

# Agenda – Legislation, Justice and Constitution Committee

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Meeting Venue:	For further information contact:
Hybrid – Committee Room 4, Tŷ Hywel, and Video conference via Zoom	P Gareth Williams Committee Clerk
Meeting date: 18 September 2023	0300 200 6565
Meeting time: 13.05	<a href="mailto:SeneddLJC@senedd.wales">SeneddLJC@senedd.wales</a>

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## 1 Introductions, apologies, substitutions and declarations of interest

(13.05)

## 2 Scrutiny session with the First Minister

(13.05 – 14.30)

(Pages 1 – 29)

Rt Hon Mark Drakeford MS, First Minister of Wales

Attached Documents:

LJC(6)-24-23 – Paper 1 – Briefing paper

LJC(6)-24-23 – Paper 2 – Letter from the First Minister, 19 April 2023

LJC(6)-24-23 – Paper 3 – Letter to the First Minister, 11 April 2023

**Break**

(14.30 – 14.35)

## 3 Instruments that raise issues to be reported to the Senedd under Standing Order 21.2 or 21.3 – previously considered

(14.35 – 14.40)

### 3.1 SL(6)299 – The Seed (Equivalence) (Amendment) (Wales) Regulations 2022

(Pages 30 – 33)



Attached Documents:

LJC(6)-24-23 – Paper 4 – Report

LJC(6)-24-23 – Paper 5 – Welsh Government response

LJC(6)-24-23 – Paper 6 – Welsh Government further response

## **4 Inter-Institutional Relations Agreement**

(14.40 – 14.45)

### **4.1 Written Statement and correspondence from the Minister for Economy: The Inter-Ministerial Group on UK-EU Relations**

(Pages 34 – 37)

Attached Documents:

LJC(6)-24-23 – Paper 7 – Written Statement by the Minister for Economy, 11 September 2023

LJC(6)-24-23 – Paper 8 – Letter from the Minister for Economy, 11 September 2023

### **4.2 Correspondence from the Minister for Rural Affairs and North Wales, and Trefnydd: The Plant Protection Products (Miscellaneous Amendments) Regulations 2023**

(Pages 38 – 39)

Attached Documents:

LJC(6)-24-23 – Paper 9 – Letter from the Minister for Rural Affairs and North Wales, and Trefnydd, 13 September 2023

### **4.3 Correspondence from the Minister for Climate Change: The Interministerial Group on Net Zero, Energy and Climate Change**

(Page 40)

Attached Documents:

LJC(6)-24-23 – Paper 10 – Letter from the Minister for Climate Change, 13 September 2023

## **5 Papers to note**

(14.45 – 14.50)

**5.1 Correspondence from the Deputy Minister for Mental Health and Wellbeing:  
Healthy Food Environment**

(Pages 41 – 48)

Attached Documents:

LJC(6)-24-23 – Paper 11 – Letter from the Deputy Minister for Mental Health and Wellbeing, 11 September 2023

LJC(6)-24-23 – Paper 12 – Letter to the Deputy Minister for Mental Health and Wellbeing, 7 July 2023

**5.2 Correspondence from the Counsel General and Minister for the Constitution:  
Retained EU Law (Revocation and Reform) Bill**

(Pages 49 – 55)

Attached Documents:

LJC(6)-24-23 – Paper 13 – Letter from the Counsel General and Minister for the Constitution, 12 September 2023

LJC(6)-24-23 – Paper 14 – Letter to the Counsel General and Minister for the Constitution, 14 July 2023

**5.3 Correspondence from the Minister for Education and Welsh Language to the  
Children, Young People and Education Committee: The Welsh Government's  
Elective Home Education Guidance**

(Pages 56 – 80)

Attached Documents:

LJC(6)-24-23 – Paper 15 – Letter from the Minister for Education and Welsh Language to the Children, Young People and Education Committee, 13 September 2023

**6 Motion under Standing Order 17.42 to resolve to exclude the  
public from the remainder of the meeting**

(14.50)

**7 Supplementary Legislative Consent Memorandum (Memorandum No. 4) on the Levelling-up and Regeneration Bill**

(14.50 – 15.10)

(Pages 81 – 102)

Attached Documents:

LJC(6)-24-23 – Paper 16 – Legal Advice Note

LJC(6)-24-23 – Paper 17 – Written Statement by the Minister for Climate Change, 16 August 2023

**8 Procedures required for scrutiny of regulations flowing from the Retained EU Law (Revocation and Reform) Act 2023**

(15.10 – 15.25)

(Pages 103 – 132)

Attached Documents:

LJC(6)-24-23 – Paper 18 – Letter from the Business Committee, 14 September 2023

LJC(6)-24-23 – Paper 19 – Advice Note

LJC(6)-24-23 – Paper 20 – Draft response

**9 Forward Work Planning**

(15.25 – 15.35)

(Pages 133 – 136)

Attached Documents:

LJC(6)-24-23 – Paper 21 – Forward Work Programme

**10 The Committee's consideration of Consolidation Bills**

(15.35 – 15.50)

(Pages 137 – 141)

Attached Documents:

LJC(6)-24-23 – Paper 22 – Briefing paper

Document is Restricted



Huw Irranca-Davies MS  
Chair  
Legislation, Justice and Constitution Committee

[SeneddLJC@senedd.wales](mailto:SeneddLJC@senedd.wales)

19 April 2023

Dear Huw

Thanks for your letter. In principle, I agree to attend your committee as requested subject to the following considerations.

As you know, I attend First Minister's Scrutiny Committee each term to take questions across the range of government business; this is in addition, of course, to my weekly duties in the Senedd. Our long-standing policy is that the First Minister should not normally attend committees scrutinising portfolio business for which individual ministers exercise accountability on behalf of the Welsh Government.

I recognise that the issues you specify – the Legislative Programme, International Relations and Europe - are matters on which, as First Minister, I have specific and strategic responsibilities. I would, therefore, be content to attend your committee to take questions on these topics. For clarity, and in keeping with the policy described above, I would be unwilling to take questions, for example, on the Justice portfolio which is covered by direct ministerial accountability in the normal way.

If you are content to proceed on this basis then I will be happy for our offices to make the necessary arrangements.

Yours sincerely

**MARK DRAKEFORD**

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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.

Rt Hon Mark Drakeford MS  
First Minister of Wales

11 April 2023

Dear Mark

**Invitation to give evidence – 18 September 2023**

As you will no doubt be aware, my Committee's scrutiny remit extends extensively into your responsibilities as First Minister, including on inter-governmental relations, the Legislative Programme, international relations and relations with Europe.

As we near the mid-point of the Sixth Senedd, I would therefore like to invite you to attend the Committee's meeting on 18 September to consider these issues with you in detail. I anticipate the evidence session will be held between 13:00 and 14:30, and in a committee room on the Senedd estate.

Please let me know as soon as possible whether you will be able to attend; if you have prior commitments which prevent your attendance on this date please contact the committee clerks to discuss alternative dates.

I look forward to hearing from you.

Yours sincerely,



Huw Irranca-Davies  
Chair

# Agenda Item 3.1

## **SL(6)299 – The Seed (Equivalence) (Amendment) (Wales) Regulations 2022**

### **Background and Purpose**

The Seed (Equivalence) (Amendment) (Wales) Regulations 2022 (“the Regulations”) amend Article 6 of Council Decision 2003/17/EC of 16 December 2002 on the equivalence of field inspections carried out in third countries on seed-producing crops and on the equivalence of seed produced in third countries. The Regulations extend the expiry date of this Decision from 31 December 2022 to 31 December 2029.

The proposal to extend the Council Decision was subject to a six week period of informal stakeholder engagement. This was undertaken jointly by the Welsh, Scottish and UK Governments.

### **Procedure**

Negative.

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.

### **Technical Scrutiny**

The following point is identified for reporting under Standing Order 21.2 in respect of this instrument.

#### **1. Standing Order 21.2(ii) - that it appears to make unusual or unexpected use of the powers conferred by the enactment under which it is made or to be made.**

In the preamble, clarification is required as to whether the powers used are correct. The corresponding instruments for England and Scotland only refer to “section 16 **(1) and (1A)**” instead of “section 16**(1) to (4)**”. It is unclear whether the powers in sub-sections (2) to (4) are used in this instrument.

### **Merits Scrutiny**

The following 2 points are identified for reporting under Standing Order 21.3 in respect of this instrument.

#### **2. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd.**



In the Explanatory Notes, there is no paragraph noting whether or not a Regulatory Impact Assessment (“RIA”) exists, or where it is possible to find it. The Explanatory Memorandum explains that a RIA exists but this is not explained in the Regulations.

### **3. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd.**

The following points are made regarding terms used in the Welsh text for “equivalence” and “field inspections”.

- a. “Cywerthedd” is used in the translation for the word “equivalence” in the Welsh text. This form does appear in the Welsh Academy Dictionary as a possible spelling of this noun, and there are some examples in recent statutory instruments. But the Welsh Government’s Legislative Translation Unit mostly follow the University of Wales Dictionary (Geiriadur Prifysgol Cymru) which notes “cyfwerthedd” as the standard spelling for this noun. Furthermore, “cywerthedd” is not referred to on the BydTermCymru website, but “cyfwerthedd” is used instead for this noun. It therefore appears that the translation has not used the Welsh Government’s translation guidance by using “cywerthedd” rather than “cyfwerthedd” in these Regulations.
- b. In these Regulations, in the Welsh text, “archwiliadau maes” is used as the translation for “field inspections”. But it appears there has been some variation between “archwiliadau maes” and “arolygiadau maes” in the translation of the statutory instruments. It appears that “arolygu” is the standardised term for “inspection” in the Legislative Translation Unit’s Legislative Terminology, and there is a need to differentiate between “examine” and “inspect” at times.

## **Welsh Government response**

A Welsh Government response is required to the technical reporting point and both merits points.

## **Committee Consideration**

The Committee considered the instrument at its meeting on 9 January 2023 and reports to the Senedd in line with the reporting points above.



## **Government Response: The Seed (Equivalence) (Amendment) (Wales) Regulations 2022**

### **Technical Scrutiny point 1:**

The Welsh Government has considered the relevant provisions. It does not consider the reference to sections 16(2) to 16(4) affects the vires of the regulations. However, on reflection the powers under section 16(1) and 16(1A) for making provision for regulating seed importation are sufficiently wide enough to cover the extension of Council Decision 2003/17/EC of 16 December 2002.

### **Merit Scrutiny point 2:**

A Regulatory Impact Assessment exists as set out in the Explanatory Memorandum and the Welsh Government is grateful to the Committee for bringing this point to our attention.

### **Merit Scrutiny point 3a:**

In respect of the use of the term “cywerthedd” for “equivalence”, this term was used in order to ensure consistency with previous regulations in the same field. It was used in The Seed Marketing (Wales) Regulations 2012 and subsequent amending SIs. Upon further consideration, however, the Welsh Government agree that, for accessibility, it would be better to use the term “cyfwerthedd”, unless SIs using “cywerthedd” are being quoted.

