

Curriculum and Assessment (Wales) Bill Committee Stage 1 Report

December 2020



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Curriculum and Assessment (Wales) Bill

Committee Stage 1 Report

December 2020



About the Committee

The Committee was established on 28 June 2016. Its remit can be found at: www.senedd.wales/SeneddCYPE

Committee Chair:



Lynne Neagle MS
Welsh Labour

Current Committee membership:



Dawn Bowden MS
Welsh Labour



Hefin David MS
Welsh Labour



Suzy Davies MS
Welsh Conservatives



Siân Gwenllïan MS
Plaid Cymru



Laura Anne Jones MS
Welsh Conservatives

The following Member attended as a substitute during this inquiry.



Jack Sargeant MS
Welsh Labour

The following Member was also a member of the Committee during this inquiry.



Janet Finch-Saunders MS
Welsh Conservatives

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Recommendations

General principles, the need for legislation and the approach the Bill takes to the new curriculum

Recommendation 1. That the Senedd, taking into account the evidence provided to us as part of our Stage 1 scrutiny and the recommendations we make in this report, agree the general principles of the Curriculum and Assessment (Wales) Bill..... Page 34

Recommendation 2. That the Welsh Government outline, in light of the evidence received as part of our Stage 1 scrutiny:

- how it has assured itself that the Bill has struck the right balance between local flexibility and national consistency;
- what checks and balances it will put in place to monitor and maintain the correct balance, including ensuring individual schools' curricula are appropriate; and
- what more it can do to ensure children and young people in settings in all parts of Wales receive a sufficiently consistent (but not necessarily uniform) education offer and thrive under the approach being taken to the new curriculum. Page 48

Recommendation 3. That the Welsh Government monitor closely and transparently the impact that curriculum reform has on standards, to ensure that it complements the wider school improvement efforts underway. This should draw on expert advice from the OECD and others..... Page 57

Recommendation 4. That the Welsh Government monitor closely any variation in the curriculum offer, and any impact that has on particular groups of pupils and schools, addressing early any signs of inadvertently exacerbating inequality and disadvantage..... Page 57

Recommendation 5. That the Welsh Government give further consideration to participating in future cycles of the Creativity Thinking element of PISA, in light of the clear read across between it and the new curriculum's approach.Page 58

Details on the face of the Bill

Recommendation 6. That the Welsh Government set out, as a matter of priority, the principles and reasoning that has guided—and will continue to guide—decisions about what aspects of teaching and learning merit being included on the face of Bill as mandatory elements. Page 71

Recommendation 7. That the Welsh Government amend the Bill to ensure that the What Matters Code (or revised Code) is subject to the enhanced affirmative, rather than the enhanced negative, procedure. The provision in section 72(2) requiring consultation on the What Matters Code (or revised Code) should remain. Page 71

Recommendation 8. That the Welsh Government consider and outline how the legislation can be future-proofed, within reason, to ensure that future regulations do not undermine the principles of the Curriculum for Wales, for example by making the curriculum overcrowded or too prescriptive. Page 71

Recommendation 9. That the Welsh Government amend the Bill to include specific reference, on its face, to mental health and well-being and its place in the curriculum. Page 78

Recommendation 10. That the Welsh Government provide further assurances that explicit references to Welsh history, BAME history, diversity and identity will be made in the suite of Codes and guidance that underpin the Bill. Page 87

Recommendation 11. That the Welsh Government provide further assurances of how the various items of learning that stakeholders and petitioners have requested are included as mandatory elements on the face of the Bill will be reinforced by this legislation and the suite of Codes and guidance that underpin it. Page 91

Recommendation 12. That the Welsh Government consider how it can ensure that the place of human rights, including children’s rights, is secure in the long-term within the Curriculum for Wales. Page 93

Recommendation 13. That the Welsh Government amend the Bill to include, on its face, a duty to have due regard to the UN Convention on the Rights of the Child (UNCRC). Given their respective roles in relation to the Curriculum for Wales, this duty should be placed on all persons listed in section 66(3) of the Bill when exercising any of their functions conferred by or under the Bill. Page 98

Recommendation 14. That the Welsh Government ensure that there is adequate synergy between the Bill, the new curriculum, and the Well-being of Future Generations Act, and that this is reinforced within the What Matters Code and statutory guidance made under the Bill.....Page 99

Languages: English and Welsh

Recommendation 15. That the Welsh Government amend the Bill to resolve concerns about the impact on immersion in the Welsh language up to age 7 (prior to Year 3), noting that the Minister intends to table an amendment removing English as a mandatory element for this age group..... Page 106

Recommendation 16. That the Welsh Government work closely with the Welsh Language Commissioner to address his concerns about the Bill, the delivery of the single continuum and the Welsh Government’s wider Cymraeg 2050 aims. This should include consideration of amending the Bill to require the Welsh Ministers to issue a statutory Code for the teaching and learning of Welsh under the curriculum, or strengthening the provisional guidance on how schools are expected to deliver the single learning continuum and contribute to the Cymraeg 2050 agenda..... Page 113

Recommendation 17. That the Welsh Government work closely with Qualifications Wales and other relevant partners to ensure appropriate qualifications in Welsh are developed and made available to align with the single continuum for teaching and learning this mandatory element..... Page 114

Recommendation 18. That the Welsh Government take forward expeditiously work to revise school language categories and consider placing these on a statutory footing, in order to support the understanding and implementation of the continuum for learning Welsh in different schools.....Page 117

Recommendation 19. That the Welsh Government ensure that the required scale of planning, funding and training is provided to support the effective implementation of the single continuum for the teaching and learning of Welsh under the new curriculum.....Page 120

Relationships and Sexuality Education (RSE)

Recommendation 20. That the Welsh Government work with Estyn to ensure that monitoring and inspection of educational settings’ implementation of the RSE Code is a key feature of the inspectorate’s future work programme.
.....Page 140

Recommendation 21. That the Welsh Government, to inform schools' important work to prepare for the Bill's commencement and Members' tabling and consideration of amendments, make available before the start of Stage 3, the draft RSE Code.Page 140

Recommendation 22. That the Welsh Government amend the Bill to ensure that the RSE Code (or revised Code) is subject to the enhanced affirmative, rather than the enhanced negative, procedure. The provision in section 72(2) requiring consultation on the RSE Code (or revised Code) should remain.....Page 140

Recommendation 23. That the Welsh Government work with the RSE Working Group to provide, in readiness for the Bill's implementation, a framework outlining the core professional learning, resources and specialist support likely to be needed to deliver developmentally appropriate teaching of RSE from ages 3-16 under the new curriculum..... Page 144

Recommendation 24. That the Welsh Government, as a matter of urgency, launch a myth-busting campaign about the RSE that will be delivered as a result of this Bill. This campaign should:

- challenge the misinformation currently circulating about RSE;
- seek to reassure parents about RSE's developmentally appropriate content and approach; and
- explain why it is important for all children and young people to be taught RSE. Page 152

Religion, Values and Ethics (RVE)

Recommendation 25. That the Welsh Government, to inform schools' important work to prepare for the Bill's commencement and Members' tabling and consideration of amendments, make available before the start of Stage 3, the draft RVE guidance..... Page 172

Recommendation 26. That the Welsh Government further explore and clarify during the Stage 1 debate whether it would be possible to amend Schedule 1 to the Bill so that there is consistency between how the different categories of school take account of the agreed syllabus when designing and implementing the mandatory element of RVE in the school curriculum.Page 187

Recommendation 27. That the Welsh Government clarify, during the Stage 1 debate, why the Bill does not include a right for learners of sufficient maturity to choose the RVE provision they receive where a choice exists.Page 188

Recommendation 28. That the Welsh Government further explore, in consultation with the Children’s Commissioner for Wales, the options available to maximise the opportunities to further realise the rights of children in relation to the Bill’s provision for the mandatory element of RVE, providing an update on this during the Stage 1 debate.....Page 189

Recommendation 29. That the Welsh Government explore options to amend the Bill to refer to religious traditions and non-religious philosophical convictions in “Wales” as opposed to “Great Britain”, given that this is a bespoke curriculum for Wales.....Page 189

Recommendation 30. That the Welsh Government continue with its plan to change the title of Standing Advisory Committees on Religious Education (SACREs) to reflect the new RVE mandatory element in the curriculum, but that consideration be given to addressing concerns raised about the need to be clear about what Standing Advisory Committees (SACs) exist to advise on.....Page 193

Recommendation 31. That the Welsh Government continue with its plan for the Bill to place a requirement on local authorities “to include in their Agreed Syllabus Conferences a group of persons to represent such non-religious philosophical convictions as, in the opinion of the authority, ought to be represent[ed]”, but that consideration be given to addressing concerns raised (from religious, non-religious and advisory groups) about the balance and fairness of the composition of SACs and ASCs, particularly in relation to voting rights.....Page 193

Recommendation 32. That the Welsh Government work with relevant and expert representatives in the education sector to provide, in readiness for the Bill’s implementation, a framework outlining the core professional learning, resources and specialist support likely to be needed to deliver the necessarily objective, critical and pluralistic teaching of RVE under the new curriculum.....Page 200

Early years

Recommendation 33. That the Welsh Government work at pace to make the early years curriculum available, to maximise the time settings have to prepare for its implementation. Relevant stakeholders must be closely involved in its development.....Page 210

Recommendation 34. That the Welsh Government undertake work to estimate the Bill’s cost implications for funded non-maintained nursery settings, and provide this to the Senedd to aid its consideration of the Bill.....Page 210

Recommendation 35. That the Welsh Government proceed at pace with its work to develop supplementary guidance to support children’s progression and assessment prior to age 5, and consider the need for—and purpose of—an earlier progression step on its proposed continuum of learning than age 5..... Page 211

Post-16

Recommendation 36. That the Welsh Government, in light of the Curriculum for Wales’s new approach, undertake further work to ensure that learners’ transitions between age 3-16 education and post-16 education and training are as effective and seamless as possible. This needs to be considered from the perspective of this Bill and any future reform of post-compulsory education and training..... Page 218

Recommendation 37. That the Welsh Government amend the Bill to require schools to provide RSE to sixth form pupils who request it..... Page 218

Specific curriculum requirements and exceptions (including EOTAS), and pupils with ALN and disabilities

Recommendation 38. That the Welsh Government must fully ensure that the new curriculum is ambitious about the learning and life-chances of learners who are EOTAS, through the provisions of the Bill and the forthcoming statutory guidance on implementation of the new curriculum in EOTAS settings.
..... Page 227

Recommendation 39. That the Welsh Government must fully ensure the new curriculum has a personalised approach to tailor the curriculum provided to learners in EOTAS settings (e.g. provision that pays attention to their ALN, considers emotional, social and behavioural difficulties, or recognises medical factors). This should be achieved through the provisions of the Bill and the forthcoming statutory guidance on implementation of the new curriculum in EOTAS settings.....Page 228

Recommendation 40. That the Welsh Government must fully ensure the curriculum provided in EOTAS settings enables learners’ re-integration into mainstream school, where this is appropriate and possible, through the provisions of the Bill and the forthcoming statutory guidance on implementation of the new curriculum in EOTAS settings.....Page 229

Recommendation 41. That the Welsh Government clarify what mechanisms exist for parents and learners to challenge the curriculum that is offered for learners who are EOTAS in the event they do not believe it complies with the requirements under the Bill.Page 229

Recommendation 42. That the Welsh Government clarify how “capacity to understand” is to be interpreted for the purposes of the Bill. This could include guidance on the factors head teachers and governing bodies should take into account when deciding whether a pupil has capacity to understand..... Page 235

Recommendation 43. That the Welsh Government explain the reasons why additional exceptions to curriculum requirements under regulations made under section 50 will not necessarily be conditional on the general curriculum requirements being met, unlike exceptions provided for by other sections of the Bill..... Page 235

Recommendation 44. That the Welsh Government:

- provide assurances that the curriculum framework will ensure a sufficiently broad offer for 14 to 16 year olds, with a wide range of course options available, including vocational courses; and
- monitor this situation closely and keep under consideration the need to promptly make regulations specifying further requirements as may be necessary. Page 241

Recommendation 45. That the Welsh Government monitor closely how the power given to head teachers in section 33 is used and ensure, including through the statutory guidance underpinning the curriculum, that it is not used to unnecessarily deny pupils’ choices nor inhibit high aspirations for all learners. Page 241

Recommendation 46. That the Welsh Government:

- ensure that both the strategic approach to the Curriculum for Wales and its implementation fully support the interests of pupils with Additional Learning Needs and disabilities, and are consistent with the provisions of the Additional Learning Needs and Education Tribunal (Wales) Act 2018; and
- monitor this situation closely and consider strengthening the references to ALN and disabilities in guidance on curriculum implementation. Page 246

Recommendation 47. That the Welsh Government amend the Bill to include, on its face, a duty to have due regard to the UN Convention on the Rights of Persons With Disabilities (UNCPRD). Given their respective roles in relation to the Curriculum for Wales, this duty should be placed on all persons listed in section 66(3) of the Bill when exercising any of their functions conferred by or under the Bill.....Page 246

Progression, assessment and qualifications

Recommendation 48. That the Welsh Government develop the Progression Code with a view to promoting the highest aspirations for all learners, supporting them to reach their full potential.Page 252

Recommendation 49. That the Welsh Government amend the Bill to ensure that the Progression Code is subject to the enhanced affirmative, rather than the enhanced negative, procedure. The provision in section 72(2) requiring consultation on the Progression Code (or revised Code) should remain.Page 252

Recommendation 50. That the Welsh Government amend section 58(1) of the Bill to delete “may” and replace with “must”.Page 259

Recommendation 51. That the Welsh Government amend the Bill to ensure that regulations made under section 58 regarding assessment arrangements are subject to the affirmative procedure.Page 259

Recommendation 52. That the Welsh Government provide an update, in readiness for the Bill’s implementation, on the ongoing work beyond the Bill to reform school accountability arrangements and explain how they will align with the new curriculum..... Page 260

Recommendation 53. That the Welsh Government ensure that teacher assessment and feedback to learners are a key focus of the assessment guidance to be issued alongside the new curriculum..... Page 260

Recommendation 54. That the Welsh Government clarify whether the guidance to be issued on assessment will be statutory, and if it is not statutory, consider whether it needs to be.Page 260

Recommendation 55. That the Welsh Government work with Qualifications Wales to proceed with pace on the work to reform qualifications, ensuring maximum alignment between the qualifications available to 16 year olds and the Curriculum for Wales.....Page 268

Recommendation 56. That the Welsh Government closely monitor and support the work of Qualifications Wales in reforming qualifications to align with the Curriculum for Wales and, whilst maintaining Qualifications Wales’ role as an independent regulator, provide clear leadership and direction to ensure this work remains on track.Page 268

Implementation

Recommendation 57. That the Welsh Government, in light of our conclusion that the potential barriers identified as part of our Stage 1 scrutiny pose significant risks to the Bill’s successful implementation:

- proceed at pace with its intention to review the ‘Curriculum for Wales: The journey to 2022’ document and use the learning from that exercise, and any further advice from the OECD, to inform the implementation of the Bill (including the relevant timescales); and
- set out the steps it will take to satisfy itself and stakeholders that all settings will be able to implement this legislation effectively from day one. Page 287

Recommendation 58. That the Welsh Government, taking account of the impact of COVID-19, provide assurances before the end of the Bill’s passage through the Senedd that it will:

- assess the extent to which professional learning and development opportunities have been affected by the pandemic;
- commit to providing the substantial additional support we believe will be needed to make up for the impact of the pandemic on professional learning and development; and
- provide an update on how peer-to-peer and cluster work is supporting professional learning and development, and to what timescales. Page 288

Recommendation 59. That the Welsh Government provide assurances about how plans for engagement, co-construction, collaboration and communication relating to the implementation of the new curriculum have been—and will be—adjusted to take account of COVID-19’s impact.....Page 288

Recommendation 60. That the Welsh Government undertake further work to ensure that, as part of the preparation for—and roll out of—this legislation, external expertise is sought to inform schools’ curricula and educational resources. New materials and resources, in both languages, should be developed nationally but be suitable for local adaptation, in keeping with the subsidiarity principle that underpins the Curriculum for Wales.....Page 289

Recommendation 61. That the Welsh Government undertake, before the start of Stage 3, an assessment of the feasibility of the planned timescales for the implementation of the curriculum. In making this recommendation we emphasise that we do not believe the timetable for the Bill should change, nor are we concluding that a delay to the implementation timescales is necessary, merely that it is prudent—in light of the impact of the COVID-19 pandemic—to consider what is feasible.....Page 295

Recommendation 62. That the Welsh Government amend the Bill to include a duty on the Welsh Ministers to review the implementation of the Bill and its provisions..... Page 302

Financial implications

Recommendation 63. That the Welsh Government, before publishing a revised Explanatory Memorandum after Stage 2, and with a view to estimating more representative and accurate costs, undertake further work on the RIA. This should draw on information from schools that have not been engaged in the development of the new curriculum to the same extent as Innovation Schools.
..... Page 311

Recommendation 64. That the Welsh Government ensure that the RIA is updated with the information on costs provided by key stakeholders who were delayed from completing their work due to the COVID-19 pandemic, and that this is reflected fully in the revised Explanatory Memorandum that will be published after Stage 2..... Page 315

Recommendation 65. That the Welsh Government state clearly that the financial resources required to implement this legislation successfully will be provided, to allay concerns that existing school funding constraints, other changes to be implemented such as ALN transformation, and the impact of COVID-19 will leave schools unable to resource this ambitious reform..... Page 316

Recommendation 66. That the Welsh Government:

- update the RIA to reflect the concerns raised in our Stage 1 scrutiny about the scale of professional learning required to implement this legislation successfully;
- provide revised estimated costs in light of that update; and
- commit to providing the funding necessary to deliver this level of professional learning. Page 320

1. Introduction

1. On 6 July 2020, Kirsty Williams MS, Minister for Education (“the Minister”), introduced the Curriculum and Assessment (Wales) Bill (“the Bill”) and accompanying Explanatory Memorandum.¹ On 8 July 2020, the Minister made an oral statement in Plenary in which she explained:

“This Bill provides a new legislative framework to support the new curriculum and assessment arrangements, and helps us to meet (...) ambitions for every single learner, for every single teacher and every single education setting.”²

2. At its meeting on 6 July 2020, the Senedd’s Business Committee agreed to refer the Bill to us, the Children, Young People and Education Committee, for consideration of the general principles (Stage 1), in accordance with Standing Order 26.9. The Business Committee agreed that we should report by 4 December 2020.³

3. A Statement of Policy Intent for Subordinate Legislation, direction making powers and guidance was provided on 30 July 2020.

Terms of reference for our scrutiny of the Bill

4. We agreed the following framework within which to scrutinise the general principles of the Bill:

To consider:

- the general principles of the Curriculum and Assessment (Wales) Bill and whether there is a need for legislation to deliver the Bill’s stated policy objectives;
- any potential barriers to the implementation of the provisions and whether the Bill takes account of them;

¹ A revised Explanatory Memorandum was laid on 1 September 2020.

² Plenary, Record of Proceedings (RoP) [para 349], 8 July 2020.

³ Business Committee, Timetable for consideration of the Curriculum and Assessment (Wales) Bill, July 2020.

- any potential implications of implementing the Bill's provisions while relevant sectors deal with the consequences of the Covid-19 pandemic;
- whether there are any unintended consequences arising from the Bill;
- the financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum); and
- the appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Part 1: Chapter 5 of the Explanatory Memorandum).

5. We conducted a public consultation between 16 July and 29 September 2020 to inform our scrutiny, receiving 230 online responses (see list in Annex A).⁴ We held 12 oral evidence sessions in total during July, September and October 2020 (see list in Annex B).

6. In addition to gathering oral and written evidence, we were keen to engage more broadly, particularly with children and young people. We were also keen to hear from their parents and carers, potential future employers and the higher education, further education and adult learning sector. In light of the COVID-19 pandemic, this work had to be undertaken at a distance, in the form of virtual round table discussions and a children and young people friendly survey.⁵

7. Due to the high level of interest in giving evidence on the Bill, and the breadth of issues on which people were keen to express a view, we also gathered video evidence from a range of stakeholders. This was used to supplement the oral and written evidence, the themes arising from round table discussions, and the evidence from children and young people.

8. We would like to thank everybody who contributed to our work. We are particularly grateful for the time people gave, in the middle of a public health emergency of an unprecedented scale, to share their views and experiences with us.

⁴ We commissioned Wavehill social and economic research to produce an analysis of the responses received to our consultation. This was published in October 2020.

⁵ We commissioned Wavehill social and economic research to produce an analysis of the children and young people survey. This was published in October 2020.

Other committees' consideration of the Bill

9. In accordance with Standing Order 19, the Senedd's Finance Committee took evidence from the Minister on the financial implications of the Bill on 21 September 2020.

10. In accordance with Standing Order 21, the Senedd's Legislation, Justice and Constitution Committee took evidence on the Bill from the Minister on 5 October 2020. Its consideration focused on:

- matters relating to the competence of the Senedd, including compatibility with the European Convention on Human Rights (ECHR);
- the balance between the information that is included on the face of the Bill and that which is left to subordinate legislation;
- whether an appropriate legislative procedure has been chosen, in relation to the granting of powers to the Welsh Ministers, to make subordinate legislation;
- any other matter it considers relevant to the quality of legislation.

11. Both committees' reports were published on 4 December 2020.

The Bill's stated aims

12. The Welsh Government's stated aim for the Curriculum and Assessment (Wales) Bill is to provide:

“... for the establishment of a new and reformed legislative framework to support the implementation of new curriculum and assessment arrangements as part of a wider programme of education reform in Wales.”⁶

13. The Welsh Government summarises the Bill's provisions as follows:

“... the Bill proposes to facilitate the following:

- The design, adoption and implementation of a curriculum for 3 - 16 year olds in maintained schools, maintained nursery schools and in funded non-maintained nursery settings and curriculum provision in Pupil Referral Units and in other

⁶ Welsh Government, Explanatory Memorandum, para 1.1.

settings secured by a local authority in Wales providing education otherwise than at school.

- Limited provision for post-compulsory education in maintained schools.
- General requirements a curriculum must satisfy, including cross curricular skills (literacy, numeracy and digital competence), areas of learning and experience and the mandatory elements (Welsh, English, Religion, Values and Ethics, and relationships and sexuality education).
- The publication by the Welsh Ministers of a What Matters code setting out the key concepts in each area of learning and experience describing the breadth of learning which must be covered.
- The publication by the Welsh Ministers of a statutory code providing a framework for progression in the new curriculum.
- The publication by the Welsh Ministers of a code setting out core learning in relationships and sexuality education.
- The implementation of assessment arrangements to support every learner to make progress.
- Will have the effect of establishing a 3 – 16 continuum of learning and through the removal of the terms key stages 2, 3 and 4, and foundation phase in legislation.
- The disapplication of English up to age 7 to help support and maintain Welsh language fluency.
- Exceptions for certain pupils (in specified circumstances).
- Powers for the Welsh Ministers to issue guidance to head teachers, governing bodies and local authorities in respect of their functions.”⁷

⁷ Welsh Government, Explanatory Memorandum, para 1.2

Legislative competence

14. The Explanatory Memorandum states:

“... Senedd Cymru (the Senedd) has the legislative competence to make the provisions in the Curriculum and Assessment (Wales) Bill (“the Bill”) pursuant to Part 4 of the Government of Wales Act 2006 (“GoWA 2006”) as amended by the Wales Act 2017 (“WA 2017”).”⁸

15. The Llywydd issued a statement on 6 July 2020, which stated that, in her opinion, the provisions of the Bill would be within the legislative competence of the Senedd.⁹

Human rights

16. To be within the legislative competence of the Senedd, section 108A(2)(e) of the Government of Wales Act 2006 requires that all provisions of a Bill are compatible with the European Convention on Human Rights (“ECHR”).

Relevant ECHR Rights

17. The Integrated Equality Impact Assessment¹⁰ published by the Welsh Government lists the following rights as being engaged by the Bill:

- **Article 2 Protocol 1 (“A2P1”)** – which provides for the right to an education;
- **Article 9** – which provides for the right to freedom of thought, conscience and religion; and
- **Article 14** – which provides for the prohibition of discrimination.

18. Article 2 of the First Protocol to the ECHR provides:

“No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and teaching, the State shall respect the rights of parents to ensure such education and

⁸ Welsh Government, Explanatory Memorandum, para 2.1.

⁹ Presiding Officer’s Statement on Legislative Competence, 6 July 2020.

¹⁰ Welsh Government, Integrated Impact Assessment, para 2.4, July 2020 and Integrated Impact Assessment Curriculum For Wales – Ensuring Access To The Full Curriculum, pages 36-39, January 2020 (v3).

teaching in conformity with their own religious and philosophical convictions.”

19. On ratifying the First Protocol, the UK entered a reservation in respect of the second sentence of Article 2:

“... in view of certain provisions of the Education Acts in force in the United Kingdom, the principle affirmed in the second sentence of Article 2 is accepted by the United Kingdom only so far as it is compatible with the provision of efficient instruction and training and the avoidance of unreasonable public expenditure.”

20. The reservation was entered to reflect the principle originally contained in the Education Act 1944 and now re-enacted in section 9 of the Education Act 1996:

“... that pupils are to be educated in accordance with the wishes of their parents so far as that is compatible with the provision of efficient instruction and training and the avoidance of unreasonable public expenditure.”

21. The European Court of Human Rights has interpreted¹¹ the first sentence of A2P1 as including a right to access educational institutions existing at a given time. It does not oblige states to make education of a particular type or quality available.

22. The second sentence of A2P1 has been interpreted¹² as imposing a positive obligation on the state to respect parents’ religious and philosophical convictions. This includes a prohibition on indoctrination, and a requirement that information or knowledge be conveyed in an objective, critical and pluralistic manner (sometimes referred to as the “pluralism requirement”).

23. Article 9 provides:

“1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

¹¹ Belgian Linguistic case (No. 2) (1968) 1 EHRR 252.

¹² Folgero and others v Norway (2008) 46 EHRR 47; Lautsi v Italy (2012) 54 EHRR 3.

2. Freedom to manifest one’s religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.”

24. Whilst the right to respect for religion and beliefs under A2P1 is concerned with parents’ rights only, the right to freedom of thought, conscience, and religion—which is protected by Article 9—applies to children and adults.

25. We note that—in cases concerning the right to respect for parents’ religious and philosophical convictions under A2P1—the Courts often do not consider Article 9 separately in any detail¹³. Case-law¹⁴ does, however, require that a parent’s right to respect for their religious and philosophical convictions under A2P1 must be interpreted in light of all relevant¹⁵ ECHR rights (including Article 9).

26. Article 14 provides that:

“The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

27. Article 14 is not a freestanding right and can only be relied on in conjunction with another ECHR right. This does not mean that there needs to be a breach of that other ECHR right in order for Article 14 to be relied on. It is sufficient that the discriminatory behaviour falls within the scope of that other right.

United Nations Convention on the Rights of the Child (“UNCRC”)

28. The Integrated Impact Assessment¹⁶ provides that the Bill contributes to the following articles of the UNCRC:

- **Article 2** – the right to non-discrimination;

¹³ A2P1 is referred to as the ‘lex specialis’ or ‘law governing the subject’. See e.g. *Folgero and others v Norway* (2008) 46 EHRR 47; *Lautsi v Italy* (2012) 54 EHRR 3.

¹⁴ *Folgero and others v Norway* (2008) 46 EHRR 47; *Lautsi v Italy* (2012) 54 EHRR 3.

¹⁵ This includes the right to an education protected under the first sentence.

¹⁶ Welsh Government, *Integrated Impact Assessment*, July 2020.

- **Article 12** – the right to be heard, express opinions and be involved in decision making;
- **Article 13** – Children have the right to get and share information as long as the information is not damaging to them or others;
- **Article 17** – the right to access information that will allow children to make decisions about health;
- **Article 24** – the right to experience the highest attainable health, access to health facilities, preventative health care and family planning education and services;
- **Article 28** – Children have a right to an education. Discipline in schools should respect children’s human dignity. Primary education should be free. Wealthy countries should help poorer countries achieve this;
- **Article 29** – Education should develop each child’s personality and talents to the full. It should encourage children to respect their parents, and their own and other cultures;
- **Article 33** – The Government should provide ways of protecting children from dangerous drugs;
- **Article 34** – The Government should protect children from sexual abuse; and
- **Article 36** – Children should be protected from any activities that could harm their development.

29. Whilst we acknowledge that the UNCRC does not provide children with directly enforceable rights in the courts, ECHR rights will now often be interpreted in light of international conventions, including the UNCRC.

30. We have considered in chapter 6 and chapter 7 the specific concerns that have been raised with us in terms of ECHR and UNCRC rights. The concerns, although not repeated here, fall largely into three areas:

- the absence of a right to withdraw from both Relationships and Sexuality Education (RSE) and Religion, Values and Ethics (RVE);
- the treatment of RVE in different categories of schools; and

- the role of learners in being able to choose the type of RVE they wish to receive.

31. We note the Minister's declaration that the provisions of the Bill would be within the legislative competence of the Senedd. We also note the Llywydd's statement that, in her view, the provisions of the Bill would be within the legislative competence of the Senedd.

32. In our report on the Children (Abolition of Defence of Reasonable Punishment) (Wales) Bill, we noted the (then) Constitutional and Legislative Affairs Committee's view that a full commentary in relation to the Welsh Government's assessment of human rights considerations ought to be provided in the Explanatory Memorandum laid before the Senedd alongside the Bill, rather than in the Equality Impact Assessment published on the Welsh Government's website.¹⁷ We are disappointed that this approach has not been taken in relation to this piece of legislation and note that this view is shared by the (now) Legislation, Justice and Constitution Committee in its report on this Bill.

¹⁷ Constitutional and Legislative Affairs Committee, [Report on the Children \(Abolition of Defence of Reasonable Punishment\) \(Wales\) Bill](#), 2 August 2019.

2. Background and policy context

The Curriculum and Assessment (Wales) Bill provides the statutory foundation for the Welsh Government's reform of the curriculum. It establishes a 'Curriculum for Wales', which has been developed following Professor Graham Donaldson's review and 'Successful Futures' report in 2015.

In addition to introducing the first distinct Welsh curriculum, the Bill marks a substantial departure from the relatively prescribed nature of the current national curriculum. Primarily purpose-led rather than content-based, with a greater emphasis on skills, the Curriculum for Wales gives schools considerable flexibility in designing their own curriculum, within a broad national framework provided by the Bill and associated Codes and guidance.

The purpose and intended effect of the Bill

33. Subject to its successful passage through the Senedd, the Curriculum and Assessment (Wales) Bill will provide the statutory foundation for the Welsh Government's reform of the curriculum for 3 to 16 year olds. It will replace the existing national curriculum in Wales, which was established in 1988 on an England and Wales basis, with a new Curriculum for Wales. Whilst devolution has enabled the curriculum to be adapted in Wales, most notably in 2010 with the introduction of the Foundation Phase in place of Key Stage 1, this marks the first construction of a distinct Welsh curriculum.

34. Introducing a "transformational curriculum" is a key part of the Welsh Government's action plan, 'Education in Wales: Our National Mission', which sets out its education reforms up to 2021.¹⁸ The Bill's Explanatory Memorandum says that "...curriculum reform should be at the heart of teacher, school and national

¹⁸ Welsh Government, [Education in Wales – Our National Mission](#), September 2017.

efforts to raise standards for all, tackle the attainment gap and ensure an education system that is a source of national pride and enjoys confidence”.¹⁹

35. Curriculum reform is therefore regarded by the Welsh Government as an integral part of its school improvement agenda. In October 2020, the Welsh Government published an updated version of ‘Education in Wales: Our National Mission’²⁰, along with ‘Curriculum for Wales: the journey to 2022’, a document setting out the “shared expectations” placed on schools for implementing the new curriculum.²¹

Development of the new Curriculum for Wales

36. The Welsh Government has sought to work with the education sector to design and develop a new curriculum since the review it commissioned from Professor Graham Donaldson, ‘Successful Futures’ (2015) found that:

“Together the current national curriculum and assessment arrangements no longer meet the needs of the children and young people of Wales. The case for fundamental change is powerful.”²²

37. The Welsh Government established a network of ‘Pioneer Schools’ to lead on the development of the new curriculum. This was part of the Welsh Government’s chosen approach to seek to empower the teaching profession and give them a central role in designing the new curriculum, aimed at resulting in greater ownership amongst teachers.

38. The Pioneer Schools have worked as part of an ‘all-Wales partnership’ including local authorities, regional consortia, Estyn, the further and higher education sectors, external experts, employers and the Welsh Government.

39. A draft version of the new curriculum was published in April 2019 for public feedback, before the final Curriculum for Wales was published in January 2020.²³ Effectively, this has the status of provisional statutory guidance which will be issued formally under the Bill.

¹⁹ Welsh Government, Explanatory Memorandum, para 3.9.

²⁰ Welsh Government, [Education in Wales – Our National Mission: update October 2002](#).

²¹ Welsh Government, [Curriculum for Wales: The journey to 2022](#), October 2020.

²² Professor Graham Donaldson, [Successful futures: review of curriculum and assessment arrangements](#), 2015.

²³ Welsh Government, Hwb, [Curriculum for Wales 2022](#).

The approach the Bill takes to the new curriculum

40. The Bill provides for an approach to the new Curriculum for Wales which is predominantly driven by purposes rather than content. Head teachers will have a duty to design an individual curriculum for their school, according to the needs of their pupils within broad parameters set out in a national framework.

41. This is discussed in more detail in chapter 3 and chapter 4.

Timescale for introduction of the Curriculum for Wales

42. The actual date of the new curriculum taking effect will be prescribed by an Order made under Section 79 of the Bill. However, the Welsh Government plans to roll out the new curriculum from September 2022, initially in primary school and Year 7 (usually the first year of secondary school), before it extends into subsequent year groups as these pupils progress through school, until they reach Year 11 in 2026/27. The Minister for Education has said that this timetable is unchanged despite the COVID-19 pandemic, although it will be kept under review.²⁴

Our previous scrutiny

43. As a Committee, we have scrutinised the Welsh Government's progress on curriculum reform throughout this Senedd. This includes several scrutiny sessions with the Minister, sessions with Professor Donaldson and other stakeholders in late 2016, a targeted call for evidence in late 2018, and correspondence, observations and points of concern submitted to the Welsh Government.

44. Details of the Committee's scrutiny of curriculum reform, prior to consideration of this Bill, can be found on our website.²⁵

²⁴ Oral evidence, CYPE Committee, RoP [para 2], 14 July 2020.

²⁵ CYPE Committee, [Donaldson Review and Curriculum Reform](#).

3. General principles, the need for legislation and the approach the Bill takes to the new curriculum

There is a broad consensus that the current curriculum is not fit for purpose and widespread agreement that there is a need for legislation. The approach the Bill takes to the new curriculum is generally supported although many people's support is conditional on certain aspects being revised and there are concerns about implementation.

There is also considerable debate over whether the Welsh Government has struck the right balance between local flexibility and national consistency and how the new curriculum will impact on the standards agenda.

The need for legislation and a complete overhaul of the current curriculum

Position in the Bill and wider background

45. Since Professor Donaldson reported in 2015 that the current national curriculum “no longer meets the needs of children and young people”,²⁶ the Welsh Government has been unequivocal about the need for change and the scale of that change.

46. Accepting Professor Donaldson's 'Successful Futures' report in full, the then Minister, Huw Lewis AM, stated:

“... this is not some kind of tinkering exercise (...). [It] marks the doing away with the national curriculum of 1988 and the rewriting from the

²⁶ Professor Graham Donaldson, [Successful futures: review of curriculum and assessment arrangements](#), 2015.

ground floor up of an entirely new curriculum with a different philosophy behind it.”²⁷

47. The Explanatory Memorandum states that the current legislative framework underpinning the curriculum is “based on a model developed more than 30 years ago and is no longer fit for purpose”. It comments further that it is “out of step with recent and ongoing shifts in technology and the development of our society and economy”.²⁸

Stakeholders’ evidence

48. The vast majority of stakeholders share the view that the current curriculum needs replacing and that legislation is necessary to achieve that.

49. On behalf of local authorities, the Welsh Local Government Association (WLGA) told us the current curriculum is “no longer fit for purpose” and needs to reflect the 21st Century.²⁹ Estyn observed that “education has moved forward over the past 30 years” and that “there is a need for a curriculum that reflects the new understanding that we have of how education works”.³⁰

50. Both the head teacher unions (National Association of Head Teachers (NAHT) and Association of School and College Leaders (ASCL)) believe a new curriculum is “much needed”, with ASCL summarising as follows:

“We saw that it [the Donaldson Review and curriculum reform] was entirely necessary—that the current curriculum, which we see to be outdated, fragmented, disconnected, and it doesn’t actually give our children or our teachers the richness of experience that they do need in order to engage and to teach to the very best of their ability. (...)

It’s also stale. It doesn’t really adequately prepare learners for a very rapidly shifting world, and it really doesn’t serve the needs of people in Wales or, indeed, our children more globally as citizens further than this country.”³¹

²⁷ **Plenary**, 4 March 2015.

²⁸ Welsh Government, Explanatory Memorandum, para 3.2.

²⁹ Written evidence, CYPE Committee, CAW 158 – Welsh Local Government Association.

³⁰ Written evidence, CYPE Committee, CAW 20 – Estyn.

³¹ Oral evidence, CYPE Committee, RoP [para 10], 24 September 2020.

51. A head teacher responding to the call for written evidence said “the current curriculum is outdated” and “we need a curriculum which prepares our future generations for the present and future as citizens of a rapidly changing Wales”.³² Another individual respondent commented that the Bill “heralds the nation’s commitment to a new era in schooling” with “relevance to the changing world and attention to the changing needs of childhood and youth”.³³

52. A number of children and young people who responded to our survey³⁴ and who participated in the our virtual round table discussion³⁵, suggested that the current curriculum does not give them with what they need, and that they wanted to learn more in school to prepare for adult life and employment. The Welsh Youth Parliament’s Life Skills in the Curriculum Committee published a report in October 2019, which stated:

“Life skills are important to us as it’s obvious there is a clear lack of them in our curriculum. (...)”

We can’t survive adulthood or any part of our life if we leave school as A* robots with no knowledge of the real world. We’re going through this education system, our siblings and our kids will go through this system. We want them to feel equipped and able to function as productive adults, who don’t feel as though their worth is based on their exam results. We are worth more than this.”³⁶

53. Parents Voice in Wales agreed that the curriculum needs to change as it is “outdated and not meeting the needs of all learners”.³⁷ A number of parents participating in our virtual round table discussion said that a new curriculum offers the opportunity to make learning more interesting and engaging, while employer representatives commented that the current curriculum does not

³² Written evidence, CYPE Committee, CAW 1 – Individual.

³³ Written evidence, CYPE Committee, CAW 103 – Individual.

³⁴ Wavehill social and economic research, Curriculum and Assessment (Wales) Bill: Children and Young People’s Survey Analysis, October 2020.

³⁵ CYPE Committee, Evidence from virtual round table discussions with stakeholders, October 2020.

³⁶ Welsh Youth Parliament, Life Skills in the Curriculum Committee, [Life skills, skills for life](#), October 2019.

³⁷ Written evidence, CYPE Committee, CAW 4 – Parents Voices in Wales CIC.

adequately provide potential employees with the necessary literacy, numeracy and digital skills.³⁸

54. However, not everyone is so convinced of the need for such an overhaul of the curriculum. Whilst fellow teaching unions, National Education Union (NEU) and Undeb Cenedlaethol Athrawon Cymru (UCAC), were broadly supportive of the need for the scale of change, the National Official Wales, National Association of Schoolmasters Union of Women Teachers (NASUWT) told us:

“I think there are elements of the current curriculum that are not fit for purpose, such as the assessment system. The national curriculum levelling in some subject areas has never been fit for purpose, and required overhaul many years ago. But with regards to other particular areas, no, I wouldn’t agree. I think the national curriculum bedded in and has served the children of Wales well.

I do think the Bill probably contains much of what Professor Donaldson’s intentions were, but I think our view is that the present curriculum has come under a lot of flak for things that it was not responsible for. I think that there are other elements in the education service that are responsible for issues and problems in terms of standards, not the current curriculum.”³⁹

55. This view was echoed by an individual head teacher who “does not see the need for a complete curriculum reform compared with reviewing and updating the current national curriculum”. He said the national curriculum has the “huge advantage of providing consistency in what is taught”.⁴⁰ There is more discussion of the issue of consistency later in this chapter.

The Welsh Government’s response

56. In her evidence, the Minister frequently pointed to shortcomings in the current curriculum and assessment arrangements. For example, she said:

“I believe that a curriculum that was, essentially, developed and planned in 1988, before the fall of the Berlin wall, before we all carried computers around in our pockets, no longer meets the needs of Welsh

³⁸ CYPE Committee, Evidence from virtual round table discussions with stakeholders, October 2020.

³⁹ Oral evidence, CYPE Committee, RoP [paras 156-157], 24 September 2020.

⁴⁰ Written evidence, CYPE Committee, CAW 84 – Alan Tootill Head teacher.

children. The current curriculum is often overcrowded. It is often unmanageable, incoherent and, I believe, does not provide the opportunity for children and young people in Wales to acquire the knowledge, skills and experiences that will ensure that they are successful members of our society after their period of education.”⁴¹

Our views and recommendations: the need for legislation and a complete overhaul of the current curriculum

57. We share the views of many that the current national curriculum is not fully delivering what children and young people need from their schooling, in order to lead happy, successful and enriched lives as adults, and to make a full contribution to Welsh society and beyond.

58. We have been particularly struck by the clear view from young people, as represented by the Welsh Youth Parliament, that the curriculum they receive must better equip them with ‘life skills’ than at present. This appears to be young people’s top priority. We therefore welcome the emphasis on life skills and preparation for adulthood that runs throughout the new Curriculum for Wales.

59. The focus on life skills was evident from Professor Donaldson’s ‘Successful Futures’ review in 2015. We have followed and scrutinised the development of the Curriculum for Wales since and welcome the Bill in taking this work forward to the next stage.

60. On the basis of the views and evidence we have outlined in this report, and in anticipation of securing the Minister’s consideration of—and support for—the conclusions we have drawn and recommendations we have made, we agree that legislation is necessary to establish a new curriculum – the first distinct Curriculum for Wales. As referred to elsewhere in this report, we believe that there remain issues to be addressed in relation to the details of the Bill’s provisions, and in relation to its implementation, however we do not feel that these matters prevent us recommending that the Senedd agree the general principles of the Bill.

Recommendation 1. That the Senedd, taking into account the evidence provided to us as part of our Stage 1 scrutiny and the recommendations we make in this report, agree the general principles of the Curriculum and Assessment (Wales) Bill.

⁴¹ Oral evidence, CYPE Committee, RoP [para 4], 14 July 2020.

The approach the Bill takes to the new curriculum

Position in the Bill and wider background

61. The new Curriculum for Wales aims to encompass a different approach that is driven by purposes rather than content, with greater flexibility for schools to deliver a local curriculum according to the needs of their pupils. There will still be a national framework but there will be a new onus placed on/freedom given to schools. The Bill requires head teachers to design a curriculum for their schools, within the parameters of the legislation, which must be jointly adopted by the head teacher and the governing body.

62. The Explanatory Memorandum states:

“The high degree of prescription in the current curriculum has tended to create a culture where creativity has been diminished. There has been a narrowing of teaching and learning, with the professional contribution of the workforce underdeveloped.”⁴²

63. There will be relatively less prescription of what schools must teach, with no imposed programmes of study. Curriculum planning will be based around ‘Areas of Learning and Experience’ (AoLEs), rather than subjects. The Welsh Government aims for the new curriculum, as firmly advocated by Professor Donaldson’s review, to deliver more effectively what young people need from their schooling using a three-pronged approach of knowledge, skills and experience.

64. A key principle of the new curriculum will be the teaching and learning of ‘what matters’, which will be reinforced by a statutory What Matters Code. Another key concept is that children and young people will progress along a single learning continuum (rather than separate key stages as at present) according to a Progression Code, and that regular assessment will inform teaching and learning rather than being predominantly used for school accountability purposes.

65. The Bill sets the following organising principles for the new curriculum, which are explained and considered in chapter 4 of this report:

- four purposes;
- six Areas of Learning and Experience (AoLE);

⁴² Welsh Government, Explanatory Memorandum, para 3.3.

- three mandatory cross-curricular skills;
- four mandatory elements;
- three statutory Codes;
- general curriculum requirements;
- a general power for the Welsh Ministers to issue statutory guidance, which—together with the above—will form what the Welsh Government describes as a “national framework” and “scaffolding” to bring consistency to schools’ individual curricula.⁴³

66. The Minister has said:

“This means moving from narrow subjects to six broad areas of learning and experience; a curriculum that is purpose-based—four purposes that articulate the kind of citizens that we want, the citizens that we need; and a real focus on three core statutory skills: literacy, numeracy and digital competence. This will be our new curriculum for Wales, of Wales, by Wales.”⁴⁴

67. The Welsh Government published the Curriculum for Wales documentation in January 2020⁴⁵ which, along with the Bill, make up the national curriculum framework. As the Minister told us:

“... the national framework is the guidance that we published back in January, and the Bill that sits before us today is the legislation that provides a statutory underpinning for that.”⁴⁶

Stakeholders’ evidence

68. The evidence we have gathered shows broad support for the general principles of the Bill and the approach to the new curriculum. However, many people’s support is conditional on aspects of the Bill being revised and assurances about implementation (see chapter 12 regarding implementation).

⁴³ Oral evidence, CYPE Committee, RoP [paras 7-9], 21 October 2020.

⁴⁴ Plenary, RoP [para 355], 8 July 2020.

⁴⁵ Welsh Government, Hwb, Curriculum for Wales 2022.

⁴⁶ Oral evidence, CYPE Committee, RoP [para 149], 14 July 2020.

69. Of the 230 respondents to the call for written evidence, just over two thirds expressed support for the general principles of the Bill. However, around half of those only gave conditional support, having reservations about certain aspects of the Bill or concerns about implementation.⁴⁷

70. Just under a third of respondents did not support the general principles. Of those, almost 95 per cent were responses from individuals and nearly two thirds appeared to be co-ordinated campaign responses. Responses from organisations and professionals were significantly more likely to be supportive of the Bill than those responding as individuals.⁴⁸

71. Those expressing opposition to the Bill tended to focus on specific aspects of the Bill, for example there were a number of co-ordinated campaign responses regarding Relationships and Sexuality Education (RSE) and Religion, Values and Ethics (RVE).

72. Those expressing support often did so in the context of perceived limitations of the current curriculum. There is a general consensus that the current curriculum is no longer fit for purpose, as discussed earlier in this chapter.

A purpose-led and skills-based approach

73. Estyn describes the approach behind the new curriculum as follows:

“The curriculum, as you know, is based on purposes and it’s based on a wider vision of education than the previous curriculum. Schools do more than just transferring information; they assist pupils to develop skills and attitudes, to turn them into independent lifelong learners, they support health and well-being, they help to grow them to be members of society, and so on. That’s what is meant by the four purposes, and the best schools [already] do this.”⁴⁹

74. The Organisation for Economic Co-operation and Development’s Director of Education, Andreas Schleicher famously remarked “the knowledge economy no longer pays you for what you know ... it pays you for what you can do with what

⁴⁷ Wavehill social and economic research, Curriculum and Assessment (Wales) Bill: Consultation Analysis, October 2020.

⁴⁸ Wavehill social and economic research, Curriculum and Assessment (Wales) Bill: Consultation Analysis, October 2020.

⁴⁹ Oral evidence, CYPE Committee, RoP [para 10], 17 September 2020.

you know”.⁵⁰ This viewpoint was reflected by a submission from a Faculty Lead for Technology at a secondary school:

“There is a focus not just on developing the knowledge and skills our young people need, but also the dispositions and competencies they will need to be successful. Acquisition of knowledge on its own is no longer a key to unlocking success. The ability to apply that knowledge in a range of contexts through critical and creative thinking is a vital competency now needed by all.”⁵¹

75. Coleg Cambria commented that the purpose-led and skills-based approach of the new curriculum “should create a better foundation for young people to progress”⁵², while Haverfordwest High School said it would be “inspirational for schools” to provide an educational experience that is “more suitable for the society in which we now live”.⁵³

76. The Education Workforce Council support the Welsh Government’s “strategic approach” to curriculum reform, saying the Bill “represents a further important step towards a more relevant, vibrant and contextual curriculum being rolled-out in all schools across Wales”.⁵⁴

77. Sylfaen Cymru, which promotes civic education and participation in Wales, said:

“If executed correctly, a skills-focused curriculum should have the advantage of providing all child citizens in Wales (that is, all children learning in Wales) with a foundation of transferable skills which will open up opportunities in later life.”⁵⁵

78. Meanwhile, a post-16 lead officer said:

“It is very refreshing seeing a new curriculum being designed around a set of principles that set out to define the sort of young people we wish to see emerge from their years of compulsory education. Setting out all

⁵⁰ BBC News, [Pisa: Pupils in Wales ‘lack ambition’ says Andreas Schleicher](#), 11 June 2014.

⁵¹ Written evidence, CYPE Committee, CAW 34 – Susan Quirk, Faculty Lead for Technology at secondary school.

⁵² Written evidence, CYPE Committee, CAW 3 – Coleg Cambria.

⁵³ Written evidence, CYPE Committee, CAW 11 – Haverfordwest High VC School.

⁵⁴ Written evidence, CYPE Committee, CAW 111 – Education Workforce Council.

⁵⁵ Written evidence, CYPE Committee, CAW 210 – Sylfaen Cymru Ltd.

the elements of the curriculum experience from the four purposes to the cross-curricular skills, the mandatory elements to the pedagogical principles provides schools with the essential foundations for building an excellent curriculum model.”⁵⁶

79. However, some stakeholders pointed out that the curriculum also needs to support children and young people’s needs at present. This was articulated by Play Wales in the context of the benefits of play and recreation:

“The current wording of the Bill is very much focused on deferred outcomes (i.e. ‘...ready to lead fulfilling lives as valued members of society’). Whilst deferred health and well-being benefits are important, of equal importance are the immediate benefits for children of all ages. [The UN Committee on the Rights of the Child] notes the range of multiple important physical, social, cognitive and emotional skills that playing brings, but it also stresses the immediate importance it holds for children – referring to play as ‘a fundamental and vital dimension of the pleasure of childhood’.”⁵⁷

80. A number of children and young people who responded to our survey⁵⁸ and who participated in our virtual round table discussion⁵⁹, said there are major gaps in the current curriculum around life skills and that the curriculum needs to give young people the skills and knowledge to apply to a range of different areas. This echoes the findings of the report which the Welsh Youth Parliament submitted to the Welsh Government in October 2019.⁶⁰

81. Whilst there was general support for the purpose-led and skills-based approach of the new Bill, there was caution that there must still be sufficient intellectual rigour and subject-based disciplines in the new curriculum. One individual head teacher is “concerned at the potential loss of subject expertise and specialist teaching if schools move to AoLE models of delivery”. He said “this is

⁵⁶ Written evidence, CYPE Committee, CAW 101 – John Fabes, Post-16 lead officer.

⁵⁷ Written evidence, CYPE Committee, CAW 98 – Play Wales.

⁵⁸ Wavehill social and economic research, Curriculum and Assessment (Wales) Bill: Children and Young People’s Survey Analysis, October 2020.

⁵⁹ CYPE Committee, Evidence from virtual round table discussions with stakeholders, October 2020.

⁶⁰ Welsh Youth Parliament, Life Skills in the Curriculum Committee, [Life skills, skills for life](#), October 2019.

more challenging for teachers and there is much historical evidence that it is less effective for pupils' learning".⁶¹

82. The teaching unions warned of some practical implications of the move away from subjects to broadly defined Areas of Learning and Experience. The NEU warned that, in some schools, subject departments are already being merged, leading to the loss of specialist subject experts which could have unintended consequences for learners.⁶² The NASUWT described a "fracture of the traditional departments being subsumed into these faculty areas", which they said "should be a worry".⁶³ Swansea Council identified a "dilution of subject-specific knowledge and skills" as a potential unintended consequence.⁶⁴

83. On the other hand, the South East Wales school improvement consortium, the Education Achievement Service (EAS), told us that the new curriculum would enable learners to make connections between the different subjects and areas they are taught:

"... the current curriculum is somewhat fragmented and it doesn't encourage that exploitation of the links between, and the connections between, individual subject areas. So, I think the new framework that we will be working towards does increase the focus on that.

