
Ymateb i Ymgynghoriad / Consultation Response

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Background information about Estyn

Estyn is the Office of Her Majesty's Inspectorate for Education and Training in Wales. As a Crown body, Estyn is independent of the Welsh Government.

Estyn's principal aim is to raise the standards and quality education and training in Wales. This is primarily set out in the Learning and Skills Act 2000 and the Education Act 2005. In exercising its functions, Estyn must give regard to the:

- Quality of education and training in Wales;
- Extent to which education and training meets the needs of learners;
- Educational standards achieved by education and training providers in Wales;
- Quality of leadership and management of those education and training providers;
- Spiritual, moral, social and cultural development of learners; and,
- Contribution made to the well-being of learners.

Estyn's remit includes (but is not exclusive to) nurseries and non-maintained settings, primary schools, secondary schools, independent schools, special schools, pupil referrals units, further education, adult community learning, local government education services, work-based learning, and teacher education and training.

Estyn may give advice to the Assembly on any matter connected to education and training in Wales. To achieve excellence for learners, Estyn has set three strategic objectives:

- Provide accountability to service users on the quality and standards of education and training in Wales;
- Inform the development of national policy by the Welsh Government;
- Build capacity for improvement of the education and training system in Wales.

This response is not confidential.

Response

Introduction

We support the introduction of regulations that will require each local authority to establish and maintain its own database of all compulsory school age children in its area. We support the proposed requirement that local health boards and independent schools share annually basic information about children known to them with relevant local authorities. The proposed regulations will strengthen local authorities' ability to identify all children of compulsory school age in their area, and assess the suitability of their education.

The proposal supports local authorities and Welsh Government to uphold articles 28 and 29 of the United Nation Conventions on the Rights of the Child, relating to the right for all children in Wales to receive a suitable education.

Consultation questions

Question 1 – The draft regulations require local health boards and independent schools to disclose to local authorities (LAs) the information listed in Schedule 1 to the regulations. This will assist the LA in identifying children of compulsory school age in their locality currently not known to them.

i) Do you think that the information requested is reasonable and proportionate? What are the reasons for your answer?

Yes. A local authority can only fulfil their statutory duty to ensure that all children of compulsory school age are receiving a suitable education if they know of all the children that reside in their area. It is, therefore, reasonable and proportionate to require local health boards and independent schools to share with the relevant local authority basic information about children known to them.

ii) If you do not think that the information requested is reasonable and proportionate, what would you propose is the best way(s) for LAs to meet their duty to identify children of compulsory school age to ensure they are receiving a suitable education?

N/A

Question 2 – Currently there is a situation where LAs are responsible for children in their area that they do not know about. Under section 436A of the Education Act 1996 LAs must make arrangements to enable them to establish (so far as it is possible to do so) the identities of children in their area who are of compulsory school age but i) are not registered pupils at school, and ii) are not receiving a suitable education otherwise than at school. Do you think the database will help LAs, as far as it is possible to do so, to identify children not currently known to them and/or children missing education in their area? What is the reason for your answer?

Yes, the database will enable local authorities to have a reasonably comprehensive database of all children of compulsory school age in their area.

Question 3 – Without a database, what reliable and consistent alternative method would enable the LA to identify a child they have no prior knowledge of?

Existing approaches are not reliable or consistent, including the use of the live birth registers and school deregistration notifications. It is difficult to foresee any other method being as reliable and consistent as a database that collates essential information about children of compulsory school age from a range of appropriate sources.

As the database will provide for an annual check, rather than being a live database, it would be prudent for local authorities to continue using existing methods, such as school deregistration notifications, to identify children of compulsory school age in their area who are not in an educational establishment. We would encourage independent schools to be pro-active in notifying local authorities of new pupils residing in the local area who join the school rather than waiting for the annual check. These actions may enable a local authority to assess the suitability of a child's education sooner than if it had waited for the annual database check.

Question 4 – The draft Children Act 2004 Education Database (Wales) Regulations 2020 propose local health boards disclose the information in Schedule 1 to LAs annually. Do you agree with an annual return? If not, how often do you think this information should be provided to LAs and when would the most appropriate time be?

