

Dear members of the CYPEC,

You may recall how, on hearing that that amendments had been laid in the House of Commons enabling key clauses of the Children's Wellbeing and Schools Bill (CWS) Bill to be applied to Wales, we contacted you in March of this year with some initial concerns.

We now request that the following information be included in your discussions and deliberations regarding this Bill, including in your meeting on the 3rd of July 2025.

PROCESS:

Since that time, more has emerged on the **process** of what the Counsel General and members of the Legislation, Justice and Constitution Committee have called the last minute "*piggy-backing*" of Wales onto what had been laid before Parliament in Westminster as an "*England-only*" Bill.

Analysis of the recent Evidence Session of the Legislation, Justice and Constitution Committee (LJCC) at the Senedd of 12th March 2025 highlights a number of key concerns for us in Wales on the lack of input by the Welsh Government, let alone the people of Wales, into the content of the Bill, with only a very select few in Welsh Government being "**told**", at very late stages, of the content of the Bill, and those few then not informing Senedd Members until the very day that the amendments to apply a wide range of key and controversial clauses of the Bill were laid at Westminster.

We request that you consider this analysis of what was and was not said in that LJCC meeting:

<https://homeeducationaction.substack.com/p/welsh-governments-decision-to-piggy>

As also referenced here:

https://familiesfirst.wales/legislation-justice-and-constitution-committee-seek-clarity-about-westminster-bill/?fbclid=IwY2xjawK2XcVleHRuA2FlbQlxMQBicmlkETBDMWZsSHlaTkkyYldMSm5QAR76eFlMaJN90VoqHWDYYgodyju_XVS5dGHXBF4i4Q-PLeneGixlgUo5Sfo1Yw_aem_Jk5aT9hI4hag-pm63Jg0nw

However, not only has there been **no opportunity for proper scrutiny of the content of the Bill by the Senedd**, let alone by the people of Wales, there are **considerable questions over the lack of scrutiny of the Bill while still at Westminster, even when it was an "*England-only*" bill.**

For example –

- the Bill was published in the House of Commons on the last day before the Christmas recess (17th December) and then debated on the first day of opportunity on return to session in January. MPs were on holiday in between, so there was no proper opportunity for scrutiny or for people to engage with their MPs to explore and present concerns.

- At the Call for Evidence stage, no-one in objection to the Bill was called to give evidence, and in particular no-one with experience of elective home education or alternative approaches to education. This is despite the profound implications of this bill for home education, including a quantum leap of shift in balance of power between families and the state. Hundreds of written submissions citing concerns and criticisms of the Bill were not published, meaning that these are not accessible to other MPs or peers in the House of Lords, whilst, as far as we can tell, any submissions in support of the Bill were published.

- At the Committee stage in the House of Commons, only minutes were allocated to the many clauses that relate to elective home education, and any attempt to raise concerns were swiftly dismissed and brushed aside without being explored or addressed.

And that's all before the intention for Wales to be "*piggy-backed*" onto the Bill was announced, even though appropriating these measures to Wales had been planned months before, as demonstrated in the chronology and account given by the Welsh Cabinet Secretary for Education, Lynne Neagle to the LJCC.

As you may be aware, many peers asked to speak in the 2nd reading of the Bill in the House of Lords. We have been told that the House of Lords broke its own rules in not allowing a second day for debate in that reading, given the numbers of people needing to speak, with the time each was allowed being dramatically reduced to only 5 minutes, despite the profound implications of an extremely wide-ranging Bill.

CONTENT:

Not only the **process** of the "*piggybacking*" of Wales into this bill is problematic. **The content** is even more profoundly concerning.

The danger is that anything that waves the terms "*safeguarding*" and "*wellbeing*" around is considered to be required, is considered to unquestionably be effective at delivering safeguarding rather than causing harm, and considered beyond criticism.

The danger is that people can be afraid to speak out against an unhealthy and counterproductive Bill just because it is termed a safeguarding measure, for fear of being accused or seen as not caring about the wellbeing of children.

The opposite is the case.

We ask that members of the CYPEC have the courage and determination to stand for full and thorough critical evaluation. The path to enhancing the lives of children is to fully critique and objectively evaluate any such Bill, to not accept any proposed measures without good cause to believe they are essential, effective, without harm to children and not counterproductive. The path towards that end is to hear and fully grasp the understanding of those with lived experience.