Also, the new curriculum does place the focus on the 'why?' and I think it's probably worth saying that it does outline the importance of the wider experiences that learners undertake, which, I think it's fair to say, in the existing curriculum is less clear."⁶⁵

84. The WLGA told us :

"The Six Areas bring together familiar disciplines and encourage strong and meaningful links across different disciplines. Those individual disciplines will still play an important role, especially as learners progress and begin to specialise.

The framework promotes collaboration and cross-disciplinary planning, learning and teaching, both within and across the Areas. This will

⁶¹ Written evidence, CYPE Committee, CAW 84 – Alan Tootill, Head teacher.

⁶² Written evidence, CYPE Committee, CAW 49 – National Education Union Cymru.

⁶³ Oral evidence, CYPE Committee, RoP [para 246], 24 September 2020.

⁶⁴ Written evidence, CYPE Committee, CAW 142 – Swansea Council.

⁶⁵ Oral evidence, CYPE Committee, RoP [paras 194-195], 20 July 2020.

enable learners to build connections across their learning and combine different experiences, knowledge and skills.”⁶⁶

Local flexibility and national consistency

85. Organisations such as Estyn, regional consortia and the WLGA are content with the balance the Bill strikes between giving schools flexibility to design suitable curricula for their pupils and ensuring a coherent national approach that provides sufficient consistency in what is taught.

86. Estyn told the Committee:

“The fundamental principle behind the curriculum for Wales is that schools plan their own curriculum, and that enables them to meet the needs of specific learners, based, of course, upon a national framework. (...)

So, what we’re trying to do here is to strike a balance between having sufficient freedom, and that there is an element of prescription as well. And, on the whole, I think that balance has been struck in the right way.”⁶⁷

87. The North Wales consortium, GwE, said that new curriculum gives “a space for teachers to be more creative” without being “restricted by a national curriculum”:

“...so that they can provide a menu that’s appropriate for their learners and that they aren’t forced to fill those spaces with content that many of the learners, perhaps, wouldn’t be interested in.”⁶⁸

88. GwE commented that, at the same time, the new curriculum retains key features such as literacy, numeracy and digital skills “so, we’re not leaving everything behind; there is a robust framework in place for this new curriculum”.⁶⁹

89. The WLGA welcomes the “opportunity for schools to have the freedom to design their own curriculum”. It told us that “flexibility is key and will assist schools

⁶⁶ Written evidence, CYPE Committee, CAW 158 – Welsh Local Government Association.

⁶⁷ Oral evidence, CYPE Committee, RoP [paras 10 and 20], 17 September 2020.

⁶⁸ Oral evidence, CYPE Committee, RoP [para 199], 20 July 2020.

⁶⁹ Oral evidence, CYPE Committee, RoP [para 184], 20 July 2020.

in developing their curriculum in accordance to the need of their local communities”.⁷⁰

90. The ASCL were of the clear view that the Bill gives “sufficient structure” to strike the right balance between local flexibility and national consistency:

“There’s a good structure there... I think it covers sufficient ground for it also to allow for flexibility in interpretation and avoiding prescription.

We’ve had prescription in the curriculum that we now deem to be outmoded. This will allow for much greater flexibility without it being a free-for-all. It gives the balance, I believe, between those two polar opposites. (...)

But it won’t create massive variation, where you’ve got hundreds of schools doing hundreds of different things, because you have already got that framework, which is clearly outlined in the implementation document and the planning, which, as I say, has been done with the profession.”⁷¹

91. The NAHT added that “it’s that flexibility and freedom that will allow schools to thrive” and that “we have to have some confidence in the profession” to apply the national framework consistently.⁷²

92. Whilst many stakeholders welcome the freedom and flexibility the Bill provides schools and head teachers, others have reservations about what they see as the lack of a consistent national curriculum. One individual respondent summed up the delicate balance the Bill seeks to strike:

“On the one hand, a very deliberate rowing back from prescription affords teachers in Wales new levels of professional autonomy – and decentralises power over what is taught from government to the site of practice. This is a strength of the model, in that it builds agency and respects the craft of teaching as something dependent on experience, expertise and training.

But on the other hand, the liberation of teachers from curriculum rules and regulation is also an inherent weakness; by definition, it encourages

⁷⁰ Written evidence, CYPE Committee, CAW 158 – Welsh Local Government Association.

⁷¹ Oral evidence, CYPE Committee, RoP [paras 15-16 and 29], 24 September 2020.

⁷² Oral evidence, CYPE Committee, RoP [para 31], 24 September 2020.

a break from uniformity and opens the door to a disparate system characterised by difference. (...)

There is a genuine fear that if teachers are free to teach whatever they consider appropriate from one school to the next, it is inevitable that gaps will develop and children will emerge from their compulsory education with a random medley of knowledge and understanding. Granted, pupils leave school with varying abilities and competencies now – but they do so within the confines of a common structure that stems, at least in part, from nationally-agreed and moderated content.”⁷³

93. Another individual respondent described the level of discretion as a “Carte Blanche” for individual schools, creating “huge disparities across Wales”.⁷⁴ Another argued that “the balance has tipped too far towards freedom for schools to interpret how they are going to translate the (perfectly acceptable) conceptual requirements of the new curriculum into practical programs of study”.⁷⁵

94. A number of stakeholders highlighted potential unintended consequences for particular groups of learners from school-level curricula. Swansea Council suggested the “open nature of the framework” could mean “widely different interpretations of what the curriculum might look like” and “a lack of equity of what is taught”, which “may well disadvantage pupils from poorer backgrounds”.⁷⁶

95. The Royal College of Speech and Language Therapists commented:

“... whilst increased flexibility for schools is a huge opportunity, it will bring challenges in ensuring quality and standards. This may especially be the case for pupils with additional learning needs as schools will vary in their level of experience of supporting such pupils.”⁷⁷

96. On the other hand, Neath Port Talbot Council welcomes the freedom given to schools to design their own curricula⁷⁸, while the six local authorities in North Wales and the GwE consortium said the Bill “offers the teaching profession an

⁷³ Written evidence, CYPE Committee, CAW 8– Individual.

⁷⁴ Written evidence, CYPE Committee, CAW 6 – Individual.

⁷⁵ Written evidence, CYPE Committee, CAW 9 – Individual.

⁷⁶ Written evidence, CYPE Committee, CAW 142 – Swansea Council.

⁷⁷ Written evidence, CYPE Committee, CAW 145 – Royal College of Speech and Language Therapists, Wales.

⁷⁸ Written evidence, CYPE Committee, CAW 31 – Neath Port Talbot Local Authority.

opportunity to have greater freedom and flexibility to plan and design a curriculum that meets the needs of all learners within their communities”.⁷⁹

97. Almost two thirds of children and young people responding to our survey said it was important for pupils in schools across Wales to be taught the same things.⁸⁰ A number of children, young people, and parents participating in our virtual round table discussion said that leaving it to schools to decide what to teach could result in gaps, with particular issues where children move schools. They also suggested it could lead to regional and local variations, and that schools should receive training to ensure that unconscious bias does not influence the curriculum they put in place for their pupils.⁸¹

98. The Welsh Youth Parliament’s Life Skills in the Curriculum Committee agreed:

“The committee’s main concern was that it could lead to inconsistencies in the learning experiences of young people across Wales, because so many aspects of the curriculum are left for schools and local authorities to decide.”⁸²

99. Some employer and employability representatives participating in our virtual round table discussion were concerned about the risks of moving away from a prescriptive curriculum to one with considerable flexibility, due to the variation it could cause. They also highlighted that greater school autonomy could lead to more competition between schools related to the curriculum they offer, in terms of parents’ applications for school places.⁸³

100. A number of employer and employability representatives argued that schools’ local curricula needed to be based on a national framework, closely aligned to economic strategies and regional workforce priorities. They also questioned who would ‘sign off’ a school’s curriculum and whether there should

⁷⁹ Written evidence, CYPE Committee, CAW 189 – North Wales Regional Response to include GWE and the 6 Local Authorities.

⁸⁰ Wavehill social and economic research, Curriculum and Assessment (Wales) Bill: Children and Young People’s Survey Analysis, October 2020.

⁸¹ CYPE Committee, Evidence from virtual round table discussions with stakeholders, October 2020.

⁸² Video evidence, CYPE Committee, Welsh Youth Parliament – Life Skills in the Curriculum Committee.

⁸³ CYPE Committee, Evidence from virtual round table discussions with stakeholders, October 2020.

be some form of oversight. Similarly, for comparative purposes, some higher education representatives highlighted the rigorous moderation and validation processes universities go through when setting their own curricula, citing many checks and balances.⁸⁴

101. Sylfaen Cymru summed up the challenge in striking the right balance between national consistency and local flexibility:

“The success of the curriculum does require a statutory footing, because even a vision which respects individuality must be guided by a concrete skeletal structure upon which it can rely. The dangers of too much rigidity, we have already experienced; too much flexibility risks creating unnecessary uncertainty, inconsistency and fluidity, which risks further disadvantaging already-excluded community groups.”⁸⁵

The Welsh Government’s response

102. Asked how the new curriculum, structured around Areas of Learning and Experience rather than subjects, would operate within schools in practice, the Minister told us in our first session on the Bill:

“There are six areas, bringing together families of disciplines, and that’s to encourage strong links between them, between those disciplines, and, indeed, between the AoLEs themselves. Disciplines will continue to remain important, but this new approach supports learners, as I said, to build those connections across learning, helping them, as I said earlier, to understand not just what they’re learning but why they are learning it and the interconnectedness between ideas.”⁸⁶

103. The Minister added that how the curriculum is “then organised within a school to meet the legislative requirements within the Bill is a matter for individual head teachers and governing bodies”.⁸⁷

⁸⁴ CYPE Committee, Evidence from virtual round table discussions with stakeholders, October 2020.

⁸⁵ Written evidence, CYPE Committee, CAW 210 – Sylfaen Cymru Ltd.

⁸⁶ Oral evidence, CYPE Committee, RoP [para 28], 14 July 2020.

⁸⁷ Oral evidence, CYPE Committee, RoP [para 32], 14 July 2020.

104. Questioned further, during her second appearance, about the sufficiency of the national framework the Bill and associated Codes and guidance sets for schools' individual curricula, the Minister said:

“... the Bill provides a robust national framework in which individual schools will operate. The idea of schools doing totally random things is simply not borne out by how the legislation is structured or, indeed, the approach of our strategic partners. (...)

So, there's a substantial amount of national scaffolding in framework and requirements, but then allowing the freedom for individual practitioners. And that is key. (...)

...this is an appropriate mix of unleashing that professional agency, but doing so in the context of a national framework that ensures the entitlement for every child, no matter which setting they're in.”⁸⁸

105. The Minister's additional written evidence stated “it is important to understand schools' flexibility in context”, pointing to “a robust framework in which schools will need to operate”. She said that this framework would set out the “fundamentals” but would not “prescribe which specific topics and activities should be taught at what point”.⁸⁹

106. We asked the Minister about the potential for commercial organisations to offer schools a template curriculum, seeking to capitalise on what they might perceive to be a void in terms of a national curriculum in Wales. The Minister said this would “undermine the ethos of the new curriculum” and schools “should not invest in off-the-shelf, ready-made curriculum offers”.⁹⁰

107. In terms of what checks and balances there will be on the suitability of individual schools' curricula, the Minister said:

“... the first element of ensuring that the curriculum is suitable lies with the governing body that has to adopt what the headteacher brings forward. So, that's the first level of check and balance. (...)

... schools will not be operating in an accountability-free zone. So, when you think about the role of the school improvement services and an

⁸⁸ Oral evidence, CYPE Committee, RoP [paras 7 and 9], 21 October 2020.

⁸⁹ Correspondence, Minister for Education to the CYPE Committee, 5 November 2020.

⁹⁰ Oral evidence, CYPE Committee, RoP [para 26], 21 October 2020.

ongoing accountability regime, our school improvement services and challenge and support advisers will be looking to the school to demonstrate the suitability and the compliance of their local curriculum with the Bill. And, of course, the curriculum that is adopted by the school needs to be published in summary form so there is wider community scrutiny, and, of course, Estyn will be continuing to carry out its role in ensuring that curricula are suitable. (...)

So, there's a variety of levels of accountability to ensure that the curriculum is suitable and is scrutinised by organisations outside of the individual school itself."⁹¹

Our views and recommendations: the approach the Bill takes to the new curriculum

108. The evidence we have gathered and the views we have heard during our Stage 1 scrutiny lead us to conclude that we support the purpose-led approach adopted by the Bill. We welcome the Bill's aim of placing a greater emphasis on skills, whilst maintaining appropriate focus on knowledge and rigour. We therefore support three-pronged approach of knowledge, skills and experience.

109. As a broad approach, we are happy with the way in which the new curriculum is organised according to AoLEs, with more detail about What Matters set out in a Code and statutory guidance. Nevertheless, we strongly believe that it is vital that a sufficient amount of scaffolding is in place to ensure there is a consistent (as opposed to uniform) national curriculum across Wales. We also recognise that, among the evidence we gathered from children and young people, there was a general desire to learn about broadly the same as each other (see paragraphs 97-98 above).

110. With that in mind, we note that some of the detail underpinning the Bill and the new curriculum is not available for us to consider. The three statutory Codes, particularly the What Matters Code, will be integral to understanding how the Curriculum for Wales will work in practice. While the information published in January 2020 provides an indication, had the Codes and the full suite of final guidance been available, we believe it could have helped to reassure us, and others, about the sufficiency of important detail that will put flesh on the bones of this Bill.

⁹¹ Oral evidence, CYPE Committee, RoP [paras 12-13], 21 October 2020.

111. We note that the Bill strives to strike a delicate balance between local flexibility and national consistency. We believe this approach carries considerable risks if safeguards are not put in place to ensure pupils in all schools in all parts of Wales receive a sufficiently consistent education. This is a particular concern in the case of settings that are currently struggling, or children who are already disadvantaged. We seek further reassurances about how the Welsh Government intends to ensure that all settings and all learners will thrive under the new curriculum and that existing inequalities are not exacerbated. This includes assurances about how this will be monitored.

112. We believe that the success of the approach the Bill takes to the new curriculum will depend in no small part on adequate professional learning and overcoming wider challenges in implementation. Furthermore, we believe that important checks and balances will need to be in place to ensure schools' curricula are appropriate. Estyn, the regional consortia and governing bodies will have a vital role to play.

Recommendation 2. That the Welsh Government outline, in light of the evidence received as part of our Stage 1 scrutiny:

- how it has assured itself that the Bill has struck the right balance between local flexibility and national consistency;
- what checks and balances it will put in place to monitor and maintain the correct balance, including ensuring individual schools' curricula are appropriate; and
- what more it can do to ensure children and young people in settings in all parts of Wales receive a sufficiently consistent (but not necessarily uniform) education offer and thrive under the approach being taken to the new curriculum.

Prospects for standards and the attainment gap

Position in the Bill and wider background

113. The Welsh Government regards the new curriculum as a vehicle for raising educational standards, as can be seen by its centrality to its school improvement

plan, 'Education in Wales: Our National Mission'.⁹² The Minister stated in Plenary on 8 July 2020:

“... our education reforms, with the new curriculum at the centre, is also a shared national endeavour: collective expertise, experience and energy, so that we raise standards for all, reduce the attainment gap and ensure that we have a system of education in Wales that is a source of pride and enjoys public confidence.”⁹³

114. The Regulatory Impact Assessment (RIA) does not contain any consideration the Welsh Government has given to alternative options to the approach set out in the Bill. It discusses two options: maintain the status quo or introduce the new Curriculum for Wales via the Bill.

115. The Welsh Government has a long-standing policy to tackle the negative correlation between deprivation and attainment, and targets supplementary funding through the Pupil Development Grant (PDG) to schools based on their number of pupils who are eligible for free school meals (eFSM).⁹⁴

116. In one of our previous sessions to scrutinise the development of the new curriculum in September 2019, we asked the Minister about the potential for the approach of the new curriculum to exacerbate variation between pupils due to a lack of consistency in what is taught. The Minister answered:

“I would never undertake a policy reform that I thought would lead to less equity in the Welsh education system. Closing the attainment gap is a core element of the national mission for education in Wales and we would not proceed with anything that we thought could lead to an exacerbation of an achievement gap.”⁹⁵

Stakeholders' evidence

117. Umbrella organisations representing local government were confident that the Bill would have a positive effect on standards. The Association of Directors of

⁹² Welsh Government, [Education in Wales: Our National Mission](#).

⁹³ Plenary, [RoP \[para 348\]](#), 8 July 2020.

⁹⁴ For further discussion of this policy area, see our inquiry report, [Targeted funding to improve educational outcomes](#), June 2018.

⁹⁵ Oral evidence, CYPE Committee, [RoP \[para 58\]](#), 18 September 2019.

Education in Wales (ADEW) expect to see an “improvement in standards, outcomes and experience for equality of provision”,⁹⁶ while the WLGA told us:

“... the new curriculum allows every school to plan and develop their own curriculum, and they know their children better than anyone else. Therefore, it should certainly raise standards.”⁹⁷

118. However, differences in views over whether the Bill’s approach to the new curriculum will support or hinder efforts to raise standards and close the attainment gap were apparent in the evidence we received.

119. Prior to the introduction of the Bill, we heard from Dr Nigel Newton at the Wales Institute of Social and Economic Research and Data (WISERD) about his research into the potential impact of the new Curriculum for Wales on disadvantaged pupils.⁹⁸

120. Dr Newton described an “implicit assumption” that the new curriculum will be universally beneficial with little consideration of how it will impact on disadvantaged pupils. He further contextualised this by saying:

“There is little evidence to suggest adopting new curricula, in general, produces significant improvements in learning outcomes for more disadvantaged learners. (...)”

There are concerns that increasing flexibility and relevance may lead to a highly differentiated, even stratified, curriculum that will compound disadvantages.”⁹⁹

121. We note that similar points were made in an Institute of Welsh Affairs (IWA) article by Gareth Evans, ‘A liberated curriculum risks entrenching inequality’, in November 2019. This suggested:

“More freedom for teachers is no bad thing but losing national consistency could lead to generations of learners falling further behind their peers.”¹⁰⁰

⁹⁶ Oral evidence, CYPE Committee, RoP [para 10], 20 July 2020.

⁹⁷ Oral evidence, CYPE Committee, RoP [para 17], 20 July 2020.

⁹⁸ Oral evidence, CYPE Committee, **RoP**, 14 November 2019.

⁹⁹ WISERD, **Successful futures for all: Explorations of curriculum reform**, July 2019.

¹⁰⁰ Institute of Welsh Affairs, Gareth Evans, **A liberated curriculum risks entrenching inequality**, November 2019.

122. We also note that there has been criticism of the impact the Curriculum for Excellence in Scotland, which was also influenced by Professor Donaldson and follows similar principles to the Curriculum for Wales, has had on standards. Dr Jim Scott of the University of Dundee has presented findings which he says evidences:

“... sustained trends of decline in overall attainment at Scottish Credit and Qualifications Framework (SCQF) levels 3-6 coinciding with the introduction of Curriculum for Excellence and new National Qualifications, greater success at SCQF 7, a widening of the ‘attainment gap’ between the most able and least able, an increase in learners leaving school with no qualifications, a range of subject areas where attainment has significantly to very significantly declined and a reversal of previous long-term patterns of increased attainment at SCQF levels 6-7.”¹⁰¹

123. In Wales, HM Chief Inspector of Education and Training (Estyn) said that the new curriculum should have a positive effect on standards and pointed to the need for change:

“I think it’s important to make the point that what we’ve got currently is modest incremental improvements in standards linked to modest improvements in provision. And I’ve said this before: if we want to see significant improvements in standards and in outcomes, you need to see substantial change—a step change in provision. And I think that is the case for education reform, that you need that step change, and that’s the whole purpose of education and curriculum reform. (...)

So, I think we can be confident that the curriculum that’s being offered here is better. (...)

... the current curriculum hasn’t helped to reduce variability and that’s partly due to the lack of ownership or flexibility that teachers and pupils have. Teachers and pupils react differently to the current context and I think that’s why it needs to be replaced. That’s an argument for change really. The new curriculum is based on the latest research. It allows for more varied teaching and learning approaches and that

¹⁰¹ Dr Jim Scott, [Widening The Gap? Curriculum for Excellence and Attainment Patterns in National Examinations in Scottish Schools](#), 2019.

doesn't mean greater variety in quality necessarily. It should lead to improved teaching and learning."¹⁰²

124. The North Wales consortium, GwE, also commented that the present arrangements are not delivering sufficient progress:

"... if we look at what we currently have, that doesn't narrow the gap either does it? (...)

... it's going to be an age-old challenge for us (...)

There will always be a gap, I would suppose. But, a local curriculum is, I would say, the best tool in narrowing that particular gap."¹⁰³

125. The Future Generations Commissioner also spoke of the need for governments to be ambitious about initiating change:

"I think in the long term this is certainly the right approach, and I think that there's generally something within public sector service delivery and policy making where often we stick with the status quo because it's a bit safer than taking the risk of moving. But I think you have to also take into account the risk of sticking with the status quo—a curriculum that is outdated and not fit for purpose—and you have to balance that risk against what are the potential challenges of moving to this new system."¹⁰⁴

126. However, the Future Generations Commissioner also cautioned that "the challenges of implementing a cultural change of this scale may increase the gap between the best performing schools and least performing schools" and that the new curriculum "should not exacerbate existing inequalities"¹⁰⁵

127. Asked how confident he was that the improvements he anticipates as a consequence of the changes to the curriculum would actually materialise, HM Chief Inspector said:

"I can't say here that there's a guarantee because I can't foresee the future. (...)

¹⁰² Oral evidence, CYPE Committee, RoP [paras 36-39], 17 September 2020.

¹⁰³ Oral evidence, CYPE Committee, RoP [paras 199-200], 20 July 2020.

¹⁰⁴ Oral evidence, CYPE Committee, RoP [para 39], 8 October 2020.

¹⁰⁵ Written evidence, CYPE Committee, CAW 55 – Future Generations Commissioner for Wales.

... it would be very disappointing if all that international research, all the input of practitioners in this country had got it really, really wrong. I think it is about improving the teaching and learning experiences and all the research shows that actually that helps disadvantaged learners disproportionately. It helps them more than anyone else if we increase and improve the teaching and learning.”¹⁰⁶

128. Qualifications Wales said that the new curriculum “in itself is probably unlikely to have a big change or big impact” on standards but, together with the wider reforms, could be the “catalyst for change across the whole system”.¹⁰⁷

129. Swansea Council told us “a lack of equity of what is taught” “may well disadvantage pupils from poorer backgrounds to a greater extent, as they are less likely to gain knowledge, skills and experience from their family background and peers”.¹⁰⁸ On the other hand, the Royal College of Speech and Language Therapists said the Bill should fit closely with the Additional Learning Needs and Education Tribunal (Wales) Act and that “flexibility will be particularly important in allowing schools to provide different support to different learners to meet expectations and tackle gaps in attainment”.¹⁰⁹

130. The Together for Children and Young People (2) Programme welcomes the “concept of delegating the design of the curriculum to the head teacher in principle”, as long as it “consider[s] the broader cross sector and whole system approach” and “appropriate time is allocated to the coproduction of the design to include all key stakeholders”.¹¹⁰

The Welsh Government’s response

131. When we put to the Minister that the Welsh Government is making an assumption that the new curriculum will lead to school improvement, she suggested that such a perspective implies that standards are completely satisfactory at present:

¹⁰⁶ Oral evidence, CYPE Committee, RoP [para 41], 17 September 2020.

¹⁰⁷ Oral evidence, CYPE Committee, RoP [para 14], 17 September 2020.

¹⁰⁸ Written evidence, CYPE Committee, CAW 142 – Swansea Council.

¹⁰⁹ Written evidence, CYPE Committee, CAW 145 – Royal College of Speech and Language Therapists, Wales.

¹¹⁰ Written evidence, CYPE Committee, CAW 88 – Together for Children and Young People (2) Programme.

“Now, the question suggests, ... if you don’t mind me saying, that the current curriculum currently meets the needs of all children and, therefore, allows all children to excel. We all know, and you all know, from sitting in the committee, that that is not the case. So, the argument that sticking with the status quo alone will address issues around the attainment gap I don’t believe necessarily bears out.”¹¹¹

132. The Minister acknowledged that the curriculum by itself will not automatically lead to a raising of standards but that is a key component of a wider strategy:

“... the curriculum, of course, is only one aspect of a raft of education policies that are needed to address the attainment gap. But I do believe that the curriculum, in the way that we are proposing, certainly gives our teachers the best chance to develop an education system that truly meets the needs of individuals.”¹¹²

133. The Minister said she had “not seen any evidence to underpin why standards would drop because an individual school is designing their curriculum”, describing it as “conjecture”. She added that the school improvement system, notably Estyn and the regional consortia, will continue to provide “challenge and support to raise standards”.¹¹³

134. The Minister also said the Welsh Government was learning from the Scottish experience but that, in her view, any problems there were more related to implementation rather than the approach of the curriculum:

“I think, in Scotland, it’s fair to say that it’s not the principles of the curriculum that they have struggled with—it has been implementation that, perhaps, they have struggled with. Initially, I think—if you read the commentary—that people were concerned about a lack of scaffolding and guidance to individual schools, and, in reaction to that, then schools were overwhelmed and swamped with huge amounts of implementation guidance. So, we’ve looked at that about ensuring we get the balance right.”¹¹⁴

¹¹¹ Oral evidence, CYPE Committee, RoP [para 7], 14 July 2020.

¹¹² Oral evidence, CYPE Committee, RoP [para 7], 14 July 2020.

¹¹³ Oral evidence, CYPE Committee, RoP [para 34], 14 July 2020.

¹¹⁴ Oral evidence, CYPE Committee, RoP [para 22], 14 July 2020.

135. In her additional evidence provided following our oral evidence sessions, the Minister explained further why she felt the approach the Welsh Government was taking would complement rather than hinder school improvement. She said the national framework and “scaffolding is critical to ensure equity within the system and consistency across the system, including to close the attainment gap and increase standards”.¹¹⁵

136. The Minister said that the Bill’s approach to the new curriculum would improve support for certain groups of pupils, such as those from income-deprived households, those with Additional Learning Needs (ALN), Black and Minority Ethnic (BAME) pupils, and those Educated Otherwise Than At School (EOTAS):

“... the guidance provides details on ensuring that schools consider the needs of all of their learners, and learners will have a wide range of needs and backgrounds, and the framework offers schools and practitioners that agency that we were talking about at the beginning, rather than slavishly having to follow a national diktat. (...)”

... this balance between a national requirement and the individual ability of a school to develop a curriculum that meets the needs of the cohort of those children gives us a better chance of developing a curriculum that is really relevant to those children.”¹¹⁶

137. The Minister also told us that the Bill was in line with the approach to curriculum planning advocated by the Organisation for Economic Co-operation and Development (OECD) and the Programme for International Student Assessment (PISA), which Wales participates in every three years. She said the “the OECD is very supportive of the direction of travel in terms of the curriculum”.¹¹⁷

138. The OECD reported in October 2020:

“Wales has successfully mapped out its policy plan to move away from what had become a highly prescriptive national curriculum, to one that focuses on the future, is adapted to learners’ diverse needs and puts the teachers and principals back into positions of leaders of learning and teaching. The policy vision is clear and looks to the long term.”¹¹⁸

¹¹⁵ Correspondence, Minister for Education to CYPE Committee, 5 November 2020.

¹¹⁶ Oral evidence, CYPE Committee, RoP [para 23], 21 October 2020.

¹¹⁷ Oral evidence, CYPE Committee, RoP [para 14], 14 July 2020.

¹¹⁸ OECD, [Achieving the new Curriculum for Wales](#), October 2020.

139. However, the OECD highlighted several challenges regarding implementation, which are discussed in chapter 12, whilst also warning:

“There is a risk of inequalities increasing due to the challenges that disadvantaged schools can have in implementing the curriculum, which accentuates the need for clarifying resources available for schools.”¹¹⁹

140. In terms of PISA, the Minister told us:

“PISA tests, as you well know, look beyond simple knowledge acquisition. They look at how children utilise the knowledge that they acquire and it is often very much a skills-based and application-of-knowledge assessment. In the past, we have struggled in that. This curriculum has much more focus on not only knowledge acquisition, but skills acquisition and the ability to apply your knowledge, which would be very much in line with the attributes that PISA tests examine.”¹²⁰

141. Last year, we asked the Minister why Wales was not participating in the Creative Thinking element of the PISA 2022 cycle,¹²¹ despite the apparent similarities with the approach of the new curriculum. The Minister said it was a matter of timing, given the other pressures schools will be under, and that the Welsh Government could decide to participate in future cycles.¹²²

Our views and recommendations: prospects for standards and the attainment gap

142. It is clear from the evidence we have received that there is significant hope among stakeholders that the new curriculum will have a positive impact on standards and ongoing efforts to deliver school improvement.

143. We note the Minister’s view that, while the curriculum by itself will not lead automatically to school improvement, she believes it to be a key part of a wider strategy to raise standards and reduce the attainment gap. We further note her

¹¹⁹ OECD, *Achieving the new Curriculum for Wales*, October 2020.

¹²⁰ Oral evidence, CYPE Committee, RoP [para 14], 14 July 2020.

¹²¹ The PISA 2021 cycle will now take place in 2022 due to COVID-19.

¹²² Oral evidence, CYPE Committee, RoP [paras 104-204], 18 September 2019.

view that there is no evidence to suggest that standards will drop as a result of schools designing their own curriculum.

144. While we do not disagree, neither have we been shown demonstrable evidence that the new curriculum will lead to higher standards. We agree with the Minister that the status quo is not fully delivering, but we emphasise the need to make sure that any change is the *right* change.

145. In terms of the aim of improving school standards, it is not clear to us whether—and how—the Welsh Government has considered options other than this particular approach to the new curriculum. As we note in chapter 13 relating to financial implications, the Bill’s Regulatory Impact Assessment (which, among other things, outlines the options for action considered by the Welsh Government) does not refer to consideration given to any alternatives besides retaining existing arrangements. This places a significant amount of faith in this particular curriculum model to help deliver the education improvement we all want to see.

146. In light of this, we believe that it will be very important for the Welsh Government to keep a close eye on the impact curriculum reform is having on standards, and ensure it complements the wider school improvement efforts underway.

Recommendation 3. That the Welsh Government monitor closely and transparently the impact that curriculum reform has on standards, to ensure that it complements the wider school improvement efforts underway. This should draw on expert advice from the OECD and others.

147. We are very concerned by the OECD’s conclusion, cited in paragraph 139 above, that “there is a risk of inequalities increasing due to the challenges that disadvantaged schools can have in implementing the curriculum”. We agree with the OECD that this accentuates the need for clarifying resources available for schools. We also believe that this further highlights the need to monitor closely any variation in the curriculum offer and any impact that has on particular groups of pupils and schools. The Welsh Government must be alive to—and guard against—any signs of inadvertently exacerbating disadvantage.

Recommendation 4. That the Welsh Government monitor closely any variation in the curriculum offer, and any impact that has on particular groups of pupils and schools, addressing early any signs of inadvertently exacerbating inequality and disadvantage.

148. We note that the Welsh Government has decided not to participate in the Creative Thinking element of PISA 2022 (postponed from 2021). In light of the

clear read across with the new curriculum's approach, we believe there is merit in giving further consideration to participating in the Creativity Thinking element of PISA in future cycles.

Recommendation 5. That the Welsh Government give further consideration to participating in future cycles of the Creativity Thinking element of PISA, in light of the clear read across between it and the new curriculum's approach.

4. Details on the face of the Bill

The Bill sets out the main organising principles for the new Curriculum for Wales. Much of the detail of what is taught within the broad Areas of Learning and Experience will be contained in Codes and statutory guidance issued under the Bill.

There are many calls for certain items of learning to be more explicitly referenced within the Bill and/or the Codes and guidance. The Children’s Commissioner calls for the Bill to include a duty of due regard to the United Nations Convention on the Rights of the Child (UNCRC), as with some other recent legislation.

149. As discussed in previous chapters, the Bill takes a relatively non-prescriptive approach to the curriculum. The Welsh Government wants to move away from the current national curriculum model, in which the legislation lists subjects to be taught and each subject has a programme of study listing the content to be covered. This is broadly in line with what Professor Graham Donaldson recommended in ‘Successful Futures’.

150. In addition to the debate running through the evidence we have received regarding the relative pros and cons of local flexibility and national consistency, there is a similar range of views about whether certain topics, disciplines and skill-sets (which we refer to as “items” throughout this chapter) need to be more specifically detailed in the Bill and/or its associated Codes and guidance.

151. There are also views about whether relevant pieces of legislation, for example those pertaining to children’s rights and the well-being of future generations, are sufficiently taken into account on the face of the Bill and as part of the wider approach to the new curriculum.

The main organising principles for the new curriculum which are set out on the face of the Bill

Position in the Bill and wider background

152. As outlined in previous chapters, the Bill provides for a Curriculum for Wales structured around four purposes, six Areas of Learning and Experience, three cross-curricular skills, four mandatory elements, and several curriculum requirements. The remaining detail of the curriculum will be set out in three statutory Codes and a suite of statutory guidance.

153. Section 2 of the Bill sets four purposes for the curriculum, which are to enable pupils to develop as:

- Ambitious, capable learners, ready to learn throughout their lives;
- Enterprising, creative contributors, ready to play a full part in life and work;
- Ethical, informed citizens of Wales and the world;
- Healthy, confident individuals, ready to lead fulfilling lives as valued members of society.

154. Section 3 establishes six Areas of Learning and Experience (AoLEs):

- Expressive Arts;
- Health and Well-being;
- Humanities;
- Languages, Literacy and Communication;
- Mathematics and Numeracy;
- Science and Technology.

155. Section 4 sets three mandatory cross-curricular skills:

- Digital Competence;
- Literacy;
- Numeracy.

156. The Welsh Ministers will be able to amend the AoLEs and mandatory cross-curricular skills through regulations under the Senedd’s draft affirmative procedure.¹²³ There is no such power to amend the purposes through subordinate legislation, meaning this would require primary legislation. The Welsh Government’s rationale for this, explained to us in a technical briefing on the Bill on 7 July 2020, is that the purposes are so fundamental to the ethos of the curriculum that any changes to them should only be possible through primary legislation.¹²⁴

157. There is no further detail on the face of the Bill regarding what will be taught within each AoLE. This will be set out in statutory guidance issued under the legislation and a What Matters Code, which will set out key concepts for each AoLE. The Welsh Government has previously described these key concepts as ‘Statements of What Matters’ and included them in the curriculum documents published in January 2020.

158. The Bill requires the Welsh Ministers to issue three statutory Codes:

- The What Matters Code (discussed in this chapter);
- The Progression Code (see chapter 11 of this report);
- The Relationships and Sexuality Education (RSE) Code (see chapter 6 of this report).

159. Section 6 of the Bill requires that the curriculum taught must encompass the concepts set out in the What Matters Code. Statutory guidance will provide more detail on these What Matters concepts and what can/should be covered within each AoLE.

160. The Bill provides for the What Matters Code to be made under the Senedd’s enhanced negative procedure for subordinate legislation.¹²⁵

¹²³ The draft affirmative procedure provides that the Welsh Ministers cannot make subordinate legislation unless the Senedd has passed a resolution approving a draft of the subordinate legislation.

¹²⁴ CYPE Committee, [Welsh Government technical briefing on forthcoming legislation](#), 7 July 2020.

¹²⁵ Under the enhanced negative procedure, the Welsh Ministers must consult and then lay a draft before the Senedd for not less than 40 days. If the Senedd resolves not to approve the Code it cannot be issued. If there is no such resolution the Welsh Ministers must issue the Code in the form of the draft.

161. The curriculum documentation published in January 2020 referred to four ‘integral skills’, which should be developed within a wide range of teaching and learning, in order to underpin the four purposes: The integral skills, which are not referred to in the Bill, are:

- Creativity and innovation;
- Critical thinking and problem solving;
- Personal effectiveness;
- Planning and organising.¹²⁶

162. Section 3 of the Bill requires four mandatory elements to be taught within the AoLEs:

- English (see chapter 5 of this report);
- Welsh (see chapter 5 of this report);
- Relationships and Sexuality Education (RSE) (see chapter 6 of this report);
- Religion, Values and Ethics (RVE) (see chapter 7 of this report).

163. Section 10 of the Bill requires individual head teachers to design a curriculum for their school. Schools’ curricula, in addition to encompassing the four purposes, six AoLEs, three cross-curricular skills and four mandatory elements, must comply with requirements specified in sections 21 to 23 of the Bill which are that:

- The curriculum must provide for appropriate progression.
- The curriculum must be suitable for pupils, or children, of differing ages, abilities and aptitudes.
- The curriculum must be broad and balanced.

164. Section 30 of the Bill provides that schools’ curricula must also be implemented in a way that takes account of any Additional Learning Needs (ALN) pupils have.

¹²⁶ Welsh Government, Hwb, [Curriculum for Wales 2022](#), page 211, January 2020.

Stakeholders' evidence

165. There is broad support for the four purposes, six AoLEs, and three cross-curricular skills, which are set out on the face of the Bill. Stakeholders generally feel these are appropriate and cover what children and young people should learn under the new curriculum.

166. Estyn said “on the whole, the statutory provision looks sensible”¹²⁷, while Qualifications Wales regard the “key concepts, fundamental essence of learning and the purposes” as “entirely sensible with a “logical” structure”¹²⁸.

167. The head teacher unions agreed that the detail on the face of the Bill was suitable, although the NAHT felt that “a commitment to research-based practice (...) possibly needs to be reinforced within the legislation”.¹²⁹

168. The Children’s Commissioner observed that the four purposes are “broadly consistent” with the definitions and aims of education, as set out in Article 29 of the UNCRC.¹³⁰ The Future Generations Commissioner said that the four purposes are “based upon the power of gaining skills for wider individual and national well-being”.¹³¹

169. Where there are concerns and perceived omissions within the curriculum detail, these tend to manifest in calls for additional mandatory elements to be added to the face of the Bill or assurances that they will be explicitly covered within the What Matters Code and statutory guidance on the AoLEs.

170. As the summary of written evidence produced on behalf of the Committee by Wavehill shows, respondents raised several subjects, disciplines, and skills which they felt were not adequately reflected or promoted within the new curriculum. This included a diverse range of subjects, including Modern Foreign Languages and in the Humanities. There were suggestions for items that could feature more prominently, including—amongst others—mental health, Black, Asian and Minority Ethnic (BAME) and Welsh history, first aid and lifesaving.

171. This is due to perceptions that the items identified are currently not receiving sufficient attention in the school day, or that the design of the curriculum will

¹²⁷ Oral evidence, CYPE Committee, RoP [para 16], 17 September 2020.

¹²⁸ Oral evidence, CYPE Committee, RoP [para 18], 17 September 2020.

¹²⁹ Oral evidence, CYPE Committee, RoP [para 24], 24 September 2020.

¹³⁰ Written evidence, CYPE Committee, CAW 97 – Children’s Commissioner for Wales.

¹³¹ Written evidence, CYPE Committee, CAW 55 – Future Generations Commissioner for Wales.

result in schools giving them less attention. Across responses of this nature, a further concern was that the item or subject in question would not get sufficient attention unless expectations were placed on schools to deliver it, either through mandating schools, or through giving them greater support and resources.¹³²

172. There is some consensus in favour of a flexible approach to the new curriculum. However, some stakeholders are anxious that their particular area of interest should receive priority, and call—in those specific cases—for an exception to that general flexibility to be made. Some of these areas are discussed later in this chapter.

173. Sylfaen Cymru reflected the questions of many stakeholders about how the four mandatory elements in the Bill have been identified as warranting such status when they could in any case be covered within the respective AoLEs. This is the approach the Welsh Government is relying on with several other items, which could be argued to be of equal importance. Sylfaen Cymru wrote:

“In order to satisfactorily achieve the Four Purposes, sufficient attention must be given to the detail that makes up the guidance for the AoLEs, and the mandatory cross-curricular skills, and how these mandatory areas are identified: in other words, what is it about them that necessitates their mandatory status; how this will be delivered, and is there anything missing which could be identified now, rather than having to make significant amendments to the legislation at a later date. (...)”

One could give fresh consideration to what must be categorised as mandatory: how these are decided upon?”¹³³

174. Sylfaen Cymru makes the case for civic knowledge and participation to be a mandatory element and contrast the regard the Bill has for this and many other fields with the priority it gives to Religion, Values and Ethics (RVE). For Sylfaen Cymru, the Bill “fails to establish why [RVE] has been singled out from other humanities topics as being more important than any other area that could be considered vital civic knowledge”.¹³⁴

¹³² Wavehill social and economic research, Curriculum and Assessment (Wales) Bill: Consultation Analysis, October 2020.

¹³³ Written evidence, CYPE Committee, CAW 210 – Sylfaen Cymru Ltd.

¹³⁴ Written evidence, CYPE Committee, CAW 210 – Sylfaen Cymru Ltd.

175. What is seen by some as an inconsistent approach to decisions about what should and should not be mandatory elements is highlighted by another respondent who asks “how can the Welsh Government justify the compulsory inclusion of some, and not other content?”.¹³⁵

176. The eagerness of many for certain items to be taught under the new curriculum has led to numerous calls for guarantees on content. This is reflected by recent petitions that, at the time of writing, have been submitted to the Senedd’s Petitions Committee calling for the following items to be mandatory in the Curriculum for Wales:

- Black and Person of Colour (PoC) history;
- Welsh history;
- Anti-racism;
- First aid and Cardiopulmonary Resuscitation (CPR);
- Environmental awareness;
- Agricultural and countryside education;
- Natural history;
- Wales’ role in Britain’s colonial history;
- Wales’ colonisation of Patagonia;
- Mental health first aid;
- LGBTQ history;
- Food allergies and EPI PEN training;
- Water safety;
- Menstrual well-being.

177. In conjunction with the Petitions Committee, we wrote to these petitioners and drew their attention to our call for written evidence.

¹³⁵ Written evidence, CYPE Committee, CAW 8 – Individual.

178. Two of these petitions—Black and PoC history, and Welsh history—were the subject of a debate in Plenary on 4 November 2020.¹³⁶

179. The teaching unions believe it is important to keep the new curriculum non-prescriptive, as proposed by the Bill. Representing head teachers, NAHT and ASCL both said they were content with what is on the face of the Bill and there are no omissions as far as they are concerned.¹³⁷

180. UCAC said:

“... I think it’s important that we do keep the list of mandatory elements as succinct as possible, and that we find another place in the arrangements for the other elements that we feel are important—guidance or specific resources. But I think that the ethos of the new curriculum does require us to keep the list of mandatory elements short.”¹³⁸

181. The NASUWT agreed:

“... I think [UCAC are] right in terms of the ethos of the new curriculum. I think there were large numbers of groups with outstanding and very strong arguments for particular elements that they would like to see in the curriculum, but you very quickly get into a situation of overcrowding as ‘this is a slotted in, that is slotted in’ and the next issue is slotted in, and we’re back to where we started, really.”¹³⁹

182. A number of respondents cautioned that the power available to the Welsh Ministers to amend or add AoLEs through regulations must not be used in a way that undermines the original principles of the Curriculum for Wales. Estyn said:

“In particular, where additions to the areas of learning and experience are made or changes to cross-curricular skills, there will be a need to consider how to protect the curriculum from becoming overloaded or too prescriptive. Regard should be given to how the principle of subsidiarity can be maintained when Ministers exercise this function.”¹⁴⁰

¹³⁶ Plenary, RoP, 4 November 2020.

¹³⁷ Oral evidence, CYPE Committee, RoP [paras 101-106], 24 September 2020.

¹³⁸ Oral evidence, CYPE Committee, RoP [para 295], 24 September 2020.

¹³⁹ Oral evidence, CYPE Committee, RoP [para 301], 24 September 2020.

¹⁴⁰ Written evidence, CYPE Committee, CAW 20 – Estyn.

183. The Education Workforce Council wrote:

“... whilst the powers to [sic] provide the opportunity for Ministers to make sure that schools are addressing important topics, the Council believes that it will also be important to ensure that the new curriculum does not incrementally become over-prescriptive. We also believe that it is of the utmost importance that powers are not used in such a way that undermines the principles of a curriculum that is designed at a local level by professionals within schools (the key principle of subsidiarity outlined by Professor Donaldson).”¹⁴¹

The Welsh Government’s response

184. In response to various petitions regarding curriculum content, the Welsh Government has resisted calls for additional mandatory elements on the face of the Bill, saying this would undermine the principles of the Curriculum for Wales. It has also pointed to the provisional statutory guidance on the AoLEs (January 2020) as demonstrating that there will be opportunities for such items to be taught. For example, in response to a petition regarding water safety in 2019, the Minister said:

“Successful Futures has challenged us to re-think our approach to the curriculum. It makes it clear that a high degree of prescription and detail at a national level inhibits “the flow and progression in children and young people’s learning”. As such, we need to ensure that the new curriculum does not provide a comprehensive list of detailed content which would quickly become complicated and overcrowded. The curriculum must allow professionals the flexibility to choose the specific content which meets the needs of their learners and reflects their local contexts. Throughout the process we have been working with practitioners to ensure the right balance between flexibility at school level and clarity at national level.”¹⁴²

185. In our first oral evidence session on the Bill, the Minister said “there is a natural tension, and I understand it, that people want specific issues put on the face of the Bill, or a specific thing that people absolutely want clarity about what

¹⁴¹ Written evidence, CYPE Committee, CAW 111 – Education Workforce Council.

¹⁴² Correspondence, [Minister for Education to Petitions Committee](#), 15 February 2019.

is taught” but that to do so would be “another way of putting that straitjacket on the decisions of individual teachers”.¹⁴³

186. In resisting calls for additional mandatory elements on the face of the Bill and relying instead on flexibility within the associated statutory guidance, the Welsh Government is seeking to stick to the vision set out by ‘Successful Futures’. In one of the first sessions we held in this Senedd regarding curriculum reform, Professor Donaldson emphasised the need to resist the temptation to legislate in too much detail regarding curriculum content:

“... while it’s tempting to think that the more you put in legislation or the more you make it clear exactly what you expect of schools, the more likely that is to actually happen in practice, experience tells us that’s not the way it works. The more you specify from the outside what it is that should happen inside a school, the more you stifle those inside the school thinking about their children, and the nature of the learning that their children need. (...)

The more you put in legislation, the more you lock a curriculum into a particular point in time. The current curriculum is partly locked into 1988, which is when it was created. So, the more you put in statute, the more difficult it is to be flexible, agile and responsive in terms of the way in which the world is changing and the nature of what’s happening in the world around schools just now in the lives that young people are currently leading. (...)

So, one big lesson for Wales, I think, is to think hard about the balance between what we put in legislation and where we use other means in order to try and achieve the necessary consistency—but not uniformity, necessarily—across Wales. (...)

My counsel would be: be cautious about what you put in legislation.”¹⁴⁴

187. In further oral evidence, the Minister reiterated that there is a “balancing act” with regard to what is and what is not included on the face of the Bill: “trying to create a national framework and expectation but not undermine the ethos and the principle of the Bill around dictating from the centre”. The Minister also cited examples of how items such as life skills, mental health, identity, and history are

¹⁴³ Oral evidence, CYPE Committee, RoP [para 145], 14 July 2020.

¹⁴⁴ Oral evidence, CYPE Committee, RoP [paras 24 and 29], 16 November 2016.

covered in the statutory AoLEs, What Matters statements, and statutory guidance, and therefore do not need to be mandatory elements in their own right.¹⁴⁵

188. We asked the Minister why this approach is not felt to be sufficient for RSE and RVE, which are both mandatory elements specified on the face of the Bill. In her written response, she said that RSE and RVE “have quite unique challenges as subject areas” and are:

“... included on the face of the Bill due to their significance as subject areas in contributing to the four purposes and wider Welsh Government priorities.”¹⁴⁶

189. In terms of RSE:

“An independent expert panel recommended that RSE should be a statutory part of the new curriculum for Wales in order to encourage schools to engage with the broader range of topics identified by the panel and enhance the new curriculum’s focus on health and wellbeing.”¹⁴⁷

190. In terms of RVE:

“The Humanities AoLE provides contexts for children and young people to learn about people, place, time and belief. RVE is a critical element of this because it offers a range of disciplinary approaches used by learners to critically engage with a broad range of religious and non-religious concepts. (...)”

For this reason key stakeholders and I agree that such an important subject area should be on the face of the Bill.”¹⁴⁸

191. The Minister also explained why the Welsh Government does not wish to include any further mandatory elements on the face of the Bill:

“There is a risk that adding themes will lead [to] prescription on the face of the Bill, which would risk undermining the key principles of the purpose led Curriculum for Wales. This would also undermine the purpose of the What Matters Code which will embed these themes as

¹⁴⁵ Oral evidence, CYPE Committee, RoP [paras 34-38], 21 October 2020.

¹⁴⁶ Correspondence, Minister for Education to the CYPE Committee, 5 November 2020.

¹⁴⁷ Correspondence, Minister for Education to the CYPE Committee, 5 November 2020.

¹⁴⁸ Correspondence, Minister for Education to the CYPE Committee, 5 November 2020.

key concepts within the curriculum. We must ensure, as I and key stakeholders have set out in oral evidence sessions with the Committee, the Bill does not become a list of subjects or themes.”¹⁴⁹

Our views and recommendations: the main organising principles for the new curriculum which are set out on the face of the Bill

192. The evidence we have received during our Stage 1 scrutiny demonstrates that while there is broad consensus in favour of the four purpose, six AoLEs, and the three cross-curricular skills, the level of detail on the face of the Bill is a matter of some discussion. Some agree with the Minister that including significant detail and prescription on the face of the Bill would undermine the overarching aim of allowing flexibility for schools to design a curriculum that is tailored to the needs of their children and young people. Others are concerned that more detail is needed on the face of the Bill to be sure that important areas not currently listed have a secure place within the new curriculum.

193. We agree with the Minister that striking a balance between what is included on the face of the Bill and what is detailed in the statutory Codes and guidance is challenging. This challenge is common to many pieces of legislation, but we believe it particularly so in this case as the Bill is built on a foundational aim of subsidiarity – that is, to deliver a system that enables sufficient flexibility for the curriculum to be designed at a local level by professionals within schools. Furthermore, if this legislation is to stand the test of time, we recognise that space is needed to be able to reflect the evolving needs and demands of education, society, and our children and young people. We accept that the longer the list of requirements on the face of the Bill becomes, the narrower the opportunities may be to realise the flexibility it seeks to deliver, and the likelier it is to become quickly outdated.

194. Nevertheless, the principles and reasoning applied to decisions surrounding what is placed on the face of a Bill, and what resides in secondary legislation, should be clear. In our view, there is an apparent inconsistency in the decisions about mandatory elements and why certain items of learning need to be specified on the face of the Bill while others can be left to the What Matters Code and statutory guidance. When we queried why RSE and RVE needed to be listed as mandatory elements on the Bill’s face, but mental health and well-being (for example) not, we were told that RSE and RVE had “quite unique challenges as subject areas” and were listed because of “their significance as subject areas in

¹⁴⁹ Correspondence, Minister for Education to the CYPE Committee, 5 November 2020.

contributing to the four purposes and wider Welsh Government priorities”. We think arguments of this kind could be made about other areas, and believe that clearer reasoning is needed to provide assurances about the relative place and position of subjects, concepts, and topics within the new Curriculum for Wales.

Recommendation 6. That the Welsh Government set out, as a matter of priority, the principles and reasoning that has guided—and will continue to guide—decisions about what aspects of teaching and learning merit being included on the face of Bill as mandatory elements.

195. We note that the Bill provides for the What Matters Code to be made under the Senedd’s enhanced negative procedure for subordinate legislation. Given the crucial importance of this Code to how the curriculum will operate, we believe that it should be subject to the enhanced affirmative procedure, as should any future revisions to it. This is to ensure the opportunity for sufficient scrutiny to be undertaken by the Senedd.

Recommendation 7. That the Welsh Government amend the Bill to ensure that the What Matters Code (or revised Code) is subject to the enhanced affirmative, rather than the enhanced negative, procedure. The provision in section 72(2) requiring consultation on the What Matters Code (or revised Code) should remain.

196. We note that any changes to the four purposes listed on the face of the Bill would require primary legislation, but the six AoLEs and three cross-curricular skills may be amended through regulations. While we believe that Ministers and Governments need to be able to update the curriculum requirements in line with societal changes, we agree with some stakeholders who warned that care needs to be taken not to undermine the principles and ethos of the new curriculum.