### **Merit Scrutiny point 3b:**

In relation to the use of the term “archwiliadau maes” the Welsh Government accept there has been inconsistency in previous regulations, and “arolygiadau maes” will be used in future.

An amending SI making corrections in respect of Technical Scrutiny Point 1 and Merit Scrutiny Point 2 will be made at the earliest opportunity.

**Government Response: *The Seed (Equivalence) (Amendment) (Wales) Regulations 2022***

I write further to the Committee report SL(6)299 on the Seed (Equivalence) (Amendment) (Wales) Regulations 2022 (“the Regulations”). The Government Response to that report indicated that an amending SI would be made.

**Technical Scrutiny point 1:**

As set out in the Government Response the citations referred to in Technical scrutiny point 1 do not affect the vires of the regulations. Although the powers under section 16(1) and 16(1A) are sufficiently wide enough to provide for the extension of Council Decision 2003/17/EC of 16 December 2002 the wider reference to sections 16(2) to 16(4) in the enabling powers does not affect the vires of the regulations. The regulations are amending legislation and the intent of the regulations has been implemented. The required amendments have been made and as such the provisions are spent. The response to the Committee was made in limited time and in eagerness to assist, the response stated that an amending SI would be made. However, having now given more considered legal reflection to the issue, the Welsh Government concludes that it would not be correct to undertake an amending SI in these circumstances as the commencement power has already been exercised.

**Merit Scrutiny point 2:**

In respect of Merit Scrutiny Point 2 the Explanatory Memorandum makes clear where an RIA can be obtained and the Explanatory Notes themselves do not form part of the SI.



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## **WRITTEN STATEMENT BY THE WELSH GOVERNMENT**

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**TITLE** Meeting of the Inter-Ministerial Group on UK-EU Relations

**DATE** 11 September 2023

**BY** Vaughan Gething, Minister for Economy

In accordance with the Inter-Institutional Relations Agreement, I am notifying Members that I attended a meeting of the Inter-Ministerial Group on UK-EU Relations on 26 June. I was unable to provide prior notice of the meeting as it was called at very short notice by the UK.

The meeting was chaired by Leo Docherty MP, UK Government Minister for Europe at the Foreign, Commonwealth and Development Office (FCDO). Also in attendance was Angus Robertson MSP, the Scottish Government's Cabinet Secretary for the Constitution, External Affairs and Culture. A senior official from the Northern Ireland Civil Service was present as an observer.

The meeting was held in preparation for the subsequent UK-EU meetings of the Withdrawal Agreement Joint Committee (WAJC) held on 3 July, which I did not attend.

I made the following main points at the June meeting, which were noted:

- more notice should be given for meetings of this Inter-Ministerial group, in line with the terms of the Inter-Governmental Review.
- engagement with UK Government on Windsor Framework implementation matters was ongoing.
- progress with the EU on the Windsor Framework should hopefully unblock key issues such as UK association to Horizon Europe.
- on citizens' rights, the Welsh government would welcome earlier, and more substantive, engagement from the Home Office.

The subsequent Joint Committee meeting adopted two formal decisions on sanitary and phytosanitary measures (agri-foods) and medicines to implement the Windsor Framework. It also adopted a decision to adjust aspects of the Co-ordination of Social Security

mechanisms. The details are set out in the UK-EU Joint Statement here: [Joint statement on the Withdrawal Agreement Joint Committee meeting, 3 July 2023](#)

The next meeting of the IMG on UK-EU Relations is scheduled for 11 September, to be chaired by FCDO Minister for Europe, Leo Docherty MP. No formal agenda has yet been set, but I expect it to include discussion on the implementation of the Trade & Co-operation Agreement and the Withdrawal Agreement, ahead of a series of various UK-EU meetings scheduled for the remainder of 2023.



Ein cyf/Our ref VG/00303/23

Huw Irranca-Davies MS  
Chair  
Legislation, Justice and Constitution Committee  
Senedd Cymru  
[SeneddLJC@senedd.wales](mailto:SeneddLJC@senedd.wales)

11 September 2023

Dear Huw

In accordance with the Inter-Institutional Relations Agreement, I wanted to let you know that I attended a meeting of the Inter-Ministerial Group on UK-EU Relations on 26 June. I was unable to provide prior notice on this occasion as the meeting was called at very short notice by the UK Government.

It was held in preparation for the subsequent UK-EU meetings of the Withdrawal Agreement Joint Committee held shortly afterward on 3 July, which I did not attend.

A summary of the discussions are outlined in a Written Statement. I have issued to Members today. [Written Statement](#)

The next meeting of the IMG on UK-EU Relations is scheduled for 11 September, to be chaired by Leo Docherty MP, UK Government Minister for Europe at the Foreign, Commonwealth and Development Office (FCDO).

I am copying this letter to the Chair of the Culture, Communications, Welsh Language, Sport, and International Relations Committee, and to the Counsel General and Minister for the Constitution.

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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.

Yours sincerely

A handwritten signature in black ink that reads "Vaughan Gething". The signature is written in a cursive style with a distinct dot over the 'i' in "Gething".

**Vaughan Gething AS/MS**

Gweinidog yr Economi  
Minister for Economy

CC:

Delyth Jewell, MS, Chair of the Culture, Communications, Welsh Language, Sport, and International Relations Committee.

Mick Antoniw, MS, Counsel General and Minister for the Constitution.

# Agenda Item 4.2

Lesley Griffiths AS/MS

Y Gweinidog Materion Gwledig a Gogledd Cymru, a'r Trefnydd  
Minister for Rural Affairs and North Wales, and Trefnydd



Llywodraeth Cymru  
Welsh Government

Huw Irranca-Davies MS  
Chair of the Legislation, Justice and Constitution Committee  
Senedd Cymru  
[SeneddLJC@senedd.wales](mailto:SeneddLJC@senedd.wales)

13 September 2023

Dear Huw,

## **The Plant Protection Products (Miscellaneous Amendments) Regulations 2023**

I wish to inform the Committee of my intention to consent to the UK Government making and laying the Plant Protection Products (Miscellaneous Amendments) Regulations 2023.

I received a letter from the UK Minister for Environmental Quality and Resilience, Rebecca Pow on 10 August 2023 asking for my formal consent to The Plant Protection Products (Miscellaneous Amendments) Regulations 2023. The Regulations intersect with devolved policy and will apply to Wales. The Regulation will extend to England, Scotland and Wales and a similar request for consent has been sent to Scottish Ministers.

The Regulations use powers conferred by sections 14 (2) and 20 (1) of the REUL Act 2023. Section 14(2) provides "*A relevant national authority may by regulations revoke any secondary retained EU law and replace it with such provision as the relevant national authority considers to be appropriate and to achieve the same or similar objectives.*" Section 20(1) provides powers to make regulations under the Act includes powers to make (a) different provisions for different purposes or areas; (b) supplementary, incidental, consequential, transitional, transitory or saving provision. For the purposes of Section 21(1) a relevant national authority means a Minister of the Crown, a devolved authority, or a Minister of the Crown acting jointly with one or more devolved authorities.

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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.

The purpose of the Regulations is to temporarily extend transitional provisions put in place through EU Exit legislation in relation to seed treatments and plant protection products. The aim being to enable a sufficient supply of treated seed and plant protection products on the GB market thus supporting good crop establishment and reduced costs to growers and buyers of food and feed.

The Regulations will follow the affirmative procedure (as required by paragraph 5 of Schedule 5 to the REUL Act). The intention is to lay the Regulations before the UK Parliament on 16 October 2023 with a commencement date of 31 December 2023.

Although the Welsh Government's general principle is that the law relating to devolved matters should be made and amended in Wales, on this occasion, it is considered appropriate for the UK Government to legislate on a GB-wide basis. Plant Health and Pesticides are areas where the Welsh Ministers have often consented to the SOS making legislation on a GB-basis due to the GB wide approach to the subject matter. This approach would ensure there is no divergence between Welsh and other GB regulations, reducing any confusion and disadvantage for Welsh trader and reducing any potential administrative burden for the Health and Safety Executive when administering permits for parallel trade and in undertaking any enforcement activity. HSE undertake a number of functions on behalf of Welsh Ministers and the other GB authorities through Agency Agreements.

I have written similarly to Paul Davies MS, the Chair of the Economy, Trade, and Rural Affairs Committee (ETRA).

Yours sincerely

A handwritten signature in black ink that reads "Lesley Griffiths". The signature is written in a cursive style with a large, sweeping flourish at the end.

**Lesley Griffiths AS/MS**  
**Y Gweinidog Materion Gwledig a Gogledd Cymru, a'r Trefnydd**  
**Minister for Rural Affairs and North Wales, and Trefnydd**

# Agenda Item 4.3

Julie James AS/MS  
Y Gweinidog Newid Hinsawdd  
Minister for Climate Change



Llywodraeth Cymru  
Welsh Government

Ein cyf/Our ref: JJ/PO/306/2023

Huw Irranca-Davies MS  
Chair  
Legislation, Justice and Constitution Committee

Llyr Gruffydd MS  
Chair  
Climate Change, Environment and Infrastructure Committee

13 September 2023

Dear Huw, Llyr,

I am writing in accordance with the inter-institutional relations agreement to let you know that a virtual meeting of the Interministerial Group on Net Zero, Energy and Climate Change is scheduled to take place on 14 September.

I will be representing the Welsh Government. The meeting will focus on the comments from Chris Stark, Chief Executive of the Climate Change Committee and Heat Decarbonisation.

The Group will publish a joint communique after the meeting. I will also publish a Written Statement.

Yours sincerely,

**Julie James AS/MS**  
Y Gweinidog Newid Hinsawdd  
Minister for Climate Change

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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.

Lynne Neagle AS/MS  
Y Dirprwy Weinidog Iechyd Meddwl a Llesiant  
Deputy Minister for Mental Health and Wellbeing

Llywodraeth Cymru  
Welsh Government

Eich cyf/Your ref  
Ein cyf/Our ref

Huw Irranca-Davies MS  
Chair  
Legislation, Justice and Constitution Committee  
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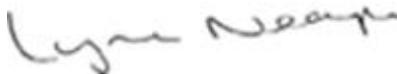
11 September 2023

Dear Huw,

Thank you for your letter of 7 July regarding proposals relating to supporting a healthier food environment in Wales.

My answers are set out in the following Annex.

Yours sincerely



**Lynne Neagle AS/MS**  
Y Dirprwy Weinidog Iechyd Meddwl a Llesiant  
Deputy Minister for Mental Health and Wellbeing

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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.

## Annex

### **Question 1: Can you confirm under which Act and delegated power you intend to bring forward this subordinate legislation, and which scrutiny procedure will apply.**

The intention is to use powers contained in the Food Safety Act 1990 and the Regulatory Enforcement and Sanctions Act 2008. The specific delegated powers will be determined when the policy has been finalised.

