

Agenda – Children, Young People and Education Committee

Meeting Venue:

Video Conference via Zoom

Meeting date: 28 January 2021

Meeting time: 09.15

For further information contact:

Llinos Madeley

Committee Clerk

0300 200 6565

SeneddCYPE@senedd.wales

In accordance with Standing Order 34.19, the Chair has determined that the public are excluded from the Committee's meeting in order to protect public health. This meeting will be broadcast live on www.senedd.tv

1 Introductions, apologies, substitutions and declarations of interest

(09.15)

2 COVID-19: Evidence session with the Children's Commissioner for Wales

(09.15 – 10.15)

(Pages 1 – 7)

Sally Holland, Children's Commissioner for Wales

Rachel Thomas, Head of Policy and Public Affairs – Office of the Children's Commissioner for Wales

Attached Documents:

Themes for scrutiny

CYPE(5)–03–21 – Paper 1

Break

(10.15 – 10.30)



Senedd Cymru
Welsh Parliament

3 COVID-19: Evidence session with representatives from Local Government

(10.30 – 11.30)

Cllr Ian Roberts, Leader of Flintshire County Council and Education

Spokesperson for the Welsh Local Government Association

Cllr Ellen Ap Gwynn, Leader of Ceredigion County Council and Deputy

Education Spokesperson and Welsh Language for the Welsh Local Government Association

Cllr Philippa Marsden, Leader of Caerphilly County Borough Council and

Workforce Spokesperson for the Welsh Local Government Association

Cllr Huw David, Leader of Bridgend County Borough Council and Health and

Social Care Spokesperson for the Welsh Local Government Association

Sharon Davies, Head of Education for the Welsh Local Government Association

4 Paper to note

(11.30)

4.1 Letter from the Deputy Minister for Health and Social Services regarding the Electronic Commerce Directive (Education, Adoption and Children) (Amendment etc.) Regulations 2021

(Pages 8 – 13)

Attached Documents:

CYPE(5)-03-21- Paper to note 1

5 Motion under Standing Order 17.42(ix) to resolve to exclude the public for the remainder of the meeting

(11.30)

6 COVID-19: Consideration of evidence

(11.30 – 11.45)

7 Welsh Government Draft Budget 2021 – 2022 – consideration of the draft report

(11.45 – 12.30)

Attached Documents:

CYPE(5)-03-21 – Private Paper

Document is Restricted

To: To: Lynne Neagle
MSChair
Children, Young People
and Education
CommitteeVia email only

13 January 2021

Dear Chair,

I'm aware of the Committee's ongoing scrutiny of education provision during the pandemic, and in particular the evidence sessions planned from this week onwards in relation to the education offer under the current lockdown arrangements. As ever, I welcome the Committee's proactive approach in this area.

I thought it would be helpful to update you in respect of the actions my team and I are taking alongside the work of the Committee in holding Government and others to account and to restate what I believe should be the current key current children's rights priorities. In this letter I update you with a snapshot on my team's general work in relation to the current crisis, as well as informing you of work we are doing to collate more information on the digital divide, to support national communications with children and our calls on vaccinations for school staff.

As you know my website has an [Information Hub](#) which provides dedicated support, advice, information and resources for children and families. We've updated this page recently in light of the latest national lockdown, including details of mental health support available across Wales for children and young people, and will continue to keep this content up to date in response to the queries my office is receiving.

As well as continuing to offer my casework service on a daily basis, my team is collating the issues that are arising so that I can raise these further in the following meetings:

- At least weekly engagement with Government officials; more as required and urgent matters sent to officials ahead of any such meetings;
- Monthly engagement with representatives with the regional education consortia.

We've also continued attendance at a range of policy and practice working groups in respect of children and young people including vulnerable children working group, Shadow Social Partnership, Government and Qualifications Wales' stakeholder groups for 2021 assessments, and many more alongside.



Tŷ Ystumllwynarth/Oystermouth House
Llys Siarter/Charter Court, Phoenix Way
Abertawe/Swansea SA7 9FS
01792 765600

post@comisiynyddplant.cymru
post@childrenscommissioner.wales

comisiynyddplant.cymru
childrenscommissioner.wales

Croesawn ohebiaeth yn y Gymraeg yn ogystal â'r Saesneg ac mewn amryw o fformatau
We welcome correspondence in the medium of Welsh and English as well as alternative formats

My team continue to monitor and intervene where necessary in situations where children are likely to be most at risk from restrictions, this includes those living in residential children's homes, and those in closed welfare, mental health and youth justice settings. For example, we supported arrangements for looked after children to have some contact with their families over Christmas, despite the restrictions in place.