Recommendation 8. That the Welsh Government consider and outline how the legislation can be future-proofed, within reason, to ensure that future regulations do not undermine the principles of the Curriculum for Wales, for example by making the curriculum overcrowded or too prescriptive.

Coverage of certain items in the curriculum

Emotional and mental health

Position in the Bill and wider background

197. The Welsh Government maintains that emotional and mental health is covered within the new Curriculum for Wales. One of the four purposes stated in section 2 of the Bill is:

- To enable pupils and children to develop as healthy, confident individuals, ready to lead fulfilling lives as valued members of society.

198. ‘Health and Well-being’ is one of the six Areas of Learning and Experience set out in section 3. A statutory code will set out ‘what matters’ within each AoLE and section 6 requires the curriculum to encompass each of the what matters concepts set out in the Code. The Curriculum for Wales detail published in January 2020 stated that one of the ‘Statements of What Matters’ for the Health and Well-being AoLE will be:

- How we process and respond to our experiences affects our mental health and emotional well-being.¹⁵⁰

199. Another of the ‘Statements of What Matters’ refers to physical health and the importance of sport and physical activity:

- Developing physical health and well-being has lifelong benefits.

200. The provisional statutory guidance published for each AoLE provides further detail on the ‘Statements of What Matters’ within each AoLE and the descriptions of learning and expected achievements at various ages.¹⁵¹

201. Separately to the Bill, the Welsh Government is taking forward work, through a Joint Ministerial Task and Finish Group¹⁵², to develop and implement a ‘whole-school’ and ‘whole-system’ approach to supporting children and young people’s

¹⁵⁰ Welsh Government, Hwb, [Health and Well-being AoLE](#), January 2020.

¹⁵¹ Welsh Government, Hwb, [Curriculum for Wales 2020](#), January 2020. See pages 74 and 80-81 for information for coverage of mental health within the Health and Well-being AoLE. See pages 74 and 78-79 for coverage of physical health.

¹⁵² Welsh Government, [Joint Ministerial Task and Finish Group on a Whole-School Approach to Mental Health and Well-being](#).

emotional and mental health needs. This follows our ‘Mind over Matter’ inquiry report in 2018¹⁵³ and follow up work culminating in a report published in October 2020.¹⁵⁴

202. The Welsh Government consulted during summer 2020 on statutory guidance for local authorities and schools on embedding the whole-school approach.¹⁵⁵

Stakeholders’ evidence

203. In our previous inquiry work on emotional and mental health, stakeholders have emphasised that the new curriculum is a key opportunity to drive this agenda forward in schools. However, many are worried that the opportunity provided by the new curriculum to make mental health a really important part of a child’s education could be missed if it is not made a really clear priority.¹⁵⁶

204. Samaritans Cymru said that a key a measure of the Bill and the wider whole-school approach would be whether “every child in every school learns emotional literacy, is able to identify when they are struggling and crucially, knows where they can go for help and support”. It welcomes the Welsh Government’s response to the Donaldson Review and sees the Bill as “a real opportunity to improve the mental health and understanding of young people”. It also welcomes that the guidance on the whole-school approach will be statutory.¹⁵⁷

205. However, whilst Samaritans Cymru also accepts that mental health will be required within the Health and Well-being AoLE, it questions why elements such as RSE and RVE are mandatory on the face of the Bill yet mental health, despite “its central and recognised importance”, is not. In written evidence, it says:

“We have argued consistently that a key way in which to do this is to place learning about emotional health, what works to support it in yourself and in others, on a statutory footing. (...)”

¹⁵³ CYPE Committee, [The Emotional and Mental Health of Children and Young People](#), 2018.

¹⁵⁴ CYPE Committee, [The Emotional and Mental Health of Children and Young People – Follow-up](#), 2020.

¹⁵⁵ Welsh Government consultation, [Embedding a whole-school approach to mental health and well-being](#), 8 July to 30 September 2020.

¹⁵⁶ CYPE Committee, [Mind over matter: Two years on](#), October 2020.

¹⁵⁷ Written evidence, CYPE Committee, CAW 151 – Samaritans Cymru.

... we remain of the view that the importance of mental health as a core part of every young person in every school's learning experience means that that mental health learning should be a mandatory part of the new curriculum, on the same basis as Relationships and Sexuality Education and Religion, Values and Ethics. This is because of the importance of mental health being at the heart of the curriculum and the need to deliver it consistently."¹⁵⁸

206. Mind Cymru agree, arguing that it is a "missed opportunity to place mental health right at the hearts of every pupils' learning and experience". It has "not heard a compelling reason" why RSE and RVE should be mandatory elements and mental health should not.¹⁵⁹

207. Mind reiterated this in its video submission, saying that establishing mental health as a mandatory element "would reflect the views of young people we have spoken to who say there is not enough time in the school day to discuss issues relating to mental health". It added:

"It has been hugely positive that the Welsh Government has made a strong commitment to making mental health one of its priority areas within the Programme for Government. Making this amendment to the Bill would be realising that commitment within education policy and legislation."¹⁶⁰

208. The Welsh Youth Parliament's video evidence also urged more to be done to increase children and young people's confidence and access to relevant information:

"It's vital that young people have access to accurate and valid information, as well as opportunities to discuss mental health at school, which can help to end stigma, which is one of the main reasons young people aren't comfortable sharing their problems. It's vital to start these discussions young, and to develop young people's understanding of their mental health as well as their physical health."¹⁶¹

¹⁵⁸ Written evidence, CYPE Committee, CAW 151 – Samaritans Cymru.

¹⁵⁹ Written evidence, CYPE Committee, CAW 187 – Mind Cymru.

¹⁶⁰ Video evidence, CYPE Committee, Mind Cymru.

¹⁶¹ Video evidence, CYPE Committee, Welsh Youth Parliament – Emotional and Mental Health Committee.

209. Some children and young people participating in our virtual round table discussion said there needs to be more emphasis on mental health in what pupils learn about in school, highlighting that children and young people have lots of complex issues to deal with, which have been exacerbated by COVID-19. They felt mental health should be taught from an early age but that schools and teachers often do not know how to do this.¹⁶²

210. Not all stakeholders who champion the need to support pupils' emotional and mental health needs argue that changes are needed to the Bill to realise this. The Children's Commissioner believes it is "no longer necessary" to provide for the whole-school approach on the face of the Bill, given the Welsh Government has agreed to make the guidance statutory.¹⁶³ Meanwhile, the Together for Children and Young People (2) Programme "accepts that [the] mandatory elements have now been decided".¹⁶⁴

211. Some stakeholders highlighted the importance of physical health, as well as mental health, being explicitly referenced within the Bill and the associated Codes and guidance. Sport Wales argued that physical literacy should be on the face of the Bill as it could otherwise be "squeezed" within the new curriculum. It is concerned about insufficient time spent in schools on sport and physical activity, highlighting inconsistencies between schools.¹⁶⁵

212. Sport Wales wrote:

"It is within the context of these potential barriers and the aspirations for the new curriculum that we make the case for adding physical literacy to be one of the compulsory skills alongside Digital Competence, Numeracy and Literacy. The parity of physical literacy and literacy has been an ambition by many, for many years, and this opportunity to recognise a skill which will be applicable throughout a student's education, life and supporting overall wellbeing, will help to produce healthy, confident learners."¹⁶⁶

¹⁶² CYPE Committee, Evidence from virtual round table discussions with stakeholders, October 2020.

¹⁶³ Written evidence, CYPE Committee, CAW 97 – Children's Commissioner for Wales.

¹⁶⁴ Written evidence, CYPE Committee, CAW 88 – Together for Children and Young People (2) Programme.

¹⁶⁵ Health, Social Care and Sport Committee, [Inquiry into physical activity of children and young people](#), March 2019.

¹⁶⁶ Written evidence, CYPE Committee, CAW 215 – Sport Wales.

213. In 2019, the Welsh Government rejected the Health, Social Care and Sport Committee’s recommendation that there should be a statutory requirement for pupils to spend a minimum of 120 minutes per week undertaking physical education. The Welsh Government pointed to the Health and Well-being AoLE and said decisions about how the new curriculum “translate[s] into day-to-day activities should take place creatively at school level”.¹⁶⁷

214. The short and medium-term benefits of physical activity, as well as the long-term benefits, were highlighted by Play Wales. They called for “a more pronounced commitment and appreciation of the value of play”, saying there is “compelling evidence that playing is central to children’s physical, mental, social and emotional health and well-being”.¹⁶⁸

The Welsh Government’s response

215. The Minister told us that the Health and Well-being AoLE is “absolutely explicit about the importance of mental health and well-being”, which is “one of the best things about the new curriculum”:

“... for instance, it talks about having an awareness of our own feelings and emotions, and that’s the foundation of how we experience life. So, there’s plenty of description and requirements around the field of mental health, which is so important.”¹⁶⁹

216. Asked whether the arguments that the sensitive nature of RSE necessitates its mandatory status in the Bill, and a relatively prescriptive Code on how it is taught, could also be made for mental health, the Minister pointed to the role of the whole-school approach, beyond the Bill:

“In terms of content, I believe that there is a clear expectation around what should be available to young people and taught, but, around that, we cannot leave it to the Bill alone; that’s why we have to have the whole-school approach, because learning a lesson about mental health is all very well, but, if you’re in an environment that is fundamentally unhealthy, then we’re not doing the best by our children. So, the curriculum content is important, but the whole-school approach and their expectations around that, you know that we’re putting in statutory

¹⁶⁷ Welsh Government, [Response to the Health, Social Care and Sport Committee inquiry report into physical activity of children and young people](#), May 2019.

¹⁶⁸ Written evidence, CYPE Committee, CAW 98 – Play Wales.

¹⁶⁹ Oral evidence, CYPE Committee, RoP [para 36], 21 October 2020.

guidance, so that school itself becomes a healthy environment, not just for children, but for the people who work within our schools and work alongside our children.”¹⁷⁰

217. The Minister also highlighted the importance of professional learning for existing teachers and initial training about mental health and emotional well-being for new teachers.¹⁷¹

Our views and recommendations: emotional and mental health

218. Our views on the central importance of prioritising the mental health and well-being of children and young people are a matter of public record. Our Mind over Matter reports in April 2018 and October 2020 gave a clear and detailed account of the importance we attach to providing a whole-system approach to emotional and mental health, and the evidence that underpins that view.

219. In those reports we describe the new curriculum as a once-in-a-generation opportunity to embed well-being into our children’s lives. We also state that education settings, particularly schools, are ideally placed to make a significant contribution to building an emotionally resilient population of young people, reducing stigma and promoting good mental health.

220. We recognise and welcome the prominent place emotional and mental health and well-being is given in the Curriculum for Wales documentation. We further welcome assurances from the Welsh Government that it will form a central part of the statutory requirements for the curriculum within the What Matters Code and ‘Statements of What Matters’, the Progression Code, and the other statutory guidance that will underpin the Bill. We think this is essential to ensuring that our children and young people are taught about this crucial area.

221. Valuing mental health equally with physical health is vital, especially for our children and young people. As a society, we still have a significant distance to travel before mental health has parity of esteem. While we do not doubt that this Bill aims to address these issues, we believe that a “belts and braces” approach is needed, much like the approach adopted for RSE. We need to make sure that the importance of mental health and well-being in our curriculum is plain for all to see now and in the future.

¹⁷⁰ Oral evidence, CYPE Committee, RoP [para 192], 21 October 2020.

¹⁷¹ Oral evidence, CYPE Committee, RoP [paras 193-194], 21 October 2020.

222. On that basis we believe that explicit reference to mental health is needed on the face of this legislation. We recognise the Welsh Government’s desire to avoid overcrowding the Bill or undermining its aims. However, to give the prominence to mental health and well-being that we believe is necessary, options to re-word either the AoLEs, the mandatory elements, or the duties on the Bill’s face should be considered.

Recommendation 9. That the Welsh Government amend the Bill to include specific reference, on its face, to mental health and well-being and its place in the curriculum.

Welsh history, BAME history, and identity and diversity

Position in the Bill and wider background

223. The Curriculum for Wales documentation published in January 2020 stated that History is encompassed in the Humanities AoLE, along with Geography; Religion, Values and Ethics; Business studies; and Social studies.¹⁷²

224. One of the four purposes of the curriculum listed in section 2 of the Bill is:

- To enable pupils and children to develop as ethical, informed citizens of Wales and the world.

225. A statutory Code will set out ‘what matters’ within each AoLE and section 6 requires the curriculum to encompass each of the what matters concepts set out in the Code. According to the details published in January 2020, there are five ‘Statements of What Matters’ within Humanities:

- Enquiry, exploration and investigation inspire curiosity about the world, its past, present and future.
- Events and human experiences are complex, and are perceived, interpreted and represented in different ways.
- Our natural world is diverse and dynamic, influenced by processes and human actions.
- Human societies are complex and diverse, and shaped by human actions and beliefs.

¹⁷² Welsh Government, Hwb, [Curriculum for Wales 2022: Humanities AoLE](#), January 2020.

- Informed, self-aware citizens engage with the challenges and opportunities that face humanity, and are able to take considered and ethical action.

226. Central to the teaching and learning under the Humanities AoLE will be the concept of ‘cynefin’. The Welsh Government describes ‘cynefin’ as:

“The place where we feel we belong, where the people and landscape around us are familiar, and the sights and sounds are reassuringly recognisable. Though often translated as ‘habitat’, cynefin is not just a place in a physical or geographical sense: it is the historic, cultural and social place which has shaped and continues to shape the community which inhabits it.”¹⁷³

227. The provisional statutory guidance published for each AoLE provides further detail on the ‘Statements of What Matters’ within each AoLE and the descriptions of learning and expected achievements at various ages. There are a number of references to the teaching of the history and diversity of Wales, including a Welsh perspective of history more widely, in the provisional statutory guidance on the Humanities AoLE.¹⁷⁴

228. The Welsh Government rejected the Culture, Welsh Language and Communication (CWLC) Committee’s 2019 recommendation¹⁷⁵ that the Curriculum for Wales should include guidance which sets out a common body of knowledge for all pupils studying history, in order to allow all pupils to have an understanding of how their country has been shaped by local and national events within the context of Welsh, British and international histories.

229. In its response to the CWLC Committee, the Welsh Government said that this would go against the purpose-led (rather than content-led) approach of the new curriculum. It added that the Humanities AoLE would enable “consistent exposure to the story of learners’ locality and the story of Wales, as well as to the story of the wider world, to enable learners to develop an understanding of the complex and diverse nature of societies, past and present”.¹⁷⁶

¹⁷³ Welsh Government, [Curriculum for Wales 2022](#), page 241, January 2020.

¹⁷⁴ Welsh Government, [Curriculum for Wales 2022](#), pages 98-125, January 2020.

¹⁷⁵ Culture, Welsh Language and Communications Committee, [Teaching of Welsh History](#), November 2019.

¹⁷⁶ Welsh Government, [Response to the Culture, Welsh Language and Communications Committee’s inquiry report on Teaching of Welsh History](#), January 2020.

230. However, the Welsh Government accepted the other seven CWLC Committee recommendations, including that Estyn undertake a thematic review of the teaching of Welsh history in schools and that the new curriculum should have diversity at its core due to the importance of all pupils knowing the story of Wales' diverse ethnic and religious communities.

231. The Welsh Government has set up a 'Communities, contributions and cynefin: BAME experiences and the new curriculum' working group, which is chaired by Professor Charlotte Williams from Bangor University.¹⁷⁷ The working group has been asked to provide the Welsh Government with advice on the teaching of themes related to Black, Asian and Minority Ethnic (BAME) communities and experiences within the curriculum.¹⁷⁸

232. The working group published an interim report, including recommendations, on 19 November 2020. This report addresses the first of its tasks, which was to:

- undertake a review of resources currently available to support the teaching of themes relating to BAME communities and cynefin across all parts of the curriculum.¹⁷⁹

233. The working group's final report will be available in early spring 2021.¹⁸⁰ This will outline its findings and recommendations in respect of its second task, which is to:

- review professional learning and initial teacher education related to BAME communities, their contributions and experiences, and cynefin, across the curriculum.

234. The Minister has said the group's work will be closely aligned to Estyn's thematic review. It will inform the commissioning of new resources to support the teaching of themes relating to BAME communities, cynefin, contributions and

¹⁷⁷ Welsh Government, Written statement, [Communities, contributions and cynefin: BAME experiences and the new curriculum Working Group](#), 21 July 2020.

¹⁷⁸ Welsh Government, Media release, [First report published by working group on Black, Asian and Minority Ethnic education resources](#), 19 November 2020.

¹⁷⁹ Black, Asian and Minority Ethnic Communities, Contributions and Cynefin in the New Curriculum Working Group, [Interim report](#), November 2020.

¹⁸⁰ Welsh Government, Written statement, [BAME Communities, Contributions and Cynefin in the New Curriculum Group interim report](#), 19 November 2020.

experiences, in advance of the phased introduction of the Curriculum for Wales from September 2022.¹⁸¹

Stakeholders' evidence

235. As referred to above, the Culture, Welsh Language and Communications Committee received representations from stakeholders and the wider public during its inquiry on the 'Teaching of Welsh history' in 2019.¹⁸²

236. The Petitions Committee is considering a petition to "create a common body of knowledge about Welsh history that all pupils will learn"¹⁸³, which collected 7,927 signatures and was debated in Plenary on 4 November 2020. This followed a petition in 2018 to "teach Welsh history from a Welsh perspective".¹⁸⁴

237. Also the subject of the Plenary debate on 4 November was a petition to "make it compulsory for Black and POC UK histories to be taught in the Welsh education curriculum"¹⁸⁵, which collected 34,736 signatures.

238. A considerable number of individual respondents¹⁸⁶ to our call for evidence, as well as some organisations, called for Welsh history to be included on the face of the Bill or at least for there be some level of guarantee that it will be taught. Opinions expressed included:

- Being aware of your country and culture makes you a more informed, better citizen.
- Young people need to be taught key events in Welsh history in chronological order and the unique elements of our culture.
- Young people need to be taught about the key events and themes that have shaped Wales' communities.
- History is predominantly taught in a British context.

¹⁸¹ Welsh Government, Written statement, [Communities, contributions and cynefin: BAME experiences and the new curriculum Working Group](#), 21 July 2020.

¹⁸² CWLC Committee, [Teaching Welsh History](#), 2018 to 2019.

¹⁸³ Petitions Committee, [Petition P-05-992](#).

¹⁸⁴ Petitions Committee, [Petition P-05-799](#).

¹⁸⁵ Petitions Committee, [Petition P-05-1000](#).

¹⁸⁶ Written evidence, CYPE Committee, CAW 41, 42, 44, 45, 46, 52, 67, 89, 128, 143, 149, 198 – Individual respondents.

- There is a lack of understanding of Wales' history as a nation and campaigns to protect our language and heritage.

239. The Association of Schools for Welsh Medium Education (CYDAG) wrote:

“In order to ensure that all schools give Welsh history a core and central place in the new curriculum, CYDAG strongly believes that schools need to receive detailed guidance setting out a common body of knowledge for the programmes of study and the specifications, which are the key periods and events in the formation and development of our nation that have contributed to the creation of contemporary Wales.

Unless this is secured, the national history of Wales will not be presented effectively and consistently in our schools.”¹⁸⁷

240. The National Library of Wales said:

“The National Library disagrees with the decision not to set out clearly in the curriculum what is required for pupils to know in order to understand the story of Wales, and to outline a ‘common body’ of knowledge that all pupils in Wales should know about the country. We believe that Wales, like most other countries around the world, needs to ensure that our nation’s story is at the heart of the curriculum of every school in the country.”¹⁸⁸

241. Swansea Council “would echo growing concerns that have been expressed recently about key aspects of Welsh and UK history, and BAME culture not being clearly referenced in the curriculum”,¹⁸⁹ while Gwynedd Council wrote:

“Without explicitly defining this expectation in the curriculum, we will once again see generations of children and young people being deprived of the national and local history of Wales which would be a way of nurturing and empowering them to be well-rounded citizens, with a sense of belonging to their community and country.”¹⁹⁰

¹⁸⁷ Written evidence, CYPE Committee, CAW 64 – Association of Schools for Welsh Medium Education (CYDAG).

¹⁸⁸ Written evidence, CYPE Committee, CAW 65 – The National Library of Wales.

¹⁸⁹ Written evidence, CYPE Committee, CAW 142 – Swansea Council.

¹⁹⁰ Written evidence, CYPE Committee, CAW 91 – Gwynedd Council.

242. The Ethnic Minorities & Youth Support Team’s video submission said the Bill “comes at a really timely and pivotal moment in Wales and in the world” and there is a “need to increase the diversity of the teaching workforce”. It also said:

“We have huge challenges facing all of us in Wales at the moment, with the coronavirus, Black Lives Matter, and it’s never been more important to equip our young people with the right skills that they need to meet these challenges. (...)”

Within the current framework, there does not seem to be a great deal of emphasis on how teachers will be supported and how this new vision will be resourced. These concerns have come from the conversations we’ve been having through EYST, the Ethnic Minorities and Youth Support Team, the charity that I head up, with a great number of black and minority ethnic young people across Wales. They very much welcome the Bill but they have some concerns about the diversity of the workforce and equipping the workforce and teachers to really deliver this vision...”¹⁹¹

243. In relation to BAME history, the Equality and Human Rights Commission wrote that the Bill:

“...provides an opportunity to build the need for this learning into curriculum legislation so that it cannot be diluted by schools. It should include Britain and Wales’s immigration history to enable children to understand how this has shaped all aspects of our country.”¹⁹²

244. Policing in Wales highlighted the importance of “more Wales wide promotion of Black History” and urged for such an issue not to be “lost” amidst consideration of the new curriculum.¹⁹³

245. Whilst many respondents highlighted the importance of teaching about Welsh history and culture, not everyone felt this requires changes to the Bill given the discretion that will be available to schools. For example, the North Wales regional response from local government stated:

“We also welcome that within the new curriculum, schools in Wales will have the opportunity to develop their curriculum to ensure that all

¹⁹¹ Video evidence, CYPE Committee, Ethnic Minorities & Youth Support Team.

¹⁹² Written evidence, CYPE Committee, CAW 184 – Equality and Human Rights Commission.

¹⁹³ Written evidence, CYPE Committee, CAW 185 – Policing in Wales.

learners have the opportunity to understand and recognise Wales' heritage and culture on a local and national level."¹⁹⁴

246. However, as with mental health, those who did call for changes in respect of history pointed to a perceived inconsistency in the Bill's approach to mandatory elements:

"[The] Welsh Government cannot argue that it is against the principle of compulsion, as the four Purposes, What Matters, Religion, Values and Ethics and Relationships and Sexuality Education are all compulsory for schools."¹⁹⁵

The Welsh Government's response

247. The Welsh Government has previously pointed to changes made to A/AS level and GCSE history specifications in 2015 and 2017 respectively, which increased the focus on Welsh history and Welsh perspective in the current curriculum.

248. The Minister told the Petitions Committee in July 2018:

"What we've seen in the new A-level, AS-level and the new history GCSE is a much greater emphasis on the need to teach children aspects of Welsh history. (...)

We've changed the course content of both GCSE and A-level, so those opportunities are there. I'd be the first to agree with you that they weren't there, perhaps, in our old GCSEs and our old A-levels. (...)"¹⁹⁶

249. In terms of the new curriculum provided for under the Bill, the Minister said in Plenary:

"... studying the history and histories of Wales is an important element in meeting the four purposes of our new curriculum. The new curriculum framework reflects Wales: our cultural heritage and

¹⁹⁴ Written evidence, CYPE Committee, CAW 189 – North Wales Regional Response to include GWE and the 6 Local Authorities.

¹⁹⁵ Written evidence, CYPE Committee, CAW 67 – Individual.

¹⁹⁶ Oral evidence, Petitions Committee, [RoP \[paras 96 and 120\]](#), 17 July 2018.

diversity; our languages and our values; and the histories and traditions of each one of our communities and all of our people.”¹⁹⁷

250. The Minister added:

“... within the humanities area, this must include cultivating a sense of *cynefin*—a place and a sense of belonging—an appreciation of identity and heritage; a consistent exposure to the story of their locality and the story of Wales; developing an understanding of the complex, pluralistic and diverse nature of societies, both past and present; and engagement with the past, contemporary, and anticipated challenges and opportunities facing them as citizens, their communities and their nation. These will be non-negotiable elements of every school’s curriculum, for every learner at every stage. It will simply not be possible to ignore the central and critical role of all of our histories, our local and national stories, including black history, in a school’s curriculum.”¹⁹⁸

251. In terms of the working group and how it will inform the coverage of BAME history and experiences, the Minister said:

“... the working group chaired by Professor Williams has reviewed existing resources to support the teaching of themes relating to BAME experience and contributions right the way across our curriculum, and, as has also been referenced, Estyn will also report on their review on the teaching of Welsh history and diversity in schools next year. Its findings will further help us to commission resources to ensure that teachers have the support that they need to deliver the curriculum successfully. (...)”

Early next year, I expect to receive a second report from Professor Williams’s working group, which will be considering the professional learning and development needs of staff in our schools in the coming months. The group will provide recommendations on how to ensure that teachers across the curriculum can competently deliver learning related to black, Asian and minority ethnic communities and experiences.”¹⁹⁹

¹⁹⁷ Plenary, RoP [para 320], 4 November 2020.

¹⁹⁸ Plenary, RoP [para 321], 4 November 2020.

¹⁹⁹ Plenary, RoP [paras 327-328], 4 November 2020.

252. The Minister “warmly welcomed” the working group’s interim report, which relates to teaching and learning resources, and said she would consider the recommendations in detail and announce her response later in 2020.²⁰⁰

253. However, the Welsh Government expects that issues relating to identity, culture and heritage will not only be taught through Humanities but throughout the Curriculum for Wales:

“In terms of identity, cultural identity, and some of the issues that you’re talking about in terms of history, again, there is absolutely a theme running right the way through the AoLEs of the importance of this in the ‘what matters’ statements. (...)”

And I think what’s really important, especially with regard to cultural identities, and some of the issues that we’ve all been grappling with recently—that’s why we’ve set up the work of Charlotte Williams. And what she’s absolutely clear about, in conversations with us already, is that we can’t pigeonhole those issues into one aspect of the curriculum—they have to be cross-curricular. So, simply putting it in one AoLE, under the content of history, is not good enough and will not meet the needs of students.”²⁰¹

Our views and recommendations: Welsh history, BAME history, and identity and diversity

254. The importance of learning about history, identity and diversity has been a key theme in the evidence we have received during our Stage 1 scrutiny. More broadly, matters relating to BAME history, identity and diversity have been a dominant feature of public discourse globally over the last 12 months.

255. We believe it is essential to ensure that our children and young people are taught and learn about their history and the histories of Wales, including BAME history, as well as matters relating to diversity and identity. We note the work that Estyn and Professor Charlotte Williams currently have underway in this regard, and are keen to see their findings before this Bill completes its passage through the Senedd. In our view, this work is vitally important to ensuring that the

²⁰⁰ Welsh Government, Written statement, [BAME Communities, Contributions and Cynefin in the New Curriculum Group interim report](#), 19 November 2020.

²⁰¹ Oral evidence, CYPE Committee, RoP [para 37], 21 October 2020.

necessary teaching and learning resources are available for the new curriculum's implementation.

256. We welcome the inclusion of relevant issues within the Humanities AoLE but recognise concerns expressed by some in the evidence we received that more explicit reference to BAME history is needed within the legislation. We note the Minister's warning that "pigeonholing" issues of this nature into one aspect of the curriculum, rather than ensuring that its teaching is cross-curricular in nature, will not be sufficient. Nevertheless, we also think it is important to ensure that they have a clear and identifiable place in the curriculum, so that people feel assured that children and young people will learn about such fundamental issues.

257. On balance, given the evidence received, the majority of the Committee²⁰² is content at this stage to await the findings of Professor Williams and Estyn's work before recommending an amendment to the face of the Bill. This, however, is predicated on the desire to have further assurances from the Minister that these matters are secure within the curriculum now and in the future.

Recommendation 10. That the Welsh Government provide further assurances that explicit references to Welsh history, BAME history, diversity and identity will be made in the suite of Codes and guidance that underpin the Bill.

Other items

Stakeholders' evidence

258. There were other items that some stakeholders would like greater guarantees on in terms of their inclusion in the curriculum – either as additional mandatory elements on the face of the Bill or more explicit references within the What Matters Code and guidance. Some of these reflect the petitions which have been submitted to the Senedd, in recent months (listed in para 176).

259. One example is the field of first aid, CPR²⁰³ and wider life-saving skills.²⁰⁴ In its video submission, the British Heart Foundation (BHF) said:

²⁰² Siân Gwenllïan MS believes that the Bill should be amended to include specific reference, on its face, to Welsh history, BAME history, diversity and identity and their place in the curriculum.

²⁰³ CPR is an abbreviation for "cardiopulmonary resuscitation". It is an emergency procedure undertaken when someone has stopped breathing or when their heart has stopped beating.

²⁰⁴ Written evidence, CYPE Committee, CAW 16 – British Heart Foundation Cymru; CAW 16 – Individual; CAW 40 – Individual; CAW 84 – Alan Toothill, Head teacher; CAW 87 – St John Ambulance Cymru; CAW 139 – Resuscitation Council UK; CAW 160 – British Red Cross.

“We’re also pleased to see that first aid and life-saving skills have been added to the guidance for schools. Unfortunately, there’s still one major problem: it’s going to continue to be a lottery whether young people learn skills such as CPR in secondary school or not. (...)

This is a problem we can solve. By amending the Bill and the guidance, we can ensure that every young person has the chance to learn these proven life-saving skills in the future.”²⁰⁵

260. The BHF²⁰⁶, British Red Cross²⁰⁷ and St John Ambulance Cymru²⁰⁸ suggest that either:

- the statutory guidance on the Health and Well-being AoLE could include the word ‘must’ rather than ‘may’ when referring to teaching of first aid and life-saving skills; or
- life-saving skills could be included on the face of the Bill as a cross-cutting mandatory element, like RSE to ensure universal delivery.

261. There are also calls for civic and political education²⁰⁹ to be a stronger feature of the new curriculum, with the Welsh Youth Parliament commenting:

“The low percentage of young people receiving lessons on politics concerns us, considering that 16 and 17 year olds will be able to vote for the first time ever in next year’s 2021 Senedd election. We are failing our generation by giving them the right to vote but not educating them on what voting actually entails.”²¹⁰

262. Two individual respondents²¹¹—both teachers—believe the Bill does not give enough priority to modern foreign languages (MFL). They report that MFL are already in decline and argue that the new curriculum will accelerate this, with opportunities to learn languages “becoming a lottery”.²¹²

²⁰⁵ Video evidence, CYPE Committee, British Heart Foundation Cymru.

²⁰⁶ Written evidence, CYPE Committee, CAW 16 – British Heart Foundation Cymru.

²⁰⁷ Written evidence, CYPE Committee, CAW 160 – British Red Cross.

²⁰⁸ Written evidence, CYPE Committee, CAW 87 – St John Ambulance Cymru.

²⁰⁹ Written evidence, CYPE Committee, CAW 40 – Individual and CAW 210 – Sylfaen Cymru Ltd.

²¹⁰ Video evidence, CYPE Committee, Welsh Youth Parliament, Life Skills in the Curriculum Committee.

²¹¹ Written evidence, CAW 2 – Kim Morgan, teacher and CAW 35 – Individual.

²¹² Written evidence, CAW 35 – Individual.

263. Menstrual education is another item which some stakeholders felt needed to be more explicitly referenced within the Bill the associated Codes and guidance.²¹³ This was the subject of a Plenary debate in October 2020²¹⁴ as well as a petition submitted to the Senedd²¹⁵.

264. In our virtual round table discussion, some of the employers and employability representatives who spoke with us emphasised the need for high quality careers and work-related education embedded across the curriculum. It was questioned why this is not referenced within the Bill, given that “work-related education” is a requirement of the current basic curriculum in secondary schools, stated in the relevant primary legislation – the Education Act 2002.²¹⁶

The Welsh Government’s response

265. As outlined previously, the Welsh Government has resisted calls for additional mandatory elements to be included in the Bill. The curriculum documentation was first published in April 2019 in draft form and subject to public feedback. It was then refined before being published in final form in January 2020.

266. The Welsh Government therefore largely considers the ‘Statements of What Matters’ and the curriculum guidance as finalised and not open to further revision. However, as currently drafted in the Bill, the What Matters Code will need to pass through the Senedd’s enhanced negative procedure for subordinate legislation under section 72 of the Bill.

267. The Minister’s response to the petition calling for mandatory education on menstrual well-being referred to the Health and Well-being AoLE and said schools will have the “flexibility to cover puberty and menstruation at a developmentally appropriate stage and also provide learners with the knowledge and confidence to seek support and help to deal with the physical and emotional changes that occur throughout life”.²¹⁷

²¹³ Written evidence, CAW 56 – Endometriosis UK; CAW 57 – Submission on behalf of several organisations and individuals; CAW 123 – Fair Treatment for the Women of Wales.

²¹⁴ Plenary, [RoP](#), 14 October 2020.

²¹⁵ Petitions Committee, [Petition P-05-925](#).

²¹⁶ CYPE Committee, Evidence from virtual round table discussions with stakeholders, October 2020.

²¹⁷ Correspondence, [Minister for Education to Petitions Committee](#), 23 March 2020.

268. In relation to the Bill not including a specific reference to careers and work-related education, the Minister told us:

“With regard to mainstream learners, our expectation is that they would access careers education and work-related education across all areas of the curriculum, which is in line with the ethos of what we’re designing. We also propose additional statutory guidance for careers education, aiming at supporting schools to ensure that they do that well. It’s really important that that happens across the curriculum, from the age of three. We know that children’s expectations and aspirations around careers form when they’re very, very young, so simply leaving this back to the secondary school, or even the upper end of secondary school, is not going to meet our students’ needs. So, we have a working group that has been set up to help us refine that guidance, to ensure that it’s fit for purpose.”²¹⁸

Our views and recommendations: other items

269. We note the calls for other items to be added to the list of mandatory elements to be included in the Bill, and the relevant petitions submitted to the Senedd. We recognise the importance of many of the items drawn to our attention, and the commitment to them demonstrated by the individuals and organisations who have campaigned for their inclusion on the face of the Bill.

270. However, as noted in paragraph 193 above, striking a balance between what is included on the face of the Bill and what is left to statutory Codes and guidance is challenging, whatever the piece of legislation. Reflecting on the evidence we have received during our Stage 1 scrutiny—and notwithstanding our views on mental health and well-being expressed earlier in this chapter—we are concerned that adding these items to the list of mandatory elements risks overcrowding the curriculum.

271. Given the Welsh Government’s stated aims for—and approach to—this Bill, we believe there is a need to keep the detail on its face concise and relatively high-level. Nevertheless, we would welcome assurances that the important items of learning highlighted in evidence to us, and by petitions to the Senedd, are fully considered for the purpose of delivering a full and rounded curriculum for a modern Wales.

²¹⁸ Oral evidence, CYPE Committee, RoP [para 42], 21 October 2020.

Recommendation 11. That the Welsh Government provide further assurances of how the various items of learning that stakeholders and petitioners have requested are included as mandatory elements on the face of the Bill will be reinforced by this legislation and the suite of Codes and guidance that underpin it.

Human rights, including children’s rights

Position in the Bill and wider background

272. One of the four purposes of the Bill, set out in section 2, is to “enable pupils and children to develop as ethical and informed citizens of Wales and the world”. Human rights education and the UNCRC is included within this context and within the Humanities AoLE.

273. A cross-cutting theme for schools’ curriculum design is “Human rights education and the United National Convention on the Rights of the Child (UNCRC)”.²¹⁹ The provisional statutory guidance published in January 2020 “encourages schools to incorporate opportunities to learn about human rights, including the source of those rights, which includes the UNCRC”.²²⁰

274. One of the ‘Statements of What Matters’ within the Humanities AoLE is: “Informed, self-aware citizens engage with the challenges and opportunities that face humanity, and are able to take considered and ethical action”. In the Humanities AoLE, “there should be opportunities to develop understanding of the United Nations Convention on the Rights of the Child (UNCRC) and for encouraging learners to recognise their own and others’ rights”.²²¹

275. As such, in September 2020, the Welsh Government accepted the recommendation in our Children’s Rights inquiry report to ensure human rights education, including children’s rights with reference to the UNCRC, is taught under the new Curriculum for Wales.²²²

Stakeholders’ evidence

276. The Equality and Human Rights Commission (EHRC) wrote:

²¹⁹ Welsh Government, [Curriculum for Wales 2022](#), page 41, January 2020.

²²⁰ Welsh Government, [Curriculum for Wales 2022](#), page 19, January 2020.

²²¹ Welsh Government, [Curriculum for Wales 2022](#), page 125, January 2020.

²²² CYPE Committee, [Welsh Government Response to the Children’s Rights in Wales Report](#), September 2020.

“Human Rights Education should be clearly defined and embedded within the Curriculum and Assessment (Wales) Bill and shown to underpin all four purposes of the curriculum. We would recommend that Human Rights Education is added to the General [implementation] requirements, as set out in Clause 30 of the Bill.”²²³

277. The EHRC does not believe it is sufficient to rely on the curriculum guidance to set out the importance of human rights education. It therefore would like there to be specific reference within the Bill itself.²²⁴

278. The Children’s Commissioner for Wales reported how the involvement of her office had resulted in several positive outcomes regarding curriculum reform, such as the “inclusion of human rights education and the UNCRC in the overarching curriculum guidance”. She told the Committee:

“On the whole, I’m satisfied that the current written content for the curriculum does give children a much greater, much more universal opportunity to learn about their human rights and the human rights of others. I’m very pleased my office has had a chance to be part of the development of that.”²²⁵

279. However, the Children’s Commissioner said in her written evidence that “there have been several missed opportunities” and ways in which she would have liked the curriculum to “go further in including children’s human rights”. Like the EHRC, the Commissioner felt “children’s rights and the UNCRC could have been explicitly integrated into all AoLEs”.²²⁶

280. The Commissioner also added that without a due regard duty in respect of the UNCRC on the face of the Bill, the inclusion of children’s rights education in the curriculum guidance could be changed in the future: “the content isn’t protected without a due regard duty”.²²⁷ Paragraphs 295 to 300 discuss the call for the Bill to include a duty of due regard to the UNCRC in more detail.

²²³ Written evidence, CYPE Committee, CAW 184 – Equality and Human Rights Commission.

²²⁴ Written evidence, CYPE Committee, CAW 184 – Equality and Human Rights Commission.

²²⁵ Oral evidence, CYPE Committee, RoP [para 45], 8 October 2020.

²²⁶ Written evidence, CYPE Committee, CAW 97 – Children’s Commissioner for Wales.

²²⁷ Oral evidence, CYPE Committee, RoP [para 45], 8 October 2020.

The Welsh Government's response

281. The Minister told the Committee:

“Rights are a mandatory part of the schools’ curriculum. Under the statements of what matters, it will be statutory. And the accompanying rationales of the statements of what matters in the humanities area of learning and experience makes reference to children’s rights.”²²⁸

282. Additional written evidence from the Minister said the Curriculum for Wales documentation published in January 2020 “provides clear guidance on human rights learning and education”. It also indicated that the What Matters Code will “include the need for learners to understand their rights and engage with the concept of rights more generally”, including children’s rights and the UNCRC.²²⁹

Our views and recommendations: human rights, including children’s rights

283. We welcome the inclusion of human rights and children’s rights education in the new curriculum. We believe that this is an important part of ensuring that the Bill’s four purposes are achieved.

284. We note the Minister’s statement that there is clear guidance on human rights learning and education in the Curriculum for Wales documentation published in January 2020. We further note the EHRC’s and the Children’s Commissioner’s desire to see human rights education explicitly integrated into all AoLEs.

Recommendation 12. That the Welsh Government consider how it can ensure that the place of human rights, including children’s rights, is secure in the long-term within the Curriculum for Wales.

Due regard to the UN Convention on the Rights of the Child and the well-being of future generations

Position in the Bill and wider background

UNCRC

285. In 2011, the (then) Assembly unanimously voted in favour of the Rights of Children and Young Persons (Wales) Measure, and in doing so became the first

²²⁸ Oral evidence, CYPE Committee, RoP [para 46], 21 October 2020.

²²⁹ Correspondence, Minister for Education to CYPE Committee, 5 November 2020.

legislature in the UK to pass dedicated child rights legislation. The Measure strengthened and built on the rights-based approach of the Welsh Government to making policy for children and young people in Wales. It placed a duty on the Welsh Ministers to have due regard to the rights and obligations within the UN Convention on the Rights of the Child (UNCRC) and its optional protocols.

286. “Due regard” is more than simply giving consideration. The due regard duty requires the Welsh Ministers to give the weight that is appropriate in all the circumstances of the case to the UNCRC, balancing that against other factors that are relevant to the decision in question.

287. Initially, the duty on the Welsh Ministers applied when they were planning and developing new legislation or policy, or reviewing or changing existing legislation or policy. However, since 2014, it has applied to all of their functions.

288. As presently drafted, the Bill does not require bodies responsible for curriculum design and implementation under the Bill to have “due regard” to the UNCRC.

289. Historically, the Welsh Government has resisted having a “due regard” duty on the face of legislation. This is because it believes the UNCRC already has statutory status through the 2011 Measure and new legislation should not replicate what is already on the statute book.²³⁰ Furthermore, the Welsh Government’s stance is that the UNCRC is aimed at states and “it is for governments to ensure compliance through their laws, administrative actions and other appropriate measures”.²³¹

290. Nevertheless, both the Social Services and Well-being (Wales) Act 2014 and the Additional Learning Needs and Education Tribunal (Wales) Act 2018 include a duty on those implementing the legislation to pay due regard to the UNCRC. In both cases, the inclusion of these duties occurred as a result of amendments to the Bills during their passage through the (then) Assembly. In the case of the ALN Act, this followed our recommendation that a duty of due regard to the UNCRC be added to the legislation.²³²

291. The wording of the “due regard” duty in the ALN Act differs slightly in approach from that in the Social Services and Well-being Act, in that it expressly

²³⁰ Welsh Government, [Children’s Commissioner for Wales annual report 2018 to 2019: Welsh Government response](#), December 2019.

²³¹ Correspondence, Minister for Education to CYPE Committee, 5 November 2020.

²³² CYPE Committee, [Additional Learning Needs and Education Tribunal \(Wales\) Bill](#), May 2017.

provides that bodies subject to the “due regard” duties are not required to give consideration to the UNCRC on each occasion they exercise a function under the Act. It also places the duty on “relevant bodies” rather than “persons”.

Well-being of Future Generations

292. The Well-being of Future Generations (Wales) Act 2015 (“the Future Generations Act”) is concerned with improving the social, economic, environmental, and cultural well-being of Wales. It aims to put sustainable development at the centre of decision-making and is designed to ensure actions meet the needs of the present, without compromising the ability of future generations to meet their own needs.

293. The Act puts in place seven well-being goals for Wales and places a well-being duty on public bodies (including local authorities and the Welsh Government) to set and publish objectives to show how they will achieve the vision for Wales set out in the well-being goals. The bodies are required to maximise their contribution to delivering each of the well-being goals.

294. Governing bodies of schools and school leaders are not “public bodies” for the purposes of the Future Generations Act.

Stakeholders’ evidence

UNCRC

295. The Children’s Commissioner for Wales believes there is a “glaring and significant gap” in the Bill as the principle of enabling children’s human rights “does not appear anywhere in the legislation”.²³³

296. The Commissioner says this must be addressed through including a duty to have due regard to the United Nations Convention on the Rights of the Child (UNCRC) on the face of the Bill. Otherwise, the Bill will “require a great deal of amendment to make it compliant with the UNCRC”.²³⁴ Throughout her written evidence, the Commissioner listed a number of sections of the Bill which, in her view, would need to be amended should the general duty of due regard not be included in the Bill. She told us that, without such a duty:

“I would be asking the committee to make scores, or dozens at least, of very detailed amendments to every section of the Bill. I still think there

²³³ Written evidence, CAW 97 – Children’s Commissioner for Wales.

²³⁴ Written evidence, CAW 97 – Children’s Commissioner for Wales.

will be some other sections of the Bill that will need amending, but with the due regard duty, we would be avoiding doing some very, very detailed ones, would be what I would argue.”²³⁵

297. The Commissioner explained that the Welsh Government rejected her request for the Bill to include a duty on relevant persons/bodies to have regard to the UNCRC. She described as “erroneous” the government’s assertion that, because the Welsh Ministers have such a duty under the Rights of the Children and Young Persons (Wales) Measure 2011, placing a duty on those involved in delivering the Bill is unnecessary.²³⁶

298. The Commissioner told us in oral evidence:

“... that duty is placed only on Ministers—it’s not placed on local authorities, it’s not placed on headteachers, it’s not placed on governing bodies. And we’re looking now at a curriculum that I think quite rightly gives more autonomy to schools and governing bodies and local authorities. It’s beyond the scope of the Measure to ensure that children’s rights are central to the decision making of headteachers and governing bodies.”²³⁷

299. The Commissioner argued that a duty of due regard is even more important because the Bill gives additional powers and responsibilities to schools in curriculum design. She described a number of benefits of having a duty of due regard, including in particular for pupils with ALN and those Educated Otherwise Than At School (EOTAS), who she argues will otherwise be especially vulnerable.²³⁸

300. The EHRC also believes the Bill should make specific reference to the UNCRC. It recommended that persons exercising functions under the legislation should be required to “act in accordance with”, rather than “pay due regard to”, the UNCRC. For the EHRC, the omission of such a duty “represents a risk that human rights will not be considered across implementation of the Bill”, to the detriment of equality and fairness.²³⁹

²³⁵ Oral evidence, CYPE Committee, RoP [para 24], 8 October 2020.

²³⁶ Written evidence, CAW 97 – Children’s Commissioner for Wales.

²³⁷ Oral evidence, CYPE Committee, RoP [para 47], 8 October 2020.

²³⁸ Written evidence, CAW 97 – Children’s Commissioner for Wales.

²³⁹ Written evidence, CAW 184 – Equality and Human Rights Commission.

Well-being of future generations

301. The Future Generations Commissioner told us:

“I’d like to see a bit more in terms of how the Well-being of Future Generations (Wales) Act 2015 is being considered. There’s no explicit, from what we can see, requirement around applying the five ways of working in the future generations Act to how the curriculum is developed and rolled out in practice.”²⁴⁰

302. The Commissioner felt that something “that is particularly missing” is an “explicit reference to long-term thinking as being a key principle running through the development of the curriculum”:

“Because if we’re setting curriculums, even just in the short term—because there is the flexibility for headteachers to amend and adapt—but if we’re not thinking about long-term trends and scenarios such as the massive increase and trajectory in terms of mental health challenges amongst young people, such as climate change and what the world of work will look like in future and so on—if we’re not considering that right at the outset, then whatever we’re implementing is almost out of date before we start.”²⁴¹

The Welsh Government’s response

303. The Minister strongly disputed the Children’s Commissioner’s view that the Welsh Government’s rationale for not including a duty on those implementing the Bill to pay due regard to the UNCRC is “erroneous”.

304. The Minister told the Committee that the Bill is “children’s rights in action” and “deliver[s] actual children’s rights in their ability to receive an education that they require”. She also indicated that what is in the curriculum itself is more important than duties on practitioners on how they deliver it:

“Having a duty on bodies [to pay due regard to the UNCRC] is for nothing unless children themselves understand and know how to exercise their rights, and that has been the priority in ensuring that

²⁴⁰ Oral evidence, CYPE Committee, RoP [para 27], 8 October 2020.

²⁴¹ Oral evidence, CYPE Committee, RoP [para 27], 8 October 2020.

children have the opportunity to learn about them and then to be able to press them.”²⁴²

305. Additional evidence provided by the Minister sought to explain why placing a duty of due regard on frontline service providers is inappropriate. Her reasons can be summarised as follows:

- The UNCRC is aimed at governments whose role it is to design legislation and statutory duties on implementation bodies in a way which gives effect to the rights contained in the Convention. Compliance with the UNCRC therefore occurs through the imposition of detailed duties.
- A duty of due regard on those exercising functions under the legislation would not necessarily lead to improved outcomes. It could instead lead to a culture of litigation whereby local authorities and schools were subject to legal challenges, which even if successful would not lead to any positive change for children.
- A duty on frontline practitioners could distract them by creating administrative burdens and bureaucracy, creating a tick box exercise whereby staff continuously feel the need to evidence that they have taken the UNCRC into account.²⁴³

Our views and recommendations: due regard to the UN Convention on the Rights of the Child and the well-being of future generations

306. We note the evidence we have received calling for the Bill to include a duty to have due regard to the UNCRC.

307. As with the ALN Act, and in line with the conclusions we drew as part of our recent report on Children’s Rights, we believe that this legislation should include an explicit duty to have due regard to the UNCRC.

Recommendation 13. That the Welsh Government amend the Bill to include, on its face, a duty to have due regard to the UN Convention on the Rights of the Child (UNCRC). Given their respective roles in relation to the Curriculum for Wales, this duty should be placed on all persons listed in section 66(3) of the Bill when exercising any of their functions conferred by or under the Bill.

²⁴² Oral evidence, CYPE Committee, RoP [para 46], 21 October 2020.

²⁴³ Correspondence, Minister for Education to CYPE Committee, 5 November 2020.

308. We further note the evidence we received in relation to the Well-being of Future Generations Act, and the need for the ways of working it outlines to be embedded in the development and roll out of the curriculum. We believe that it is very important to ensure that the provisions of this Bill interact effectively with the aims and objectives of that Act.

Recommendation 14. That the Welsh Government ensure that there is adequate synergy between the Bill, the new curriculum, and the Well-being of Future Generations Act, and that this is reinforced within the What Matters Code and statutory guidance made under the Bill.

5. Languages: English and Welsh

The Bill requires both English and Welsh to be taught as mandatory elements from age 3 to 16. However, to enable Welsh-medium settings to continue to immerse children in Welsh up to age 7, the Bill allows them to disapply this requirement for children in Year 2 and below. This has proved controversial amongst stakeholders and the Welsh Government has signalled its intention to amend this aspect of the Bill.

Concerns about the Bill's treatment of the Welsh language run deeper than immersion only. Some—including the Welsh Language Commissioner—fear it undermines the Welsh Government's broader objectives for the language.

309. In the Explanatory Memorandum, the Welsh Government says that for its Cymraeg 2050²⁴⁴ vision of one million Welsh speakers by 2050 to materialise, “the teaching and learning of Welsh needs to be recognised and valued as an integral component of the curriculum for Wales”.²⁴⁵

310. The Welsh Government aims to transform how Welsh is taught so that the education system contributes to its vision. By 2050, the Government aims to ensure that at least 70 per cent of school leavers can speak Welsh.

311. There are two dimensions to this agenda:

- first, there needs to be an expansion of Welsh-medium education; and
- secondly, the English-medium sector needs to develop pupils' Welsh skills significantly more than at present.

312. This is the rationale behind an end to the teaching of first and second language Welsh as separate subjects and as separate qualifications. Instead, the

²⁴⁴ Welsh Government, [Cymraeg 2050: Welsh language strategy](#).

²⁴⁵ Welsh Government, Explanatory Memorandum, para 3.141.

Welsh Government intends the new Curriculum for Wales to have a single learning continuum for teaching and learning Welsh.

Requirement to teach English at all ages

Position in the Bill and wider background

313. The Bill establishes both English and Welsh as mandatory elements of the new curriculum from age 3. However, in order to enable settings to continue to fully immerse learners in Welsh at a young age (which is generally recognised as the most effective way to develop skills in a minority language in a society where there is a more prevalent majority language), sections 26 and 27 of the Bill enable settings to disapply the requirement to teach English for learners up to the age of 7 (up to the end of Year 2).

314. The position under the existing curriculum is that English and Welsh are both compulsory subjects from Key Stage 2 (the start of Year 3), while Welsh Language Development is one of the seven Areas of Learning in the Foundation Phase (ages 3 – 7). English is not specified as a compulsory element of the Foundation Phase, although is inevitably taught in English-medium settings within the Language, Literacy and Communication Skills Area of Learning.

Stakeholders' evidence

315. Many stakeholders expressed strong concerns about the default position in the Bill, i.e. that English is mandatory at all ages, and therefore immersion in Welsh prior to age 7 depends on the school disapplying that requirement ('opting out'). This was evident in responses to our call for written evidence, oral evidence and video submissions.

316. Dyfodol i'r laith summed up the feelings of many:

"In light of the fact that a number of local authorities already provide immersion education in Welsh to children under 7 as default, then this clause is clearly a step back, by insisting that English is the norm as a medium of education with the need to make an exception for the Welsh language. (...)

