? What are the reasons for your answer? ii) If you do not think that the information requested is reasonable and proportionate, what would you propose is the best way(s) for LAs to meet their duty to identify children of compulsory school age to ensure they are receiving a suitable education?

Question 2: Currently there is a situation where LAs are responsible for children in their area that they do not know about. Under section 436A of the Education Act 1996 LAs must make arrangements to enable them to establish (so far as it is possible to do so) the identities of children in their area who are of compulsory school age but i) are not registered pupils at school, and ii) are not receiving a suitable education otherwise than at school. Do you think the database will help LAs, as far as it is possible to do so, to identify children not currently known to them and/or children missing education in their area? What is the reason for your answer?

Question 3 – Without a database, what reliable and consistent alternative method would enable the LA to identify a child they have no prior knowledge of?

Question 4 – The draft Children Act 2004 Education Database (Wales) Regulations 2020 propose local health boards disclose the information in Schedule 1 to LAs annually. Do you agree with an annual return? If not, how often do you think this information should be provided to LAs and when would the most appropriate time be?

Question 5 – The Draft Education (Information about Children in Independent Schools) (Wales) Regulations 2020 propose independent schools disclose the information in Schedule 1 to LAs annually. Do you agree with an annual return? If not how often do you think this information should be provided to LAs and when would the most appropriate time be?

Question 6 – What would be the implications of a more frequent data return in terms of technical, administrative and resource implications on:

i) local health boards; ii) independent schools; iii) LAs; iv) other.

Question 7 – Who, within the LA, would need access to the database in order to carry out their functions?

Question 8 – Do you think anything in the draft regulations could have a disproportionate impact on those with protected characteristics, and if so, what?

Question 9 – Does this proposal allow for the LA to meet their section 436A duty to make arrangements to identify children in their area who are of compulsory school age and not receiving a suitable education?

Question 10 – In order to identify the effectiveness of the database the Welsh Government will request from LAs an annual return on the number of children identified using the database not currently known to LAs. When would be the most appropriate and reasonable time to request this?

Question 11 – Do you think a voluntary database of all statutory school-age children ordinarily resident within an LA area would assist LAs to meet their section 436A duty?

Question 12 – What, if any, advantages and disadvantages do you think there would be in the disclosing of the required data to populate the database? Complete section relevant to you.

i) Parents/carers; ii) Children and young people; iii) Local health boards; iv) Independent schools; v) LAs; vi) Other

Local health boards

Question 13 – Do existing protocols concerning data of children who have died ensure that any processing of that data does not lead to any inappropriate communications with families?

Question 14 – Can you identify any key privacy risks and the associated compliance and corporate risks?

Question 15 – Do you have any previous experience of this type of data disclosure/processing?

Question 16 – What are the resource and technical implications of processing and disclosing the required data to LAs?

Independent schools

Question 17 – Can you identify any key privacy risks and the associated compliance and corporate risks?

Question 18 – Do you have any previous experience of this type of processing?

Question 19 – What are the resource and technical implications of processing and disclosing the required data to LAs?

LAs

Question 20 – Is there anything missing from the Schedule of Information to be included in the database?

Question 21 – Do existing protocols concerning data of children who have died ensure that any processing of that data does not lead to any inappropriate communications with families?

Question 22 – Can you identify any key privacy risks and the associated compliance and corporate risks?

Question 23 – Do you have any previous experience of this type of processing?

Question 24 – We would like to know your views on the effects these draft regulations would have on the Welsh language, specifically on: i) opportunities for people to use Welsh; ii) treating the Welsh language no less favourably than the English language.

What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Supporting comments

Question 25 – Please also explain how you believe the proposed regulations could be formulated or changed so as to have:

i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language; ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Supporting comments

Question 26 – We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

[Ministerial Update](#) December 11th 2019:

471 responses received to the guidance consultation; analysis of responses to be published in the new year; consultation on draft database regulations also due in the new year with the aim of publishing final new home education guidance plus database regulations in Autumn 2020.

Children and Young People Committee November/December 2019

[Children and Young People Committee](#) December 4th 2019, including [committee letter to Minister](#) November 19th seeking clarification on the legal issues with regard to the guidance, cited in Petitions Committee research briefing linked below.