The use of these powers will require the subordinate legislation to be subject to the affirmative procedure. Senedd scrutiny of any legislation has been factored into timetabling.

### **Question 2: When in 2024 do you intend to lay the subordinate legislation before the Senedd?**

Our intention is to lay the subordinate legislation before the Senedd in Autumn 2024.

### **Question 3: You said you will “wish to consider consistency with definitions set out within England’s locations and volume-based price restrictions legislation to ensure operability across borders”. We would be grateful to receive further information and clarity on this point, including a summary of the outcomes of any discussions you have had with the UK Government.**

We will seek to ensure that foods that are considered in scope of the regulations in England are also in scope here, i.e. what defines a product as HFSS (High in Fat Salt or Sugar). We also will seek to match the definitions of what a multi-buy promotion (i.e. buy one get one free or 50% extra free for example) is in the regulations in England. This will make it easier for retailers in areas of convergence. The precise nature of location restrictions will be defined in regulations and technical guidance, but we will seek to align with England in this instance where this is practicable and supported by evidence.

We have engaged extensively both with the UK Government and with industry on the similar regulations in England (The Food (Promotion and Placement (England) Regulations 2021). Whilst our primary driver for these regulations is to tackle the public health crisis obesity presents, we recognise the impact that regulatory divergence has on business and are mindful of this. The outcomes of our discussions with industry and with UK Government officials is to seek alignment where this is practicable and supported by evidence.

### **Question 4: How will you resolve any conflict between “operability across borders” and scientific evidence relevant to addressing the specific circumstances of Welsh citizens?**

Where scientific evidence shows us that the specific circumstances of Welsh citizens require us to diverge from approaches taken in England or other parts of the UK, we work to understand the possible policy responses to those circumstances, and how that affects issues that cross borders. In this set of proposals, we are working with industry to understand the challenges that divergence from policy and practice in England can have and seek to co-produce solutions.

**Question 5: You said you “look forward to further action by our colleagues in Whitehall in regard to price restrictions and on curbing TV and online advertising of high fat, sugar and salt products to children”. Please would you clarify what is being anticipated, and whether the Welsh Government has plans to work with the UK Government on England and Wales legislation.**

The implementation of regulations to limit the advertising of products high in fat salt and sugar was due to come into force across the UK in October 2023. This has been delayed twice, first to January 2024, and most recently until October 2025. We are keen to work with the UK Government on these UK-wide regulations, and I have previously expressed my disappointment to the UK Government at the delays.

Restrictions on the placement of HFSS products in England, such as near store entrances and checkouts, came into force in October 2022, but other measures, including restricting multibuy deals on these products have been delayed until October 2023.

**Question 6: What assessment have you made of how the United Kingdom Internal Market Act 2020 (the 2020 Act) may impact on the effectiveness of these proposals in practice?**

We have begun to consider the impact of the UKIM Act and whether there will be any impact on the proposals. However, until final, detailed policy instructions have been finalised we cannot make a detailed assessment.

**Question 7: If you have identified an impact resulting from the 2020 Act: a. What are the specific issues? b. How will you address these? c. How do you intend to communicate with Members of the Senedd and wider stakeholders about its impact?**

Once a definitive assessment is made, I will ensure the committee receive full answers to this question.

**Question 8: What discussions have you had with counterparts in the UK Government and devolved governments regarding the interaction between your proposals and the 2020 Act?**

Please see my answer to Question 6. As such, detailed discussions regarding the interaction between our proposals and the 2020 Act have not taken place with other Devolved Administrations or the UK Government.

**Question 9: Have you given any consideration to the need to seek an exclusion from the 2020 Act’s market access principles to ensure the proposals will be fully effective?**

This will depend on the outcome of any assessment. I will update the committee at the same time as my commitment in Question 7.

**Question 10: Have you considered asking the Office for the Internal Market to provide advice under section 34 of the 2020 Act on the potential impacts of the proposals on the UK internal market?**

Please see my answer to Question 6.

**Question 11: What assessment have you made of how the Retained EU Law (Revocation and Reform) Act 2023 (the 2023 Act) may impact these proposals?**

Officials are working closely with the Scottish and UK Governments, and the Northern Ireland Executive on the relevant areas of retained EU law and their revocation. Once policy instructions are finalised, we will make an assessment in relation to these proposals.

**Question 12: Are you content that the automatic revocation on 31 December 2023 of food-related retained EU law listed in Schedule 1 to the 2023 Act will not impact these proposals?**

Once final policy instructions are completed, such an assessment will be made.

**Question 13: If you have identified any impacts resulting from the 2023 Act: a. What are the specific issues? b. How will you address these? c. How do you intend to communicate with Members of the Senedd and wider stakeholders about its impact?**

Further information will be provided to the committee once such an assessment is made.

**Question 14: Do you consider that these proposals increase food standards in Wales?**

The principal aim of these proposals is to make it easier for Welsh consumers to make healthier choices in the retail environment. We hope to see more offers available on healthier products, and to make it easier for consumers to avoid purchasing HFSS products unnecessarily because of enticing price promotions. Another potential effect may see food manufacturers reformulate products to make them healthier and therefore not captured by the regulations.

Lynne Neagle MS  
Deputy Minister for Mental Health and Wellbeing

7 July 2023

Dear Lynne

Proposals relating to supporting a healthier food environment in Wales

At our meeting on 12 June 2023 we considered your letter of 8 June about your proposals relating to supporting a healthier food environment in Wales. You provided us with advanced notice that you would deliver an oral statement to the Senedd on 27 June in which you would outline the Welsh Government's position in relation to price promotions and locations and that you would be bringing forward secondary legislation in 2024.

At that meeting, we noted there is a potential for the *United Kingdom Internal Market Act 2020*, the *Retained EU Law (Revocation and Reform) Act 2023*, and UK-wide Common Frameworks to all have an impact on or influence this area of work.

Having now heard your statement to the Senedd, there are some issues on which we would welcome further information and clarification.

We would be grateful to receive a response to the questions in the Annex by 31 August 2023.

Yours sincerely,



Huw Irranca-Davies  
Chair

## ANNEX

You told the Senedd:

*"I am today announcing my intention to bring forward subordinate legislation in Wales to restrict the placement and price promotions of products high in fat, sugar and salt in retailers with over 50 staff members. (...)*

*The legislation, which will be brought forward next year, with at least a further 12-month implementation period for businesses up to 2025, will include location and volume price promotions. However, I am also minded to include temporary price promotions and meal deals within scope. (...)*

*The legislation I am bringing forward does not apply to all high fat, sugar and salt products, but targets food and drink that contribute most to obesity due to their calorie content and the way they are promoted. We wish to consider consistency with definitions set out within England's location and volume-based price restrictions legislation to ensure operability across borders. However, we are also exploring the scientific evidence base, which will be crucial. (...)*

*We will be working closely with the food industry and partners to develop comprehensive guidance for retailers to implement these measures. We will also support manufacturers to reformulate products to reduce levels of fat, sugar or salt. We will also be undertaking a consultation on enforcement measures, including how compliance should be investigated and penalties applied in instances of non-compliance. I will notify the Senedd when the consultation is published.*

*I'm encouraged by initial analysis showing that location restrictions in England have caused a shift in consumer spending away from high fat, sugar and salt products towards healthier alternatives. I look forward to further action by our colleagues in Whitehall with regard to price restrictions and on curbing tv and online advertising of high fat, sugar and salt products to children, which is another vital step to improve our food environment.*

*I am still considering the evidence and options for taking forward other proposals included within the healthy food environment consultation. This includes exploring further evidence on calorie labelling, and the opportunities to develop a broader out-of-home approach to maximise the impact of any changes. I am also considering further evidence on banning energy drink sales to children. I will make a further statement on these proposals to the Senedd in due course."*



**Question 1:** Can you confirm under which Act and delegated power you intend to bring forward this subordinate legislation, and which scrutiny procedure will apply.

**Question 2:** When in 2024 do you intend to lay the subordinate legislation before the Senedd?

**Question 3:** You said you will “wish to consider consistency with definitions set out within England’s locations and volume-based price restrictions legislation to ensure operability across borders”. We would be grateful to receive further information and clarity on this point, including a summary of the outcomes of any discussions you have had with the UK Government.

**Question 4:** How will you resolve any conflict between “operability across borders” and scientific evidence relevant to addressing the specific circumstances of Welsh citizens?

**Question 5:** You said you “look forward to further action by our colleagues in Whitehall in regard to price restrictions and on curbing TV and online advertising of high fat, sugar and salt products to children”. Please would you clarify what is being anticipated, and whether the Welsh Government has plans to work with the UK Government on England and Wales legislation.

**Question 6:** What assessment have you made of how the *United Kingdom Internal Market Act 2020* (the 2020 Act) may impact on the effectiveness of these proposals in practice?

**Question 7:** If you have identified an impact resulting from the 2020 Act:

- a. What are the specific issues?
- b. How will you address these?
- c. How do you intend to communicate with Members of the Senedd and wider stakeholders about its impact?

**Question 8:** What discussions have you had with counterparts in the UK Government and devolved governments regarding the interaction between your proposals and the 2020 Act?

**Question 9:** Have you given any consideration to the need to seek an exclusion from the 2020 Act’s market access principles to ensure the proposals will be fully effective?

**Question 10:** Have you considered asking the Office for the Internal Market to provide advice under section 34 of the 2020 Act on the potential impacts of the proposals on the UK internal market?

**Question 11:** What assessment have you made of how the *Retained EU Law (Revocation and Reform) Act 2023* (the 2023 Act) may impact these proposals?

**Question 12:** Are you content that the automatic revocation on 31 December 2023 of food-related retained EU law listed in Schedule 1 to the 2023 Act will not impact these proposals?

**Question 13:** If you have identified an impacts resulting from the 2023 Act:

- a. What are the specific issues?
- b. How will you address these?
- c. How do you intend to communicate with Members of the Senedd and wider stakeholders about its impact?

**Question 14:** Do you consider that these proposals increase food standards in Wales?



Mick Antoniw AS/MS

Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad  
Counsel General and Minister for the Constitution

Huw Irranca-Davies MS  
Chair  
Legislation, Justice and Constitution Committee  
Senedd Cymru  
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## Agenda Item 5.2



Llywodraeth Cymru  
Welsh Government

12 September 2023

Dear Huw,

Thank you for your letter of 14 July 2023 seeking responses to questions in relation to the Retained EU Law (Revocation and Reform) Bill. My answers are set out in the following Annex.

A handwritten signature in blue ink that reads "Mick Antoniw". The signature is written in a cursive style and is underlined.

**Mick Antoniw AS/MS**

Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad  
Counsel General and Minister for the Constitution

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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.