The Curriculum Bill, in relation to the Welsh language, should encourage the use of Welsh as the medium of education for an increasing number of children under 7 years of age. This priority is needed to reinforce a language immersion approach that is successful worldwide, and to give children a firm foundation in the Welsh

language that will ultimately mean that they master at least two languages by the age of 16.”²⁴⁶

317. Cymdeithas yr Iaith cited the Welsh Government’s response to a Freedom of Information request²⁴⁷ disclosing that no expert had recommended making English mandatory at all ages in all settings and highlighted that it was not recommended by Professor Donaldson. For Cymdeithas yr Iaith, the Bill demonstrates a “basic misunderstanding of the different situations of the two languages”.²⁴⁸

318. The Welsh Language Commissioner described sections 26 and 27 as an “unnecessary legislative cul-de-sac”, explaining that “whilst bilingualism is the overarching objective, it does not follow that there is a need to treat the Welsh and English languages equally in order to achieve this”.²⁴⁹ The Commissioner said there is “not a level playing field” between what is “a majority language and a minority language”, which therefore “justifies differential treatment in terms of legislation”.²⁵⁰

319. Estyn said that the ability for schools and early years settings to fully immerse children in the Welsh language up to age 7 is a “vital part of the early development of these language skills” and questioned whether the ‘opt out’ approach of the Bill is the best way to achieve this.²⁵¹ Head teacher unions, NAHT and ASCL, agreed that that the Bill’s approach in this regard was “clunky”.²⁵²

320. Mudiad Meithrin, representing Welsh-medium early years providers, argued that the inclusion of English as a mandatory element in early years could be misinterpreted as suggesting that “English is the normative language of the Welsh care and education system” and that immersing pupils in Welsh is a “departure from the correct procedure”.²⁵³ In additional evidence, Mudiad Meithrin urged that this aspect of the Bill be amended as “a priority in order to avoid harmful

²⁴⁶ Written evidence, CYPE Committee, CAW 30 – Dyfodol i’r Iaith.

²⁴⁷ Welsh Government, FOI Release, [Language teaching in the new curriculum white paper](#), April 2019.

²⁴⁸ Written evidence, CYPE Committee, CAW 224 – Cymdeithas yr Iaith.

²⁴⁹ Written evidence, CYPE Committee, CAW 70 – Welsh Language Commissioner.

²⁵⁰ Written evidence, CYPE Committee, CAW 70 – Welsh Language Commissioner.

²⁵¹ Written evidence, CYPE Committee, CAW 20 – Estyn.

²⁵² Oral evidence, CYPE Committee, RoP [paras 71 and 73], 24 September 2020.

²⁵³ Written evidence, CYPE Committee, CAW 24 – Mudiad Meithrin.

confusion” and “avoid undermining” previous work to grow Welsh-medium education.²⁵⁴

321. Allowing individual schools, rather than local authorities, to make the decision whether or not to disapply the requirement to teach English prior to age 7 was also regarded as problematic by many stakeholders. As one individual respondent put it, “it would be perfectly conceivable for individual schools to go against a local authority’s policy of providing Welsh-medium education for children under 7”.²⁵⁵

322. Gwynedd Council said it could lead to “policy change through the back door”, undermining local authorities’ Welsh in Education Statutory Plans (WESPs) and the Welsh Government’s Cymraeg 2050 aspirations:

“This completely undermines Gwynedd’s Education Language Policy which has ensured consistency and uniformity of provision across the county, while ensuring that every child has the same opportunity to acquire the Welsh language through immersion education, and eventually become proficient in both languages. It draws power entirely from Local Authorities which have a consistent county-wide language policy in place across the school system.”²⁵⁶

323. Councillor Ellen ap Gwynn, Deputy Spokesperson for Education and Welsh Language at the WLGA told us:

“... local authorities, as the statutory authorities, need to retain the right to put a wider blanket policy in place for things like this, especially as, as I’ve said before, there’s this tension between this new legislation [the Curriculum and Assessment (Wales) Bill] and legislation we have to work to now [the School Standards and Organisation (Wales) Act 2013] to prepare Welsh in education strategic plans for developing Welsh language education. If we don’t, as authorities, have the right to put that policy in place, we’re not going to be able to deliver on the WESPs. So, that needs to be reviewed urgently to make sure that they’re hand in hand ...”²⁵⁷

²⁵⁴ Additional information submitted by Mudiad Meithrin following 17 September 2020 oral evidence session, CYPE Committee.

²⁵⁵ Written evidence, CYPE Committee, CAW 192 – Individual.

²⁵⁶ Written evidence, CYPE Committee, CAW 91 – Gwynedd Council.

²⁵⁷ Oral evidence, CYPE Committee, RoP [para 63], 20 July 2020.

324. Ceredigion Council said that the Bill’s position on English and Welsh in early years could have a “devastating effect” on the Welsh language and “puts schools, heads and governors” in a difficult position.²⁵⁸

325. The Welsh Language Commissioner suggested that the situation could be resolved by either:

- removing English as a mandatory element; or
- making it clear that English is not mandatory in Welsh-medium settings prior to age 7 (Year 3).

326. Teaching union, UCAC, which was firmly against this aspect of the Bill, told us:

“There are different options, I think, but it’s the impact and the effect of that that’s important – that it isn’t a default mandatory up until seven years of age, and there’s no need to disapply English.”²⁵⁹

The Welsh Government’s response

327. During a Plenary debate on the new curriculum, the Minister responded to views that the mandatory status of English is unnecessary and that the playing field between development and acquisition of Wales’s two official languages is not a level one:

“The Bill will enable Welsh immersion to continue, giving it a secure legal footing and strengthening its position as a key component of us reaching our aspirations, as a tried and tested pedagogical approach.”²⁶⁰

328. However, acknowledging early concerns, the Minister stated that the Welsh Government supported immersion education and that she would “look to continue to discuss and to engage on these issues” during the Senedd’s scrutiny of the Bill.²⁶¹

²⁵⁸ Written evidence, CYPE Committee, CAW 54 – Ceredigion Local Education Authority.

²⁵⁹ Oral evidence, CYPE Committee, RoP [para 322], 24 September 2020.

²⁶⁰ Plenary, RoP [para 614], 1 July 2020

²⁶¹ Plenary, RoP [para 615], 1 July 2020

329. When asked, during our first session on the Bill, the reasons for the default position of English being mandatory in all settings—including Welsh-medium settings—prior to Year 3, the Minister answered:

“First of all, the Bill reflects the fact that we are a bilingual nation and, secondly, it reflects the point that it is really important and it is a building block to access the rest of the curriculum that children have strong language skills. (...)”

With regard to immersion, as I’ve said repeatedly, the Welsh Government absolutely supports the principle of immersion. It is a well-tested, well-understood and very successful way in which children can acquire Welsh language skills, and the Bill makes specific provision to allow that to happen, and to put it on a statutory footing.”²⁶²

330. At the Minister’s second appearance, she explained that she had reconsidered the need to amend this aspect of the Bill:

“I am very keen to avoid any possible unintended consequences for the principle of immersion arising out of the way that the Bill is currently drafted. So, I have been listening to those concerns, reflecting on those concerns, and it certainly would be my intention, following those conversations, to look to make English mandatory from seven, through an amendment at Stage 2.”²⁶³

331. The Minister subsequently confirmed in writing²⁶⁴ that the Welsh Government was undertaking a short consultation exercise²⁶⁵, proposing to amend the Bill at Stage 2 so that English would only be a mandatory element from age 7 (Year 3) onwards. She stated that, under the proposal:

- English would be discretionary for all schools, prior to age 7; and
- Welsh would be a mandatory element from age 3, as currently drafted in the Bill.

332. The Minister said this would bring the Bill into line with current practice in the Foundation Phase, whereby schools deliver the Languages, Literacy and

²⁶² Oral evidence, CYPE Committee, RoP [paras 68-69], 14 July 2020.

²⁶³ Oral evidence, CYPE Committee, RoP [para 68], 21 October 2020.

²⁶⁴ Correspondence, Minister for Education to the CYPE Committee, 5 November 2020.

²⁶⁵ Welsh Government, Survey, [Mandatory status of English in the Curriculum and Assessment \(Wales\) Bill](#).

Communication Skills Area of Experience in either English or Welsh, although those doing so in English are also required to deliver the Welsh Language Development Area of Experience. Those doing so in Welsh predominantly immerse children in the Welsh language.

333. The Minister said this course of action is in response to the evidence this Committee has gathered and the concerns reflected during Stage 1.

Our views and recommendations: requirement to teach English at all ages

334. We welcome the Minister's recognition of the weight and strength of evidence we have received, calling for a change to the Bill in respect of English as a mandatory element in early years and infant education.

335. We believe that it is vitally important that children and young people have full opportunities to develop their language skills in both English and Welsh, gaining proficiency in both as far as possible by the time they leave school. In our view, this is the main way education will make the necessary contribution to realising the Cymraeg 2050 vision of one million Welsh speakers.

336. We agree that immersion is the best way of developing skills in the Welsh language at an early age. We support calls for the Bill to fully enable this model of immersion up to age 7 to continue and agree that changes are needed to the legislation.

337. We therefore welcome the Minister's decision to consult on her intention to table an amendment to this effect at Stage 2 and urge the Welsh Government to take this forward.

Recommendation 15. That the Welsh Government amend the Bill to resolve concerns about the impact on immersion in the Welsh language up to age 7 (prior to Year 3), noting that the Minister intends to table an amendment removing English as a mandatory element for this age group.

Achieving the single continuum for the teaching and learning of Welsh

Position in the Bill and wider background

338. Under the new curriculum, there will be a single learning continuum for learning Welsh in all schools, replacing the current distinction between Welsh first language (predominantly taught in Welsh-medium schools) and Welsh second language (predominantly taught in English-medium schools). The requirements

on all schools to teach Welsh will be the same, whatever their medium of teaching. The Welsh Government recognises that learners will be at differing points on the same continuum, which is likely to reflect the medium of school they attend.²⁶⁶ This is demonstrated by the different descriptions of learning Welsh at the various progression steps, for English-medium settings.²⁶⁷

339. English and Welsh will be primarily taught through the Languages, Literacy and Communication Area of Learning and Experience (AoLE). As with the other AoLEs, provisional statutory guidance on how this AoLE will be delivered in schools was published in January 2020.²⁶⁸

340. The Welsh Government's updated plan, 'Education in Wales: Our National Mission' (October 2020) includes a section on 'Welsh in education'. This confirms the importance of education to the Cymraeg 2050 vision of one million Welsh speakers and that the Welsh Government "want[s] more children to acquire skills in both languages and to use Welsh in their daily lives". The plan also states that the Welsh Government will develop a new framework for supporting the use of Welsh by children and young people by September 2021.²⁶⁹

Stakeholders' evidence

341. For the Welsh Language Commissioner, concerns about the Bill's treatment of the Welsh language run deeper than the issue of Welsh immersion in early years discussed in the previous section of this report:

"... I am concerned that all of the attention has been placed on the mandatory element and the disapplication of English, and so on. But my main concern in terms of this legislation is that there is so little attention given to the Welsh language in English-medium schools, where progression at the moment is particularly poor, and has been for decades."²⁷⁰

342. The Commissioner believes the Bill does not provide for the advancement of the Welsh language and undermines the Welsh Government's Cymraeg 2050 vision of one million Welsh speakers. In his view, the Bill does not do enough to

²⁶⁶ Welsh Government, Explanatory Memorandum, para 9.28.

²⁶⁷ Welsh Government, Hwb, [Curriculum for Wales 2022, Languages, Literacy and Communication AoLE](#), January 2020.

²⁶⁸ Welsh Government, Hwb, [Curriculum for Wales 2022](#).

²⁶⁹ Welsh Government, [Education in Wales - Our national mission: update October 2020](#).

²⁷⁰ Oral evidence, CYPE Committee, RoP [para 37], 8 October 2020.

expand Welsh-medium education or to transform the way Welsh is taught in English-medium schools. The Commissioner's written evidence summarised that the Bill:

- does not provide a strong basis for Welsh medium education, and does not support the Government's policy ambition of expanding Welsh medium education across Wales; and
- fails to provide the sufficiently strong statutory expectations, and the instruction, required to instigate the far-reaching reforms needed to the way the Welsh language is taught and used in English and bilingual schools.²⁷¹

343. The Commissioner does not believe that the Bill "supports the Government's policy objectives in relation to the Welsh language in the statutory education sector" and "cannot therefore support the Bill as it stands".²⁷² He calls for a statutory Code under the Bill to set out how Welsh will be taught and learnt under a single continuum. This would be an additional statutory Code to the three already required by the Bill (What Matters, Progression and RSE Codes).

344. The Commissioner set out his views on the need for such a Code as follows:

"The Welsh Government's Cymraeg 2050 strategy sets a huge challenge in the context of the contribution of the English-medium sector to the aim of increasing the number of Welsh speakers. Achieving the strategy's targets for the English-medium sector will mean transforming the current situation where very few pupils in the English-medium education system become confident Welsh speakers in the long term. Making Welsh a compulsory part of the curriculum is not sufficient to achieve this. The Government needs to provide more robust support and guidance, as well as setting further legislative requirements for ensuring that, over time, schools change the way in which the Welsh language is taught and used."²⁷³

345. In oral evidence, he added:

²⁷¹ Written evidence, CYPE Committee, CAW 70 – Welsh Language Commissioner.

²⁷² Written evidence, CYPE Committee, CAW 70 – Welsh Language Commissioner.

²⁷³ Written evidence, CYPE Committee, CAW 70 – Welsh Language Commissioner.

“The situation with regard to English-medium schools isn’t going to change overnight. This is a massive task. (...)”

If we’re not willing or ready to change the system, if we’re not ready to change the curriculum, let’s say that. But that would also create a situation where some of the targets in terms of Cymraeg 2050 would have to be thrown out of the window, because we won’t be reaching a situation by 2050 where half of pupils are able to speak Welsh, because we need to have wholesale change in terms of the way that Welsh is taught within those English-medium schools. It’s not just a matter of increasing the number of Welsh-medium or bilingual schools.”²⁷⁴

346. In a subsequent letter to us, responding to the Minister’s comments that she would like to hear what people felt was missing from the Curriculum for Wales documentation published in January 2020, the Commissioner said that “there has yet to be any significant, specific or practical work published regarding the Welsh language continuum”. He said that the Welsh Government is “missing a golden opportunity”, warning that, “in the absence of further guidance and instruction (...) we will inevitably be repeating the failures of the past”.²⁷⁵

347. A number of other stakeholders agreed that there was a need for greater detail on how the single learning continuum would work in practice. In additional evidence submitted after its Committee appearance, UCAC “strongly recommended” that the Bill be amended to provide for the making of a Welsh Education Code.²⁷⁶

348. UCAC said this is “so that schools (in addition to local authorities, regional consortia, and others within the education system) have a clear understanding of the expectations, as well as the journey that lies ahead of them in relation to Welsh in the new curriculum”. For UCAC, the absence of provision for such a Code is “in stark contrast to the other major policy changes introduced by the curriculum”.²⁷⁷

²⁷⁴ Oral evidence, CYPE Committee, RoP [paras 94-95], 8 October 2020.

²⁷⁵ Additional information submitted by Welsh Language Commissioner following 8 October 2020 oral evidence session, CYPE Committee.

²⁷⁶ Additional information submitted by UCAC following 24 September 2020 oral evidence session, CYPE Committee.

²⁷⁷ Additional information submitted by UCAC following 24 September 2020 oral evidence session, CYPE Committee.

349. Ceredigion Council wrote:

“The ‘Language, Literacy and Communication’ AoLE is now being used as the definition of the linguistic continuum – this was not the original intention and a clear, consistent and national framework is needed for the expectations of language steps that lead to bilingualism.”²⁷⁸

350. The Association of Schools for Welsh Medium Education (CYDAG) also stated that the guidance on the Languages, Literacy and Communication AoLE alone will not be sufficient to define the continuum. It “strongly believes that this fundamental change” should be referenced within the Bill as is the case with RSE and RVE, arguing that:

“... it would be appropriate to provide for a Code that addresses these issues specifically and in detail to provide assurance to the education sector at all levels regarding the expectations in this area.”²⁷⁹

351. Cymdeithas yr Iaith (Carmarthen region) is “concerned that the government will abandon its commitment” to replace Welsh Second Language with a single learning continuum.²⁸⁰ Cymdeithas yr Iaith’s national response also observes that there is no provision for a Code for the teaching and learning of Welsh, unlike the other three Codes required by the Bill. It agrees with the call for such a Code to fulfil the Cymraeg 2050 ambition and “ensure that we implement one real continuum for the teaching of Welsh”.²⁸¹

352. In terms of qualifications, Qualifications Wales said “there are several challenges and opportunities to consider”:

“Given the broad range of language development that the continuum covers, it is likely that more than one qualification will be necessary to enable fair and proportionate assessment of learners who are at different stages of progression. We envisage that any Welsh language qualifications would clearly link to a single continuum of learning and

²⁷⁸ Written evidence, CYPE Committee, CAW 54 – Ceredigion Local Education Authority.

²⁷⁹ Written evidence, CYPE Committee, CAW 64 – Association of Schools for Welsh Medium Education (CYDAG).

²⁸⁰ Written evidence, CYPE Committee, CAW 81 – Cymdeithas yr Iaith (Carmarthen region).

²⁸¹ Written evidence, CYPE Committee, CAW 224 – Cymdeithas yr Iaith.

move away from the current distinction between Welsh first language and Welsh second language.”²⁸²

353. Qualifications Wales added that it would be seeking views on proposals for qualifications in Welsh in early 2021, as part of its second in a series of three consultations regarding qualification reform.²⁸³

354. In his oral evidence, the Welsh Language Commissioner concluded his call for a Code or strengthened guidance as follows:

“I think that the Bill itself is positive in terms of where we want to reach. The headlines are to be applauded. (...)

But the question that I would raise, after talking about this for two years, is that I still don’t understand how we expect schools, in practical terms, to change to the extent that we’re expecting them to change, without some kind of leadership and guidance from the centre.

I think that the best way of doing that is in a code, but I’m not beholden to a code. If there are reasons to have guidance, well those guidelines do need to be clear.”²⁸⁴

355. The Commissioner added in his follow up letter that such a Code need not be published before the end of this Senedd but that the Bill should include a duty for it to happen.²⁸⁵

The Welsh Government’s response

356. When the suggestion was put to the Minister that the Bill does not sufficiently support the development and advancement of the Welsh language and could undermine the Welsh Government’s Cymraeg 2050 agenda, she replied:

“... the Bill, and the contents of it, are very much in alignment with and are necessary to support the advancement of the 2050 agenda,

²⁸² Additional information submitted by Qualifications Wales following 17 September 2020 oral evidence session, CYPE Committee.

²⁸³ Additional information submitted by Qualifications Wales following 17 September 2020 oral evidence session, CYPE Committee.

²⁸⁴ Oral evidence, CYPE Committee, RoP [paras 98-99], 8 October 2020.

²⁸⁵ Additional information submitted by Welsh Language Commissioner following 8 October 2020 oral evidence session, CYPE Committee.

especially with regards to the higher expectations that I believe that the languages and literacy and communications area of learning and experience has for the teaching of Welsh in English-medium schools, compared to our current curriculum. There's a lot of detail, I would argue, within that AoLE around expectations of progression and the development of Welsh language skills in the English-medium setting."²⁸⁶

357. On the respective expectations in relation to the teaching and learning of Welsh in English and Welsh-medium schools, the Minister said:

"...the Bill requires Welsh to be mandatory for every learner from three to 16, and it gets away from the idea of having a Welsh first-language curriculum and a Welsh second-language curriculum. We get away from that in this legislation by saying that there is a progression. There is a mapping out of how those skills will be developed for all of our learners, rather than what we have at the moment, where some learners are regarded as first-language and second-language learners."²⁸⁷

358. In response to the Welsh Language Commissioner's view that there is a lack of information and guidance on how the single continuum will operate and his call for a statutory Code for Welsh, the Minister said:

"... I'd be interested to know the details of what details people think are missing, because I would regard the detail set out in the languages and literacy area of learning as very clear around expectations and progression. I think it's very detailed indeed. At this point, I have to say, we don't have any plans for introducing any other codes than those that are already accounted for in the Bill, because we think the detail is there in the AoLE and in the progression points."²⁸⁸

359. The Minister also suggested that the way to resolve concerns such as the Welsh Language Commissioners' lies outwith the Bill:

²⁸⁶ Oral evidence, CYPE Committee, RoP [para 61], 21 October 2020.

²⁸⁷ Oral evidence, CYPE Committee, RoP [para 62], 21 October 2020.

²⁸⁸ Oral evidence, CYPE Committee, RoP [para 64], 21 October 2020.

“I don’t think it’s the Bill itself, actually, that is the issue; I think it is the mechanism by which you deliver the Bill, and I think changing the Bill and giving greater detail in the Bill is not what’s needed. (...)”

I don’t want to give the impression that we think everything is fine—I think the challenge is not the Bill; the challenge is making good what is in the Bill, and that requires policy interventions in other areas to operationalise what is in the Bill.”²⁸⁹

Our views and recommendations: achieving the single continuum for the teaching and learning of Welsh

360. It is evident that the education system has a central role to play in meeting the vision of one million Welsh speakers by 2050. It is also clear to us that this requires not only an expansion of Welsh-medium education but a substantial change in the way pupils’ Welsh language skills are developed in English-medium schools.

361. We welcome the fact that there will be a single continuum for teaching and learning Welsh. We note that, initially, there will be different descriptions of learning at the various progression points along this continuum, which will reflect whether learners attend a Welsh-medium or English-medium setting. However, in the absence of clear and robust instruction and guidance, we struggle to see how this single continuum will work in practice.

362. If the long-term ambition is for all schools to be working to the same descriptions of learning on the continuum, the scale of the transformation of teaching and learning Welsh in English-medium schools cannot be overstated. The extent of the Welsh Language Commissioner’s concerns about this was clear. As such, we believe the Welsh Government should discuss this matter with the Commissioner and strengthen the basis within the Bill—and the wider curriculum framework—for the single Welsh continuum. This may include consideration of a statutory Code.

Recommendation 16. That the Welsh Government work closely with the Welsh Language Commissioner to address his concerns about the Bill, the delivery of the single continuum and the Welsh Government’s wider Cymraeg 2050 aims. This should include consideration of amending the Bill to require the Welsh Ministers to issue a statutory Code for the teaching and learning of Welsh under the curriculum, or strengthening the provisional guidance on how schools are

²⁸⁹ Oral evidence, CYPE Committee, RoP [para 67], 21 October 2020.

expected to deliver the single learning continuum and contribute to the Cymraeg 2050 agenda.

Recommendation 17. That the Welsh Government work closely with Qualifications Wales and other relevant partners to ensure appropriate qualifications in Welsh are developed and made available to align with the single continuum for teaching and learning this mandatory element.

School language categories

Position in the Bill and wider background

363. The Bill does not make reference to language medium, i.e. it sets out what is taught under the curriculum not the language in which it is taught.

364. As such, the English and Welsh mandatory elements referred to in the Bill relate to the teaching of English and Welsh in terms of what are currently known as subjects, rather than the language medium of teaching. However, the language category of a school will inevitably have a significant bearing on:

- the starting position of its learners on the single continuum for Welsh; and
- expectations of their progress.

365. The Welsh Government originally intended for this Bill to provide regulation-making powers to specify statutory language categories for schools, as set out in the 2019 White Paper:

“Within the new [Languages, Literacy and Communication] LLC AoLE, all learners will follow the same curriculum for learning Welsh along a continuum, thus removing the term Welsh first and second language and repealing the associated programmes of study. The LLC AoLE has been designed to recognise the varying pace of learning in English and Welsh medium schools. These expectations will be reviewed every three to five years to gradually increase the challenge and to reflect learners’ changing experience of learning Welsh as the new Curriculum is rolled out and as we work towards the goal of a million Welsh speakers by 2050. (...)”

In order to set out which Achievement Outcomes will apply to different schools during the transition period, the legislation will include a Regulation making power for the Welsh Ministers that will allow them

to prescribe the definitions for those school language categories. These definitions will be used for the purpose of curriculum planning and school organisation.”²⁹⁰

366. However, the Bill as drafted does not include such a regulation-making power to define statutory school language categories. The Welsh Government is taking this forward separately to the Bill and the Minister has said there will be a consultation soon.²⁹¹ This follows the recommendations of the Rapid Review of WESPs (2017)²⁹² and the Welsh in Education Strategic Advisory Board (2019)²⁹³ that the current guidance from 2007²⁹⁴ and the definitions used for linguistic categorisation of schools be reviewed and revised.

Stakeholders’ evidence

367. Referring to expectations relating to the position of learners on the single continuum, the Welsh Language Commissioner states that “in the short term at least”, there will continue to be “differing expectations based on schools’ language medium”. His evidence suggests he accepts that this situation is inevitable to some extent in the short term. However, he argues that the long-term intention should be for all schools and all pupils to be working to the same expectations for the teaching and learning of Welsh, and points to the Welsh Government’s statement to this effect in the Explanatory Memorandum (para 9.28).²⁹⁵

368. The Commissioner told us that the setting of clear expectations on schools and a plan for their progress along the continuum towards the Cymraeg 2050 vision could be achieved by having statutory language categories for schools in terms of their medium of provision.²⁹⁶

369. The Commissioner’s additional written evidence reiterated his view that school language categories were integral to the curriculum, despite the Minister saying they were primarily a school organisation matter. He also emphasised they

²⁹⁰ Welsh Government consultation document, *Our National Mission: A Transformational Curriculum*, paras 3.99-3.100, January 2019.

²⁹¹ Oral evidence, CYPE Committee, RoP [para 70], 21 October 2020.

²⁹² Welsh Government, *Rapid review of the Welsh in Education Strategic Plans (2017 to 2020) by Aled Roberts*, August 2017.

²⁹³ Welsh Government, *Improving the Planning of Welsh-Medium Education: Recommendations of the Welsh in Education Strategic Advisory Board*, May 2019.

²⁹⁴ Welsh Government, *Defining schools according to Welsh medium provision*, 2007.

²⁹⁵ Written evidence, CYPE Committee, CAW 70 – Welsh Language Commissioner.

²⁹⁶ Oral evidence, CYPE Committee, RoP [para 93], 8 October 2020.

were crucial to implementing the Welsh Government’s wider Welsh-medium education strategy, particularly in terms of local authorities’ WESPs. The Commissioner argued that continuing with the current non-statutory approach “will undermine the strategic significance of the language categories as there will be no statutory basis for ensuring that local authorities and schools will follow the proposed framework correctly”.²⁹⁷

370. The Commissioner therefore questioned why the Bill cannot address this issue and include such a provision for regulations, as was originally envisaged in the White Paper, even if those regulations are made at a later date.²⁹⁸

371. Several other stakeholders commented specifically on this issue. Ceredigion Council said that “schools’ language categorisation guidance needs to be aligned with” the Cymraeg 2050 aspirations,²⁹⁹ while the North Wales regional response (the consortium GwE and the six local authorities) said:

“We especially welcome and recognise the emphasis this Bill places on ensuring that the teaching and learning of Welsh within the new curriculum. Developing learners’ ability to develop linguistic skills and engage with the Welsh language across one continuum of language learning is an essential aspect of Welsh Government’s vision and commitment to reach a million speakers by 2050. It is essential that we work in partnership with all schools to ensure that there is a consistent approach that aligns with regional and Local Authority strategies and policies to include Welsh in Education Strategic Plans and language policies.”³⁰⁰

The Welsh Government’s response

372. Asked why the Bill does not make provision in respect of school language categories, the Minister said:

“... linguistic categorisation was originally included in the White Paper, but as we’ve continued to work on the Bill, a decision was taken that

²⁹⁷ Additional information submitted by Welsh Language Commissioner following 8 October 2020 oral evidence session, CYPE Committee.

²⁹⁸ Additional information submitted by Welsh Language Commissioner following 8 October 2020 oral evidence session, CYPE Committee.

²⁹⁹ Written evidence, CYPE Committee, CAW 54 – Ceredigion Local Education Authority.

³⁰⁰ Written evidence, CYPE Committee, CAW 189 – North Wales regional response to include GwE and the 6 Local authorities.

schools categorisation was a schools organisation matter and, therefore, outside of a curriculum matter. If I'm brutally honest, in terms of the work streams, there was further work that needed to be done on categorisation. So, that work is ongoing and, indeed, it's my intention, if at all possible, that we'll be consulting on new arrangements around designation in a few weeks' time. So, that work has fallen a little bit behind, but it's imminent. But a decision was taken that that was a matter for schools organisation, rather than a matter for curriculum."³⁰¹

373. The Minister sought to assure us that the work “hasn't stopped—it's just been carried out separately from the curriculum”.³⁰²

Our views and recommendations: school language categories

374. We agree with the Welsh Language Commissioner that the Welsh Government should take forward expeditiously work to revise school language categories and consider placing these on a statutory footing. This would aid the understanding and implementation of learners' progress along the single continuum for Welsh in different schools.

375. We do not have a firm view as to whether or not provision for this should be included within this Bill. Prescribing categories of school in the Bill, or including regulation-making powers to do this, would not in itself resolve concerns about how the single continuum will work in practice and how a learner's progress along that continuum will be measured.

376. However, we urge the Welsh Government to proceed at pace with its work on defining school language categories so that guidance can enable clear and effective provision, by reference to those school language categories, about how the single continuum will work. We regret that it has not been possible to complete this work yet.

Recommendation 18. That the Welsh Government take forward expeditiously work to revise school language categories and consider placing these on a statutory footing, in order to support the understanding and implementation of the continuum for learning Welsh in different schools.

³⁰¹ Oral evidence, CYPE Committee, RoP [para 70], 21 October 2020.

³⁰² Oral evidence, CYPE Committee, RoP [para 70], 21 October 2020.

The Welsh-medium capacity of the education workforce

Stakeholders' evidence

377. Most stakeholders welcome the provisions for Welsh to be a mandatory element in the new curriculum and the single learning continuum. For example, Neath Port Talbot Council wrote:

“... we welcome the emphasis on creating a bilingual nation. As a part of this, we fully support the implementation of the concept of one continuum of learning and we agree with the removal of the Welsh first and second language programmes of study.”³⁰³

378. However, some stakeholders are concerned about the capacity and resource implications required to achieve this expansion in the learning and development of Welsh. One individual respondent suggested that insufficient numbers of teachers who can teach Welsh could be a barrier to implementation.³⁰⁴ Similarly, the Royal College of Nursing welcomed the ambition to embed the Welsh language, but is concerned that the lack of Welsh speaking teachers, support staff and nurses may be a barrier.³⁰⁵

379. The Welsh Language Commissioner's Office published a report in August 2020 regarding the Welsh-medium capacity of the statutory education workforce, which described the challenge of ensuring sufficiency as “an enormous one”. It also warned of a real danger that a shortage of Welsh-medium teachers will “undermine” the Cymraeg 2050 agenda.³⁰⁶

380. Capacity implications were also raised in the context of the further education sector. Colegau Cymru told us:

“Any expansion of Welsh language skills in learners as a result of the proposed bill is welcomed and an important addition to compulsory schooling. This however, needs to be matched by the ability for learners to study partly or fully through the medium of Welsh at post-16. This

³⁰³ Written evidence, CYPE Committee, CAW 31 – Neath Port Talbot Local Authority.

³⁰⁴ Written evidence, CYPE Committee, CAW 167 – Individual.

³⁰⁵ Written evidence, CYPE Committee, CAW 32 – Royal College of Nursing Wales.

³⁰⁶ Welsh Language Commissioner's Office, [The Welsh language and the statutory education workforce in Wales](#), August 2020.

means continued investment in the Welsh language skills of the FE workforce to ensure that demand can be met.”³⁰⁷

The Welsh Government’s response

381. Whilst the Minister did not comment on the specific issue of capacity of the education workforce to support the single continuum, the Welsh Government has a £5 million annual budget to support the Welsh-medium education system. This includes funding to support Welsh-medium professional learning and a Sabbatical Scheme for practitioners to develop their Welsh language skills or to teach through the medium of Welsh.³⁰⁸

382. The Bill’s Regulatory Impact Assessment (RIA) acknowledges that “there is a shortage of Welsh secondary teachers able to teach Welsh and teach through the medium of Welsh”. It also recognises that “funding may need to increase” to support the Welsh Government’s ambitions for the Welsh Language, although says this is not a direct consequence of the Bill. However, the Welsh Government states that “the additional needs within schools and therefore costs are unknown”.³⁰⁹

Our views and recommendations: the Welsh-medium capacity of the education workforce

383. It is evident to us that in order to deliver the single learning continuum for Welsh in the new curriculum, as well as the education system’s contribution to reaching one million Welsh speakers by 2050, there needs to be a substantial increase in the Welsh-medium capacity of the education workforce. We discuss implementation of the Bill more widely in chapter 12.

384. We are aware that the Welsh Government is undertaking several initiatives aimed at addressing this, including a marketing campaign to increase awareness and change perceptions of studying Welsh at A level, and Initial Teacher Education incentives to increase the number of applicants who will be able to teach Welsh as a subject or through the medium of Welsh.

385. However, the scale of the increase in children and young people’s acquisition of Welsh that is associated with the single learning continuum and Cymraeg 2050

³⁰⁷ Written evidence, CYPE Committee, CAW 48 – Colegau Cymru.

³⁰⁸ Minister for Education, [Paper to CYPE Committee on the Welsh Government’s 2020-21 draft budget](#), paras 2.15.10-2.15.15, January 2020.

³⁰⁹ Welsh Government, Explanatory Memorandum, para 8.185.

agenda requires intensive planning and action. As the Welsh Language Commissioner's report (August 2020) states, "urgent action is required".³¹⁰ We agree, and emphasise the importance of ensuring that Wales has the education workforce 'pipeline' it needs.

386. The need for intensive action to ensure there are solid foundations for the mandatory element of Welsh and the single learning continuum is reflected in our recommendation 16 regarding working with the Welsh Language Commissioner to consider including in the Bill provision for a statutory Code or strengthened guidance to address his concerns about how it will be implemented. However, this also requires adequate planning, funding and training to ensure the education workforce has the capacity to deliver it.

Recommendation 19. That the Welsh Government ensure that the required scale of planning, funding and training is provided to support the effective implementation of the single continuum for the teaching and learning of Welsh under the new curriculum.

³¹⁰ Welsh Language Commissioner's Office, [The Welsh language and the statutory education workforce in Wales](#), August 2020.

6. Relationships and Sexuality Education (RSE)

There is considerable support for the Bill's mandatory provision of relationships and sexuality education, although a number of co-ordinated responses oppose the requirement to teach it in primary as well as secondary schools, and the fact that the Bill does not provide parents with a right to withdraw their children from lessons.

Support is predicated on the need for greater clarity and detail about what will be taught, provision of comprehensive professional learning for teaching staff, and expert input. What RSE will cover needs to be clearly communicated to counter any misinformation about this aspect of the Bill.

387. The Explanatory Memorandum to the Bill states:

“The existing curriculum includes very limited requirements for sex education. Cultural and societal developments around how we perceive, measure and value relationships and gender have meant that these requirements have become somewhat antiquated. This led to calls for a review of sex and relationships education.”³¹¹

388. In 2017 the Welsh Government commissioned a Sex and Relationships Expert Panel to make recommendations on the future of sex and relationships education in Wales. Its report was published in January 2018 and concluded:

- current law and guidance was outdated; and
- provision under existing arrangements was limited, unrepresentative and inconsistent.³¹²

389. Relationships and Sexuality Education (RSE) is described in the Explanatory Memorandum as “an important element in creating a whole school approach to

³¹¹ Welsh Government, Explanatory Memorandum, para 3.28.

³¹² Welsh Government, Explanatory Memorandum, para 3.31.

supporting overall physical, mental and emotional health and well-being”.³¹³ It also states:

- RSE will be taught across the curriculum;
- RSE will explore the “interconnected ways in which a wide and diverse range of social, cultural, technological and biological influences affect the ability to form and maintain positive relationships”; and
- the Welsh Government’s objective is to improve the profile, quality and consistency of RSE.³¹⁴

390. Matters relating to RSE for those over the compulsory school age are considered in chapter 9.

Mandatory status of RSE in the new curriculum

Position in the Bill and wider background

391. RSE is one of the four mandatory elements of the new curriculum for 3 to 16 year olds specified under section 3 of the Bill.

392. RSE will replace sex education. At present, sex education is compulsory in secondary schools as part of the basic curriculum (which includes the national curriculum, but is also made up of other subjects such as personal and social education, and work-related education). Primary schools have the opportunity to teach sex education but are not obliged to. Parents currently have the right to withdraw their child from sex education that is not part of a national curriculum subject – this means that the parental right to withdraw does not extend to, for example, science classes where pupils learn about reproduction. The Welsh Government issues non-statutory guidance on how sex and relationships education should be taught.

393. Unlike sex education at present, RSE will be mandatory for all learners from age 3. The Bill requires that RSE must be designed and taught in a way that is “developmentally appropriate” for pupils and children.³¹⁵ No other detail about the content of RSE is included in the Bill itself. Instead, RSE provision will be guided by a statutory code which the Welsh Ministers must issue under section 8(1) of the

³¹³ Welsh Government, Explanatory Memorandum, para 3.52.

³¹⁴ Welsh Government, Explanatory Memorandum, paras 3.52-53.

³¹⁵ Sections 24(2), 31(3)(a), 32(6)(a), 38(2), 52(4), 54(3), 55(4) and 57(2) of the Bill.

Bill. A school's curriculum, teaching and learning will not be deemed to encompass the mandatory element of RSE unless it accords with the Code.

394. The Welsh Government consulted in February 2019 on draft guidance for schools on provision of RSE.³¹⁶

395. There is no right in the Bill for a parent to withdraw their child from RSE. The Welsh Government consulted in autumn 2019 on the impact of the proposal to change parents' ability to withdraw their children from Religious Education (RE) and Relationships and Sexuality Education (RSE) in the new curriculum.³¹⁷

Stakeholders' evidence

396. Among organisations and professionals who gave oral and written evidence to us, the vast majority expressed strong support for the inclusion of RSE as one of the four mandatory elements of the curriculum. Nevertheless, of those who responded in an individual capacity to record their opposition to the Bill, a high proportion cited arrangements relating to RSE as the source of their objections.

397. Those in favour of including RSE as one of the four mandatory elements of the new curriculum based their argument on one or more of the following reasons:

- the current law is outdated and does not reflect gender-equity based provision;³¹⁸
- without mandatory status, improvements to learning about these matters are unlikely to be made, necessary time, resources and professional learning are unlikely to be allocated, and the current "post-code lottery" faced by children and young people in terms of the quality of provision will continue;³¹⁹

³¹⁶ Welsh Government, [Draft guidance on relationships and sexuality education](#), February-April 2019.

³¹⁷ Welsh Government, [Ensuring Access to the Full Curriculum](#), October-November 2019.

³¹⁸ Written evidence, CYPE Committee, CAW 97 – Children's Commissioner for Wales.

³¹⁹ Written evidence, CYPE Committee, CAW 157 – Max Richard Ashton and oral evidence, CYPE Committee, RoP [paras 159 and 167], 8 October 2020.

- it will enable children and young people to better recognise healthy and unhealthy relationships³²⁰ and help keep children safe from harm³²¹;
- it ensures that some of the most vulnerable children and young people receive impartial information about matters they may otherwise not be aware of/protected from;³²²
- children and young people want better RSE;³²³ and
- it will lead to greater cohesion and tolerance within communities.³²⁴

398. Estyn’s position articulated the views of many stakeholders who support the inclusion of mandatory RSE in the Bill:

“We think it’s a very important part of health and well-being. We’re pleased that it’s part of the AoLE, but there’s also a cross-curricular requirement. We support it, but our feedback is that learners support this as well. It’s an area of the curriculum, currently, that is quite patchy and the quality varies. So, we think by placing this in health and well-being it will help schools to plan for a co-ordinated, whole-school approach to health and well-being that includes RSE.”³²⁵

399. Regional consortia representatives argued that RSE “... plays a vital role in learner well-being and safety”.³²⁶ This was echoed by the NSPCC, who stated:

“We know that high-quality RSE is associated with a range of positive outcomes for children, but as its most basic function, it helps to keep children safe from harm. And the new compulsory RSE curriculum in Wales really brings an exciting potential to ensure that all children are equipped with the information and the language they need to understand that they have a right to safety, to recognise all forms of abusive or controlling behaviour and to empower them to speak out and get support at the earliest opportunity.”³²⁷

³²⁰ Written evidence, CYPE Committee, CAW 29 – Individual.

³²¹ Oral evidence, CYPE Committee, RoP [para 136], 8 October 2020.

³²² Written evidence, CYPE Committee, CAW 176 – Wales Humanists and CAW 147 – Mencap.

³²³ Oral evidence, CYPE Committee, RoP [paras 126 and 142], 8 October 2020.

³²⁴ Written evidence, CYPE Committee, CAW 23 – Franksbridge Primary School.

³²⁵ Oral evidence, CYPE Committee, RoP [para 94], 17 September 2020.

³²⁶ Oral evidence, CYPE Committee, RoP [para 251], 20 July 2020.

³²⁷ Oral evidence, CYPE Committee, RoP [para 136], 8 October 2020.

400. Welsh Women's Aid expanded on RSE's role in terms of safety, explaining:

"... mandatory RSE within the new curriculum for all ages from three to 16 is best practice and is definitely needed (...)

RSE based on gender equality and human rights is a powerful tool in the universal prevention of violence against women, domestic abuse and sexual violence, and challenges the inequalities that drive domestic abuse and rape and sexual violence and other forms of violence against women. So, we really think it would be critical."³²⁸

401. The Children's Commissioner for Wales referred to an "urgent need" for RSE in the curriculum to ensure that children are able to realise all their rights, including rights to equality, non-discrimination, high-quality information, health and healthcare, and protection from abuse and exploitation.³²⁹ She added:

"... it's absolutely important that every child has that right and they're never withdrawn from receiving those rights. And that's what this Bill will do (...) I think it's absolutely vital that the RSE element goes through as it is on the Bill, so that we have that strong foundation for children's rights, and I strongly urge the committee to support that."³³⁰

402. However, some of those who supported the mandatory status of RSE emphasised that not including a right to withdraw meant that provision needed to be objective, high-quality, pluralistic and inclusive. The Equality and Human Rights Commission stated that its support for the Bill's provisions on RSE was:

"... on the basis that the Welsh Government make the curriculum more inclusive before the right to withdraw is removed."³³¹

403. Brook representatives summed this up as follows:

"... what's really important about the objectivity and the pluralistic side of things is about making sure that they're matters of fact, that they're verifiable, and they need to be distinguished from what's a matter of belief or personal opinion (...) We want our young people to be critical thinkers, but, ultimately, we need to ensure that the conversations are

³²⁸ Oral evidence, CYPE Committee, RoP [paras 126-127], 8 October 2020.

³²⁹ Oral evidence, CYPE Committee, RoP [paras 23 and 55], 8 October 2020.

³³⁰ Oral evidence, CYPE Committee, RoP [para 55], 8 October 2020.

³³¹ Written evidence, CYPE Committee, CAW 184 - Equality and Human Rights Commission (EHRC).

safe, and it's not just a case of anything goes. (...) it's just about ensuring, as we said earlier, that you've got reputable information, you've got correct information that's usable, that's reliable and is factually right, to be able to ensure that the curriculum is delivered to the highest of possible standards, to ensure that objectivity is there."³³²

404. A number of stakeholders supported the fact that the Bill does not contain the right to withdraw children from RSE. Humanists UK said:

"... removing the right to withdraw puts all children on the same footing; it gives them all access to that same information."³³³

405. The Church in Wales agreed, stating:

"... every child should learn about RSE in a safe environment, rather than perhaps hearing the playground version, the internet version; there are so many other means for children to access perhaps inappropriate guidance on relationships and sexuality education, so we think it's really important for all children to have access to high-quality but developmentally appropriate relationships and sexuality education. We think that that's very, very important—for all to hear the same messages there."³³⁴

406. Not including a right to withdraw was not universally popular among stakeholders. While the Catholic Education Service explained that it supported RSE as an "essential area for the development and protection of children and young people",³³⁵ it argued:

"... maintaining the right to withdraw would involve parents in that dialogue, so that any parents who did have concerns would enter into the dialogue with the school and become actively involved and actually wouldn't withdraw, whereas they might do if that right were taken away. So, that would be our concern, that removing the right to withdraw would actually create a problem that presently doesn't exist."³³⁶

³³² Oral evidence, CYPE Committee, RoP [para 284], 8 October 2020.

³³³ Oral evidence, CYPE Committee, RoP [para 284], 15 October 2020.

³³⁴ Oral evidence, CYPE Committee, RoP [para 117], 15 October 2020.

³³⁵ Oral evidence, CYPE Committee, RoP [para 119], 15 October 2020.

³³⁶ Oral evidence, CYPE Committee, RoP [para 125], 15 October 2020.

407. This position was supported by Cytun, who predicted that having no right to withdraw would lead to “fears about the content”, and “create a completely unnecessary dispute between communities and schools”.³³⁷ The South East Wales Consortium Local Authority Improvement Group felt that no right to withdraw could lead some parents to home school.³³⁸

408. Professor Alison Mawhinney, Professor of Human Rights Law and Head of the Law School at Bangor University, warned that not containing an “opt-out provision” with respect to RSE could cause the Welsh Government to be in breach of the Human Rights Act 1998 and the European Convention on Human Rights (ECHR).³³⁹ She argues that “the European Convention on Human Rights (Article 2 Protocol 1, Right to Education) holds that the possibility of withdrawing from a class must exist unless the State Party can prove that the information being conveyed in that class is done so in a manner which is ‘objective, critical and pluralistic’”. Professor Mawhinney emphasises that this is relevant to “...all subjects and activities that take place during the school day, not only subjects related to the teaching of religion and ethics”.³⁴⁰ She argues that unless the Welsh Government can be “absolutely confident” that the content and delivery will—in every school in Wales—always result in information being delivered and conveyed in an objective, critical and pluralistic manner, “...it is highly advisable to include a limited right to withdraw with respect to RSE (...) to avoid a successful [challenge]”.

409. Those who objected to the Bill’s provisions in relation to RSE largely did so on the grounds that parents could not withdraw their children. A number of individual responses outlined their views as follows:

“RSE being brought to our schools with little explanation on a very important change (...) [The Bill] doesn’t give parents the right to withdraw their children, breaching parents (sic) rights to respect for their religious and philosophical convictions under article 2. protocol 1 (Right to education) and their right to freedom of thought, conscience

³³⁷ Written evidence, CYPE Committee, CAW 106 – Cytun.

³³⁸ Written evidence, CYPE Committee, CAW 118 – SEWC LA Improvement Group.

³³⁹ Written evidence, CYPE Committee, CAW 122 – Professor Alison Mawhinney, Professor of Human Rights Law, Head of Law School, Bangor University.

³⁴⁰ Written evidence, CYPE Committee, CAW 122 – Professor Alison Mawhinney, Professor of Human Rights Law, Head of Law School, Bangor University.

and religion under Article 9 of the European convention of Human Rights.”³⁴¹

410. Many opponents of these provisions also felt that teaching RSE from the age of 3 was too young.³⁴² In contrast, a number of stakeholders in favour of the provisions argued that developmentally appropriate RSE from a young age was crucial from a children’s rights perspective, and in order to seek to protect—from the earliest possible opportunity—children of a very young age who experience abuse, neglect or violence.³⁴³

411. Responses from some faith-related organisations also raised concerns about amendments to existing legislation relating to RSE. They expressed opposition to what they described as the removal of “important protections”, including:

- “the requirement that RSE is provided in a way to encourage due regard to moral considerations and the value of family life”;
- “that guidance issued by Welsh Ministers must be designed to secure that pupils learn about the nature of marriage and its importance for family life and the raising of children”;
- “that children are protected from teaching and materials that are inappropriate having regard to their age, religious culture and background.”³⁴⁴

412. A significant number of objections to the inclusion of mandatory RSE in the Bill were also based on unfounded speculation that the provisions are part of a global movement to sexualise and/or abuse children.³⁴⁵

413. There was significant support in our children and young people survey for the proposals surrounding RSE. 82 per cent of respondents agreed with the proposals for all children and young people to learn about how to have healthy friendships and relationships. 62 per cent of respondents felt that parents and carers should

³⁴¹ See, for example, written evidence, CYPE Committee, CAW 80, 82, 83, 153, 166, 168, 178, 181, 183, 188, 190, 194, 206, 209, 213, 217, 219, 220, 221, 222, 223, 226 and 227 – Individuals.

³⁴² See, for example, written evidence, CYPE Committee, CAW 12, 39, 105 – Individuals.

³⁴³ Oral evidence, CYPE Committee, RoP [paras 209 and 228], 8 October 2020.

³⁴⁴ Written evidence, CYPE Committee, CAW 174 – Roman Catholic Archdiocese of Cardiff. See also CAW 225 – Catholic Education Service.

³⁴⁵ See, for example, written evidence, CYPE Committee, CAW 18, 37, 38, 39, 75, 78, 79, 80, 82, 83, 94, 95, 105, 108, 109, 110, 152, 161, 180, 186, 193, 196, 197, 199, 201, 203, 208, 218, 230, 233, 236 – Individuals.

not have the right to withdraw children and young people from RSE provision, thereby agreeing with the position set out in the Bill.³⁴⁶

414. Some children and young people told us in our virtual round table discussion that, in their view, mandatory RSE and RVE were the “best features” of the new curriculum. They felt that RSE was currently one of the weakest aspects of their education and needed to be taught more than just a few times a year, as is currently their experience. They recognised that parents not having the right to withdraw their children from RSE could create potential for tensions within families, and between families and schools, and emphasised the importance of trying not to alienate people if this was the case.³⁴⁷

415. The parents and carers with whom we spoke in our virtual round table discussions supported the teaching of RSE on the basis that it was age appropriate and appropriate for the learner’s level of understanding. Some concern was expressed about RSE possibly triggering negative reactions in children who have had adverse experiences.³⁴⁸

The Welsh Government’s response

416. When asked about the status of RSE in the Bill, the Minister explained:

“... this [mandatory RSE] is a really, really important part of our new curriculum approach (...) It is absolutely, in my eyes, essential that children and young people have access to high-quality RSE. We cannot achieve the purposes of our curriculum if children are prevented from accessing the full curriculum, including this very important part. (...) indeed, if we listen to young people themselves (...) how we manage our relationships, how we keep ourselves safe, how we relate to one another are important life skills, and therefore it is important that all children have access to that part of the curriculum.”³⁴⁹

417. Responding to concerns about not allowing the withdrawal of children from RSE, the Minister stated:

³⁴⁶ Wavehill social and economic research, Curriculum and Assessment (Wales) Bill: Children and Young People’s Survey Analysis, October 2020.

³⁴⁷ CYPE Committee, Evidence from virtual round table discussions with stakeholders, October 2020.

³⁴⁸ CYPE Committee, Evidence from virtual round table discussions with stakeholders, October 2020.

³⁴⁹ Oral evidence, CYPE Committee, RoP [para 76], 21 October 2020.

“... I don’t believe we can deliver the full purposes that are required in the law without ensuring that all children have access to those lessons. The purposes cannot be achieved if we allow children to be denied access to a full, broad and balanced curriculum.”³⁵⁰

418. When asked what safeguards exist within the Bill, or more widely, to seek to ensure that RSE is designed and delivered in a way that is objective, critical and pluralistic, the Minister pointed to:

- the change of name (to ensure a broadening of the subject and concepts that should be included);
- the requirement for a statutory code setting out the core learning, which she describes as “...an exceptional approach to reflect the important cultural, moral and ethical issues inherent in the teaching of RSE, within a curriculum that largely seeks to be non-prescriptive”; and
- the express provision in the Bill that the RSE provided be developmentally appropriate.³⁵¹

419. Responding to the unsubstantiated claims circulating as a consequence of reactive campaigns relating to RSE, the Minister said:

“... it is positively dangerous, it presents some real safeguarding issues to children and young people, and it is causing unnecessary fear amongst parents. And, I have to say, some of it is wilful; it is wilful misinterpretation and fearmongering.”³⁵²

Our views: mandatory status of RSE in the new curriculum

420. As a Committee we are unanimous in our support for the inclusion of RSE as a mandatory element of the Bill.

421. We have carefully considered the concerns that have been raised regarding:

- the fact that the Bill does not provide parents with a right to withdraw; and

³⁵⁰ Oral evidence, CYPE Committee, RoP [para 73], 14 July 2020.