This Bill will do more harm than good in relation to safeguarding and wellbeing. It brings nothing new that would protect the most vulnerable, despite the government's attempts to politicise the death of poor Sara Sharif to justify the measures. This Bill brings nothing that would have benefitted that child, she was well known to many services, on a school roll for years, and multiple services failed on multiple occasions to use existing powers and fulfil existing duties to protect her.

The Bill does, however, damage the wellbeing, education and rights of many children. We would be very grateful for the opportunity to share with you just how this is the case. Attached is a simple overview of main concerns regarding the CNIS clauses of the Bill. We ask that each member of CYPEC would fully evaluate and consider each of these points and concerns.

LIKELY UNLAWFULNESS:

Furthermore, since we contacted CYPEC in March 2025, no less than 4 independent KC legal opinions have been obtained that demonstrate a wide range of concerns on the likely unlawful nature of the Bill alongside the damaging impact it would have on a wide range of children and young people.

We ask that CYPEC considers each of these legal opinions, namely:

(1) HE UK have obtained this legal opinion on the CWS Bill from Steve Broach KC. Sadly, as in previous years, home educators have had to spend money crowdfunding yet another senior legal opinion to demonstrate the unlawfulness of various attempts by governments including the Welsh government to increase control over home educating families. That is money that such families would far prefer to have used to directly invest in their children's education, rather than be required to yet again defend their children's right to it. It is thus even more appropriate for members of the Senedd to give due attention to each point raised in this opinion.

https://drive.google.com/file/d/12n3zogqiVJZ6aRaJR2Fjh4m41yOE2uqq/view?fbclid=IwY2xjawKmSPJleHRuA2FlbQIxMABicmlkETBDMWZsSHlaTkkyYldMSm5QAR7vXM3mXJFr4M4gdBoKIYW4_X-u60DyNeTRaILa6_mplBxHLLJz4MxfwOS4zg_aem_Mowls0ys7BHw_51jBYmn3w

(2) Education Otherwise have obtained this opinion by David Wolfe KC. This was submitted to the Bills Committee at Westminster but not discussed at Committee stage, and with no evidence of evaluation of it by Committee or MPs at Westminster.

https://bills.parliament.uk/publications/58251/documents/5806?fbclid=IwY2xjawK2VbVleHRuA2FlbQIxMABicmlkETBDMWZsSHlaTkkyYldMSm5QAR5UsifyvmvfmPMzOkWYvt0wOVMtxrkctF1pphg5TYAiX1HYoR3jtC6OrlZDIQ_aem_JiEpYzopWkLaErXZmGk8rg

(3) Christian Institute, who successfully brought the case to the Supreme Court against the so-called “Named Person Scheme” in Scotland, have published this opinion by Aiden O’Neill KC:

https://www.christian.org.uk/wp-content/uploads/Aidan-ONeill-KC-legal-opinion-re-Childrens-Wellbeing-and-Schools-Bill.pdf?fbclid=IwY2xjawKmSBdleHRuA2FlbQIxMABicmlkETBDMWZsSHlaTkkyYldMSm5QAR4N7N6n_OPhiUiZvqDPBfd2ZDnk1Or_gG6wuV9cQY0i8puXTVDV--KQxDGLw_aem_aXikCYjdlMuV-3QwLfympw

(4) The British Rabbinical Union have obtained this opinion – it is crucial to note that the CWS Bill impacts the rights and roles of all families, not just home educated children.

https://britishrabbinicalunion.substack.com/p/hand-delivered-constitutional-appeal?utm_source=post-email-title&publication_id=2247224&post_id=163458379&utm_campaign=email-post-title&isFreemail=true&r=24vy5a&triedRedirect=true&utm_medium=email&fbclid=IwY2xjawKmSC9leHRuA2FlbQIxMABicmlkETBDMWZsSHlaTkkyYldMSm5QAR7alQdXsPnBgtArzSNTCHsFNkkelbMDt2YtswzYFeISBijWmaP1dV9yThJAuw_aem_R5ZrvYrypaIVd2BNiqWa9A

We also ask that the following open letters are given full consideration by each member of the CYPEC:

(1) https://openletter.earth/to-ask-the-secretary-of-state-for-education-england-and-the-secretary-of-state-for-education-wales-to-withdraw-clauses-from-the-childrens-wellbeing-and-schools-bill-that-do-not-reflect-a-free-and-democratic-society-79aca376?limit=0&fbclid=IwY2xjawK2VztleHRuA2FlbQIxMQBicmlkETBDMWZsSHlaTkkyYldMSm5QAR7sXZubzlgv-SAm1ldwAFNZMixSm09DjsbIXQ8c40royi810GwXXVbNoxw6jQ_aem_suO6XbjjQ_Qe5S3f6QXMe6g