## **ANNEX**

### **Question 1:**

*In your letter to us on 7 July you confirmed that the Welsh Government has undertaken an assessment of the retained EU law listed in Schedule 1 to the Act and “there are no apparent problems for areas within devolved competence arising from the revocation of the instruments listed” and that “we do not currently see the need for the exercise of such powers [to exclude retained EU law from the Schedule] and have no current plans to use them”.*

- a. During our meeting you told us that this work was “still work in progress”, it would be “something that we will want to scrutinise much more closely leading up to that particular point”, and that engagement with UK Government officials is continuing. Please would you confirm our understanding that the Welsh Government’s assessment of the Schedule is therefore still ongoing, and will you confirm that you will provide an updated and final assessment to us as soon as possible.*

We can confirm that the work on Schedule 1 of the Act (‘the Schedule’), has continued. While our initial review of the schedule did not raise any apparent issues, we also explained in the meeting of 10 July that we are unable to confirm with 100% accuracy that there will be no further issues that may present themselves. Welsh Government officials continue to work with the UK Government and other devolved governments to review the contents of the schedule.

As advised at the 10 July meeting, the UK Government itself recognises that the schedule was put together very quickly and that a further review might uncover issues that had not been identified at that time.

In that context, I received correspondence from Nusrat Ghani MP, the Minister of State for Industry and Economic Security, on 2 August. She highlighted a small number of instruments in the Schedule that should, on further investigation, be preserved as they are still of use. Of those, two, concerning biocidal products containing copper, are in devolved areas. These had initially been included in the Schedule for revocation, but the Health and Safety Executive has identified these as a legal basis for the continued safe use of such products and the UK Government intends to remove them from the Schedule, using the powers under the REUL Act.

Minister Ghani acknowledged these were public health measures and so a devolved responsibility and asked for Welsh Ministers’ consent to an SI to remove them from the Schedule.

Welsh Government officials have further reviewed these provisions in light of the additional information in the letter and have concluded that both these Commission Decisions (2014/85/EU and 2014/395/EU) should be preserved. The Decisions currently permit the Health and Safety Executive to issue specific product authorisations for biocidal products containing or generating copper to be supplied and used.

Copper forms the basis for 19 so-called 'essential use' authorisations for biocidal products used for purposes such as the prevention of Legionella in hospitals and public buildings, and to prevent fouling in water inlets on oil rigs.

If these provisions were to be revoked via the Schedule, users of copper biocides would be obliged to change to alternative technologies. This would be costly and time-consuming for many users, as it would require refitting and rebuilding completely different types of systems. Selection of systems for these applications is complex and could risk less-effective systems being used. On that basis, we wrote in August to UK Government to consent to these legal provisions being preserved so that this safe supply and use of copper biocides continues to be legally permissible.

Our assessment of the Schedule, in collaboration with UK Government, is ongoing. We will provide further updates on any necessary changes to the committee.

- b. Please would you clarify if the Welsh Government's assessment has involved consideration of any and all implications for Wales, and not just matters which fall within devolved competence.*

Our review to date has been primarily focused on instruments in devolved areas.

- c. When we asked for your response to the concerns expressed by environmental organisations about the Schedule, you said you were not aware of any concerns but you acknowledged that concerns may have been raised in other ministerial portfolios. We would welcome confirmation as to whether any concerns with the retained EU law listed in the Schedule has been raised with any Welsh Minister, and details of the concern(s) raised.*

I am aware that the Chair of the Climate Change Environment and Infrastructure Committee wrote to the Minister for Climate Change on this issue on 25 July. I understand that she will be replying to this letter shortly and that it will be copied to you.

**Question 2:**

*In your letter of 7 July, in response to questions 4 to 6 which related to the exercise by UK Government Ministers of regulation-making powers in devolved areas, you told us that the Welsh Government remained in discussion with the UK Government about "an alternative consent mechanism". During our meeting you told us "we have a concession, I think in writing, that, basically, the UK Government... will not legislate in these areas without the consent of Welsh Government". Please can you confirm the terms of this agreement and share with us the correspondence which sets out its negotiation and final details. Please can you also clarify how the Welsh Government will keep the Senedd informed and share relevant information about the exercise of these regulation-making powers by UK Government Ministers.*

This issue is not yet fully resolved between the UK Government and the Devolved Governments. We hope that it will be soon, in a way that protects and respects the devolution settlement. We will continue to keep the Senedd informed and share relevant information through the normal channels.

**Question 3:**

*In relation to the sunseting of directly effective rights and obligations, in your letter to us on 7 July you said discussions are ongoing between the UK Government and the Devolved Governments on this matter, including whether concerns could be addressed using the appropriate powers in the Act. You added "This is a significant piece of work that we are now having to apply on a case-by-case basis across different policy areas and pieces of legislation", and you said you would keep us informed of progress. We welcome your commitment to keep us informed. Please would you also provide further detail on the work which is being undertaken by the Welsh Government.*

The implications of the Act are heavily dependent on any decisions yet to be taken by UK Ministers for reform of existing REUL in key areas. We remain in discussion with the UK Government at official level on possible developments of this kind. The immediate focus for Welsh Government officials is on implementation of the Act, including an SI to change references related to "retained EU law" to "assimilated law" (or similar) across the existing body of legislation made in Wales) and in relation to the ending of provisions on the interpretive effects of REUL.

We will continue to keep the Committee informed as work progresses.

Mick Antoniw MS  
Counsel General and Minister for the Constitution

14 July 2023

Dear Mick,

Retained EU Law (Revocation and Reform) Act 2023

Thank you for your letter of 7 July 2023 in which you responded to the questions we asked on 27 June. We are grateful that we were able to pursue some of these matters with you at our meeting on 10 July.

Following the session we had with you, we were able to review more fully the responses you provided in your letter and there are further points we wish to raise with you, particularly within the context of the discussion during the meeting.

We value your ongoing engagement with us on this significant piece of legislation, and I would welcome a response to the questions in the Annex by 1 September 2023.

I am copying this letter to the Climate Change, Environment and Infrastructure Committee.

Yours sincerely,



Huw Irranca-Davies  
Chair

## ANNEX

**Question 1:** In your letter to us on 7 July you confirmed that the Welsh Government has undertaken an assessment of the retained EU law listed in Schedule 1 to the Act and “there are no apparent problems for areas within devolved competence arising from the revocation of the instruments listed” and that “we do not currently see the need for the exercise of such powers [to exclude retained EU law from the Schedule] and have no current plans to use them”.

- a. During our meeting you told us that this work was “still work in progress”, it would be “something that we will want to scrutinise much more closely leading up to that particular point”, and that engagement with UK Government officials is continuing. Please would you confirm our understanding that the Welsh Government’s assessment of the Schedule is therefore still ongoing, and will you confirm that you will provide an updated and final assessment to us as soon as possible.
- b. Please would you clarify if the Welsh Government’s assessment has involved consideration of any and all implications for Wales, and not just matters which fall within devolved competence.
- c. When we asked for your response to the concerns expressed by environmental organisations about the Schedule, you said you were not aware of any concerns but you acknowledged that concerns may have been raised in other ministerial portfolios. We would welcome confirmation as to whether any concerns with the retained EU law listed in the Schedule has been raised with any Welsh Minister, and details of the concern(s) raised.

**Question 2:** In your letter of 7 July, in response to questions 4 to 6 which related to the exercise by UK Government Ministers of regulation-making powers in devolved areas, you told us that the Welsh Government remained in discussion with the UK Government about “an alternative consent mechanism”. During our meeting you told us “we have a concession, I think in writing, that, basically, the UK Government... will not legislate in these areas without the consent of Welsh Government”. Please can you confirm the terms of this agreement and share with us the correspondence which sets out its negotiation and final details. Please can you also clarify how the Welsh Government will keep the Senedd informed and share relevant information about the exercise of these regulation-making powers by UK Government Ministers.

**Question 3:** In relation to the sunseting of directly effective rights and obligations, in your letter to us on 7 July you said discussions are ongoing between the UK Government and the Devolved Governments on this matter, including whether concerns could be addressed using the appropriate powers in the Act. You added “This is a significant piece of work that we are now having to apply on a case-by-case basis across different policy areas and pieces of legislation”, and you said you would

keep us informed of progress. We welcome your commitment to keep us informed. Please would you also provide further detail on the work which is being undertaken by the Welsh Government.

# Agenda Item 5.3

Jeremy Miles AS/MS

Gweinidog y Gymraeg ac Addysg  
Minister for Education and Welsh Language



Llywodraeth Cymru  
Welsh Government

Jayne Bryant MS  
Chair  
Children, Young People and Education Committee

13 September 2023

Dear Jayne

Thank you for your letter of 12 July in relation to the Elective Home Education statutory guidance, and the correspondence you have received from home educators.

For many families, the decision to home educate would have been a positive choice. However, we know this may not have been the case for everyone. This is one of the reasons why the new statutory guidance, published in May, is so important to ensure that all learners have a suitable and efficient education.

In developing the proposals for EHE, the Welsh Government used a wide range of approaches to fully engage and consult with key stakeholders including home educating families. This included online public consultations and in-person regional consultation events. All consultation responses on the statutory guidance were considered in full, including those responses that referenced human rights and data protection legislation. Further information on the consultation is available on the Welsh Government [website](#).

Feedback from consultation meetings, and the events held with home educators and home education representative groups, went on to inform several subsequent amendments to the statutory guidance and home educator's handbook.

My officials have engaged EHE representative groups and I myself met with Education Otherwise. More recently, following further discussions with one of the EHE representative groups, I have agreed minor amendments to our guidance since publication. I have also already committed to evaluating the guidance, to ensure that

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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.

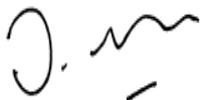
its impact can be assessed, and to determine how local authorities are using it. The evaluation will be undertaken independently and will commence in May 2024.

To ensure that home educating families were aware of why the changes to the guidance are important, and to provide clarity on the issues referenced within correspondence, the Children's Commissioner for Wales hosted further engagement sessions between Welsh Government officials and home educators on 26<sup>th</sup> and 28<sup>th</sup> June. The sessions were an opportunity for home educators to discuss their concerns with the Welsh Government, and for officials to provide reassurance in relation to various aspects within both the guidance and handbook. Feedback from my officials indicated that the sessions were constructive and allowed for all attendees to have their say, in a supportive and neutral setting.

Following the sessions, the Children's Commissioner's office collated all queries raised during the sessions. These queries were grouped into themes, and my officials have drafted a paper detailing the responses, which will be shared with home educators via the Children's Commissioner. The paper, which is attached at Annex. 1, includes responses to the concerns raised in the correspondence received by the Committee. However, you may wish to note that many of the submissions have also been sent to the Welsh Government, and therefore the correspondents have received separate responses from my officials.

Children's rights are at the forefront of the EHE proposals and I am committed to ensuring that all children receive an education that enables them to achieve the best possible outcome for their future. Now that the guidance has been published, my officials will work with local authorities to embed the guidance and continue dialogue with the EHE community, to ensure that the views of families, including home-educated children are heard.

Yours sincerely,



**Jeremy Miles AS/MS**  
Gweinidog y Gymraeg ac Addysg  
Minister for Education and Welsh Language

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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.