³⁵¹ Correspondence, Minister for Education to the CYPE Committee, 12 August 2020.

³⁵² Oral evidence, CYPE Committee, RoP [para 93], 21 October 2020.

- how that impacts on parents' rights to respect for their religious and philosophical convictions under Article 2, Protocol 1³⁵³ and Article 9³⁵⁴ of the ECHR (details of which are considered in more detail in chapter 1).

422. Whilst existing case-law³⁵⁵ requires that all elements of the curriculum (including its delivery) must be objective, critical, and pluralistic—thereby respecting parents' religious and philosophical convictions—we recognise that parental rights of withdrawal are sometimes seen as an important safeguard in ensuring compliance with human rights. This is because in cases where the curriculum (or the teaching of it) is not sufficiently objective, critical and pluralistic, a parent is able to take their child out of those classes thereby respecting their religious and philosophical convictions.

423. We are satisfied that not including a right to withdraw does not necessarily lead to a breach of parents' rights under the ECHR, however it is essential that the design and delivery of RSE is objective, critical and pluralistic to ensure that parents' rights are—and continue to be—respected. We recognise the vital role of parents in educating and providing guidance to their children, and consider that RSE should complement this.

424. We believe that the mandatory nature of RSE is essential to creating the necessary conditions to enable our children and young people to access the high-quality, comprehensive relationships and sexuality education befitting of a modern, tolerant and inclusive country. It is also an important mechanism to help children and young people to understand and respect both their own rights and those of others under the UNCRC and, more widely, the ECHR.

425. On this basis, we support the fact that the Bill does not include a right to withdraw as we believe all children should have full access to learning about relationships and sexuality. In our view, including even a limited right to withdraw risks undermining this approach. Nevertheless, we emphasise strongly that our support is predicated on the RSE designed and provided being:

- developmentally appropriate;
- objective, critical and pluralistic;

³⁵³ Right to education.

³⁵⁴ Right to freedom of thought, belief and religion.

³⁵⁵ *Folgero v Norway* (2008) 46 EHRR 47, *Zengin v Turkey* (2008) 46 EHRR 44.

- delivered in accordance with detailed and clear statutory guidance, constructed by experts, practitioners and children and young people themselves; and
- underpinned by the necessary professional learning, resources and expert support.

426. Furthermore, we support RSE being mandated from age 3. We give this support on the basis that:

- we believe it is essential from a children’s rights perspective for children and young people to be informed about fundamental issues from their early years;
- content will be tailored for pupils at different ages and different stages of their emotional and behavioural development; and
- we agree with Brook that “We trust the medical profession to make sure that we’re all healthy human beings; let’s trust our teachers to ensure that they’re going to give a comprehensive and solid education to our children and young people to prepare them for life”³⁵⁶.

427. We have considered whether the Bill should be amended to place duties on Welsh Ministers, governing bodies, and head teachers, to expressly require that the design and delivery of RSE are objective, critical and pluralistic. We have concluded that this is unnecessary. The Welsh Ministers are already under a duty to act compatibly with the ECHR when issuing the RSE Code (and any guidance) as a result of section 81 of the Government of Wales Act 2006, and will therefore be required to ensure that the themes and matters set out in the Code and guidance are objective, critical and pluralistic. Similarly, section 6 of the Human Rights Act 1998 requires governing bodies and head teachers to act in a way that is compatible with ECHR.

³⁵⁶ Oral evidence, CYPE Committee, RoP [para 207], 8 October 2020.

RSE Code

Position in the Bill and wider background

428. RSE provision will be guided by a statutory Code which the Welsh Ministers must issue under section 8(1) of the Bill. Section 72 requires the Code to be subject to scrutiny by the Senedd, under the enhanced negative procedure.³⁵⁷

429. The Statement of Policy Intent for Subordinate Legislation, direction making powers and guidance (SOPI) that accompanies the Bill states that the Code will:

- ensure that each school's curriculum will contain what is contained in the Code;
- describe the "high level core learning" to be undertaken by pupils and children in the mandatory element of RSE; and
- create statutory requirements in relation to what must be taught as part of RSE which will ensure that learning will be age and developmentally appropriate;
- ensure transparency of content for learners aged 3 - 16.³⁵⁸

430. The SOPI also explains:

"It [is] anticipated that amendments may be required to the Code over time to reflect the changing needs of pupils, or changes in society. To respond to changed circumstances it is considered appropriate this detail is issued as a Code rather than being contained in the Bill."³⁵⁹

431. The Welsh Government consulted in February 2019 on draft guidance for schools on provision of RSE.³⁶⁰ The SOPI states that "the RSE Code is currently being developed by a Working Group with a range of stakeholders and will be

³⁵⁷ The enhanced negative procedure means the Code can be issued only after the Welsh Ministers consult on it and lay it before the Senedd. It will not be issued if, within 40 days of its laying, the Senedd resolves not to approve it.

³⁵⁸ Welsh Government, Statement of Policy Intent for Subordinate Legislation, direction making powers and guidance, July 2020.

³⁵⁹ Welsh Government, Statement of Policy Intent for Subordinate Legislation, direction making powers and guidance, July 2020.

³⁶⁰ Welsh Government, Draft guidance on relationships and sexuality education, February-April 2019.

consulted on in the autumn of 2020”.³⁶¹ The Code was not in the public domain at the time of writing this report.

432. The Bill’s Explanatory Memorandum lists the six “headings” to be outlined in the Code as:

- rights and equity;
- relationships;
- sex, gender and sexuality;
- bodies and body image;
- sexual health and well-being;
- violence, safety and support.³⁶²

433. The Explanatory Memorandum explains that these headings are derived from UNESCO technical guidance for sexuality education, “which has directly informed the Curriculum for Wales guidance for curriculum design and implementation, published in January 2020”.³⁶³

Stakeholders’ evidence

434. The vast majority of those who supported the RSE provisions in the Bill emphasised the importance of ensuring that sufficient detail and clarity about the nature and content of RSE is contained in the Code. One or more of the following reasons were given for this:

- to alleviate any concerns among parents, carers and / or education professionals about what will be covered in RSE,³⁶⁴
- to deliver consistency in approach across Wales, by providing the framework within which necessary resources and professional learning are developed,³⁶⁵

³⁶¹ Welsh Government, Statement of Policy Intent for Subordinate Legislation, direction making powers and guidance, July 2020.

³⁶² Welsh Government, Explanatory Memorandum, para 3.69.

³⁶³ Welsh Government, Explanatory Memorandum, para 3.70.

³⁶⁴ Oral evidence, CYPE Committee, RoP [para 243], 8 October 2020.

³⁶⁵ Oral evidence, CYPE Committee, RoP [para 89], 24 September 2020.

- to ensure provision is objective, critical and pluralistic;³⁶⁶
- to seek to protect individual teachers, head teachers and schools from similar challenges to those experienced in Birmingham in relation to relationship and sex/sexuality education;³⁶⁷ and
- to fulfil a child's right to safety.³⁶⁸

435. Head teachers' representatives called for "stringent guidance" on the delivery of RSE:

"We need clear direction of approach from Welsh Government in order to provide clarity and consistency as to what schools are expected to deliver and how to ensure that this is accessed by children across to the stage of their development and understanding."³⁶⁹

436. Teachers' representatives agreed, emphasising the importance of the "way in which it's [the Code] constructed within the legislation so that it's not up to individual heads".³⁷⁰

437. The Children's Commissioner for Wales supported the fact that detail in relation to the content of RSE is left to the Code rather than being specified on the face of the Bill:

"There will be a code and guidance, which will really get into the detail of what is to be taught and how it is to be taught. And that's the right place for that to happen. I don't think that can happen in this Bill."³⁷¹

438. Professor E.J. Renold who chaired the Welsh Government commissioned Sex and Relationship Expert Panel told us:

"There's a balance to be made, but it's vital that we have explicit content and that flexibility, so that teachers can basically deliver developmentally appropriate practice. (...)

³⁶⁶ Oral evidence, CYPE Committee, RoP [para 88], 20 July 2020.

³⁶⁷ Oral evidence, CYPE Committee, RoP [para 279], 24 September 2020.

³⁶⁸ Oral evidence, CYPE Committee, RoP [para 147], 8 October 2020.

³⁶⁹ Oral evidence, CYPE Committee, RoP [para 89], 24 September 2020.

³⁷⁰ Oral evidence, CYPE Committee, RoP [para 279], 24 September 2020.

³⁷¹ Oral evidence, CYPE Committee, RoP [para 55], 8 October 2020.

... we need to have more explicit content so that teachers are very clear about what they can do.”³⁷²

439. Stonewall supported the RSE Code on the basis that:

“... there is a need for learning to be explicit in terms of alleviating anxieties with regard to what people think and want to know what will be taught, and I think that’s [the Code] an important vehicle for that.”³⁷³

440. The Church in Wales agreed:

“... we support that [the Code], because we think that that will give much-needed clarity. This will be a contentious issue, and we want to work with wider organisations to ensure that this is implemented smoothly.”³⁷⁴

441. Brook’s representative explained that detail intended to be set out in the Code is also needed to avoid the inconsistency and “post code lottery” that is seen within and across local authorities in Wales:

“... as long as it’s detailed and it’s clear about what education young people should be having access to, that will take away that unfairness.”³⁷⁵

442. She added:

“... there are really important lessons to be learnt from there [England] about the lack of clarity about what should actually be taught [...] if we’re not clear within the code what needs to be taught, we’re going to be in the same situation.”³⁷⁶

443. As well as being encouraged to learn lessons from England, Welsh Women’s Aid told us that non-statutory guidance on the whole-school approach to violence against women, domestic abuse and sexual violence also demonstrated the importance of having a statutory Code:

³⁷² Oral evidence, CYPE Committee, RoP [paras 134 and 230], 8 October 2020.

³⁷³ Oral evidence, CYPE Committee, RoP [para 243], 8 October 2020.

³⁷⁴ Oral evidence, CYPE Committee, RoP [para 117], 15 October 2020.

³⁷⁵ Oral evidence, CYPE Committee, RoP [para 159], 8 October 2020.

³⁷⁶ Oral evidence, CYPE Committee, RoP [para 224], 8 October 2020.

“... schools have struggled to take that up because of its lack of statutory stance (...) They’re really wanting the statutory guidance on how and what to deliver around this. They’re asking for that, and so, we really need to deliver that within this Bill.”³⁷⁷

444. Some stakeholders were concerned, however, that there remains little detail available about the Code’s content. This was summed up by the NSPCC’s representative, who said:

“... the Bill states that the core learning in the RSE code is designed to be explicit, but we do feel that there’s a concerning lack of detail included in the core learning areas. So, while we know there are six thematic areas, and then there’s the brief summaries that were included in the Curriculum for Wales guidance, they’re a really good starting point, but they are much too vague and lack specific detail of what topics should be covered within each of those themes. We feel that schools need a really clear and comprehensive RSE code and statutory guidance, with explicit detail, so they know what topics should be taught within each of those themes. And we’re concerned that, without this, it will create an inconsistent approach to RSE.”³⁷⁸

445. Some organisations called for specific issues to be explicitly referenced in the Code, including:

- recognition of the full spectrum of relationships and sexualities, and LGBT identities;³⁷⁹
- all areas of abuse and neglect,³⁸⁰ including violence against women, domestic abuse and sexual violence³⁸¹;
- a clear statement on keeping children safe from harm;³⁸² and
- an emphasis on staying safe online.³⁸³

³⁷⁷ Oral evidence, CYPE Committee, RoP [para 161], 8 October 2020.

³⁷⁸ Oral evidence, CYPE Committee, RoP [para 220], 8 October 2020.

³⁷⁹ Written evidence, CYPE Committee, CAW 184 – Equality and Human Rights Commission and oral evidence, CYPE Committee, RoP [paras 140 and 220], 8 October 2020.

³⁸⁰ Oral evidence, CYPE Committee, RoP [para 220], 8 October 2020.

³⁸¹ Oral evidence, CYPE Committee, RoP [para 226], 8 October 2020.

³⁸² Oral evidence, CYPE Committee, RoP [para 220], 8 October 2020.

³⁸³ Oral evidence, CYPE Committee, RoP [para 220], 8 October 2020.

446. Little was said specifically in the evidence we received about the appropriateness of the procedure for making the RSE Code, other than Stonewall, who argued that any scrutiny would need to draw on expert information about—and understanding of—RSE.³⁸⁴ Nevertheless, a number of stakeholders emphasised the importance of the forthcoming Welsh Government consultation on the Code.

447. While few commented specifically in the evidence we received about the arrangements that would need to be in place to monitor how settings deliver the RSE Code’s requirements, Regional Consortia representatives referred to the important role Estyn and its inspection framework will play in curriculum implementation.³⁸⁵ Similarly, while raised in the context of RVE, Humanists UK representatives emphasised the importance of having “independent inspections” to “validate” that teaching is objective, critical and pluralistic, especially in light of the Bill not including a right for parents to withdraw their children.³⁸⁶

The Welsh Government’s response

448. When asked about the decision to create a statutory RSE Code, the Minister told us:

“... the decision to issue a code with regard to RSE is to provide absolute clarity around our expectations as to what is taught. I think that’s really important because clearly this is an area where parents have an interest. It is an area where already we have seen some people seek to misinform and mislead parents as to what inclusive RSE looks like. And so this gives absolute clarity as to what it is, and perhaps equally as important what it is not, and therefore can give real confidence to parents and practitioners in an area where (...) there can be some controversy.”³⁸⁷

449. The Minister’s official explained that the Welsh Government’s intention to issue a Code was also a response to some of the concerns raised about RSE, and a tool “to help practitioners to feel more confident in what they ought to be covering by providing just a bit more scaffolding”.³⁸⁸

³⁸⁴ Oral evidence, CYPE Committee, RoP [para 244], 8 October 2020.

³⁸⁵ Oral evidence, CYPE Committee, RoP [para 329], 20 July 2020.

³⁸⁶ Oral evidence, CYPE Committee, RoP [para 270], 15 October 2020.

³⁸⁷ Oral evidence, CYPE Committee, RoP [para 142], 14 July 2020.

³⁸⁸ Oral evidence, CYPE Committee, RoP [para 143], 14 July 2020.

450. The Minister also explained that the Code had been developed to ensure “that we are delivering RSE that is truly pluralistic and inclusive”³⁸⁹:

“Listening to the feedback of young people with regard to RSE, often it has not been delivered in a way that is truly inclusive or respects the lived experience of some of the young people. So, this is about providing absolute clarity and confidence to parents, students and professionals as to what their expectations and entitlements are with regard to RSE. The code will be based on the principles of the work undertaken by the United Nations as to what constitutes high-quality RSE provision.”³⁹⁰

451. In written correspondence, the Minister acknowledged that having a statutory code for RSE was an:

“... exceptional approach to reflect the important cultural, moral and ethical issues inherent in the teaching of RSE, within a curriculum which largely seeks to be non-prescriptive.”³⁹¹

452. When asked if, given the importance of the RSE Code, the enhanced negative procedure was sufficient, the Minister stated that she was “...actively considering the legislative process that is most applicable to this code”.³⁹² She added that she was considering whether a different procedure was required for the first iteration of the Code,³⁹³ but warned that she did not want to select a procedure that could “undermine” the work to co-construct it.³⁹⁴

Our views and recommendations: RSE Code

453. It is clear to us that the content of the RSE Code is both fundamental and vital to the effective delivery of this aspect of the Bill. Whilst the new curriculum, on the whole, is relatively non-prescriptive, we believe RSE is an area which needs certainty, consistency and clear guidance on what is covered and how it is taught.

454. Furthermore, without the inclusion in the Bill of a right to withdraw, the Code is essential in ensuring parental rights under the ECHR are respected (by setting

³⁸⁹ Oral evidence, CYPE Committee, RoP [para 142], 14 July 2020.

³⁹⁰ Oral evidence, CYPE Committee, RoP [para 142], 14 July 2020.

³⁹¹ Correspondence, Minister for Education to the CYPE Committee, 12 August 2020.

³⁹² Oral evidence, CYPE Committee, RoP [para 82], 21 October 2020.

³⁹³ Oral evidence, CYPE Committee, RoP [para 82], 21 October 2020.

³⁹⁴ Oral evidence, CYPE Committee, RoP [para 84], 21 October 2020.

the necessary requirements for the design and delivery of objective, critical, and pluralistic RSE, thereby respecting parents' religious and philosophical convictions).

455. In addition, we believe that monitoring and inspecting the way educational settings deliver RSE is vital in ensuring that settings are complying with the requirements of the Code and thereby delivering objective, critical and pluralistic and RSE in practice.

Recommendation 20. That the Welsh Government work with Estyn to ensure that monitoring and inspection of educational settings' implementation of the RSE Code is a key feature of the inspectorate's future work programme.

456. We welcome the co-construction of the Code, and recognise the need to ensure that this complex but essential piece of subordinate legislation is drafted carefully and comprehensively. However, we are disappointed that—given the central importance attached to the Code by both proponents and opponents of this aspect of the Bill—its content is not available at this stage in our scrutiny. We believe that the availability of the Code could have alleviated many of the concerns drawn to our attention and assisted significantly with the task of addressing the misinformation circulating about plans for RSE.

Recommendation 21. That the Welsh Government, to inform schools' important work to prepare for the Bill's commencement and Members' tabling and consideration of amendments, make available before the start of Stage 3, the draft RSE Code.

457. Given the central importance of this Code to this sensitive—and for some, controversial—aspect of the Bill, we do not believe that the enhanced negative procedure provides sufficient scrutiny. We recognise the Minister's desire to avoid undermining the co-construction of the Code but remain keen to ensure there is sufficient scrutiny of the subordinate legislation that provides important scaffolding to the Bill's RSE provisions. On this basis, we believe the Bill should retain the provisions that require consultation on the Code (or revised Code) before it is issued or revised (section 72(2)), but that the Code (or revised Code) should be subject to the affirmative rather than the negative procedure specified in section 72(3).

Recommendation 22. That the Welsh Government amend the Bill to ensure that the RSE Code (or revised Code) is subject to the enhanced affirmative, rather than the enhanced negative, procedure. The provision in section 72(2) requiring consultation on the RSE Code (or revised Code) should remain.

“Developmentally appropriate” teaching

Position in the Bill and wider background

458. The Bill requires that the provision for teaching and learning encompassing the mandatory element of Relationships and Sexuality Education must be developmentally appropriate.³⁹⁵

459. The Explanatory Memorandum states that provision in the Bill requires the Welsh Ministers “to ensure that the core learning set out in the RSE code is to be suitable for pupils at different ages, and stages of their emotional and behavioural development”.³⁹⁶ It also says:

“Whilst there is a general requirement throughout the proposed Bill that teaching and learning should be appropriate to learners’ “age, ability and aptitude”, it is intended that it be explicit in relation to RSE in order to support and reassure teachers, parents/carers and learners that the curriculum will be appropriate.”³⁹⁷

Stakeholders’ evidence

460. The vast majority of those who supported the RSE provisions in the Bill emphasised the importance of its teaching being “developmentally appropriate”. Those who objected to the Bill often did so on the basis of concerns that content would not be age appropriate.

461. Stonewall summarised the overarching view expressed by supporters of the RSE provisions as follows:

“I think we all (...) would agree that we don’t want our young people, children and pupils in schools to be taught stuff that isn’t appropriate to their development at that stage in their lives. And I think that point is really crucial to be made.”³⁹⁸

462. Professor E.J. Renold, chair of the Welsh Government commissioned Sex and Relationship Expert Panel in 2017, emphasised the importance of using the term “developmentally appropriate” correctly:

³⁹⁵ Sections 24(2), 31(3)(a), 32(6)(a), 38(2), 52(4), 54(3), 55(4) and 57(2) of the Bill.

³⁹⁶ Welsh Government, Explanatory Memorandum, para 3.72.

³⁹⁷ Welsh Government, Explanatory Memorandum, para 3.72.

³⁹⁸ Oral evidence, CYPE Committee, RoP [para 190], 8 October 2020.

“... the term ‘developmentally appropriate’ is often misused, or not quite understood (...) all teachers, whatever subject they teach, will strive to ensure that their pedagogy is developmentally appropriate, and RSE is no different in that respect. I think that’s our starting point. Research also suggests that RSE is most effective when it’s relevant and provided in ways that are developmentally appropriate. So what this means is it has to be timely. It doesn’t assume we know what’s happening for young people, but it does build on their evolving knowledge and experience.”³⁹⁹

463. Brook representatives provided a practical illustration of “developmentally appropriate” teaching and learning:

“... if I take consent as an issue, you might talk to three, four, five-year-olds when it comes to consent. It isn’t about teaching them about sexual consent, which gets misconstrued a lot in the media. What we mean by that is maybe asking permission to share toys with somebody, or holding hands with somebody, or giving consent for somebody to touch your hair. That’s the basic level of introducing consent that you might do at a younger age, but as they get older you would add to it—you’d come back to the issue, you would continuously build on that education. It’s not the case that at the age of six, they learn everything and that’s it, off they go—no. Actually, developmentally, it gets added to up until the point where in comprehensive and when it’s appropriate, you might talk about sexual consent with young people then. So, again, it’s appropriate, it’s relevant for them, but it’s building that real structure of a spiral curriculum.”⁴⁰⁰

464. Professor Renold warned that “teachers are very skilled at this, but it does need careful planning, which means it needs time”⁴⁰¹, adding:

“... you need professional learning. You need to know what’s appropriate and what isn’t. You need those external providers to support you, and you need that up-to-date research evidence. So, it’s a package. I guess what we’re trying to say as a sector is that there’s much more to be done once you move from non-statutory to statutory, and professional

³⁹⁹ Oral evidence, CYPE Committee, RoP [para 197], 8 October 2020.

⁴⁰⁰ Oral evidence, CYPE Committee, RoP [para 205], 8 October 2020.

⁴⁰¹ Oral evidence, CYPE Committee, RoP [para 202], 8 October 2020.

learning is absolutely essential here. But I have confidence that this can be achieved.”⁴⁰²

465. Welsh Women’s Aid warned:

“We have children coming in to sexual violence services at a very young age, so we really do need to teach about body integrity, and about equality and about respect, and consent is part of that—obviously, in a developmentally appropriate way.”⁴⁰³

466. However, both Mencap and Welsh Women’s Aid emphasised the importance of “developmentally appropriate”, not just “age appropriate”, provision. Mencap emphasised that RSE had an important role to play in relation to those with a learning disability,⁴⁰⁴ and Welsh Women’s Aid told us:

“We talked to adult women with additional learning needs who had had no RSE at all, because it was just assumed that they wouldn’t have relationships when they got older, which, obviously they do, as we all do.”⁴⁰⁵

467. Some of the children and young people who spoke with us in our virtual round table discussion told us that children and young people are exposed to issues regarding relationships and sexuality at a relatively early age. As such, there was a view in the group that it was right that RSE is taught as early as possible.⁴⁰⁶

The Welsh Government’s response

468. When asked how “developmentally appropriate” provision will be delivered in practice if pupils in the same class are considered to be at different stages, the Minister responded:

“... teachers deal with differentiation every day of their working life and they are well able to—and they do on a daily basis—meet the different requirements of children within their class.”⁴⁰⁷

⁴⁰² Oral evidence, CYPE Committee, RoP [para 203], 8 October 2020.

⁴⁰³ Oral evidence, CYPE Committee, RoP [para 209], 8 October 2020.

⁴⁰⁴ Written evidence, CYPE Committee, CAW 147 – Mencap.

⁴⁰⁵ Oral evidence, CYPE Committee, RoP [para 210], 8 October 2020.

⁴⁰⁶ CYPE Committee, Evidence from virtual round table discussions with stakeholders, October 2020.

⁴⁰⁷ Oral evidence, CYPE Committee, RoP [para 78], 21 October 2020.

469. The Minister recognised, however, that support would be needed to achieve this:

“[teachers] clearly need to be supported to do this in this very important area and that’s why we will be issuing, as was referenced earlier, statutory guidance on RSE, and we will be co-constructing that guidance with key stakeholders and I can assure you we will be taking advice and input from child development experts. The RSE working group will also advise on pedagogy, the professional learning requirements for RSE and the teaching resources that will be required to support the delivery of RSE within the new curriculum. So, this is important to provide that reassurance, and that’s why we are working closely to create that statutory guidance as well as the professional learning to ensure that teachers have the skills to do that appropriately.”⁴⁰⁸

Our views and recommendations: “developmentally appropriate” teaching

470. We agree with the Minister and stakeholders that it is essential that RSE is taught in a developmentally appropriate way, and that teachers are supported adequately to ensure this happens. This will be particularly important given that RSE will be mandatory in non-maintained nurseries, primary schools as well as secondary schools, in order to ensure that key principles are covered in a way suitable to the age and developmental stage of the child.

471. We believe that sufficient time, resources and specialist support are needed in order to uphold the Welsh Government’s aims in this area and to ensure children’s and parents’ rights are upheld.

Recommendation 23. That the Welsh Government work with the RSE Working Group to provide, in readiness for the Bill’s implementation, a framework outlining the core professional learning, resources and specialist support likely to be needed to deliver developmentally appropriate teaching of RSE from ages 3-16 under the new curriculum.

⁴⁰⁸ Oral evidence, CYPE Committee, RoP [para 78], 21 October 2020.

Teachers' professional learning and specialist support

Position in the Bill and wider background

472. The Bill does not contain specific legislative requirements in relation to professional learning and specialist support for RSE. Nevertheless, the Explanatory Memorandum states:

“The National Approach to Professional Learning, launched in 2018, marked a key point in the reform journey. It aligns with the new professional standards, the Schools as Learning Organisations approach and professional learning model, to create a vision fit for the evolving education system in Wales for all educational practitioners, including, but not limited to, teachers. Welsh Ministers are committed to ensuring that all practitioners receive the support they need to deliver the new curriculum.”⁴⁰⁹

473. References to the potential costs for professional learning, resources and materials, and specialist to external support to deliver RSE are made in chapter 8 (costs and benefits) of the Explanatory Memorandum. The Welsh Government states the following in relation to each:

- Professional learning – “The Welsh Government agrees that professional learning will be required in order for teachers to gain the knowledge and confidence to embed relationships and sexuality education within their teaching.”⁴¹⁰
- Resources and materials – “[The Welsh Government] will conduct an audit of the existing relationships and sexuality education resources on the Hwb to assess the extent to which they are fit for purpose. New resources will be developed if needed and provided free of charge. Charities and other agencies are also expected to produce free resources that would be suitable for schools to use.”⁴¹¹
- Specialist external support to deliver RSE – “The intention with the new curriculum is that schools build capacity within their workforce to deliver the curriculum. Therefore, where external expertise is brought in, this should be with the view to equipping staff to deliver the curriculum

⁴⁰⁹ Welsh Government, Explanatory Memorandum, para 3.126.

⁴¹⁰ Welsh Government, Explanatory Memorandum, para 8.298.

⁴¹¹ Welsh Government, Explanatory Memorandum, para 8.299.

themselves in a way that is appropriate for their learners, and form part of the professional learning plans of the school.”⁴¹²

Stakeholders’ evidence

474. A number of stakeholders emphasised the importance of initial teacher education, professional learning, and resources to the effective delivery of mandatory RSE. It was emphasised that the main challenge was to build confidence and more expert understanding among teaching staff,⁴¹³ particularly as this will be a new area of statutory provision⁴¹⁴.

475. The NAHT, NASUWT and UCAC argued that comprehensive training would be needed to ensure sufficient levels of specialism. The NSPCC concurred:

“... without that specialist training, we’re concerned that teachers could avoid addressing sensitive or challenging issues, and then there’s a risk that the opportunity to develop this inclusive content and to really rally the whole school and community to protect children could be undermined.”⁴¹⁵

476. Brook expanded on this, explaining:

“... the important thing that comes in here is how teachers are trained to be able to deliver effective RSE, because to go in and talk to young people about contraception, talk to young people about youth-produced sexual imagery, to talk to young people about pornography, all of these things that are facing our young people and the generation today, is really difficult.”⁴¹⁶

477. Professor E.J. Renold argued that this training and professional learning is an “urgent requirement” as it needs “careful planning”. Professor Renold also called for professional learning to be based on the “structural foundation” of a “robust research training network”.⁴¹⁷

⁴¹² Welsh Government, Explanatory Memorandum, para 8.300.

⁴¹³ Oral evidence, CYPE Committee, RoP [para 280], 8 October 2020.

⁴¹⁴ Oral evidence, CYPE Committee, RoP [para 284], 15 October 2020.

⁴¹⁵ Oral evidence, CYPE Committee, RoP [para 277], 8 October 2020.

⁴¹⁶ Oral evidence, CYPE Committee, RoP [paras 182-184], 8 October 2020.

⁴¹⁷ Oral evidence, CYPE Committee, RoP [para 263], 8 October 2020.

478. Stonewall emphasised the importance of RSE-specific training, especially in relation to LGBT identities, within the wider provision of professional learning.⁴¹⁸ Similarly, Mencap called for ring-fenced resource, and access to external RSE specialist providers.⁴¹⁹ This was echoed by the NSPCC:

“... major investment is needed to ensure that teachers are well trained to design and deliver high-quality RSE (...) it’s essential that we have some investment in ongoing professional learning, development, training, on RSE.”⁴²⁰

479. Welsh Women’s Aid emphasised the need to ensure that teachers were trained in relation to the networks of support that surround them,⁴²¹ and referred to the need to draw on existing specialist services:

“There is expertise in the communities that sit around schools, and I think what we really need to see this curriculum invest in is bringing those communities together, and bringing in those specialist services to support the schools and to support teachers in the delivery of RSE.”⁴²²

480. One individual respondent, studying for a doctorate in this area, warned:

“... without additional clarity on the methods, providers, duration and cost of practitioner training in RSE, and a detailed explanation of the process, participants in, scope, and costs of new resource development, I remain concerned that the information provided in the Bill might come to represent an empty gesture on the part of the Welsh Government.”⁴²³

481. A number of the children and young people with whom we spoke in our virtual round table discussion felt that teaching in this subject area needs to be more specialised in nature.⁴²⁴

⁴¹⁸ Oral evidence, CYPE Committee, RoP [para 256], 8 October 2020.

⁴¹⁹ Written evidence, CYPE Committee, CAW 147 – Mencap.

⁴²⁰ Oral evidence, CYPE Committee, RoP [para 277], 8 October 2020.

⁴²¹ Oral evidence, CYPE Committee, RoP [para 261], 8 October 2020.

⁴²² Oral evidence, CYPE Committee, RoP [para 177], 8 October 2020.

⁴²³ Written evidence, CYPE Committee, CAW 157 – Max Richard Ashton.

⁴²⁴ CYPE Committee, Evidence from virtual round table discussions with stakeholders, October 2020.

The Welsh Government's response

482. When asked about the practical challenges for teaching staff delivering developmentally appropriate RSE, the Minister responded:

“The RSE working group will also advise on pedagogy, the professional learning requirements for RSE and the teaching resources that will be required to support the delivery of RSE within the new curriculum. So, this is important to provide that reassurance, and that’s why we are working closely to create that statutory guidance as well as the professional learning to ensure that teachers have the skills to do that appropriately.”⁴²⁵

Our views: teachers’ professional learning and specialist support

483. Our concerns about professional learning and resources more generally, particularly the impact of the current COVID-19 pandemic on the time available to the sector to undertake what is necessary to design and implement the curriculum successfully, are discussed in more detail in chapter 12 of this report.

484. However, it is clear to us from the evidence we have received, that we should not underestimate the importance of sufficient initial teacher education, professional learning, and continuous professional development and training in terms of the successful delivery of the mandatory RSE element of the new curriculum.

485. On this basis, we reiterate our recommendation 23 above.

Engagement and communication

Position in the Bill and wider background

486. While the Bill requires consultation on the statutory code on RSE, there are no other legislative requirements to engage with the public on this aspect of the legislation or communicate with them about its contents, for example.

Stakeholders’ evidence

487. The need for effective engagement with parents and accurate communication of what will and will not be taught under RSE was emphasised

⁴²⁵ Oral evidence, CYPE Committee, RoP [para 78], 21 October 2020.

by a number of stakeholders, particularly in the context of countering potential misinformation circulating about the Bill.

488. Teachers' representatives described communication as "vital".⁴²⁶ The ASCL argued:

"There needs to be strong communication, there needs to be a strong message that's put out around the fact that this is (...) about tolerance, it's about entitlement (...) there needs to be a communication strategy so that we don't get the kick-back that been seen, for example, in Birmingham in some of the schools, which has placed significant pressure on those teachers and those leaders."⁴²⁷

489. The parents and carers with whom we spoke in our virtual round table discussions emphasised the importance of informing and engaging with parents about what will be taught in RSE. Parentkind representatives explained that, in a survey they conducted about this subject, parents' views were very polarised. They suggested that this may be because parents do not necessarily understand what content will be taught.⁴²⁸

490. The Children's Commissioner argued that communication was important to assure parents about this new element of learning and counter misinformation circulating currently in Wales and beyond:

"I think communication to the public is going to be very important here (...) there's a lot of misinformation going around and misunderstanding. And, of course, for something that's new in the curriculum, whether that's the broader AoLE, or this specific part of it—relationships and sexuality education—that is going to cause concern to some parents because it's new and it's different. So, the communication with parents is really important."⁴²⁹

491. On this point, Stonewall told us:

"... we are worried about the misinformation that is circulating at the moment about what RSE is and isn't (...) it does cause concern about

⁴²⁶ Oral evidence, CYPE Committee, RoP [para 285], 24 September 2020.

⁴²⁷ Oral evidence, CYPE Committee, RoP [para 92], 24 September 2020.

⁴²⁸ CYPE Committee, Evidence from virtual round table discussions with stakeholders, October 2020.

⁴²⁹ Oral evidence, CYPE Committee, RoP [para 57], 8 October 2020.

undermining the vision that Welsh Government has in ensuring that this education and the purpose of this education is actually for the well-being, for the safety and for safeguarding our young people from harm (...) there is a lot of misinformation going out there at the moment, and I would urge colleagues in Welsh Government to ensure that it is communicated clearly to schools, local authorities and parents alike what actually good, effective RSE is and what it isn't."⁴³⁰

492. The NSPCC emphasised the importance of clear and transparent communication to build trust and confidence in the design and teaching of RSE and to ensure that schools feel confident engaging with parents about their concerns. On this basis, they called for statutory guidance to “include information for schools on how to meaningfully engage with parents and carers around RSE and also how to manage any challenging situations or parental worries”.⁴³¹

493. The Association of Directors of Education Wales said that local authorities have a “key role” in supporting schools to mediate and mitigate parental concerns.⁴³²

494. The view expressed by the majority of those who commented on the need for communication and engagement about RSE was summarised by Humanists UK as follows:

“We’ve all seen the misinformation that’s been spread around the subject of RSE and the fact that it’s going to be taught from 3 to 16. (...) there needs to be a very clear communication out to all parents about what’s being taught, when it’s being taught, and why it’s so important that their children receive that education.”⁴³³

The Welsh Government’s response

495. When asked about engagement and communication in relation to RSE, the Minister acknowledged the importance of developing clear and accurate for parents and carers. She recognised that this was needed to emphasise:

⁴³⁰ Oral evidence, CYPE Committee, RoP [para 190], 8 October 2020.

⁴³¹ Oral evidence, CYPE Committee, RoP [para 173], 8 October 2020.

⁴³² Oral evidence, CYPE Committee, RoP [para 88], 20 July 2020.

⁴³³ Oral evidence, CYPE Committee, RoP [para 284], 15 October 2020.

“... the importance of this area of learning and to proactively counter misinformation that is there in communities that seeks to frighten and undermine the teaching of this important aspect of the curriculum.”⁴³⁴

496. In relation to engagement, the Minister added:

“Ongoing community engagement is planned to ensure that myths about RSE are dispelled through dialogue with our newly established BAME and faith community involvement group. This group consists of members from both, as I said, community groups, faith groups, for them to feed in, in the spirit of co-construction, to the RSE guidance, and to be able to, as I said, dispel those myths that can certainly be propagated by people.”⁴³⁵

497. The Minister accepted the need for a communication plan in relation to RSE:

“We will need—and I recognise, as a Government that we will need—a robust communication plan to ensure meaningful and sustained engagement with our schools and our parents, our carers and learners, so that they are very clear about what is being taught.”⁴³⁶

498. Referring to concerns about misinformation specifically, the Minister argued:

“... it is really important that misinformation that is being placed in the public domain is challenged. Some of what I have seen is positively dangerous to young people and is causing unnecessary fear to parents and carers, and that’s why the code is so important. I will be having conversations with a range of stakeholders on how we can work together so that that information is challenged and the Government’s intentions are clear.”⁴³⁷

Our views and recommendations: engagement and communication

499. We are deeply concerned by the circulation of misinformation about the Bill’s RSE provisions. It is completely clear to us that the intention of RSE is to educate and protect children and young people, rather than in any way expose them to inappropriate content.

⁴³⁴ Oral evidence, CYPE Committee, RoP [para 80], 21 October 2020.

⁴³⁵ Oral evidence, CYPE Committee, RoP [para 80], 21 October 2020.

⁴³⁶ Oral evidence, CYPE Committee, RoP [para 80], 21 October 2020.

⁴³⁷ Oral evidence, CYPE Committee, RoP [para 93], 21 October 2020.

500. The rate at which misinformation in relation to RSE has circulated demonstrates how essential a fact-based, objective, pluralistic and critical approach to this aspect of education (and others) is. It is a live and deeply worrying illustration of the need to equip our children and young people with the necessary tools to navigate information, particularly online, and to seek reputable sources of information, the reliability and accuracy of which they are able to examine carefully.

501. Notwithstanding this, misinformation can easily spread if there is a lack of publicly-available detail stating clearly what exactly will be covered as part of the RSE aspects of the new curriculum. In light of that, we believe that the Welsh Government must act urgently to provide simple and clear myth-busting information about the plans for RSE in Wales, that seeks to reassure parents about its developmentally appropriate content and approach, and explains why it is important for all children to be taught it.

Recommendation 24. That the Welsh Government, as a matter of urgency, launch a myth-busting campaign about the RSE that will be delivered as a result of this Bill. This campaign should:

- challenge the misinformation currently circulating about RSE;
- seek to reassure parents about RSE's developmentally appropriate content and approach; and
- explain why it is important for all children and young people to be taught RSE.

7. Religion, Values and Ethics (RVE)

The Bill makes Religion, Values and Ethics (RVE) one of the four mandatory elements of the new curriculum's six areas of learning and experiences. There is a wide range of views on the provision the Bill makes in relation to the design and delivery of RVE, not least in relation to the right to withdraw, the broadening of the subject to encompass values and ethics, and the different arrangements the Bill makes for RVE in schools with a religious character and those with a non-religious character.

Current arrangements for religious education

502. Currently, religious education (as with sex education) forms part of the basic curriculum. This means that, while learners do not have to study for a religious education ("RE") qualification, they must have opportunities to be taught it. Section 71 of the School Standards and Framework Act 1998 gives parents a right to withdraw their children from RE.

503. Each Local Authority is required to convene an Agreed Syllabus Conference ("ASC") if any representative group on its Standing Advisory Council on Religious Education ("SACRE") requests it to do so. The ASC then determines the content of the agreed syllabus for RE to be taught in schools maintained by that local authority. Teaching of the agreed syllabus varies according to the category of school.

504. Maintained schools without a religious character are currently required to teach RE in accordance with the agreed syllabus.

505. The current default for voluntary controlled schools⁴³⁸ with a religious character is for learners to receive RE in accordance with the agreed syllabus. However, where a parent requests RE in line with the trust deeds or tenets of the

⁴³⁸ Voluntary controlled schools are run by a voluntary organisation (in Wales this is typically the Roman Catholic Church or the Church in Wales) but closely controlled by the local authority. The local authority employs the staff and sets the admission criteria, but the school land and buildings are owned by a charity (often the church) which appoints some members of the governing body.

faith (i.e. denominational RE), the school must secure denominational RE for the pupil in accordance with the trust deed of the school or (if the trust deed does not make provision for that purpose) in accordance with the tenets of the faith specified in relation to the school, unless the governing body is satisfied that because of any special circumstances it would be unreasonable to do so.

506. The current default for voluntary aided schools⁴³⁹ with a religious character is for learners to receive denominational RE. However, where a parent requests RE in accordance with an agreed syllabus, and the parent cannot, with reasonable convenience, cause the pupil to attend another school where an agreed syllabus of that kind is taught, the school must secure RE for the pupil in accordance with an agreed syllabus of that kind, unless the governing body is satisfied that because of any special circumstances it would be unreasonable to do so.

Provisions in the Bill for RVE

507. The Bill establishes Religion, Values and Ethics (“RVE”) as one of the mandatory elements of the curriculum for most pupils aged 3-16.⁴⁴⁰ It will be delivered within the Humanities Area of Learning and Experience (“AoLE”)⁴⁴¹ and is intended to be broader and more inclusive than the traditional RE it replaces.

508. The Bill amends the existing requirements of an “agreed syllabus” in Wales (currently section 375 of the Education Act 1996) so that the new syllabus:

- must reflect the fact that the religious traditions in Great Britain are in the main Christian while taking account of the teaching and practices of the other principal religions represented in Great Britain; and
- must also reflect the fact that a range of non-religious philosophical convictions are held in Great Britain.

⁴³⁹ Voluntary aided schools are run by a voluntary organisation and enjoy greater policy and financial independence than voluntary controlled schools. They tend to be religious or faith schools, in Wales typically the Roman Catholic Church or Church in Wales. The governing body employs the staff and sets the admission criteria and the school buildings and land are usually owned by a charity (often the church).

⁴⁴⁰ It will not be mandatory for those pupils who are educated other than at school or those who are in a pupil referral unit (see chapter 10). In respect of children below compulsory school age, RVE does not have to be provided in accordance with the Bill.

⁴⁴¹ Welsh Government, Explanatory Memorandum, para 3.51.

509. The reference to philosophical convictions is to philosophical convictions within the meaning of Article 2 Protocol 1 of the European Convention on Human Rights (the right to education) – (“A2P1”).

510. The Bill does not provide for parents to withdraw their children from RVE.

511. The Explanatory Memorandum states:

“RVE is a field of study in which a range of disciplinary approaches are used by learners to critically engage with a broad range of religious and non-religious concepts. The intention is to ensure all children and young people are provided with the scope to explore Wales’ historical and contemporary relationship to philosophy and religious views, including non-religious beliefs.”⁴⁴²

512. The Welsh Government lists the following reasons for including RVE as a mandatory element of the new curriculum:

- it ensures learners “develop a conceptual framework which helps them to understand and explore worldviews that include religions and other beliefs, and the impact these have on them and others in societies, locally in their area and in the wider world”;
- it ensures they “understand the conceptual categories of ‘religion’, ‘secularity’, ‘secularism’ and ‘spirituality’, in order to illuminate debate and support a well-rounded understanding of religion as a force in shaping society”;
- it ensures they “understand the nature of reality and their own place in the world, and how their worldview is likely to influence and be influenced by their beliefs, values, behaviours, experiences, identities and commitments”; and
- it ensures they “engage with, and appreciate, the pluralistic society in which they live”.⁴⁴³

513. The Explanatory Memorandum to the Bill explains:

“Legislation currently sets out the required religious education provision that must be made for each category of school. It is intended that we

⁴⁴² Welsh Government, Explanatory Memorandum, para 3.46.

⁴⁴³ Welsh Government, Explanatory Memorandum, para 3.47.

retain the bulk of this provision, making some amendments to ensure the existing framework dovetails with provision for the new curriculum.”⁴⁴⁴

514. Sections 24, 31 and 32 of the Bill require that the design and teaching of the mandatory element of RVE must (subject to exceptions for pupils below compulsory school age) accord with Schedule 1 to the Bill.⁴⁴⁵ Schedule 1 sets out the position in relation to RVE as follows for the three different categories of school:

- In the case of **community schools and foundation and voluntary schools without a religious character**, they will be required to have regard to the agreed syllabus in designing and implementing teaching and learning for the mandatory element of RVE within the curriculum.
- In the case of **foundation and voluntary controlled schools that have a religious character**, they will be required to have regard to the agreed syllabus in designing the mandatory element of RVE within the curriculum. Where that provision does not accord with the school’s trust deed or—if there is no provision in the trust deed relating to teaching and learning RVE—the tenets of its religion or religious denomination, the curriculum must also include provision for RVE that does so accord. The default position will be that learners are provided with teaching and learning designed having regard to the agreed syllabus. However, if a pupil’s parent requests that their child be provided, instead, with teaching and learning designed in accordance with the school’s trust deed, or the tenets of its religion or denomination, the request must be complied with.
- In the case of **voluntary aided schools that have a religious character**, the RVE provision in the curriculum must have been designed in accordance with the school’s trust deed or—if there is no provision in the trust deed relating to teaching and learning RVE—the tenets of its religion or religious denomination. If that provision does not accord with the agreed syllabus, the curriculum must also include provision for RVE that does accord with the agreed syllabus. The default position will be that learners are provided with teaching and learning that has been

⁴⁴⁴ Welsh Government, Explanatory Memorandum, para 3.35.

⁴⁴⁵ Section 62 of the Bill requires that, where a sixth form pupil requests RVE, a school must provide it. RVE provided to sixth form pupils does not need to accord with Schedule 1 to the Bill.

designed in accordance with the trust deeds of the school or the tenets of the school's religion or religious denomination. However, if a pupil's parent requests that their child be provided, instead, with teaching and learning designed in accordance with the agreed syllabus, the request must be complied with.

515. The different arrangements for schools that have a religious character and those that do not, and their impact, are discussed in more detail in paragraphs 563 – 612 of this chapter. Matters relating to RVE for those over the compulsory school age are considered in Chapter 9.

Mandatory status of RVE in the new curriculum

Position in the Bill and wider background

Right to withdraw

516. As with the provisions in this Bill for RSE, the proposed legislation does not provide a right for parents to withdraw their children from RVE.

517. The decision not to include a parental right of withdrawal (for RVE or RSE) was part of the Welsh Government's "ensuring full access of all to the curriculum" consultation conducted in autumn 2019.⁴⁴⁶ The Explanatory Memorandum says:

"Following consultation there is no intention to retain existing provisions to allow parents or those with parental responsibility to remove learners from religious education (to be renamed Religion Values and Ethics) (...) The intention of the Bill is to enable all learners equal opportunity to receive a broad and balanced education that will support them in developing in the way described by the four purposes."⁴⁴⁷

518. In relation to the compatibility of the RVE (and RSE) proposals with human rights, the Explanatory Memorandum states:

"The Impact Assessment also considered whether the proposals for RVE and RSE are compatible with the rights protected by the Human Rights Act 1998. The proposals will have a positive impact on a child or young person's right to an education including high quality and comprehensive information about the issues covered in RSE and RVE.

⁴⁴⁶ Welsh Government, [Ensuring Access to the Full Curriculum](#), October-November 2019.

⁴⁴⁷ Welsh Government, Explanatory Memorandum, para 3.34.

By not including a right to withdraw in the new curriculum, all learners will now be able to participate in this important part of the curriculum. There will be a need to work closely with all schools to ensure the learning offered in RSE and RE is pluralistic and non-discriminatory.”⁴⁴⁸

Name change from RE to RVE

519. The Explanatory Memorandum provides the following explanation for the Bill’s use of the new name, RVE:

“Our purpose in proposing a name change to RE was to ensure the name of this mandatory element of the curriculum reflected its proper scope accurately. It would provide clarity about our intentions, which is to broaden the focus of what is taught in RE while retaining appropriate focus on learning about religion.”⁴⁴⁹

Relevant guidance and consultation

520. The Welsh Government intends to issue statutory guidance to local authorities regarding their respective agreed syllabi for RVE under the general power to issue guidance granted by section 66 of the Bill. Before issuing the guidance, the Welsh Ministers must consult those they think appropriate, if any.⁴⁵⁰ The guidance will not be subject to a Senedd procedure.⁴⁵¹

521. The Welsh Government consulted from May – July 2020 on the provisions in the Bill for RVE.⁴⁵²

522. Further consultation on the statutory framework for RVE is expected before the end of this year,⁴⁵³ but had not been launched at the time of writing this report.

⁴⁴⁸ Welsh Government, Explanatory Memorandum, para 9.72.

⁴⁴⁹ Welsh Government, Explanatory Memorandum, para 9.65.

⁴⁵⁰ Section 66(2) of the Bill.

⁴⁵¹ Welsh Government, Statement of Policy Intent for Subordinate Legislation, direction making powers and guidance, July 2020.

⁴⁵² Welsh Government, Legislative proposals for religion, values and ethics, May – July 2020.

⁴⁵³ Correspondence, Minister for Education to the CYPE Committee, 12 August 2020.

Stakeholders' evidence

523. Among those who gave evidence, there were mixed views about the way in which the Bill legislates in relation to RVE.

524. Representatives of faith groups and schools with a religious character in particular, a number of SACREs, the National Advisory Panel for Religious Education, and a number of individual respondents voiced a range of concerns about the provisions relating to RVE. These included one or more of the following issues:

- the impact they believe the Bill's RVE provisions, particularly the fact that there is no right for a parent to withdraw their child, have on the right of parents to have their children educated in accordance with their wishes;
- the change of name from RE to RVE, which they believe undermines religious education as a rigorous subject;
- the fact that the detailed guidance on the RVE framework is not yet available for consideration and comment;
- their belief that there is a need for more explicit reference to the spiritual, moral, cultural, mental and physical development of learners in the guidance underpinning the Bill;
- their belief that the provisions in the Bill treat schools with a religious and non-religious character differently and unequally, implying a lack of trust in schools with a religious character to deliver objective, pluralistic and critical RVE (this is considered in more detail in paragraphs 563 – 612 of this chapter); and
- their belief that the Bill's provisions will place an additional burden on schools with a religious character to provide two RVE syllabi which has the potential to place them in conflict with their trust deeds and/or the tenets of their faith (also considered in more detail in paragraphs 563 – 612 of this chapter).⁴⁵⁴

⁴⁵⁴ See, for example, written evidence, CYPE Committee, CAW 45, 69, 92, 100, 113, 120, 125, 127, 132, 156, 162, 165, 172, 174, 177, 200, 207, 211, 216, 231, 232, 235.

525. The Children’s Commissioner put on record her “significant concerns” about the Bill’s RVE provisions, arguing:

“... they are not compliant with the UNCRC and are in fact a direct contradiction to it. This is because the provisions of this Bill mean that children in faith settings will not necessarily have access to a pluralistic education in line with human rights requirements under the UNCRC; second, because their parents can determine the RVE curriculum they experience.”⁴⁵⁵

526. The ASCL described RVE as “a knotty issue” but argued that the Bill’s provisions are an “enhancement” to the curriculum.⁴⁵⁶

527. The NAHT raised some concerns about how the provisions would be implemented in practice:

“... in allowing these almost two systems to run in tandem with each other, are we in danger of sending a mixed message, and does that kind of undermine the principles of the Bill itself on what it’s trying to achieve, which is to create and inform the young citizens of the world. [...] it’s going to cause difficulty when it comes to the delivery in those schools, and that is a concern for us.”⁴⁵⁷

528. As noted in chapter 6, a number of children and young people told us in our virtual round table discussion that, in their view, mandatory RSE and RVE were the “best features” of the new curriculum.⁴⁵⁸

529. Among the parents and carers with whom we spoke in our virtual round table discussions, there was support for the teaching of RVE. This was on the basis that they believed it was important for children and young people to have a broad understanding of all religions or belief systems, and felt this supports inclusivity.⁴⁵⁹

⁴⁵⁵ Additional information submitted by the CCfW following 8 October oral evidence session, CYPE Committee.

⁴⁵⁶ Oral evidence, CYPE Committee, RoP [para 96], 24 September 2020.

⁴⁵⁷ Oral evidence, CYPE Committee, RoP [para 100], 24 September 2020.

⁴⁵⁸ CYPE Committee, Evidence from virtual round table discussions with stakeholders, October 2020.

⁴⁵⁹ CYPE Committee, Evidence from virtual round table discussions with stakeholders, October 2020.

Right to withdraw

530. A number of concerns were raised in evidence about there being no right in the Bill for parents to withdraw their children from RVE.

531. The Catholic Education Service stated:

“The removal [of] the right of withdrawal is an erosion of parental rights and represents a regressive step in the trust and relationship between parents and the State, and parents and schools (...) The Welsh Government appears to have concluded in the consultation document that the rights of parents will be appropriately respected even if the right of withdrawal is removed, but in our view this cannot be the case.

