

# Agenda – Children, Young People and Education Committee

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Meeting Venue:

Hybrid – Committee room 2 Senedd  
and video conference via Zoom

Meeting date: 2 April 2025

Meeting time: 09.30

For further information contact:

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## Hybrid

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### Private pre-meeting

09.00 – 09.15

#### 1 Routes into post-16 education and training – Discussion with the Citizen Engagement Team about engagement findings

09.15 – 09.30

(Pages 1 – 39)

Attached Documents:

Engagement Findings

### Public meeting

09.30 – 11.30

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

09.30

#### 3 Routes into post-16 education and training – evidence session 10

09.30 – 11.30

(Pages 40 – 85)

Lynne Neagle MS, Cabinet Secretary for Education

Vikki Howells MS, Minister for Further and Higher Education

Jack Sargeant MS, Minister for Culture, Skills and Social Partnership

Hannah Wharf, Deputy Director, Support for Learners, Welsh Government

Ruth Meadows, Director of Tertiary Education, Welsh Government



Jo Salway, Director, Social Partnership, Employability & Fair Work, Welsh Government

Attached Documents:

Research brief

Welsh Government

## **4 Papers to note**

11.30

### **4.1 Legislative Consent: Children's Wellbeing and Schools Bill**

(Pages 86 – 87)

Attached Documents:

Letter to the Llywydd and Chair of Business Committee from the Chair of the Legislation, Justice and Constitution Committee

### **4.2 Legislative Consent: Border Security, Asylum and Immigration Bill**

(Page 88)

Attached Documents:

Letter to the Cabinet Secretary for Social Justice, Trefnydd and Chief Who from the Chair of the Legislation, Justice and Constitution Committee

### **4.3 Children on the margins**

(Pages 89 – 93)

Attached Documents:

Briefing note from Crisis

### **4.4 P-06-1507 We call on UWTSD and the Welsh Government to create a viable, sustainable plan for the long-term future of Lampeter campus**

(Pages 94 – 98)

Attached Documents:

Letter to the Chair of the Children, Young People and Education Committee  
from the Chair of the Petitions Committee

#### **4.5 Review of the Public Bill and Member Bill processes**

(Pages 99 – 100)

Attached Documents:

Letter to the Llywydd from the Chair of the Children, Young People and  
Education Committee

#### **4.6 Issues facing the Higher Education Sector**

(Pages 101 – 104)

Attached Documents:

Letter to the Chair of the Children, Young People and Education Committee  
from Cytûn: Churches Together in Wales

#### **4.7 Legislative Consent: Children's Wellbeing and Schools Bill**

(Pages 105 – 114)

Attached Documents:

Email correspondence to the Children, Young People and Education  
Committee from Education Otherwise

#### **4.8 Legislative Consent: Children's Wellbeing and Schools Bill**

(Pages 115 – 117)

Attached Documents:

Email correspondence to the Children, Young People and Education  
Committee from Home Ed Cymru

- 5 Motion under Standing Order 17.42(ix) to resolve to exclude the public from the remainder of this meeting and for the whole of the meeting on 8, 14 and 21 May**

11.30

**Break**

11.30 – 11.40

**Private meeting**

11.40 – 12.30

- 6 Routes into post-16 education and training – consideration of the evidence**

11.40 – 12.00

- 7 Legislative Consent: Border Security, Asylum and Immigration Bill – consideration of the evidence**

12.00 – 12.15

(Pages 118 – 137)

Attached Documents:

Children's Legal Centre Wales

The Refugee and Migrant Children's Consortium

National Youth Advocacy Service (NYAS)

Bevan Foundation

Welsh Local Government Association

- 8 Legislative Consent: Children's Wellbeing and Schools Bill**

12.15 – 12.30

(Pages 138 – 154)

Attached Documents:

Briefing note

Legal advice note

Document is Restricted

# Agenda Item 3

By virtue of paragraph(s) vi of Standing Order 17.42

Document is Restricted



# CYPE Committee - Routes into Post-16 Education & Training

## Welsh Government Evidence Paper

24/03/2025

### Overview

This paper provides a strategic overview of the Welsh Government's plans to increase participation in post-16 education.

The paper describes what we perceive to be the key issues we need to tackle in relation to post-16 participation, and what we are doing at each stage of the education system and beyond to encourage greater participation. It outlines how we are working with stakeholders and taking an evidence-based approach to addressing this challenge. The paper is built around the Welsh Government's strategic themes in relation to post-16 participation and sets out the actions and interventions we are putting in place around these themes, recognising that participation is a 'whole system' issue with co-dependencies across every part of the education system. Our three overarching themes in relation to participation are to:

1. reduce the number of young people who are Not in Education or Training (NET);
2. reduce inequalities in access and outcomes; and
3. increase the number of 16–24-year-olds with a level 3 qualification or higher.

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# 1. Introduction

The Welsh Government is committed to improving rates of post-16 participation. Both the Cabinet Secretary for Education and the Minister for Further and Higher Education are clear this is a top priority.

We are working in a new legislative landscape in Wales. The Tertiary Education and Research (Wales) Act 2022 (“TER Act 2022”) delivers a range of reforms – including establishing the Commission for Tertiary Education and Research (now known as Medr). Medr became operational on 1 August 2024 and assumed the functions of the Higher Education Funding Council for Wales.

Medr is the regulatory body responsible for the funding, oversight and regulation of post-16 education and research in Wales, encompassing further education, higher education, adult community learning and work-based education, apprenticeships, and local authority-maintained school sixth forms.

Given the breadth of Medr’s remit, and its role in dealing with all post-16 education as a single sector, the Act sets out eleven strategic duties under which Medr is required to exercise its functions, and one of these is to encourage increased, equitable participation in tertiary education.

The legislation also requires Welsh Ministers to publish a statement setting out their strategic priorities for post-16 education (along with research and innovation). In 2023, we published the [‘Statement of strategic priorities for tertiary education and research and innovation’](#), which detailed the key role Medr would play in ensuring pathways through post-16 education are clear.

Following its approval by Welsh Ministers, Medr has recently published its statutory strategic plan, which details the steps it intends to take to satisfy its strategic duties and address Ministerial priorities, including in relation to improved participation and clearer learner pathways. We will continue to work with Medr and stakeholders across the sector to make progress on this within the next 18 months.

A core ambition is to develop a holistic approach to tertiary education, better facilitating collaboration between further and higher education sectors in Wales, working with Medr and Qualifications Wales to ensure pathways are clearer and easier to navigate.

Improving participation in post-16 education requires a focus on the whole education system, including pre-16 education. We are investing an additional £96.5m (£70.2m resource and £26.3m capital) in the education system as a whole in 2025-26. This includes an additional £1.5m specifically for new interventions directly targeting participation.

## Data and Evidence

High quality, reliable data is key to understanding participation trends and then tackling the challenges and opportunities, as well as the impact of interventions. There is limited robust evidence on the effectiveness of policy initiatives to increase participation, both in Wales, the UK and internationally. We have recognised this and have developed a ‘Participation in Tertiary Education Evidence Plan’ to strengthen our evidence base.

The evidence plan takes a multi-faceted approach, combining data linkage, social research and evidence reviews to triangulate available data and evidence. This will develop a shared understanding about learners' pathways through the education system, including the factors which impact their tertiary education choices and outcomes/destinations. As part of this, we are also analysing the effectiveness of interventions to raise participation with a view to developing new policies and approaches across the whole system, where the evidence of impact is clear.

## Theme 1: To increase the number of 16–24-year-olds who are in full-time education, part-time education or training

The definitive source for NEET data in Wales is the annual statistical first release (SFR) [Participation of young people in education and the labour market](#), which uses a range of data sources to estimate the number and proportion of young people in education and the labour market. The latest annual SFR data was published in March 2025 and provisional data suggests the proportion of 16-18 year olds who were NEET decreased to 10.1% in 2023 (down from 12.3% in 2022, and 14.1% in 2021) yet increased for 19-24 year olds to 15.2% (up from 14.6% in 2022, yet lower than the 2021 rate of 16.9%). Participation specifically in education or training in 2023 was 73.2% for 16-18 year olds (a decrease from 73.7% in 2022), and 38.5% for 19-24 year olds (a slight increase from 38.4% in 2022).

When comparisons need to be made between UK nations, the [Annual Population Survey \(APS\) NEET data](#) is used. While this uses a harmonised UK methodology, it is important to note this is not the definitive source of NEET data for Wales. The latest APS data shows the NEET rate for 16- to 18-year-olds in Wales for the year ending September 2024 was 4.9% (down 3.3 percentage points over the year and 3.7 percentage points over 5 years) and the NEET rate for 19 to 24 year olds was 13.2% (down 3.2 percentage points over the year and 2.2 percentage points over 5 years).

Although we are committed to supporting young people holistically in their post-16 pathways, our approach to increasing participation in post-16 education specifically focuses efforts on increasing participation in education and training, as opposed to a broader objective of reducing NEETs. Challenges surrounding education and training are sufficiently broad and complex, therefore a refined scope will ensure clear objectives. The Welsh Government provides a range of employability support for young people as part of the Young Person's Guarantee.

We are already taking a number of important steps to address this including:

### Attendance and Attainment

Increasing school attendance and attainment are at the core of the firm foundations that we are putting in place to improve standards and drive increased participation. We are investing an additional 8.8m across 2024-25 and 2025-26 to support school attendance through a package of interventions aimed at tackling disaffection, engaging families and supporting learners to attend education. We are also investing an additional £10m to support learning and attainment in literacy and numeracy, the building blocks of learning.

Our work on school attendance and attainment is vital in supporting learners on their journey through secondary school, GCSE's and on to level 3 qualifications including A levels and vocational qualifications.

We recognise that some learners face additional barriers at compulsory school age which prevent them from engaging in school and these can be a barrier to individual

learners choosing to progress confidently to next steps. These include unmet mental health needs, those with additional learning needs, and those from lower socio-economic backgrounds. The Welsh Government is committed to creating an inclusive education system for all young people, regardless of their needs and background, to ensure they can access a high standard of education and reach their full potential.

### Curriculum for Wales

The Curriculum for Wales is designed to support learners to make meaningful progress in their learning, deepening and broadening their knowledge and understanding, skills and capacities, and attributes and dispositions. The four purposes of the curriculum, and the integral skills that support them are central to preparing learners for careers and employment. These support learners to be resilient, creative and ambitious, requiring them to solve problems, engage with different information and work independently.

In addition, a school's curriculum should support learners to make informed decisions about their next steps beyond school, including by developing learners' understanding of the breadth of opportunities available to them, and providing experiences relating to work and careers.

The mandatory Statements of What Matters for the **Health and Well-Being** Area of Learning and Experience mean that all schools' curricula should support learners to make better and more informed decisions, including helping prepare learners to make decisions on their future pathways, and ultimately to support continued participation.

**Careers and Work-Related Experiences** (CWRE) is a fundamental part of developing skills for work and life and is an integral part of the Curriculum for Wales. It is a cross-cutting theme for learners from age 3-16 which supports a learner's journey through their decision-making around careers from an early age. The CWRE statutory guidance has been developed to support schools and settings (including Pupil Referral Units (PRUs) and non-PRU EOTAS) to realise this in practice. From the age of 3, CWRE should enable learners to "become increasingly aware of the range of opportunities available to them, broadening their horizons".

Collaboration with post-16 providers can also support the development and delivery of high-quality CWRE. The guidance makes clear the role that further and higher education institutions, and work-based learning providers, can play. The guidance also encourages collaboration with employers to realise effective CWRE.

### Curriculum including 14-16 guidance and work on the 16-19 local curricula

Transitions at 16 and 19 are key points in the learner journey when young people are more likely to leave education. To understand this better, we have worked with the OECD to produce the 'What Shapes Pathways and Transitions? A Comparative Perspective on Learners' Trajectories through Upper Secondary Education in Wales'.

The report points out distinctive elements for Wales (and the UK system more widely).

The overarching aspiration in the report is that 'universal completion of upper secondary should be a policy aspiration for all systems'. Upper secondary, in our terms, is 14-19 learning so includes A levels and post 16 vocational qualifications.

We also asked Estyn to undertake a thematic review of Post-16 partnerships. In response to the findings of this report, Welsh Government published statutory guidance for

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schools on 14-16 learning under the Curriculum for Wales in September 2024. Central to the guidance is the 14 to 16 Learner Entitlement: the learning that all learners in year 10 and 11 will benefit from under the Curriculum for Wales. Post-16 planning is one of the four main components of the Learner Entitlement. The Learner Entitlement makes clear that supporting their learners to make informed choices about next steps is one of the most important roles for schools in year 10 and 11.

Similarly, to support transition and progression – and by extension participation - from pre- to post-16 learning, we are developing a collaborative programme of work with Medr to clarify policy and expectations. This will build on the 14-16 learning guidance published in September 2024 and will include provision of statutory guidance to Medr for post-16 learning. We are also working with Medr to update local curriculum guidance which sets out the range of courses available to learners and how post-16 education providers should work together to maximise opportunities for young people. We will also be working with a wide range of stakeholders to strengthen alignment between 16-18 local curricula and Curriculum for Wales.

### Careers Wales

Careers Wales is our national all-age careers information, advice, guidance and coaching service. They work with all secondary schools, special schools, Pupil Referral Units and colleges across Wales. In recognition of the importance of work-related experience, through the short-term Renew and Reform funding, between September 2022 and March 2024, Welsh Government provided an additional £517,000 to Careers Wales to deliver a Tailored Work Experience Programme. The aim of this was to help re-engage Key Stage 4 learners with their GCSE studies to support their future transition onto the next stage of their education or training. In 2024/25, Careers Wales received a further £250,000 to enable the project to continue on a smaller scale.

### Junior Apprenticeships

The Junior Apprenticeship Programme is targeted at year 10 and year 11 learners who are disengaging from school and at risk of becoming NEET. Under the Programme, these learners attend college on a full-time basis and undertake a two-year programme of work-related education with work experience built in, alongside a large vocational Level 2 course that is equivalent to four or five GCSEs, in a range of different vocational pathways. Each apprentice also studies GCSEs in mathematics and English. The aim of the programme is to ensure learners are employable or ready to progress onto a higher-level vocational course or apprenticeship at the age of 16.

Estyn's [thematic review](#) of the Junior Apprenticeship Programme (2024) includes recommendations to consider further developing and extending the programme (it is currently offered by five colleges in Wales). The budget for Junior Apprenticeships has been increased by 50% to £600k for 2025/26, allowing more learners to benefit from this programme. Officials are working with Medr to scope further expansion of the programme.

There are also partnerships across Wales between schools and colleges that offer 14-16-year-old learners the opportunity to study for vocational qualifications in college, while continuing to undertake the majority of their learning in school. For example, Coleg Cambria's [School Links 14 – 16 Programme](#) provides opportunities for learners in

Wrexham, Flintshire and Denbighshire to study a range of courses including Animal Care, Construction, Engineering, Hair and Beauty, and Public Services.

### **Young Person's Guarantee**

In November 2021 we launched the Young Person's Guarantee (YPG) to provide everyone between 16 and 24 in Wales with the offer of support to gain a place in education or training, gain an apprenticeship, find a job, or become self-employed. Since its launch, over 48,500 young people have been supported through our employability and skills programmes.

Delivery of the YPG is underpinned by a variety of employability, business and training support options, with the primary referral mechanism being provided by Working Wales, which offers free and impartial careers advice and guidance for those aged 16 or above.

The approaches taken are designed to be tailored to the young people and to support them in understanding the variety of progression routes available.

### **Family Engagement Officers**

Work we are doing across the education system is important in supporting post-16 participation in education and training. We have the ambition for all schools in Wales to be Community Focused Schools which respond to the needs of their community, build strong partnerships with families and collaborate effectively with other services. A Family Engagement Officer (FEO) is a member of school staff who works closely with families and the community which the school serves. By using a trauma-informed way of working, they will have the skills and expertise in family facilitation to build the trusting relationships required to work with families and ultimately support participation.

In 2024/25 we invested £6.5m in increasing the number of family engagement officers employed by schools, with part of their role being focused on improving pupil attendance. In December 2024, we announced a further £1.5m to support this work in-year and plan to further increase this funding to £9.5m in 2025/26. We are also continuing to fund a trial of community focused schools' managers, who will work on developing better engagement between schools and their communities.

### **Youth Work and the Youth Engagement and Progression Framework**

In 2024-25 Welsh Government allocated a total of £15.077m to youth engagement activity, including supporting and strengthening youth work provision and activity to support the Youth Engagement Progression Framework.

This includes funding via the Youth Support Grant (the Welsh Government's grant to support local authorities to work with their partners, including those in the voluntary sector, to help ensure the delivery of both open access and more targeted support for young people)- for the coordination of the Youth Engagement and Progression Framework ("the Framework"). The purpose of the Framework is to ensure that 11- to 18-year-olds at risk of disengaging from learning, or who are at risk of youth homelessness, are identified and offered support. This includes work to ensure young people are allocated lead workers, to help them identify and overcome any barriers to progressing.

Lead workers, often drawn from Youth Services, are aware of which services are already working with young people and can negotiate with other support services and professionals and advocate on behalf of the young person, to help them progress. The Framework and the YPG both contribute towards the National Milestone of at least 90% of 16- to 24-year-olds being in education, employment, or training (EET) by 2050, though in different ways. The Framework is focussed on early identification and support whereas the YPG supports young people into education or training, provides help to get into work or to set up their own business.