**Children's Commissioner for Wales Elective Home Education (EHE) Forums  
26<sup>th</sup> & 28<sup>th</sup> June 2023**

**Background**

The Children's Commissioner for Wales facilitated two sessions between the Welsh Government and EHE families, to clarify any queries families may have in relation to the new statutory guidance and parental handbook on EHE, which were published on 12<sup>th</sup> May and 9<sup>th</sup> June respectively.

An invitation was sent by the Welsh Government on behalf of the Children's Commissioner for Wales to local authorities for them to share with their EHE networks and those stakeholders who had previously expressed an interest in this area. Within that invitation, families were asked to email CCfW to register their interest and were then issued with joining instructions. Although 50 spaces per event were initially allocated, the number that expressed an interest exceeded this and joining instructions were sent to all those who had expressed an interest in attending.

Time restraints did not all allow for questions asked by attendees to be answered during the sessions and therefore responses to the queries posted in the 'chat bar', and subsequent queries e-mailed independently to the Welsh Government following the sessions, have been captured below.

Where questions included statements based on personal experiences or opinion, the Welsh Government has not commented, except to answer the question and to correct misinterpretations of the law or policy.

**General**

Pack Page 59	<p>1. Could you just sum up what is new in what we've just seen?</p>	<p>The purpose of the guidance is to support local authorities in effectively discharging their existing duties in relation to home educated children and assisting them in providing support to home educated families. Specific changes include:</p> <ul style="list-style-type: none"> <li>• a more detailed description of what constitutes a 'suitable and efficient education' includes suggested characteristics so that LAs can more easily determine if a child is in receipt of a suitable education</li> <li>• detailed section for LAs on assessing suitability of education</li> <li>• emphasis on seeing the child</li> <li>• clarity on the duties under the new ALN Act and Code.</li> <li>• more detail on support for home educated children than the previous version</li> <li>• a specific section on examination access</li> <li>• detail on School Attendance Orders</li> <li>• more comprehensive section on safeguarding</li> <li>• recent case law Goodred v Portsmouth City Council</li> </ul>
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**Theme 2: Meetings with a local authority and relationships with them**

2.	<p>What happens if parents refuse a meeting with either their child or themselves?</p>	<p>Section 4.21 of the statutory EHE guidance acknowledges that a parent or Gillick competent child can refuse a meeting with the local authority.</p>
3.	<p>The guidance is not clear on that. It either is mandatory or it isn't and there shouldn't be any negative effect if parents and home educated children decide that a face-to-face meeting is not in the child's interest.</p>	<p>Whilst parents are free to refuse a meeting with the local authority, it is questionable whether the local authority can reasonably assess suitability of education without seeing and communicating with the child. This decision is a matter for the individual local authority.</p>

<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Pack Page 60</p>	<p>4. Could this be clarified in the guidance - the word 'should' meet in the guidance suggests that a meeting is ordinarily required? This would disregard the wishes of a child who just doesn't want to meet a stranger.</p>	<p>Section 4.21 of the EHE guidance acknowledges that “parents and Gillick competent children are not, however, obliged to meet with the local authority and are free to decline a meeting if they so wish”.</p> <p>Additionally, section 4.22 of the guidance states that “there may be occasions where it is not in the best interest of the child for the local authority to meet with them”.</p> <p>Section 4.27 of the EHE Guidance outlines that a meeting may not be the only method for the local authority to be satisfied that the education is suitable. A local authority, if it thought appropriate to do so, could send a pre-meeting questionnaire that home educating families and their children complete together. This will form part of a more holistic approach to assessing the suitability of education. The local authority can use the response to the questionnaire to inform their discussion with home educating parents and children.</p> <p>Section 2.26 of the EHE handbook also outlines that there may be other ways by which a parent could demonstrate that the child is receiving a suitable and efficient education and provides examples for parents.</p>
	<p>5. How is the decision made about whether it is/is not appropriate to see the child? Especially in relation to things like hidden disabilities, neuro divergence and mental health for example. I am wondering about who is qualified within the LA to make this judgment?</p>	<p>This will be down to individual local authority officers.</p> <p>Section 4.22 of the statutory EHE Guidance outlines that there may be occasions where it is not in the best interest of the child for the local authority to meet with them, or in some circumstances, the local authority can conclude without seeing and communicating with the child that they are receiving a suitable education. Where such a conclusion is reached an appropriate date for the decision to be reviewed should be set, taking into account the individual circumstances of the child.</p> <p>where learners have identified ALN which could include neurological, mental health diagnosis, good practice would be for EHE officers to discuss with colleagues who work within and alongside statutory teams to</p>

		<p>determine alternative ways in which evidence could be provided</p> <p>Where learners do not have an identified need and parents feel it is not appropriate to see the child, EHE officers will need to seek views from statutory teams who have experience in dealing with learners with additional needs, as to whether a meeting is in the best interests of the child.</p>
Pack Page 61	<p>6. The law states that the parent is responsible for the education of the child not the local authority. Home education is also allowed by law. As these laws have not been changed on what basis does the local authority to insist on meetings to assess the suitability of the education I provide to my child.</p>	<p>Parents have a responsibility to ensure their children receive a suitable and efficient education either at school or otherwise. However, determining the suitability of education is the legal responsibility of the local authority. They must:</p> <ul style="list-style-type: none"> <li>a) make arrangements to identify children not in receipt of a suitable education, and</li> <li>b) take action if it appears that the child is not in receipt of a suitable education. This is detailed under section 436A of the Education Act 1996.</li> </ul> <p>Section 437 of the Education Act states that if it appears that a child of compulsory school age in their area is not receiving suitable education, either by regular attendance at school or otherwise, local authorities shall serve a notice requiring the parent to satisfy them that the child is receiving such education.</p> <p>An authority's duty under section 436A of the Education Act 1996 (and that under section 437) forms sufficient basis for informal enquiries to the parent/carer to determine what education the child is receiving and whether the local authority believes this is suitable and efficient.</p>
	<p>7. Do you understand why the community have so many questions and concerns about the content of guidance? It is essentially asking one person, one individual LA representative to make a judgment of</p>	<p>The statutory EHE guidance does not change a local authority's existing duties. The guidance supports them to carry out their functions and clarifies these within the context of EHE.</p>

<p>Pack Page 62</p>	<p>how well a parent is raising their child without ANY evidence of a need to do that. Do you know how stressful and upsetting it is for families to have to experience one person, one stranger we know little about, judge how well a parent is raising their own child because of a choice the family have wanted or needed to make in declining the option of state educational provision?</p>	<p>The local authority's role and statutory duty is to determine what education is being provided and whether this is suitable and efficient. There is no assessment or judgement on how the child is raised or a parent's life choices. A parent has the right to choose to home educate their child, however, home education is not an automatic right of parents; it is dependent on provision of a suitable and efficient education.</p> <p>Section 7 of the Education Act 1996 sets out the duty placed on parents to secure a full time, suitable and efficient education for children of compulsory school age, either by sending the child to school or through other means - one of these means is for a parent to decide to home educate. Balanced against this decision, is the expectation that local authorities can assess the suitability of the education parents provide. In order for a local authority to carry out that function, it is not unreasonable for local authorities to ask parents about their approach and the education being delivered.</p> <p>If the education being provided is deemed to be neither suitable or efficient then local authorities will have their own processes in place to escalate cases where more formal action may be necessary.</p>
<p>8.</p>	<p>I have already been threatened with an SAO by my local authority for simply refusing to write a report despite providing them with a report the previous year. And successfully home educating for 25 years with my older children now attending university. They did not believe I was not providing a suitable education. They were purely using it as a threat. How will this kind of behaviour be avoided.</p> <p>Similar question raised via separate correspondence: What happens when parents refuse to give "samples"</p>	<p>This is clarified under Question 5. Local authorities must be satisfied that a suitable education is being provided. A local authority's duty under the Education Act 1996 (section 437) forms sufficient basis for informal enquiries to the parent/carer to determine what education the child is receiving and whether the local authority believes this is suitable and efficient. The guidance clarifies that the local authority should attempt to obtain the necessary information and engage with the family before issuing an SAO. If the parent/carer refuses to provide any information and the local authority is unable to assess the education provision, it may have to issue an SAO.</p>

	of “work” because they or their child do not consent for legal, moral, philosophical or educational reasons?	<p>Section 5.3 of the statutory EHE Guidance states “in the absence of information that suggests a child is being suitably educated and that the parents’ refusal to answer is for some unrelated reason, the only conclusion that the local authority can reasonably come to is that the home education does not appear to be suitable”.</p> <p>The guidance acknowledges that the approach home educating parents take is likely to be dictated by their own philosophy or views, and in many cases, the absence of formal assessment may be a feature of the education provision. This will be fully considered by local authorities but they must still be able to undertake their statutory duties. The statutory EHE Guidance states 4.33 that: “Legal precedent has established that local authorities can make informal enquiries of parents for details of the educational provision for their child”.</p>
9	From the response to the statutory guidance so far, do you believe the guidance will build bridges between local Authorities and home educators?	<p>The purpose of the guidance is to clarify existing requirements in law and to help ensure that there is consistency of approach across all local authorities and to ensure that children are supported to access the universal services and benefits normally available to children and young people in mainstream education.</p> <p>As the guidance is implemented, we acknowledge the need for ongoing engagement with stakeholders to ensure that any remaining concerns are addressed.</p>
10.	Do you feel that forcing meetings effectively will boost positive relationships?	As outlined in the response to Question 2, parents are free to refuse a meeting with the local authority, however, it is questionable whether the local authority can reasonably assess suitability of education without seeing and communicating with the child. This is a matter for the individual local authority. (See section 4.21 of the Statutory EHE Guidance).
11.	Given that the handbook says that tutors should not meet with children alone, what measures are there to	Local authorities will have their own systems and processes for meeting with families and learners which would safeguard both the local authority

	protect LA officials carrying out meetings, especially where meetings may be held because parents feel as sense of pressure or of negative consequences if they don't, or when children with ALNs, through no fault of their own, may be triggered into meltdowns and fight-or-flight violent outbursts by their presence, questions or by the stress of the implications of failing to "please" them?	<p>officer, parent and learner.</p> <p>Arrangements for meetings with learners with ALN has been clarified under response 5.</p>
12.	Can they meet children without interviewing them? Watch them in a lesson, for example?	<p>Section 2.26 of the Welsh Government's handbook for home educators outlines the different ways evidence could be provided by parents. Families should discuss provision of evidence with their local authority.</p>
13. Wider Package Page 64	Why is an SAO the response to educational concerns with home education when schools receive help and support to improve - surely the equivalent would be a home education support service?	<p>The local authority is expected to make all reasonable efforts to provide help and/or support to the family. The guidance clarifies that the local authority should attempt to obtain the necessary information and engage with the family before issuing an SAO.</p> <p>In this instance, this is an offer of support and the parents are under no obligation to accept it.</p>
<b>Theme 3: Recourse against local authority decision making</b>		
14.	Local authorities are a law unto themselves. They quite frequently make up their own agenda and do not adhere to rules and best practices. They lie and mis-direct, mis- inform. What protection do parents have in regard to this?	<p>Driving consistency of practice across all local authorities is a key aim of the new statutory guidance.</p> <p>The Wider Package of Support clarifies the existing statutory responsibilities on local authorities, namely: -</p> <ul style="list-style-type: none"> <li>• the local authority must decide whether or not the child has ALN if it is brought to its attention that the child may have ALN</li> <li>• securing provision of counselling services for EHE learners in line with the offer available in schools</li> <li>• providing access to youth support</li> </ul>