Scrutiny of issues arising through casework and social media has led me to create a short online survey for school and college leaders to establish the ongoing pressures and issues in relation to digital exclusion. When I was giving evidence to this Committee in November 2020, I noted that I'd asked the Government to undertake an audit of provision across local authority areas. Whilst I was pleased that they took up this suggestion, the Government has yet to collate all results, so there remains a gap in the picture of ongoing need across Wales for children. It is concerning that this remains unresolved so many months on from the original lockdown period and so I've decided to collate up to date data on this myself in order to evidence any ongoing need for additional resources of support as well as identify the immediate hurdles for local authorities and others to overcome with urgency.

I will be collating a short report of findings from this work which will be published; I will ensure a copy is shared with the Committee once this is completed. Depending on the response rate, I hope to be able to report on this by the end of January 2021.

I've also offered Unions for school and teaching staff to copy my office in to any correspondence with their local authorities on the topic of digital access, in order to keep a close eye on this issue.

I recognise that the public health situation creates enormous pressures and significantly reduces the options available to the Government. I have attempted in all of my public messaging to balance the need to support critical public health messages – in my mind, so vital in a public health crisis – whilst also holding Government to account. All of my public [statements](#) are published on my website and social media accounts.

However, I have continued to push for direct communications with and to children and young people. I have been pleased to support Qualifications Wales with a short notice letter to young people regarding the assessment arrangements for 2021 in light of the ongoing school closures. I've also arranged another session for the Minister for Education to be able to talk to young people affected by the decisions in relation to assessments this year, before she publishes further information on the arrangements.

I have also reiterated the importance of listening to young people to inform decisions about qualifications, and I will continue to scrutinise Government's ongoing development of research plans into young people's experience of assessment over the coming months.

In respect of qualifications for 2021, the aims of my work are to enable young people to have their rights respected, to be listened to, get clear information, to be treated fairly, have their wellbeing supported and to an education that helps them fulfil their potential.

In all of my work I have been keeping the Government's duties to uphold children's rights in the forefront of my mind. I have seen the latest published CRIA in respect of the December decisions around school closures and national Alert level 4. I had seen this document in advance of its publication and welcome in particular the key principles that pervade all of the Government's work, to ensure children are seen and supported and being provided for in a suitable way. Ultimately however the most recent Government decisions have been driven by the overriding public health crisis and unfortunately this meant that decisions in relation to school closures and reducing socialisation between children and young people were made that did not fit with the findings of the CRIA, but could be argued to be understandable in the circumstances.

This was why, in my latest statements, I re-highlighted the need to properly prioritise children's education at a national level, by urging the Government to look at creative and innovative ways to bring children back in to school in as short a timeframe as possible, within the current circumstances.. I believe that this is just as necessary for their mental health and wellbeing as for their education offer, and would like to see plans being drawn up to allow different age groups to engage with education face to face, whether this is on a rota or timetabled basis, or with limited classes or groups at any one time. In order to support this it is vital that our education staff are prioritised in respect of Covid vaccinations; we cannot make education a national priority without taking all actions available to us to do so. To support this, the four Children's Commissioners for the UK nations are writing jointly to the Joint Committee on Vaccinations and Immunisations (JCVI) and all four Chief Medical Officers and Health Ministers to re-emphasise this point.

To reiterate the calls made in my statement last week, there are four immediate priorities for supporting children and young people:

- Welsh Government must, with urgency, produce minimum expectations of support for home learning, which is age appropriate, for all learners. This need not mean full days at the screen – this is unlikely to be positive for the health of children or teachers – but children and parents should know what to expect from their school. It is clear that very many schools have worked hard to develop their offer over the last few months, and young people have told me that it is much improved, but there cannot be a post-code lottery when it comes to our children's education.
- Local authorities, with the support of Welsh Government, must ensure access to digital devices for all learners who require them. I am

currently seeking information from all head teachers and college principals across Wales to identify the level of need and what the obstacles are, to highlight to local authorities and Welsh Government. We cannot ensure children's continued access to education without this.

- There is absolutely no doubt that the pandemic has had detrimental impacts on children and young people, and we must all make sure that those who need mental health support can access it without delay. I've published information on my website about the superb support that organisations are currently offering.
- We must find a way of re-opening school and college buildings as soon as it's safe to do so, whether that's full capacity or even part-time attendance. School and college staff should be prioritised for vaccination to support public and professional confidence.

Should the Committee wish to hear from me in greater detail about my work and the priorities for children's rights during this period I'd be happy to provide further evidence, either in response to written questions from the Committee or in person should I be invited to give oral evidence.