This is likely to lead to an increase in unrest among parents, with unfortunate consequences of protests and increases in removal of children from school and greater home education.”⁴⁶⁰

532. The National Secular Society told us:

“There’s no doubt that this is, perhaps, the most difficult and controversial area of the proposals. I don’t think that anyone loves the right to withdraw; I think we all recognise that there are significant problems with it. It’s designed to protect children from proselytisation, but it can be used to shield children from knowledge about other religions and world views (...).”⁴⁶¹

533. The potential for litigation in light of there being no right to withdraw from RVE was raised by some respondents, including Anthony Towey, Professor and Director of the Aquinas Centre for Theological Literacy and member of the 2016-18 Commission on RE in England. He argued that the provisions “seem to trespass [on] the sensitive area of parental choice (...) any compromise or novelty in that area would infringe international protocols on human rights”.⁴⁶² The National Secular Society said:

“... simply ending the right to withdraw does open potential legal problems. It’s a standard, effectively, across Europe that, if education is genuinely critical, pluralistic, non-proselytising, that you don’t

⁴⁶⁰ Written evidence, CYPE Committee, CAW 225 – Catholic Education Service.

⁴⁶¹ Oral evidence, CYPE Committee, RoP [para 266], 15 October 2020.

⁴⁶² Written evidence, CYPE Committee, CAW 214 – Professor Anthony Towey.

necessarily need the right to withdraw (...) Parents who may have been reluctantly withdrawing their children from RE at school for years because of proselytisation, if they're suddenly told they can't withdraw, but there's this new option, and then that option isn't necessarily accessible or it's not that different, it's simply inevitable."⁴⁶³

534. Professor Alison Mawhinney, Professor of Human Rights Law, and Head of the Law School, Bangor University argued:

“This absence [of a parental right to withdraw from RVE] significantly risks causing the Welsh Government to be in breach of the Human Rights Act 1998 and the European Convention on Human Rights. A breach of the latter would invalidate the relevant provisions under the Government of Wales Act 2006 and the Wales Act 2017.

In order to respect parental religious and philosophical convictions in the education and teaching of their children, the European Convention on Human Rights (Article 2 Protocol 1, Right to Education) holds that the possibility of withdrawing from a class must exist unless the State Party can prove that the information being conveyed in that class is done so in a manner which is ‘objective, critical and pluralistic’.

The Welsh Government should only remove a right to withdraw (which had previously existed with respect to the former religious education subject) if it is absolutely confident that the content of all RVE classes, and the manner in which it is delivered, will, in every school in Wales, always result in information being delivered and conveyed in an ‘objective, critical and pluralistic’ manner.”⁴⁶⁴

535. Evidence from the Equality and Human Rights Commission stated:

“Provided that the new RVE curriculum ensures that RE is taught in an objective, critical and pluralistic manner, covers both religious and non-religious concepts, is human rights compliant and respects the rights of children and young people, then we welcome the ending of the right to withdrawal.

⁴⁶³ Oral evidence, CYPE Committee, RoP [para 268], 15 October 2020.

⁴⁶⁴ Written evidence, CYPE Committee, CAW 122 Professor Alison Mawhinney, Professor of Human Rights Law, Head of Law School, Bangor University.

In its response to the Commission on Religious Education, the Commission has previously argued, with regard to RE (in England), that it is important that any limitations on the right to withdrawal should be human rights compliant and should respect the rights of children and young people. We recognise that parental rights to choose how their children are educated are not absolute but expressed concern that making RE lessons compulsory for all with no right of withdrawal would seriously risk infringing those rights. Our position is different in response to this consultation because Welsh Government is proposing safeguards to make it explicit that teaching must be properly inclusive in all maintained schools. Our position is dependent upon Welsh Government safeguards being implemented.”⁴⁶⁵

536. The National Advisory Panel for Religious Education said that some of its members favoured a right to withdraw as a “safety net”, but explained that most members did not think it was needed in the Bill because “parents shouldn’t need to withdraw their children from objective, critical and pluralistic RE”.⁴⁶⁶ It argued, however, that professional learning and expert support would be needed “to make sure that the RE is what it should be”.⁴⁶⁷ Evidence relating to professional learning for RVE is discussed later in this chapter.

537. The Children’s Commissioner disagreed with the calls for the Bill to make provision for parents to have a right to withdraw their children, arguing that:

“Retaining legislation that allows parents to withdraw a young person from these subjects [RVE and RSE] denies children and young people their own rights.”⁴⁶⁸

538. Estyn representatives welcomed the fact that there is no right to withdraw in the Bill. They argued, however, that the Bill’s provisions ought to go further, and that the agreed syllabus should be mandatory for all, with denominational RVE “an additionality and supplementary on top of it”.⁴⁶⁹

⁴⁶⁵ Written evidence, CYPE Committee, CAW 184 – Equality and Human Rights Commission.

⁴⁶⁶ Oral evidence, CYPE Committee, RoP [paras 105-106], 15 October 2020.

⁴⁶⁷ Oral evidence, CYPE Committee, RoP [para 106], 15 October 2020.

⁴⁶⁸ Written evidence, CYPE Committee, CAW 97 – Children’s Commissioner for Wales.

⁴⁶⁹ Oral evidence, CYPE Committee, RoP [para 96], 17 September 2020.

Name change from RE to RVE

539. A number of respondents raised concerns about the change of name to Religion, Values and Ethics. These concerns ranged in nature.

540. On the one hand, a number of faith groups, schools of religious character, individual respondents, and SACREs were concerned that the name change could lead to the “dumbing down”⁴⁷⁰ of the subject. This view was summed up by the Welsh Association of Standing Advisory Councils on Religious Education (WASACRE) who argued:

“The new name for the subject (RVE) is misleading and unhelpful. It does not adequately describe the scope of the subject nor reflect the rigorous, academic nature of the subject.”⁴⁷¹

541. WASACRE’s representative argued that the name change “takes us backwards” on the basis that it “stops (...) values and ethics from being a whole-school responsibility”. WASACRE preferred “religion and world views”, arguing that it was a more appropriate name in the context of international RE developments:

“In the first consultation, Welsh Government got that wrong because they added an ‘s’ on the end of the word ‘religion’ and put ‘religions and world views’, which took away from the fact that religion as a concept was being taught rather than religions in silos, which we are trying to move away from. Religions are much more messy than teaching them in silos. So, for example, you could have someone being brought up with a Hindu mum and a Muslim dad, and their view is not straightforward. So I think to look at ‘religion and world views’, which the RE framework was headed towards when it was being written, is a much more suitable name.

In terms of the first consultation on the name change, if you ask the wrong question, you get the wrong answer, and I think that’s what’s happened here. They shouldn’t have put that ‘s’ on the name, and I think it would have been vastly supported by lots more people if that hadn’t have happened in the first place.”⁴⁷²

⁴⁷⁰ Written evidence, CYPE Committee, CAW 130 – Torfaen SACRE.

⁴⁷¹ Written evidence, CYPE Committee, CAW 163 – Welsh Association of Standing Advisory Councils on Religious Education.

⁴⁷² Oral evidence, CYPE Committee, RoP [paras 39-40], 15 October 2020.

542. The Religious Education Movement Wales elaborated on concerns about the inclusion of values and ethics in this mandatory element:

“Religion, values and ethics all have their place in the school curriculum. However, values and ethics should pervade all six areas of learning and experience, in a manner that the study of religion cannot. The consideration of religion in the wider context of values and ethics is a reasonable proposition, already embodied in Welsh agreed syllabuses. The replacement of religious education with an entity called ‘religion, values and ethics’ would be counterproductive in the quest for a genuinely pluralistic curriculum because it would inevitably lead to a further reduction in the already minimal religious content currently encountered by most pupils in Wales.”⁴⁷³

543. The National Advisory Panel for Religious Education highlighted concerns about the likely impact of what it described as “the broad and vague description of philosophical convictions”.⁴⁷⁴ A representative also warned:

“The other concern [about RVE as a name] is that it could be misinterpreted by teachers, parents and learners (...) without really extensive professional learning for RVE, teachers could really get that wrong in what they’re teaching, and that could have a huge effect on parents’ rights if they’re not allowed to withdraw.”⁴⁷⁵

544. On the other hand, the National Secular Society’s representative argued that the title “still frame(s) religion as the default, which is not necessarily appropriate”. He stated, however, that the Society was “happy to make do with ‘RVE’”, explaining that it “does reflect that that’s a new start”. He indicated that he hoped the change to RVE demonstrated a direction of travel for the subject that took it away from being an “advertising space for different world views” to one that takes “a critical overview of the whole area”.⁴⁷⁶

545. Humanists UK representatives stated that they were happy with the name change, giving the following reasons:

“... having a name change that signals the inclusion of non-religious world views as equal to religious views is really important. We originally

⁴⁷³ Written evidence, CYPE Committee, CAW 216 – Religious Education Movement Wales.

⁴⁷⁴ Written evidence, CYPE Committee, CAW 137 – National Advisory Panel for Religious Education.

⁴⁷⁵ Oral evidence, CYPE Committee, RoP [para 43], 15 October 2020.

⁴⁷⁶ Oral evidence, CYPE Committee, RoP [para 200], 15 October 2020.

supported ‘religions and world views’ as a name that would be representative of the subject, but we have no problem with RVE—religion, values and ethics—as the chosen name moving forward.

(...) ‘religious education’ sends a message that all you’re teaching about is religion. And for parents and pupils, particularly those who perhaps live a non-religious life, we want to make sure that they recognise that that subject is relevant to them as well—that it’s relevant to all of us. So, that inclusive language in the name, it might just be looked at as a name and that it is the content that matters, but actually the name signifies what’s happening in that subject. So, we are happy to change the name to ‘religion, values and ethics’, because it marks a really significant step in the right direction.”⁴⁷⁷

Relevant guidance and consultation

546. The Church in Wales emphasised the challenges posed by relevant RVE guidance not yet being available:

“... the issue that the RVE framework hasn’t yet been published makes this debate really very difficult, and I think that that is one of the issues that perhaps we need to think about, particularly when you set that alongside the lengthy list of philosophical convictions that are referenced in the European Convention on Human Rights.”⁴⁷⁸

547. This view was echoed by the National Advisory Panel for Religious Education’s representative, who described this as a “real concern”. She argued that the consultation on the guidance “needs to happen now” given the timescales for implementation.⁴⁷⁹ WASACRE’s representative agreed, emphasising that the process of creating the framework for RVE is “supposed to be a collaborative process” and that it is important that experts are involved in its drafting.⁴⁸⁰

548. The Catholic Education Service criticised the fact that the Bill was published before the draft guidance being published, and before the closure of the consultation on RVE:

⁴⁷⁷ Oral evidence, CYPE Committee, RoP [paras 194 and 199], 15 October 2020.

⁴⁷⁸ Oral evidence, CYPE Committee, RoP [para 57], 15 October 2020.

⁴⁷⁹ Oral evidence, CYPE Committee, RoP [para 166], 15 October 2020.

⁴⁸⁰ Oral evidence, CYPE Committee, RoP [para 168], 15 October 2020.

“(…) the Bill has been published before the distribution of draft statutory guidance for the implementation of the mandatory elements of the curriculum (…)

The Bill has been published prior to the closure of the consultation on RVE and takes no account of the concerns raised during the consultation and the worries expressed by the head teachers and governors of Church schools. (…)

The contents of the Bill have certainly not been ‘co-constructed’.”⁴⁸¹

549. A number of faith-based organisations acknowledged that the Bill—through the four purposes—will continue to give effect to the existing statutory duty contained in section 99 of the Education Act 2002, for the curriculum to promote the “the spiritual, moral, cultural, mental and physical development of the pupils and of society”. They called for explicit reference to this in guidance made under the Bill. The Church in Wales’s views reflected those of a number of SACREs⁴⁸² and the National Advisory Panel for Religious Education⁴⁸³ when it said:

“We support the retention of the “spiritual, moral, cultural, mental and physical development of pupils and preparing them for the opportunities, responsibilities and experiences of later life” in legislation and acknowledge that these are subsumed within the Four Purposes. However, it would be helpful if the retention of this were more clearly recognised in supporting documentation.”⁴⁸⁴

550. We note that the Bill repeals the duty in section 99 of the Education Act 2002 in relation to learners of compulsory school age in maintained schools and pupil referral units. Section 61 of the Bill and paragraph 25(4) of Schedule 2 to the Bill ensures that the duty continues to apply for those pupils above compulsory school age in maintained schools and pupil-referral units.

The Welsh Government’s response

551. When asked why the Bill does not include provision for parents to have a right to withdraw their children from RVE (and RSE), the Minister answered:

⁴⁸¹ Written evidence, CYPE Committee, CAW 225 – Catholic Education Service.

⁴⁸² Written evidence, CYPE Committee, CAW 130, 136, 142, 144, 154.

⁴⁸³ Oral evidence, CYPE Committee, RoP [para 27], 15 October 2020.

⁴⁸⁴ Written evidence, CYPE Committee, CAW 171 – Church in Wales.

“I don’t believe we can deliver the full purposes that are required in the law without ensuring that all children have access to those lessons. The purposes cannot be achieved if we allow children to be denied access to a full, broad and balanced curriculum.”⁴⁸⁵

552. The Minister’s official went on to explain:

“... what the Bill seeks to do is, in removing the right to withdraw, to ensure for all children in all schools there is a right to access the pluralistic agreed-syllabus RVE if that is what is wanted. But we do recognise that, for some parents, they will want to have the RVE provided in accordance with the faith of the schools, and that’s available if it’s wanted, but that’s a matter of parental preference.”⁴⁸⁶

553. When asked in correspondence whether she was satisfied that having no provision in the Bill for withdrawal from RVE is compatible with parents’ rights under A2P1 and A9 of the ECHR, the Minister confirmed that she was, on the basis that:

- the Bill’s provisions ensure that RVE is mandatory and that all children in all schools have access to pluralistic RVE;
- RVE must be designed and taught having regard to Welsh Ministers’ statutory guidance;
- the Bill endeavours to respect the state’s historical embracing of various faiths in the provision of education, and to balance parents’ existing right in the Welsh and indeed UK system to choose a religious education for their child with the recognition that it will not be appropriate for all pupils who attend such schools;
- the Bill, in light of the fact that the Welsh Government does not see a voluntary aided school with a religious character’s trust deeds (and the possibility that those schools are required by their trust deed to provide education in a particular way which may not be pluralistic), provides that if a parent does not want denominational RVE, they can require the school to provide the agreed syllabus RVE (this is considered in more detail in the next section of this chapter); and

⁴⁸⁵ Oral evidence, CYPE Committee, RoP [para 73], 14 July 2020.

⁴⁸⁶ Oral evidence, CYPE Committee, RoP [para 79], 14 July 2020.

- the Bill provides that if a parent in a foundation or voluntary controlled school of a religious character wishes their child to receive denominational RVE, that can be provided (this is considered in more detail in the next section of this chapter).⁴⁸⁷

554. In relation to the change of name from RE to RVE, the Minister stated:

“The purpose of the change in name is to reflect the expanded scope of religious education (RVE) and to ensure that it was clear from the legislation itself that the new subject should include non-religious views. That was done by linking the Bill provision to the term “philosophical convictions” in A2P1 (see section 62 of the Bill). In other words the RVE provided pursuant to the Bill must be compatible with A2P1 in that it must include teaching on non-religious philosophical convictions.”⁴⁸⁸

555. Responding to concerns about the availability of relevant guidance and the timing of any consultation on that, the Minister told us in correspondence that:

- a Supporting Framework for RVE which will be statutory guidance has been co-constructed with practitioners and RVE experts over the past 12 months;
- there will be consultation on the statutory framework for RVE “late in the year” (2020); and
- further guidance is also planned to support the curriculum design in schools with a religious character, and Welsh Government officials have been in discussion with both the Catholic Education Service and the Church in Wales to take forward development of guidance collaboratively.⁴⁸⁹

Our views and recommendations: mandatory status of RVE in the curriculum

556. As a Committee we are unanimous in our support for the inclusion of RVE as a mandatory element of the Bill. It is our view that this is necessary in order to build a tolerant, inclusive society, and—in particular—“to enable pupils and

⁴⁸⁷ Correspondence, Minister for Education to the CYPE Committee, 12 August 2020.

⁴⁸⁸ Correspondence, Minister for Education to the CYPE Committee, 12 August 2020.

⁴⁸⁹ Correspondence, Minister for Education to the CYPE Committee, 12 August 2020.

children to develop as ethical, informed citizens of Wales and the world”, one of the four purposes of the new curriculum listed on the face of the Bill.⁴⁹⁰

557. On this basis, we also agree that a change of name is needed to better reflect the broader aims attached to this mandatory element of the curriculum. We recognise that a name alone does not guarantee that content is inclusive of the breadth of religion(s) and world views that we believe our children and young people should be aware of, understand, and be able to consider critically. However, we think it is an important statement of intent and expectation. We note the discussion surrounding the most appropriate name, with suggestions including “Religion and World Views” and “Religions and World Views”, as well as the chosen “Religion, Values and Ethics”. We agree with some witnesses that values and ethics need to be reflected across the curriculum, but we have not received any evidence that convinces us that the Bill as drafted means they will be consigned to consideration within RVE alone.

558. As with the Bill’s RSE provisions, we have carefully considered the concerns that have been raised about the Bill not providing parents with a right to withdraw. While we recognise that the right to withdraw is often viewed as a safeguard for the protection of parents’ rights under A2P1 and A9 of the ECHR, as with RSE, not having a right to withdraw does not necessarily mean parents’ rights will be breached. What is important for the purposes of parents’ rights under the ECHR is that, in all schools, a parent can elect for their child to receive objective, critical and pluralistic RVE provision designed and implemented having regard to/in accordance with the agreed syllabus. Those parents who elect for their children to receive RVE based on the trust deed or faith/religious tenets of a school with a religious character will themselves be exercising their parental choice.

559. Again, as with RSE, in order to ensure that parents’ rights under the ECHR are—and continue to be—respected, it is essential that agreed syllabus RVE is both designed and implemented in a way that is objective, critical and pluralistic.

560. We are satisfied that there are sufficient safeguards in place to address any concerns that RVE provision may not be designed or delivered in an objective, critical and pluralistic manner. In her letter to us dated 12 August 2020, the Minister sets out a number of provisions in the Bill that are designed to ensure

⁴⁹⁰ Section 2(1) of the Bill.

pluralistic RVE.⁴⁹¹ We set out some existing additional safeguards we consider to be important below:

- **The Welsh Ministers' power to issue guidance under section 66 of the Bill in relation to the exercise of functions** – when issuing such guidance, the Welsh Ministers must act compatibly with ECHR.⁴⁹² Whilst SACRES and ASCs are not included in the list of persons who must have regard to the guidance,⁴⁹³ Schedule 2 to the Bill requires local authorities, SACRES and ASCs to have regard to guidance issued by Welsh Ministers when exercising their functions in relation to the agreed syllabus.⁴⁹⁴
- **Section 6 of the Human Rights Act 1998** – this requires local authorities to act compatibly with ECHR when adopting the agreed syllabus. It also requires head teachers and governing bodies to act compatibly with ECHR when designing their RVE provision and making provision for teaching and learning.
- **System of inspection** – Estyn has powers to inspect maintained schools. These include consideration of whether a school is acting unlawfully, including in relation to provision of RVE.
- **School Standards and Organisation (Wales) Act 2013** – local authorities and Welsh Ministers have powers under the Act to intervene in a school where a governing body or head teacher has failed, or is likely to fail, to comply with a duty under the Education Acts⁴⁹⁵ or has acted, or is proposing to act, unreasonably in the exercise of any of its or their functions under the Acts. The Welsh Ministers also have the power to intervene in the exercise by a local authority of its education functions on similar grounds.

⁴⁹¹ The Minister refers to the re-naming of RVE, the purpose of which she says is to reflect the expanded scope of RVE and to ensure that it was clear from the legislation itself that the new subject should include non-religious views. The Minister also refers to the changes the Bill makes to the constitution of Agreed Syllabus Conferences.

⁴⁹² Section 81 of the Government of Wales Act 2006.

⁴⁹³ Section 66(3) of the Bill.

⁴⁹⁴ Paragraphs 7, 10 and 26 of Schedule 2 to the Bill.

⁴⁹⁵ The “Education Acts” are certain Acts that are listed in the Education Act 1996. These Acts are defined together with the Education Act 1996 itself as being the “Education Acts”. Definitions and expressions used in the Education Act 1996 feed through into the other “Education Acts” unless there is express provision otherwise.

- **The investment in professional learning to prepare for the new curriculum.** This is considered further later in this chapter.

561. We are, however, disappointed that—given the central importance of the guidance on RVE—its content is not available at this stage in our scrutiny. We believe that the availability of the guidance could have alleviated many of the concerns drawn to our attention, and assisted significantly with some of the issues highlighted in the next section of this chapter, which deals with RVE syllabi.

Recommendation 25. That the Welsh Government, to inform schools’ important work to prepare for the Bill’s commencement and Members’ tabling and consideration of amendments, make available before the start of Stage 3, the draft RVE guidance.

562. We recognise that the right to respect for religious and philosophical convictions under A2P1 is framed in terms of the rights of parents, and not children. However, we are concerned that the way in which the RVE provisions are drafted will mean that there is no guarantee that all children will *receive* objective, critical and pluralistic RVE. Although the Bill as drafted may be compatible with parents’ rights under ECHR, we are concerned about the impact that this may have on children’s rights. This is considered further in paragraphs 604 – 612 of this chapter.

RVE syllabi

Position in the Bill and wider background

563. Schedule 1 to the Bill provides the detail concerning the design and implementation of mandatory RVE for those of compulsory school age.

564. Agreed Syllabus Conferences (ASCs) will be—as they are now—responsible for drawing up an agreed syllabus for RVE which all schools will have access to. Schedule 1 to the Bill outlines how schools will be required to treat that agreed syllabus, and the nature of the RVE pupils will receive. As noted earlier in this chapter, this differs according to the type of school they attend.

565. As also noted earlier, the Bill amends the existing definition of “agreed syllabus” in section 375 of the Education Act 1996 so that it is clear that the syllabus must reflect “non-religious philosophical convictions” (within the meaning of A2P1) in addition to the main religions “represented in Great Britain”.

Stakeholders' evidence

566. How schools will be required to treat the agreed syllabus, and the nature of the RVE pupils should receive depending on the category of their school, was one of the most contentious issues among those who gave evidence to our Stage 1 scrutiny.

567. The vast majority of faith-based schools and faith-based organisations who gave us evidence objected to the Bill's provisions as they relate to RVE, especially the treatment of voluntary aided schools. This was on the basis that they believe:

- the Bill's provisions are based on an incorrect assertion that their provision of RE is not already objective, critical and pluralistic;
- the Bill could lead to schools with a religious character having to provide two RVE syllabi, which they believe is likely to place a significant additional burden on them and put them either in conflict with charity law (if provision does not comply with their trust deeds/the tenets of their faith) or education law (if provision does not comply with the agreed syllabus); and
- the Bill treats schools with a religious character differently to other schools, which they believe implies a lack of trust in them.

568. The Children's Commissioner also opposed the RVE provisions as currently drafted, but on very different grounds. In her view, Schedule 1 "is not consistent with the human rights of children and young people" to:

- take part in decision making which will affect their life (article 12 of the UNCRC) – she argues parents can determine what type of RVE their child receives, which would "effectively deny access to the full curriculum to some children";
- a holistic education that promotes understanding among all peoples, ethnic, national and religious groups and persons of indigenous origin (article 29 of the UNCRC) – she argues learners in settings of a religious character "do not necessarily have access to a pluralistic education".⁴⁹⁶

569. The Children's Commissioner recorded her "strong disagreement" with the Bill's arrangements for schools with a religious character, stating:

⁴⁹⁶ Written evidence, CYPE Committee, CAW 97 – Children's Commissioner for Wales.

“... this is an attempted compromise that does not uphold the rights of children as a primary consideration. It sets out that the parent’s view takes primacy if there is a difference of opinion between the child and the parent, and it also denies a child access to a pluralistic education.”⁴⁹⁷

570. The Wales Humanists told us that the provision made in the Bill for RVE was not ideal in their view because it did not make the agreed syllabus compulsory in all schools. They accepted, however, that short of that being the case, they supported the Bill as drafted:

“... the ideal state of affairs with respect to the introduction of the new, inclusive RVE curriculum would be for it to be compulsory in all schools irrespective of their religious character [...] However, short of that, we support the proposal to require that voluntary aided schools teach RVE according to the agreed syllabus when parents demand it. Legally speaking, the Government’s decision to abolish the parental right to withdraw from RVE across all schools, including faith schools, necessitates that the law is amended to ensure that the freedom of religion or belief of families whose beliefs do not cohere with the religion of the school is protected through the offer of such an alternative. For this reason, as set out in the Bill, schools should not be able to refuse this when requested.”⁴⁹⁸

“Objective, critical and pluralistic” provision

571. Faith group representatives emphasised that provision of RE in schools with a religious character was already required to be—and provided as—objective, critical and pluralistic teaching. This was summarised by the Church in Wales, who explained:

“... we don’t believe that there is a problem, and we feel that this whole piece of legislation has been predicated on the belief that there is actually a problem, and that the delivery of religious education in schools with a religious character is not pluralistic. We see terminology such as a lack of pluralism means indoctrination, and that sort of link is actually really quite offensive in many ways. But we don’t feel that religious education in schools of a religious character is anything other

⁴⁹⁷ Written evidence, CYPE Committee, CAW 97 – Children’s Commissioner for Wales.

⁴⁹⁸ Written evidence, CYPE Committee, CAW 176 – Wales Humanists.

than pluralistic. That's the law, and we certainly have had no references that that is being broken in any of our schools in that respect."⁴⁹⁹

572. This view was not held by all stakeholders. Humanists UK argued:

"The ideal situation would be for all children in all schools to be receiving this critical, objective and pluralistic RVE curriculum in line with their locally agreed syllabus. (...) [that] isn't currently on the table, because we are going to allow faith schools to continue with a faith-based version of the subject, which they try to argue is already critical, objective and pluralistic, but it just isn't the case. That's a very high bar to satisfy in law. In law, critical, objective and pluralistic—you can't have that objective part if you are teaching from a particular faith perspective. No matter how much you want to try and bolt on other religions or world views into your curriculum, you're coming at it from a particular stance, and you won't meet that standard in the law—it just can't meet it. It's substantively different; it's qualitatively different religious education."⁵⁰⁰

573. A representative of the Catholic Education Service told us:

"Catholic school RE curricula already meet the legally required "objective, critical and pluralistic" standard. However, an assumption that this means it would thereby necessarily share a basic core with other non-denominational curricula is erroneous. It would be a failure to recognise that there are several different ways a curriculum could meet these requirements."⁵⁰¹

574. Both the Catholic Education Service and the Church in Wales outlined that religious education in a school with a religious character is "not simply one of many subjects that form the curriculum, it is fundamental to the values and ethos of the whole school".⁵⁰² The Catholic Education Service argued that in light of this, the suggestion that it would be relatively unproblematic to require schools with a religious character to have a curriculum that is in accordance with both its trust deeds/tenets of the faith and the agreed syllabus was a "naïve assumption" that

⁴⁹⁹ Oral evidence, CYPE Committee, RoP [para 50], 15 October 2020.

⁵⁰⁰ Oral evidence, CYPE Committee, RoP [para 225], 15 October 2020.

⁵⁰¹ Additional information submitted by the Catholic Education Service following 15 October 2020 oral evidence session, CYPE Committee.

⁵⁰² Additional information submitted by the Church in Wales following 15 October 2020 oral evidence session, CYPE Committee.

“shows a lack of understanding” of the difference between the curricula of schools with a religious character and the agreed syllabus equivalents.⁵⁰³ On this basis, it concluded:

“... it is possible, and indeed likely, that the agreed syllabus and the syllabus used in a Church school will be very different in practice even if both meet the objective, critical and pluralistic requirement. Therefore, any requirement to produce an additional curriculum on top of a Church school RE curriculum would be an onerous and unreasonable additional burden on Church school.”⁵⁰⁴

575. We asked the Children’s Commissioner for Wales how pluralistic she believes current provision of religious education in Wales is, and how pluralistic denominational RVE under the new curriculum is likely to be. She responded that the Bill as drafted enables some schools to have a default RVE curriculum which does not need to pay regard to the agreed syllabus (and other schools to offer a curriculum in line with the trust deeds or tenets of the faith if a parent so required) and argued that such provision “is therefore not necessarily pluralistic”.⁵⁰⁵

The potential impact of more than one syllabus

576. The Bible Society described the requirement to provide the agreed syllabus if requested by a parent, in addition to denominational RVE for other learners, as “highly onerous” with “serious implications for teacher workload”.⁵⁰⁶ WASACRE agreed, adding that the budgetary impact of more than one syllabus would be significant.⁵⁰⁷

577. The Church in Wales and Catholic Education Service listed a number of resource burdens they believe will arise as a consequence of the Bill’s RVE provisions, including:

- the need for time and resource for additional curriculum development;

⁵⁰³ Additional information submitted by the Catholic Education Service following 15 October 2020 oral evidence session, CYPE Committee.

⁵⁰⁴ Additional information submitted by the Catholic Education Service following 15 October 2020 oral evidence session, CYPE Committee.

⁵⁰⁵ Additional information submitted by the Children’s Commissioner for Wales following 8 October 2020 oral evidence session, CYPE Committee.

⁵⁰⁶ Written evidence, CYPE Committee, CAW 43 – Bible Society.

⁵⁰⁷ Written evidence, CYPE Committee, CAW 163 – Welsh Association of Standing Advisory Councils on Religious Education.

- professional development to prepare teachers to deliver two syllabi;
- additional capacity to deliver two syllabi, including staff and timetable time, classroom space and resources (or the potential work to arrange provision with another school if numbers are low/trust deeds do not allow the agreed syllabus to be delivered); and
- professional support for the delivery of non-denominational RVE.⁵⁰⁸

578. The Church in Wales emphasised that assessing the likely impact of the potential need to provide more than one syllabus was even more challenging without sight of the RVE framework:

“Currently the national Religion, Values and Ethics Framework has not been published for consultation, so it is impossible to know whether the additional syllabus, which voluntary aided schools may be required to follow, will be in breach of the Trust Deed. Even when the national framework is published, there is the potential for significant variation between the twenty two locally agreed syllabii (sic) and therefore the potential for significant variation in terms of what schools are expected to deliver.”⁵⁰⁹

579. The Catholic Education Service argued that the arrangements for more than one syllabus were possibly discriminatory due to the different impact on schools with a religious character:

“... as it is only Church schools that would be required to take on such an additional burden it is also contrary to the demand of natural justice, and possibly discriminatory.”⁵¹⁰

580. The Children’s Commissioner opposed the syllabus arrangements on two fronts:

- first, on the grounds of human rights:

⁵⁰⁸ Additional information submitted by the Church in Wales and Catholic Education Service following 15 October 2020 oral evidence session, CYPE Committee.

⁵⁰⁹ Additional information submitted by the Church in Wales following 15 October 2020 oral evidence session, CYPE Committee.

⁵¹⁰ Additional information submitted by the Catholic Education Service following 15 October 2020 oral evidence session, CYPE Committee.

“Under the current Bill, not all children will have their right to a broad education about different faiths and different ethics and different beliefs, because there are exemptions built in for faith schools. And this is about what they learn in the classroom about those things; it’s not about the overall religious nature of the school, which would be untouched, as would collective worship, as would the ethics and values of the school. What’s important is that every child, no matter what, has the same opportunity to learn broadly about the faith and values and ethics of everyone, and that’s really important for equality, and it’s really important for non-discrimination. We mustn’t allow any child to be opted out of that very broad learning if we want to have an equal society here in Wales.”⁵¹¹

- secondly, on the grounds of practicality:

“There are also significant practical implications of this approach (particularly in an integrated curriculum) and it is unclear how schools would manage this with timetabling and staffing. As such this appears to be unworkable as a proposed solution.”⁵¹²

581. Some respondents to our written consultation, including Estyn and Professor Russell Sandberg, Professor of Law at Cardiff University, argued that the agreed syllabus should be available in all schools, regardless of their category, with denominational RVE being supplementary if it was wanted.⁵¹³ The National Secular Society agreed, explaining:

“We deeply regret that by permitting faith schools to continue to use the subject to promote their particular religious outlook through the denominational syllabus, many pupils in Wales will continue to be denied access to genuinely non-partisan and balanced education about the full range of religious and non-religious worldviews. We believe this should be the right of every child, irrespective of the type of school they attend. If the ambition is for every child to have universal entitlement to a broad and balanced curriculum, we believe implementing a duty on all schools to teach an objective, critical, and pluralistic RVE syllabus, without exception, must be the starting point.

⁵¹¹ Oral evidence, CYPE Committee, RoP [para 57], 8 October 2020.

⁵¹² Written evidence, CYPE Committee, CAW 97 – Children’s Commissioner for Wales.

⁵¹³ Written evidence, CYPE Committee, CAW 5 – Professor Russell Sandberg, School of Law and Politics, Cardiff University and CAW 20 – Estyn.

We therefore urge you to extend the duty to teach pluralistic RVE in accordance with the agreed syllabus too (sic) all schools, regardless of religious designations.”⁵¹⁴

582. Humanists UK called for “total transparency” about the availability of the agreed syllabus to learners in voluntary aided schools. It argued that parents should be given a “full explanation”, on a regular basis, of their rights in respect of the curriculum they can request for their child.⁵¹⁵ Both the Church in Wales and Catholic Education Service objected to this, arguing that it demonstrated what they perceived to be a lack of trust in in teachers and leaders in schools with a religious character.⁵¹⁶

The agreed syllabus: “accords with” and “having regard to”

583. Most faith organisations and schools with a religious character who gave evidence, and a number of individual respondents, were concerned that the requirement on voluntary aided schools to provide RVE that “accords with” the agreed syllabus if requested by a parent means:

- voluntary aided schools are being treated differently—and in their view unequally—to voluntary controlled and community schools (who are in turn required to provide RVE “having regard to” the agreed syllabus); and
- religious schools may either be in conflict with their trust deeds/the tenets of their faith (if they design and deliver the agreed syllabus), or the agreed syllabus (if they deliver RVE that accords with their trust deeds/the tenets of their faith).

584. The Catholic Education Service told us:

“The Bill currently proposes (uniquely for VA schools) to require an alternative curriculum to be *in accordance with* the agreed syllabus. The effect of this is that, if any agreed syllabus is incompatible, in any detail, with the Trust Deed of the school, it places school leaders in the impossible position of choosing whether to break the law by not complying with the agreed syllabus, or to break the law by not complying with the school’s Trust Deed. In addition, if it chose the former, the school would have to find alternative premises on which to

⁵¹⁴ Written evidence, CYPE Committee, CAW 50 – National Secular Society.

⁵¹⁵ Oral evidence, CYPE Committee, RoP [para 242], 15 October 2020.

⁵¹⁶ Oral evidence, CYPE Committee, RoP [paras 77 and 108], 15 October 2020.

deliver the alternative curriculum, as it could not take place on school premises. No responsible legislature would put school leaders in such an impossible position.”⁵¹⁷

585. When asked if the conflict between the agreed syllabus and trust deeds was a likely eventuality, the Catholic Education Service responded:

“Because of the number of different agreed syllabi, and the different wording to be found in individual school Trust Deeds, it is impossible to give a general answer to this question at the present time but (...) it is at least foreseeable, if not likely, that there will be incompatibility between those two legal requirements. This possibility is made almost certain by the proposals in the Bill to make fundamental changes to the composition of the bodies responsible for the agreed syllabi.”⁵¹⁸

(The composition of bodies responsible for agreed syllabi is discussed in more detail later in this chapter.)

586. WASACRE representatives said that they had “noticed the inequity in the language in terms of ‘in accordance to’ and ‘with regard to’” and Dr Louise Brown, a SACRE member, argued that these provisions mean some schools with a religious character will be expected to follow the agreed syllabus “even more rigorously than maintained state schools as it has to be in accordance with the RVE agreed syllabus rather than have regard to it”.⁵¹⁹

587. Dr Brown went on to point out that while voluntary aided schools are required by the Bill to deliver the agreed syllabus if requested by a parent, no equivalent requirement is provided to deliver denominational RVE for a child attending a non-religious schools if a parent requests it:

“... there is no requirement for State schools to have to provide a denominational education for parents who request it for a child. They only have to design and implement one RVE agreed syllabus curriculum.”⁵²⁰

⁵¹⁷ Additional information submitted by the Catholic Education Service following 15 October 2020 oral evidence session, CYPE Committee.

⁵¹⁸ Additional information submitted by the Catholic Education Service following 15 October 2020 oral evidence session, CYPE Committee.

⁵¹⁹ Written evidence, CYPE Committee, CAW 162 – Dr Louise Brown, SACRE member.

⁵²⁰ Written evidence, CYPE Committee, CAW 162 – Dr Louise Brown, SACRE member.

588. The Catholic Education Service reiterated this point, arguing that the provisions amounted to the “different” and “detrimental” treatment of schools with a religious character:

“The proposed legislation treats schools with a religious character in a different way to schools without a religious character. It discriminates unfairly against such schools, and against families of faith who want their children educated in conformity with their own religious and philosophical convictions. Essentially a child of faith in a school without a religious character may not be able to access RE which is in conformity with their religious beliefs. However, a child from a family without the religious belief of the school they are attending will be able to access alternative RE which is in accordance with the agreed syllabus. There is no rationale as to why different (and detrimental) treatment of those of faith is justified.”⁵²¹

589. The Catholic Education Service argued that amending Schedule 1 to the Bill, to require voluntary aided schools to deliver RVE *having regard to* rather than to *accord with*, would be helpful. It argued this on the basis that it believes such an amendment “will ensure that any possibility of a conflict with the school’s Trust Deed will be eliminated”. It went on to say:

“If this change were made, then it would respect the integrity of the Church school starting point and would invert the misunderstanding that there is a common core to which Church schools add denominational tassels. A legal requirement not to follow the agreed syllabus deriving from the school’s Trust Deed would constitute a good reason, thus meaning that the possibility of a conflict between a school’s Trust Deed and the agreed syllabus would be entirely eliminated. Such a change would also allow us to demonstrate the ways in which the Catholic RE curriculum already meets the objectives of the agreed syllabus and to modify it where it does not. This would allow a genuine pluralism to flourish in Wales, since it would recognise the distinctiveness of the different contexts in which Religious Education happens and does not presume to impose approaches that

⁵²¹ Written evidence, CYPE Committee, CAW 225 – Catholic Education Service.

would be alien to the religious traditions of particular Welsh schools and communities.”⁵²²

The agreed syllabus: references to “Great Britain”

590. A number of written responses from SACREs questioned the drafting of amendments to the Education Act 1996 in Schedule 2 to the Bill (as well as the reference in section 62 in relation to arrangements for post-compulsory school age learners), which requires teaching and learning of RVE for compulsory school age pupils to

- “... reflect the fact that the religious traditions in Great Britain are mainly Christian, while taking account of the teaching and practices of the other principal religions represented in Great Britain”; and
- “... reflect the fact that a range of non-religious philosophical convictions are held in Great Britain”.

591. The National Advisory Panel for Religious Education summarised these views as follows:

“The panel has questioned whether this should be ‘Wales’ rather than ‘Great Britain’ in order to better reflect the new curriculum approach? If not ‘Wales’, then perhaps ‘United Kingdom’ would be more appropriate (if historically accurate and not problematic), as ‘Great Britain’ sounds very colonial. This whole section should be future proofed to take account of the evolving nature of religion and worldviews in Wales and the wider world, so that this legislation is not outdated from the outset.”⁵²³

592. Professor Russell Sandberg, Professor of Law at Cardiff University’s School of Law and Politics, warned that retaining the reference to the religious traditions of Great Britain being mainly Christian “is likely to encourage both a Christian bias and a conservative approach” to RVE. On this basis, he said “it would be advisable to enshrine the pluralistic requirement in legislation”.⁵²⁴

⁵²² Additional information submitted by the Catholic Education Service following 15 October 2020 oral evidence session, CYPE Committee.

⁵²³ Written evidence, CYPE Committee, CAW 137 – National Advisory Panel for Religious Education.

⁵²⁴ Written evidence, CYPE Committee, CAW 5 – Professor Russell Sandberg, School of Law and Politics, Cardiff University.

The Welsh Government response

593. When asked why the Bill does not place a requirement on all schools to design and teach RVE having regard to the agreed syllabus, the Minister responded:

“We could ensure the provisions of pluralistic RVE by one of two ways. Both would ensure the proposed legislative framework and guidance would be compatible with the rights protected by the Human Rights Act 1998. The first way would be to impose a new obligation on all schools to teach RE in a pluralistic manner. This approach would remove all other restrictions and would force all schools to change the way they teach (assuming any change was necessary). It would also have primacy over any provision set out in their trust deeds. This would have an impact on the ability of voluntary aided schools with a religious character to teach RVE in accordance with their trust deeds or in accordance with their denomination. The scale of that impact would vary depending on the specific provision contained in the school’s trust deed and the approach currently adopted in the school. The Bill does not pursue this requirement because it would have significant implications for schools of religious character. The other approach is that contained in the Bill itself which we consider is an appropriate response to the issues and compatible with Convention rights.”⁵²⁵

594. The Minister did not agree with the Children’s Commissioner’s view that the provisions of Schedule 1 are a compromise:

“... it’s not a compromise; it is about trying to give effect to the recommendations, first of all, that religion, values and ethics are an important part of the curriculum. It recognises the importance of religion, but also recognises that other people have philosophical convictions that also need an opportunity for children and young people to engage in.

We recognise the important role of schools of a religious character to our education system and the contribution that they make, and we want to be able to continue to allow them very explicitly to deliver RVE in perfect harmony with the tenets of their particular faith. (...) It may be a common belief that any learner in a school of a religious character is

⁵²⁵ Correspondence, Minister for Education to the CYPE Committee, 12 August 2020.

there to receive denominational education, but that's not always the case. Therefore, given the fact that we are removing the right to withdraw children from RVE, we need to ensure that there are arrangements in place for all pupils to have access to pluralistic RVE if that is what they or their parents or carers desire. So, what we're trying to do here is give effect to an important aspect of the curriculum whilst recognising the important role of schools of a religious character, but also protecting children's rights and human rights to have pluralistic RVE education, if they want."⁵²⁶

595. In response to concerns about conflict between trust deeds and the agreed syllabus, the Minister said:

- it is not a requirement for the Welsh Government to review the trust deeds of each school and cannot, therefore, be sure that they are pluralistic;
- case law and the ECHR requires that pluralistic education must be available to all learners, therefore the Bill provides parents “with the right to choose pluralistic religious education for their child including those who attend schools with a religious character”; and
- “the Bill ensures compatibility with Convention rights while ensuring schools with a religious character can continue to teach religious education in accordance with their denominational ethos”.⁵²⁷

596. In relation to the possibility of religious schools having to provide more than one syllabus, the Minister stated that “the Bill makes provision which requires that “additional provision” is made that accords with the agreed syllabus in circumstances where the denominational syllabus does not accord with the agreed syllabus”. She added:

“We recognise these changes will have an impact on schools of a religious character, although we understand that the number of parents who previously withdrew their child from RVE was negligible our expectation is that this will be mirrored with this proposal.

SACRES in each local authority support schools in the delivery of agreed syllabus RVE. And schools can consider how they could

⁵²⁶ Oral evidence, CYPE Committee, RoP [paras 97-98], 21 October 2020.

⁵²⁷ Correspondence, Minister for Education to the CYPE Committee, 5 November 2020.

collaborate with other schools in the provision of RVE. The supporting draft framework for RVE will provide guidance for all schools in applying an agreed syllabus when designing their curriculum.

My officials continue to work closely with the Catholic Education Service and the Church in Wales, on the implementation of the bill, and funding has been allocated to allow them to develop further guidance to support denominational RVE in schools.”⁵²⁸

597. We also asked why the position is different for voluntary controlled schools, who are required to design and deliver RVE having *regard* to the agreed syllabus, and voluntary aided schools, who are required to design and deliver RVE that *accords with* the agreed syllabus if it is requested by a parent. The Minister stated that the duty for voluntary aided schools:

“... is consistent with the duty for these schools to deliver RVE in accordance with their trust deeds (...). A duty to have regard to an agreed syllabus provides a degree of flexibility for voluntary controlled schools in their application of an agreed syllabus. This is not the approach taken for voluntary aided schools, the intention is to make their requirement for delivering the agreed syllabus consistent with that as the RVE in accordance with their trust deeds.”⁵²⁹

598. When asked in writing why, given that this is a bespoke curriculum for Wales, the Bill refers to the religious traditions and non-religious philosophical convictions in “Great Britain” rather than “Wales”, the Minister responded:

“The provision made in the Bill in this regard is consistent with current provision on the agreed syllabus arrangements in the Education Act 1996 which references Great Britain. I have asked my officials to consider whether this is something which could be revisited for government amendments at Stage 2.”⁵³⁰

Our views and recommendations: RVE syllabi

599. We note the Minister’s acknowledgement that there are different ways in which the Welsh Government could have legislated in relation to RVE, but that the Bill has adopted an approach that seeks to respect the historical position of

⁵²⁸ Correspondence, Minister for Education to the CYPE Committee, 5 November 2020.

⁵²⁹ Correspondence, Minister for Education to the CYPE Committee, 5 November 2020.

⁵³⁰ Correspondence, Minister for Education to the CYPE Committee, 5 November 2020.

schools of a religious character whilst ensuring—in the absence of a right to withdraw—that all parents, if they so choose, can require that their children receive RVE which has been designed having regard to the agreed syllabus (which must be objective, pluralistic and critical).

600. We further note the point made by those representing schools of a religious character that the religious education they provide is already required, as a result of existing case-law,⁵³¹ to be objective, critical and pluralistic. Nevertheless, given that the Bill does not make provision for a right to withdraw, and it is not possible to know whether the trust deeds in particular will allow for a fully objective, critical and pluralistic curriculum to be provided in relation to RVE, we consider that—as a minimum—the ability for parents to require that their child receives agreed syllabus RVE is a necessary safeguard.

The potential impact of more than one syllabus

601. We have listened carefully to the concerns about the different arrangements for schools of a religious character, and the practical challenges the provision of more than one syllabus may cause them. We note, however, that under current arrangements, schools of a religious character can already be required (in some circumstances)⁵³² to provide more than one type of religious education. We further note the evidence presented from faith group and faith school representatives which emphasised the religious education they provide is already objective, pluralistic and critical, and that few parents withdraw their children from this provision. Based on this, we remain to be convinced that the practical impact of these provisions will be as significant as feared by some.

The agreed syllabus: “accords with” and “having regard to”

602. In view of the different wording used in Schedule 1 to the Bill about how different categories of school are required to take account of the agreed syllabus in their design of their curriculum (see paragraph 514, and 583 – 589 of this chapter), the Catholic Education Service argued for a change to the Bill. They argued that it would be more equitable if voluntary aided schools are required to design their curriculum *having regard to* the agreed syllabus, as opposed to being required—as currently drafted in the Bill—to design a curriculum that *accords with* the agreed syllabus.

⁵³¹ Considered further in chapter 1.

⁵³² See paragraphs 505-506 of this chapter.

603. We have listened carefully to this call. While we understand the concerns, we note that the approach adopted by the Welsh Government has been taken to ensure the legislation is compatible with ECHR. As such, we are mindful that any changes could lead to unintended consequences. With this in mind, we ask that the Minister further explores—and clarifies during the Stage 1 debate—whether it would be possible to amend Schedule 1 to the Bill so that there is consistency between how the different categories of school take account of the agreed syllabus when designing and implementing the mandatory element of RVE in the school curriculum.

Recommendation 26. That the Welsh Government further explore and clarify during the Stage 1 debate whether it would be possible to amend Schedule 1 to the Bill so that there is consistency between how the different categories of school take account of the agreed syllabus when designing and implementing the mandatory element of RVE in the school curriculum.

Children’s rights

604. As we explained in paragraph 550 above, whilst we recognise that A2P1 is framed in terms of parents’ rights to respect for their religious and philosophical convictions, rather than children’s rights, as a Committee we are always concerned to ensure that the rights of children are further realised and respected.

605. Concerns have been raised with us that differences of opinion might occur between parents and their children. In a voluntary aided school, this could mean that learners of sufficient maturity who wish to receive agreed syllabus RVE are unable to do so if their parents disagree. We are also concerned that whilst all learners have access to agreed syllabus RVE, not all learners will necessarily receive agreed syllabus RVE. There is a risk that this could undermine some of the ambitions for RVE as set out in the Explanatory Memorandum.

606. Whilst provision for those pupils above compulsory school age is dealt with in Chapter 9, we are pleased that the Bill has removed the requirement that pupils above compulsory school age *must* receive RE. Section 62 of the Bill instead requires maintained schools to provide RVE where a pupil above compulsory school age has requested it. This makes provision of RVE for learners in schools consistent with the arrangements for learners in further education institutions.

607. We note the disappointment expressed by some witnesses, particularly the Children’s Commissioner, that there are some aspects of the Bill where children’s rights may not be fully realised.

608. This Committee has consistently held the Welsh Government to account in relation to:

- its duties to deliver on children’s rights;
- its duties to have due regard to the United Nations Convention on the Rights of the Child (UNCRC); and
- its responsibilities under the Rights of the Child and Young Persons (Wales) Measure.

609. The issues raised in respect of RVE are complex and we are mindful that this Bill forms part of a suite of legislation referred to as the “Education Acts” which concern school education. As we concluded in paragraph 603 above, we have been careful in our consideration of this Bill to be aware of unintended consequences any changes to its provisions may have. Whilst enabling learners of sufficient maturity to decide which type of RVE they receive in schools with a religious character may seem, in one way, to further realise children’s rights, there could be potential unintended consequences of making such a change in isolation. For example, if the child’s parents disagree, they could exercise their right to home school their child, or move them to another school.

610. In the absence of evidence of the practical effect of such a change, and any explanation as to why the Bill does not include such a right, it is difficult for us to come to a view on whether the Bill should be amended to allow learners of sufficient maturity—in voluntary aided and voluntary controlled schools—to have the right to choose the RVE with which they are provided. We therefore ask that the Minister clarifies during the Stage 1 debate why the Bill does not provide such a right for learners of sufficient maturity.

Recommendation 27. That the Welsh Government clarify, during the Stage 1 debate, why the Bill does not include a right for learners of sufficient maturity to choose the RVE provision they receive where a choice exists.

611. We have also considered if children’s rights could be further realised by requiring all schools to provide agreed syllabus RVE, either on its own or supplemented by denominational RVE. However, we recognise that this could exacerbate the tensions that various witnesses have raised with us concerning breaches of trust deeds. Again, it is difficult for us to come to a view on this issue as we are not party to schools’ individual trust deeds and cannot be certain what will be included in the agreed syllabi. We note that Schedule 1 to the Bill is drafted on the basis that it is possible, at least, that voluntary controlled and voluntary

aided schools can prepare one syllabus that complies with both the requirements for denominational RVE and any agreed syllabus.

612. With the above in mind, we ask that the Minister further explores, in consultation with the Children’s Commissioner for Wales and in advance of the Stage 1 debate, the options available to maximise the opportunities to further realise children’s rights in relation to the Bill’s provision for the mandatory element of RVE.

Recommendation 28. That the Welsh Government further explore, in consultation with the Children’s Commissioner for Wales, the options available to maximise the opportunities to further realise the rights of children in relation to the Bill’s provision for the mandatory element of RVE, providing an update on this during the Stage 1 debate.

The agreed syllabus: references to “Great Britain”

613. We note the evidence we received querying why the Bill refers to religious traditions and non-religious philosophical convictions in “Great Britain” rather than “Wales”, given that this is a bespoke curriculum for Wales. We welcome the Minister’s confirmation that she has asked officials to consider whether this is something which could be revisited for government amendments at Stage 2.

Recommendation 29. That the Welsh Government explore options to amend the Bill to refer to religious traditions and non-religious philosophical convictions in “Wales” as opposed to “Great Britain”, given that this is a bespoke curriculum for Wales.

The constitution and function of Agreed Syllabus Conferences (ASCs)

614. All local authorities are currently required to constitute a SACRE within their local area. Their purpose is to advise the local authority on matters related to religious education and collective worship in maintained schools. Their duties include assembling an Agreed Syllabus Conference (ASC) to monitor the provision and quality of religious education taught according to the agreed syllabus.

