



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: FFiE meeting May 2022

23 May 2022

Dear Families First in Education,

With reference to the points where you were seeking clarification on in the recent meeting with Welsh Government officials, please find the Welsh Government response below.

Our response makes several references to the draft statutory guidance that was consulted on in 2019 and it can be found [here](#) for ease.

1. You enquired about how Welsh Government defined suitable education.

The draft guidance references the definition of suitable and efficient education as set out in section 7 of the Education Act 1996 'the parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable: (a) to his age, ability and aptitude, and (b) to any special educational needs he may have, either by regular attendance at school or otherwise'. Relevant case law is also cited in section 4 of the guidance.

The guidance goes on to state in section 1.1.1 that a diversity of approaches could be used and allows for an individualised approach for children tailored to the specific needs and interest of each child. It highlights that one method is not necessarily more valid than another and there is no one size fits all approach.

You may also wish to refer to section 4 - Efficient and suitable education in the draft guidance for further details in the context of home education.

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

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

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2. You raised the issue about Local Authority approaches.

The draft guidance advises that local authority officers recognise that the customs, practices and standards in school-based education are not necessarily relevant to home education. Any advice should be based on the individual circumstances of each child. Local authorities should, where possible, promote access to learning opportunities available to all children in their area.

3. You enquired about the need for reform

The non-statutory guidance that is currently in place was last updated in 2017 and the EHE landscape has changed considerably since that time. Calls for the guidance to be updated and put on a statutory basis has come from a range of stakeholders. The proposals have an educational focus and are being introduced to help ensure that all children in Wales receive a suitable education, and to assist local authorities in their statutory duty under section 436a of the Education Act 1996.

4. You enquired whether Welsh Government were going to pursue the idea of a database.

Section 29 of the Children Act 2004 allows regulations to be made that will require local authorities to maintain and populate a database of compulsory school aged children in their area in order to assist them in identifying those who are not on a school roll, education otherwise than at school (EOTAS) register or independent school roll.

The Welsh Ministers intend to make regulations that will require local health boards to disclose to a local authority non-medical information to assist them in identifying children in their locality. A local health board which discloses information to a local authority must take reasonable steps to ensure that the information is accurate.

The database proposal will be subject to a rigorous and comprehensive data privacy impact assessment.

5. You enquired whether the local authority would consider formal assessment of learning in relation to English & Mathematics.

The Welsh Government's draft statutory guidance outlines that the approach home educating parents take to ensure their child is receiving a suitable education is likely to be dictated by their own philosophy or views, and in many cases, the absence of formal assessment may be a feature of the education provision. Progress, over the long term, may take a variety of forms.

The draft statutory guidance emphasises that assessing the suitability of education should not be about measuring the child's attainment or testing the child.

6. You referred to the concerns of EHE lobby groups about the conflation of safeguarding and EHE

Whether in school or home educated, the safety and wellbeing of all children and young people should be of the utmost importance to all involved.

The Welsh Government acknowledges in the draft guidance that 'there is no evidence to suggest that home educated children are at greater risk of neglect or abuse than children who are educated at school'.

However, as with any child regardless of where they are educated, there may be circumstances which, individually or combined, give practitioners cause to seek further information about a child.

7. You enquired about the increased powers and what action could be taken if suitable education was not being provided.

A local authority has a duty under section 436A of the Education Act 1996 (and that under section 437) to clarify that suitable education is being provided, section 436A creates a duty to adopt a system for making such enquiries. In the first instance Welsh Government would expect that local authorities meet with the parents and home educated child regarding the education they are providing for their child.

In the absence of information that suggests that the child is being suitably educated and that the parents' refusal to answer is for some unrelated reason, the only conclusion that the local authority can reasonably come to is that the home education does not appear to be suitable. Where the local authority cannot conclude that the child is receiving a suitable education, it must act in accordance with the law as outlined in section 5 of the draft guidance.

8. You enquired about whether Welsh Government had undertaken impact assessments in relation to the proposed revised guidance.

Impact assessments were published alongside the consultations in [2019](#) and [2020](#)

9. Comments from parents

In relation to the 26 parental comments that were collated by Families First in Education (FFiE), it would not be appropriate for Welsh Government to comment on individual circumstances but we trust that this response enables FFiE to be able to reassure the parents of Welsh Government proposals.

I hope that you find this information helpful and we welcome the ongoing dialogue with you.

Yours sincerely,

Equity in Education Division
Education Directorate