[Petitions Committee](#) December 3rd 2019, to consider Mountain Movers' home education petition.

[Discussion with Children's Commissioner](#) November 6th 2019, via [this page](#) on the limits of secondary legislation.

[Letters to Committee](#) papers to note, November 14th 2019; transcript November 14th [here](#).

Estyn Report Offrolling October 2019

"Over the last three years, increasing evidence has come to light that schools may also be using off-rolling or other inappropriate registration practices to improve their performance data at the end of key stage 4": <https://www.estyn.gov.wales/thematic-reports/pupil-registration-practices> published October 2019.

New Consultation July 2019

On July 29th 2019 the Welsh Government launched a public consultation on new home education guidance, ending October 21st.

The impact assessment states: *"These proposals do not provide local authorities with new powers; rather the new statutory guidance will make it clear what existing powers local authorities have at their disposal and will strongly reinforce the expectation that these powers should be utilised appropriately in order to ensure that home educated children do receive a suitable education."*

- [MAIN CONSULTATION PAGE](#)
- [REGISTER FOR CONSULTATION EVENTS](#) Cardiff October 11th; Llandudno October 18th, Swansea October 21st.
- [Consultation Document](#)
- [Draft Statutory Guidance for LAs](#)
- [Draft Handbook for Home Educators](#)
- [Impact Assessment](#)

"Easy Read" versions available from the main web link.

Update July 2019

On July 18th 2019 the Children, Young People and Education Committee Wales noted information from the Minister confirming plans for new guidance in relation to home education. The reference page is [here](#). The most immediately relevant item is: 6.7 Letter from the Minister for Education - update on Home Education [LINK](#) which includes the following:

The consultation on the draft statutory guidance and handbook for home educators will commence on the 29 July for 12 weeks. There will be a series of events across Wales to gather the views of stakeholders including home educated children and young people.

See also the webcast of July 18th meeting from 2 hours 50 minutes [LINK](#); + Letter from the Chair to the Children's Commissioner for Wales - Elective home education [LINK](#) + Letter from Children's Commissioner 5 July 2019 [LINK](#)

NB, the Children's Commissioner in Wales is appointed every 7 years and the current Commissioner began in 2015. [LINK](#)

On January 4th 2018 Wales Online **incorrectly** reported that *"parents home educating their children in Wales will have to join a register"*. Read more [here](#)

New home education guidance for Wales was published on January 9th 2017. [\[LINK\]](#). Political analysis [here](#)

Home Education Law in Wales

The principle primary legislation which applies to elective home education is the Education Act 1996 and the Education and Inspection Act 2006. [Section 7 of the Education Act \(England and Wales\) 1996](#) states that *"the parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable — (1) to his age, ability and aptitude, and (2) to any special educational needs he may have, either by regular attendance at school or otherwise."*

[Section 4 of the Education and Inspection Act 2006](#) deals with Children Missing Education and introduces Section 436A into the 1996 Education Act. Scroll down or click [here](#) to read more about Children Missing Education law and guidance for Wales. The procedure to be followed when a parent takes a child out of school for home education (known as deregistration) is covered by Pupil Registration Regulations Wales. Scroll down or click [here](#) to read more about deregistration.

Wales has had the power to make its own education legislation - separate from England - since 2011. [More](#). Following the 2016 elections in Wales, [A Labour minority Government with Plaid](#) was formed, and Liberal Democrat Kirsty Williams [was appointed Education Secretary](#) (replacing Labour's Huw Lewis)

How Many Children Are Home Educated in Wales?

A headcount of children in Wales known to be home educated is carried out each January by local authorities and published by the Welsh Government in July/August. [August 2019](#): "Local authorities reported that in 2018/19, 2,626 pupils were known to be electively home educated. Of these pupils, 109 were known to not be of compulsory school age so they were excluded from the figures contained in this release, leaving a total of 2,517 pupils. Data on electively home educated pupils is not mandatory for the local authority to provide. In some years, there is not full coverage from all local authorities for this data (presented in table 10). Known under-coverage includes 2016/17 and 2017/18 Carmarthenshire did not submit data for home educated pupils."

Key points

The number of children (pupils) whose parents have elected to educate them at home has been rising for the past 6 years.

2,517 pupils were electively home educated in 2018/19

Ceredigion had the highest rate of elective home educated pupils in 2018/19.

In the 2018/19 academic year 2,517 children were known to be electively home educated in Wales. However, this includes 284 for Carmarthenshire who did not provide figures for 2018 or 2017 but reported 209 in 2016 so may have been around 260 for 2018 which would have raised the 2018 total to

Isle of Anglesey had the lowest rate of electively home educated children (1.5 per 1,000 pupils) while Ceredigion had the highest rate (21.9 per 1,000 pupils). Ceredigion has consistently reported the highest rate of electively home educated children since 2013/14.

2018 = 1964 (+ c 260 estimate for Carmarthenshire so c 2224); 2017 = 1724 (+ c 220 estimate for Carmarthenshire so 1964); 2016 = 1682; 2015 = 1399)

The breakdown is as follows (2018, 2017 in brackets).

Anglesey 37 (37,36), Gwynedd 65 (45,53), Conwy 116 (101,76), Denbighshire 80 (65,51), Flintshire 94 (63,71), Wrexham 85 (68,72), Powys 156 (131,133), Ceredigion 171 (151,139), Pembrokeshire 182 (195,132), Carmarthenshire 284 (not provided in 2018 or 2017 but 209 in 2016), Swansea 137 (157,153), Neath Port Talbot 177 (147,117), Bridgend 128 (103,88), The Vale of Glamorgan 68 (45,33), Rhondda Cynon Taff 146 (119, 118), Merthyr Tydfil 43 (42,31), Caerphilly 62 (78,61), Blaenau Gwent 71 (51,30), Torfaen 70 (67,51), Monmouthshire 60 (52,49), Newport 92 (59,42), Cardiff 218 (188,188).

<http://edyourself.org/Derbyshire-TRIBUNAL.pdf>

SEN Numbers and SAOs

At the end of 2012 I sent [FOIs](#) to all the local authorities in Wales, which revealed that - among other things - a total of 4 School Attendance Orders were issued in 2011-12; around 5% of home educated children in Wales have a statement of SEN; and that a third of Welsh councils have fewer than 25 home educated children on their books, with only 1 LA having more than a 100.

Regulation Out of School Settings Wales

[LINK](#) Consultation closed April 5th 2016

Wales: Children Missing Education

"Children Missing Education" in both England and Wales comes under [section 436a of the Education Act England and Wales 1996](#) which states:

(1) A local education authority must make arrangements to enable them to establish (so far as it is possible to do so) the identities of children in their area who are of compulsory school age but—

(a) are not registered pupils at a school, and

(b) are not receiving suitable education otherwise than at a school.

(2) In exercising their functions under this section a local education authority must have regard to any guidance given from time to time by the Secretary of State.

(3) In this Chapter, "suitable education", in relation to a child, means efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have."

[CME Guidance in Wales \(April 2010\)](#) differs from the [CME Guidance for England](#). The Welsh [CME](#) Guidance section on elective home education is largely taken from the 2006 Home Education Guidelines for Wales.

See also [Welsh Government circular no: 002/2017](#) March 2017 "A practical toolkit to help identify children and young people missing education" where the home education section is the same as the 2010 guidance.

The [Review into Dylan Seabridge's death](#) was published in July 2016.

Young people in Wales going to college in England

I received the following answer from DfE in August 2014: "A student who is currently living in Wales can receive public funding at a college in England, in some circumstances but education providers must comply with the EFA's rules on claiming public funding for Welsh students set out in the Funding regulations' guidance.

"Some English colleges and education providers are **located close to the borders** with Wales and Scotland, and may have recruitment areas that normally include areas outside England. Alternatively, the typical **'travel to learn'** pattern for students may include an education provider over the border. In these circumstances, there is no issue with providers claiming funding for students. English education providers can **only** claim funding for Welsh home educated students when they are either within the normal recruitment area, or when the travel to learn patterns for the area include the English provider. The EFA would not expect to see large numbers of Welsh students being funded in English providers."

Revised Guidance Safeguarding Children Education 2015

The Welsh Government consulted on [safeguarding in education](#) in 2013

In January 2015 [a new guidance document](#) was published. This is a **considerable improvement** on the proposals contained in the [original consultation](#) although the definition of "significant harm" in the Glossary is still incorrect and misleading (see [my consultation response](#) for further details)

Deregistration: How Soon Should School Notify Local Authority? Government Guidance 2010

[The Education \(Pupil Registration\) \(Wales\) Regulations 2010](#) say the child's name should be deleted from the roll **BEFORE** informing the authority. It makes no difference if the child has a statement of SEN unless he/she is a registered pupil at a special school (see Pupil Registration Regulations for Wales, paragraph 8.(2))

(3) When the name of a pupil has been deleted from the admission register in accordance with regulation 8(1)(c), (d), (g), (i) or (m), the proprietor must make a return to the local authority giving the full name and address of that pupil within the ten school days immediately following the date on which the pupil's name was so deleted.

[Pupil Registration Regulations Wales 2010](#)

Current Regulations for SEN

The Welsh Special Educational Needs Code of Practice has exactly the same paragraphs dealing with education otherwise than at school in cases where the child has a statement of SEN as the 2001 SEN Code for England. (The system in England was changed for new cases from September 2014)

Special Educational Needs Code of Practice (Wales) 2004

8:95 Section 7 of the Education Act 1996 recognises parents' right to choose to educate their child at home. Such arrangements are described as 'education otherwise than at school'. In such cases, if the child has a statement of special educational needs, it remains the LEA's duty to ensure that the child's needs are met. The statement must remain in force and the LEA must ensure that parents can make suitable, provision, including provision for the child's special educational needs. If the parent's arrangements are suitable the LEA are relieved of their duty to arrange the provision specified in the statement. If, however, the parents' attempt to educate the child at home results in provision which falls short of meeting the child's needs, then the parents are not making 'suitable arrangements' and the LEA could not conclude that they were absolved of their responsibility to arrange the provision in the statement. Even if the LEA is satisfied, the LEA remains under a duty to maintain the child's statement and to review it annually, following the procedures set out in Chapter Nine. **8:96** In such situations section 324 (4A) of the Education Act 1996 does not require the name of a school to be specified in Part 4 of the statement. Part 4 should state the type of school the LEA consider appropriate but go on to say that: "parents have made their own arrangements under section 7 of the Education Act 1996." The statement can also specify any provision that the LEA have agreed to make under section 319 to help parents provide suitable education for their child at home." p.111

[Special Educational Needs Code of Practice, Wales 2004](#)

Changes Proposed for Additional Learning Needs in Wales

[Eduyourself New ALN Page](#)

Flexischooling in Wales

"Q9: I have a pupil who is home educated for 2 days a week under our flexi-schooling policy. What code should I use for the days that the pupil is not in school?

A: You will need to use Code C. As a school you have agreed to the flexi schooling arrangement and have effectively agreed an authorised absence."

[FAQ April 2016](#) via [this page](#) (Welsh Government, Education and Skills, Information and data collection, Attendance Collection)

EOTAS Standards in Wales

EOTAS is NOT home education by parents. [2016 Estyn Thematic Report](#) "Across Wales there is a lack of understanding about the registration requirements for pupils receiving EOTAS. Most local authorities do not monitor or oversee EOTAS or alternative provision robustly enough.

[2017 figures](#) show that 1972 children in Wales receive EOTAS (education other than at school) [funded by their local authority](#), primarily in Pupil Referral Units but also receiving individual tuition, being placed in an independent school or with an alternative provider, or going to further education college or a different or additional maintained school from their originally registered school. 88.5% of EOTAS pupils have special educational needs/additional learning needs with around 1 in 3 also being entitled to free school meals.

Children Young People and Education Committee [consultation into EOTAS](#) announced July 2019, deadline October 18th 2019, focusing on:

"Reasons for and support available for children and young people at risk of EOTAS, including through their exclusion from mainstream provision; How effectively parents are engaged and supported throughout the EOTAS process; The variation in rates of EOTAS for children and young people with particular characteristics (such as learners with special educational needs or who are eligible for free school meals) and the consequences of this; The levels of financial support available to support EOTAS and children and young people at risk of becoming EOTAS and whether this represents value for money; Responsibility and accountability for the education of pupils who become EOTAS; Attainment of children and young people EOTAS; Outcomes and wellbeing of children and young people EOTAS; The quality of support provided to children and young people in the range of EOTAS provision; Professional development support for Pupil Referral Unit staff, including those who provide home tuition; The potential risks for children and young people EOTAS such as increased barriers to accessing mental health support, increased risk of involvement with crime and the criminal justice system such as 'county lines'; Other issues closely linked to EOTAS, for example managed moves, and the 'off-rolling' of pupils."