We believe that an annual return places pupils who are not receiving a suitable education, at significant risk. A termly (3 times a year) return would be more appropriate and in our view achievable.

Question 5 – The Draft Education (Information about Children in Independent Schools) (Wales) Regulations 2020 propose independent schools disclose the information in Schedule 1 to LAs annually. Do you agree with an annual return? If not how often do you think this information should be provided to LAs and when would the most appropriate time be?

We believe that an annual return places pupils who are not receiving a suitable education, at significant risk. A termly (3 times a year) return would be more appropriate and in our view achievable.

Question 6 – What would be the implications of a more frequent data return in terms of technical, administrative and resource implications on:

i) local health boards

Local health boards are best placed to answer this question.

ii) independent schools

Independent schools are best placed to answer this question.

iii) LAs

Local authorities are best placed to answer this question.

iv) other.

No response.

Question 7 – Who, within the LA, would need access to the database in order to carry out their functions?

Local authorities are best placed to answer this question.

Question 8 – Do you think anything in the draft regulations could have a disproportionate impact on those with protected characteristics, and if so, what?

We are of the opinion that the draft regulations would not have a disproportionate impact on those with protected characteristics.

Question 9 – Does this proposal allow for the LA to meet their section 436A duty to make arrangements to identify children in their area who are of compulsory school age and not receiving a suitable education?

The proposed database may not guarantee that every child of compulsory school age in an area will be identified. However, it will provide a notably more reliable and consistent method for identifying children than is currently the case.

Question 10 – In order to identify the effectiveness of the database the Welsh Government will request from LAs an annual return on the number of children identified using the database not currently known to LAs. When would be the most appropriate and reasonable time to request this?

Local authorities are best placed to answer this question.

Question 11 – Do you think a voluntary database of all statutory school-age children ordinarily resident within an LA area would assist LAs to meet their section 436A duty?

The consultation document does not refer to a voluntary database and how this may operate alongside, or instead of, the database proposed in the consultation document. The proposed database will provide a reliable and consistent method to assist local authorities to identify children of compulsory school age in their area.

Question 12 – What, if any, advantages and disadvantages do you think there would be in the disclosing of the required data to populate the database? Complete section relevant to you.

i) Parents/carers

Advantage: clarity about how local authorities will have access to information that enables them to identify any children of compulsory school age.

ii) Children and young people

Advantage: Reduced risk of children of compulsory school age not receiving a suitable education

iii) Local health boards

No response.

iv) Independent schools

No response.

v) LAs

Advantage: Improved likelihood of being able to identify all children of compulsory school age, and therefore assess that all these children are receiving a suitable education.

vi) Other

Advantage to Welsh Government: greater assurance that all children of compulsory school age are known to local authorities and receiving a suitable education.

Local health boards

Question 13 – Do existing protocols concerning data of children who have died ensure that any processing of that data does not lead to any inappropriate communications with families?

No response.

Question 14 – Can you identify any key privacy risks and the associated compliance and corporate risks?

No response.

Question 15 – Do you have any previous experience of this type of data disclosure/processing?

No response.

Question 16 – What are the resource and technical implications of processing and disclosing the required data to LAs?

No response.

Independent schools

Question 17 – Can you identify any key privacy risks and the associated compliance and corporate risks?

No response.

Question 18 – Do you have any previous experience of this type of processing?

No response.

Question 19 – What are the resource and technical implications of processing and disclosing the required data to LAs?

No response.

LAs

Question 20 – Is there anything missing from the Schedule of Information to be included in the database?

No response.

Question 21 – Do existing protocols concerning data of children who have died ensure that any processing of that data does not lead to any inappropriate communications with families?

No response.

Question 22 – Can you identify any key privacy risks and the associated compliance and corporate risks?

No response.

Question 23 – Do you have any previous experience of this type of processing?

No response.

Question 24 – We would like to know your views on the effects these draft regulations would have on the Welsh language, specifically on:

- i) opportunities for people to use Welsh
- ii) treating the Welsh language no less favourably than the English language.

What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Supporting comments

Neutral impact.

Question 25 – Please also explain how you believe the proposed regulations could be formulated or changed so as to have:

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language
- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Supporting comments

No response.

Question 26 – We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

No response.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here: