

Jeremy Miles AS

Gweinidog y Gymraeg ac Addysg

12 Gorffennaf 2023

## **Canllawiau statudol ar addysg ddewisol yn y cartref**

Annwyl Jeremy,

Diolch i chi am eich llythyr diweddar ar addysg ddewisol yn y cartref, dyddiedig 2 Mehefin, yn rhoi eglurder o ran amserlenni ar gyfer y rheoliadau drafft a'r Llawlyfr i rai sy'n Addysgu yn y Cartref. Gwnaethom ystyried y llythyr hwn yn ein cyfarfod ar 14 Mehefin.

Yn y cyfarfod hwn, gwnaethom hefyd ystyried gohebiaeth gan nifer o bobl a oedd yn mynegi pryderon am y canllawiau statudol a gyhoeddwyd yn ddiweddar ar addysg ddewisol yn y cartref. Trafodwyd y rhain yng nghyd-destun eich datganiad diweddar ar y canllawiau a wnaed yn y Cyfarfod Llawn.

Fel y gwelwch o'r copïau amgaeedig, mae rhai o'r ceisiadau y tu allan i bwerau neu gylch gwaith unrhyw un o bwyllgorau'r Senedd. Gofynnodd ambell un a fu'n gohebu â ni ein bod yn edrych ar gyfreithlondeb y canllawiau, ond fel y gwyddoch, mater ar gyfer y llysoedd yw cyfreithlondeb. Tra bod eraill wedi gofyn i'r Pwyllgor neu'r Senedd oedi cyn gweithredu'r canllawiau nes bod rhagor o waith craffu wedi'i gyflawni. Fel y gwyddoch hefyd, nid yw hwn yn bŵer sydd ar gael naill ai i'r Senedd nac i un o bwyllgorau'r Senedd. Fodd bynnag, byddem yn croesawu eich barn ar y materion eraill a godwyd gan rhai a fu'n gohebu â ni.

Cytunwyd y bydd materion yn ymwneud â theuluoedd yn teimlo nad oes ganddynt ddewis ond symud i addysg yn y cartref oherwydd diffyg cefnogaeth gywir o fewn y system ysgolion yn cael eu hystyried yn ein dau ymchwiliad perthnasol. Yr ymchwiliadau hyn yw: [A yw plant a phobl ifanc anabl yn cael mynediad cyfartal at addysg a gofal plant?](#); a [Gweithredu diwygiadau addysg](#).

Yn benodol, hoffem dynnu eich sylw at y sylwadau am y broses ymgynghori a'r broses ymgysylltu mewn cysylltiad â datblygu'r canllawiau (gweler, er enghraifft, gyflwyniadau 3, 15 a 24.) Rydym yn

pryderu nad oedd y rhai a ysgrifennodd atom yn teimlo bod eu lleisiau na'u profiadau wedi cael gwrandawriad fel rhan o'r gwaith o ddatblygu'r canllawiau hyn. Byddem yn ddiolchgar pe gallech ymateb i'w pryderon. Pa waith pellach y gellir ei wneud, neu y bwriedir ei wneud, i helpu i wella perthnasoedd rhwng y rhai sydd yn addysgu yn y cartref sy'n teimlo'n gryf am y canllawiau newydd â Llywodraeth Cymru?

Byddem yn gwerthfawrogi cael ymateb erbyn 14 Medi.

Rwy'n copio'r llythyr hwn at gadeirydd y Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad; a chadeirydd y Pwyllgor Cydraddoldeb a Chyfiawnder Cymdeithasol gan fy mod yn credu eu bod hwythau wedi cael gohebiaeth debyg.

Yn gywir,



Jayne Bryant AS  
Cadeirydd

Wedi'i hatodi: Gohebiaeth ynghylch addysg ddewisol yn y dartref

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.

**Gohebiaeth a gyflwynwyd i'r Pwyllgor Plant, Pobl Ifanc ac Addysg ynghylch canllawiau ar addysg ddewisol yn y cartref.**

**Correspondence submitted to the Children, Young People and Education Committee regarding guidance on elective home education.**

### **Cyflwyniad / Submission 1**

I am writing with regards to the new home education guidance that has been published on Friday.

As a home educating parent in Wales, I am deeply concerned about the new guidance, as is every home educator we know. The new regulations are very intrusive and the wording of the guidance is very negative towards home education, which will not help to develop positive working relationships between parents and the LA. The new guidance is disproportionate. There is no evidence that home educated children are at risk, and the millions of pounds that this intrusive monitoring is proposing is a complete waste of money, which I am sure could be much better used to improve the quality of children's lives and education.

Please see the legal advice that was sought on the matter by the home educating community here.

[LJC6-07-23 - Paper 18 - Letter from Families First in Education Wales 21 February 2023.pdf \(senedd.wales\)](#)

I can understand visits if there is a concern about a child or family, but for us parents who dedicate our lives to ensuring that our children are happy and receive an excellent education, this is not only unnecessary and of no benefit to us whatsoever, but completely intrusive and detrimental to their education. As I am sure you can appreciate, it is pretty full-on home educating and our time is very precious. Trying to fit in their school work each day, along with their groups that they attend every day and meeting with their friends etc. Having to waste precious hours on gathering evidence, writing reports and preparing things for a stranger (likely without teaching qualifications) to judge is of no benefit to our children and will waste a huge amount of time that should be spend on educating our children instead. The beauty of home education is that their education is for them and not to show someone else. I work with them every day so I know exactly what they know or need extra work on, without the need for recorded evidence of this. I feel our right to a private family life is being invaded.

There are also those children with special educational needs or other complex issues, who do not want to talk to strangers entering their homes and this will cause a great deal of anxiety and stress to those families unnecessarily.

I hope that the guidance can be fully debated and that a lot of this can be changed. I believe that the current guidance already serves the needs of ensuring children are receiving a suitable education in a far less intrusive and negative way than the new proposed guidance.

## **Cyflwyniad / Submission 2**

I am writing with my concerns about the new home education guidance, I have highlighted a few points but feel that the guidance needs further review throughout and as such should be paused and not implemented.

Firstly, how will the register be created? Will it be a legal requirement? I fear that there are some data protection issues to address with the current proposals.

The guidance seems to undermine parental primacy in our children's lives as the education of a child is the responsibility of the parents.

I question the EHE officers' ability to assess the suitability of a child's education with an once a year visit and wonder not only how this will be implemented, but if it will lead to further invasion of our family lives and alter the way that many educators support their children once there is the need for evidence. In addition to that what is deemed suitable evidence and progress, who determines this?

The insistence that the child/children participate in the meetings is also unwarranted, if there are no concerns why would an individual have the right to demand a meeting with them? Does the child/children and their parents not have the right to decide who they meet with?

The local authorities are already over stretched how will they be able to support home education or is this just an exercise to create a register and an assessment process? If so what benefit is this to anyone?

The guidance even goes as far to say that there is no appeals process upon assessment, this is also very concerning.