Strengthening the Framework is a Programme for Government commitment, to ensure that, when young people finish school age education, more of them progress to a destination that is right for them.

## 2. Theme 2: To reduce inequalities in post-16 access and outcomes

Data analysis suggests that certain groups of learners are under-represented in certain post-compulsory education and training (PCET) settings and for particular types of provision.

Analysis by the Wales Centre for Public Policy (WCPP) found that learners from lower socio-economic and multiple deprivation backgrounds, as well as learners with Special Education Need status, had higher rates of vocational and work-based learning participation, and lower attainment rates. Inequities were less pronounced in higher education.

Analysis recently published by Medr shows the proportion of learners progressing to tertiary education from year 11 is persistently lower for learners eligible for free school meals. A higher proportion of females progress from year 11 to tertiary education than males and of learners that progressed to tertiary education in 2022/23, 71% of females studied at level 3 compared to 60% of males.

There are also inequalities in the system for those with additional learning needs who have lower rates of progression than those with no additional learning needs.

We recognise that we need to better understand and address inequities and the 'participation in Tertiary Education evidence plan' takes an equities lens, examining learner pathways data for different learner groups to build on the analysis conducted by the WCPP.

We nonetheless already have a range of programmes and interventions in place to address different elements, including:

### Further Education Financial Support

The **Education Maintenance Allowance (EMA)** is designed to remove financial barriers to study and contribute towards study materials, lunch and transport. As part of the evaluation of the scheme, around 2,500 EMA recipients were surveyed and 95% described EMA as fairly important or essential.

The EMA was uplifted to £40 per week in April 2023, in recognition of the rising cost of living. Wales provides the most generous weekly EMA rate in the UK and in the 2023/24 academic year, we provided EMA to over 16,000 post-16 learners studying full-time academic or vocational courses.

Earlier this year, we took the decision for the academic year starting in 2025, to increase the household income thresholds for learners' eligibility to open the scheme to approximately 3,500 more learners, addressing a recommendation of the evaluation.

The **Financial Contingency Fund** is targeted at learners who are experiencing financial hardship and provides help for eligible learners who might otherwise be unable to attend college. It can help with course-related costs such as childcare, transport, free

meals and equipment and learning materials. The FCF is targeted at those who need help with childcare costs; those on low income; and vulnerable learners, including carers, care leavers and those on probation. Colleges receive thousands of applications annually for FCF support, the bulk of these from young people aged 16-18. £6.88m was allocated for the FCF in the 2024-25 financial year. Medr is finalising the budget for 2025-26.

### Higher Education Financial Support

The Welsh Government offers the most generous student living costs support for full-time undergraduates in the UK, with the highest levels of non-repayable grant support provided to those most in need. We provide living costs grants to support those who need it most. The highest levels of grant are targeted to those students from households with the lowest incomes. This grant system also means the average loan balance on entry into repayment for Welsh students remains, on average, lower than their English counterparts.

### The Seren Academy

Central to The Seren Academy's mission of supporting our brightest learners into the best provision available is the creation of an inclusive environment, free of barriers to engagement.

To maximize our contribution towards the well-being objective of reducing educational inequalities and raising standards, and in alignment with Programme for Government Commitments, we are exploring ways to increase opportunities for more of our most able learners from disadvantaged backgrounds to participate in Seren

To reduce inequalities to access the Seren Academy, over the next year we will conduct active research to enhance equity of opportunity, ensure fair access, and improve provision within Seren, prioritising the needs of learners at its core.

### Learner travel

41% of 16- to 24-year-olds involved in the [Young Person's Guarantee National Conversation](#) identified transport as being the number one barrier to starting a new course, training or job.

Transport arrangements may differ according to the type of institution and across Wales resulting in competition between establishments and inequity of access to different education provision. The review of EMA (2024) found that some FE colleges provided free or subsidised transport (funded by the FCF) where others did not, creating an inequity in provision.

The Cabinet Secretary for Transport & North Wales has committed to hold a **summit on Learner Travel** and we will ensure the voices of FE institutions and learners are heard within this forum. He has also asked his officials to work with the Children's Commissioner for Wales on an engagement exercise with young people to explore fare options as part of our preparatory work for bus reform and development of an integrated transport network across Wales.

There are also measures in place to help young people with transport costs. The MyTravelPass scheme provides **all** 16–21-year-olds with discounted travel (up to 1/3 off) on service buses, as well as the numerous discounts available on the rail network.

The budget includes £15 million of funding across 2025/26 and 2026/27 for a 1-year pilot scheme aimed at making travel more affordable for young people across Wales. This initiative will allow 16–21-year-olds to make any journey on the public bus network for just £1, with unlimited day tickets available for £3.

### Additional Learning Needs (ALN)

The current academic year is the second year that young people move from compulsory education to further education under the new ALN system. Provisional figures for 2024/25 from Medr show that 86% of learners with Special Educational Needs (SEN) or ALN provision progressed to tertiary education compared to 91% of learners with no SEN or ALN provision.

The recent [Estyn thematic review](#) found that overall, colleges reported that they are at varying stages in implementation of the ALN Act.

Nearly all the colleges they visited reported an increase in learners with ALN as well as mental health and anxiety-based difficulties since the pandemic.

We have increased overall funding for FE through Medr, who have a range of strategic duties to plan for and meet the needs of ALN learners. Medr has provided £16.9m in the current financial year to enable further education institutions to provide the support necessary for learners with ALN to access the learning that is right for them, enabling them to achieve their potential while receiving support that encourages learner independence.

### Further Education and Higher Education Equalities Plans

All colleges and universities have Strategic Equalities Plans in place, which cover actions around anti-racism, LGBTQ+, disability, and gender. They work collaboratively to achieve commitments including promoting equity of access and equality of opportunity.

This includes the commitments in our [Anti-Racist Wales Action Plan](#) (ARWAP), covering equality of opportunity, widening learner participation, identifying equality gaps in attainment, and supporting inclusive practices and recruitment policies in the workforce.

The commitments in the [LGBTQ+ Action Plan](#), focus on all colleges and universities in Wales being LGBTQ+ inclusive environments for students and staff. A [Progress Report](#) on these commitments is published every six months.

Medr analyse the data and ways in which learning around equalities has taken place, for instance how the ARWAP and LGBTQ+ Action Plan commitments have been embedded in colleges and universities. They will also compile and share best practice to support the sector further.

### Welsh Language

The provision of tertiary education through the medium of Welsh is one of Medr's strategic duties. Welsh Ministers have designated Coleg Cymraeg Cenedlaethol to advise Medr on fulfilling these duties. Medr is expected to collaborate constructively with Coleg Cymraeg Cenedlaethol and other stakeholders to ensure these duties are met. In August 2024, Coleg Cymraeg Cenedlaethol and Medr published a memorandum of

understanding, detailing how the Coleg will advise Medr on its statutory duties to enhance Welsh-medium and bilingual provision in the tertiary sector.

Medr's Strategic Plan sets out some of their commitments in relation to the Welsh language. These include the development and implementation of a national plan to increase and improve the provision and promotion of Welsh-medium education and assessment in tertiary education, and a commitment to increase the recruitment and retention of Welsh-speaking staff.

The Coleg Cymraeg Cenedlaethol also has a specific role to work with colleges, higher education institutions and apprenticeship providers to increase capacity in the tertiary sector. This provision supports learners to develop their skills to use Welsh in the workplace and in their daily lives.

For 2024-25 the Coleg's budget was maintained at 2023-24 levels, with the Coleg receiving an additional £2.825m. The final budget for the next financial year (2025-26) includes an allocation of over ten million (£10.382m) for the Coleg, an increase of £0.494m compared to 2024-25. This additional funding will enable the Coleg to resume work to extend provision, by expanding its programme of development grants for further education colleges and apprenticeship providers.

### Education Other Than At School (EOTAS)

Education other than at school (EOTAS) is provided by Local Authorities. As highlighted in the statutory [Curriculum for Wales EOTAS guidance](#), one of the key elements of EOTAS provision should be to "*support reintegration into and/or transition to mainstream or specialist provision and/or enable learners to progress towards further education, training or the world of work*".

The Curriculum for Wales has been developed to be accessible to all. The planning, design and implementation of a curriculum in PRUs and other EOTAS settings should provide a clear progression pathway to support each learner.

In 2022/23, the former Minister for Education and Welsh Language requested a [thematic report from Estyn on curriculum experiences for pupils attending EOTAS providers across Wales](#). This thematic review highlighted some good practice, particularly in Pupil Referral Units (PRUs) to support pupils to transition into further education, training or employment.

Careers Wales have a team of careers advisers who support young people who are educated in a setting outside mainstream schools (EOTAS) or at home. They help ensure young people are aware of all their future pathway options. We provide specific funding to Careers Wales annually to enable Careers Wales to expand on their current offer of support and advice for home educated children and to improve the data available on the destination of home educated children. Careers Wales published a [report on pupils who were home educated](#) which shows the impact that careers guidance has on pupils with 82% of home educated students who received one on one careers advice continuing to positive destinations, compared to 54% for those who did not receive guidance.

## Mental Health Support

The Welsh Government report on '*Learner Experiences in Post-16 Education*' published in December 2024 found that poor mental health was reported as a disruptor to education, with the most vulnerable learners, such as those with additional learning needs or care-experienced learners, being most affected. Over a third of respondents to the original survey indicated that their original education plans had changed due to the pandemic, with poor mental health a frequently cited reason for a change. We recognise that poor mental health can be a significant factor affecting learner participation at various stages of education, and in planning future education pathways.

The TER Act contains a package of new requirements for providers in respect of equality of opportunity, learner voice, learner complaints, and learner protections. These will help to deliver a tertiary education system which is centred on supporting the learner and has excellence, equality and engagement at its heart.

The TER Act requires Medr to develop a new registration and funding condition for learning providers, and we expect that this will create a common framework for mental health support across tertiary education, making it clear to students the baseline that they can expect from their providers in this area. This register is scheduled to be established in July 2026, with full implementation set for the academic year 2027/28.

The TER Act will require Medr to ensure that it is satisfied with the effectiveness of tertiary education providers' arrangements for supporting and promoting the welfare of its students and staff. Medr will be required to set out clear expectations for universities and colleges regarding their policies, services, and processes for supporting student and staff wellbeing, welfare, and safety. This will include arrangements for long-term monitoring and oversight of mental health and wellbeing in the sector.

In 2024-25, Medr allocated £4m funding to Further Education Institutions (FEIs) with £3.7m allocated directly to FEIs and £300k for FE national projects to build capacity in the sector. This £3.7m was allocated by Medr to the Further Education Mental Health and Wellbeing Fund. The purpose of the funding is to enable Further Education to build capacity to support learner and staff mental health and wellbeing. The funding can be used for activities that reflect institutions' individual priorities, based on policies and identified needs of learners and staff.

In 2024-25, Medr allocated £4m funding to support students in Higher Education: £2m to universities to support 2024-25 well-being and health strategy implementation plans; and £2m to universities (and directly funded providers of higher education) to well-being and health, including mental health and in support of student financial hardship.

Of the additional £2m in 2025/26 that has been allocated via Medr for well-being and mental health, Medr have proposed allocating this to several areas. These may include increasing and broadening suicide prevention and self-harm activity, and expanding mental health provision in HE and FE. Increasing the financial support that HE/FE is able to provide to students and learners is important, as financial support is often cited as a reason for non-continuation of study and impacting on mental health and well-being.

The Welsh Government's longer-term vision for mental health services and support across Wales will be set out in the strategies and delivery plans that the mental health teams are currently developing. We are using the findings from the recent consultation to inform the final versions which will be published in the new financial year. The strategies are based on a cross-Government and multi-agency approach and cover primary prevention, right through to specialist services.

Both strategies will build upon the cross-Government and cross-sectoral approach that we have developed through the current strategies. The strategies recognise the importance of developing a connected system where we recognise the impact areas such as education, housing, employment and finances can have on our mental wellbeing. They will be based on an all-age, person centred, rights-based approach with a focus on tackling mental health inequalities.

### 3. Theme 3: To increase the number of 16–24-year-olds with a level 3 qualification or higher

Statistics recently published by Medr show a recent decrease in the proportion of learners studying at level 3. Provisional figures show that the proportion of those progressing who went on to study at level 3 is 62%, and this number has gradually decreased since a peak of 68% in 2020/21 and 2021/22. The proportion of learners progressing to level 2 tertiary provision in 2024/25 is 17%, which is up six percentage points on 2020/21 and the highest proportion since 2017/18. We will seek to understand further the recent trends around qualification levels, however attainment at level 2 is a necessary precursor to increasing the number of 16–24-year-olds with a level 3 qualification. We have a range of interventions in place to build on this including:

#### GCSEs, VCSEs and Level 3 Qualifications

From September 2025, schools will be teaching the first wave of reformed, made-for-Wales GCSEs, that have been developed to align with Curriculum for Wales. An important principle which Qualifications Wales have applied when designing and approving the new GCSEs is that they must allow learners to develop a strong foundation of knowledge, skills and understanding which support progression to post-16 study, including A levels.

Qualifications Wales have recently asked WJEC to conduct a targeted review of approved AS and A levels in Wales to identify any inconsistencies with, or gaps in relation to, the new GCSEs and related qualifications. Where appropriate, WJEC will then amend the current AS and A level qualifications. This will help ensure that learners' transition from GCSEs to AS and A levels is as smooth and successful as possible.

From September 2027, schools will be able to deliver 15 new VCSEs (Vocational Certificates of Secondary Education). They will be available in a range of work-related subjects, enabling young people to learn about occupational areas through a practical approach to learning and assessment; and will span both Level 1 and Level 2, the same as GCSEs. As well as providing learners with an introduction to an employment sector, the new VCSEs will support participation by developing learners' knowledge, understanding and skills with an emphasis on practical-based approaches; promoting positive, engaging learning experiences; and facilitating progression into post-16 vocational study.

Our work on school attendance and attainment, discussed earlier in this paper, is vital to maintain the pipeline from secondary school, through GCSE's and on to A-levels or other level 3 qualifications. Similarly, the work with Medr on 16-19 local curricula will be an important feature of this work.

#### Vocational Qualifications

The Review of Vocational Qualifications in Wales and the report on Transitions into Employment were published by the previous Minister for Education and the Welsh Language.

Taking forward the recommendations from these reviews remains a key priority for Welsh Government. Our aim in implementing the recommendations is to align with the wider participation agenda, including in relation to the 16-19 local curricula and work with Medr, Careers Wales, the UK Government and other stakeholders on skills priorities. The aim is to ensure clearer and more accessible pathways, with all learners being supported to access the learning that is best for them.

Work has commenced on the development of an implementation plan to take forward the recommendations from the Review of Vocational Qualifications and Transitions to Employment reports. We are engaging with our key strategic stakeholders including Medr, Qualifications Wales and, in particular Colegau Cymru over the coming weeks and months. Wider stakeholder engagement will follow.

### Apprenticeships

Apprenticeships provide valuable skills and training, empowering individuals to build successful careers. They open doors to a wide variety of career pathways, allowing individuals to explore different industries and roles. Opportunities in Wales span from foundation to degree-level apprenticeships.

We continue to invest heavily in apprenticeships. This year, and in 2025-26 we are investing £144m in apprenticeships to ensure delivery of our 100,000 new apprenticeships target.

Apprentices gain work experience, learn new skills and gain a nationally recognised qualification while earning a wage.

The Welsh Government is working with Medr to ensure clear pathways and progression between apprenticeship levels and qualifications. Our aim is to create a more joined-up and inclusive sector, with clearer and more flexible pathways for learners to learn at the level and in the place that is best for them.

### Routes into Higher Education

We remain committed to supporting young people into higher education where this is the chosen pathway for the learner. This is why we provide the most generous student support package of any UK nation to ensure that financial support is not a barrier.

Whilst the latest UCAS data for the 2025 cycle shows a slight decrease in the number of Welsh 18-year-olds applying to university for the 2025 cycle, the number remains higher than before the pandemic. We have seen a slight (4.5%) increase in the number of 18-year-olds applying from the most deprived areas, compared with the same point last year.

The data also shows the 18-year-old application rate for Welsh domiciles was 32% compared with 41.3% for English domiciles. However, this only reflects the number of 18-year-olds who apply through UCAS and so is only part of the picture. Wales has a higher proportion of mature and part-time students and the latest available data from HESA shows that in 2022/23, 36% of all Welsh students were studying part-time, compared with 23% of English students and 66% of Welsh students were aged 21 and above compared with 59% of English students.

Medr recently published a Welsh Higher Education Initial Participation (HEIP) measure: an estimate of the probability that a Welsh domiciled person will participate in HE by the

age of 30. These statistics are classified as Official Statistics in Development as the measure is still being developed and there are limitations to the methodology used. The HEIP measure in 2022/23 was 54.6%. This means that the estimated probability of a Welsh domiciled person participating in HE by the age of 30 is 54.6% based on the initial participation rates for each age from 17 to 30 in 2022/23. After a drop between 2016/17 and 2017/18, the HEIP measure increased every year from 2017/18 to 2020/21 reaching a high of 58.9%. From this peak in 2020/21 there has been a decline in the following two years down to the figure of 54.6% in 2022/23. The Covid-19 pandemic will have been a factor influencing the levels of participation in the most recent years.