		<ul style="list-style-type: none"> <li>• providing access to advice from Careers Wales</li> </ul> <p>As outlined in the response to question 13, the local authority is expected to make all reasonable efforts to provide help and/or support the family. This may include providing parents with information about preventative services and, where appropriate, gaining parental consent for a referral to those preventative services available locally.</p> <p>If parents have any concerns, they are encouraged to discuss these with the local authority and if they remain dissatisfied parents can follow the local authority's complaints process.</p> <p>Parents are also able to refer their concerns to the office of the Children's Commissioner for Wales. <a href="http://childcomwales.org.uk">Contact Us - Children's Commissioner for Wales (childcomwales.org.uk)</a></p>
Pack Page 65	What happens when the parent and the LA disagree? there is no appeals process or scrutiny apart from going through the courts	As a matter of good practice, local authorities are advised to regularly review all of their procedures and practices, including those in relation to home education. Home education organisations and home educating parents and children should be involved in the review process. Effective reviews, together with the sensitive handling of any complaints, will help to build and secure more effective partnership.

<b>Theme 4: Qualification / experience / training of local authority officers</b>		
16.	What qualifications will LA decision makers have? What disabilities and mental health training will LA	It is up to local authorities to appoint officers with the necessary skills and experiences to undertake the role, and to provide ongoing training and

	<p>EHE officers be given? What philosophies will LA EHE officials be educated in?</p>	<p>professional development.</p> <p>However, local authority officers did receive a package of training prior to the implementation of the new statutory guidance to include awareness of the different philosophies, learning styles and approaches to home education. Training materials are attached, as referenced in the answer to questions 17/18.</p>
17.	<p>Can the EHE officer training materials be shared with the home educating community?</p>	<p>The topics covered and relevant PowerPoints are included as an attachment with this document.</p>
18. Pack Page 66	<p>Please would the department make the full range of resources and content used in training LA employees for EHE fully visible to the public so that we can evaluate how useful or appropriate these were? This would seem especially important in building trust and communication as it would seem that no home educators were involved in the development of this training.</p>	<p>The Welsh Government held two seminars on 28 February and 21 March 2023.</p> <p>The purpose of these seminars was to notify Welsh local authorities of the forthcoming publication of the Elective Home Education guidance and to facilitate discussion of the guidance, the responsibilities of local authorities and to raise awareness of best practice throughout Wales in working with home educators.</p> <p>Attendance at the seminars was voluntary, all Welsh local authorities participated with some contributing materials and leading elements of the discussion.</p> <p>The meetings were held as the draft guidance was being finalised for publication. The focus on these sessions was on local authority responsibilities as outlined and there was not an opportunity to discuss the drafting.</p> <p>With particular reference to the Gypsy, Roma and Traveller PowerPoint, an official for the Welsh Government gave a presentation on academic studies of the Gypsy, Roma and Traveller communities and home education. The purpose of the presentation was to highlight: -</p>

		<ul style="list-style-type: none"> <li>• that the decision to home educate was not always due to a nomadic lifestyle</li> <li>• the variation in practice across the responding Local Authorities in England,</li> <li>• the need for LA EHE officers to liaise with their local traveller service</li> <li>• that the recommendations of this report were far more extensive than forthcoming Elective Home Education guidance</li> </ul> <p>This presentation then set the scene for an LA Officer from the Gypsy, Roma and Traveller community with experience of home education to share their experiences and provide advice for colleagues when assessing the suitability of home education and interacting with these communities.</p>
18. Pack Page 67	<p>What lived experience regarding home education do <i>Welsh Government staff</i> have, that allows them to train others?</p>	<p>Civil servants are impartial, and proposals or policies are not personal views. Experience of Welsh Government staff is in policy development and advising ministers across a range of areas, informed by those with a key interest or specific experience.</p> <p>The WG official who ran the training provided to local authority staff is an experienced local authority officer on secondment with experience of supporting home educating families and has an awareness of the factors which can contribute to a parental decision to home educate.</p> <p>Existing local authority officers working in this field supported the training by delivering relevant presentations which included general application of the statutory guidance to meet local authorities' statutory duties, across some specific areas (e.g., philosophical approaches suitable and efficient education (as per guidance), Gypsy Roma Traveller policy, and ALN).</p>
19.	<p>Is it left to the discretion of a particular officer, whether they think evidence is suitable? LAs seem to differ</p>	<p>The key purpose of the statutory guidance is to promote consistency across Wales and sections 4.1 to 4.18 of the guidance provide clear guidelines to</p>

	widely between supportive and empathetic people to a culture of hostility and suspicion in other LAs.	local authority officers.
<b>Theme 5: Local authority / Welsh Government responsibilities / roles and evaluation of guidance</b>		
20.	How will consistency be assured across LAs, we already see overstep in many areas.	Driving greater consistency across LAs was a key driver for bringing in statutory guidance. However, it will be for local authorities to implement the legislation and ensure that they adhere to the guidance. The Welsh Government will continue to chair the EHE National Steering Group to facilitate discussion with local authority officers in relation to policy implementation
21. Pack Page 68	<p>Before we end today, can you clarify that: you understand the duty of the LA is only to identify children who are missing education, and that it is a parents responsibility to decide on education suitability. LA role is to support, not to judge assess and monitor? And that State educated children are not CME if their education is not suitable?</p> <p>Similar question received by email outside of the engagement sessions: In the recent meetings hosted by the Children’s Commissioner for Wales, it was claimed by the Welsh Government that it is the role of Local Authorities to decide whether a child’s education is suitable, not the parents. Please would you provide the legal basis for such a claim if this is believed to be the case, as education is the responsibility of parents, not the authorities.</p>	<p>Determining the suitability of education is the legal responsibility of the local authority and not the parent. The legal basis for this is provided in more detail under questions 5 and 6.</p> <p>Until the local authority is assured the home educated child is receiving a suitable education then the child is potentially within scope of the section 436A duty and Welsh Government statutory guidance on children missing education will apply (<a href="#">Statutory guidance to help prevent children and young people from missing education   GOV.WALES</a>).</p>
22.	What measures will you be putting in place to ensure that what you are saying here today is what is carried out by local authorities to prevent the situations being	An independent evaluation of the statutory EHE guidance will begin in May 2024. The evaluation will review what impact the guidance has had on supporting local authorities to undertake their statutory duties. Local

	talked about here?	<p>authorities and the Welsh Government have a steering group for EHE, where impact of policies can be discussed and any issues addressed on a regular basis.</p> <p>The Welsh Government will continue to chair the EHE National Steering Group to facilitate discussion with local authority officers in relation to policy implementation.</p>
23.	Will you make sure that all LAs will be informed that meetings are NOT mandatory and that declining a meeting can't be used to issue a SAO?	<p>Section 4.21 of the statutory EHE guidance acknowledges that a parent or Gillick competent child can refuse a meeting with the local authority. Whilst parents are free to refuse a meeting with the local authority, it is questionable whether the local authority can reasonably assess suitability of education without seeing and communicating with the child. This decision is a matter for the individual local authority.</p>
24.	Evaluating when though? I do not recall if it was one year or two during which many families feel persecuted. Those who replicate school at home are probably less concerned, but those who do not are even too frightened in many cases to attend those meeting.	
<b>Theme 6: Partnership working</b>		
25.	<p>How are LA's working specifically with Health and other organisations who specialise in supporting families who face a range of challenges as a result of both diagnosed and undiagnosed "conditions" So by this I mean the number of families who are parenting neuro divergent children or those with mental health needs, who would experience high anxiety at the very nature of a meeting for example. How are LA's equipping themselves to have this understanding? This is a challenge for schools and why a number of families choose to remove their children. How will LAs equip themselves with such specialist understanding?</p>	<p>A parent or guardian who chooses to home educate opts out of state education provision. However, this does not mean that they opt out of state health services. Home educated children are still entitled to health services normally offered through schools.</p> <p>Counselling for learners who are home educated is available in line with the provision for children attending school. This has been agreed and is included within our Wider Package of Support.</p> <p>Where learners have identified needs, it is expected that home education officers work closely with other departments in the local authority, such as the education welfare service (EWS), additional learning needs (ALN) to</p>

<p>I have been a manager within the Local Authority of Family Support and Educational Welfare Provision and I now work privately as a therapist working with a number of families impacted by systems which due to their inflexibility cause extreme anxiety which is harmful to both children and parents/carers.</p>	<p>support home educated children and there is an expectation on the local authority to make all reasonable efforts to provide help/support to the family. This can often include working with other LA services and signposting families to appropriate agencies.</p>
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<b>Theme 7: Evidence of suitable education</b>		
Pack Page 70	<p>26. What kind of evidence would an LA like to see?</p>	<p>Examples of evidence are referenced within the Handbook within sections 2.25 and 2.26. They are as follows:</p> <ul style="list-style-type: none"> <li>• information sent by email as an attachment</li> <li>• the child showing some of their work or talking about their learning</li> <li>• original work</li> <li>• photocopies of written work</li> <li>• photographs</li> <li>• artwork</li> <li>• scrapbooks</li> <li>• musical and sporting achievements (certificates)</li> <li>• a diary of events</li> <li>• CD recordings</li> <li>• using digital media</li> <li>• websites contributed to or created by the child's family</li> <li>• a written report</li> </ul>
	<p>27. Can you outline what you would like a "typical school year" to look like in terms of the relationship/communication between a family and the LA/EHE officers?</p>	<p>The guidance is clear that a meeting should take place between the family and the local authority at least once a year to ensure the suitability of education is maintained and that the child is considered to be making suitable progress.</p>