The home education community is a vibrant and active community providing enriching, fulfilling lives for our children. Home education is not missing in education and I object home education being treated as a red flag. There are so many ways that

the local authority could choose to support this community and yet choose to register and check them. I feel the money spent on this register should be put to better use helping children in need through our underfunded and over stretched social services, schools and NHS.

### **Cyflwyniad / Submission 3**

I write to formally request that your committee fully investigates the newly published Welsh Government guidance on Elective Home Education,

There are many areas that required investigation by the CYPEC including the impact on families and children in Wales. However in the first instance I request that the CYPEC investigate the areas of unlawfulness, including how it would place duties on Welsh Local Authorities to act unlawfully, as that surely has to be a priority for the Senedd to establish for this secondary legislation.

I request that, as well as your own deliberations, the CYPEC draws on legal advice in scrutinising the guidance and fulfilling the responsibilities of the Senedd to hold the Welsh Government to account.

This will necessarily take some time to allow adequate scrutiny and to ensure that Welsh Government does not proceed with unlawful statutory legislation.

Therefore I request that the Committee instruct that **this guidance is not implemented or progressed until there has been full and formal scrutiny of it by the Senedd.**

I request that in scrutinising the guidance, you give full consideration to the **two reports of David Wolfe QC**, which, for example, clearly and repeatedly demonstrate how insistence that every child has to be "seen" is unlawful.

Likewise, I ask for full consideration of any subsequent legal reports submitted to Welsh Government and/or the Committee.

In addition I ask you to fully appropriate the legal points in the **formal rebuttal** of the former CCfW report on EHE in Wales.

I request that the Committee's investigations also address

- the issues of the requirement to provide evidence in every case to prove innocence in the absence of specific concerns in individual cases. How the guidance is based on the assumption that parents are considered to be not honouring their children's rights, not allowing their voices to be heard and not providing a suitable education until the parent and child prove themselves to be.

- the mistaken assumption that the State has a duty to ensure every child has a suitable education, which was explicitly stated in multiple communications from the Welsh Government in trying to justify these proposals and which is implicit throughout. This misassumption leads to a reversal of the lawful principle that education is the responsibility of the parent, not the state.
- the implications for the state becoming liable for failures in education if it is shifting the balance of power and assuming the role of being the one that is responsible. At present parents cannot sue schools for failures because education is the responsibility of the parent not the state and if a child is in school it is because the parent has chosen to put them there.
  
- how parents and children are not "free" to decline meetings when under threat of legal proceedings and social services involvement if they do so. coercion is not informed consent.
- the assumption that choosing not to accept a coerced meeting deemed necessary purely because of a lawful choice of educational approach is an automatic safeguarding concern requiring social service involvement; please investigate the lawfulness and the significant impact of this on law-abiding families and on the diversion of already overstretched social service resources away from those children who are genuinely in need.
  
- how the expectations of what has to be provided for a EHE child are significantly different from LA provision for EOTAS children.
  
- the discriminatory aspects of how school children will not be similarly interviewed about their feelings, opinions and beliefs of their school-based education and moves put in place to transition them to home education if they express that is their preference, as treating EHE as lesser than school based education is contrary to the Education Act.
  
- how children's rights, including those to privacy, are being misinterpreted or ignored.
  
- the lack of advocacy for families and children coerced into non-consensual interviews that have major legal and personal implications for each child, the lack of appeals process.
- the lack of due process for insisting on non-consensual or coerced interviews. At present, a child can only be interviewed without free parental consent if there is a court order demonstrating significant and reasonable risk of harm in that individual case. Generic non-consensual coerced interviews with whole sections of society purely on the basis of their lifestyle choice or philosophical ethos are not lawful.

Furthermore I ask you to investigate **if due process has been followed** in preparing and laying out this guidance. for example:

- The consultation process was not completed, with meetings cancelled due to Covid and not rescheduled and complaints from home educators regarding the conduct of those meetings that were held not addressed.
- Likewise could the Committee investigate if all the appropriate assessments have been conducted and to an appropriate standard, such as RIA.
- I am also aware that the present CCfW had requested a full evaluation plan would be conducted and published in association, however this has not been the case.

I also ask you to give due consideration to the following points and questions regarding **data protection and data sharing issues** - This list of data issues is also attached as a separate document.

1. 3.7 – are routine ISPs for LAs to share data about children in other LAs lawful if the child is NOT deemed at specific risk? That is, it is lawful to share data between LAs in the absence of specific risk and purely because they are home educated?
2. 3.11 – is it lawful for police and “professionals” to share data about children with other agencies purely because they are home educated and in the absence of any specific risk of harm?
3. 3.11 Is the wording on “*professionals*” too loose here? Does that mean that it is acceptable for doctors, dentists etc to inform the LA that a child is home educating in the absence of any specific concerns of risk but purely because they are home educating?
4. 3.13 is it lawful for LAs to “***have data sharing agreements to facilitate cross checking of children entering statutory provision against partner databases (such as early years, childcare teams and health)***” and to do so routinely for all children rather than in specific cases if there were evidence of concerns about individual children? Please note that they intend to cross reference HEALTH databases with educational ones without consent. This would be a deterrent from those who wish to avoid coerced, mandatory and likely unlawful meetings with LAs from placing themselves and their children onto health databases and thus accessing health care.
5. 3.14 and 3.15 – these points conflate the concepts of CME with an EHE child where the LA know that the child is EHE not CME but then may not know the location of that child if they move homes. Is data sharing acceptable and lawful if the EHE child who has moved home is not deemed a child at risk?
6. 3.16-3.19 – are these measures lawful and is it lawful for LAs to use them routinely to identify any children who are home educated in the absence of risks about individual children?

7. 4.19-4.30 –

a. Is it lawful for the LA to request such large volumes of data and information from families in the absence of specific risk or concern in each case? Please note they would routinely request information from **every** child and parent (not only where there is specific consideration of risk) on

i. Education

ii. Socialisation and  
social opportunities

iii. The child's beliefs  
and opinions about their family life in terms of their  
choice of educational approaches.

b. It is lawful for LAs to do so when the families are providing this information not "freely" but under coercion of threats of legal proceedings such as school attendance orders and social services involvement if they do not agree to meetings and to providing whatever information the LA request?

c. 4.28- 4.29. Whose property is whatever is done by the child in the course of their learning? (Sometimes termed "work" in the guidance, although many forms of home education do not involve "work" in terms of replicating school-like "work" as is alluded to earlier in the guidance).

i. Should a child of  
the age of consent be forced or coerced into sharing  
information about or examples of their learning or "work".

ii. Should a child who  
is not able to give consent due to age or ALNs be forced  
or coerced into sharing information about or examples of  
their learning or "work"?

iii. Should a parent be  
forced or coerced into sharing examples of learning or  
"work" that their child has done?