We see increasing overall post-16 participation and increasing numbers of young people qualified to level 3 as an essential pre-requisite of increasing HE participation. This is a longer-term challenge, particularly with evidence suggesting increasing entry to post-16 education below level 3. That is why it is vital we do not waver from our prioritisation of improving attendance and attainment in schools and colleges, both pre- and post-16, to ensure that the next generation of learners see higher education as part of their aspirations.

## 4. Welsh Government's role

The Welsh Government has a key strategic, leadership role in setting direction and emphasising the importance of improving rates of post-16 participation in education and training.

Welsh Government issued Medr with a Statement of Strategic Priorities in February 2024, which includes a focus on learner pathways and outcomes, high standards, collaboration and a diversity of tertiary education provision. This included an ask to intensify work on widening participation and to take steps to ensure a more equitable and excellent system for all.

The Medr Strategic Plan articulates a commitment to ensure that people from underrepresented groups and those with Additional Learning Needs are supported to access the learning that is right for them. More specifically, the Plan includes a long-term commitment to promote the benefits of learning throughout life and set targets to increase participation. The Welsh language is also a key focus of the Plan, including a commitment to encourage greater use of the Welsh language - increasing demand for and participation in learning and assessment through the medium of Welsh. We will work with Medr on the implementation of their strategic plan, and development of their operational plan, to ensure these values are fully embedded.

In collaboration with Medr, we will continue to take a more meaningful approach to establishing a culture of sustainable, creative social partnership working and collaboration across our further and higher education sectors. We have firm foundations in place on which to build and develop a culture where working in social partnership is the norm across further and higher education.

We continue to work closely with our providers to increase participation across the education system including within sixth forms, FE and HE. The workforce is key to that aim. Options for improving and supporting the current post-compulsory education and training initial teacher education framework are going to be considered by a high-level expert advisory board, due to be established shortly. We will be working closely with Medr on any potential forward work programme prompted by the work of that board, including any changes to the current framework, ensuring they are managed in a measured and collaborative way. This is part of wider considerations surrounding the continuous professional development of our valued workforce, recognising the diverse and distinct contributions they all make.

It is vital that the Welsh Government and Medr continue to work with the sector including Universities Wales, Colegau Cymru, the WLGA, Qualifications Wales and the National Training Federation Wales, as well as others to ensure a joined-up approach across the sector to improve outcomes across the whole system and ensure all our learners reach their full potential through participation in high-quality learning that is best for them.

# Agenda Item 4.1

## **Y Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad**

### **Legislation, Justice and Constitution Committee**

#### **Senedd Cymru**

Bae Caerdydd, Caerdydd, CF99 1SN  
SeneddDCC@senedd.cymru  
senedd.cymru/SeneddDCC  
0300 200 6565

#### **Welsh Parliament**

Cardiff Bay, Cardiff, CF99 1SN  
SeneddLJC@senedd.wales  
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0300 200 6565

The Rt. Hon Elin Jones MS  
Y Llywydd and Chair of the Business Committee

21 March 2025

Annwyl Lywydd

### **Written Statement by the Welsh Government: The Children's Wellbeing and Schools Bill**

I am writing to highlight our concerns with the above statement by the Welsh Government and, in particular, the absence of any reference to Standing Order 29 (Consent in relation to UK Parliament Bills), which we believe would be engaged by the actions being proposed by the Welsh Government.

In their statement, Lynne Neagle MS, Cabinet Secretary for Education, and Dawn Bowden MS, Minister for Children and Social Care, explain that they have asked the UK Government to apply certain provisions within the Children's Wellbeing and Schools Bill to Wales in the same way as England, with the possibility of further provisions being applied at a later stage. They also advise that "A further statement setting out the policy rationale for seeking provision in relation to Wales from the Bill will follow in due course, as discussions with the UK government progress."

It is unclear to us why the statement does not acknowledge the need for the Welsh Government to seek the Senedd's consent for provisions within the Senedd's legislative competence being included in a UK Government Bill, together with an indication of the likely timing of a legislative consent memorandum. You will know that, in accordance with Standing Order 29.2(iii), such a memorandum should be laid "normally no later than two weeks after the amendments are tabled or agreed to". The statement confirms that amendments to extend certain provisions to Wales "are currently being considered at Report Stage."; it is our understanding that Report stage has now been completed and that the Bill had its Third Reading yesterday.

This highlights another concern of the Committee. The statement suggests that the provision being made for Wales in the Bill covers significant policy matters but, with proceedings in the House of

Commons complete, minimal time is being left for Senedd Committees to scrutinise the Welsh Government's actions and the provisions for Wales being added to the Bill.

We feel it is necessary to draw these important matters to your attention, particularly in light of your recent letter to the Welsh Government about its approach to the UK Government's Bus Services (No. 2) Bill and matters related to the legislative consent process.

I am copying this letter to Lynne Neagle MS, Cabinet Secretary for Education, and Dawn Bowden MS, Minister for Children and Social Care. Given the subject matter of the Bill, the letter is also copied to Buffy Williams MS, Chair of the Children, Young People and Education Committee.

Yours sincerely,

A handwritten signature in black ink that reads "Mike Hedges". The signature is written in a cursive style and is underlined with a single horizontal line.

Mike Hedges  
Chair

—  
**Legislation, Justice and  
Constitution Committee**

Jane Hutt MS

Cabinet Secretary for Social Justice, Trefnydd and Chief Whip

21 March 2025

Dear Jane

Welsh Government's Legislative Consent Memorandum on the Border Security, Asylum and Immigration Bill

You will know that the Committee is currently considering the Welsh Government's Legislative Consent Memorandum on the Border Security, Asylum and Immigration Bill. At our meeting on 17 March 2025 the Committee noted that, in the Memorandum, you state that the Senedd's consent is required for clauses 38 and 51 of the Bill.

Clause 53 of the Bill contains a regulation-making power for the Secretary of State to make consequential provision. Regulations made under this provision may amend, repeal or revoke any enactment; clause 53(3)(c) states that "enactment" includes an enactment contained in, or in an instrument made under, a Measure or Act of Senedd Cymru. As such, the Committee would be grateful if you would clarify why consent is not being sought for clause 53 of the Bill.

We would welcome a response by 17 April 2025.

I am copying this letter to the Children, Young People and Education Committee, the Equality and Social Justice Committee, and the Local Government and Housing Committee.

Yours sincerely,



Mike Hedges

Chair

## Ending homelessness in Wales: Abolishing the Priority Need Test



**March 2025**

### About Crisis

Crisis is the national charity for people facing homelessness across Wales, Scotland and England. We know that homelessness is not inevitable and that together we can end it.

Our Crisis South Wales Skylight provides direct one-to-one support to people who are at risk of or experiencing homelessness in Swansea, Neath or Port Talbot.

In addition, our Best Practice team works with local authorities, third sector partners, businesses and other organisations on a range of homelessness projects, including the current Built for Zero project preventing homelessness among prison leavers in Rhondda Cynon Taf.

Our Wales Policy team seeks positive change, based on research, to help end homelessness. Between 2022 and 2023, Crisis co-ordinated an Expert Review Panel, which made recommendations on legislative change to help end homelessness in Wales.

### About this Briefing

It is anticipated that the upcoming Ending Homelessness Bill will include proposals to end Priority Need. Crisis is aware that the Children, Young People and Education Committee has raised concerns about the impact this change would have on care leavers within its recent [Children on the Margins](#) report.

This briefing seeks to alleviate these concerns, demonstrating that the current White Paper proposals seek to protect care leavers with other measures. It provides a brief background on the Priority Need test and upcoming Ending Homelessness Bill. In addition, this briefing demonstrates why the abolition of Priority Need more broadly is important and how ending Priority Need will also help to protect people who are care experienced later in life.

### Background to the upcoming Ending Homelessness Bill

In 2022, Crisis was proud to be invited by then Minister for Climate Change Julie James to co-ordinate the [Expert Review Panel](#) on homelessness, which considered how legislative change could help to end homelessness in Wales. The Panel's recommendations were rooted within feedback from more than 300 people with lived experience of homelessness in Wales, as well as an extensive consultation programme with professionals within the housing sector and beyond.

Following the panel's submission of its [report](#) to the Welsh Government, Crisis was pleased to see the Welsh Government's White Paper on Ending Homelessness reflect so many of the key proposals within the panel's package of recommendations.

We are now looking forward to the publication of a draft Bill to End Homelessness and hope that the key proposals of the White Paper will be at the heart of the draft Bill. If the Bill closely mirrors the proposals within the White Paper, it will make a fundamental difference towards Wales' journey towards ending homelessness.

The White Paper made vital proposals around ensuring that the homelessness system becomes more trauma-informed and inclusive. This includes the abolition of the outdated 'priority need' test, which generates a two-tiered system and is a key barrier preventing many vulnerable people from accessing the support they need to prevent or end their homelessness.

## What is the Priority Need Test?

Contrary to what is suggested by its name, the priority need test is **not** a test that creates a priority order in which people receive support. Rather, it is an eligibility test to determine whether a person is entitled to settled housing or not.

Under current legislation, local authorities do not have a legal duty to secure settled accommodation for people who do not have Priority Need status. This means that people who do not fall into the specific priority need categories can access assistance and advice, but are not eligible for the 'Main Housing Duty' under the Housing Wales Act 2014.

The Priority Need test was established within a context where support into settled housing was reserved for particular groups.<sup>1</sup> However, it is now recognised that if we are to end homelessness, we must reduce barriers to settled housing for all. This test is locking some of the most vulnerable people out of support.

The Welsh Government White Paper on Ending Homelessness proposes to abolish Priority Need (and this is in line with the recommendation from the Expert Review Panel.)

## The case for abolishing Priority Need

Since the publication of the evaluation of the Housing Act (Wales) 2014 in 2018,<sup>2</sup> there has been growing support for the abolition of Priority Need – it was a key recommendation of the Homelessness Action Group in 2020 and the independent review of Priority Need commissioned by the Welsh Government and published in 2020 found a wide degree of support for abolishing the test.<sup>3</sup> During the pandemic, the Welsh Government and councils rallied around a "No One Left Out" approach to homelessness support, and effectively suspended the Priority Need test.

In 2021 Crisis published a report entitled 'No One Left Out'<sup>4</sup> setting out detailed recommendations on what a holistic "No One Left Out" approach to homelessness entails. This research shows that the Priority Need test represents a significant barrier to support for people experiencing homelessness. Being turned away from support can leave applicants feeling

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<sup>1</sup> See <https://sheltercymru.org.uk/housing-advice/homelessness/help-from-the-council/what-will-the-council-check/priority-need/> for more details on priority need groups.

<sup>2</sup> A. Ahmed, M. Rogers, M. Wilding, A. Gibbons, K. Jones, I. Madoc-Jones (2018) *Post-implementation evaluation of Part 2 of the Housing Act (Wales) 2014: Final Report*.

<sup>3</sup> Mackie, P., Gray, T., Hughes, C., Madoc-Jones, I., Mousteri, V., Pawson, H., Spyropoulos, N., Stirling, T., Taylor, H. & Watts, B. (2020). *Review of Priority Need in Wales*. Cardiff: Welsh Government.

<sup>4</sup> Gwilym-Taylor, R. and Sanders, B. (2021) *No One Left Out: The reality of eligibility barriers for people facing homelessness in Wales*. London: Crisis

distrustful of homelessness services and hopeless about the possibility of ending their homelessness. People who are not eligible for the Main Homelessness Duty report a negative emotional impact and a deterioration in their health and wellbeing. Many people present for support again at a later date, by which time their support needs have worsened.<sup>5</sup>

Members of Crisis with lived experience of homelessness have suggested that the Priority Need test leads to people feeling as though councils “*pick and choose who they help*”, and this can be incredibly deflating for those who fall outside of Priority Need.

Also in 2021, the Wales Homelessness Monitor reported that 15 out of 22 Welsh local authorities favour abolishing the Priority Need test.<sup>6</sup> One key informant contributing to the Homelessness Monitor 2021 commented:

*“After its ‘suspension’ throughout the Covid-19 crisis, at least with regards to people sleeping rough, and following a Welsh Government funded independent review, the momentum for permanent abolition of the priority need criterion now seems unstoppable.”<sup>7</sup>*

Crisis’ latest Homelessness Monitor is due to be published later this year, and will show that key informants and housing professionals continue to welcome the proposal to abolish the Priority Need test as a move towards a more trauma-informed approach and a way of preventing people “*slipping through the gaps*”.<sup>8</sup>

The many reasons why the Priority Need test is not fit for purpose were reinforced during the Expert Review Panel’s process of research and consultation from 2022-23. In its report published in 2023, the panel concluded that the test is at odds with the broader preventative nature of the approach towards homelessness support in Wales. Refusing housing support because an individual does not fit into a particular category or is not “vulnerable” enough is likely to result in that individual becoming more vulnerable and their needs becoming more acute. This prolongs a person’s homelessness, leading to a more traumatic experience for the individual, an increase in complexity of need and, subsequently, a more costly support requirements for public services.

The Expert Review Panel also heard that the test is applied inconsistently across Wales because the law and guidance related to the test is open to interpretation. The Welsh Government’s Review of Priority Need in Wales also drew attention to this issue, highlighting the vulnerability test as a key source of inconsistency.<sup>9</sup> The test is subjective and means that frontline workers are making judgements on vulnerability based on moral grounds and whether or not they believe individuals are deserving of support – this is totally unacceptable.

Beyond those groups who fall outside of Priority Need categories, there are a number of groups which should be eligible for Priority Need status, but for whom the test still presents a barrier. For example, while those fleeing domestic abuse technically have Priority Need, this does not

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<sup>5</sup> Gwilym-Taylor, R. and Sanders, B. (2021) *No One Left Out: The reality of eligibility barriers for people facing homelessness in Wales*. London: Crisis

<sup>6</sup> Fitzpatrick, S., Pawson, H., Bramley, G., Young, G., Watts, B. & Wood, J. (2021) *The Homelessness Monitor: Wales 2021*. London: Crisis

<sup>7</sup> Fitzpatrick, S., Pawson, H., Bramley, G., Young, G., Watts, B. & Wood, J. (2021) *The Homelessness Monitor: Wales 2021*. London: Crisis

<sup>8</sup> Forthcoming

<sup>9</sup> Mackie, P.; Gray, T.; Hughes, C.; Madoc-Jones, I.; Mousteri, V.; Pawson, H.; Spyropoulos, N.; Stirling, T.; Taylor, H.; Watts, B. (2020). Review of Priority need in Wales. Cardiff: Welsh Government.

always come to fruition. Indeed, it can be traumatising to disclose abusive experiences and difficult to demonstrate that this is the case, especially if the person has not engaged with police or support services.

In addition to adverse effects on applicants, the Welsh Government's Review of Priority Need in Wales drew attention to the "vicarious trauma" experienced by frontline staff required to end a housing duty without having found a solution for that person. Staff reported feeling distressed at having to communicate to the individual that they were unable to help because they were not in priority need.<sup>10</sup>

## Care leavers and the abolition of Priority Need

Crisis is mindful that care leavers are at a high and disproportionate risk of homelessness, given their lack of familial support and avenues for financial support. We would urge that any new legislation ensures care leavers are well supported to access a stable and safe place to call home.

We are aware that the Senedd's Children, Young People and Education Committee's recent report entitled "Children on the margins" raises concerns about the impact of removal of Priority Need for care leavers, given that this group is identified as a priority group under current legislation.<sup>11</sup>

However, we consider that other aspects of the proposals seek to ensure that this group would continue to have specific protections. In particular, the White Paper states:

*"Welsh Government therefore proposes to introduce amendments to legislation to allow for care leavers who are homeless, to be provided with additional preference over other priority groups defined as having an urgent housing need. This will allow for greater prioritisation of care leavers within existing allocation systems, with the intention of increasing their access to affordable accommodation and mitigating the additional risk of homelessness they face."*

As such, although it is proposed that Priority Need be abolished to ensure that the system is more inclusive generally, care leavers would continue to have a priority in accessing settled homes through social housing allocations.

In addition, Crisis is mindful that as care leavers grow up, they can remain at an increased risk of homelessness given their past trauma and lack of family ties. In our services, we often see people who are care experienced seeking support for homelessness later on in their lives. We believe that abolishing Priority Need would give greater protection against homelessness for care experienced people as they grow up in the future.

It should also be noted that between April - September 2024, 111 households across the 22 local authorities in Wales were excluded from the Main Rehousing Duty on the basis of not being in Priority Need.<sup>12</sup> We do not consider that extending the duty to this number of people will

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<sup>10</sup> Mackie, P.; Gray, T.; Hughes, C.; Madoc-Jones, I.; Mousteri, V.; Pawson, H.; Spyropoulos, N.; Stirling, T.; Taylor, H.; Watts, B. (2019). Review of Priority need in Wales. Cardiff: Welsh Government.

<sup>11</sup> [Children on the Margins](#)

<sup>12</sup> [Households for which assistance has been provided by outcome and household type](#)

have a significant detrimental effect on care-experienced people's access to support under this duty. However, we consider that being excluded from this duty does have a significant detrimental impact on each individual that is excluded.

## **Conclusion and contact details**

We all need a safe space to call home, and nobody should be left without the support they need to prevent or end their homelessness.

Crisis appreciates the increased risk of homelessness facing care leavers and considers that there are key proposals within the white paper to provide enhanced protection for this group.

Crisis has long campaigned for the abolition of the Priority Need and we feel strongly that its abolition is essential to creating an inclusive, trauma-informed, person-centred homelessness support system which is focussed on preventing homelessness at the earliest stage.