(2) https://rightsforchildren.uk/dangerousbills/?fbclid=IwY2xjawK2VtpleHRuA2FlbQIxMABicmlkETBDMWZsSHlaTkkyYldMSm5QAR5MaxLnz1iGI0nOeAMf2CihzQ4jEXnthc98LDiZ6J1XZz4uEmhzXpWcDt9PZw_aem_4hbh7tfKUHd2J0_ZnTznhA

We also request full consideration of the work and issues raised by Defend Digital Me, a body addressing issues relating to the use of children’s data in education, as found here: <https://defenddigitalme.org/policy/policy/>

May we also invite you to the peaceful protest event on 29th June. This is not organised by Home Ed Cymru, although we are fully supportive of those who are. The protest march culminates on the steps of the Senedd providing a helpful opportunity to hear the various excellent speakers there and to glean first hand from those with lived experience of their concerns regarding the content of this Bill. We are sure that this opportunity for dialogue and conversation would be mutually beneficial.

https://www.facebook.com/events/706742758390497?acontext=%7B%22event_action_history%22%3A%5B%7D

Please contact us if you would like more information about that protest, including if you wish to contact the organisers.

It would be very helpful to also consider the comments and questions of one of the speakers, Michael Charles, a specialist solicitor in educational law and CEO of Sinclair Law.

“Why is Wales consulting after the law is passed?

The Welsh Government says it will consult on how the Children not in school powers in the Bill are implemented - but only after the legislation is enacted. But by then, the damage is done.

Primary legislation gives the state the power to intervene. Consulting after that point only asks, ‘How shall we use the powers we’ve already taken?’

This isn’t meaningful consultation. It’s backwards democracy - and families across Wales (and England) deserve better. If you don’t consult the public on whether such sweeping powers should exist in the first place, you are not listening. You are steamrolling. The time to speak out is before these powers are passed.”

https://www.facebook.com/permalink.php?story_fbid=pfbid036uqgbUg2kwe4FtXVfmLeiNjXn7Si9sJ2AqJ8EYsFmVDR6LNSjQ8jiGhCFtCDtaqFl&id=1212271077

We need the members of CYPEC to speak up for home educated children, to speak up against stigmatisation and bias, against false connotations and against damaging legislation.

Kind regards,

Home Ed Cymru.

In case of help – another summary of implications of the Bill – I’ve just put together to help us in Wales appreciate the implications given the announcement that it’s to help us, but others may find it useful.

Please do add in comments any additions/corrections required.

This is my own understanding and views, and is based on the Bill as presently drafted. This summary is a work in progress, so liable to change.

The Bill itself can be found at:

<https://publications.parliament.uk/pa/bills/cbill/59-01/0177/240177.pdf>

CNIS is from clause 30 onwards as presently drafted.

Problems with the Bill.

1. Significant power shift in:

- a. Who is responsible for the suitability of education, including who is the determiner of what is suitable –attempting to shift this in effect from parent towards the direction of the LA – but without making them liable for failing to provide suitable education themselves.
- b. Who is responsible for and capable of knowing what is in the “best interests” of a child – making council staff not parents the determiners in various situations.
- c. Role of LA from being a reactive one (acting if it appears a child is missing education) to a more proactive role involving oversight and attempts at monitoring.

2. Consent to deregister a child from school under certain circumstances:

- a. From a mainstream school if under Child Protection Plan - or even just being investigated under section 47 of the Children's Act.
- b. Why is that an issue?
 - i. Because over 80% of investigations under s47 find no cause for concern/have the cases closed, yet those children would be deprived of access to suitable education by deregistration in the meantime.
 - ii. S47 investigations can be for a whole range of reasons, not just risk from parents/family home – ironically but devastatingly for the children who would be so affected by this legislation, reasons for such investigations can include issues with the school environment/provision.
 - iii. The concept of council staff being deemed the ones to decide what is in the best interest of the child/whether a child should be home educated or not

1. overrides the parents' and children's views and experience of what is in the child's best interests.
 2. Given the institutionalised bias that is so often experienced and openly expressed by council staff and politicians of a perception that school is the best place for children, then they are not in the position to make an impartial judgement.
 - a. There's even the at least appearance of institutionalised bias in the title of this Bill – the Children's Wellbeing and Schools Bill, not the Children's Wellbeing and Education Bill, even though a very significant section of it relates to children not in school including home educated children.
 3. As the LA that would be responsible for making such a decision is also the one responsible for the provision of the alternative they would cite to home education – i.e. state school education, then they are also not sufficiently objective to make the estimation of what is a child's best interests, as to do so would mean admitting that their provision was second best on each occasion.
 - iv. A potential repercussion of this could be the potential development of schools and LAs delaying enactment of deregistration until such checks have been made, in effect turning deregistration into a process rather than an instruction with immediate effect as at present.
 - c. Children with EHCP (and so presumably those with an IDP in Wales) attending county maintained Sen or LA funded independent schools would require LA permission to HE .
 - i. At present, permission is needed to deregister children from "special schools", but permission is based purely on the suitability of educational provision. This Bill would shift that to be what is considered to be "in the best interests of the child", so permission could be refused even with excellent provision of home education.
 - ii. There is a profound shift in the removal of the present caveat that permission should not be reasonably refused, with, instead, power is given to council staff to block deregistration purely their subjective opinion is that it is not in a child's best interests, overriding the opinion and experience of parents and children.
3. **Introduction of a compulsory register**. What is the issue with this? – only space for the very briefest of mention of the issues with this here.
- a. A child not being on a council list is not "missing" or invisible, they are just not on a council list.
 - b. The presumption behind the perceived need for a register is that parents and families cannot be trusted.

- c. Crucially, this register is not just a list of names of children for make informal enquiries in the way that happens at present. These are extensive databases with large volumes of personal information about each child.
- d. Hefty fines and even risk of imprisonment for parents for non-compliance with provision of information.
- e. Repercussions for parents not just for not telling the LA that a child is home educated but for failing to provide updated information about the child's educational provision within 15 days of any change.

4. Provision of extensive Information about each child:

- a. As presently drafted, the parents would have a legal duty to provide not only the hours the child spends in education (how does one possibly quantify that, it demonstrates a lack of understanding of how home education works) but also contact details and information about the provision of education by anyone other than the parents. Some assume this will only apply to those who are paid to provide education for over an as yet undefined number of hours, but this is not written into the Bil, it simply says "person other than the parent".
- b. No other group in the population has to deliver the amount of information this register is calling for. This is burdensome and invasive and will primarily impact law-abiding parents - not the "children missing education" they're wanting to find.
- c. Given the strength of home ed is its flexibility, its ability to immediately and instantly adapt to a child's needs/requirements/interests, to be truly child-led, then this requirement is not just unworkable but would serve to inhibit the provision of an education that is truly suited to each child's age, aptitude and abilities including any SEND needs by encouraging inflexibility.
- d. The types and depth of information that would seem to be required would appear to make child-led learning approaches particularly difficult, especially for those families who live in areas with LAs who are more difficult and hostile where it comes to EHE.
- e. The information requested includes details of anyone providing education to the child. Quite what that means remains to be established – eg does it apply to paid/unpaid, to if parents are participating/present/not attending a session, to only a certain number of hour of a given provision, to what looks like what the government perceive as education (eg school-like academics) or to what is truly educational for a given child – all is very unclear at present. It may be that these are clarified only at a later stage when guidance is rewritten, but passing legislation with such unclear measures that are wide open to interpretation is hardly safe or appropriate practice.
- f. This is part of a shift from the role of LAs from present reactive duty to proactive oversight and monitoring.

5. Education Providers:

- a. When parents contract with an education provider privately, the legal position regarding data protection has always been that your data will be stored securely and kept confidential. After all, you're paying for the service. But now the government wants those providers to breach current data protection laws and have them share YOUR data with them, without your consent.
- b. This proposal breaches art 8 of the Human Rights Act 1998 - the right to privacy, which also protects the privacy of your correspondence.
- c. Monetary Penalties can be imposed on education providers for non-compliance. This threat of extensive fines and increased workload, bureaucracy and stress for those who provide educational service is likely to provide a deterrent to offering such beneficial services, which is hardly in the interests of promoting the wellbeing and education of children.
- d. Will these providers be expected to provide more than just contact details in time – will this lead to them being asked to give evaluations, outcome measures, opinions, insights into non-academic aspects relating to the child? What is the purpose of having all these contact details? All unclear and not established.

6. Support:

- a. The support section offers nothing except the sharing of advice and information "as the local authority sees fit". So the only thing to offer home educators is “advice and information” to those who home educate from those who have never home educated about how to home educate- and even that is only “as they see fit”.
- b. No improved access to diagnostic services for SEND
- c. No improvement in access to exam centres for home educators to be able to sit, at affordable rates, the kinds of exams that the government sees as outcome measures of education.
- d. There are absolutely no incentives for home educators to want to engage or comply, only increased demands and threats of fines or imprisonment. That’s not exactly “support”.
- e. Threatening any parent with a custodial sentence is a dreadfully damaging concept that shatters a child’s family life, with even more profound implications when this child’s education is based within that family and provided by that parent that would be removed. As presently drafted, imprisonment is threatened for simply not keeping up with unprecedented levels of bureaucracy and notifications.

7. No Protection against heavy-handed LA's:

- a. The bill presumes that council staff will always, without exception, make the correct decisions, behave fairly without discrimination and bias, and never make any mistakes. This is far from the experience of many home educators in the UK.

- b. There is no independent complaints process for when they inevitably will, for when they overstep their legal remits, let alone for when there are simply differences in opinion on what is suitable for a given child.
- c. Bear in mind the wide variation in how council employees take action against parents including issuing School Attendance Orders - https://educationalfreedom.org.uk/forced-compliance-in-some-las/?fbclid=IwY2xjawGgag5leHRuA2FlbQlxMQABHWtsWX50H3BjrOm193Nn6kepOITBAfo_jjCqizu1Dzle2F_lwysWmAp_Xg_aem_3CfvMkjLwUqxbc4R0qCYOQ
- d. No independent complaints process, no arbitration, no tribunal service - the only way parents can defend their cause is to allow themselves to be taken to court for noncompliance of a SAO and plead their case there – with profoundly damaging impacts on families in having to do so. Magistrates do not necessarily have significant training in educational law, nor understanding or experience of the range of alternative educational pedagogy that home educators can often utilise, yet for those who can persevere to this stage, many SAOs are overturned.
- e. Good law will always have protection built in for all parties. This law offers no protection to home educating families.
- f. The concept of being able to apply to the Secretary of State is of no help, as historically the Secretary of State has hardly ever revoked a school attendance order. Given the role of the Secretary of State in promoting the state education system, then this again is not exactly an independent role or person.

8. School Attendance Orders and Criminal Convictions:

- a. The only incentive for families to comply (aka give them all the information they ask for) is to avoid a school attendance order, including to avoid the risk of a custodial sentence.
- b. This results in the pressure to provide an education that pleases a council employee rather than what may be most suitable for the child, pressure which is detrimental to children and families.
- c. Manipulative pressure on families. The government know that they cannot insist on entry into any homes of loving law-abiding families and/or interview children and families without reason to believe the children are at risk – at present even the police and social services can only do so in specific individual circumstances that require a court order or where that can be justified in a court of law because of imminent danger. So in an attempt to get around this, the Bill brings in coercive manipulative and threatening statements that while they cannot insist, then if parents do not allow LAs into the family home if they state they wish to, then the council are even more likely to proceed to a SAO with all the implications/stresses/demands that that entails. At present, this coercion would apply if the council had started legal proceedings towards a SAO – but bear in mind how readily some local authorities do so already, as indicated in the study cited above. This clause as worded empowers coercive control and intimidation of families.

- d. School attendance orders used to be about suitable education, but now they are also about the parent providing information. This is hardly reflective of a free and democratic society.
9. The whole package of issues and concerns regarding the **introduction of unique identifier numbers for all children.**
- a. that is a whole additional topic.
 - b. But if have unique identifier numbers, then just why is a separate register of home educated children needed, if the only reason were to identify children to rule out the possibility of them missing education.
10. The legislation is **poorly written without addressing how these proposals would be implemented and applied.** That has been left to secondary legislation and rewriting of guidance. One cannot back legislation when how it would be enacted and implemented and when the consequences of it for families has not been addressed within the Bill itself, let alone adequately scrutinised by parliamentary process.
11. The whole package of issues and concerns regarding **the very late statement of the intention of this Bill applying to Wales as well as England,** made on the last day that amendments could be proposed – of the well past not only the 1st and 2nd readings but also the Committee and evidence gathering stage, depriving the people of Wales and their elected representatives the opportunity of raising concerns and providing evidence. Beyond this, there has been no scrutiny of the significant impact of the combination of the measures in this Bill with other legislation that has been enacted the same week in Wales only, as summarised in this briefing note. <https://defenddigitalme.org/wp-content/uploads/2025/03/Wales-childrens-data-extraction-Supplemental-Briefing-CWBSBill-15032025.pdf>