

Dawn Bowden MS  
Minister for Children and Social Care

9 May 2025

Dear Dawn,

## The Special School Residential Services (Service Providers and Responsible Individuals) (Wales) Regulations 2024

At the meeting of the Legislation, Justice and Constitution Committee on 6 May 2025, the Committee noted a letter from Julie James MS, Counsel General and Minister for Delivery, which outlined the Welsh Government's commitments to correct statutory instruments where errors have been identified by the Committee in our reports to the Senedd.

You will be aware that the Committee's report identified several issues with The Special School Residential Services (Service Providers and Responsible Individuals) (Wales) Regulations 2024 ("the 2024 Regulations"). Reporting point three stated:

*"Regulation 1(3) defines a DBS certificate as the certificate referred to in paragraphs 2 and 3 of Schedule 1. The words "the certificate" indicate a single certificate but paragraphs 2 and 3 refer to different certificates. It is not clear whether both certificates are covered by the definition, in which case the plural word should be used, or whether the certificates should be defined separately."*

In response, the Committee was told:

*"Even though the definition refers to 2 certificates, this is unlikely to be a problem in practice as it will be clear which type of certificate should be applied for. Even though there is a reference to 2 types of certificates either one may be required depending on the circumstances. A small alteration to the wording may assist the reader, but this is not an urgent amendment required to the regulations and will be reviewed at the earliest opportunity to amend."*

In her letter to us dated 28 April 2025, the Counsel General told the Committee “it would not be appropriate to alter the wording as this would create an unwelcome difference with the same wording used in five other sets of Regulations. No further action will therefore be taken.”

The Committee acknowledges that consistency is important, but notes that this does not necessarily mean that precedent wording should continue to be used when more accessible phrasing is available.

Further, the Committee is not aware of any other definition of “DBS certificate” in subordinate legislation using the same wording as the 2024 Regulations. As far as the Committee is aware, the closest equivalent definition appears in five sets of Regulations from 2019. For example, regulation 1(3) of the Adult Placement Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019/163 provides that (emphasis added):

“DBS certificate” (“tystysgrif GDG”) means a certificate of a type referred to in paragraph 2 or 3 of Schedule 1;

In our view, this wording is clearer and more accessible than the wording used in the 2024 Regulations:

“DBS certificate” (“tystysgrif GDG”) means the certificate referred to in paragraphs 2 and 3 of Schedule 1;

The Committee would therefore welcome confirmation as to which sets of Regulations the Counsel General’s letter refers. If the letter refers to the five sets of Regulations from 2019 then the Committee would welcome an explanation as to why the wording of the 2024 Regulations cannot be amended to match.

The Committee would welcome a response by 28 May 2025.

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