We would be happy to discuss any of the points raised within this briefing further. Please do not hesitate to contact Jasmine Harris, Senior Policy and Public Affairs Officer, [Jasmine.Harris@crisis.org.uk](mailto:Jasmine.Harris@crisis.org.uk).

# Agenda Item 4.4

## Y Pwyllgor Deisebau

### Petitions Committee

Andrew RT Davies MS,  
Chair,  
Economy, Trade and Rural Affairs Committee

Buffy Williams MS,  
Chair,  
Children, Young People and Education Committee

24 March 2025

Dear Andrew and Buffy,

**Petition P-06-1507 We call on UWTSD and the Welsh Government to create a viable, sustainable plan for the long-term future of Lampeter campus**

The Petitions Committee met on 10 March and considered the above petition, submitted by Esther Weller.

The Committee agreed that I would write to you both, to highlight the petition and the petitioner's alternative proposals included in the attached correspondence, for consideration in your ongoing scrutiny work.

It was also agreed that I would seek to raise the petition in future debates on the higher education sector, and in light of these actions there was a majority decision by Members to close the petition.

The full details of the Committee's consideration of the petition, including the correspondence and the actions agreed by the Committee can be found here: [P-06-1507 We call on UWTSD and the Welsh Government to create a viable, sustainable plan for the long-term future of Lampeter campus](#)

I would be grateful if you could send any response by e-mail to the clerking team at [petitions@senedd.wales](mailto:petitions@senedd.wales).

Yours sincerely



Carolyn Thomas MS

Chair

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.

**P-06-1507 We call on UWTSD and the Welsh Government to create a viable, sustainable plan for the long-term future of Lampeter campus - Correspondence from the Petitioner to the Committee, 04 March 2025**

Background information for Petitions Committee meeting 10/3/25

The university at Lampeter is Wales's oldest university; the 3<sup>rd</sup> oldest in England and Wales after Oxford and Cambridge. It is a globally significant institution of higher education. The decision to end undergraduate teaching at Lampeter marks a devastating blow not only to the Lampeter campus but to the cultural, historical, and educational heritage of Wales. UWTSD have allowed the closure of an institution that has shaped Wales's intellectual and cultural identity for nearly 200 years.

The decision has been framed as a financial necessity. We, the Lampeter Society, do not accept that narrative. The decline of Lampeter was not inevitable but engineered through successive cuts, neglect, and strategic missteps that reduced a once-vibrant institution to its current state. For decades, Lampeter has been deliberately and systematically stripped of its resources and identity. Fewer courses led to fewer students, which in turn justified further reductions - a clear and calculated process of managed decline.

The decision completely disregards the devastating economic and social impact on Lampeter and south Ceredigion. The 2008 HEFCW report explicitly warned that the closure of Lampeter would have a severe economic impact on the town and surrounding area. For a rural community like Lampeter, the university is not just an employer but a cultural and social lifeline.

Lampeter is more than a campus. It is an institution of global renown, a vital thread in the cultural fabric of Wales, and a symbol of resilience and intellectual excellence. Its closure represents a national scandal, and history will not look kindly on those who allowed this to happen.

The Lampeter Society calls upon UWTSD and the Welsh Government to develop a robust way forward that honours the institution's past while securing its future. Despite the current narrative, we believe it is certainly a matter for the Welsh Government. Not stepping in when the nation's Higher Education sector is struggling, and in some cases failing, is shortsighted and indeed contravening a precedent which has already been set.

The following are alternative proposals drawn up by the Lampeter Society for the Lampeter campus.

## ALTERNATIVE PROPOSALS FOR THE LAMPETER CAMPUS

**A strategic review of higher education in Wales is ultimately needed as the sector grapples with a nation-wide financial crisis with falling student demand; rising costs; tuition fee-value erosion; research being undertaken at a net loss; and an over-reliance on international student income. The solution to this crisis so far has been to cut costs by reducing or closing down departments and faculties – as is the case with UWTSD, Bangor University, University of South Wales and Cardiff University. However, education should not be seen as a cost burden but rather as an investment in the nation's future. What is ultimately needed is a global and integrated vision of the future and a planned approach to reform and consolidation of HE institutions in Wales. A world-class University of Wales with member branches and campuses would rationalise course distribution, encourage world class departments, attract globally recognised academics and would reduce competition between campuses/universities across Wales.**

There are four **local business options** for Lampeter on the table. These are:

I - Positioning Lampeter as a leading institution in heritage-driven education and research excellence, developing interdisciplinary degree programmes combining humanities with practical and emerging fields, such as digital studies and sustainability

II – Offering a mainstream humanities degree teaching programme that focusses on popular subjects that the Lampeter Campus is noted for globally, and allied with the **Centre for Advanced Celtic Studies**, the **Welsh National College** and the prospective **National Welsh Language Learning Institute**. The Lampeter portfolio would include Celtic studies & the Welsh language; archaeology; geography; creative writing & English; religious studies & theology; ancient/medieval history & classics; philosophy; and Chinese studies. Programme delivery would be low-cost, with a small core academic and support staff and the use of visiting 'star' alumni lecturers to add pulling power and admin volunteers

III – Turning the Lampeter Campus into an enterprise hub for Mid-Wales, offering entrepreneurship undergraduate and postgraduate degree programmes that promote sustainable economic development and the concept of the green campus

NB – We believe the above options work alongside and support the Welsh Government's ***Wellbeing of Future Generations (Wales) Act 2015***; widening access to participation and developing a cohesive and strengthened local community and economy.

IV – Leasing out part of the Lampeter campus to an international or Russell Group university, that is looking for a rural campus and an alternative approach

**Lampeter's rural and community-oriented environment holds great advantages to non-traditional and neurodivergent students. Welsh universities are experiencing a quiet epidemic of student suicides; the University of South Wales alone had more than 10 suicides last year alone. The large university metropolis does not suit many young people; the mental health benefit of being able to study in a close knit friendly environment which Lampeter is uniquely able to offer cannot be underestimated.**

# Agenda Item 4.5

Y Pwyllgor Plant, Pobl Ifanc  
ac Addysg

—  
Children, Young People  
and Education Committee

Elin Jones MS

Llywydd

**Senedd Cymru**

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—  
**Welsh Parliament**

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0300 200 6565

25 March 2025

## **Business Committee review of the Public Bill and Member Bill processes**

Dear Elin,

Thank you for the opportunity to contribute to the review of the legislation process. As a Committee we have undertaken scrutiny of two Bills introduced by the Welsh Government: the Tertiary Education and Research (Wales) Act 2022, and the Welsh Language and Education (Wales) Bill. We also scrutinised Sam Rowlands MS's Residential Outdoor Education (Wales) Bill.

Due to the significant turnover of Committee Members over the last 12 months, I am the only Committee Member who has been involved in scrutiny of all three Bills. Two other current Committee Members were also involved in the scrutiny of the Welsh Language and Education (Wales) Bill.

In discussing the review, our comments were primarily focused on the Member Bill process. We noted that none of the Member Bills introduced in this Senedd, including the one we scrutinised, passed Stage 1 and reflected on why. It was suggested that, especially with the amount of work needed in the development of Member Bills, the lack of success may put Members off from putting ideas into the ballot. We felt that it is not always clear why Bills are not successful.

We noted that further consideration will need to be given as to how many Member Bills can be supported, the timelines for the ballots, and subsequent deadlines for all elements of the process. Decisions will need to be made at the start of the next Senedd term, which will need to be clearly communicated to Members. This would enable Members to make informed decisions as to whether to put their names in the ballot. This would also be more important in a Senedd with a shorter term and more Members, where there will be less time for Member Bills, and potentially more Members putting their ideas into the ballot. It was suggested that the ballots should possibly be front-loaded

towards the start of the Senedd term to ensure there is sufficient time for both development of a Member Bill and the scrutiny of such a Bill.

We also reflected on the different types of Member Bills, and whether this affects the likelihood of them being successful. For example, having Bills focused on specific issues, such as the [Nurse Staffing Levels \(Wales\) Act 2016](#), which had a tight focus are potentially more likely to be successful. We noted that this was the last backbench Member's Bill which was passed, and that this passed in the fourth Senedd in 2016.

It was highlighted that there have been few Committee Bills, which might be appropriate for those issues which are less political. It was felt that there might be a need for better identification of those issues which might be suited to a Committee Bill.

We hope this is helpful for your considerations.

Yours sincerely,



Buffy Williams MS  
Chair

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.



## Swyddog Polisi / Ysgrifennydd Cyffredinol

Buffy Williams MS  
Chair of the Children, Young People and Education Committee  
Welsh Parliament,  
Cardiff Bay,  
Cardiff, CF99 1SN



Tuesday 25 March 2025

Dear Ms Williams

### Committee review of the issues facing Higher Education.

I write to you in your capacity as Chair of the Senedd’s Children, Young People and Education Committee about Higher Education and the provision of Humanities courses at undergraduate level. On behalf of our member churches and organisations we are taking a close interest in the current situation and the Committee review of the issues facing Higher Education.

Cytun, Churches Together in Wales has recently expressed its concern in respect of major changes to the teaching of the Humanities at the University of Wales Trinity Saint David, and the start of a consultation about the ending teaching of Humanities subjects at Cardiff University. We are aware of the challenges in these curriculum areas across all HEIs in Wales.

The members of Cytun recognise the significant challenges currently facing universities and indeed the wider post 16 education sector. However, of specific concern is that a good understanding of religion is extremely important in terms of fostering mutual trust from the local level to the global level. Academic studies in all areas of theology and religious studies, as well as the humanities more broadly, are essential to create this.

According to data released by the Higher Education Statistics Authority<sup>1</sup> the number of full-time undergraduate students at Universities in Wales enrolled on courses defined as Historical, philosophical and religious studies, has fallen as follows:

2019/20	2,115
2020/21	1,945
2021/22	1,785
2022/23	1,660

Whilst Cytun recognises that many of the challenges for HE recruitment are beyond the scope of the Senedd, the Welsh Government or MEDR, we would ask the committee to consider how this trend reflects the broader decrease in enrolments across all subject areas. We would also like the committee to consider how Wales will continue to offer teaching through the medium of Welsh, and the future of the libraries and extensive resources that have been collected in the universities and held under their charitable purposes for the benefit of the public.

In addition, based on information released by the Welsh Government in August 2024, there is a discernible downwards trends in enrolment from students domiciled in Wales<sup>2</sup>. Worryingly according to a statement released by the

<sup>1</sup> HESA 2024 What do HE students study? <https://www.hesa.ac.uk/data-and-analysis/students/what-study#characteristics> accessed 24<sup>th</sup> March 2025

<sup>2</sup> Welsh Government 2024 Students in higher education: August to July 2023 accessed 24<sup>th</sup> March 2025

Dr Cynan Llwyd

Swyddog Polisi / Ysgrifennydd Cyffredinol

Universities' representative body, Wales has the lowest proportion of 18-year-olds applying for university in the UK.<sup>3</sup> In the traditional application period just 32% of Welsh 18-year-olds had applied to university this year compared to 33.2% previously. This is particularly concerning when compared to the UK, where the figure stands at 40.6%. A continued decline in the number of applications to university should be the paramount concern of all involved in education in Wales, and in the provision of public services and the viability of the economy as well as to those of us who represent the faith communities.

Clearly there is a link between the sustainability of teaching and research in specific subject areas and the overall recruitment of students at undergraduate level. In this regard we would like to ask the committee to consider how teaching of the Humanities subjects, under the Area of Learning and Experience and 6<sup>th</sup> form provision is contributing to the viability of programmes within Higher Education providers. To this end, we would like to request that the committee secures data, both qualitative and quantitative on the teaching of this specific curriculum area in Wales.

Cytun recognise the importance of a wider review of subject demand, provision and distribution in higher education across Wales and that the challenges faced are not unique to one area of the curriculum. However, we would like to seek reassurances from institutions and the Minister for Further and Higher Education via your committee that the specific challenges facing the humanities are understood in context and that the appropriate steps are taken both by government and the regulator of tertiary education as well as individual institutions.

We hope you can include these queries in the context of your review, and we would also like to assure you of our ongoing interest in policy relating to education and children and young people.

Yours sincerely



Dr Cynan Llwyd  
General Secretary, Cytun  
Cytun, Churches Together in Wales

Cc Clerk and members of the committee

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<sup>3</sup> Universities Wales Welsh Applications to university continue to fall <https://uniswales.ac.uk/welsh-applications-university-continue-fall> accessed 24<sup>th</sup> March 2025

Dr Cynan Llwyd

Swyddog Polisi / Ysgrifennydd Cyffredinol

Buffy Williams AS  
Cadeirydd Pwyllgor Plant, Pobl ifanc ac Addysg  
Senedd Cymru  
Caerdydd, CF99 1SN

Dydd Mawrth, 25 Mawrth 2025



**Adolygiad o'r materion sy'n wynebu Addysg Uwch.**

Ysgrifennaf atoch yn eich swyddogaeth fel Cadeirydd Pwyllgor Plant, Pobl Ifanc ac Addysg y Senedd ynghylch Addysg Uwch a'r ddarpariaeth o gyrsiau Dyniaethau ar lefel israddedig. Ar ran ein heglwysi a'n aelodau, rydym yn cymryd diddordeb manwl yn y sefyllfa bresennol ac yn yr adolygiad o'r materion sy'n wynebu Addysg Uwch.

Mae Cytûn, Eglwysi Ynghyd yng Nghymru, wedi mynegi ei bryder yn ddiweddar mewn perthynas â newidiadau mawr i addysgu'r Dyniaethau ym Mhrifysgol Cymru Y Drindod Dewi Sant, a dechrau ymgynghoriad ynghylch dod â'r ddarpariaeth o bynciau Dyniaethol i ben ym Mhrifysgol Caerdydd. Rydym yn ymwybodol o'r heriau yn y meysydd cwricwlaidd hyn ar draws pob sefydliad addysg uwch yng Nghymru.

Mae aelodau Cytûn yn cydnabod yr heriau sylweddol sy'n wynebu prifysgolion ar hyn o bryd ac, yn wir, y sector addysg ôl-16 yn ehangach. Fodd bynnag, mae pryder penodol fod dealltwriaeth dda o grefydd yn hollbwysig o ran meithrin ymddiriedaeth gydfuddiannol o'r lefel leol i'r lefel fyd-eang. Mae astudiaethau academaidd ym mhob maes diwinyddiaeth ac astudiaethau crefyddol, yn ogystal â'r dyniaethau yn ehangach, yn hanfodol i greu hyn.

Yn ôl data a gyhoeddwyd gan yr Awdurdod Ystadegau Addysg Uwch, mae nifer y myfyrwyr israddedig llawn amser ym mhrifysgolion Cymru sydd wedi cofrestru ar gyrsiau a ddiffinnir fel Astudiaethau Hanesyddol, Athronyddol a Chrefyddol wedi gostwng fel a ganlyn:

2019/20	2,115
2020/21	1,945
2021/22	1,785
2022/23	1,660

Er bod Cytûn yn cydnabod bod llawer o'r heriau o ran recriwtio mewn addysg uwch y tu hwnt i gwmpas y Senedd, Llywodraeth Cymru neu MEDR, hoffem ofyn i'r pwyllgor ystyried sut mae'r duedd hon yn adlewyrchu'r gostyngiad ehangach mewn cofrestriadau ar draws pob maes pwnc. Hoffem hefyd i'r pwyllgor ystyried sut y bydd Cymru yn parhau i gynnig addysgu drwy gyfrwng y Gymraeg, yn ogystal â dyfodol y llyfrgelloedd a'r adnoddau helaeth sydd wedi'u casglu yn y prifysgolion ac a gedwir o dan eu dibenion elusennol er budd y cyhoedd.

Yn ogystal, yn seiliedig ar wybodaeth a ryddhawyd gan Lywodraeth Cymru ym mis Awst 2024, mae tuedd glir i lawr yn nifer y cofrestriadau gan fyfyrwyr â'u cartref yng Nghymru. Yn fwy pryderus fyth, yn ôl datganiad gan gorff cynrychioli prifysgolion, Cymru sydd â'r gyfran isaf o 18 oed sy'n gwneud cais i'r brifysgol yn y DU. Yn ystod y cyfnod ceisiadau traddodiadol, dim ond 32% o bobl ifanc 18 oed yng Nghymru a wnaeth gais i'r brifysgol eleni o gymharu â 33.2% yn flaenorol. Mae hyn yn arbennig o bryderus wrth ei gymharu â'r DU yn gyffredinol, lle mae'r ffigur yn sefyll ar 40.6%. Dylai dirywiad parhaus yn nifer y ceisiadau i'r brifysgol fod yn bryder mwyaf i bawb sy'n ymwneud ag addysg yng Nghymru, yn ogystal â'r ddarpariaeth o wasanaethau cyhoeddus, hyfywedd yr economi ac i'r rhai ohonom sy'n cynrychioli'r cymunedau ffydd.

Dr Cynan Llwyd

Swyddog Polisi / Ysgrifennydd Cyffredinol

Mae'n amlwg bod cysylltiad rhwng cynaliadwyedd addysgu ac ymchwil mewn meysydd pwnc penodol a'r patrwm cyffredinol o ran recriwtio myfyrwyr ar lefel israddedig. Yn hyn o beth, hoffem ofyn i'r pwyllgor ystyried sut mae addysgu pynciau Dyniaethol, o dan y Maes Dysgu a Phrofiad a'r ddarpariaeth ôl-16, yn cyfrannu at hyfywedd rhaglenni o fewn darparwyr Addysg Uwch. I'r perwyl hwn, hoffem ofyn i'r pwyllgor sicrhau data, yn ansoddol ac yn feintiol, ar addysgu'r maes cwricwlaidd penodol hwn yng Nghymru.