8. 4.39-4.41 – should there be any protections on



a. In terms of what this written report contains - should there be an independent body to assess any disputes about the relevance, validity and accuracy of the content?

b. Who this report can be shared with and how it can be used?

i. especially how can the information in such a report be used when the parents and children would not have consented to provide the information but for coercive effect of threats of legal action such as SAOs and social services involvement

ii. and/or if the LA plan to use the report without consent of the family?

9. (side point 6.9-6.12 – is there any need for clarity that data should not be shared with these bodies without consent?)

10. 7.21 "Data protection legislation allows for the sharing of information and should not be automatically used as a reason for not doing so. One of the specific circumstances which provides for information sharing is to prevent abuse or serious harm to others. When information is not shared in a timely and effective way, decisions made may be ill informed and lead to poor safeguarding practice and leave children at risk of harm."

a. What data legislation are they referring to? Is this phrasing likely to lead LA employees to disregard laws and rules on data sharing and privacy? Is this phrasing mean that data sharing without consent to be used as a general principle rather than an exception in individual cases where there is a justifiable and demonstrable reason to do so?

b. Is there evidence of clarity of what is meant by "serious harm" either in this guidance or in an appropriately rigorous training programme for LA employees utilising this guidance?

c. Should the public have sight of all training and procedures for when data sharing is and is not considered appropriate? Should that information be clarified by Welsh Government in their guidance or left to individual LAs? If the latter, who is accountable to ensuring all are compliant with the law?

**Cyflwyniad / Submission 4**

I am emailing to ask that the Senedd ensures the Welsh Government guidance on Elective Home Education is paused and not implemented until the Senedd has had full chance to scrutinise the unlawfulness and impact of the guidance.

### **Cyflwyniad / Submission 5**

The Minister of Education has released new Statutory Guidance for Home Education (12th May 2023).

Whilst the guidance has some limited understanding of home education. The document contains many contradictions, and questionable requirements for Local Authorities making it an unworkable, counterproductive document for both Local Authorities and home educators.

Local Authorities and home educators would like to have a mutually respectful co-operative relationship. The underlying tone and content of this document, in its current form, does not aid in that relationship.

The community has previously funded legal opinion and a rebuttal, which we ask you to consider. This has previously been sent to the Legislation, Justice and Constitution Committee can be viewed here

<https://business.senedd.wales/documents/s134220/LJC6-07-23%20-%20Paper%2018%20-%20Letter%20from%20Families%20First%20in%20Education%20Wales%2021%20February%202023.pdf>

The Chair of the LJCC wrote to the CYPE Committee regarding this matter on 7th March 2023.

The Education Department's civil servants are unable to tell us which sections of the guidance are statutory and which are non statutory, despite drafting the guidance.

The Children's Commissioner has voiced she was 'disappointed [with the lack of ] an evaluation plan to be published alongside any new guidance' (The Children's Commissioner for Wales, 16th May 2023)

Whilst we as parents and carers do not have appropriate legal knowledge on what is considered lawful. The guidance appears rushed with many errors that are most questionable in this regard and so we ask that the committee launch an urgent enquiry into the home education statutory guidance that has been published, in

order for the document to be thoroughly scrutinised to ensure it has been appropriately assessed and due process has been followed.

### **Cyflwyniad / Submission 6**

I am writing to you to ask if you would launch an enquiry into the recently published guidance Elective Home Education.

I am extremely concerned about the negative impact this will have on home educated children especially in the area of respecting privacy and home life. Children may be expected to have face to face meetings without their consent to ensure suitability of education, with the added pressure of feeling if they don't perform well they will be sent to school.

This will threaten their entire way of life and the personalised education that they are currently receiving.

### **Cyflwyniad / Submission 7**

I am writing to you in your capacity as chair of CYPEC concerning proposals for new Home Education Guidance for Local Authorities

I have sent the following email to the Education Minister, can you help with this?

*Dear Mr Miles*

*I am contacting you in your capacity as Education Minister concerning proposals for new Home Education Guidance for Local Authorities.*

*How are you expecting Local Authorities will implement their duties regarding the new ALN Act for Home Educated Children when they are already under immense pressure within the state system. Waiting times for support are already too long to support families.*

*How will authorities comply with the new ALN code and Home Education proposals?*

*What funding has been allocated for ALN within Home Education?*

How are Welsh Government expecting Local Authorities will implement their duties regarding the new ALN Act for Home Educated Children when they are already under immense pressure within the state system. Waiting times for support are already too long to support families.

How will Authorities comply with the new ALN code and Home Education proposals?

What funding has been allocated for ALN within Home Education?

## **Cyflwyniad / Submission 8**

Whilst I am pleased to note that WG have recognised in paragraph 1.12 the alternative approach home educators take to that of a state education and in paragraph 4.20 that any enquiry the Local Authority conduct should be sensitive to the family circumstances, the guidance has limited understanding of home education. The document contains many contradictions, and questionable requirements for Local Authorities making it an unworkable, counterproductive document for both Local Authorities and home educators.

Local Authorities and home educators would like to have a mutually respectful co-operative relationship. The underlying tone and content of this document, in its current form, does not aid in that relationship. I, and hundreds of other home educating families, are very concerned about the content of the guidance. In particular the requirement in paragraph 4.28

*"meetings that state Local Authorities should ask to see examples of learning, a variety of work both complete and incomplete in varying standards".*

Also paragraph 4.21 is particularly conflicting.

Welsh Government are taking **some** of the rights of children and implying that children are **obligated** to meet with the Local Authority and that the authority have greater jurisdiction over a child than a parent. They are combining the child's right to voice their opinion, with the suitability of education which section 436a of the education act does not require. Welsh Government are implying that it is only the state that can hear the voice of a child and not a parent. We are parents taking care of our own children.

The community has previously funded legal opinion and a rebuttal, which we ask you to consider. This has previously been sent to the Legislation, Justice and Constitution Committee can be viewed here <https://business.senedd.wales/.../LJC6-07-23%20-%20Paper...>

The Chair of the LJCC wrote to the CYPE Committee regarding this matter on 7th March 2023

The Education Department's civil servants are unable to tell us which sections of the guidance are statutory and which are non statutory, despite drafting the guidance.

The Children's Commissioner has voiced she was 'disappointed [with the lack of ]

an evaluation plan to be published alongside any new guidance' (The Children's Commissioner for Wales, 16th May 2023)

Whilst we as parents and carers do not have appropriate legal knowledge on what is considered lawful. The guidance appears rushed with many errors that are most questionable in this regard and so we ask that the committee launch an urgent enquiry into the home education statutory guidance that has been published, in order for the document to be thoroughly scrutinised to ensure it has been appropriately assessed and due process has been followed.

### **Submission 8a**

General Comment No. 12 (2009) The right of the child to be heard.

16. The child, however, has the right not to exercise this right. Expressing views is a choice for the child, not an obligation. States parties have to ensure that the child receives all necessary information and advice to make a decision in favour of her or his best interests.

[https://resourcecentre.savethechildren.net/document/general-comment-no-12-2009-right-child-be-heard/?fbclid=IwAR3\\_5jpkjuo1UvVyS09oqwQfsqAohYV4FpSCYP46k5xFJuWHPRDV3CyAilo](https://resourcecentre.savethechildren.net/document/general-comment-no-12-2009-right-child-be-heard/?fbclid=IwAR3_5jpkjuo1UvVyS09oqwQfsqAohYV4FpSCYP46k5xFJuWHPRDV3CyAilo)

### **Cyflwyniad / Submission 9**

I am writing to you in your capacity as chair of CYPEC concerning proposals for new Home Education Guidance for Local Authorities.

I have sent the following email to the Education Minister, can you help with this?

*Dear Mr Miles*

*I am contacting you in your capacity as Education Minister concerning proposals for new Home Education Guidance for Local Authorities. Why has there been no review, assessment or evaluation of the effectiveness of the current Non Statutory home education guidance for Local Authorities that was issued in 2016?*

Why has there been no review, assessment or evaluation of the effectiveness of the current Non Statutory home education guidance for Local Authorities that was issued in 2016?

## **Cyflwyniad / Submission 10**

It has come to my attention that the Welsh government have published the elective home education guidance (may 2023).

The exiting non statutory guidance is already working well and allows for positive relationships to be formed by local authority , so this will not benefit home educated children in any way. I also believe that this will be damaging to the good relationships with the la that many home educators currently have.

I am concerned that these new regulations threaten children's rights and hope that they will be adequately debated in the Senedd.

## **Cyflwyniad / Submission 11**

The Minister of Education has released new Statutory Guidance for Home Education (12th May 2023).

Whilst the guidance has some limited understanding of home education. The document contains many contradictions, and questionable requirements for Local Authorities making it an unworkable, counterproductive document for both Local Authorities and home educators.

Local Authorities and home educators would like to have a mutually respectful co-operative relationship. The underlying tone and content of this document, in it's current form, does not aid in that relationship.

The community has previously funded legal opinion and a rebuttal, which we ask you to consider. This has previously been sent to the Legislation, Justice and Constitution Committee can be viewed here <https://business.senedd.wales/.../LJC6-07-23%20-%20Paper...>

The Chair of the LJCC wrote to the CYPE Committee regarding this matter on 7th March 2023

The Education Department's civil servants are unable to tell us which sections of the guidance are statutory and which are non statutory, despite drafting the guidance.

The Children's Commissioner has voiced she was 'disappointed [with the lack of ] an evaluation plan to be published alongside any new guidance' (The Children's Commissioner for Wales, 16th May 2023)

Whilst we as parents and carers do not have appropriate legal knowledge on what is considered lawful. The guidance appears rushed with many errors that are most questionable in this regard and so we ask that the committee launch an urgent enquiry into the home education statutory guidance that has been published, in order for the document to be thoroughly scrutinised to ensure it has been appropriately assessed and due process has been followed.

### **Cyflwyniad / Submission 12**

Request for an enquiry to be launched into the recently published home ed guidance

We request the above for the following rationale:

1) the workability of the guidance, putting more pressure on the Local Authority when they already have resource and capability issues. Resourcing should be used to support families in crisis due to the education departments lack of knowledge, expertise and care, pushing them into crisis while children attended mainstream (for those children who have been removed from mainstream because of the failure of the LA)

2) Increasing numbers of home educated children have negative experiences of the education body due to the LAs lack of understanding of anything from attachment difficulties, trauma, to ASD.

Having them in the home, interrogating children as to what they have done, whether they are 'happy' and the general traumatic experience of having someone new involved in their lives would be inappropriate for most children in this situation and probably result in a backlash of negative behaviour and harmful anxiety attacks, self harm and depression.

It is not workable, appropriate or necessary.

3) I would add that while the children are obviously the main consideration, the pressure and stress that such visits would put on parents and carers could be huge. This would be both in the respect of the suggested meetings etc and the aftermath of supporting the children and helping them manage their behaviours, where they had been settled and building strategies to help anxieties.

4) lawfulness of such actions

### **Cyflwyniad / Submission 13**

As you know, the Minister of Education has released new Statutory Guidance for Home Education (12th May 2023). Whilst the guidance has some limited understanding of home education, the document contains many contradictions, and questionable requirements for Local Authorities making it an unworkable, counterproductive document for both Local Authorities and home educators.

Local Authorities and home educators would like to have a mutually respectful co-operative relationship. The underlying tone and content of this document, in its current form, does not aid in that relationship.

The community has previously funded legal opinion and a rebuttal, which we ask you to consider.

The Chair of the LJCC wrote to the CYPE Committee regarding this matter on 7th March 2023. The Education Department's civil servants are unable to tell us which sections of the guidance are statutory and which are non statutory, despite drafting the guidance.

The Children's Commissioner has voiced she was 'disappointed [with the lack of] an evaluation plan to be published alongside any new guidance' (The Children's Commissioner for Wales, 16th May 2023)

Whilst we as parents and carers do not have appropriate legal knowledge on what is considered lawful, the guidance appears rushed with many errors that are most questionable in this regard and so we ask that the committee launch an **urgent** enquiry into the home education statutory guidance that has been published, for the document to be thoroughly scrutinised to ensure it has been appropriately assessed and due process has been followed.

#### **Cyflwyniad / Submission 14**

It has come to my attention that the Welsh government have published the elective home education guidance (may 2023).

The exiting non statutory guidance is already working well and allows for positive relationships to be formed by local authority , so this will not benefit home educated children in any way. I also believe that this will be damaging to the good relationships with the la that many home educators currently have.

I am concerned that these new regulations threaten children's rights and hope that they will be adequately debated in the Senedd.

#### **Cyflwyniad / Submission 15**



I am writing to you in your capacity as chair of CYPEC concerning proposals for new Home Education Guidance for Local Authorities I have sent the following email to the Education Minister, can you help with this? Regarding references to an "agreed core offer" in standard copy and paste letters received from WG/education department, - Exactly who has "agreed" either the content or the acceptance of this offer of services for Home Educators like taking out more books from Libraries or Access to CADW sites that we can already access for free? Have the home educating community agreed to either the content or the acceptance of the offer?

### **Cyflwyniad / Submission 16**

I am writing to you in your capacity as chair of CYPEC concerning proposals for new Home Education Guidance for Local Authorities.

I am most grateful for your insight and understanding of the situation we are facing as Home Educators. I have sent the following question to the Education Minister. What is your opinion on this?

*Dear Mr Miles*

*I am contacting you in your capacity as Education Minister in Wales, concerning proposals for new Home Education Guidance for Local Authorities.*

*What problems are solved by current Welsh Government proposals for statutory guidance for Elective Home Education, that cannot be solved under the existing EHE guidance?*

What problems are solved by current Welsh Government proposals for statutory guidance for Elective Home Education, that cannot be solved under the existing EHE guidance?

### **Cyflwyniad / Submission 17**

It has come to my attention that the Welsh Government has published the Elective Home Education Guidance (May 2023). This is incredibly important to all families who have chosen to home educate, and it is deeply concerning, confusing and in many areas very contradictory. The existing statutory guidance has been working well, to date. Many families have a positive relationship with their local authority, but this has the potential to undo all of that in its entirety.

We all hope that these new regulations can be adequately debated in the Senedd within sufficient time.

Once we have had more time to consider the Welsh Government papers in more detail, I will further contact you with my comments, of which I hope will be helpful.

### **Cyflwyniad / Submission 18**

I am a XXXXXXXXXXXXXXXX home educated person and I request that you please launch an urgent inquiry into the damaging Welsh Government guidance on elective home education.

Please use this email and the email below to consider something of the damage that this guidance would cause.

I have tried to put in a complaint to the Welsh Government, but they have refused to consider it. I have tried to explain the damage that their ideas would cause to young people like me, but all I get are copy and paste responses (that I know other people have had too) including a response that openly tell me that if I, or anyone like me, refuse to be interviewed about my personal and private life and education then legal proceedings would result against my family unless I went to school.

I cannot begin to tell you how second rate, how mistrusted this makes me feel.

I cannot begin to tell you how much damage would have been done to my life and education if I had been forced to be regularly interviewed about my education and give an account of my "progress". Because "progress" in home education does not look like "progress" in school. Home education is much better than school education, but we don't jump through the same hoops at the same times - in fact that is exactly what makes it better.

School was so traumatic. It has been quite a few years since I last went to school and the way it crushed me still crushes me now.

I would not be here now if I had been forced to stay in, or go back to school.

I would not have survived it.

There will be suicides of young people if the Government insists in bullying them into interviews and forcing them into school if they refuse. I am not being overly dramatic saying that. These are real lives we are talking about. Don't push young people to the edge of that to have to prove in each case that interviews are damaging.

I do not want to explain further to you how dreadfully damaging school can be.

Please believe me and listen to me even though the Government does not.

My parents listened to me and supported me throughout my education, the Government do not.

Having my own Government use SCHOOL and legal action to make us go there as threat to coerce me and young people and children like me to conform to be interviewed and observed as if I have no rights or opinions and as if it knows better than I or my family is the most abhorrent thing I can imagine.

To use the thing I dread the most as a threat to make me dance and perform like a puppet - it is despicable.

I love being home educated. I love learning. Why deprive me of my education? If my parents say I am being home educated why would you not believe them? Why do you assume all home educating parents are liars unless we all jump through hoops to prove we are not?

Those hoops you would make us jump through are fiery ones. Those hoops would damage us. They would traumatise us. Not just DURING the interviews. The whole thought of having to please someone else would take over my education.

Now - I am free to learn for the way learning enhances me as a person, for the way it benefits me, for the way it interests me.

I refuse to let my self worth and my education be overtaken by the concept of having to please other people.

I left school when I was X. I did not learn to read properly probably until I was maybe X - not because my parents were not encouraging me and helping me but because it just did not click. Plus I did not want to read because trying gave me terrible flashbacks of school. But when reading clicked, I loved it. I started to devour encyclopaedias. I have had work I have written published nationally and have several GCSEs and other similar qualifications before the age that these are taken in school. IF I had been forced to be interviewed and my "progress" assessed when I was younger, I could easily have been forced into school. That would have ruined my education and I would either not have gone or not have survived it. Home education gives long term not short term results. My parents would have been placed under pressure to MAKE me learn more quickly or in a different way. Thankfully they had the patience and wisdom to not force me but to gently and continually encourage, guide and support me but never to pressurise me, never to make me feel bad if what I was doing wasn't as "good" in other people's eyes as the gold standards that schools are meant to reach. and the result of that is that in the long term I have done far "better" than friends at school. But it is not "better" - it is where I should be, at the time I should be. But it is far far far "better" than it ever would have been if I had been forced into school.

I cannot begin to tell you how awful, how traumatic the thought would have been of being threatened with, let alone being forced into school.

My voice has always been that I want to be home educated and that I do not want to have to explain that perfectly reasonable and lawful choice to strangers. Why ignore my voice?

Learning is like a flower opening from a bud. Force it before it is ready, pressurise it, rip it open to see what is inside and you will damage it beyond repair.

We are not performing monkeys to dance to someone else's ideas. To make an animal do that is cruel. So why force us under threat of taking our parents to court and then try to pretend it is a "positive experience"?

My parents discuss issues of consent with me as a young person. How can going on a date be happy and positive if the person you are on the date with threatens you with things you dread, threatens to do things that would harm your children and family unless you do what they want?

I am not a data chip. I do not consent to my data being shared. Just being home educated is not a risk factor and is not a reason to be sharing my data.

The Government pretends it wants to "support" us. That is just such a ridiculous claim. It wants to control us, inspect us like some kind of animals in a laboratory - except those animals' sense of self worth and esteem would not be damaged anywhere near as much as ours would by implying that we have to meet other people's expectations and by implying our family are liars.

I want to do four A levels, I have the subjects selected that would work best for me. I cannot do those through school, there is no way I would manage a classroom environment - plus school simply would not allow me the options I choose or to study in the way that suits me best. But each A level EXAM costs over £2000 - that's just to sit the exams, not any other costs of studying. but will the Government support me with that? no. Will the LA? no - we've asked, nothing at all. Support? Nonsense.

Want to "support" us? Take that money they are wasting on paying people with no real training to carry out another Spanish inquisition and let us home educators explain how it could be used to REALLY support us.

But that would mean listening to us which is something that the Welsh Government just does not do.

We would far rather really do without a lot of nice things as a family to be able to keep the rights to education than sell out that right for the odd voucher or to be told we can go and see a CADW castle (which we already can for free by the way).

SO please, please urgently ensure there is a full inquiry into this horribly damaging guidance. Please make sure you examine all the ways it is unlawful. but also please please ensure you look at all the ways it is damaging too, because I suspect that the Welsh Government is so determined to try to have its way that they will just try to play legal tricks to pretend it has the right and power to do whatever it wants regardless of what we young people and families say. We really need the Senedd in Wales to do its job of standing up for the people of Wales and ensuring that only what is right and lawful happens to us. We need the Senedd to stop us being so bullied and threatened.

Please help us.

*Dear Mr Miles,*

XXX XXXXXX, XXXXXXXX XXXXX XXX XX XXXXXXX XXXXX XXXX XXXXXXX.

*When revising today about the McCarthy Era in the USA in the 1950s, I was intrigued to read how the textbook, to depict the bullying and unjust nature of the interview methods used by McCarthy, stated how,*

***"any refusal to answer was taken as a sign of guilt".***

*Yet Mr Miles, isn't that the approach Welsh Government are taking with their ideas of forcing children, like myself, into mandatory meetings with authorities against our wills, without consent of us young people, or consent of our parents?*

*Doing so purely because we continue to be home educated rather than taking the Government up on its offer of being educated by them instead?*

*Isn't this what the Government are wanting to do by forcing our families into meetings, and we if do not comply then forcing us into courts or schools –by taking **"any refusal to answer as a sign of guilt"** to automatically presume that education cannot therefore be considered suitable.*

*Mr Miles, I do not consent to invasion of my personal life with unwanted meetings. Does that make my family criminals?*

*The irony however also made me laugh. Many families have tried to engage with yourself and with the Education Department, only to be effectively ignored or palmed off with copy and paste replies that either do not answer the points and questions, or in effect say, "we're not talking to you, just go away and be quiet".*

Is **"any refusal to answer"** by Welsh Government also **"a sign of guilt"** on their part?

Of **"guilt"** of being paternalistic or autocratic?

Of **"guilt"** of assuming that any group that they do not understand must need **"regulating"**?

Of **"guilt"** of assuming that any group they do not understand must automatically need **"monitoring"**?

Of **"guilt"** of, like McCarthy, being suspicious of any minority group and assuming know better than them?

Of **"guilt"** of proceeding like some 1950s B movie robot that once it has been mistakenly set on a course just keeps going oblivious to the damage it is causing?

Of **"guilt"** of continuing with what it knows is unlawful?

Please, Mr Miles, listen to us.

Please stop this damage and chaos.

The present guidelines work. Why try to fix what isn't broken?

Why not just keep these? If you genuinely want to add "support", why not just add "support" to these?

Wouldn't that be such a popular move?

Please chart a better course, set a higher level of conduct by not automatically following plans that even your predecessor knew were full of problems and did not have a lawful basis.

Be the one to set the standard for listening to and serving the community that elected you.

### **Cyflwyniad / Submission 19**

We are writing to express our grave concern about the recent changes to Elective Home Education (EHE) Guidance in Wales. As dedicated Home Educators of our children XXXX X XXX X, we believe the new legislation undermines not only our children's rights to a suitable education based on their needs and preferences but

also the entire legal basis under ECHR Article 8 under which all government regulations and guidance has previously been drafted and regulated.

The ideological and philosophical views which we feel are better promoted through Elective Home Education are grounded in the European Convention on Human Rights Article 8 which protects family life and children's rights from the overt intrusion by Social Services and Government Departments which this new legislation actively promotes.

The range of reasons listed by the British Government for Elective Home Education include not only these ideological or philosophical views, but also a dissatisfaction with the school system, mental health, bullying and children unwillingness to go to school. All of which are in our view systemic issues in the school system itself.

As it is also clear from Elective Home Education (EHE) Guidance that the government curriculum is new, this new guidance seems to attempt through the back door to impose government guidance as to what is taught how and when. The change from Educational regulation through school to educational regulation by LA/Social Services will lead to unqualified personnel making decisions over what is an appropriate education for children who are being Home Educated.

The [GOV.UK](https://www.gov.uk) guidance clearly states:

"2.11 There are no legal requirements for you as parents educating a child at home to do any of the following:

Acquire specific qualification for the tasks

Have premises equips to any particular standard

Aim for the child to acquire any specific qualification

Teach the National Curriculum

Provide a "broad and balance" curriculum

Make detailed lesson plans in advance

Give formal lessons

Mark work done by the child

Formally assess progress, or set development objectives

Reproduce school type peer group socialisation

Match school base, age specific standards"

As it would appear that the new Welsh Government legislation directly contradicts the above listed provisions, it is questionable how the courts of England and Wales will decide upon the matter until which time this leaves parents in limbo with no time to adjust or properly address their legal and educational concerns.

As there has been no effort prior to this legislation to consult constructively with the numerous and dedicated Elective Home Education Families in Wales and beyond, it is entirely understandable that Home Educated feel this legislation to be unsupportive of the underlying educational basis not only of our own educational approaches but also of the rights to Home Education per se.

As Home Education is a huge commitment for our family and others alike and in the absence of any negative outcome for Home Educated children, it is deeply questionable why the Welsh Government does not engage into a constructive dialogue as to how Home Educated can be supported than undermine and if their concerns are regarding the increase removal of children from school to be Home Educated then their time and the extensive resources that the legislation will require would be far better spent reforming what issues parents feel led to their disenfranchisement with the school system as it stands.

Surely obtaining such insight and reforming schools where necessary would be far more fruitful and constructive than giving LA/Social Services carte blanche to coerce children back to school against their own and parents/carers wishes.

Home Education is about so much more than not attending school, and this legislation provides little scope for understanding and holistic educational approach and children's wider welfare. School classes of up to 30 children do not represent either an optimal education environment or the healthy socialisation of children. Such an environment and educational approach encourages bullying, competition and fear of failure as well as not being responsive to children's individual rates of learning nor their specific interest.

It is unfathomable how Social Services are meant to interpret and enact this new legislation, given their limited resources without grossly undermining the safeguarding provided by ECHR Article 8 upon which the basis of our civil society in post war Britain has been built.



XX X XXXX XXXXXXXXXX XXX XXXXXXXXXXXXXXX XXXXXX who lived and worked in both Wales and England as well as having family abroad, travel is a central and valuable part of our children's education. For these purposes, Home Education is clearly far more suitable than school based education where unfortunately travel is not an option and race can very often be the basis of bullying and prejudice.

To sum up, it would appear this new legislation has been poorly thought through and swiftly enacted with little consideration for the basis on which Home Education has been successfully based upon since its inception and the protection granted to Home education under existing laws and ECHR Article 8. We as a family together with others in the Home Education Community will continue to Home Educate in the best interest of our children and seek protection from the courts if necessary to challenge any unlawful intrusion or imposition of this legislation which contradict the existing law and protection quoted above.

### **Submission 20**

Attached is an open letter organised by a fellow home educator signed by a number of people of significance and experience in the realms of progressive education and safeguarding, objecting to the new WG guidance on home education in Wales.

**To:**

**Re: Elective Home Education Guidance May 2023 (288/2023)**

Parents and carers – not local authorities – bear responsibility for provision of a child's education. This is established both in primary legislation<sup>1</sup> and in human rights frameworks as the UN Special Rapporteur on education stated in 1999:<sup>2</sup>

"The objective of getting all school-aged children to school and keeping them there till they attain the minimum defined in compulsory education is routinely used in the sector of education, but this objective does not necessarily conform to human rights requirements. In a country where all school-aged children are in school, free of charge, for the full duration of compulsory education, the right to education may be denied or violated. The core human rights standards for education include respect of freedom. The respect of parents' freedom to educate their children according to their vision of what education should be has been part of international human rights standards since their very emergence."

This ill-thought through guidance upends this principle, requiring local authorities to assess the provision of education and a child's progress, relegating the views of

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<sup>1</sup> s7 Education Act 1996

<sup>2</sup> <https://www.ohchr.org/en/statements/2009/10/statement-special-rapporteur-right-education>

parents and carers as secondary to that of the state. Assuming assessment duties is no minor administrative updating of guidance but instead represents a fundamental shift in the relationship between state and family, the repercussions of which are seismic.

Nor does the guidance address the practicalities of how local authorities are to meaningfully take this responsibility from parents. While parents and carers know their children, see their progress or struggles up close, know what they are interested in and what they want to do local authority staff do not know these children. Within a school setting, children are able to be assessed because of the uniformity of provision and expectations, this is not the case for home educated children where what a suitable education is will look different for every child. How are local authority teams – especially given a widespread lack of qualifications and experience in alternative educational approaches - to evaluate a child's education? How are they to judge if perhaps a child on one particular day might be tongue-tied or shy? How on a brief meeting are the views of local authority officers to be given more weight than that of the parent or carer? This is the reality of what is mandated by this guidance and the practical implications to the lives of children are huge.

Home education is an important freedom for families. Not only as it is for some - a choice made on the basis of parental or carer philosophical beliefs about education - but also as a vital safety net for the increasing numbers of children failed by the school system.

Governmental guidance must not – as this guidance does - undermine parental and carer responsibility for children in contravention of primary legislation and of human rights principles

Undersigned

Dr Chris Bagley, Institute of Education, UCL

Dr Beth Bodycote, Not Fine in School

Dr Ian Cunningham, Self-Managed Learning College

Charlotte Church, AWEN

Jonathan Field, co-founder AWEN

Tristram C. Llewellyn Jones, Home educator and civil liberties campaigner

Dr Harriet Pattison, Liverpool John Moore University

Heidi Mavir, author 'Your Child is Not Broken'

Alison Sauer, Trustee, Centre for Personalised Education

Dr Kevin Smith, Education, Cardiff University

Jo Symes, Progressive Education

W. Charles Warner, Education Otherwise

Lord Wei of Shoreditch

Stephanie Yorath, The Victoria Climbié Foundation UK  
Rose Arnold, Suitable Education

### **Submission 21**

I am writing to ask that you launch an inquiry into the new home education guidance which I believe to be illegal and discriminatory.

The intention to move the responsibility for education from parents to the State and the implication that children can be forced into meetings are not within the scope of the current law. Applying such intrusion into family life and parental responsibility only to a certain group of people based on a parenting decision seems to me to be a form of discrimination.

Please ensure that these issues are properly looked into and that the guidance is paused until it is done so.

### **Submission 22**

I am writing to you in your capacity as chair of CYPEC concerning proposals for new Home Education Guidance for Local Authorities.

I have sent the following email to the Education Minister, can you help with this?

On 04/05/2022 Jeremy Miles answered written question WQ85029 with the following:

“In September 2021, I agreed to progress the proposals for elective home education (EHE) consulted on in 2019 and 2020, with the aim of ensuring that children and young people receive a suitable education, whilst making progress on identifying children missing an education.”

### **Submission 22a**

Why did The Education Minister agree to recommence work on Home Education?

My journey as a home educator began nearly XXX XXXXX XXX when my eldest son, a wonderful, musical, knowledgeable history buff XXXX XX told me he wanted his life to end.

He had suffered bullying, torment and discrimination at school due to being autistic (undiagnosed at that time) and the school was incapable of providing a suitable education in safety.

My son suffered humiliation and disrespect from other children whilst in state education due to being neurodivergent, but of course, sadly, society in general can

also be intolerant of diversity. Most families who home educate have, at some time or other, experienced being treated with disrespect and suspicion simply for being different – simply for exercising our right under the law to choose how our children are educated. The Welsh government appears intent on causing us further harm by stigmatising our situation through repeatedly conflating our educational approach with safeguarding issues and implying that there is an inherent problem with us simply due to our children’s learning not taking place in school. This is discriminatory and insulting and clearly projects that Wales is a country that does not value or respect diversity in individuals, family life or in education.

However, this guidance really does mark a new low in the lack of respect and understanding towards home educators and home education from a Welsh government which has repeatedly asserted the belief that all children should be in school. The WG guidance has its basis in a presumption that home educating parents are not putting their child’s education first and that parents have to provide evidence to prove that they are not guilty of neglecting their duty. This effectively sets us up as guilty until proven innocent.

The state’s right to intervene is only lawful when there is reason to believe that suitable education is not taking place; this guidance effectively calls for parents to be examined by the state for evidence of failure, using our children as the source of that evidence. This mandate is accompanied by a fundamental disrespect and ignorance of home education philosophies and diversity of approach. It is not sufficient or acceptable to merely pay lip-service to an understanding of this – the Welsh government just acknowledging that there are varied approaches to education outside of the institution of school is not sufficient to even begin to approach empathising with the lived experiences of home educating families. It is also very difficult to remove an inbuilt bias towards what to expect to see or hear from a child when most council EHE officers have had previous careers as school teachers.

This school-biased thinking was highlighted in the Senedd Plenary of 6th June by the Minister for Education himself when he referred to us as parents who “teach at home” – most home educators in the UK would rigorously object to their role being described as teaching their children, in the same way that we repeatedly have to explain that most of us do not “home-school”; we are enablers, facilitators, mentors and supporters of our children’s education and we often learn collaboratively alongside our children. But how would the education minister know that when he and other influencers (e.g. Estyn) only have experience of the school system where children are taught and schooled and produce a predictable, measurable output?

The Minister for Education also spoke in a contradictory manner about meetings with children not being mandatory but then emphasised that seeing and talking with the

child is how the suitability of an education is to be judged. And of course if the parent/child do not consent then prosecution and a school attendance order can follow. As I'm sure you are aware, there is no appeals process in place.

Is this supportive? My youngest child, XXXX XX certainly does not feel supported by this guidance – he feels threatened and fearful of it and those who are behind the thinking. He is aware of being part of a minority in society and how governments in the past have been guilty of huge injustices towards minorities.

I find it somewhat ironic that I had observed, in recent years, the beginnings of a more friendly and supportive role from our local education authority through provision of a variety of events, workshops and activities for home educating families. Unfortunately, in the last 12 months these provisions have largely disappeared (I assume that funds are now redirected in readiness for the new monitoring roles) and our local college, XXXXX XX XXXXX XXXXXXXX XXX XXXXX XXXXX, has announced that it is no longer accepting external exam candidates.

In light of the above, do you believe it possible, as has been suggested by Trefnydd Leslie Griffiths, that the new guidance "will provide an opportunity for the local authority to develop a positive relationship with families"?

### **Submission 23**

The Minister of Education has released new Statutory Guidance for Home Education (12th May 2023).

Whilst the guidance has some limited understanding of home education. The document contains many contradictions, and questionable requirements for Local Authorities making it an unworkable, counterproductive document for both Local Authorities and home educators.

Local Authorities and home educators would like to have a mutually respectful co-operative relationship. The underlying tone and content of this document, in its current form, does not aid in that relationship.

The community has previously funded legal opinion and a rebuttal, which we ask you to consider. This has previously been sent to the Legislation, Justice and Constitution Committee can be viewed here

<https://business.senedd.wales/documents/s134220/LJC6-07-23%20-%20Paper%2018%20-%20Letter%20from%20Families%20First%20in%20Education%20Wales%2021%20February%202023.pdf>

The Chair of the LJCC wrote to the CYPE Committee regarding this matter on 7th March 2023

The Education Department's civil servants are unable to tell us which sections of the guidance are statutory and which are non-statutory, despite drafting the guidance.

The Children's Commissioner has voiced she was 'disappointed [with the lack of ] an evaluation plan to be published alongside any new guidance' (The Children's Commissioner for Wales, 16th May 2023)

Whilst we as parents and carers do not have appropriate legal knowledge on what is considered lawful. The guidance appears to be rushed with many errors that are most questionable in this regard and so we ask that the committee launch an urgent enquiry into the home education statutory guidance that has been published, in order for the document to be thoroughly scrutinised to ensure it has been appropriately assessed and due process has been followed.

I would be most grateful if you could launch an urgent investigation into the newly published guidance as there are many concerns regarding the guidance including how this is going to affect HE Children's mental health.

#### **Submission 24**

Whilst there are some positive paragraphs, the overall tone, is a document that has many contradictions, and is unworkable for both the Local Authority and the home education community. It appears to be rushed.

It is positive to note that Welsh Government recognise that 'Learning can take place in a range of locations...[and the importance of its] ability to be flexible and adapt to events and circumstances on a daily basis (4.8.)

Also that Welsh Government is 'mindful that home educators are **not** required to, among other things, have formal lessons, and mark work done by their child (See 4.13, for the full list)

However, despite a few sections demonstrating a limited understanding of home education. The document is completely incompatible with home education, and hundreds of families across Wales are very concerned.

The key issues are

- The local authority decides what is a suitable education (4.6,4.11, 4.16,4.17, 4.18, 4.28)
- The local authority has the right to mandatory meetings with the child and parent, and failure to comply could ultimately lead to the child being removed from the family home, under a care order (4.21, 4.34, 4.35, 4.37, 7.16, 7.17)

- There is no appeals process, nor is there any requirement for a local authority to ensure that staff are trained or understand bias, discrimination, or protected identities. (4.39,4.40,4.41)

It's important to note that the logical assumption of a family refusing to meet with the local authority could ultimately lead to a care order, has been verified by people far more knowledgeable than I am.

We are aware that Kirsty Williams on 11.12.19 told the Senedd that '...prior to final publication of the guidance and coming into force for the regulations, they will be subject to robust process and scrutiny, such as data protection impact assessment, integrated impact assessment and a regulatory impact assessment to ensure both are lawful' (Kirsty Williams, 11.12.19) However, we believe this hasn't been done.

Nor has a consultation response been issued by the Education Minister, only a summary of comments, by the previous Education Minister.

There are many contradictions within the guidance, suggesting it has not been fully scrutinised by relevant parties. This may allow the document to be legally challenged, which will not only cause embarrassment to the Welsh Government but will also be costly for the local authorities.

Contradictions, drafting mistakes and power grab points.

1.12 and 4.30 contradicts 4.4

3.13 Finding reception aged children by cross referencing live birth records.

4.7 contradicts 4.6, 4.4

4.12 makes no sense

4.21 contradicts itself and 4.34 and 4.37

4.28 contradicts 4.9

4.33 case law quoted makes no sense with heading

5.12 The wrong section is quoted to refer to. 4.21, which is about meeting the child

## **Submission 25**

I was writing to you in your capacity as chair of the Children, Young People and Education Committee.

### **Mandatory meeting with LA representative**

(Please bear in mind when reading this that our situation, like many families who opt for EHE, is complex. For the sake of brevity I will summarise but this summary merely scratches the surface of what I could say here.)

I am not currently home educating my daughter, but her needs are such that we may need to consider it in the near future. Her anxiety regarding appointments with professionals is extremely high and my experiences talking to other parents and professionals (particularly in the worlds of mental health and trauma informed practise) demonstrate we are not alone in this situation. Apart from the other issues raised in my first email, it is a very great concern to me that, if we were to opt for EHE at some point in the near future, the requirement to meet with a member of the LA would be a massive source of stress and anxiety for her, even with me present, but to be told she is not allowed to have me present would be even worse, very likely leading to further traumatisation. Advice from trauma specialists is to prioritise felt safety and building relationships with key people. This would not be possible in the scenario which is being proposed by the government. Furthermore, advice from chronic fatigue specialists is that stress is to be avoided where possible, as it can cause flare ups or relapses. (I can provide you with relevant sources on these issues if that would be of help.) Our GP and other adoption specialists also agree that to have multiple different professionals dipping in and out is detrimental to her well-being and her recovery process. There is no provision being made within the current proposals to address this type of problem. **If the proposals go ahead I could be forced to make a choice between safeguarding my daughter's mental health and well-being and breaking the law.**

Can you see that this is a very frightening situation to be in?

### **Mental health crisis and attendance policies are exacerbating the situation**

I am certain I am not alone in this situation. Levels of anxiety in children are clearly rising and I hear all the time how attendance figures have dropped drastically since the pandemic. Parents are being forced to consider educational alternatives for their children when they would not otherwise have chosen. Even just in my circle of close friends and family, I know of at least X children from X families who are experiencing anxiety around school - ranging from KS1-4. None of these are families who would previously have considered EHE, but some are coming to the conclusion they may not have much choice because of the detrimental effects they observe school attendance is having on their children. If I am representative of the general population, we are looking at a problem on a massive scale. Increasing the pressure on parents to comply with a system which is not working for their child is not a compassionate or even a pragmatic way forward. Attendance "targets" and rewards/punishments only make the problem worse because they do not address the underlying causes. They put pressure on schools, which is then transferred to parents and children. Increasing pressure is unhealthy for everyone. As a teacher I can speak from personal experience at both ends.

**Please understand, I am not referring to parents who are negligent or children who are truanting.** These are parents who are deeply concerned for their children's health and well-being and feel stuck between a rock and a hard place. For people like this, EHE sometimes becomes their only option. We may soon be one of those families.



Can you see how this wider context exacerbates the problems posed by the legislation?

**A plea for help**

Please, please, please will you, as chair of the Children, Young People and Education Committee, listen to our pleas for a wiser and less heavy handed approach. To make visits with a "stranger" mandatory for a child who is emotionally, physically or mentally fragile is not wise or kind and may not be for those who are more resilient either. To prevent them from having their primary carer present at such a meeting could cause huge distress, even more so because there is the potential for the results of such a meeting being that their parents/carers' provision could be judged as inadequate - and all on the basis of what they say. This is a burden that should not be placed on children. I urge you to rethink this.

These are very real concerns and I don't think it is an exaggeration to say that they constitute safeguarding concerns. I know each case will be different, but that is exactly the reason that a blanket mandatory requirement is inappropriate and potential harmful to many children like my daughter.

Can you see the kind of risks I am describing associated with what the government is proposing?

Are you happy to expose families, such as ours, to those risks?

I would be happy to talk to you further about these issues if that would be of help. As I say, I am not alone in these very real concerns and the feelings of threat that they pose to us. Please do not leave us or our children without a voice in this.