Yours sincerely,



Sally

Sally Holland
Comisiynydd Plant Cymru
Children's Commissioner for Wales

Rydym yn croesawu gohebiaeth a galwadau yn Gymraeg. Byddwn yn ateb gohebiaeth a gwladau a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd cysylltu yn Gymraeg yn arwain at oedi | We welcome receiving correspondence and calls in Welsh. We will respond to correspondence and calls in Welsh, and contacting us in Welsh will not lead to delay.

Agenda Item 4.1

Julie Morgan AS/MS
Y Dirprwy Weinidog Iechyd a Gwasanaethau Cymdeithasol
Deputy Minister for Health and Social Services

Our ref MA-P JM 0048/21

Lynne Neagle MS
Chair
Children, Young People and Education Committee
Senedd Cymru
Cardiff Bay
CF99 1SN
SeneddCYPE@senedd.wales



Llywodraeth Cymru
Welsh Government

19 January 2021

Dear Lynne,

This letter is to inform you that I have laid a Statutory Instrument Consent Memorandum in the Senedd in respect of the Electronic Commerce Directive (Education, Adoption and Children) (Amendment etc.) Regulations 2021, as required by Standing Order 30A (SO30A).

I am also writing to inform you that I am not minded to table a motion for a debate about this SI in this instance. I have reached this decision on the basis that this SI is restricted to making corrections to the deficiencies in law that arise as a result of the UK having left the EU. The provisions of the SI are technical in nature, introduce no new policy, and there is no divergence in policy between the Welsh Government and the UK Government in this case.

SO30A.10 provides that any Member may table a motion for a debate on this SI. Given the volume of legislation that the Senedd is considering, and the technical nature of the SI, I will not myself be seeking to initiate such a debate.

Yours sincerely

Julie Morgan AS/MS
Y Dirprwy Weinidog Iechyd a Gwasanaethau Cymdeithasol
Deputy Minister for Health and Social Services

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

Gohebiaeth.Julie.Morgan@llyw.cymru
Correspondence.Julie.Morgan@gov.wales

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

STATUTORY INSTRUMENT CONSENT MEMORANDUM

The Electronic Commerce Directive (Education, Adoption and Children) (Amendment etc.) Regulations 2021

1. This Statutory Instrument Consent Memorandum is laid under Standing Order (“SO”) 30A.2. SO 30A.2 prescribes that a Statutory Instrument Consent Memorandum must be laid in relation to any relevant statutory instrument laid before the UK Parliament by UK Ministers. A “relevant statutory instrument” means a statutory instrument or draft statutory instrument laid before the UK Parliament by UK Ministers which makes provision in relation to Wales amending primary legislation within the legislative competence of Senedd Cymru (the Senedd).
2. Under S.O 30A.10, any member may table a Statutory Instrument Consent Motion before the Senedd seeking the Senedd’s agreement to the inclusion of a relevant provision in a relevant statutory instrument.
3. The Electronic Commerce Directive (Education, Adoption and Children) (Amendment etc.) Regulations 2021 were laid before Parliament on 18th January 2021 [and is now being laid before the Senedd]. A copy of the Regulations has been laid with this memorandum and can also be found at:

<http://www.legislation.gov.uk/id/ukdsi/2021/9780348219210>

Summary of the Statutory Instrument and its objective

4. The objective of the SI is to correct deficiencies in legislation arising from the UK leaving the European Union. This SI amends Schedule 11B to the Education Act 2002 and provisions in the Electronic Commerce Directive (Adoption and Children Act 2002) Regulations 2005 to disapply the “country of origin” principle, and makes other consequential amendments to reflect the fact that the UK is no longer a member of the EU.
5. These corrections are required to ensure that the statute book will continue to operate effectively after exit.

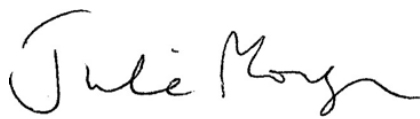
Relevant provision to be made by the SI

6. The primary legislation being amended by these Regulations is the Education Act 2002 (c. 32) (“the 2002 Act”). The amendments provide for the disapplication of the “country of origin” principle in respect of certain provision in Schedule 11B to the 2002 Act.
7. Schedule 11B deals with offences for a breach of reporting restrictions under section 141G of the 2002 Act, namely reporting alleged offences by teachers. The effect of the amendments is to disapply the country of origin principle in respect of information society services which have potentially breached the reporting restrictions under section 141F.

8. It is Welsh Government's view that the provisions described in paragraphs 5 to 6 above fall within the legislative competence of the Senedd in so far as they relate to education.