Mae Cytûn yn cydnabod pwysigrwydd adolygiad ehangach o'r galw, y ddarpariaeth a'r dosbarthiad o bynciau mewn addysg uwch ledled Cymru, ac nad yw'r heriau sy'n wynebu'r sector yn unigryw i un maes y cwricwlwm. Fodd bynnag, hoffem gael sicrwydd gan sefydliadau a'r Gweinidog dros Addysg Bellach ac Uwch, drwy eich pwyllgor, bod yr heriau penodol sy'n wynebu'r dyniaethau yn cael eu deall yn eu cyd-destun a bod camau priodol yn cael eu cymryd gan y llywodraeth, y rheoleiddiwr addysg drydyddol yn ogystal â chan sefydliadau unigol.

Rydym yn gobeithio y gallwch gynnwys y cwestiynau hyn yn gyd-destun eich adolygiad, ac hoffem hefyd eich sicrhau ein bod yn parhau i ddangos diddordeb yn y polisi sy'n ymwneud ag addysg a phlant a phobl ifanc.

Yn gywir



Dr Cynan Llwyd  
Ysgrifennydd Cyffredinol  
Cytûn, Eglwysi Ynghyd yng Nghymru

Cc Clerk ac aelodau'r pwyllgor

# Agenda Item 4.7

## **Email correspondence sent to the Children, Young People and Education Committee**

Dear Committee members,

We are deeply concerned to note the acceptance of the Parliamentary Children's Wellbeing and Schools Bill which, combined with The Children Act 2004 (Children Missing Education Database) (Pilot) (Wales) Regulations 2025 is likely to cause significant difficulties and distress to home educating families in Wales.

An advice from David Wolfe KC is attached, in respect of some of the more concerning elements of the Bill which we ask you to consider.

Wales can surely do better?

be wishes

Re: The Children’s Wellbeing and Schools Bill

PROPOSALS RELATING TO CHILDREN NOT IN SCHOOL: TWO BIG ISSUES

**David Wolfe KC, Matrix**

**INTRODUCTION**

1. As an education lawyer for over 30 years, I have advised and represented children, parents, schools and local authorities in the SENDIST, High Court and Court of Appeal. I was involved in discussions with DfE officials on the framing of what became the Children and Families Act 2014. I have served on the Education Committee of a local authority and as the chair (now called judges) of the SENDIST.
2. I write to comment on two big issues arising from the provisions of the Children’s Wellbeing and Schools Bill relating to home educated children:
  - a. The proposed ‘best interests’ requirement, which - in my view - would represent the greatest undermining of parents in the history of our education law, and would do so uniquely for parents who choose to home educate, without any sufficient explanation or justification; and
  - b. The proposed register of education providers, which will require people and organisations providing structured learning to children – such as Scout/Guide groups, religious groups, relatives, friends, neighbours – to provide full details to a local authority register on pain of a fine, but only in relation to children who are being home educated.
3. I would be happy to elaborate on any aspect of what I outline below.

**THE PROPOSED ‘BEST INTERESTS’ REQUIREMENT**

4. It is not well understood that the legal duty to provide education to a child falls on their parents (and not anyone else). In England (the position is essentially the same in Wales, Scotland and Northern Ireland):

“The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable—

  - (a) to his age, ability and aptitude, and
  - (b) to any special educational needs ... he may have,

either by regular attendance at school or otherwise.”
5. Parents can discharge that duty by sending their child to a state school or a private school, or by home educating their child.
6. As I set out in Annex 1 to this document, the specifics of the statutory formulation have varied since the first major education statute, the Education Act 1870, but the principle has not: as long as parents provide suitable (i.e. good enough) education to their children one way or another, public bodies cannot

force them to do it any particular way; and cannot decide something else might be 'better'. Latterly, a strong set of statutory imperatives aimed at meeting parental preferences (such as in choice of school for those who want to send their children to school) has reinforced the central importance of parental wishes and freedoms in our education system.

7. The Bill proposes to change those fundamental principles, but only for parents who wish to home educate. Only for them, the local authority will – now, for the first time ever - be able to override the parentally-preferred way of educating their child (even though satisfied that the parental provision is suitable). This a dramatic new and significant 'state knows best' incursion into family lives in at least two distinct ways.

### **Parents who wish to withdraw their children from school**

8. The Bill first proposes an entirely new restriction (clause 24, proposed inset section 434A [page 45 line 30] on parents removing their children from a school with a view to home educating them. For the first time, they will need local authority consent in two situations: (1) for a child at a special school who was enabled to attend by an EHC plan, (2) for any child where the local authority is conducting enquiries under section 47 of the Children Act 1989.
9. In each case, the local authority is to be required ("must") to refuse consent even if satisfied that the child will receive suitable home education, and simply because the local authority thinks it would be in the child's best interests to stay at the school [page 46 line 35]. As above, that is a highly significant and wholly incursion into parental and family life. For the first time local authorities must insist that children attend school even though parents would (as the local authority agrees) provide suitable education at home. That newly and dramatically changes the fundamentals of English education law after over 150 years.
10. Case (1) (withdrawal from a special school) arises in circumstances where there is not even any basis for concern of any kind, let alone educational: it is simply a parent doing what many do across the whole of society, namely deciding that they would like to discharge their duty to educate their child in a different (and also suitable) way. Many parents decide to change school or provision in favour of something they think is better. Uniquely, these particular parents will now have their wishes overridden by the local authority.
11. Even in case (2) (section 47 enquiries), the threshold for overriding of the parental wish to home educate (even though that has been agreed a suitable option) is remarkably low: the mere fact of an enquiry (including an inquiry having no bearing whatsoever on the child's education).

### **School Attendance Orders**

12. At the moment (and indeed since 1876), where a child is being home educated and the local authority is not satisfied that the child is receiving suitable education it may serve what is known as a 'school attendance order' (SAO). A parent who does not comply with an SAO can be prosecuted. But, at any point in the process (including before the magistrates) the parent need only show that the education they are providing is suitable after all, to bring the process to an end; and that is so even if the local authority or magistrates might think school would be better. The point is that parents must merely meet the threshold of suitability.
13. The Bill proposes fundamentally to change that, making a parent not only show that the home education that they are providing is suitable, but also show that school attendance would not be better. For the first time, the local authority will be able to override parental preference, even while agreeing that home education would be good enough,
14. Clause 26 (inserting section 436H(1) and (5) [page 58 lines 5 and 34]) requires ("must") the local authority to serve a preliminary SAO where it thinks attendance at school would be better, even though satisfied that the home education is suitable. It does so (in the first version of 'condition B') simply because the local authority is conducting enquiries under section 47 of the Children Act 1989 (see inserted s436(5)(a)(i) and (c)) (i.e. even where the inquiries may have nothing to do with educational matters and when nothing is identified that justifies any safeguarding action). That is a remarkably low trigger for overriding the parental preference for agreed-to-suitable home education.
15. Following a preliminary SAO of that kind, the parent must then (so it is proposed) persuade the local authority that home education is best (and not merely suitable) for their child; and the local authority must serve an SAO where in its opinion 'it is expedient the child should attend school': inserted section 436I [page 59 lines 20-30].
16. Moreover, that obligation on the local authority to override what it agrees to be suitable home education (by a preliminary SAO, then SAO then potentially a prosecution) persists even where any section 47 inquiries have long since ceased; at which point there could clearly be no possible justification for the local authority (and then court) to impose its view of what is better, even though what is being provided by parents is agreed to be good enough.

### **The Department's ECHR Memorandum**

17. I explain in Annex 2 to this note why I consider that the Department has entirely failed to provide justification for the interference with Article 8, 9, 14 and A2P1 rights it acknowledges will arise here. Nor are these measures the least intrusive (and thus proportionate) for any claimed justification, as they need to be for ECHR compatibility. The Memorandum is a notably weak document. I

consider it likely these provisions, if enacted in this form, would be declared to be incompatible with Convention rights by the court.

### **THE REGISTER OF PROVIDERS OF EDUCATION**

18. Clause 25 proposes a register of children not registered at school. Inserted section 436C(1)(e) [page 49 lines 23-36] requires the register, where those children receive education from a person other than their parent, to specify the names and addresses of any person or organisation involved in providing that education, a description of the organisation, the postal address and the total time spent receiving that education. Parents must provide that information [page 51 line 25]. And a local authority may require a person it thinks is providing education for more than a prescribed time to provide details [page 52 lines 30ff] on pain of a financial penalty [page 53 line 30]. That applies to “any programme or course of education, or any other kind of structured education” [page 52 lines 30-34].
19. The problem is that that description (and “any other kind of structured education” in particular) will (1) potentially require to be registered a very wide range of people and organisations, including many who/which are also working with children who are attending school (outside their school hours); and will (2) potentially require parents who home educate to be constantly (and wholly impractically) changing the register entries for their child.
20. As for (1), anyone or any organisation providing “any kind of structured education” (even if not a programme or course) to a child who is being home educated will need to be on the register along with details of what they are doing, where and when. The courts have defined “education” to include any learning: it is a very wide concept.
21. This new requirement will clearly therefore catch groups such as the Scouts or Guides, church or religious groups, providers of holiday activities, trips and courses, and many others who provide structured activities which involve learning; and it would also catch, say, a grandparent, neighbour or another child’s parent who regularly helped them gain any skill or knowledge at all (including reading, or anything sporty, musical or artistic). But – as I say – in each case only in relation to home educated children, even though what they are providing for the children is all the same.
22. As for (2), many of the kinds of education provision in question might not last long: something can be structured, and yet one off, or last only a few occasions. And yet it, and the person or organisation providing it will need to be on the register with full details. Parents, and others, could be having to constantly adjust the register.
23. Overall, this is a recipe for a highly bureaucratic process which will be cumbersome and intrusive not just for parents, but also potentially for other family members, neighbours and the many people and organisations, many

voluntary and charitable, which provide any kind of structured learning for children. The organisations and the people involved (including thus the people within the organisations) will be required to register, with full details, but only for the home educated children.

24. Nor is this obviously saved by the proposition that the education in question must exceed a prescribed amount of time [page 52, lines 35-40]: Many of the activities will last several hours at a time, likely to be more than any prescribed threshold; or may be only for a one off, or occasional or irregular. Regulations which seek to capture that will rapidly become unmanageable and discredited.

**The Department's ECHR Memorandum**

25. For a child and parent to have information recorded on the register about education providers clearly engages their Article 8 rights. Where that is information about providers who are also doing exactly the same for children attending school (as most would be) that amounts to an Article 14 + Article 8 interference which the Department has not even mentioned, let alone sought to justify. Why does a child who is home educating have to provide details of every adult involved in their church group or Guide group, where those at school do not? Again, this would appear to be something the court would declare to be incompatible with Convention rights if enacted in this form.

**David Wolfe KC, Matrix, January 2025**

## **Annex 1 – Suitable Home Education**

26. The Elementary Education Act 1870 newly required parents of children between 5 and 13 to cause their children to attend school unless “the child is under efficient education in some other manner”. That allowed parents to educate their children entirely out of school, including at home, provided they could, if necessary, persuade a court that they were providing ‘efficient education’. And provided they met that requirement, no public official or court could require attendance at school.
27. The Elementary Education Act 1876 made the point more explicit imposing an obligation on every parent to cause their child “to receive efficient elementary education in reading writing and arithmetic”. But again, provided a parent met that threshold, no public official or court could compel their child to attend school.
28. The current framing of the position emerged in the Education Act 1944, which set the fundamentals – still largely unchanged – of our modern education system. Section 36 required the parents of every child of compulsory school age to ‘cause.him.[sic].to.receive.full\_time.education.suitable.to.his.age?ability.and.apptitude?either.by.regular.attendance.at.school.or.otherwise’ [my underlining]. Section 76 provided that the relevant public authorities should ‘have.regard.to.the.general.principle.that?so.far.as.is.compatible.with.the.provision.of.efficient.education.and.training.and.the.avoidance.of.unreasonable.public.expenditure?pupils.are.to.be.educated.in.accordance.with.the.wishes.of.their.parents’. Accordingly, the law maintained the key proposition that parents could electively home educate their children provided they did so to a threshold level of ‘suitability’; and reinforced that with a strong presumption in favour of education in accordance with parental wishes other than where that cost more or adversely impacted on others (which has provided the bedrock for many ‘parental preference/choice’ provisions including around school choice.
29. Those provisions have been only slightly tweaked in the Education Act 1996, where they still remain in force as sections 7 and 9:
- “7. The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable—
- (a) to his age, ability and aptitude, and
- (b) to any special educational needs ..in the case of a child who is in the area of a local authority in England ... he may have,
- either by regular attendance at school or otherwise.”
- “9. In exercising or performing all their respective powers and duties under the Education Acts, the Secretary of [F1State and [F2local authorities]] shall have regard to the general principle that pupils are to be educated in accordance with the wishes of their parents, so far as

that is compatible with the provision of efficient instruction and training and the avoidance of unreasonable public expenditure.”

## **Annex 2: ECHR Memorandum**

30. The Department's ECHR Memorandum asserts that [paragraph 148]:

“The Department notes that the proposals do not increase the state's control over or interference with the content of education provided by electively home-educating parents to their children, and the system of registration of children not in school is not mandatory. A parent's refusal to provide information can trigger the school attendance order process but the parent can still prevent an order being made (or, if prosecuted, secure acquittal) by demonstrating that their child is receiving suitable education. A parent's refusal to allow access to the child's home may contribute to a local authority making an adverse determination when deciding whether to issue a school attendance order, but this can be mitigated by allowing such access.”

31. That covers the situation where the local authority considers the home education not to be suitable. It says nothing about the situation I consider in my note above, namely where the home provision is undoubtedly suitable, but the local authority is of the view that home education is (in the local authority's view) inferior to school education and therefore school education in the child's 'best interests'.

32. The Department correctly acknowledges that these provisions will have a differential impact (so as to engage Article 14, the prohibition on discrimination) in relation to Article 8 (respect for private and family life) [see Memorandum #146-147].

33. But in relation to all of that, it simply asserts [paragraph 149] that “any” [sic: the interference is clear and obvious] Article 8/14 interference is justified if necessary and proportionate in the interests of protection of the right of the child to an education under Article 2, Protocol 1.

34. That is no answer: insofar as A2P1 deals with the position of children (as opposed to parents) it provides that “No person shall be denied a right to an education.” There is nothing in there which could conceivably justify denying a child education is agreed suitable, simply because the state thinks something else might be better.

35. Moreover, the second sentence of A2P1 says this: “In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching is in conformity with their own religious and philosophical convictions.” Many parents who home educate are precisely doing so out of a philosophical conviction. The Department's response is entirely misconceived here.

36. Nonetheless, it continues: “Interference can also be justified as necessary for the protection of health and morals, as the measures will help to identify

children who may be neglected or socialised in ways that are harmful to them or that will make them harmful to others and will offer certain children some protection from harm by requiring them to attend or remain at school.” Those words reveal the incredibly low threshold (the mere fact that a parent wants to remove their child from a special school, or the commencement of a section 47 inquiry, even where that has nothing to do with education) being applied here: nothing close to justifying across the board that local authorities will now decide what is best even if what parents want to do is agreed good enough.

37. The Department asserts [paragraph 153], but without any explanation, that the measures do “not go beyond that which is necessary for protecting these interests”. But that, in itself reveals the huge leap taking place here. At present parents need only show that their home education is good enough. No justification is offered for local officials to be able to override that because they disagree with the parent and think school is better.
  38. As for restriction on withdrawal from special schools, the Department simply relies on the proposition that “this is justified because children in special schools tend to have greater needs” [paragraph 157] but that completely ignores the fact that, in order to show that the home education is suitable, parents will (see section 7 Education Act 1996, as above) need to show that it is suitable for their child’s special educational needs. That does not then justify imposing an additional requirement of ‘bests interests’.
  39. Finally, in relation to Article 2, Protocol 1 and Article 9 (protection for religious freedoms) the Department falls back on the fact that the ECtHR has accepted the position in those countries which have compulsory schooling for all [paragraph 161]. But that, of course, entirely misses the point: we do not have (and never have had) compulsory schooling in the UK. We have a system which, as above, has fully embraced home education (provided it is suitable for the child) since 1870. For that now to be selectively withdrawn (so that the state can override the parent and insist on schooling even while agreeing the parental education is suitable, must be seen in that context, particularly when – as the Department agrees – there is a need to justify the discrimination which will now arise: the clearest discrimination against home educating parents far beyond what could be properly justified.
  40. I predict that these provisions, if enacted, would be held by the courts to be incompatible with Convention rights.
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# Agenda Item 4.8

Dear Buffy and members of CYPEC,

There is sadly an urgent need to meet with yourself and other members of the CYPEC in anticipation of your next meeting on 2<sup>nd</sup> April 2025.

It was helpful to meet with you a few weeks ago, I hope mutually so, to discuss some of the challenges home educators in Wales face. However, given the extent of these difficulties under existing guidance and demands of local councils, we didn't get the opportunity to address much in terms of the issues that would be faced by enactment of the Welsh government's "database proposals" - proposals for non-consensual sharing from previously confidential healthcare sources of all children of CSA and the commencement of extensive databases of children.