Position in the Bill and wider background

615. Schedule 2 to the Bill amends the provisions in the Education Act 1996 which deal with the constitution and functions of ASCs. The Bill will mean that local authorities will be required “to include in their ASCs, a group of persons to

represent such non-religious philosophical convictions as, in the opinion of the authority, ought to be represent[ed]”.⁵³³

616. The Explanatory Memorandum explains:

- the appointment of people to represent non-religious philosophical convictions is not mandatory; rather, it is a matter for a local authority to decide if it is appropriate in order to reflect the relevant traditions of the local area; and
- the Bill removes “Religious Education” after Standing Advisory Council (with SACRE becoming SAC) because in Wales they will advise on RVE, whilst in England they will continue to advise on religious education.⁵³⁴

617. In developing the curriculum, ASCs will also need to have regard to Welsh Government guidance⁵³⁵, which the Minister will be consulting on in late 2020⁵³⁶.

Stakeholders’ evidence

618. Evidence we received on this aspect of the Bill came largely from SACREs, faith groups, non-faith groups and individuals.

619. Written responses from WASACRE, a number of individual SACREs, Cytun, and the Church in Wales raised one or more of the following concerns:

- that the re-naming (from SACRE to SAC) leads to a loss of clarity on what they exist to advise on;
- that the addition of a new group for those who hold non-religious philosophical convictions, with possible voting rights, could cause conflict, particularly in cases where they represent a minority in the local community. While attempting to be equitable, this may have an unintended impact on the rights of representation for other religions and their denominations; and

⁵³³ Correspondence, Minister for Education to the CYPE Committee, 12 August 2020.

⁵³⁴ Welsh Government, Explanatory Memorandum, paras 3.99-3.100.

⁵³⁵ Welsh Government, Explanatory Memorandum, para 3.101.

⁵³⁶ Correspondence, Minister for Education to the CYPE Committee, 12 August 2020.

- requiring ASCs to have regard to Welsh Ministers' curriculum guidance could undermine local democracy.⁵³⁷

620. The National Advisory Panel for Religious Education's representative stated that the Panel did not agree with the proposal to have a *separate* group, with voting rights, to represent those with non-religious philosophical convictions, but supported representation *within an existing* group:

"... we don't have any problem with an additional group within committee A to ensure that non-religious convictions or people who have non-religious beliefs get a place. (...) But we would have an issue (...) if that separate group had a separate voting right, because that would create imbalance. (...) that would mean that every different religion that is represented on SACRE would need a separate voting right."⁵³⁸

621. The Catholic Education Service also raised concerns about the impact of the Bill's provisions in terms of ASCs' influence on denominational RVE:

"The proposals in the Bill to extend the functions of Ministers to issue statutory guidance on denominational RE and SACREs to advise on denominational RE, including Catholic RE, usurp the proper role of the denominational religious authority (in our case the Diocesan Bishop) to be the determiner of denominational religious education. We greatly value and support the work of SACREs in setting an appropriate local framework for non-denominational RE, but neither they nor the Government have the competence to give guidance on Church teachings, and we do not believe that SACREs wish to be given such a power. This proposal breaches the very basis upon which the Catholic Church agreed to be part of the State education system 173 years ago, and is unacceptable."⁵³⁹

622. The National Secular Society was critical of the existing SACRE system:

"We simply don't think that the SACRE system is at all fit for purpose, and simply adding people to supposedly represent the non-religious majority doesn't fix that issue, so that's a big can of worms."⁵⁴⁰

⁵³⁷ Written evidence, CYPE Committee, CAW 106, 130, 136, 137, 144, 154, 163, 167, 225.

⁵³⁸ Oral evidence, CYPE Committee, RoP [para 138], 15 October 2020.

⁵³⁹ Written evidence, CYPE Committee, CAW 225 – Catholic Education Service.

⁵⁴⁰ Oral evidence, CYPE Committee, RoP [para 302], 15 October 2020.

623. Humanists UK welcomed the provisions in the Bill in relation to SAC membership:

“We’ve worked really hard over the last few years to try and increase the representation of non-religious on SACREs, and, despite the Minister’s letter from two and a half years ago telling all local authorities that humanists and non-religious should be admitted to SACREs, we’ve still only managed to get small representation on six out of the 22. We’re met with opposition for many different reasons. We’re asked to prove how many humanists we have in a local area, we’re asked to present on why we believe we deserve a seat at the table—things that religious groups are never asked to do. And so we don’t believe that SACREs currently represent their communities in the way they should. Adding an extra group is a step towards making them do that. It’s a step towards showing that the non-religious viewpoint should be at least 50 per cent of that group. We’d like to see that change move forward.”⁵⁴¹

624. Professor Russell Sandberg, Professor of Law at Cardiff University’s School of Law and Politics, questioned the need for local SACs, and locally agreed syllabi:

“... given the nature of the new curriculum (which will be created as a school level) and the fact that there will be statutory guidance, it is questionable whether there is a need for locally agreed syllabi at all.

The current system dates back to a time when it was thought that religious diversity differed on a regional basis. Affording power and discretion to the local authority level made sense in that context. It does not make sense now. Given financial pressures, it is now questionable whether Standing Advisory Councils now need to exist. A case could be made for one such council to serve the whole of Wales.”⁵⁴²

The Welsh Government’s response

625. The constitution and function of ASCs was not raised directly with—nor commented upon by—the Minister.

⁵⁴¹ Oral evidence, CYPE Committee, RoP [para 304], 15 October 2020.

⁵⁴² Written evidence, CYPE Committee, CAW 5 – Professor Russell Sandberg, School of Law and Politics, Cardiff University.

Our views and recommendations: constitution of ASCs

626. As noted earlier in this chapter, we agree with the inclusion of a broader “Religion, Values and Ethics” mandatory element within the curriculum. As such, we also agree that the title of Standing Advisory Committees on Religious Education should change to reflect this. However, it is clear from the evidence we have received that there are different views about what the Advisory Committees should be named if their title is to reflect adequately the role they have to deliver in relation to this Bill and their wider responsibilities. We believe it would be helpful if the Welsh Government gave further consideration to the concerns raised in this regard.

Recommendation 30. That the Welsh Government continue with its plan to change the title of Standing Advisory Committees on Religious Education (SACREs) to reflect the new RVE mandatory element in the curriculum, but that consideration be given to addressing concerns raised about the need to be clear about what Standing Advisory Committees (SACs) exist to advise on.

627. A number of concerns were raised about the impact of the requirement in the Bill on local authorities to include in their ASCs a group of persons to represent non-religious philosophical convictions as, in the opinion of the authority, ought to be represented. It is our view that the opportunity for non-religious philosophical convictions to be represented is essential in ensuring that the agreed syllabus is objective, critical and pluralistic. It is clear from the evidence we have received that there are different views about the balance and fairness of the composition of SACs and ASCs, and how it is proposed voting rights are apportioned between members. We believe it would be helpful if the Welsh Government gave further consideration to the concerns raised in this regard.

Recommendation 31. That the Welsh Government continue with its plan for the Bill to place a requirement on local authorities “to include in their Agreed Syllabus Conferences a group of persons to represent such non-religious philosophical convictions as, in the opinion of the authority, ought to be represent[ed]”, but that consideration be given to addressing concerns raised (from religious, non-religious and advisory groups) about the balance and fairness of the composition of SACs and ASCs, particularly in relation to voting rights.

Collective worship

Position in the Bill and wider background

628. The Bill does not make any substantive provision in relation to collective worship, however a small number of stakeholders raised it as an issue they would like to see covered by this legislation.

629. Wales Humanists argued that the Bill should be used as an opportunity to remove the requirement on schools to carry out a daily act of collective worship that is “wholly or mainly of a broadly Christian character”. Its written evidence argued that while parents have the right to withdraw their children from collective worship, it can be a difficult process that, in its view, can isolate children. As such, its evidence argued that the retention of collective worship undermines the Bill’s wider aims in this area:

“... the continuation of statutory Christian worship contradicts much of the rationale for the new curriculum, particularly the requirement to ensure that children and young people develop into ethical citizens of Wales and the world. Given that, in other respects, this is likely to be the most inclusive curriculum in the UK, this undermines its purpose and risks diminishing the impact of the important changes this innovative curriculum seeks to make.”⁵⁴³

630. Professor Alison Mawhinney, Professor of Human Rights Law, and Head of the Law School, Bangor University agreed that retaining collective worship in schools with a non-religious character did not accord with the Bill’s “transformational” aims:

“Retaining a duty of collective worship on non-religious state schools leads to legitimate concerns around the depth of authenticity that is attached by the Government to its stated key enabling objectives, in particular, the objective of creating ‘strong and inclusive schools committed to excellence, equity and well-being’. Certainly, very many pupils and parents will find it hard to reconcile this aspiration of inclusive schools with a continued duty on non-religious schools to hold daily acts of worship.

⁵⁴³ Written evidence, CYPE Committee, CAW 176 – Wales Humanists.

Further, the duty sits uneasily and illogically with the pioneering move to introduce the new Religion, Values and Ethics subject, the first country in the United Kingdom to take such an ambitious step.”⁵⁴⁴

631. The National Secular Society’s representative also noted disappointment that the Bill does not legislate to remove the requirement on schools to carry out a daily act of collective worship.⁵⁴⁵

632. Faith representatives giving oral evidence were not asked about—nor did they comment on—the issue of collective worship and whether or not it should be addressed by the Bill. However, the Catholic Education Service includes information on its website about why it regards collective worship to be important in all schools:

“In schools with a designated religious character, like Catholic schools, collective worship is far more than a statutory requirement. It is crucial to the spiritual life of the school and to pupils’ moral and spiritual development. Collective worship is an important part of a Catholic school’s distinctive ethos. (...)”

Britain is a multicultural and multi-faith society. In this context, collective worship remains an essential part of the life of every school, for community schools and academies just as much as in denominational faith schools. Many schools continue to hold acts of collective worship because of the value to the school community and to children’s broader educational development.”⁵⁴⁶

The Welsh Government’s position

633. During a meeting of the Petitions Committee on 7 January 2020, the Minister was asked about legislating on collective worship in relation to curriculum reform. She explained that the issue was very complex, and not one she had been in a position to prioritise—beyond initial exploration—due to capacity constraints.⁵⁴⁷

⁵⁴⁴ Written evidence, CYPE Committee, CAW 122 Professor Alison Mawhinney, Professor of Human Rights Law, Head of Law School, Bangor University.

⁵⁴⁵ Oral evidence, CYPE Committee, RoP [para 302], 15 October 2020.

⁵⁴⁶ Catholic Education Service, [Collective worship](#), [accessed 17 November 2020].

⁵⁴⁷ Oral evidence, Petitions Committee, [RoP \[para 148\]](#), 7 January 2020.

634. When asked by the Petitions Committee if the retention of a requirement for collective worship contradicts the ethos of the new curriculum to ensure that learners become ethical citizens of Wales and the world, the Minister responded:

“I think it’s important to say that collective worship is not part of the curriculum; it is discrete from the curriculum. It’s obviously an important part of the organisation of the school day, but it’s not a formal part of the curriculum (...)

... [it’s] not just capacity reasons (...) We don’t want to conflate collective worship with our curriculum reform, and there is a danger that that might happen if we were trying to make changes all at one time, if the Government decided to make a change.”⁵⁴⁸

Our views: collective worship

635. We recognise the strength of feeling that exists both in favour and against the requirement on schools to carry out a daily act of collective worship. We also note the petitions on this topic that have been received by the Senedd’s Petitions Committee expressing both support for and opposition to collective worship.⁵⁴⁹

636. The scope of—and time available for—our Stage 1 scrutiny has not enabled us to give the consideration that would be required to do justice to this complex and contentious topic. Furthermore, the Welsh Government has stated that it does not believe that collective worship is a matter for this Bill. As such, it has not consulted to the extent that would be necessary to inform its, and subsequently our, consideration of such a significant matter.

637. In light of the above, we do not believe that it would be appropriate to use this Bill as a vehicle to legislate in relation to collective worship.

⁵⁴⁸ Oral evidence, Petitions Committee, [RoP \[paras 152-155\]](#), 7 January 2020.

⁵⁴⁹ Petitions calling to **remove the obligation for collective worship** and **retain the obligation for collective worship**, have been considered and completed during this Senedd by the Petitions Committee.

Teachers' professional learning

Position in the Bill and wider background

638. Much like in the case of the arrangements for RSE discussed in the previous chapter, the Bill does not contain specific legislative requirements in relation to professional learning for RVE.

639. The Explanatory Memorandum does not contain significant detail about professional learning as it relates to RVE specifically, other than to say:

“To ensure a positive impact and to address concerns raised in the responses on the need for high quality RVE and RSE provision we are heavily investing in professional learning. An enhanced £24m funding allocation to ensure all practitioners are prepared for the roll-out of a new curriculum in Wales. This funding can be used flexibly to allow schools to work together in ways that suit their own circumstances and to create the time and space for practitioners and leaders to work across schools and networks to prepare for the new curriculum.”⁵⁵⁰

Stakeholders' evidence

640. A number of stakeholders emphasised the importance of initial teacher education and professional learning for the effective delivery of mandatory RVE. Like RSE, this was deemed to be necessary given the potential sensitivities of the topics covered in RVE, and the importance (for the purposes of ECHR and wider rights) to the delivery of objective, critical and pluralistic teaching.

641. The NEU argued that, as it is a “complicated area (...) fundamentally everybody needs the training opportunities to ensure that they’re confident to teach this”.⁵⁵¹ It told us:

“We believe it is essential that schools and education professionals have access to high-quality training to ensure that they can deliver the new RVE curriculum. If the funding for this is not made available to schools, they will not be as able to teach an inclusive and developmentally

⁵⁵⁰ Welsh Government, Explanatory Memorandum, para 9.58.

⁵⁵¹ Oral evidence, CYPE Committee, RoP [para 291], 24 September 2020.

appropriate curriculum, which in turn, could lead to tensions between Local Authorities, education professionals, parents and schools.”⁵⁵²

642. The National Advisory Panel for Religious Education argued that an “extensive package of professional learning” is needed to ensure that religious education is not lost within the integrated approach to the curriculum.⁵⁵³ This was supported by WASACRE’s representative, who added that professional learning specifically about RVE was important because it will be a mandatory subject, it will cover sensitive topics, and it will have to be objective, critical and pluralistic.⁵⁵⁴ She warned:

“... I don’t think that there’s been money provided for it [professional learning for RE] or any brief to the providers, or any indication of who those providers will be, to roll this out [...] if RE is a mandatory element of the curriculum—the right to withdraw has been removed and the sensitive issues with which we deal—it [professional learning for RE] is absolutely needed, and we need to know where that funding is and who is going to deliver the professional learning.”⁵⁵⁵

643. Humanists UK also referred to the importance of professional learning in light of the Bill not providing a right to withdraw:

“... our key worry is that the extent of the training necessary to ensure that schools are compliant with that requirement to provide an RVE curriculum that’s objective, critical and pluralistic in the absence of the safety valve offered by the right to withdraw has perhaps not been fully appreciated. But we don’t think that those barriers are insurmountable. We think it’s going to require additional investment, as we’ve already said, in SACREs and ASCs, as well as in training and development for the schools themselves.”⁵⁵⁶

644. Humanists UK also went on to emphasise that, in addition to professional learning, the inspection framework was very important “in delivering this subject

⁵⁵² Additional information submitted by the NEU following 24 September 2020 oral evidence session, CYPE Committee.

⁵⁵³ Oral evidence, CYPE Committee, RoP [para 26], 15 October 2020.

⁵⁵⁴ Oral evidence, CYPE Committee, RoP [paras 50 and 79], 15 October 2020.

⁵⁵⁵ Oral evidence, CYPE Committee, RoP [para 157], 15 October 2020.

⁵⁵⁶ Oral evidence, CYPE Committee, RoP [para 235], 15 October 2020.

[RVE] and making sure that it's taught in a way that complies with human rights law”:

“I just wanted to re-emphasise the critical importance of that [the inspection framework], that it isn't for denominational bodies who are inspecting themselves teaching critical, objective, pluralistic RVE, since they already think that they do that. We need a neutral assessment of that that isn't just people essentially marking their own homework.”⁵⁵⁷

645. The Church in Wales told us:

“... there is a danger, without the much-needed professional learning, that there will be a real problem to balance religious and non-religious world views. There is a risk, therefore, that there could be a very secular approach to the delivery of religious education—not that it needs to be a religious approach, but it could be that religion and religions are sidelined.”⁵⁵⁸

The Welsh Government's response

646. Professional learning for RVE specifically was not raised directly with—nor commented upon by—the Minister. However, the Minister acknowledged the importance more generally of professional learning to the Bill's implementation, and this is discussed in more detail in chapter 12.

Our views and recommendations: teachers' professional learning (RVE)

647. Our concerns about professional learning and resources more generally, particularly the impact of the current COVID-19 pandemic on the time available to the sector to undertake what is necessary to design and implement the curriculum successfully, are discussed in more detail in Chapter 12 of this report.

648. However, it is clear to us from the evidence we have received, that—as in the case of RSE (discussed in chapter 6)—we should not underestimate the importance of sufficient initial teacher education, professional learning, and continuous professional development and training in terms of the successful delivery of the mandatory RVE element of the new curriculum. This is especially important given the need for RVE to be designed and delivered objectively, critically and pluralistically, and in light of there being no right of withdrawal to

⁵⁵⁷ Oral evidence, CYPE Committee, RoP [para 315], 15 October 2020.

⁵⁵⁸ Oral evidence, CYPE Committee, RoP [para 57], 15 October 2020.

act as a “safety net” should this bar be deemed not to have been reached by a school.

Recommendation 32. That the Welsh Government work with relevant and expert representatives in the education sector to provide, in readiness for the Bill’s implementation, a framework outlining the core professional learning, resources and specialist support likely to be needed to deliver the necessarily objective, critical and pluralistic teaching of RVE under the new curriculum.

8. Early years

The importance of the early years of children’s learning and development cannot be overestimated. The Welsh Government proposes a single continuum for teaching and learning from ages 3 to 16. This chapter considers the Bill’s provision for early years education up to compulsory school age (age 5).

649. The Curriculum for Wales will apply from age 3 in maintained schools, maintained nursery schools and funded non-maintained nursery settings⁵⁵⁹. The Bill does not amend the age at which education becomes compulsory, which will remain age 5 (the start of the school term following a child’s fifth birthday).⁵⁶⁰ In practice, the vast majority of children begin formal education before they turn 5.

650. Since 2010, the curriculum for age 3-7 year olds (up to the end of Year 2) in Wales has been the Foundation Phase, which consists of seven Areas of Learning. Compared to its predecessor, Key Stage 1, the Foundation Phase is an experiential form of learning “with the serious business of ‘play’ providing the vehicle”⁵⁶¹. The Explanatory Memorandum describes it as:

“Designed to encourage children to be creative and imaginative, making learning more enjoyable and effective.”⁵⁶²

651. Professor Graham Donaldson’s ‘Successful Futures’ review, which paved the way for the current curriculum reform, described the Foundation Phase as one of the “best things” about education in Wales and “a very real strength” upon which to build the new curriculum.⁵⁶³

⁵⁵⁹ These are private settings which receive public funding to provide early years education provision to children aged between 3 and 5.

⁵⁶⁰ Welsh Government, Explanatory Memorandum, para 3.36.

⁵⁶¹ Welsh Government, [Foundation Phase Framework](#), 2015.

⁵⁶² Welsh Government, Explanatory Memorandum, Glossary.

⁵⁶³ Professor Graham Donaldson, [Successful futures: review of curriculum and assessment arrangements](#), 2015.

652. To a considerable extent therefore, it is acknowledged by most that the Curriculum for Wales has been developed on a similar basis to the principles and ethos of the Foundation Phase.

Position in the Bill and wider background

653. The curriculum requirements on early years⁵⁶⁴ settings are broadly the same as for schools, which are set out in chapter 4 of this report. The curriculum for both must encompass the six AoLEs and four mandatory elements, and develop the three cross-curricular skills. The same general requirements as are on schools apply to early years settings, in that their curriculum must:

- meet the four purposes;
- offer appropriate progression;
- be suitable for each child's age, ability and aptitude;
- take account of each child's Additional Learning Needs (ALN); and
- be broad and balanced.

654. As discussed in chapter 5, section 27 of the Bill enables funded non-maintained nursery settings to disapply the mandatory element of English up to age 7 (up to the end of Year 2). Another difference is that whilst settings must teach the mandatory element of Religion, Values and Ethics (RVE) they are not required to do so in accordance with Schedule 1 of the Bill.

655. As with schools, funded non-maintained nursery settings must teach the mandatory element of Relationships and Sexuality Education (RSE) in a way that is suitable for children's stage of development.

656. The main difference between the Bill's provisions for schools and funded non-maintained nursery settings is in the arrangements for establishing their curriculum.

657. Whereas school head teachers will be required to design their own curriculum, section 13 requires the Welsh Government to develop and publish a curriculum for use in funded non-maintained nursery settings, in recognition of the differing resources of these settings to design their own curriculum. Settings

⁵⁶⁴ "Early years" in an educational sense is generally regarded as prior to compulsory school age (age 5).

will then have the choice whether to adopt the Welsh Government’s curriculum or to design and adopt their own, provided it meets the stipulated curriculum requirements.

Stakeholders’ evidence

The approach to the curriculum and continuity from current practice

658. We took oral evidence from umbrella representatives of early years providers.⁵⁶⁵ They supported the general principles of the Bill, the need for a new curriculum and legislation to establish it. However, the sector does not necessarily see the current curriculum for young children as no longer fit for purpose (as is generally felt about the curriculum for older children) due to the relatively new approach of the Foundation Phase, introduced in 2010.⁵⁶⁶

659. Mudiad Meithrin commented:

“The one other thing to bear in mind is one of the major values of the foundation phase was that it was written specifically with regard to those young children and it gave that special status to the early years. And even though we welcome the shift to the new curriculum, the one thing that we are eager to keep is the emphasis on the foundation and early years as the time when educational development takes place, to begin this journey. (...)

We’re in a very strong position in the early years sector, because we’ve been doing it already with the foundation phase principles. But looking more widely at the entire curriculum, this way of working will be new for many people.”⁵⁶⁷

660. Early Years Wales welcomed that the ethos and practice of the Foundation Phase is being used for the new curriculum as a whole and is pleased that this will provide continuity in the approach to early years provision.⁵⁶⁸ The Professional Association for Childcare and Early Years Cymru (PACEY) wrote “it is heartening to see that the Foundation Phase pedagogy will underpin education as a whole”.⁵⁶⁹

⁵⁶⁵ Oral evidence, CYPE Committee, 17 September 2020.

⁵⁶⁶ Written evidence, and oral evidence, CYPE Committee, 17 September 2020.

⁵⁶⁷ Oral evidence, CYPE Committee, RoP [para 135], 17 September 2020.

⁵⁶⁸ Written evidence, CYPE Committee, CAW 19 – Early Years Wales.

⁵⁶⁹ Written evidence, CYPE Committee, CAW 17 – Professional Association for Childcare and Early Years Cymru (PACEY).

Designing and adopting an early years curriculum

661. Stakeholders welcomed the requirement on the Welsh Government to issue a curriculum which funded non-maintained nursery settings may choose to adopt. They envisaged that the majority of settings would, at least in the first instance, adopt the Welsh Government’s curriculum. PACEY, which predominantly represents child minders, told us:

“... in theory, we wouldn’t ever see a child minder going off on their own, potentially, and developing their own curriculum, where one has been developed on a national level that is fit for purpose and meets their needs and has been developed in partnership with the sector. (...)

... it’s not to say that that wouldn’t be built on over time and maybe added to, to ensure that the context of the setting is sort of covered within that, especially as confidence grows around the delivery of the new curriculum going forward, and they become more familiar with it.”⁵⁷⁰

662. Others agreed that, whilst settings are likely to adopt the Welsh Government’s curriculum, over time this may be adapted and built upon according to the particular circumstances of the setting and the children they care for and educate.

663. The National Day Nurseries Association said they “would foresee that the majority of the settings will adopt the Welsh Government curriculum, but that over time they might add to it as well”,⁵⁷¹ while Early Years Wales told us:

“In the first instance, that curriculum framework will be welcomed by the non-maintained settings. It’ll certainly be very helpful to those settings that have other time constraints, so those settings that are in multipurpose buildings or that have to create environments and then pack them away at the end of sessions. So, those kind of settings will very much value that support and having that framework in place. (...)

I would imagine, in the first instance, because there’ll be an alignment, I assume, to some of the professional learning, that settings will welcome that and will see that as an easy way into the curriculum, and

⁵⁷⁰ Oral evidence, CYPE Committee, RoP [para 248], 17 September 2020.

⁵⁷¹ Oral evidence, CYPE Committee, RoP [para 153], 17 September 2020.

will develop, over time, their own practice and their own responses to the curriculum.”⁵⁷²

664. Mudiad Meithrin said:

“I foresee that the majority of the *cylchoedd meithrin* will have an interest in adopting [the Welsh Government curriculum], and will see it as being beneficial and a help in their work to go about planning, rather than having to shoulder the responsibility and the work of developing a specific curriculum for themselves. But, of course, there’ll always be flexibility—if any setting would want to do that, they could do that. But I foresee that the majority will use this new curriculum.”⁵⁷³

665. However, stakeholders emphasised the need for the Welsh Government to make its curriculum available at the earliest opportunity. PACEY called for it to be issued early to ensure “sufficient time to support the sector to plan, prepare and trial the new curriculum in advance of implementation”. It also called for the early years sector to be involved and consulted on the development of the Welsh Government-issued curriculum, including trials in settings, so feedback can be collated.⁵⁷⁴ The Royal College of Speech and Language Therapists also felt it is “crucial that this sector has increased involvement in the development process and trial period moving forwards”.⁵⁷⁵

Support required for the sector to implement the new curriculum

666. Stakeholders pointed to a relative lack of support and training for the non-maintained early years sector, compared to schools. Early Years Wales said it is “imperative to avoid a two-tier system where there is an increased skills gap and the childcare sector feels devalued”.⁵⁷⁶ Mudiad Meithrin wrote that “fair funding was not available throughout the development of the curriculum”, which meant “there was no means of ensuring that funded non-maintained settings could be

⁵⁷² Oral evidence, CYPE Committee, RoP [para 250], 17 September 2020.

⁵⁷³ Oral evidence, CYPE Committee, RoP [para 252], 17 September 2020.

⁵⁷⁴ Written evidence, CYPE Committee, CAW 17 – Professional Association for Childcare and Early Years Cymru (PACEY).

⁵⁷⁵ Written evidence, CYPE Committee, CAW 145 – The Royal College of Speech and Language Therapists.

⁵⁷⁶ Written evidence, CYPE Committee, CAW 19 – Early Years Wales.

involved". Whilst it acknowledges "significant steps" have been taken to redress this, Mudiad Meithrin argue "the sector has been largely ignored".⁵⁷⁷

667. The sector also highlighted the difference between the rates of funding for Foundation Phase (educational) provision in non-maintained nurseries and for the Childcare Offer. They cite this as a potential barrier to implementation, referring to the financial pressures facing many early years providers.

668. Mudiad Meithrin highlighted the absence of non-maintained settings in the financial estimates provided in the Welsh Government's Regulatory Impact Assessment (RIA):

"We welcome that the need for future support has been recognised, but regret that no attempt has been made to plan in detail the cost of creating the Curriculum and to support the delivery and development of funded non-maintained settings."⁵⁷⁸

The mandatory elements

669. Mudiad Meithrin were very concerned about the default position in the Bill for English to be mandatory, even if section 27 enables early years settings to disapply this and continue to immerse children in the Welsh language.⁵⁷⁹ This is discussed in chapter 5.

670. Early years stakeholders welcomed the provisions in the Bill regarding Relationships and Sexuality Education (RSE). They said they reflect to a considerable extent current practice in early years and, as PACEY put it, "see it as part of the holistic delivery of the new curriculum in non-maintained settings".⁵⁸⁰

671. Early Years Wales highlighted the importance of clear communication about the developmentally appropriate nature of the way RSE is taught to young children:

"... it's considering that reassuring message to parents that at the stage and age of development of these children it's mostly around personal relationships and building that understanding of the world around

⁵⁷⁷ Written evidence, CYPE Committee, CAW 24 – Mudiad Meithrin.

⁵⁷⁸ Written evidence, CYPE Committee, CAW 24 – Mudiad Meithrin.

⁵⁷⁹ Written evidence, CYPE Committee, CAW 24 – Mudiad Meithrin; and additional information submitted following 17 September 2020 oral evidence session.

⁵⁸⁰ Oral evidence, CYPE Committee, RoP [para 213], 17 September 2020.

them, as opposed to anything that would be more concerning to parents. (...)

... the messaging to parents, to reassure them that this is developmentally appropriate learning and is part of a child's holistic development, ... would be a key to making sure that it goes quite smoothly from a Welsh Government perspective at the time of implementation.”⁵⁸¹

672. In terms of Religion, Values and Ethics (RVE), the National Day Nurseries Association told us it “would be similar to that which currently happens within the current Foundation Phase”.⁵⁸² Early Years Wales spoke of the relevance of the four purposes “to drive everything that the curriculum offers”, commenting:

“... if we get the whole package right, we will be helping young people from three, all the way through their education, to understand what healthy is, to understand what ethically informed is and how to behave in a society that we'd like to build in Wales.”⁵⁸³

Assessment and progression

673. The Bill itself does not include the detailed arrangements for assessment, which will be set out in regulations. However, the Curriculum for Wales documentation sets out the Welsh Government's planned approach for progression steps and achievement outcomes at ages 5, 8, 11, 14 and 16.⁵⁸⁴

674. PACEY called for an earlier progression step under the new curriculum than is currently proposed:

“... we've got to recognise the learning and development that happens before the age of five and also potentially look at where a child is on entry to the new curriculum—that's not just on entry to the school maintained curriculum but on entry to the curriculum at any point on that continuum. And that supports, then, the progress and assessment of development and learning. (...)

⁵⁸¹ Oral evidence, CYPE Committee, RoP [para 216-217], 17 September 2020.

⁵⁸² Oral evidence, CYPE Committee, RoP [para 229], 17 September 2020.

⁵⁸³ Oral evidence, CYPE Committee, RoP [para 236], 17 September 2020.

⁵⁸⁴ Welsh Government, Hwb, [Curriculum for Wales 2022](#), January 2020.

... quite often it can be overlooked as in, ‘Well, they’ll get an assessment and be assessed once they start school’, and then there’s not as much taken from that journey for the child from getting to that point as a five-year-old.”⁵⁸⁵

675. Mudiad Meithrin agreed, commenting:

“The only thing that does pose a bit of a challenge at the moment is that the first developmental steps that are set out are appropriate for children at the age of five. So, obviously, we can’t assess them at the age of two or three in terms of how they will be at the age of five; that wouldn’t be appropriate at all. (...)

When the new curriculum is in place, if there are steps set out in that, that would be more appropriate for children at all age levels, from infants upwards. Then, potentially at that point, there will be a new creative way of gathering evidence about their development progression, to go along with that learning.”⁵⁸⁶

676. PACEY referred to the Foundation Phase Profile as an effective tool in consistently assessing a child’s development in early years. It argued:

“It is important that this consistency is not lost in the new curriculum and an appropriate resource similar to the FPP is developed to support assessments in line with the new curriculum.”⁵⁸⁷

The Welsh Government’s response

677. The Minister spoke about the similar approach of the Foundation Phase and the Curriculum for Wales:

“Can I just absolutely reassure you that the ethos and the principles of the current foundation phase curriculum have formed the very starting point for much of the ongoing curriculum development work for learners in early years, and it will form the basis of the curriculum for non-maintained settings.”⁵⁸⁸

⁵⁸⁵ Oral evidence, CYPE Committee, RoP [para 243], 17 September 2020.

⁵⁸⁶ Oral evidence, CYPE Committee, RoP [para 240-241], 17 September 2020.

⁵⁸⁷ Written evidence, CYPE Committee, CAW 17 – Professional Association for Childcare and Early Years Cymru (PACEY).

⁵⁸⁸ Oral evidence, CYPE Committee, RoP [para 140], 21 October 2020.

678. She added that the Welsh Government is working “very closely” with stakeholders in the early years sector to “ensure what is being developed for our youngest learners is appropriate for their stages of development”.⁵⁸⁹

679. The Minister explained the rationale for giving early years setting the choice between designing their own curriculum or adopting the curriculum published by the Welsh Government:

“... we felt, because of the nature of the sector, some of which is run on a voluntary basis, that it was only fair that the Welsh Government also produced a curriculum that could be used if the sector felt that it was too onerous—if a setting felt it was too onerous to develop their own. (...)

... there is a great diversity in the range of the settings that deliver that education—that early education. So, if I think of my own constituency, we have voluntary-led childcare settings that are run by groups of volunteers, with very professional staff, but they simply might not have the capacity or the time to do that, which is different, of course, to a school.”⁵⁹⁰

680. Asked for her response to the calls from stakeholders for an earlier progression step, prior to age 5, the Minister said that following feedback from the sector:

“... we’re developing supplementary guidance for practitioners working with three and four-year-old learners in schools and settings, to support their learning to progression step 1 [age 5].

Now, I have to admit, because of the circumstances we do find ourselves in, there has been a slight delay in the development of this work, but progress is being made.”⁵⁹¹

Our views and recommendations: early years

681. We welcome that the principles of—and approach to—the new curriculum reflect the existing Foundation Phase, reflecting the strengths of early years provision in Wales. We believe that the early years sector is well placed to deliver

⁵⁸⁹ Oral evidence, CYPE Committee, RoP [para 140], 21 October 2020.

⁵⁹⁰ Oral evidence, CYPE Committee, RoP [para 125], 14 July 2020.

⁵⁹¹ Oral evidence, CYPE Committee, RoP [paras 140-141], 21 October 2020.

the purpose-led Curriculum for Wales due to commonalities with the already established ethos and practice of the Foundation Phase.

682. Based on the evidence we received from the early years sector, we welcome that the Welsh Government will issue a curriculum which funded non-maintained nursery settings have the option to adopt rather than each organisation necessarily having to design a curriculum themselves.

683. Over time, settings may take the opportunity to adapt the template curriculum to their own circumstances, tailored to the children they care for and educate. We suggest that the Welsh Government encourages this to maximise the subsidiarity principles and learner-centred approach that underpin the Curriculum for Wales.

684. Stakeholders highlighted the importance of the Welsh Government's early years curriculum being made available swiftly, to give settings as much time as possible for its implementation. They also argued that it should be constructed with the input and participation of the sector.

Recommendation 33. That the Welsh Government work at pace to make the early years curriculum available, to maximise the time settings have to prepare for its implementation. Relevant stakeholders must be closely involved in its development.

685. We note that the Welsh Government bases its estimated costs of the Bill on information provided by 16 "Innovation Schools" which have been relatively involved in curriculum reform and have applied a +/- 50 per cent range on the estimates in the RIA. We are concerned this methodology does not adequately account for the financial implications on the early years sector and urge that further costings are carried out in this regard. The financial implications of the Bill more widely are discussed in chapter 13.

Recommendation 34. That the Welsh Government undertake work to estimate the Bill's cost implications for funded non-maintained nursery settings, and provide this to the Senedd to aid its consideration of the Bill.

686. The evidence we received from the early years sector re-affirmed our belief that children and young people should receive developmentally appropriate Relationships and Sexuality Education (RSE) from an early age. We discuss this in more detail in chapter 6, including the importance of providing clear information about what and how RSE will be taught at various ages to allay any concerns which parents or others may have.

687. Stakeholders' evidence also reflected the importance of Religion, Values and Ethics (RVE) from an early age and its centrality to the four purposes driving the whole Curriculum for Wales. We discuss RVE in chapter 7.

688. We note that the Welsh Government is developing supplementary guidance for practitioners working in early years, to support children's learning to progression step 1 at age 5. We believe that children's progress in their development and learning prior to compulsory school age (age 5) should be adequately and consistently assessed in order to inform the education and care they receive, but note the need to avoid disadvantaging any children who do not attend settings before the compulsory school age.

Recommendation 35. That the Welsh Government proceed at pace with its work to develop supplementary guidance to support children's progression and assessment prior to age 5, and consider the need for—and purpose of—an earlier progression step on its proposed continuum of learning than age 5.

9. Post-16

This chapter discusses the limited provision the Bill makes in respect of post-compulsory education.

689. The Bill does not amend the age at which education ceases to be compulsory, which will remain age 16 (the last Friday in June of the academic year when a pupil becomes 16).⁵⁹²

690. Whilst the Bill predominantly focuses on ages 3-16, which will be the age range for the Curriculum for Wales, it also makes limited provision regarding the curriculum for pupils in maintained schools who are above compulsory school age (school sixth forms).

691. The Bill does not make any provisions in regards to further education institutions.

Position in the Bill and wider background

692. Section 61 of the Bill requires that schools must ensure that the curriculum for pupils above compulsory school age is a “balanced and broadly based curriculum” that:

- promotes the spiritual, moral, cultural, mental and physical development of the pupils and of society; and
- prepares the pupils for the opportunities, responsibilities and experiences of later life.

693. Currently, religious education is compulsory for sixth form pupils in schools. Under the Bill, Religion, Values and Ethics (RVE) will not be compulsory for school sixth form pupils, although it must be provided to those who request it. Where a sixth form pupil requests RVE, a school must provide it as per section 62 of the Bill. This requires that RVE:

- must reflect the fact that the religious traditions in Great Britain are mainly Christian, while taking account of the teaching and practices of the other principal religions represented in Great Britain; and

⁵⁹² Welsh Government, Explanatory Memorandum, para 3.36.

- must also reflect the fact that a range of non-religious philosophical convictions are held in Great Britain.

694. As with children below compulsory school age, RVE provided to sixth form pupils does not need to accord with Schedule 1 to the Bill.

695. There is no requirement on schools to teach Relationships and Sexuality Education (RSE) to sixth form students who request it. Sex education, and personal and social education (which RSE replaces) are not currently compulsory for sixth form pupils, unlike religious education.

Stakeholders' evidence

Implications for post-compulsory education and training

696. Colegau Cymru, which represents further education institutions in Wales, welcomes the Bill and believes:

“The principles have the potential to deliver independent learners who are capable of adapting to the challenges of post-16 study.”⁵⁹³

697. However, Colegau Cymru felt “strongly” that the Bill needs to be “understood in its wider context”. While it acknowledged that the Bill focuses on the compulsory school age curriculum, it said “there could be unintended consequences for the post-16 education system”:

“Learners will have learnt in different ways, via areas of learning and experience, and the impact this has on their post-16 education needs to be considered. Discussions with Welsh Government officials are ongoing but serious attention needs to be given to ensuring that learners do not experience a sharp difference between pre and post-16 education. This means training post-16 sector tutors in the pedagogical approach but also other staff, such as careers advisors.”⁵⁹⁴

698. Colegau Cymru also highlighted implications for further education institutions of the increased focus on developing pupils' Welsh language skills through a single continuum at ages 3-16, if this is to be matched by increased Welsh-medium provision at post-16. This is referred to in chapter 5. It also raised the issue of qualifications, which is discussed in chapter 11.

⁵⁹³ Written evidence, CYPE Committee, CAW 48 – Colegau Cymru.

⁵⁹⁴ Written evidence, CYPE Committee, CAW 48 – Colegau Cymru.

699. A post-16 lead officer who responded to our consultation called for the Curriculum for Wales to be extended to age 18. He argued that this would provide greater continuity for young people, rather than stopping at the end of compulsory education, which is currently age 16:

“It is a pity that Welsh Government has not taken advantage of this new legislation to look at compulsory components of the curriculum from 3 to 18. I believe that the principles, values and skills envisaged in the Bill for 3-16 year-olds are equally applicable to learners up to 18. (...)

... the Bill represents a missed opportunity to embed the principles, values and aspiration of the new curriculum into 16-18 education.”⁵⁹⁵

Relationships and Sexuality Education

700. Respondents who expressed support for the RSE provisions in the Bill generally call for RSE to be provided where sixth form pupils request it, as will be the case for RVE. A joint submission from the RSE Action Group stated:

“We are concerned that there is no similar provision [to that for RVE] for teaching and learning in Relationships and Sexuality Education for pupils in post-compulsory education. This is a critical time in young people’s learning and experience.”⁵⁹⁶

701. The RSE Action Group also referred to research conducted at Cardiff University, which reported that approximately half of males and females in a sample of 16-19 year old students in England and Wales had experienced some form of dating and relationship violence.⁵⁹⁷

702. Stonewall Cymru highlighted the difference in the Bill’s approach to RSE and RVE, writing “it is unclear why this is the case”.⁵⁹⁸ NSPCC Cymru were “concerned that there is no commitment to RSE for post-16 learners” as this is “the most likely age (between 16-19) that young people experience abuse in their relationships”.⁵⁹⁹

⁵⁹⁵ Written evidence, CYPE Committee, CAW 101 – John Fabes, Post-16 lead officer.

⁵⁹⁶ Written evidence, CYPE Committee, CAW 85 – RSE Action Group.

⁵⁹⁷ Journal of Public Health, Volume 40, Issue 4, Pages 738–746, [Dating and relationship violence among 16-19 year olds in England and Wales: a cross-sectional study of victimization](#), December 2018.

⁵⁹⁸ Written evidence, CYPE Committee, CAW 62 – Stonewall Cymru.

⁵⁹⁹ Written evidence, CYPE Committee, CAW 60 – NSPCC Cymru.

703. Welsh Women’s Aid were also “significantly disappointed” and highlighted that the age group of 16 to 24 year olds makes up around a quarter of those accessing refuge and sexual violence services, while also highlighting the particular risk to 16-19 year olds of forced marriage.⁶⁰⁰

704. Welsh Women’s Aid’s representative also told us that not including provision for RSE beyond age 16 did not seem to fit with the Welsh Government’s approach to tackling violence against women:

“The Welsh Government have also campaigned, targeting young people last year with their campaign ‘This is not OK’, which is around sexual violence, and it seems to not align to not then provide robust education for this age group that would align with that kind of campaign. If you’re campaigning for young people to understand what consent it, then it makes sense to also provide them with robust education that backs that up and really embeds it. Similarly, they’ve also produced guidance under the VAWDASV legislation from the Higher Education Funding Council for Wales which covers further education—again, if we’re asking our institutions to act on their duties to prevent violence against women and to protect and support survivors, then this has to align with that quality of RSE for young people up until the point that they leave education. This doesn’t stop at 16—they need to learn it all the way through the education system and beyond.”⁶⁰¹

705. Brook, a sexual health and wellbeing charity which works with young people, added:

“... we’re really disappointed that it won’t go beyond the age of 16. We wholeheartedly believe that it needs to. As young people are getting older, their experiences are going to become more varied, the relevance of it is really paramount. Also, we did some research with first-year university students around the issue of consent and sexual harassment and sexual crime and violence. And, honestly, the results ... they’re stark. It’s stark learning. So, it’s just showing that, actually, it does need to be taught.”⁶⁰²

⁶⁰⁰ Written evidence, CYPE Committee, CAW 51 – Welsh Women’s Aid.

⁶⁰¹ Oral evidence, CYPE Committee, RoP [para 248], 8 October 2020.

⁶⁰² Oral evidence, CYPE Committee, RoP [para 250], 8 October 2020.

The Welsh Government's response

706. Professor Graham Donaldson's review of curriculum and assessment arrangements focused on ages 3-16, from the start of the Foundation Phase to the end of Key Stage 4, as they are currently known. As such, the Bill and the wider curriculum reform it gives legal effect to do not go beyond the end of compulsory education.

707. The Welsh Government is planning separate legislation for the reform of post-compulsory education and training. Its consultation on the Draft Tertiary Education and Research (Wales) Bill closed on 4 December 2020.⁶⁰³

708. The Welsh Government's rationale for the Bill's approach in respect of RVE and RSE in school sixth forms can be summarised as follows:

- In the case of RVE, religious education is currently compulsory in sixth forms but only provided on request in colleges, therefore the Bill brings the two of them into alignment.
- In the case of RSE, these and other health and well-being matters can be covered under schools' wider duty of care and pastoral responsibilities towards sixth form pupils. Schools will be expected to use the RSE Code, which will provide guidance on provision at ages 3 to 16, to inform how they do this.

709. The Minister told us in respect of RVE:

"... first of all, the proposed changes bring consistency between school sixth forms and further education colleges. (...)

We are aware that some school sixth forms struggle to comply with the obligation that is currently placed upon them.

Of course, there is nothing to prevent a school sixth form from providing RVE to all of its learners if the school elects to do so. Obviously, this Bill is for learners up to the age of 16, as such, and the change also brings RVE in line with the wider curriculum requirements, as with the foundation phase. I believe that that approach is consistent

⁶⁰³ Welsh Government consultation, [Draft Tertiary Education and Research Bill](#), 14 July – 4 December 2020.

with the principle that learners post-16 are sufficiently mature to be able to make decisions that relate to their own learning.”⁶⁰⁴

710. The Minister told us in respect of RSE:

“RSE is not compulsory for post-16 learners, and the intention is that post-16 providers will use the RSE guidance to support post-16 learners in RSE and other health and well-being matters as part of their wider duty of care and pastoral issues that they would usually provide.”⁶⁰⁵

711. When it was put to the Minister that it is important that RSE taught at earlier stages is consolidated beyond age 16 (especially given stakeholders’ evidence that 16-19 are the most common ages for young people to experience abuse in a relationship), the Minister replied:

“Hopefully, by the time that young people are 16 and 19, and may be experiencing abuse in their relationships, they will have had access to a curriculum that allows them to respond appropriately to that. The intention is that post-16 providers will use the RSE guidance to support post-16 learners in a wider context that they have around a duty of care and pastoral duties. So, we wouldn’t expect that that was an end to any RSE education that children received, but they would take that guidance as a basis on how to support learners post 16.”⁶⁰⁶

Our views and recommendations: post-16

712. We note Colegau Cymru’s views that, whilst the Bill does not make provision for further education institutions, there will be an impact on the sector from the substantially different approach of the age 3-16 curriculum.

713. We believe that, subject to the new curriculum being implemented successfully, this impact should be positive—young people will enter further education more ready, and better prepared, to both take on the challenges and realise the opportunities presented by the next stages of their lives.

714. However, we believe the Welsh Government needs to be acutely aware of any unintended consequences the Bill, and the transformation in approach to 3-16 education it entails, could have on the post-16 sector. A particular focus is

⁶⁰⁴ Oral evidence, CYPE Committee, RoP [paras 130-131], 14 July 2020.

⁶⁰⁵ Oral evidence, CYPE Committee, RoP [para 132], 14 July 2020.

⁶⁰⁶ Oral evidence, CYPE Committee, RoP [para 88], 21 October 2020.

needed on supporting learners to make effective, seamless transitions between schools and post-16 education and training.

Recommendation 36. That the Welsh Government, in light of the Curriculum for Wales's new approach, undertake further work to ensure that learners' transitions between age 3-16 education and post-16 education and training are as effective and seamless as possible. This needs to be considered from the perspective of this Bill and any future reform of post-compulsory education and training.

715. We do not see why the Bill makes different provision regarding the provision of RVE and RSE in school sixth forms. If RVE is available at a learner's request, we believe RSE should also be available in the same way. We recognise that the Bill brings school sixth forms and colleges into line with each other in terms of RVE, but believe this creates an inconsistency between RVE and RSE in sixth forms.

716. The evidence we received suggested that ages 16-19 are crucial in forming relationships. We were told that this is often the time when young people are most at risk of an abusive relationship. While we acknowledge that provision of high quality RSE earlier in a child's or young person's life should better equip them with the tools to recognise abuse, we believe it is vital that the RSE pupils receive up to age 16 is consolidated in sixth form. In our view, this would be better achieved through the availability of RSE rather than reliance on the pastoral responsibilities of sixth forms. Given the non-compulsory nature of post-16 education, we do not necessarily believe RSE should be mandatory, but students should be able to receive this where they request it, as will be the case for RVE.

Recommendation 37. That the Welsh Government amend the Bill to require schools to provide RSE to sixth form pupils who request it.

10. Specific curriculum requirements and exceptions (including EOTAS), and pupils with ALN and disabilities

The Bill establishes different curriculum arrangements in Education Otherwise Than At School (EOTAS) settings compared to mainstream schools. It also provides for exceptions to be made to the curriculum requirements in certain circumstances and for learners in Years 10 and 11 to have an element of choice over what they study, as at present. The Bill makes several references to the education of pupils with Additional Learning Needs (ALN), who make up one in five of the school population.

717. As outlined in chapter 4 regarding the details that are on the face of the Bill, the Curriculum for Wales framework will consist of:

- four purposes;
- six Areas of Learning and Experience (AoLEs);
- three cross-curricular skills; and
- the four mandatory elements of English and Welsh; Relationships and Sexuality Education (RSE); and Religion Values and Ethics (RVE) (see chapters 5, 6 and 7 for more discussion of these respectively).

718. The Welsh Ministers will issue a What Matters Code setting out key concepts within each AoLE and statutory guidance on how the curriculum should be taught. There will also be an RSE Code, a Supporting Framework for RVE, and a Progression Code setting out how children and young people should progress along a single learning continuum.

719. Sections 21 to 23 of the Bill set general requirements that schools' curricula must:

- provide for appropriate progression;

- be suitable for differing ages, abilities and aptitudes; and
- be broad and balanced.

720. Section 30 of the Bill provides that schools' curricula must also be implemented in a way that takes account of any Additional Learning Needs (ALN) pupils have. Section 37 does the same in respect of funded non-maintained nursery settings.

721. The Bill provides for some exceptions to these provisions as well as other specific requirements. This chapter discusses these and how they affect particular groups of pupils.

Education Otherwise Than At School (EOTAS)

Position in the Bill and wider background

722. Part 3 of the Bill sets out the curriculum requirements for education provided under section 19A of the Education Act 1996. This refers to Education Otherwise Than At School (EOTAS), which—in almost half of cases—is provided in Pupil Referral Units (PRUs). Other EOTAS settings include further education institutions, hospitals, independent providers, independent schools and home tuition.

723. EOTAS is provided to children of compulsory school age for whom education at a mainstream school may not be appropriate, for many different reasons.⁶⁰⁷ In 2018/19, there were 2,286 pupils in Wales who were EOTAS. 1,784 of these 2,286 received all, or the majority, of their education other than at school. This represents 3.8 per 1,000 pupils which compares with 2.6 per 1,000 in 2013/14.⁶⁰⁸

724. Section 52 of the Bill requires the curriculum provided in PRUs, as for pupils in schools generally (sections 20-23), to:

- enable pupils to develop in the ways described in the four purposes;
- provide for appropriate progression for pupils;

⁶⁰⁷ One of the most common reasons is where pupils have been permanently excluded from school or are at risk of exclusion, while other reasons include illness and other medical factors. The term EOTAS does not apply to pupils who receive elective home education, which is where parents decide to educate their child at home rather than at school.

⁶⁰⁸ Welsh Government, [Statistics and Research, Pupils educated other than at school: September 2018 to August 2019](#), August 2019.

- be suitable for pupils of differing ages, abilities and aptitudes; and
- be broad and balanced, [so far as is appropriate for pupils in PRUs].

725. In addition, as in schools, PRUs are required to implement the curriculum in a way that takes account of any ALN pupils have.

726. The main difference between the curriculum requirements in PRUs and maintained schools lies in how much of the curriculum must be provided:

- Rather than teaching all six AoLEs, the Bill only requires PRUs to encompass one of these – the Health and Well-being AoLE – within their curriculum.
- PRUs must teach one of the four mandatory elements – RSE.
- PRUs are only required to teach the other five AoLEs and the other three mandatory elements “if it is reasonably possible and appropriate to do so”.

727. Like schools, PRUs’ curricula must develop the three cross-curricular skills of literacy, numeracy and digital competence.

728. The Bill allocates the duty to put in place the required curriculum in a PRU to the local authority, the management committee (if there is one) and the teacher in charge. The duty to implement the curriculum as required is given to the teacher in charge of the PRU.

729. The curriculum arrangements for other EOTAS provision are broadly the same as those for PRUs. However, the duties to put in place the required curriculum and to implement it in the required way are given to the local authority only.

730. Through a regulation-making power under section 58 of the Bill, the Welsh Government plans to require assessment arrangements in EOTAS to:

- assess the progress made by pupils and children in relation to the curriculum which has been devised for that learner; and
- consider the next steps in their progression and the teaching and learning needed to make that progress.⁶⁰⁹

⁶⁰⁹ Welsh Government, Explanatory Memorandum, para 3.95.

