

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



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref: Correspondence received
from Education Otherwise
Ein cyf/Our ref: EHE letter to LJC Committee

Huw Irranca Davies MS
Chair
Legislation, Justice and Constitution Committee
SeneddLJC@senedd.wales

29 November 2022

Dear Huw,

Thank you for your letter of 2 November 2022 regarding correspondence received by the Legislation, Justice and Constitution Committee from Education Otherwise.

The legal framework underpinning the new statutory guidance for elective home education and the database proposal is set out in the [draft statutory guidance](#) published for consultation in 2019.

In short, our intention is to issue:

- 1) new statutory guidance to local authorities under section 436A of the Education Act 1996 (“the 1996 Act”);
- 2) new regulations, the draft Children Act 2004 Education Database (Wales) Regulations (“the draft Database Regulations”), under section 29 of the Children Act 2004 (“the 2004 Act”); and
- 3) new regulations, the draft Education (Information about Children in Independent Schools) (Wales) Regulations (“the draft Information Regulations”) under section 537A of the 1996 Act.

We are committed to ensuring that all children and young people in Wales receive a suitable education and given the chance to thrive and fulfil their potential, in all educational settings. The Government has adopted the UNCRC¹ as the basis for all its work for children and young people. The Rights of Children and Young Persons (Wales) Measure 2011² imposes a duty on Welsh Ministers to have due regard to children’s rights, as set out in the UNCRC.

¹ <http://www.unicef.org.uk/what-we-do/un-convention-child-rights/>

² <http://www.legislation.gov.uk/mwa/2011/2/contents>

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

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

The Children's Rights Scheme 2014³ sets out the arrangements for Welsh Ministers to comply with the duty to have due regard to children's rights when exercising any functions.

Article 28 of the UNCRC states that all children have a right to an education and that primary education should be compulsory and free. Article 29 states that education should develop each child's personality and talents to the full.

In line with Government policy, a Children's Rights Impact Assessment ([CRIA](#))⁴ was published on the Government's website in January 2020, in parallel with the consultation on the Children Act 2004 Education Database (Wales) Regulations 2020 and the Education (Information about Children in Independent Schools) (Wales) Regulations 2020⁵.

With reference to safeguarding, we have acknowledged in our correspondence with EHE representative groups and families that there is no evidence to suggest that home educated children are at greater risk of neglect or abuse than children who are educated at school. However, as with any child regardless of where they are educated, there may be circumstances which, individually or combined, give practitioners cause to seek further information about a child. Part 7 of the Social Services and Well-being (Wales) Act 2014 (the 2014 Act) sets out what must and should be done to safeguard children and adults. This applies to all children regardless of where and how they receive their education.

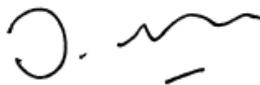
Children who are home educated are not the target of truancy sweeps but could come into contact with local authority officers as they may be being educated outside of traditional school hours and mainstream educational settings.

In such circumstances local authority officers would be expected to make informal enquiries as to the educational status of the child, in order to establish that they are receiving a suitable and efficient education, in line with section 436A of the Education Act 1996.

Finally, I'd like to assure you that the correspondence from Education Otherwise along with the views of all stakeholders have and continue to be given due consideration by officials in the formulation of this policy.

I hope you find this information helpful.

Yours sincerely,

A handwritten signature in black ink, consisting of a stylized 'J' followed by a wavy line and a short horizontal stroke.

Jeremy Miles AS/MS

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³ <https://gov.wales/sites/default/files/publications/2020-10/childrens-rights-scheme-2014.pdf>

⁴ <https://gov.wales/sites/default/files/consultations/2020-01/children-rights-impact-assessment.pdf>

⁵ <https://gov.wales/local-authority-education-databases>