However just a week or so after we met, not only was secondary legislation enacted for those proposals without scrutiny of the implications by the Senedd, but, unknown to home educators (and it would appear to our representative Senedd members alike) the Welsh Government also decided that the "Children's Wellbeing and Support Bill" at Westminster would now apply to Wales too.

There are profound issues with this. That announcement was made on the last day that amendments were possible, only days before it passed from the House of Commons to the House of Lords, after the Committee and call for evidence stage.

Significant concerns have been raised about the lack of scrutiny on how this Bill will affect children when it was only meant to apply to England. At the Committee stage at the House of Commons, only minutes given to conversation on the aspects that particularly affect home educated children with concerns dismissed and overridden even within that short window. At the Evidence stage in the House of Commons prior to this, no home educators or related experts were allowed to give oral evidence; only those who agreed with the Bill and did not question key aspects of it were allowed to give oral evidence. Hundreds of submissions of evidence regarding the damaging aspects of the Bill were not published with the submissions of evidence, whereas it would appear that any submissions that agreed with the Bill were. Attempts are presently in progress to collate the unpublished submissions of evidence so that these can be appreciated by all who may be considering the impact of this Bill.

However, not just are there question about the lack of scrutiny on how this Bill would impact children in England, there has been absolutely no scrutiny or opportunity for the impact of the combined effect of this Bill in addition to key pieces of Wales-specific legislation that have been enacted within days of the announcement that the CWS would now apply to Wales too.

Please see this briefing note and press release about the interactive effect of these:

[https://defenddigitalme.org/2025/03/17/concern-over-westminster-wales-deal-in-pupil-data-pilot-and-late-bill-changes/?fbclid=IwY2xjawJPgn5leHRuA2FlbQIxMAABHfMedn0GNOEBF-FZRwgXuuAm2g\\_laGTu6PbuyH5uhRikhbl3-AJIAVxZA\\_aem\\_sZZvwyaxEzxGseJiDxatPw](https://defenddigitalme.org/2025/03/17/concern-over-westminster-wales-deal-in-pupil-data-pilot-and-late-bill-changes/?fbclid=IwY2xjawJPgn5leHRuA2FlbQIxMAABHfMedn0GNOEBF-FZRwgXuuAm2g_laGTu6PbuyH5uhRikhbl3-AJIAVxZA_aem_sZZvwyaxEzxGseJiDxatPw)

[https://defenddigitalme.org/wp-content/uploads/2025/03/Wales-childrens-data-extraction-Supplemental-Briefing-CWBSBill-15032025.pdf?fbclid=IwY2xjawJPgphleHRuA2FlbQIxMAABHWsfqkqbK0ZQOodioRAU2X4-2JYy2vIAAO171IOsCvldiyi2anbG9m-Cgtg\\_aem\\_1VvQl3P\\_QWEqPAISnfrlw](https://defenddigitalme.org/wp-content/uploads/2025/03/Wales-childrens-data-extraction-Supplemental-Briefing-CWBSBill-15032025.pdf?fbclid=IwY2xjawJPgphleHRuA2FlbQIxMAABHWsfqkqbK0ZQOodioRAU2X4-2JYy2vIAAO171IOsCvldiyi2anbG9m-Cgtg_aem_1VvQl3P_QWEqPAISnfrlw)

The database proposals in Wales were brought in because the Senedd were told of the damaging impact of deterring people from accessing universal services that placing a duty for parents to register their children a home educated with the council would be anticipated to cause.

[https://record.assembly.wales/Plenary/4901?fbclid=IwY2xjawJPcxRleHRuA2FlbQIxMQABHecVS7yUlg2FZnFxB\\_rnCWq6\\_oO530xpeTqMKFHAK4ls2iqscQ45OhHMGA\\_aem\\_AnneVf9KW8dpRgHg8GAH2Q#A10000068](https://record.assembly.wales/Plenary/4901?fbclid=IwY2xjawJPcxRleHRuA2FlbQIxMQABHecVS7yUlg2FZnFxB_rnCWq6_oO530xpeTqMKFHAK4ls2iqscQ45OhHMGA_aem_AnneVf9KW8dpRgHg8GAH2Q#A10000068) – see point 395 regarding registers.

However, despite this acknowledgement on the floor of the Senedd, the Welsh Government have

(1) **proceeded with the database proposals despite considerable warnings of the damaging effects including of such a deterrent effect in accessing universal services as given by professional bodies** such as the GMC, BMA and others, by key stakeholders such as families and as informed by research.

(2) Decided, without consultation or forewarning to **include legislation for the very measure that warned against in the Senedd**, namely to construct a duty on parents regarding a register of home educated children. Moreover, in the CWs Bill, the duty on parents is not just to inform the council their children are home educated, even though that alone was recognised by the Senedd to be likely to be counterproductive, but places additional duties of extensive information providing of an unprecedented and unworkable nature in a manner that would impair the educational provision of children in a variety of ways, with threats of extensive fines or even imprisonment for parents. These are measures that

require considerable scrutiny and informed evaluation within Wales before considering imposing on Welsh families. They are also measures that would make the proposed databases unnecessary and any risk-benefit evaluation would now be considerably different to before this Bill was deemed to apply to Wales, with significant risks and financial implications without the perceived potential benefits. Indeed, it would appear that Welsh Government were aware of this well before any announcement on the inclusion of Wales into the CWS in England, given the flawed nature of the ADR report they had commissioned and as indicated in response to written questions. <https://familiesfirst.wales/how-the-welsh-government-uses-anonymised-data-to-shape-policy-and-service-delivery/>

Furthermore, many aspects of the clauses that Welsh government have requested apply to Wales are **likely unlawful** whatever UK nation they apply to. Two KC opinions have already been obtained on key features, and a third on additional aspects is presently awaited. It would be far more prudent and a far better use of limited finances to await the outcomes of likely legal challenges before considering any of the measures that this Bill proposes rather than forcing families into requiring repeated legal redress.

This legislation must not be brought into power in Wales without full opportunity for scrutiny, including opportunities for experts and key stakeholders to be consulted and to submit evidence and information.

Please as members of CYPEC, would you do all that you can to ensure this.

Dr Ruth McKee,

as part of Home Ed Cymru.

# Agenda Item 7

## Refugee and Migrant Children's Consortium

### Border Security, Asylum and Immigration Bill

February 2025

#### Introduction

The Refugee and Migrant Children's Consortium welcomes aspects of the Border Security, Asylum and Immigration Bill (BSAIB), particularly the repeal of child detention powers,<sup>1</sup> the Home Office accommodation powers over unaccompanied children,<sup>2</sup> the Safety of Rwanda Act 2024, and other significant portions of the Illegal Migration Act 2023 (IMA).

While we support the repeal of IMA measures that would have penalised young people for refusing scientific age assessments and limited legal challenges, we remain deeply concerned about the continued application of age assessment and modern slavery provisions in the Nationality and Borders Act 2022 (NABA). As organisations working with thousands of children, we consistently raise concerns with the Home Office about the serious flaws in age assessment procedures. Border guards' misjudgements result in hundreds of children being wrongly placed in the adult system each year, posing a major safeguarding risk—one that is not treated with the urgency it demands.<sup>3</sup> Additionally, child victims of trafficking continue to be denied essential modern slavery protections due to these policies.

We are also concerned that the Bill expands on NABA's immigration offences, potentially criminalising more people—including children. Efforts to target smugglers must not lead to the unjust criminalisation of those seeking safety. Furthermore, the retention of IMA provisions that impose blanket exclusions on individuals from countries such as Albania, Georgia and India from making asylum claims is particularly concerning. For children and young people deemed inadmissible, these provisions prevent them from being properly safeguarded. They also fail to acknowledge the unique challenges children and young people may face if forcibly returned, as well as their heightened vulnerabilities.

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<sup>1</sup> We welcome the repeal of powers to detain children that were brought in with section 11 of the IMA. These powers had not yet been commenced. The scrapping of the powers preserves the status quo of the Immigration Act 2014. This means unaccompanied children can only be detained for 24 hours in airports and other short-term facilities and children in families can only be detained for 72 hours or a week if personally authorised by the minister and in special facilities and with certain safeguards.

<sup>2</sup> From 2021, the Home Office diverted unaccompanied children from the care system and placed them instead in Home Office-run hotels leading to hundreds of children going missing, with 90 still unaccounted for as of 30 October 2024. The IMA, at sections 16-21, the previous government legislated to claim the power to directly accommodate, transport and remove unaccompanied children from care by the Home Office. This power was not commenced and undermined the landmark provisions enshrined in the Children Act 1989 preventing Local Authorities from discharging their statutory duties towards children, creating a two-tier system of care. Following [litigation brought by RMCC member ECPAT UK](#), the Home Office directly accommodating unaccompanied children outside the care system was found to be unlawful.

<sup>3</sup> Helen Bamber Foundation, Humans for Rights Network, and Refugee Council. (2024). [Forced Adulthood: The Home Office's incorrect determination of age and how this leaves child refugees at risk](#).

## Ensuring the Modern Slavery system protects children

The government has declined to remove the expansion of the public order disqualification in this Bill as part of Clause 38, which repeals all other provisions related to modern slavery in the IMA. This provision, which arises from NABA and is further expanded in the IMA penalises children prosecuted for offences by excluding them from protection, despite the prevalence of child criminal exploitation, which may lead to wrongful criminalisation for offences committed as a result of their exploitation.<sup>4</sup> Additionally, the Government has declined to repeal these harmful provisions in NABA which have increased the risk of child trafficking, and criminalisation.<sup>5</sup> 65% of all disqualified potential victims exploited as children were acknowledged as having an element of criminal exploitation in their case.

NABA also allowed the Government to alter, via statutory guidance, the evidentiary threshold for reasonable grounds (RG) decisions, previously set lower to assist victims in acknowledging the complexity of identification, particularly for children as a result of trauma.<sup>6</sup> This change heightens the risk of re-trafficking, making it more likely that essential support will be denied. Negative RG decisions for children increased significantly as these provisions came into force - from 10% negative decisions issued in 2022 to 26% in 2023. Cases where exploitation occurred in whole or in part overseas were particularly impacted by stricter evidentiary requirements. Children at this stage rarely, if ever, receive access to legal advice to support the process leading to rejections which have a significant impact on them.

NABA also introduced consideration for temporary permission to stay for victims of human trafficking (VTS) following a positive conclusive grounds decision through the National Referral Mechanism if they meet specific criteria as a result of their 'personal circumstances' or because they are cooperating with a police investigation. Despite the commitments from the Government to fulfil the UK's obligations under the Council of Europe Convention on Action Against Trafficking in Human Beings (ECAT), this legislation and subsequent guidance ignores the specific standard for children in that treaty. ECAT specifies in Article 14 (2) that "the residence permit for child victims, when legally necessary, shall be issued in accordance with the best interests of the child and, where appropriate, renewed under the same conditions". The explanatory report to ECAT goes on to state: "In the case of children, the child's best interests take precedence over the above two requirements" (personal circumstances or police investigation).

This provision and previous leave policy for victims has seen few child victims granted this form of leave.<sup>7</sup> Between 2020 and 2022, 5,266 children were confirmed as victims of trafficking subject to immigration control, but fewer than 21 were granted trafficking leave.<sup>8</sup> In the few cases leave was granted to children, it was extremely limited – with previous figures obtained by ECPAT UK for the years 2019/20 showing the average length of leave is short, suggesting that decisions are not being taken in their best interests as a primary consideration and as a result provide minimal stability.

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<sup>4</sup> Magugliani, N. et al. (2024). [Assessing the Modern Slavery Impacts of the Nationality and Borders Act: One Year On.](#)

<sup>5</sup> IASC and ECPAT UK. (2024). [Child Trafficking in the UK: A Snapshot.](#)

<sup>6</sup> Davis, M. (2024). [Identifying Victims of Human Trafficking: The Legal Issues, Challenges and Barriers.](#)

<sup>7</sup> [Nationality and Borders Bill: immigration outcomes for child victims of trafficking](#)

<sup>8</sup> Helen Bamber Foundation. (2023). [Leave in Limbo.](#)

Overall, the retention of IMA and NABA provisions weakens the identification, protection, and support systems for trafficked children, increasing their risks of exploitation, re-trafficking, and criminalisation.

### Not criminalising children

This Bill builds on an existing list of immigration criminal offences, including arrival without the required entry clearance or authorisation. It will create a new offence if someone travels by boat and creates a risk of injury to another person. While one of the government's aims with the Bill is to prevent, investigate and prosecute smuggling,<sup>9</sup> the measures in BSAIB risk criminalising people seeking safety who have no other means of reaching the UK, including child victims of trafficking and children travelling alone.

The RMCC is firmly opposed to the criminalisation of people seeking asylum in the UK. Our specific concern regarding children in need of protection is that yet more will face prosecution and spend months in adult prisons because they have been wrongly deemed to be adults by the Home Office.

Unaccompanied children seeking asylum have had to flee war, persecution and human rights abuses, and have endured perilous journeys. Many children who come to the UK on their own from countries such as Afghanistan, Sudan and Eritrea are unable to show official identity documents, such as passports or birth certificates, because they have either never had them; they've been destroyed, lost or taken; or the child has been forced to travel on false documentation. As a result, many have their ages questioned.

Under the previous government, the Home Office took increased control over the age determination process, with an increase in flawed decision-making, and hundreds of children being put at risk. Time and time again RMCC members see unaccompanied children incorrectly determined by immigration officials to be adults upon their arrival in the UK, based on a cursory visual assessment, only for them to be found to be children after further detailed assessments carried out by social workers. While the government does not publish data on this, **evidence from local authorities' children's services revealed that over an 18-month period alone, over 1,300 children had been wrongly assessed by the Home Office to be adults.**<sup>10</sup>

Using the existing criminal offences introduced by NABA, children have already ended up being wrongly prosecuted because they were disbelieved about their age by border officials. Criminal courts often accept the Home Office decision that a child is an adult, which is often presented as fact with no acknowledgement that there is was a dispute about age. Many judges believe that the dates of birth have been provided to the Home Office by the children themselves. They have little understanding of the flawed age determination process that takes place upon arrival and that immigration officers arbitrarily assign these dates.<sup>11</sup>

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<sup>9</sup> [Border Security, Asylum and Immigration Bill Explanatory Notes](#)

<sup>10</sup> Helen Bamber Foundation, Humans for Rights Network, and Refugee Council. (2024). [Forced Adulthood: The Home Office's incorrect determination of age and how this leaves child refugees at risk.](#)

<sup>11</sup> *Ibid.*

### **Case study**

Marwan (name has been changed) is a Sudanese national who arrived in the UK by small boat when he was 17 years old. Marwan was 'assessed' upon arrival as significantly over 18 years old by two Home Office officials, who allocated a date of birth making him 21 years old. Marwan has since explained that the interview lasted around 10 minutes. After the interview, he was taken to Manston Detention Centre.

Three days after he arrived he was arrested for the offence, under Section 25 of the Immigration Act 1971 (as amended by the Nationality and Borders Act 2022), of facilitating the commission of a breach of immigration law by persons who were not nationals of the UK, and the Section 24 offence of knowingly arriving in the UK without valid entry clearance.

Marwan was then taken to Margate Police Station, where neither the police nor his criminal law representative asked Marwan about his age. Marwan was subsequently charged with these offences and taken to Folkestone Magistrate's Court the following day.

At this hearing, Marwan told the court his claimed date of birth. However, as the Home Office had established his age as 21 years old, Marwan continued to be treated as an adult for the purposes of the criminal hearing. Marwan's clear communication that he was in fact 17 was disregarded and he was sent to HMP Elmley, an adult prison in Kent.

Marwan was held on remand at HMP Elmley. He told prison staff that he was 17 years old, but because he was recorded as being 21 years old no actions were taken to safeguard his welfare. At this time, Marwan was sharing a cell with a 30-year-old man. At a hearing a month later, Marwan pled guilty to the Section 24 offence, after the Section 25 offence was discontinued.

For three months after his arrival, Marwan received no support. He was eventually able to call a friend from prison who raised the alarm, contacting a volunteer he had met in France who subsequently referred Marwan to Humans for Rights Network (HFRN).

HFRN sent safeguarding referrals to the prison and the local authority regarding Marwan's age and immediate risk of harm. No action was taken following either safeguarding referral. HFRN subsequently referred Marwan to a community care solicitor, who visited him and then wrote to the local authority—a bail address was provided by the local authority, and it was confirmed that they would decide whether his age was accepted or a full age assessment was needed.

Marwan was released into the care of the local authority four months after he was first incarcerated. One month later it was confirmed by the local authority that there were not sufficient grounds to undertake an age assessment and Marwan's date of birth was accepted. Marwan remains a looked-after child and has subsequently been acquitted of any offence.

*Marwan's case clearly shows that there are significant failings within a wide range of procedures and practices implemented by state actors from the Home Office to the Ministry of Justice. Marwan is recovering well. However, he has ongoing mental health issues, suffers from sleeping problems and struggles to talk about his time in prison where he was subjected to violence.*

Between June 2022 and the end of 2024, the best available data suggests that over 550 people were charged with ‘illegal arrival’ having arrived on ‘small boats’, and over 450 convicted.<sup>12</sup> By September 2024, **Humans for Rights Network had identified 18 cases where children wrongly treated as adults have been charged with offences under NABA, with 14 spending periods of time held with adults in adult prisons.**<sup>13</sup>

We urge the government to repeal these provisions in NABA and reconsider their expansion through this bill. Additionally, we urge reconsideration of the age determination policy at the border by the Home Office by ensuring young people asserting they are children are treated as such on arrival except in exceptional cases (e.g. where there is evidence they are in their late 20s).