		<p>However, the frequency of meetings with home educating families should be proportionate and based on the individual circumstances of each child.</p> <p>If the local authority has concerns about the suitability of education, it will need to consider whether to see the family on a more frequent basis to assure itself that the child is receiving a suitable education.</p> <p>The local authority may need to liaise with other relevant partners of the local authority dependent upon the circumstances of the child when deciding on the frequency of meetings with the family.</p> <p>Aside from this, we would expect that local authorities to communicate frequently with families to share information, signpost them to services and respond to any queries families may have.</p>
28. <b>Back Page 71</b>	<p>How can LAs evaluate such diverse and varied “evidence”? It seems an impossible task without criteria being imposed, which we don’t want, but then it comes down to individual bias.</p>	<p>It is for local authorities to determine, from the information parents submit, whether a suitable and efficient information is being provided and the statutory guidance supports them to do that. The EHE handbook provides examples on how to evidence satisfactory education provision, to help support greater consistency across local authorities. Please see question 26 for more detail.</p>
29.	<p>Who decides on the level of numeracy, literacy, language.</p>	<p>As outlined in section 3.9 of the EHE handbook, a suitable education should provide children with experience in linguistic, mathematical, scientific, technological, human and social, physical and aesthetic and creative education; along with experience in speaking and listening, literacy, numeracy and digital skills.</p> <p>Regardless of the approach taken to deliver a suitable education, it is important for local authorities to consider whether the approach is suited to the needs of the individual child which means efficient education suitable to the child's age, ability and aptitude and to any SEN/ALN the child may have. This is not however defined in terms of number of hours or set</p>

		standard other than to specify that the provision must correspond with the child's general ability (including any SEN/ALN they have) and enable the child to acquire: listening and speaking skills, reading skills which include vocabulary and comprehension; and writing skills which include grammar, punctuation and spelling. Local authority officers are responsible for assessing the suitability of this provision in conjunction with the other elements of the child's education.
<b>Theme 8: Support for home educating families / funding for LAs</b>		
Pack Page 72	30. Regarding support what support is available and where do I go to get this, my son is home educated as a result of a very long and stressful battle with school/ cahms/education officer and was advised to home school due to a phobia of school.	Where it has been identified that a family are home educating, support and advice where appropriate, can be made available by the local authority should the family want it. Families should discuss any support requests in the first instance with their local authority EHE officer.
	Can support effectively be offered via the same people who are also judging provision? Compare with the separation of school improvement advisors and Estyn judgements for schools.	EHE officers are likely to be the individuals with the closest relationship with the family and as such would be better placed to consider the education being provided holistically and over time.
	32. How many of the offers of things like CADW and counselling were available anyway before the guidance? If so, why does the guidance portray these as if positive new ways of "support"?	Whilst many aspects of the Wider Package of Support were already available, these were not consistently available to all learners.  Referencing these in the statutory guidance will promote greater consistency of the offer available to learners and their families.
	33. The provision of a package of support is mostly resources that are already available to us. We can already access Careers Wales, already have access to libraries yet we have difficulty accessing exam centres. Why are you listing access to resources that we already have access to	
	34. Will there be better funding for local LEA teams, ours is overstretched and under resourced, leading to them	It is up to local authorities to ensure that sufficient resource is in place to enable them to discharge their statutory duties.

	not being able to provide the support that perhaps they might be required to provide HE families.	However, to support the effective implementation of the Elective home Education Guidance, Welsh Government has provided local authorities with additional funding over a 3-year period to support local authorities to discharge their duties in relation to home education.
Pack Page 73	35. Welsh Government have taken up safeguarding related recommendations when issuing this guidance but have ignored other financial recommendations included in the same reports. Jeremy Miles often suggests that home educators receive a package of support that equates to 1.7 million pounds. This is misleading as he has confirmed in an answer to a written question, that 1.1 million is for Local Authorities to discharge their duties and the remaining 600 thousand is divided between home educating families across the whole of Wales. This equates to approximately £120 per family, Approximately £3 per week when based on an academic year of 38 weeks, far less than the cost of school meals for 1 child for 1 week. Why haven't Welsh Government taken up the recommendation of equal financial support for home educated children and state educated children?	Parents who choose to home-educate their children must be prepared to assume full financial responsibility for their children's education. However local authorities are encouraged to provide support where resources permit.  The funding provided by Welsh Government to local authorities to support home educating families is unique within the UK.
<b>Theme 9: Evidence around home education</b>		
36.	Home Education has been legal in the UK for 50 years. Why hasn't there ever been a commissioned study into home education?	The Welsh Government will consider this point. The Minister noted his intention to evaluate statutory guidance and a commissioned evaluation starts in summer term of 2024 which will allow time for this guidance to be implemented by local authorities.
37.		

	What is the evidence to support the proposals ie why make it legislation and not advisory	The development of statutory guidance is in direct response to concerns previously raised by the Children’s Commissioner for Wales (CCfW) and the National Independent Safeguarding Board (NISB), both of whom called on the Welsh Government to enhance their guidance on Elective Home Education (EHE)
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**Theme 10: ALN**

Pack Page 74	38. Where does a parent stand if they do not wish the local authority to label their child with an ALN? Is an ALN non negotiable ?	<p>The same duties apply to LAs in relation to children with ALN regardless of how they receive their education. Section 2.13 of the EHE statutory guidance says that where it is brought to its attention or otherwise appears to a local authority that a home education child (other than a looked after child) for whom it is responsible, may have ALN, the local authority must decide whether or not the child has ALN and, if it decides that the child has ALN, prepare and maintain an IDP (individual development plan) and secure the ALP (additional learning provision) described in that plan.”</p> <p>Children, their parents and young people can challenge decisions made by a school, PRU, local authority or college about ALN if they disagree with them. This includes decisions about whether a child or young person has ALN. Further information about challenging decisions about ALN made by local authorities can be found in <a href="#">A guide for parents about rights under the additional learning needs (ALN) system [HTML]   GOV.WALES.</a></p>
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**Theme 11: Examinations**

39	Will the exam support offer be publicly advertised on LA websites?	This is a matter for individual LAs. We would suggest that home educating families contact their local EHE officer for advice. Section 6.14 of our Statutory EHE Guidance outlines that “It will be the responsibility of the home educator to contact the local authority and enquire about the precise way in which they handle private candidates.”
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40	Exam provision in our area of Wales is non-existent. WJEC board is not accessible to home educators. Also home educators can't take WJEC exams because of coursework element. This is also likely to get worse with the WJEC exam reforms under consideration, with all but Maths proposed to have significant NEA elements. Access arrangements for non-school based candidates are another big area that needs to be supported for exams access to be equitable.	<p>Welsh Government has worked with local authorities to enable home educating families to access WJEC examinations at an identified examination centre.</p> <p>All local authorities have agreed to accept independent candidates from home educated families at an identified examination centre.</p> <p>Further education colleges should also be encouraged to open up their facilities to home educated children for examinations.</p>
41.	The legislation states that equal opportunities and practical support will be provided for home educators. Yet since the Welsh government has become more involved, the provision of exam centres has become much much worse. Why is this?	<p>Local authorities should, where possible, direct home educating families to schools and centres that will let external students sit exams. Home education officers are encouraged to work with identified examination centres providers in their local authority to accommodate home educated children where possible.</p>
42.	It would really help if exam centre access weren't limited to one exam board. For example, we might be doing iGCSEs because of coursework requirements, or using English exam boards because we're getting online tutoring. I appreciate that LAs are overstretched, but I think the benefit to parents and children would be huge, compared to the cost to LAs.	<p>It will be the responsibility of the home educator to contact the local authority and enquire about the precise way in which they handle private candidates.</p>
43.	The schools choose surely not the LA? Independent schools have become reluctant to accept HE young people for exams as the demand is high and they cannot cover SEN requirements.	
44.	Are the exam costs going to be covered, or is it just the provision of a local centre?	<p>This a matter for local authorities.</p>

45.	Can we discuss issues around examinations with you further as there are issues that need to be clarified that can't be answered today?	<p>If there are any further queries in relation to the statutory EHE Guidance and examinations that have not be clarified by responses to the questions in this section then individuals can contact the Welsh Government at: <a href="mailto:ElectiveHomeEducation@gov.wales">ElectiveHomeEducation@gov.wales</a>.</p> <p>Local authorities are best placed to answer questions in relation to access to examination centres. Please contact your Elective Home Education Officer for more information.</p>
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<b>Theme 12: Further input and engagement</b>		
46.	Going forward how will WG continue the dialogue with the community?	<p>The Welsh Government is committed to engaging with all stakeholders as we implement the statutory guidance. We are actively considering how best to facilitate further engagement and dialogue with all stakeholders, including the home educating community.</p>
47.	The community responded to home ed consultations and have repeatedly tried to engage with Welsh Government. Will anything discussed during these meetings make a difference to how the education department work with the community going forward?	
48.	Can the community have input into the handbook, there are many inaccuracies, out of date information, etc. it would be worth having a handbook that is relevant	<p>The Welsh Government would welcome constructive feedback on the handbook to ensure we can build on this resource and make it as helpful and relevant as possible for all members of the home educating community. Ways in which we can facilitate this are being considered, as part of wider and ongoing engagement.</p> <p>If there are specific aspects of the handbook that are perceived to be inaccurate then this feedback can be shared with the team at <a href="mailto:ElectiveHomeEducation@gov.wales">ElectiveHomeEducation@gov.wales</a>, so that we can rectify as soon as possible.</p>

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<b>Theme 13: Voice of home educators</b>		
49.	Is there home educator representation on the LA steering groups? Could this be considered on a regular basis?	<p>There is currently no home education representation on the Welsh Government EHE national steering group as the purpose of this group is to ensure greater consistency in implementation of statutory guidance.</p> <p>The Welsh Government will continue to chair the EHE National Steering Group to facilitate discussion with local authority officers in relation to policy implementation</p> <p>As outlined in response to question 46, we are considering how best to facilitate ongoing input and engagement from the home educating community.</p>
50. Back Page 77	Do you consider this new guidance to have been fully Co-produced with Home Educators? Have home educators been involved in every step?	A full consultation on the statutory guidance was held during 2019, which included face to face engagement opportunities. The Welsh Government considered the responses and views of all stakeholders before finalising the guidance, however all views were balanced against the primary policy aim of the statutory guidance to support local authorities to ensure all children are receiving a suitable and efficient education.

<b>Theme 14: Voice of children and young people</b>		
51.	What about young people having their voices heard by the people making decisions?	The 2019 consultation included a Young Person's version of the Guidance and Handbook. The Welsh Government also facilitated face to face engagement sessions, which provided an opportunity for children and young people to share their views.