NB "the Committee's inquiry will include individual home tuition but will not focus on the separate issue of elective home education."

How to give your evidence, [LINK](#), 3,000 words maximum; submit a single document; use headings for structure; if you are including links in your paper, these should be written as descriptions of where a reader will go, should they follow that link (i.e. not 'click here'); include 'alt-text' for any images used in your document; use font in at least size 12 (black colour); use numbered paragraphs; use paper size A4 in portrait format; maintain a 1.5cm page margin; email a copy of your written evidence to the clerking team by the agreed deadline. Please do not refer to the committee as the Welsh Government, the Welsh Assembly Government or WAG. National Assembly for Wales committees are not part of the Welsh Government, and Assembly committees include Assembly Members from all political parties; use tracked changes, revision marks or comments; send your written evidence directly to the committee members; submit a security marked PDF document; include your address or telephone number in the body of your paper.

Link Reference

This article is <http://edyourself.org/articles/EnglandandWales.php>. The following links to other websites are contained in the article, displayed as citations to aid you in printing the document.

1. committee letter to Minister <http://www.assembly.wales/en/bus-home/committees/Pages/Committee-Profile.aspx?cid=443>
2. Petitions Committee <http://senedd.assembly.wales/ieListDocuments.aspx?CId=430&MId=5680&Ver=4>
3. here <http://senedd.assembly.wales/ieListDocuments.aspx?CId=443&MId=5722&Ver=4>
4. LINK <http://senedd.assembly.wales/ieIssueDetails.aspx?IId=15058&Opt=3>
5. LINK <http://www.senedd.tv/Meeting/Archive/483cbac0-7560-44dd-b0dd-baf2574f26ff?autostart=True>
6. here <http://edyourself.org/articles/ehguidance2017wales.php>
7. Section 7 of the Education Act (England and Wales) 1996 <http://www.legislation.gov.uk/ukpga/1996/56/section/7>
8. here <http://www.legislation.gov.uk/ukpga/2006/40/section/4>
9. was appointed Education Secretary <http://www.walesonline.co.uk/news/politics/labour-plaid-cymru-agree-nominate-11343810>
10. <http://edyourself.org/Derbyshire-TRIBUNAL.pdf> <http://edyourself.org/Derbyshire-TRIBUNAL.pdf>
11. FOIs <http://edyourself.org/articles/FOIwales2012.php>
12. LINK <http://edyourself.org/articles/regulationoutofschoolsettingsWales.php>
13. section 436a of the Education Act England and Wales 1996 <http://www.legislation.gov.uk/ukpga/2006/40/section/4>

14. for England http://dera.ioe.ac.uk/554/7/101419missingeducationen_Redacted.pdf
15. safeguarding in education <http://edyourself.org/articles/safeguardingconsultwales.php>
16. my consultation response <http://edyourself.org/safeguardingdwalesconsultresponse.pdf>
17. The Education (Pupil Registration) (Wales) Regulations 2010 <http://legislation.data.gov.uk/wsi/2010/1954/made/data.htm?wrap=true>
18. Special Educational Needs Code of Practice, Wales 2004 <http://edyourself.org/SENcodepracticewales.pdf>
19. Edyourself New ALN Page <http://edyourself.org/articles/senchangeswales.php>
20. this page <http://gov.wales/docs/dcells/publications/160405-attendance-collection-faq-en.pdf>
21. 2017 figures <http://gov.wales/docs/statistics/2017/170803-pupils-educated-other-than-at-school-2016-17-en.pdf>
22. consultation into EOTAS <http://www.senedd.assembly.wales/mgConsultationDisplay.aspx?ID=359>
23. LINK <http://www.assembly.wales/en/bus-home/committees/gettinginvolved/Pages/Preparing-evidence.aspx>