### **Ensuring age assessments are local authority-led and cause as little harm as possible**

As discussed above, for years the Home Office has needed to address the problem of visual assessments on arrival. Yet, instead, resources have been allocated to creating the National Age Assessment Board (NAAB) and developing scientific (biological) age assessment methods, both introduced by NABA. Neither of these measures tackle the key problem of children wrongly treated as adults at port and simply further complicate the age-determination process. NAAB assessments have been shown to be flawed and 14% of assessments have been ordered by the Home Office even though the local authority had accepted a child’s age (or assessed them to be under 18). Costing £1.7 million in its first year of operation,<sup>14</sup> the NAAB appears to be wasting time and resources and resulting in unaccompanied children seeking asylum going through unnecessary and harmful assessments.<sup>15</sup>

The use of scientific methods to assess age has long been the subject of debate and professional medical bodies have been unequivocal in their rejection of use of dental x-rays, bone age and genital examination as being “extremely imprecise” as methods for assessing age. The Home Office’s own advisory committee made it very clear that scientific methods can only be used to assess whether the age claimed is *possible* and should only be used as part of a wider social work assessment that is compliant with existing guidance and case law.<sup>16</sup> Social work assessments are already detailed and should include a wide range of evidence - if scientific methods can only ascertain whether an age might be possible, there is no clear benefit to adding another, costly and time-consuming element to the existing system. Furthermore, NABA states that a child will be seen as less credible if they do not agree to undergo medical procedures, undermining the principle of informed consent.

Under the current system, a child could end up with as many as four determinations of age: an initial ‘assessment’ at the port of entry; a local authority assessment; a NAAB assessment; and a finding by the court. This means that a process that has already been found to be harmful and costly will be made even longer, delaying a child’s access to support and a decision on their asylum claim even further. Rather than giving more and more control to the Home Office, it is time for the government to look at what actually works in age assessments

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<sup>12</sup> Vicky Taylor and Catriona Götz, “Security at the heart”: Criminalisation and Labour’s Border Security, Asylum and Immigration Bill 2025, February 2025

<sup>13</sup> Refugee and Migrant Children’s Consortium, [Age Disputes](#), September 2024

<sup>14</sup> Freedom of Information request reference FOI2024/05630, answered by the Home Office on 16 July 2024

<sup>15</sup> Helen Bamber Foundation. (2024). [The psychological impact of the age dispute process on unaccompanied children seeking asylum in the UK.](#)

<sup>16</sup> Helen Bamber Foundation. (2023). [“An educated guess at best”: x-raying children to determine their age.](#)

and invest in supporting local authorities to carry them out using their expertise as child protection professionals.

We urge the government to repeal Sections 52 and 53 of NABA, ending the push for scientific age assessments and the Home Office-led codification of the process. Funding should be redirected to training and supporting local authorities—who, as child protection experts, are best placed to conduct independent social work assessments. Investing in proven methods will ensure children receive the care and protection they need.

### **Ensuring full consideration of children’s protection needs**

The decision to retain Section 59 of the IMA is deeply concerning, particularly for children and young people. This provision imposes blanket exclusions on people seeking asylum from countries like India, Georgia, and Albania, meaning claims are only considered in “exceptional circumstances”.<sup>17</sup> As a result, the Home Office does not assess cases individually, leaving vulnerable children without proper safeguarding.

Evidence shows that individuals—including children—are not always safe in these countries.<sup>18</sup> The Home Office itself has previously granted asylum to applicants from Albania, Georgia and India. Yet the government continues to apply a rigid approach, despite data showing many successful appeals against refusals.<sup>19</sup>

In relation to Albania, for example, the Home Office’s own Country Profile Information Notes (CPINs) about Albania, highlight the risks concerning human trafficking, blood feuds, and LGBTQIA+ persecution.<sup>20</sup> Albanians received grants of protection with 60% positive decisions in 2022, then falling significantly to 10% in 2023<sup>21</sup> as a result of changes in government policy<sup>22</sup> and not because the context in Albania has changed in any significant way. Furthermore, at appeal, many Albanians secure protection, but currently, the government is not publishing appeal outcomes.<sup>23</sup>

Children and young people are particularly at risk under these rules. They could lose crucial protections and face the danger of refoulement without proper consideration of their vulnerabilities. Just as women, LGBTQ+ individuals, and minoritised groups require additional safeguards, so too do children. Section 59 prevents the Home Office from assessing individual needs and must not be retained in this Bill.

The Bill and policy beyond also retains the concept of ‘inadmissibility’ in the asylum system, where a person’s asylum claim in the UK is not accepted because the Home Office believes they could have claimed asylum in another country. While children are exempt, young people who have turned 18 and those wrongly assessed as adults could be at risk of not having their protection claims properly considered.

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<sup>17</sup> [Illegal Migration Act 2023, Second Reading.](#)

<sup>18</sup> ILPA and Rainbow Migration. (2023). [Joint Briefing on Draft Nationality, Immigration and Asylum Act 2002 \(Amendment of List of Safe States\) Regulations 2024.](#)

<sup>19</sup> Secondary Legislation Scrutiny Committee. (2023). [Draft Nationality, Immigration and Asylum Act 2002 \(Amendment of List of Safe States\) Regulations 2024.](#) para. 12.

<sup>20</sup> Home Office. (2024). Country policy and information note: human trafficking, Albania.

<sup>21</sup> UKVI Immigration System Statistics: Asylum and Resettlement - Applications, Initial decisions, and Resettlement (to year ending June 2024). Main applicants and dependants included.

<sup>22</sup> ICIBI. (2023). [An Inspection of Asylum Casework.](#)

<sup>23</sup> Home Office. (2023). [Immigration Statistics - Asylum and Resettlement - Asylum appeals lodged and determined. Data excludes dependants and withdrawn appeals.](#)

## Allowing refugee children to sponsor their family members

The Bill presents an opportunity to improve the rights of refugee children in the UK. Allowing child refugees to sponsor their immediate family is a logical, humane, and necessary step. It aligns with the UK's commitment to protecting vulnerable children, strengthens safe and regular migration routes, and ensures that children seeking safety are not left alone in an unfamiliar country.

The UK rightly allows adult refugees to sponsor their children to join them, but the same right is not extended to children who arrive alone. This gap in the refugee family reunion rules leaves vulnerable children without the support and protection of their families, increasing their risk of harm, exploitation, and trafficking. The lack of regular routes for family reunification forces families to take dangerous journeys to reunite. Evidence suggests that restricting safe pathways strengthens smuggling networks, putting children at greater risk of trafficking and exploitation. Providing a legal route through family reunion would be a humane and effective way to protect children.<sup>24</sup>

Concerns that allowing child refugees to sponsor family members would encourage parents to send children alone to the UK are unfounded. There is no clear evidence of this so-called “pull factor,” while the dangers children face at home and on their journeys are well documented. Families do not take such risks lightly—there are strong “push factors” forcing them to flee.<sup>25</sup>

Family plays a crucial role in a child's development, well-being, and integration. Being separated from parents and siblings can have devastating effects on a child's mental health. Allowing child refugees to sponsor their immediate family would provide stability, emotional

Enabling family reunification could reduce the burden on local authorities, who currently provide care for unaccompanied minors. Parents are best placed to support their children, easing pressure on public services and improving refugee integration.

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<sup>24</sup> Refugee Council and Safe Passage report. (2024). [Families belong together: Fixing the UK's broken family reunion system](#)

<sup>25</sup> Home Office. (2020). [Sovereign Borders: International Asylum Comparisons report](#).

### Suggested Questions

1. Why has the government retained the public order disqualification for modern slavery protections in the Bill, despite its contravention of international law?
2. Can the government explain why such a low number of confirmed child trafficking victims have been granted trafficking leave to remain?
3. How will the Bill address the issue of flawed age assessments for unaccompanied children, particularly in light of evidence showing that many have been wrongly determined to be adults by the Home Office?
4. Will the government consider repealing Sections 52 and 53 of the Nationality and Borders Act 2022 and redirecting resources from the National Age Assessment Board to support local authorities in conducting independent, expert-led social work assessments?
5. What safeguards will be put in place to prevent children from being criminalised under new and existing immigration offences?
6. How many grants of asylum has the government made to children from Albania, India and Georgia in the last five years and given these grants of protection how does the Secretary of State justify their presence on a 'Safe List'?
7. Since the Home Office restarted asylum decision-making on IMA-era claims, how many asylum cases have been referred to the Third Country Unit for inadmissibility consideration?

For more information contact:

Laura Durán, Head of Policy, ECPAT UK at [l.duran@ecpat.org.uk](mailto:l.duran@ecpat.org.uk) or Kamena Dorling, Director of Policy, Helen Bamber Foundation at [kamena.dorling@helenbamber.org](mailto:kamena.dorling@helenbamber.org)

The Refugee and Migrant Children's Consortium is a coalition of over 100 organisations working to promote and protect the rights of young refugees and migrants - see our [website](#) for more information.

## Services for Unaccompanied Asylum-Seeking Children in Wales

### About NYAS Cymru

NYAS Cymru is a leading rights-based charity providing high-quality advocacy and legal representation for children, young people and adults in vulnerable situations who might be in care, subject to child protection plans or have mental health issues across Wales.

### Provision of Appropriate Adult services in Wales

The age assessment process can cause a lot of anxiety, confusion, and frustration for unaccompanied asylum-seeking children. It can prevent them from accessing school while their age is disputed, isolate them from peers, and result in them feeling humiliated. The main role of an appropriate adult is to make sure the age assessment is being completed fairly, does not compromise a child's rights and making sure the child does not become distressed during the process. NYAS Cymru provides appropriate adult services in Wales to support unaccompanied asylum-seeking children during age assessments. Between April 2024-March 2025, NYAS Cymru received 16 requests for appropriate adults from four local authorities across Wales:

- 6 assessments were accepted as children
- 3 declared as adults
- 3 not requiring further support
- 1 incomplete assessment
- 3 awaiting outcome

NYAS Cymru supported Welsh Government to produce information for the Age Assessment Toolkit about appropriate adult services for unaccompanied asylum-seeking children, in which we strongly believe in these services being independent. NYAS Cymru has concerns about the independent element of these services, whether it is being adhered to in practice and if Welsh Government monitor this.

### NYAS research with appropriate adults

In 2024, a student researcher completed a research project for NYAS exploring the role of an appropriate adult in age assessments. The student spoke with appropriate adults across Wales and England. Findings from the study highlighted the following concerns about the current age assessment process:

- Appropriate adults shared several concerns that the age assessment process was very emotional and traumatic for children and young people, and often they were expected to share too much personal and sensitive information. Often appropriate adults would have to advocate for the child to meet their welfare and wellbeing needs during this process (i.e. asking to take a break).
- The environments where age assessments are conducted were sometimes considered to be inappropriate as they did not ensure privacy for the child or young person. The length and time of the age assessment process also created additional distress for the child or young person.
- Unaccompanied asylum-seeking children are not getting the support and care they need from children's social care outside of the age assessment process, with a lack of sufficient funding being highlighted as a reason for this. Unaccompanied asylum-seeking children and young

people need improved social care support at all stages of the asylum process and having this may better their experiences during age assessments.

- There is not enough information for unaccompanied asylum-seeking children to access about the age assessment process, what outcomes means or what social care support they are entitled to after their outcome has been determined.

#### Advocacy for Unaccompanied asylum-seeking children

NYAS Cymru also provides independent advocacy via the active offer to unaccompanied asylum-seeking children in Wales and between April 2024-March 2025, we received 92 requests for support. Though we are pleased these referrals are being made, we are concerned that access to the active offer is not consistent across Wales. The current referral process (as outlined in Appendix B of Independent Professional Advocacy National Standards and Outcomes Framework for Children and Young People in Wales) means children are reliant on their social worker to both inform them and refer them for the active offer of advocacy, and we are concerned that this is not working in practice.

Very few children and young people are genuinely “opting out” of advocacy, and are missing out on being referred due to factors such as the social worker not properly understanding the active offer entitlement and explaining it incorrectly to the child, reluctance on behalf of the social worker to refer, them believing it is not in the child’s “best interests” to do so, or simply due to their time pressures and heavy work loads. For unaccompanied asylum-seeking children, they may be more likely to miss out on this offer if there are challenges with translating information, misunderstanding of the entitlements for unaccompanied asylum-seeking children, or if professionals are prioritising other areas of the asylum process, such as age assessments.

We believe that a far more robust and impartial system is needed if children and young people are to easily access services to have their views, wishes and feelings heard. NYAS Cymru is calling for a review of the National Approach to Statutory Advocacy and creating a system for all children and young people to be referred automatically to the advocacy provider. With the proposes under the Border Security, Asylum and Immigration Bill likely to place unaccompanied children at a higher risk of criminalisation or subjected to scientific methods within age assessments, it is even more imperative they have access to their right to the active offer of advocacy.

## **Border Security, Asylum and Immigration Bill**

### About NYAS Cymru

NYAS Cymru is a leading rights-based charity providing high-quality advocacy and legal representation for children, young people and adults in vulnerable situations who might be in care, subject to child protection plans or have mental health issues across Wales.

### General views on the Bill

NYAS is a member of the Refugee Migrant Children's Consortium (RMCC). RMCC is a group of NGOs working collaboratively to ensure that the rights and needs of refugee and migrant children are promoted, respected and met in accordance with the relevant domestic, regional and international standards. We share many of the views of the RMCC regarding the Bill, as outlined in their [briefing](#) for the Bill's second reading in February 2025.

We welcome that the Bill will repeal parts of the Nationalities and Borders Act 2022 and Illegal Migration Act 2023 relating to child detention powers, Home Office accommodation powers over unaccompanied children, as well as repealing the measure which would penalise young people for refusing scientific age assessments. However, we also share concerns about the Bill as raised by the RMCC. These concerns include:

- Not repealing some of the modern slavery provisions under the Nationalities and Borders Act 2022 (under clause 63) and expanded upon in the Illegal Migration Act 2023 (under clause 29), which restricts the protections of the Modern Slavery Act, including for child victims of trafficking.
- Building on the existing list of immigration criminal offences including arrival without the required entry clearance or authorisation and if someone travels by boat and creates a risk of injury to another person, which could wrongfully criminalise children who are trafficked and do not have identity documents or those travelling alone to any part of the UK.
- The risk of the Bill criminalising those, including children, seeking safety who have no other means of reaching the UK.
- The continued use of scientific methods within age assessments for children as included Part 4 of the Nationalities and Borders Act 2022. These methods are not supported by medical professionals nor children's rights campaigners.
- Not repealing Section 59 of the Illegal Migration Act which imposes a 'blanket exclusion' on people, including children, seeking asylum from countries like India, Georgia, and Albania, meaning claims are only considered in "exceptional circumstances" rather than assessing individual needs. As a result, children may be left without crucial safeguarding measures and protection.

Some of these concerns raised will negatively impact and compromise children's rights in Wales if not addressed by Welsh Government and nor will they uphold a 'child first, migration second approach' – particularly in relation to the continued use of scientific measures in age assessment processes.

The [Children's Legal Centre Wales](#), welcome the opportunity to offer some views on the following points:

### **The Bill in General**

Whilst this bill repeals the most problematic sections of the Illegal Migration Act it represents a missed opportunity to develop a humane and functional immigration and asylum system based on principles of fairness.

### **Retained sections of the Illegal Migration Act.**

The Bill seeks to repeal the majority of the Illegal Migration Act, listed in clause 38, these sections 16 to 21 relating to the care and treatment of unaccompanied children as well as sections 57 and 58 relating to age assessment. Whilst there are ongoing concerns regarding the detention powers in section 12 as they relate to adults, the retained sections do not impact on the position of unaccompanied children.

### **Rights of Children and Young People (Wales) Measure 2011**

The Bill is compatible with the Measure in so far as it repeals a number of incompatible sections of the Illegal Migration Act. The further provisions of the Bill do not deal with the treatment of unaccompanied children and therefore will not impact on the functioning of this Measure.

## The Border Security, Asylum and Immigration Bill: the issue of legislative consent

Evidence submitted by the Bevan Foundation to the Children, Young People, and Education Committee as they consider their response to the Legislative Consent Memorandum laid in respect of the Border Security, Asylum and Immigration Bill (referred to below as 'the Bill').

Our response focuses on the Committee's request for views on the following:

- the Bill in general;
- the remaining provisions in the Illegal Migration Act 2023, including any concerns about existing arrangements for unaccompanied children;
- whether the Bill is compatible with the Rights of Children and Young Persons (Wales) Measure 2011, including what impact it would have on the "child first, migration second" approach which underpins the delivery of support to child asylum seekers in Wales; and
- Clause 51, which provides retrospective statutory authority for fees charged in connection with the following three services provided by a third-party supplier on behalf of the Home Office and the Department for Education (DfE): The Home Office Visas and Nationality Service; The DfE UK European Network of Information Centres Services (the UK ENIC Service); and the non-UK Early Years Qualifications Recognition Service.