<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Pack Page 78</p>	<p><b>52.</b> How often are children in school asked 'Would you prefer to be home educated?' They are never asked. Home education is not school. schools are inspected as Government commissioned services which are answerable to their funders (Government) and answerable to their service users (parents).</p> <p>The following similar questions were asked in correspondence:</p> <p>Does the LA listen to every single school child's concerns? Or course not; so why this insistence on the LA interviewing our children? This question has been asked many times by several home educating families and we don't get a good enough response, if it all.</p> <p>Could I ask the minister of Education if he plans to do this in all the schools in Wales too? Will he be asking all children in Wales about their Education including those that attend school?</p>	<p>There are significant opportunities for all children in maintained schools to have their voice heard; this is heavily embedded within the schools' system. This includes School Councils, which are underpinned by regulations. In addition, the Children and Families (Wales) Measure 2010 requires local authorities to promote and facilitate participation by children and young people in decisions that might affect them, including in school. Learner voice is also embedded in the new Curriculum for Wales and the Welsh Government's National Mission. As part of their statutory inspection processes Estyn will also gathers pupils' views through a questionnaire before inspecting schools and may talk to pupils, review work and observe lessons.</p> <p>Seeing and communicating with home educated children will provide a mechanism to ensure the voices of home educated children are heard. Clarification on seeing the child is provided in responses to questions 2, 3 and 5.</p>
	<p><b>53.</b> With regards to school councils being used to prove children's views are heard, this is not gaining every single child's view on their education provision. So can we have a council of home educated children rather than each child so that we are inline with schools?</p>	<p>As outlined in response to question 46 we are considering how best to facilitate ongoing input and engagement from the home educating community. This will include consideration on how to capture the views of home educated children.</p>
	<p><b>54.</b> I know of children who are unhappy in school and would like to be home educated, will you be offering mediation to those families to help them into Home Education.</p>	<p>Whilst parents are free to choose to home educate their children, it is important that the parental decision to home educate is a positive choice and not as a result of perceived failings within the school system, or negative experiences with a particular school. We would always encourage families to work with their</p>

		school and local authority to resolve any issues, to ensure that appropriate support can be put in place support for children.
<b>Theme 15: UNCRC</b>		
55.	Why are articles 5, 14, 16 and 18 of the UNCRC not included in the guidance? These articles refer to states parties respecting parents, respecting privacy and Article 18 states parents have the primary responsibility for the upbringing and development of the child. How does the guidance adhere to these articles?	<p>Children’s rights are enshrined in Welsh law under the ‘Rights of Children and Young Persons (Wales)</p> <p>Whilst the Welsh Government gives due regard to all requirements, there are four overarching principles within the UNCRC, including Article 12 (respect for the views of children).</p> <p>The Measure places a duty on the Welsh Government to give appropriate weight to all articles of the UNCRC, balancing them against all other relevant factors.</p>
56.	The human rights of the child have been quoted in the welsh legislation. Will the right of my child to not attend a meeting and not comply with a SAO be respected?	Clarification on seeing the child can be found in responses to questions 2,3 and 5.
<b>Theme 16: Impact assessments</b>		
57.	Why has there not been a regulatory impact assessment, a data protection impact assessment or an up to date children’s rights impact assessment published before guidance was released? These assessments were promised to the community by Kirsty Williams during a written statement.	<p>An integrated impact assessment , which includes a children’s rights impact assessment was undertaken on the statutory guidance, and can be found <a href="#">here</a>. The Written Statement issued under the previous government refers to the processes and assessments that would be undertaken ahead of the database regulations being implemented. As the database will require data regulations, a regulatory impact assessment and data protection impact assessment are being developed alongside that policy work. The statement referred to in the question is included at the following link:</p> <ol style="list-style-type: none"> <li>1. <a href="#">Written Statement: Children Act 2004 Education Database (Wales) Regulations 2020 and the Education (Information about Children in</a></li> </ol>



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## WRITTEN STATEMENT BY THE WELSH GOVERNMENT

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<b>TITLE</b>	<b>Levelling-up and Regeneration Bill – Compulsory Purchase Amendments - Hope Value and Compensation</b>
<b>DATE</b>	<b>16 August 2023</b>
<b>BY</b>	<b>Julie James MS, Minister for Climate Change</b>

This written statement is laid under Standing Order 30 – Notification in relation to UK Parliament Bills. It relates to a UK Government Amendment 412D<sup>1</sup>, tabled on 13 March 2023 during the Lords Committee Stage, in the Levelling-up and Regeneration Bill (“the Bill”) which will modify the Welsh Ministers’ functions but does not require a Legislative Consent Motion under Standing Order 29, as Senedd Cymru does not have legislative competence in relation to the amendment provision. The Bill was introduced in the UK Parliament, the House of Commons, on 11 May 2022.

Other provisions in the Bill regarding land use planning; environmental outcome reports for certain consents; information and records relating to land, the environment or heritage; governance of the Royal Institution of Chartered Surveyors; and vagrancy and begging required the legislative consent of the Senedd. I laid a Legislative Consent Memorandum<sup>2</sup> and a Written Statement<sup>3</sup> before Senedd Cymru on 28 September 2022 in accordance with Standing Order 29 and 30 respectively. A revised Legislative Consent Memorandum<sup>4</sup> was laid on 25 November 2022. A Supplementary Legislative Consent Memorandum<sup>5</sup> was laid on 30 November 2022 relating to several UK Government amendments that had been tabled during Commons Report stage. A Written Statement<sup>6</sup> was laid on 21 March relating to UK Government amendments

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<sup>1</sup> <https://bills.parliament.uk/publications/50270/documents/3123>

<sup>2</sup> <https://senedd.wales/media/5gdfx1u1/lcm-ld15356-e.pdf>

<sup>3</sup> [gen-ld15357-e.pdf](https://senedd.wales/media/gen-ld15357-e.pdf) (senedd.wales)

<sup>4</sup> <https://senedd.wales/media/rw0nf3iz/lcm-ld15495-e.pdf>

<sup>5</sup> <https://senedd.wales/media/1fwfrofa/slcm-ld15508-e.pdf>

<sup>6</sup> [Written Statement: Levelling-up and Regeneration Bill – Virtual Proceedings Amendment \(21 March 2023\) | GOV.WALES](https://gov.wales/written-statement-levelling-up-and-regeneration-bill-virtual-proceedings-amendment-21-march-2023)



relating to virtual proceedings. A further supplementary Legislative Consent Memorandum<sup>7</sup> was laid on 27 April 2023 in relation to amendments to Environmental Outcomes Reports, which fell within the legislative competence of the Senedd. The same day I laid a further Written Statement<sup>8</sup> in relation to amendments to Part 9 Compulsory Purchase provisions and Hope Value.

### **The relevant amendments**

The tabled amendment address compulsory purchase compensation by providing an enabling power to the Welsh Ministers to seek directions to remove hope value from compulsory purchase compensation for the acquisition of land through Compulsory Purchase Orders made under the Welsh Development Agency Act 1975 (WDAA 1975).

‘Hope value’ refers to uplift in the value of land when taking account of what planning permission could be granted should the compulsory purchase scheme not proceed. The amendments include inserts into Part 1 of Schedule 4 to the WDAA 1975 (procedure for compulsory acquisition under that Act) which sets out the procedure that the Welsh Ministers will be required to follow if they make a direction that compensation is to be assessed in accordance with section 14A of the Land Compensation Act 1961. The procedure includes preparing a statement of commitments setting out the intentions of the acquisition which include a provision of a certain number of units of affordable housing. The inclusion of this power therefore brings with it significant potential benefits in the context of regeneration and housing.

The amendments laid also extend the power for directions to be sought to remove hope value from compulsory purchase compensation for Compulsory Purchase Orders to those made by NHS Trusts in Wales under paragraph 27 of Schedule 3 of the National Health Service (Wales) Act 2006.

The amendments laid also change the definition of “unit of affordable housing” to ensure the existing definition within the meaning of Part 2 of the Housing and Regeneration Act 2008 is correctly made to apply in Wales.

As I set out in my Written Statements<sup>9</sup> dated 28 September 2022, 21 March 2023 and 27 April 2023 relating to the Bill, Senedd Cymru has limited competence in respect of compulsory purchase in devolved areas, including housing and land use planning. In practice, this means any proposed modifications to the law of compulsory purchase, via primary legislation, must clearly be in the context of specified changes to land use

<sup>7</sup> <https://senedd.wales/media/hbpecjfk/slcm-ld15802-e.pdf>

<sup>8</sup> [Written Statement: Levelling-up and Regeneration Bill – Compulsory Purchase Amendments - Hope Value and Compensation \(27 April 2023\) | GOV.WALES](#)

<sup>9</sup> [gen-ld15357-e.pdf \(senedd.wales\)](#) <https://www.gov.wales/written-statement-levelling-and-regeneration-bill-virtual-proceedings-amendment> <https://www.gov.wales/written-statement-levelling-and-regeneration-bill-compulsory-purchase-amendments-hope-value-and>



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Llywodraeth Cymru  
Welsh Government

planning law or another non reserved matter. Senedd Cymru is therefore unable to modify the law of compulsory purchase generally, or for its own sake or to achieve reserved ends. This prevents Senedd Cymru from modifying the general rules on compulsory purchase and compensation for compulsory acquisition in legislation such as the Acquisition of Land Act 1981 in respect of all compulsory acquisitions in Wales.

The provision will add an additional aspect to the existing functions of the Welsh Ministers functions in their role as confirming authority. Therefore, the provision falls under Standing Order 30 for provisions which will modify the Welsh Ministers functions, but do not require a Legislative Consent Motion under Standing Order 29.

### **Reasons for making the provision**

The Welsh Government is committed to improving the compulsory purchase process to make it fairer, more efficient, and intelligible. Our priority is to remove barriers to, and encourage greater use of, compulsory purchase powers by local authorities through streamlining and modernising the compulsory purchase process. We consider the amendments are an improvement through rebalancing the position between acquiring authority and landowner.

I consider that it is appropriate for the provision relating to compulsory purchase to apply in relation to Wales and for it to be included in this Bill.

This statement is being issued during recess in order to keep members informed. Should members wish me to make a further statement or to answer questions on this when the Senedd returns I would be happy to do so

Huw Irranca-Davies MS  
Chair of the Legislation, Justice and Constitution Committee

14 September 2023

**Procedures required for scrutiny of Statutory Instruments flowing from the Retained EU Law (Revocation and Reform) Act 2023**

Dear Huw,

The Business Committee is considering changes which are required to procedures for the scrutiny of statutory instruments (SIs) flowing from the Retained EU Law (Revocation and Reform) Act 2023.

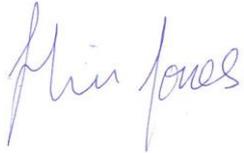
At our meeting on 12 September, the Business Committee agreed to consult with the Legislation, Justice and Constitution Committee on our proposed approach to amending Standing Orders 21 and 27 for the purpose of introducing a sifting procedure for SIs made under that Act. We intend for these provisions to replace those which applied to sifting under the European Union (Withdrawal) Act 2018 and the European Union (Future Relationship) Act 2020, which are no longer required.

At the same time as proposing these changes to the Senedd, we also intend to propose the removal of Standing Order 30B and an amendment to Standing Order 30C following the expiry and repeal of some powers relating to the making of SIs in the European Union (Withdrawal) Act 2018 and the European Union (Future Relationship) Act 2020. We would also be grateful to receive the Legislation, Justice and Constitution Committee's views on those proposals.

I enclose an analysis of the proposed changes for your consideration, including the proposed changes to the Standing Orders in Annex A of that document.

Please be aware that the paper is private and not for publication or circulation other than to Committee members.

Kind regards,

A handwritten signature in blue ink that reads "Elin Jones". The signature is written in a cursive style.

**The Rt Hon. Elin Jones MS**

Y Llywydd and Chair of the Business Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.



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