Why it is appropriate for the SI to make this provision

9. In these exceptional circumstances, we consider it appropriate that the UK Government legislates on our behalf in this instance, for reasons of efficiency and expediency. There is no divergence between the Welsh Government and the UK Government on the policy for the correction. Consenting to an England and Wales wide SI ensures that there is a single legislative framework across England and Wales, which promotes clarity and accessibility during this unprecedented period of change.



Julie Morgan MS
Deputy Minister for Health and Social Services
19 January 2021

DRAFT STATUTORY INSTRUMENTS

2021 No. 0000

**EXITING THE EUROPEAN UNION
CHILDREN AND YOUNG PERSONS
EDUCATION, ENGLAND AND WALES
ELECTRONIC COMMUNICATIONS**

The Electronic Commerce Directive (Education, Adoption and Children) (Amendment etc.) Regulations 2021

Made - - - - *******

Coming into force in accordance with regulation 1(1)

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21(b) of Schedule 7 to, the European Union (Withdrawal) Act 2018^(a).

In accordance with paragraph 1(3) of Schedule 7 to that Act, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Electronic Commerce Directive (Education, Adoption and Children) (Amendment etc.) Regulations 2021 and come into force on the day after the day on which they are made.

(2) Any amendment, repeal or revocation made by these Regulations has the same extent as the provision amended, repealed, or revoked.

Amendment of the Education Act 2002

2.—(1) The Education Act 2002^(b) is amended as follows.

(2) In Schedule 11B (offence under section 141G: supplementary provisions)^(c)—

(a) in paragraph 1(2)—

(i) for “The purpose of this Schedule is to comply with” substitute “In this Schedule “the E-Commerce Directive” means”;

^(a) 2018 c. 16.

^(b) 2002 c. 32.

^(c) Schedule 11B was inserted by Schedule 4 to the Education Act 2011 (c. 21) and amended by S.I. 2012/1809.

- (ii) omit “(“the E-Commerce Directive”);
- (b) omit paragraphs 2 and 3;
- (c) omit paragraph 7(2).

Amendment of the Electronic Commerce Directive (Adoption and Children Act 2002) Regulations 2005

3.—(1) The Electronic Commerce Directive (Adoption and Children Act 2002) Regulations 2005^(a) are amended as follows.

- (2) In regulation 1—
 - (a) for the heading substitute “Citation and commencement”;
 - (b) omit paragraph (2).
- (3) In regulation 2 (interpretation)—
 - (a) in paragraph (1), omit the definitions of the following—
 - (i) “the Commission”;
 - (ii) “co-ordinated field”;
 - (iii) “country of origin”;
 - (iv) “EEA State”;
 - (v) “incoming electronic commerce activity”;
 - (vi) “incoming provider”;
 - (vii) “prohibited measure”;
 - (viii) “relevant EEA authority”;
 - (b) in paragraph (2), omit sub-paragraphs (a), (b) and (c).
- (4) Omit regulations 3 to 8.

Date

Name
Parliamentary Under Secretary of State
Department for Education

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by section 8(1) of, and paragraph 21(b) of Schedule 7 to, the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under section 8(2)(a), (c) and (d) of that Act) arising from the withdrawal of the United Kingdom from the European Union.

These Regulations amend the Education Act 2002 (c. 32) (“the 2002 Act”) and the Electronic Commerce Directive (Adoption and Children Act 2002) Regulations 2005 (S.I. 2005/3222) (“the 2005 Regulations”). Together, the amendments provide for the disapplication of the “country of origin” principle in relation to information society services (defined in Article 2(a) of Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market) in respect of certain matters under the 2002 Act and the 2005 Regulations respectively.

The amendments to the 2002 Act relate to provision in Schedule 11B to that Act (which supplements section 141G of that Act in relation to publishing a matter in breach of restrictions on reporting alleged offences by teachers in section 141F(3)); those provisions extend to England and Wales

(a) S.I. 2005/3222, amended by S.I. 2011/1043, 2012/1809; there are other amending instruments but none is relevant.

only). The effect of the amendments is to disapply the country of origin principle in respect of information society services which have potentially breached the reporting restrictions under section 141F of the 2002 Act.

The amendments to the 2005 Regulations provide for the disapplication of the country of origin principle in relation to information society services in the application of sections 92 and 93 of the Adoption and Children Act 2002 (c. 38) (restriction on arranging adoptions) and sections 123 and 124 of that Act (restriction on advertising adoptions).

An impact assessment has not been published for this instrument as no, or no significant, impact on the private, public or voluntary sector is foreseen.