### Key points

- The bill repeals key provisions in the Illegal Migration Act that allowed for the increased detention of children, the creation of a two-tier system for the accommodation of children, and the penalisation of children for refusing scientific age assessment. This is a positive step for children in Wales and removes key provisions which were inconsistent with the Rights of Children and Young Persons (Wales) Measure 2011 and the "child first, migration second" approach.
- The Bill builds on an existing statutory framework that poses significant risks to children. It introduces new criminal charges and does not contain adequate safeguards for children. It therefore runs counter to the vision of Wales as a Nation of Sanctuary and challenges the "child first, migration second" approach that underpins the delivery of support to asylum-seeking children in Wales.
- The Bill retains and builds on legislation that diminishes judicial oversight of detention, criminalises seeking asylum, and reduces trafficking and modern slavery protections. Such legislation is not compatible with the international obligations of the UK, and Wales as a devolved government, under the 1951 UN Refugee Convention, the European Convention on Human Rights (ECHR), the UN Convention on the Rights of the Child (UNCRC), and the Council of Europe Convention on Action Against Trafficking in Human Beings.

# Evidence

## 1. Overview: our view of the Bill

- 1.1 The Border Security, Asylum and Immigration Bill aims to improve the investigation and detection of immigration crime, serious and organised crime, to deter irregular migration to the UK and reduce small boat crossings in the Channel, and to strengthen the UK's immigration and asylum system, rebuilding public confidence.
- 1.2 The Bill creates a new border security agency and introduces a framework of new and enhanced powers and offences in an attempt to achieve the above.
- 1.3 The Bill repeals the Safety of Rwanda (Immigration and Asylum) Act 2024 (IMA) its entirety. This is a welcome and progressive step.
- 1.4 The Bill repeals key provisions of the Illegal Migration Act 2023, including:
  - child detention powers contained in Section 11 of the IMA but not yet enacted (Unaccompanied Children can still be detained for 24 hours in airport and short-term facilities and families for 72 hours or a week if authorised by the Minister – Immigration Act 2014);
  - accommodation of unaccompanied children by the Home Office (found to be unlawful) and removal from local authority care;
  - provisions within the IMA for penalising children for refusing age assessments (age assessment provisions and accompanying safeguarding risks within the Nationality and Borders Act 2022 remain);
- 1.5 The Bill stops short of repealing all of the provisions in the IMA which are harmful to children. It retains provisions within the Nationality and Borders Act 2022 which are harmful to children.
- 1.6 New powers and criminal offences introduced by the Bill are potentially harmful to children. These risk criminalising children and increasing the numbers of children wrongly sent to adult prisons.
- 1.7 While the Bevan Foundation welcomes the repeal of the damaging and unlawful Safety of Rwanda (Immigration and Asylum) Act 2024 and the repeal of most of the Illegal Migration Act 2023, we are concerned that the government has chosen to retain aspects of the Illegal Migration Act 2023 and the Nationality and Borders Act 2022 that are harmful to children, that risk criminalising refugees, including children, and which undermine the 'child first, migrant second' approach which underpins the delivery of support to children seeking asylum in Wales.

## 2. Remaining provisions in the Illegal Migration Act 2023 and concerns about existing arrangements for Unaccompanied Children

- 2.1 The Bill retains the IMA's addition of new countries to the "white list" from which asylum and human rights claims are inadmissible (Section 59). This allows for the continued blanket refusal of asylum claims from these countries rather than assessing claims on their merits. Concerns have been expressed by UNHCR about the inclusion of Albania on this list<sup>i</sup>. Although Unaccompanied Children are exempt from inadmissibility action, this is not adequately confirmed in guidance and exists within a system that frequently mistakenly treats children as adults.
- 2.2 Section 57 of the IMA (direct refoulement) raises concerns about the safety of children, particularly where they are wrongly treated as adults. Direct refoulement allows for people seeking asylum to be removed without individual consideration of whether it would be safe or reasonable to do so and with very limited opportunity to present evidence of the risks faced<sup>ii</sup>. Where cases are judged inadmissible, there is limited opportunity for fair age assessment and is an increased risk of incorrect assessment.

## 3. Compatibility with the Rights of Children and Young Persons (Wales) Measure 2011

- 3.1 The Bevan Foundation is of the view that the Bill leaves in place legislation which is incompatible with the Rights of Children and Young Persons (Wales) Measure 2011, and that it introduces new powers and offences which build on existing legislation to undermine the rights of children in Wales.
- 3.2 The Bill retains the public order disqualification for trafficking and modern slavery protection within the IMA. This expands on provisions in the Nationality and Borders Act and imposes a disqualification from trafficking or modern slavery protection if a person has served custodial sentences of more than a year or been prosecuted for certain offences. This raises concerns about compatibility with international law.
- 3.3 The undermining of trafficking and modern slavery protections is concerning for children who have been criminally exploited. A report by the Independent Anti-Slavery Commissioner and ECPAT in 2024 noted that "65% of all disqualified potential victims exploited as children were acknowledged as having an element of criminal exploitation in their case"<sup>iii</sup>
- 3.4 The Bill also retains the application of age assessment provisions and the application of modern slavery provisions set out in the Nationality and Borders Act 2022. Scientific age assessment introduced in the Nationality and Borders Act 2022 is not repealed.

- 3.5 The Bill expands on existing criminal offences under immigration law (Clauses 13 to 36). These include supplying or handling “articles for use in immigration crime” which attracts a sentence of up to 14 years. The broad-ranging definition of such articles and the lack of specificity about where such offences might be committed or by whom, leaves children open to criminalisation merely for seeking asylum or assisting someone to seek asylum.
- 3.6 There is evidence that children are currently wrongly treated as adults within the immigration system and that some face criminal charges and are detained for offences such as facilitation or smuggling after being forced to steer a boat. The Bill adds to these concerns by failing to restore full judicial oversight of detention.
- 3.7 Serious concerns remain in relation to existing arrangements for Unaccompanied Children. It is imperative that Wales bolsters protection for such children by introducing a Guardianship Scheme in line with the model operated in Scotland<sup>iv</sup>.
- 3.8 The Bill sits within a legislative framework that is not compatible with the Rights of Children and Young Persons (Wales) Measure 2001. It builds on this framework by adding criminal offences and cementing reduced protections that will undermine the safety, protections, and rights of children in Wales. It lacks safeguards for children which would help promote the “child first, migration second” approach, and as such would undermine the approach in Wales. There are insufficient safeguards to prevent children from being criminalised.

#### 4. Clause 51 (retrospective statutory authority for fees charged)

- 4.1 Clause 51 of the Bill provides retrospective statutory authority for fees charged in connection with the following three services provided by a third-party supplier on behalf of the Home Office and the Department for Education (DfE):
- the Home Office Visas and Nationality Service;  
the DfE UK European Network of Information Centres Services (the UK ENIC Service); and  
the non-UK Early Years Qualifications Recognition Service.
- 4.2 This clause aims to address concerns raised by the House of Lords Secondary Legislation Scrutiny Committee that applicants have since 2008 been charged fees paid to a third party contractor, without statutory authority<sup>v</sup>. The clause seeks to retrospectively make such charges legal and avoid the need to repay them.
- 4.3 Due to the very short notice for this consultation response, we have had little time to consider this element of the Bill and make no comment here on Clause 51. Generally, the use of legislation to retrospectively change the law runs counter to the principles of fairness, transparency, and justice.

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<sup>i</sup> UNHCR, Legal Observations on the Illegal Migration Bill, May 2023, <https://www.unhcr.org/uk/sites/uk/files/legacy-pdf/641d7b664.pdf>

<sup>ii</sup> Ibid.

<sup>iii</sup> Independent Anti-Slavery Commissioner and ECPAT, Child Trafficking in the UK 2024: a snapshot [www.ecpat.org.uk/Handlers/Download.ashx?IDMF=3000811a-60bd-491e-88d2-3201080a2163](http://www.ecpat.org.uk/Handlers/Download.ashx?IDMF=3000811a-60bd-491e-88d2-3201080a2163)

<sup>iv</sup> Davies, et al, A Guardianship Service for All Unaccompanied Children in Wales: a research briefing, the Children's Society, Bevan Foundation, Children's Legal Centre Wales, and British Red Cross, 2024 <https://www.bevanfoundation.org/resources/calling-for-a-guardianship-service-for-every-unaccompanied-child-in-wales/>

<sup>v</sup> Free Movement Weekly Immigration Newsletter #42, <https://freemovement.org.uk/free-movement-weekly-immigration-newsletter-42/>

Dyddiad / Date: 28<sup>th</sup> March 2025

Gofynnwch am / Please ask for: Naomi Alleyne

Ebost / Email: [naomi.alleyne@wlga.gov.uk](mailto:naomi.alleyne@wlga.gov.uk)

Ms Buffy Williams MS  
Chair  
Children, Young People and Education Committee  
Senedd Cymru

Via Email

Dear Ms Williams

## **RE: Border Security, Asylum, and Immigration Bill LCM**

Thank you for your letter dated 20<sup>th</sup> March 2025. We welcome the opportunity to provide views on behalf of local government to support the scrutiny and deliberation of the Legislative Consent Motion (LCM) in relation to the Border, Security, Asylum, and Immigration (BSAI) Bill. This is a joint response submitted by the Welsh Local Government Association (WLGA) and Wales Strategic Migration Partnership (WSMP).

### ***The Bill in general***

Overall, the WLGA welcomes some of the provisions outlined in the BSAI Bill, particularly the introduction of Border Security Command to give wider tools to address the issue of smuggling gangs exploiting vulnerable people. Furthermore, the WLGA welcomes the intention to repeal the Safety of Rwanda (Asylum and Immigration) Act 2024 which looked at processing asylum seeking claims in Rwanda. We are of the view that sections of the Illegal Migration Act 2023 the Act are not fully compatible with the European Convention on Human Rights (ECHR), such as the power which prevented asylum claims from being processed based on how individuals had arrived in the UK.

Croesawn ohebiaeth yn y Gymraeg a'r Saesneg a byddwn yn ymateb i ohebiaeth yn yr un iaith.  
Ni fydd defnyddio'r naill iaith na'r llall yn arwain at oedi.

We welcome correspondence in Welsh and English and will respond to correspondence in the same language. Use of either language will not lead to a delay.

[wlga.cymru](http://wlga.cymru)

[wlga.wales](http://wlga.wales)

[@WelshLGA](https://twitter.com/WelshLGA)

However, the WLGA has concerns in relation to the inappropriate use of detention powers beyond 24 hours, the age assessment processes at port of arrival, which mean children may be moved through the adult asylum process, and continuation of the use of age assessment provisions.

***The remaining provisions in the Illegal Migration Act 2023, including whether they have any concerns about existing arrangements for unaccompanied children.***

Technically, all the IMA measures currently remain in the statute books, although some of the sections that raised some specific concerns are not currently in force. We also welcome the fact that previously inadmissible asylum claims are now being processed.

The Border Security, Asylum and Immigration Bill currently going through Parliament intends to repeal the IMA apart from the following sections: 12, 29, 52, 60, 62-65.

In relation to the sections of the Act that will not be repealed, in relation to children and young people, we have the following concerns:

- **s12** (extended powers to detain, including children) amends the detention powers so the Home Secretary has greater powers to detain people who are or appear to be subject to the duty to remove. While exceptions are made for pregnant women and unaccompanied asylum-seeking children (UASC), the Home Secretary has the discretion to detain them for such period the Home Office (not the courts) deem is necessary.

It has been well documented that detention can have severe psychological and emotional impacts on children, affecting their development and well-being.

- **s62** (credibility - applies to everyone) This section increases search powers conferred upon immigration officers but also states that failure to comply with search powers can negatively impact on a person's credibility and their asylum claim, as credibility is a crucial factor in the decision-making process. Children who do not comply with search powers may face legal consequences, which can further complicate their asylum process. The exercise of these powers could involve a substantial interference with the right to privacy ensured under the ECHR and the UNCRC and can be particularly distressing for children, affecting their mental health and well-being.

***Whether the Bill is compatible with the Rights of Children and Young Persons (Wales) Measure 2011, including what impact it would have on the 'child first, migrant second approach' which underpins the delivery of support to child asylum seekers in Wales.***

The Border Security, Asylum and Immigration Bill raises a number of concerns regarding its compatibility with the Rights of Children and Young Persons (Wales) Measure 2011. This Welsh Measure mandates that Welsh Ministers must uphold the rights outlined in the UN Convention on the Rights of the Child (UNCRC) when making decisions affecting children. These rights include promoting the best interests of the child, non-discrimination, the right to life and development, and the right to be heard.

The Committee will be aware that the Bill, which aims to enhance border security and reform the asylum system through new powers and data-sharing measures, has drawn criticism for

its potential incompatibility with human rights conventions, including the UNCRC, views which are reflected in the Senedd Committee [Report](#) into the LCM in June 2023.

In Wales, the principle of "child first, migrant second" emphasizes children's welfare above their immigration status. This is embedded in legislation such as the Social Services and Well-being (Wales) Act 2014. Stricter immigration measures proposed by the Bill could undermine this approach and conflict with the principles of the 2011 Measure. The Welsh Government has expressed serious concerns regarding the potential impact on the rights and support of child asylum seekers, a view which councils share.

We believe the Border Security, Asylum and Immigration Bill could have several significant impacts on unaccompanied asylum-seeking children, including:

1. **Criminalization:** The Bill will create new powers to strengthen law enforcement's ability to identify, disrupt and prevent serious and organized crime, including organised immigration crime, through new criminal offences. Methods of irregular entry can be dangerous and leave migrants open to exploitation by organized crime groups. Unaccompanied asylum-seeking children may be subject to these new offences, having been 'recruited' by traffickers due to their age and vulnerability, and end up being prosecuted as criminals and smugglers.

Children who are wrongly assessed as adults are at risk of being wrongly convicted of crimes of illegal entry or facilitating illegal entry. The criminalization of unaccompanied asylum-seeking children conflicts with the principles of treating them as "children first, migrants second," which emphasizes their rights and welfare over their immigration status. It is imperative that the well-documented and ongoing issues with the age assessment process are addressed.

2. **Detention:** While extended child detention powers in the IMA have now been scrapped, the Bill retains expanded detention powers from previous legislation, allowing for the detention of children in certain circumstances. Furthermore, the Children's Commissioner for England has [highlighted](#) that children, who had just arrived in the UK after difficult and often traumatic journeys, were frequently being held at the Kent Intake unit for extensive periods of time. 1 in 5 unaccompanied children were detained for over 24 hours between April and September, even though detention over 24 hours is banned under the Immigration Act 2014, and longer detention is only permitted in 'exceptional circumstances' following Home Office Secretary of State authorization. It is well-evidenced that detention can have severe psychological and emotional impacts on children, affecting their development and well-being. The use of detention for children raises serious legal and ethical concerns, particularly regarding their rights under the UN Convention on the Rights of the Child (UNCRC) and the Rights of Children and Young Persons (Wales) Measure 2011.
3. **Age Assessments:** the repeal of the age assessment provisions in the Illegal Migration Act 2023 is welcome and the UK Government have been [urged](#) to take further steps to repeal those currently in force from the Nationality and Borders Act 2022, which erode the rights of children and young people and must be dismantled to ensure full protection under UK law. The Bill *continues to apply* age assessment provisions from the Nationality and Borders Act 2022, including the use of scientific age assessments-which is reflected in current [Home Office guidance](#). These assessments can be invasive and stressful for young people, and there are concerns

about ethics and their accuracy and fairness. The British Medical Association has strongly expressed their concerns on the use of scientific processes to establish the age of a young person, with particular emphasis on the accuracy and ethical concerns and the impact on Children's Rights. They recommended that age assessments should be conducted using holistic, multi-disciplinary approaches that consider the child's physical, psychological, and social development. The WLGA has raised similar concerns previously in consultation responses.

Alongside the British Medical Association, the [Refugee Children's Consortium](#) has recommended that the Home Office end the failed exploration of inaccurate 'scientific' methods of assessing age and the Consortium asks UKG to repeal section 52 of NABA. which would force children to undergo scientific tests or risk their credibility being undermined.

4. **Support Services:** Incorrect age determinations can result in children being treated as adults (or adults treated as children), affecting their access to child-specific support services and impacting their access to education, healthcare, and social services. A previous [WLGA response](#) highlighted the extent of the problem of incorrect age assessments, citing evidence from an Freedom of Information request to councils, which found that in 2022, 70 councils reported at least 867 children being identified in adult asylum accommodation as a result of inaccurate age assessments at port. Further evidence of systemic issues with age assessments and issues with the Home Office-led National Age Assessment Board is available [here](#).

The potential criminalization of children and young people, the inappropriate use of detention for periods beyond 24 hours, and the age assessment provisions in the Border Security, Asylum and Immigration Bill risk undermining the principles enshrined in the Rights of Children and Young Persons (Wales) Measure 2011. By prioritizing immigration enforcement over children's rights, we believe the Bill conflicts with the "child first, migration second" approach, central to protecting the welfare and interests of unaccompanied asylum-seeking children in Wales regardless of their immigration status. Our concerns around the diminishment of this 'child first' approach have been set out in a previous [response](#).

Those arriving in the UK to seek sanctuary, including children and young people are likely to have experienced adversity and traumatic events throughout their migration journey, it is essential that the safety, well-being, meeting of care and support needs and safeguarding Best Interests of all children, including asylum-seeking children must be at the heart of any legislation or decisions made. It is also important that we better understand and learn from their experiences to date.

Yours sincerely,

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