731. Local authorities, teachers in charge of PRUs and PRU management committees will be required to have regard to guidance, which will be published by the Welsh Ministers, in respect of how they exercise their functions under the Bill. This guidance will be additional to the Curriculum for Wales documentation published in January 2020. The Welsh Government has said that, while what has already been published could be used as a “starting point”:

“... further more specific guidance will be published for these settings in 2021 to support them in fulfilling their legal obligations.”⁶¹⁰

Stakeholders’ evidence

732. Estyn felt that the Bill’s provisions for EOTAS were “appropriate” and “reflect current practice”:

“Pupil referral units aren’t necessarily set up to be able to deliver the whole curriculum; it’s not necessarily what’s best for the children to enable them to go back into mainstream schooling as quickly as possible. I think the flexibility that this gives PRUs and other EOTAS settings is striking the right balance.(...)”

... where it’s reasonable and appropriate the other areas of learning and experience should be covered, and it puts a requirement on the teacher in charge to design that broad and balanced curriculum. But we hope that these expectations are clear that children in EOTAS and PRUs, we expect them to make progress and we expect their aspirations to be raised. So, there is a responsibility on the teachers in charge to take those requirements and to make sure that the curriculum is broad and balanced.”⁶¹¹

733. Estyn also highlighted the importance of having high aspirations for children in PRUs and other EOTAS settings:

“We’re very clear in our remit and the way we inspect in these settings that we expect the children to be making progress. They find themselves in these settings because, very often, they’ve become disengaged with the normal curriculum in other schools. So, often, these schools will start by building the confidence of these children,

⁶¹⁰ Welsh Government, Hwb, [Curriculum for Wales 2022](#). (pages 5 and 7), January 2019.

⁶¹¹ Oral evidence, CYPE Committee, RoP [paras 100-101], 17 September 2020.

looking at their well-being and developing resilience, but we still have high aspirations for the learners.”⁶¹²

734. As the ASCL told us, the Bill establishes a minimum curriculum guarantee for EOTAS learners with the scope for other aspects to be delivered where appropriate:

“I think it’s emphasising, first of all, the health and well-being as, if you like, the one main entitlement, but it doesn’t preclude any EOTAS setting from actually delivering the rest. But, some of the settings would find it very difficult to deliver the full range of experiences that would be offered within a mainstream sector. So, I think it does give flexibility to the PRUs, for example, as one of the settings, but it also allows for others to be covered where appropriate.

You would still expect children, obviously, to make progress within their learning. That continuum is still there and other elements of the framework are still there. You would still expect the skills to be taught in terms of literacy, numeracy and digital competency and so forth. And you would expect, if you like, for many of the children who are within those settings, for them, the health and well-being element would be the most significant and relevant to their needs.”⁶¹³

735. The NAHT agreed, adding that the curriculum must be capable of meeting EOTAS learners’ wider needs and circumstances, for example those with ALN:

“... the requirements that are set out in the Bill specifically around PRUs, for example, must be broad enough to take into account the wide range of abilities of learners, which we think they are—you know, include the need to fulfil the four purposes, but also allow arrangements to be bespoke enough to work in line with any statements or individual developmental plans, for example.”⁶¹⁴

736. In its oral evidence, the WLGA emphasised the importance of every child in EOTAS having a “personalised curriculum”, “according to their own needs and ability to develop”:

⁶¹² Oral evidence, CYPE Committee, RoP [para 103], 17 September 2020.

⁶¹³ Oral evidence, CYPE Committee, RoP [para 116-117], 24 September 2020.

⁶¹⁴ Oral evidence, CYPE Committee, RoP [para 119], 24 September 2020.

“... for these students, mainstream education isn’t working for them, so it’s about finding out what does work for them and building on that, so that they can access the curriculum, as much of the curriculum as they can, but it will be different to those in mainstream schools.”⁶¹⁵

737. The Children’s Commissioner said she is “not opposed to a flexible approach to learners in EOTAS provision as this may well be in the best interests of the child”. However, she believes that in the absence of a general duty of due regard to the UNCRC, sections 52-57 of the Bill, which contain the EOTAS provisions, will need “substantial revision”.⁶¹⁶ The issue of whether the Bill should include a duty on relevant persons exercising functions to have due regard to the UNCRC is discussed in chapter 4.

738. The Children’s Commissioner wrote:

“A due regard duty would ensure children’s rights are considered when curriculum entitlements are only partially offered to children in EOTAS settings, and it would ensure children and young people participate in this decision. (...)

... I do feel strongly that more safeguards are needed than the Bill currently provides in order to ensure that the decision of the local authority, management committee or teacher in charge of a PRU is informed by the child’s rights and the participation of the child.”⁶¹⁷

739. For the Children’s Commissioner, this is a “very clear example” of how the Welsh Government’s “assertion” that a duty of due regard to the UNCRC is unnecessary because of existing legislative duties on the Welsh Ministers “entirely misses the point”. She observes that it is not the Welsh Government which takes decisions relating to individual children but practitioners on the ground.⁶¹⁸

740. A number of respondents to the call for written evidence commented on the curriculum to be provided in EOTAS settings. Parents Voice in Wales said:

⁶¹⁵ Oral evidence, CYPE Committee, RoP [paras 117 and 121], 20 July 2020.

⁶¹⁶ Written evidence, CYPE Committee, CAW 97 – Children’s Commissioner for Wales.

⁶¹⁷ Written evidence, CYPE Committee, CAW 97 – Children’s Commissioner for Wales.

⁶¹⁸ Written evidence, CYPE Committee, CAW 97 – Children’s Commissioner for Wales.

“No child should suffer a deficit in their education because they are not suited to a populated environment with peers. We must ensure that legislation supports all learners in every environment.”⁶¹⁹

741. The Together for Children and Young People (2) Programme highlighted the “importance of a clear connection between the PRU and mainstream education”:

“This approach could provide opportunities for pupils to benefit from moving into and out of both provisions on a needs led basis as part of a blended access to learning. This will require joint planning and coordination of resources and could over time support the needs of children young people and their families in a more flexible way and maximise capacity within the system as a whole.”⁶²⁰

742. Gwynedd Council agreed with the focus on Health and Well-being but argued that the curriculum should be tailored to each learner’s individual needs and the nature of the EOTAS provision they attend and the objectives behind it. The Council believes that the Bill “in this context is not currently clear enough or specific enough”.⁶²¹

743. The EHRC calls for greater understanding of the “disproportionate” rates of exclusions of certain groups of pupils, to address why they become EOTAS in the first place. The EHRC say “this must be understood to ensure the legislation supports all pupils including those in EOTAS”.⁶²²

The Welsh Government’s response

744. The Minister explained the Welsh Government’s approach to the curriculum in EOTAS settings as follows:

“What we’re trying to do here in the Bill is to state very clearly our expectations around entitlement for children who would find themselves in EOTAS, recognising that those children may have a range of needs, and in crafting a curriculum for them, that should really be at the forefront of a commissioner and of a provider’s mind. (...)”

⁶¹⁹ Written evidence, CYPE Committee, CAW 4 – Parents Voice in Wales.

⁶²⁰ Written evidence, CYPE Committee, CAW 88 – Together for Children and Young People (2) Programme.

⁶²¹ Written evidence, CYPE Committee, CAW 91 – Gwynedd Council.

⁶²² Written evidence, CYPE Committee, CAW 184 – Equality and Human Rights Commission.

Through the Bill, we're also putting in place a clear framework for learners to ensure that that needs to be as broad as possible..."⁶²³

745. The Minister also emphasised the primacy of the Health and Well-being AoLE in EOTAS:

"... given the specific challenges facing learners often in these settings, health and well-being has to be a must. It absolutely has to be a must for them."⁶²⁴

746. The Minister's official added that the flexible approach was "very much around providing what is appropriate to the learner":

"... we felt if we were putting a longer list of must-do requirements, that wouldn't necessarily be suitable for some of the learners in those settings. But the emphasis is on, where it's possible, that as much of the curriculum requirements should be provided, but recognising that it won't necessarily be appropriate for all of it to be provided. So, I think we tried to get that balance, I guess, as right as we can... (...)

... it puts quite a different emphasis now on the commissioner in making sure that, when they're commissioning, they're providing a much more rounded education experience for those learners, whatever the nature of the provision they receive."⁶²⁵

747. The Minister also spoke of how the Bill aims to enable PRUs to support pupils who alternate between PRUs and mainstream school, whilst also providing for children who are there long-term:

"... if we look at some of the pupil referral units that have recently been deemed 'excellent' by Estyn, the ability for children to move seamlessly, maybe, into PRU provision, back out of PRU provision into mainstream, or spending some time in both, is best practice, and we don't want to do anything in those settings that would make it more difficult for children to move into mainstream if that is what's suitable for them, but ensuring, for those children for whom perhaps education in mainstream is never going to be suitable for them, that there is a

⁶²³ Oral evidence, CYPE Committee, RoP [paras 82 and 84], 14 July 2020.

⁶²⁴ Oral evidence, CYPE Committee, RoP [para 84], 14 July 2020.

⁶²⁵ Oral evidence, CYPE Committee, RoP [para 85], 14 July 2020.

higher level of expectation around what is delivered for those children.”⁶²⁶

Our views and recommendations: EOTAS

748. The provision of EOTAS is a matter of significant interest to us as a Committee, and one on which we have conducted a full and detailed inquiry recently.⁶²⁷ Our report on that inquiry has been delayed due to the COVID-19 pandemic, but our intention is to publish it early in the new year. In the meantime, our approach to this Bill—and our views and recommendations—have been informed by that work.

749. We welcome the Bill’s approach to the curriculum in EOTAS settings. Whilst it is important that children and young people educated outside of school receive as full an education as possible, we believe the requirements on PRUs and other EOTAS providers are proportionate and realistic.

750. We agree that Health and Well-being is a “must” for EOTAS learners, as is Relationships and Sexuality Education (RSE). As we have made clear in this and other reports, we believe that emotional and mental health is absolutely vital to children and young people’s immediate and long-term well-being and life chances. Many EOTAS learners are vulnerable and live in disadvantaged circumstances, therefore these aspects of the curriculum are particularly important for them. They are also crucial to their prospects of successful re-integration into mainstream school, while the three cross-curricular skills are integral to their future progress.

751. However, whilst we support the proportionate approach of the Bill, we wish to be completely clear that there must be high aspirations and expectations for EOTAS provision. Children and young people should never be written off, and neither should a minimalist approach be taken to what they are capable of learning. We urge the Welsh Government to guard against this possible unintended consequence and welcome the requirement for the other AoLEs and mandatory elements to be taught “if it is reasonably possible and appropriate to do so”. We believe the statutory guidance specifically aimed at EOTAS settings will be essential in this regard.

Recommendation 38. That the Welsh Government must fully ensure that the new curriculum is ambitious about the learning and life-chances of learners who

⁶²⁶ Oral evidence, CYPE Committee, RoP [para 86], 14 July 2020.

⁶²⁷ CYPE Committee, [Education Otherwise than at School](#).

are EOTAS, through the provisions of the Bill and the forthcoming statutory guidance on implementation of the new curriculum in EOTAS settings.

752. Some of the evidence we received highlighted the association between EOTAS and ALN. Based on data over the past five years, between 86 and 88 per cent of EOTAS learners have ALN (or Special Educational Needs (SEN) as they are still formally known).⁶²⁸ This compares with around 21 per cent of all pupils.⁶²⁹

753. We discuss the impact of the Bill on learners with ALN later in this chapter. However, in the context of EOTAS, we wish to emphasise the importance of the new curriculum enabling a personalised approach to meeting the individual needs of learners in these settings. For many EOTAS learners, this will require attention to their ALN and the provision this necessitates, while for others it will require consideration of emotional, social and behavioural difficulties, or medical factors. This will be particularly relevant in determining which of, and to what extent, the non-mandatory aspects of the Curriculum for Wales are provided to EOTAS learners.

Recommendation 39. That the Welsh Government must fully ensure the new curriculum has a personalised approach to tailor the curriculum provided to learners in EOTAS settings (e.g. provision that pays attention to their ALN, considers emotional, social and behavioural difficulties, or recognises medical factors). This should be achieved through the provisions of the Bill and the forthcoming statutory guidance on implementation of the new curriculum in EOTAS settings.

754. One of the objectives of EOTAS provision is to help learners to progress to a position whereby they can effectively re-integrate into mainstream schooling. It is not the only objective, as that might not be realistic for some learners, and the curriculum on offer must meet their circumstances. However it is a very important objective and one which the new curriculum should complement. We are concerned to guard against any situation in which the Bill leads to the minimum requirements simply becoming the assumed level of provision in EOTAS. It is vitally important that the other AoLEs and mandatory elements are provided, as the Bill states, where “reasonably possible and appropriate”. Otherwise, the gap between learners in EOTAS and their peers in schools risks becoming wider,

⁶²⁸ Welsh Government, Statistics and Research, [Pupils educated other than at school: September 2018 to August 2019](#), Table 4, August 2019.

⁶²⁹ Calculated from Welsh Government, StatsWales, [Pupils with special educational needs by local authority, region and type of provision](#) and [Pupils by local authority, region and school governance](#).

exacerbating the challenges they face when returning and re-integrating to mainstream education.

Recommendation 40. That the Welsh Government must fully ensure the curriculum provided in EOTAS settings enables learners' re-integration into mainstream school, where this is appropriate and possible, through the provisions of the Bill and the forthcoming statutory guidance on implementation of the new curriculum in EOTAS settings.

755. We are conscious that the Bill does not provide for any process whereby the curriculum provided in a PRU, or a curriculum which is secured by a local authority (in the case of other EOTAS settings), can be challenged. We note that this replicates the position in the case of maintained schools and nurseries/non-maintained nurseries. Sections 52 and 55 of the Bill are, however, much less prescriptive as to curriculum requirements for EOTAS settings. As a Committee, we are unclear how a parent or learner could challenge the curriculum offered in these settings, in the event they do not consider that it meets the requirements under the Bill (for example, if they disagree with the local authority or PRU's interpretation of "reasonably possible and appropriate"). In light of our comments above, we would welcome clarification about what mechanisms exist for parents and learners to challenge the curriculum that is offered for learners who are EOTAS in the event they do not believe it complies with the requirements under the Bill.

Recommendation 41. That the Welsh Government clarify what mechanisms exist for parents and learners to challenge the curriculum that is offered for learners who are EOTAS in the event they do not believe it complies with the requirements under the Bill.

Specific exceptions

Development work and experiments

Position in the Bill and wider background

756. Under section 40, the Welsh Ministers may direct that the requirements of the curriculum do not apply to certain schools, or to schools or funded non-maintained nursery settings of a specified description, in order to facilitate development work or experiments to be carried out.

757. In our first session on the Bill, the Minister said the "powers could be used in relation to specific schools or cohorts of schools" and gave the example of the development of the Foundation Phase ten to fifteen years ago:

“... I’m not anticipating—. I’ve got nothing in my mind that says, ‘This is what we need to do’ in terms of an exception. But it’s there to futureproof the legislation to ensure that the legislation wouldn’t confine or negate innovation, and, I think, the experience that most of us here this afternoon could relate to would be the introduction of foundation phase and the move to play-based learning, as opposed to the more traditional way in which we did early-years education previously. So, I think, if there was to be a new version of foundation phase or an approach, that’s a good example there where an exception may be used.”⁶³⁰

758. Section 41 sets two conditions for such a direction under section 40 to be made:

- that the general curriculum requirements – the four purposes, appropriate progression, suitability, broad and balanced, and account taken of pupils’ ALN – are still met; and
- that various procedural requirements are complied with.⁶³¹

759. The Explanatory Notes to the Bill explain that these conditions are to “ensure that pupils participating in experiments or development work are not disadvantaged” and so their education continues to be “subject to the core principles guiding the Curriculum for Wales framework”.⁶³²

Stakeholders’ evidence

760. The WLGA said there are sufficient safeguards regarding exceptions that may be made under section 40:

“There are circumstances where exemptions will be needed, and that’s then down to the local authority to work within the schools, then, to find out what these exemptions are, what the discussions are and whether it’s appropriate or not at that time. (...)”

I can’t imagine that it’s going to be used too frequently, but it does allow for those needs where it may be needed.”⁶³³

⁶³⁰ Oral evidence, CYPE Committee, RoP [para 88], 14 July 2020.

⁶³¹ As stipulated in sections 41(3)-41(5) of the Bill.

⁶³² Welsh Government, Explanatory Memorandum, Annex 1, para 66.

⁶³³ Oral evidence, CYPE Committee, RoP [para 115], 20 July 2020.

Temporary exceptions for individual pupils and children

Position in the Bill and wider background

761. Section 44 provides for regulations to be made which enable head teachers and funded non-maintained nursery settings to disapply curriculum requirements in relation to certain pupils and children for a temporary period.

762. As with exceptions to enable development work and experiments, the general curriculum requirements—the four purposes, appropriate progression, suitability, broad and balanced, and account taken of pupils’ ALN—must still be met where exceptions are made. Furthermore, section 45 stipulates that a pupil’s ALN is not a valid reason for exceptions to be made, i.e. schools and settings cannot disapply their duties to provide the curriculum simply because a pupil has ALN.

763. Any exceptions must not exceed six months, although additional periods of exception may be possible after the initial six months. These additional periods can be longer than six months if certain conditions are met.

764. In our first evidence session on the Bill, the Minister told us:

“... let me give an example, maybe, of a pupil who has a significant or long-term illness. So, it might not be appropriate for that pupil or that school, who, of course, are held legally responsible to deliver a whole curriculum to that individual. It may be absolutely the right thing to do that a slimmed-down curriculum is in the best interests of that child. So, that might be an example.

The safeguards are built into section 45, which enables regulations to make provisions to the circumstances and requires provisions for an operative period for temporary exceptions.”⁶³⁴

765. The Minister’s official explained that the provisions in the Bill “substantially replicate” existing primary legislation and the new regulations would update existing regulations, with “a few additional criteria”, which a head teacher must consider.⁶³⁵

⁶³⁴ Oral evidence, CYPE Committee, RoP [paras 90-91], 14 July 2020.

⁶³⁵ Oral evidence, CYPE Committee, RoP [para 93], 14 July 2020.

766. Asked whether further detail should be on the face of the Bill rather than left to regulations, the Welsh Government official said:

“... we think that we’ve got the balance right in terms of the key principles that set out when the regulations can be made. So, for example, in section 44(3) it sets out that if we do make regulations, there are certain things that the regulations must say. So, it’s not left entirely to the discretion of Ministers. So, there are criteria there.”⁶³⁶

767. Section 47 provides the pupil and the pupil’s parents with a right of appeal to the school’s governing body against a head teacher’s decision to temporarily exempt them from curriculum requirements. This differs to the existing legislative position whereby only the parent—not the pupil—may appeal. However, a pupil’s right to appeal does not apply if the governing body considers that the pupil does not have the capacity to understand what it means to exercise this right.

Stakeholders’ evidence

768. Estyn was satisfied that there are sufficient safeguards and that the provision for exceptions to be made “broadly reflects current practice”:

“It looks as if it’s something that has inherent dangers to it, but there are lots of checks and balances, and the current system doesn’t give us concern, so I can’t see why it should cause concern in future.”⁶³⁷

769. The NAHT agreed, pointing out that such a power to make exceptions for certain pupils “is already in the current legislation” and is “only used in exceptional circumstances”.⁶³⁸

770. Mind Cymru questioned how “capacity” in the sense it is used in section 47(3) will be defined and interpreted. They suggested that it is defined as age 16 in other legislation, in which case pupils would automatically not be able to use this right of appeal against head teachers’ decisions.⁶³⁹ An individual respondent made a similar point.⁶⁴⁰

⁶³⁶ Oral evidence, CYPE Committee, RoP [para 96], 14 July 2020.

⁶³⁷ Oral evidence, CYPE Committee, RoP [para 107], 17 September 2020.

⁶³⁸ Oral evidence, CYPE Committee, RoP [para 121], 24 September 2020.

⁶³⁹ Written evidence, CYPE Committee, CAW 187 – Mind Cymru.

⁶⁴⁰ Written evidence, CYPE Committee, CAW 167 – Individual.

Pupils and children with ALN

771. Section 43 of the Bill enables the curriculum requirements to be excepted for pupils with Additional Learning Needs (ALN), as a consequence of Individual Development Plans (IDPs) put in place under the Additional Learning Needs and Education Tribunal (Wales) Act 2018. This is covered in a later section of this chapter which discusses ALN more widely.

Power to make further exceptions

772. Section 50 provides the Welsh Ministers with a power to make regulations specifying additional circumstances when the general curriculum requirements may be disapplied or modified. It also enables such regulations to specify another person, for example a head teacher, to exercise their discretion about disapplying or modifying a requirement.

773. The Welsh Government's Statement of Policy Intent for Subordinate Legislation, direction making powers and guidance says:

“This will also allow flexibility to cover situations whereby part of a pupils’ curriculum is commissioned and possibly undertaken at another place, for example at a further education institution, due to their particular interests. Some flexibility in terms of curriculum requirements may be needed to enable this to happen.”⁶⁴¹

774. The Welsh Government has said it will decide whether or not there is a need to use this power when individual school curricula are available.⁶⁴²

775. Unlike the power to except certain schools (section 40) and the regulations to enable exceptions for certain pupils (section 44), this general power to provide for further exceptions through regulations does not include a condition that the general curriculum requirements are still met – these being the four purposes, appropriate progression, suitability, broad and balanced, and account taken of pupils’ ALN.

⁶⁴¹ Welsh Government, Statement of Policy Intent for Subordinate Legislation, direction making powers and guidance, July 2020.

⁶⁴² Welsh Government, Statement of Policy Intent for Subordinate Legislation, direction making powers and guidance, July 2020.

Our views and recommendations: specific exceptions

776. We are broadly content with the Bill’s provisions for exceptions to the curriculum requirements in respect of certain schools and certain pupils. We would emphasise, however, that sufficient safeguards must be in place. In the main, we are satisfied that they are.

777. It is important that there is room and scope for innovation and development work where this might be desirable in the future. Section 40 provides this. The Minister gave the example of the development of the Foundation Phase in the early years of devolution as a pioneering piece of work which required schools involved in the pilot work to be released from the confines of the curriculum. We are satisfied that the conditions that the general curriculum requirements must still be met provide adequate safeguards.

778. We also recognise the need for schools to be able to be temporarily freed from curriculum requirements in respect of certain pupils, where circumstances warrant this. The provisions in section 44 largely replicate existing legislation, although we welcome the clear stipulation in the Bill that the fact a pupil has ALN cannot in itself be a reason for them not to receive the full curriculum. Where this is necessary as a result of their IDP, that is different and is rightly covered by a separate provision for exceptions to be made under section 43. We are satisfied that, because any regulations to provide for temporary exceptions in respect of pupils will include the condition that the general requirements must still be met, there are adequate safeguards.

779. We believe that further clarification is needed about what is meant by references in this Bill to a pupil’s “capacity to understand”. Section 46(5) provides that a head teacher does not have to provide a pupil with information in writing about a temporary disapplication of the curriculum in circumstances where a pupil does not have the “capacity to understand” the information that would be given, or what it means to exercise the right to appeal. Section 47(3) further provides that a pupil is unable to appeal against a head teacher’s decision to temporarily disapply curriculum requirements where the governing body considers the pupil does not have the “capacity to understand” what it means to exercise this right. Section 47(5) also disapplies the requirement for a governing body to give written notice of its appeal decision to a pupil where it considers the pupil does not have the “capacity to understand” the information that would be given.

780. “Capacity to understand” is not defined on the face of the Bill, and there is no reference to what is meant by the phrase, in the accompanying documentation.

We note that it is a phrase that is used in both the Social Services and Well-being (Wales) Act 2014 and the Additional Learning Needs and Education Tribunal (Wales) Act 2018. We believe, however, that clarity is needed about how references to “capacity to understand” made in this legislation⁶⁴³ are to be interpreted.

Recommendation 42. That the Welsh Government clarify how “capacity to understand” is to be interpreted for the purposes of the Bill. This could include guidance on the factors head teachers and governing bodies should take into account when deciding whether a pupil has capacity to understand.

781. The provision under section 50 for regulations to specify additional exceptions does not come with the same safeguard as exceptions under section 40 and 44, i.e. that the general curriculum requirements—the four purposes, appropriate progression, suitability, broad and balanced, and account taken of pupils’ ALN—must still be met. We do not see the reason for this and believe this should be addressed. Neither the Bill nor the supporting information specify what these additional exceptions might be, meaning they could be relatively wide-ranging, which makes it even more important that there are adequate safeguards.

Recommendation 43. That the Welsh Government explain the reasons why additional exceptions to curriculum requirements under regulations made under section 50 will not necessarily be conditional on the general curriculum requirements being met, unlike exceptions provided for by other sections of the Bill.

14 to 16 year olds (Years 10 and 11)

Position in the Bill and wider background

782. Section 24(5) of the Bill requires that the curriculum must offer pupils in Years 10 and 11 a choice of teaching and learning within each AoLE. This is similar to the current position, whereby pupils select ‘options’ at the end of Year 9 and are able to ‘drop’ certain subjects. However, under the new curriculum, they will not be able to cease studying a whole AoLE and must undertake at least some learning in each one.

783. Regulations made under section 25 may specify further requirements of the curriculum for pupils in Years 10 and 11. This may include provision of a minimum number of courses of study or for certain courses of study. Current legislation

⁶⁴³ “Capacity to understand” is also used in sections 34 and 35, which are concerned with pupil choice.

requires that pupils must have a choice of a minimum of 25 courses at Key Stage 4 (Years 10 and 11), of which at least three must be vocational.⁶⁴⁴

784. The Welsh Government says it does not intend to use the power to make regulations at the outset as it expects that “the requirement in the Bill for a curriculum to be broad and balanced will be sufficient”, whilst adding:

“However, should there be evidence that some schools are offering a narrow curriculum to this age group, or are not providing courses of study that lead to certain qualifications then this power can be used to address the position.”⁶⁴⁵

785. Section 33 gives head teachers the power to decide not to provide the teaching and learning chosen by a pupil in Year 10 or 11. Where a pupil has not yet started Year 10, the head teacher may do so only on the following “relevant grounds”:

- the teaching and learning is not suitable, given the educational attainment of the pupil;
- it is not practicable to provide the teaching and learning, because of other choices that the pupil has made;
- the amount of time spent travelling to where the learning would be delivered would have a negative effect on the education of the pupil;
- securing the teaching and learning would incur disproportionate costs;
- there would be an unacceptable health and safety risk to the pupil, or others, if the teaching and learning was secured.

786. If a pupil has already started Year 10, the head teacher may refuse to meet their choices on only two of these “relevant grounds”:

- disproportionate cost;
- unacceptable health and safety risk to the pupil or others.

⁶⁴⁴ [The Education \(Local Curriculum for Pupils in Key Stage 4\) \(Wales\) \(Amendment\) Regulations 2014](#).

⁶⁴⁵ Welsh Government, Statement of Policy Intent for Subordinate Legislation, direction making powers and guidance, July 2020.

787. Section 35 provides pupils and parents with a right to ask the head teacher to review their decision to disapply pupils choices about teaching and learning in Year 10 and 11, and if still dissatisfied with the head teacher’s decision on the review, to appeal to the school’s governing body. This differs to the existing legislative position whereby only the parent—not the pupil—may appeal. As with temporary exceptions under section 44, a pupil’s right to review/appeal does not apply if the head teacher/governing body considers that the pupil does not have the capacity to understand what it means to exercise this right.

788. An obvious key area associated with the Bill which particularly affects 14 to 16 year olds is that of qualifications, which is discussed in chapter 11.

Stakeholders’ evidence

789. Our survey of children and young people asked whether pupils have enough choice about what they study in Years 10 and 11. Half (49 per cent) of respondents said they would like greater choice, while around a third (36 per cent) felt the current choices available were sufficient. When asked what additional options they would like to choose from, a wide range were identified of both an academic and vocational nature.⁶⁴⁶

790. The course and qualification options available to 14 to 16 year olds was also discussed in our virtual round table event. Some young people participating said that the current curriculum was too academically oriented and there needs to be more emphasis on vocational interest and skills. They also said the power head teachers will have to disapply Year 10 and 11 pupils’ choices (under “relevant grounds” specified in the Bill) will need adequate checks and balances so it is not abused or used excessively”.⁶⁴⁷

791. Some representatives of higher and further education felt it was not clear where vocational training fits within the new curriculum. They suggested it would be difficult to realise a “parity of esteem” between vocational and academic qualifications when GCSEs and A levels are seen as “gold standard”.⁶⁴⁸

⁶⁴⁶ Wavehill social and economic research, Curriculum and Assessment (Wales) Bill: Consultation Analysis, October 2020.

⁶⁴⁷ CYPE Committee, Evidence from virtual round table discussions with stakeholders, October 2020.

⁶⁴⁸ CYPE Committee, Evidence from virtual round table discussions with stakeholders, October 2020.

792. Among the employer and employability representatives with whom we spoke, some highlighted the importance of careers and work-related education, and for pupils to be exposed to a wide range of career and employment opportunities.⁶⁴⁹

793. We asked several witnesses whether they had any concerns that the powers to disapply pupils' choices could be used excessively or disproportionately.

794. ASCL told us:

“I think it is an appropriate provision. I think it will be used very sparingly (...) it will be in exceptional circumstances. Nobody wants to disapply children from the full range and the full provision and would do it only if there was a specific and very particular issue. (...)”

If the range of qualifications is broad enough and flexible enough in terms of how they're working, then I think you will see less disapplication within the system as well.”⁶⁵⁰

795. Qualifications Wales said it wanted the range of qualifications to be “as comprehensive as possible to allow as much flexibility for schools”. It added that is not just about “what a school is able to offer” but “what's right for individual learners”.⁶⁵¹

796. Estyn felt there are “sufficient checks and balances”, referring to the overview which local authorities and consortia will have as well as its own role as an inspectorate.⁶⁵²

797. As with temporary exceptions to curriculum requirements, Mind Cymru questioned how “capacity” will be defined and interpreted in head teachers' and governing bodies' decisions about whether a pupil understands what is meant by their right to appeal.⁶⁵³

⁶⁴⁹ CYPE Committee, Evidence from virtual round table discussions with stakeholders, October 2020.

⁶⁵⁰ Oral evidence, CYPE Committee, RoP [para 125], 24 September 2020.

⁶⁵¹ Oral evidence, CYPE Committee, RoP [para 111], 17 September 2020.

⁶⁵² Oral evidence, CYPE Committee, RoP [para 109], 17 September 2020.

⁶⁵³ Written evidence, CYPE Committee, CAW 187 – Mind Cymru.

798. The National Deaf Children’s Society (NDCS) are concerned that the provision for head teachers to disapply the choices of pupils could adversely affect learners with ALN, particularly deaf pupils. NDCS wrote:

“It would be inappropriate for headteachers to determine whether it was suitable for a deaf child to be disappplied from a part of the curriculum without consultation and discussion with specialists such as Teachers of the Deaf. While in a small number of cases, disapplication may be appropriate, it is often possible to make adaptations to secure accessibility. Disapplication for ALN learners on suitability grounds should not be presumed without consulting with the relevant and appropriate professionals.”⁶⁵⁴

799. NDCS seek assurances that section 33 will not be “misused/misinterpreted” to disapply pupils’ choices on the grounds of their ALN, specifically in relation to deafness or hearing loss:

“We are also concerned that the “disproportionate expense” clause for disapplication should not be interpreted to supersede rights under the Equality Act for reasonable adjustments nor under the Additional Learning Needs and Education Tribunal Wales Act. Learners with ALN, including deafness may indeed require adaptations at a cost to access lessons. It must be clear that discussions and decisions around disapplication or curriculum modification in light of a learner’s ALN are attributed to the IDP process as opposed to being permitted at the headteacher’s discretion under section 33 of this bill.”⁶⁵⁵

The Welsh Government’s response

800. The Minister told us that “similar provision exists in current legislation” to the power the Bill gives head teachers to disapply choices made by learners in Year 10 and 11 on specified “relevant grounds”. Her official added:

“... in exercising the function provided by this provision, it’s absolutely constrained by the broader framework, so you couldn’t use it to unnaturally narrow the options. (...)

... the Bill also specifies the grounds on which it can be used, which then limits again its scope for misuse, and it provides for a review and

⁶⁵⁴ Written evidence, CYPE Committee, CAW 237 – National Deaf Children’s Society.

⁶⁵⁵ Written evidence, CYPE Committee, CAW 237 – National Deaf Children’s Society.

appeal process, so that if a learner or their parent were dissatisfied with a decision the school has made, they would be able to challenge that decision.”⁶⁵⁶

801. Asked about the length of time an appeal against a head teacher’s determination would take, with time of the essence in terms of the pupil’s next steps, the Welsh Government official replied:

“... there is a power to make regulations in relation to this, and that would be exactly the kind of thing we would expect to put in the regulations, and why it would be in regulations would be, for example, a time limit, if it were felt that there was evidence of unreasonable delay occurring.”⁶⁵⁷

Our views and recommendations: 14 to 16 year olds (year 10 and 11)

802. We believe that it is essential that broad curriculum choices are available to learners in Years 10 and 11. This is necessary to ensure the school experience is relevant to all 14 to 16 year olds and to enable them to decide which fields to study, helping them develop potential career paths whilst keeping ample options open.

803. The choice given to 14 to 16 year olds about certain aspects of each AoLE in section 24(5) is therefore an important feature of the Bill, whilst at the same ensuring that core, essential disciplines are studied by all. This generally reflects the position now, whereby pupils choose from optional subjects at the start of Year 10 but must continue to study certain compulsory subjects. We welcome that 14 to 16 year olds will still be required to undertake at least some learning in each of the six AoLEs.

804. Since the Learning and Skills (Wales) Measure 2009, there has been a greater emphasis on providing 14 to 16 year olds with a wide range of course options, including vocational courses. The importance of this has been reaffirmed through our conversations with children and young people and we urge that this is given full impetus by the Bill and the new curriculum. We note that section 25 of this Bill gives Welsh Ministers the power to make regulations specifying further curriculum requirements for 14 to 16 year olds and that they intend to use this if the curriculum proves to be too narrow.

⁶⁵⁶ Oral evidence, CYPE Committee, RoP [para 136], 14 July 2020.

⁶⁵⁷ Oral evidence, CYPE Committee, RoP [para 138], 14 July 2020.

Recommendation 44. That the Welsh Government:

- provide assurances that the curriculum framework will ensure a sufficiently broad offer for 14 to 16 year olds, with a wide range of course options available, including vocational courses; and
- monitor this situation closely and keep under consideration the need to promptly make regulations specifying further requirements as may be necessary.

805. We note that section 33 enables head teachers to decide not to meet the choices made by pupils in Year 10 and 11 under specified “relevant grounds”. We recognise that such provision is necessary and reflects the current legislative position. However, we caution that this power must not be used excessively or disproportionately to unnecessarily deny the choices 14 to 16 year olds make about their learning. We particularly urge that the ground which refers to the suitability of the pupil’s choice given their educational attainment is not used to inhibit the aspirations of what all learners can achieve, for example those with ALN.

Recommendation 45. That the Welsh Government monitor closely how the power given to head teachers in section 33 is used and ensure, including through the statutory guidance underpinning the curriculum, that it is not used to unnecessarily deny pupils’ choices nor inhibit high aspirations for all learners.

806. Section 35 provides that a pupil’s right to request a review of, or appeal against, a head teacher’s decision to disapply their choices about teaching and learning in Year 10 and 11 does not apply where the head teacher/ governing body considers the pupil does not have the capacity to understand what it means to exercise this right. As in the case of appeals against temporary exceptions (paragraphs 779 – 780), we believe that clarity is needed about how “capacity to understand” in this sense will be interpreted. We have made a recommendation about this earlier in this chapter (recommendation 42).

Additional Learning Needs (ALN) and disabilities

Position in the Bill and wider background

807. Section 43 of the Bill enables the curriculum requirements to be excepted for pupils with Additional Learning Needs (ALN), according to their Individual Development Plan (IDP), which sets out the provision which must be made for them. Each pupil with ALN will have an IDP put in place for them under the Additional Learning Needs and Education Tribunal (Wales) Act 2018.

808. The new system for supporting pupils' ALN under the 2018 Act is due to be introduced from September 2021. The Welsh Government plans to lay the ALN Code before the Senedd in February 2021,⁶⁵⁸ which will provide statutory guidance on how the new system of IDPs for each learner with ALN will work in practice.

809. Section 43 of the Bill means that the duty to deliver the six AoLEs, the three cross-curricular skills and the four mandatory elements may be disapplied in respect of pupils with ALN. However, the curriculum will still need to:

- enable the pupil or child to develop in the ways described in the four purposes;
- secure teaching and learning that offers appropriate progression for the pupil or child;
- be suitable for the pupil or child's age, ability and aptitude; and
- secure broad and balanced teaching and learning for the pupil or child.

810. The ALN Act includes a duty of due regard to the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), as well as a duty of due regard to the United Nations Convention on the Rights of the Child (UNCRC). A duty on relevant bodies to have due regard to both UN Conventions was added to the ALN legislation during its passage through the (then) Assembly, following our recommendation.⁶⁵⁹

811. The Bill does not reference specifically a duty of due regard to either the UNCRC (discussed in chapter 4) or the UNCRPD.

Stakeholders' evidence

812. The EHRC commented on the Bill's provision to disapply curriculum requirements for pupils with ALN in the context of the UNCRPD. The EHRC wrote that the implementation of the Bill should reflect the principles of Article 24 of the UNCRPD, which it says is clear that people with disabilities "must not be excluded from the general education system (at any level) because of their disability".⁶⁶⁰

⁶⁵⁸ Correspondence, [Minister for Education to CYPE Committee](#), 3 September 2020.

⁶⁵⁹ CYPE Committee, [Additional Learning Needs and Education Tribunal \(Wales\) Bill](#), May 2017.

⁶⁶⁰ Written evidence, CYPE Committee, CAW 184 – Equality and Human Rights Commission.

813. The EHRC called for the Bill to place duties on persons exercising functions under the legislation to pay due regard to the UNCRC (see chapter 4) and the UNCRPD. It recommended the term “act in accordance with” rather than pay or have “due regard”.⁶⁶¹

814. NDCS is “keen to ensure that the new curriculum is accessible to deaf children and young people”. It welcomes the requirement for schools and early years settings to take account of pupils’ ALN in implementing the curriculum (sections 30(d) and 37(d)), although calls for a specific reference to ALN within the requirement that the curriculum be suitable for differing ages, abilities and aptitudes (section 22).⁶⁶²

815. The EHRC placed this in a wider context of equality, rather than solely in reference to ALN, recommending that the general curriculum requirements in section 30 include consideration of the needs of learners with protected characteristics.⁶⁶³

816. NDCS has several reservations about the Bill and the implications for pupils with ALN, particularly deafness and hearing loss. These include the concerns about head teachers’ power to disapply Year 10 and 11 pupils’ curriculum choices, discussed in paras 782 to 806. A number of NDCS’s concerns refer to matters beyond the Bill itself such as how the curriculum is implemented. For example, they would like to see more specific references within the statutory guidance to ALN, deafness and hearing loss.⁶⁶⁴

817. Several stakeholders call on the Bill and the new curriculum to have high aspirations for what education should deliver for pupils with ALN. For Deaf Friendly Business Solutions, this “means changing the status quo in respect of the education of deaf children”. They “desperately hope that the new curriculum is bold and ambitious for ALL children”, highlighting that complying with human rights to education does not only mean “being able to go to school” but actually receiving “an effective education”.⁶⁶⁵

⁶⁶¹ Written evidence, CYPE Committee, CAW 184 – Equality and Human Rights Commission.

⁶⁶² Written evidence, CYPE Committee, CAW 237 – National Deaf Children’s Society.

⁶⁶³ Written evidence, CYPE Committee, CAW 184 – Equality and Human Rights Commission.

⁶⁶⁴ Written evidence, CYPE Committee, CAW 237 – National Deaf Children’s Society.

⁶⁶⁵ Written evidence, CYPE Committee, CAW 61 – Deaf Friendly Business Solutions.

818. Similarly, NDCS is concerned that, “without appropriate monitoring”, the progression step model “could exacerbate a culture of low expectations for deaf learners”:

“It is important that learners are truly being supported to reach their full potential and that it is not complacently accepted that they are simply working on a different progression step.”⁶⁶⁶

819. Several stakeholders commented on the importance of ensuring that this Bill and the ALN Act, which represent two substantial areas of reform implemented at broadly the same time, are fully aligned and complement each other.⁶⁶⁷ This is discussed in more detail in chapter 12.

The Welsh Government’s response

820. Asked how confident she was that the Bill adequately safeguards the interests of certain groups of pupils, including those with ALN, the Minister replied:

“... the guidance provides details on ensuring that schools consider the needs of all of their learners, and learners will have a wide range of needs and backgrounds, and the framework offers schools and practitioners that agency that we were talking about at the beginning, rather than slavishly having to follow a national diktat. So, each school community is different, and, as I said, this balance between a national requirement and the individual ability of a school to develop a curriculum that meets the needs of the cohort of those children gives us a better chance of developing a curriculum that is really relevant to those children. As part of approaching curriculum design, the guidance challenges schools to consider how that is informed by a recognition of learners’ identity, language ability, and background, so we’re very clear in our expectations around schools and the guidance that we’re developing.”⁶⁶⁸

821. Since our scrutiny of the ALN Bill in 2017, the Minister has provided us with regular written updates on progress towards the implementation of the new system. In September 2020, she said:

⁶⁶⁶ Written evidence, CYPE Committee, CAW 237 – National Deaf Children’s Society.

⁶⁶⁷ Written evidence, CYPE Committee, CAW 49 – National Education Union Cymru; and CAW 145 – Royal College of Speech and Language Therapists

⁶⁶⁸ Oral evidence, CYPE Committee, RoP [para 23], 21 October 2020.

“As you are aware the ALN system will focus on ensuring that all children and young people who require additional support to meet their needs have that support planned for and protected. The reforms will place the learner and their parents or carers at the heart of the process. This will help to ensure that all learners with additional learning needs reach their full potential.”⁶⁶⁹

822. In terms of disabilities, the Welsh Government’s impact assessment of the Bill states:

“Disability: positive impact as the curriculum framework allows practitioners more flexibility in tailoring a curriculum to meet learners’ needs.”⁶⁷⁰

Our views and recommendations: ALN and disabilities

823. Approximately 100,000 pupils in Wales are identified as having ALN, which is over 20 per cent of all pupils.⁶⁷¹ We believe that any change to the curriculum must fully consider the impact on such a large group of learners, particularly with such a far-reaching reform as the complete overhaul of the curriculum.

824. Throughout this Senedd, we have closely scrutinised the reforms the Welsh Government is making to the current Special Educational Needs (SEN) framework, introducing a new system based on Additional Learning Needs (ALN). We scrutinised the ALN Bill when it was passing through the Senedd in 2017⁶⁷² and subsequently the draft ALN Code in 2019⁶⁷³.

825. As such, we are very keen to ensure that the Bill enables high aspirations for the support given to pupils with ALN and their educational outcomes, both in terms of the strategy behind the Curriculum for Wales and its implementation. The same applies to learners with protected characteristics, including disabilities and we similarly urge that full consideration is given to how the new curriculum can support all pupils to realise their full potential.

⁶⁶⁹ Correspondence, [Minister for Education to CYPE Committee](#), 3 September 2020.

⁶⁷⁰ Welsh Government, Explanatory Memorandum, para 9.20.

⁶⁷¹ Welsh Government, StatsWales, [Pupils with special educational needs by local authority, region and type of provision](#) and [Pupils by Assembly constituency and sector](#).

⁶⁷² CYPE Committee, [Additional Learning Needs and Education Tribunal \(Wales\) Bill](#), 2017.

⁶⁷³ CYPE Committee, [Draft Additional Learning Needs Code](#), 2019.

Recommendation 46. That the Welsh Government:

- ensure that both the strategic approach to the Curriculum for Wales and its implementation fully support the interests of pupils with Additional Learning Needs and disabilities, and are consistent with the provisions of the Additional Learning Needs and Education Tribunal (Wales) Act 2018; and
- monitor this situation closely and consider strengthening the references to ALN and disabilities in guidance on curriculum implementation.

826. We have recommended in chapter 4 that the Bill include a duty of due regard to the UNCRC. We believe there should also be a duty of due regard to the UNCRPD, given the importance of ensuring that the new curriculum is implemented in a way that supports the education of people with disabilities. This would mean the Curriculum and Assessment Bill adopts a similar position to the Additional Learning Needs and Education Tribunal (Wales) Act.

Recommendation 47. That the Welsh Government amend the Bill to include, on its face, a duty to have due regard to the UN Convention on the Rights of Persons With Disabilities (UNCRPD). Given their respective roles in relation to the Curriculum for Wales, this duty should be placed on all persons listed in section 66(3) of the Bill when exercising any of their functions conferred by or under the Bill.

11. Progression, assessment and qualifications

Pupils' progression along a single learning continuum is a key concept of the new Curriculum for Wales, and the Bill requires the Welsh Ministers to issue a Progression Code. The way learners are assessed will also undergo considerable change, although most of the details will be set out in regulations. A key question arising in the evidence we took relates to what the new curriculum's different approach means for qualifications. A process of qualifications reform is underway, undertaken separately to the Bill.

Progression

Position in the Bill and wider background

827. The Bill ends the current separation of schooling into key stages: the Foundation Phase, Key Stage 2, Key Stage 3 and Key Stage 4. Instead, the Welsh Government's intention is that pupils will progress along a single learning continuum, according to descriptions of learning, progression steps, and expected achievement at ages 5, 8, 11, 14 and 16.

828. This is as recommended by Professor Graham Donaldson's 'Successful Futures' review in 2015⁶⁷⁴, which found that dividing the curriculum into separate stages creates unhelpful transition points and can hinder progression. 'Successful Futures' also advocated a single continuum from the start to the finish of the curriculum journey, rather than seeing it as a series of blocks or stages.⁶⁷⁵

829. The arrangements for pupils' progression along the learning continuum are not detailed in the Bill itself and will be set out in a Progression Code, which the Welsh Ministers will be required to issue under section 7 of the Bill. Section 72

⁶⁷⁴ Professor Graham Donaldson, [Successful futures: review of curriculum and assessment arrangements](#), page 52, 2015.

⁶⁷⁵ For further discussion of Professor Donaldson's recommendations on progression, see [Senedd Research, Donaldson Review: An end to Key Stages and a change to the way we structure pupils' progression?](#), March 2015.

provides for the Progression Code to be made under an enhanced negative procedure.⁶⁷⁶

830. Under section 21, the curriculum must provide for “appropriate progression” and sections 7(2) and 7(3) state that a curriculum, and teaching and learning, does not make provision for appropriate progression “unless it accords with the Progression Code”.

831. There will be “progression steps” along the continuum at ages 5, 8, 11, 14 and 16, for which there will be “descriptions of learning”.

832. The Curriculum for Wales documents published in January 2020 set out the “descriptions of learning” at each of the five progression steps within each of the six Areas of Learning and Experience (AoLE). These are worded in the form of “I can...”, “I am ...”, and “I have...” etc.

833. The documents also described how five generic “principles of progression” would be applied to each AoLE:

- increasing breadth and depth of knowledge;
- deepening understanding of the ideas and disciplines within Areas;
- refinement and growing sophistication in the use and application of skills;
- making connections and transferring learning into new contexts; and
- increasing effectiveness as a learner.⁶⁷⁷

834. It is expected that these principles of progression, along with the concepts of progression steps and descriptions of learning, will form the basis of the Progression Code.⁶⁷⁸

⁶⁷⁶ Under the enhanced negative procedure, the Welsh Ministers must consult and then lay a draft before the Senedd for not less than 40 days. If the Senedd resolves not to approve the Code it cannot be issued. If there is no such resolution the Welsh Ministers must issue the Code in the form of the draft.

⁶⁷⁷ Welsh Government, Hwb, [Curriculum for Wales 2022](#), January 2020.

⁶⁷⁸ Welsh Government, Hwb, [Curriculum for Wales 2022](#), pages 13, 18 and 247, January 2020.

835. Section 59 of the Bill enables the Welsh Ministers to direct relevant persons⁶⁷⁹ to take steps to promote and maintain understanding of progression.

Stakeholders' evidence

836. The Association of Directors of Education in Wales (ADEW) supported progression steps as a concept:

“... that builds into the system an expectation that we are all going to be focused on children continuing to progress and develop over a period of time. I like the idea of acknowledging that for some children, they will reach their steps at a different time to other children, that children aren't all going to reach the same level at the same time, and that we're building into the system, then, opportunity for targeted intervention and support that meets the individual needs of the learners, as opposed to saying, 'At this point in a child's learning career, they're going to have to achieve this level and then they move on.' It's a much more continuous, I believe, improvement journey, hopefully, for the child.”⁶⁸⁰

837. The Central South Consortium believe the single continuum “is going to be a strength of the new curriculum”:

“... it supports effective transition between year groups across schools and across settings. It facilitates the movement of learners across the learning continuum and throughout their schooling. It supports continuity and progression, both in learning and well-being for all learners, and it facilitates collaboration and co-construction within and across schools...”⁶⁸¹

838. ERW (South West and Mid Wales consortium) said the continuum will mean there is less likely to be “a cap on the possibility of achievement that learners make”, and learners will be more likely “to make appropriate and realistic progress”. Its representative also indicated that the current key stages can act as “artificial barriers”.⁶⁸²

⁶⁷⁹ These are listed in section 58(4) and include head teachers, governing bodies, the teacher in charge of a Pupil Referral Unit and a person who provides other forms of EOTAS.

⁶⁸⁰ Oral evidence, CYPE Committee, RoP [para 36], 20 July 2020.

⁶⁸¹ Oral evidence, CYPE Committee, RoP [para 258], 20 July 2020.

⁶⁸² Oral evidence, CYPE Committee, RoP [para 261], 20 July 2020.

839. Qualifications Wales told us there is nothing in the Bill or wider curriculum framework regarding progression and assessment that creates difficulties for the process of qualifications reform, commenting that “the way that progression is described within the curriculum is quite helpful”.⁶⁸³

840. Other stakeholders who commented on the model for progression along a single continuum tended to express support. Local authorities in North Wales said it “offers a greater opportunity for learners to see their learning as a continuum from the ages of three to sixteen”⁶⁸⁴, while local authorities in South East Wales said it will require that “concepts are developed and delivered in a co-ordinated manner”⁶⁸⁵.

841. Torfaen SACRE agreed with the “child centred approach to promoting learner progression”,⁶⁸⁶ while Ceredigion Council welcomed the “focus on pupils’ progress rather than only achievement”:

“The progress steps are a continuum that will allow pupils to develop at a rate appropriate to their ability rather than their age, and this is to be welcomed as ‘hidden’ limits will not be placed upon progress.”⁶⁸⁷

842. In terms of the specifics of the provisional statutory guidance as it relates to progression, the Royal College of Speech and Language Therapists welcomed the inclusion of “a number of key language and communication skills at the core of the descriptions of learning and progression steps”.⁶⁸⁸ The National Deaf Children’s Society urged that the progression step model should not “exacerbate a culture of low expectations” for deaf learners.⁶⁸⁹ The need for high expectations, including for learners educated otherwise than at school (EOTAS), is discussed in chapter 10.

843. Some early years stakeholders called for an earlier progression step than age 5, which is discussed in chapter 8.

⁶⁸³ Oral evidence, CYPE Committee, RoP [para 26], 17 September 2020.

⁶⁸⁴ Written evidence, CYPE Committee, CAW 189 – North Wales Regional Response to include GwE and the 6 Local Authorities.

⁶⁸⁵ Written evidence, CYPE Committee, CAW 118 – SEWC LA Improvement group.

⁶⁸⁶ Written evidence, CYPE Committee, CAW 130 – Torfaen Standing Advisory Council on Religious Education.

⁶⁸⁷ Written evidence, CYPE Committee, CAW 54 – Ceredigion Local Education Authority.

⁶⁸⁸ Written evidence, CYPE Committee, CAW 145 – Royal College of Speech and Language Therapists, Wales.

⁶⁸⁹ Written evidence, CYPE Committee, CAW 237 – National Deaf Children’s Society Cymru.

The Welsh Government's response

844. The Minister described how “progression is a vital part of the curriculum”, as are “expectations of the progress” children should make during their schooling:

“... all learning and teaching will contribute to progression and should be at the forefront of the school’s thinking when designing and planning a curriculum. So, you don’t design the curriculum and then bolt on progression to the side of it; it actually is a single, unified process that the school should be thinking about. (...)”

We’ve thought about content and what matters alongside the principles of how you would assess that a child is making progress. Learners’ progress should be then identified through a range of assessment measures. So, it’s an integral part of it; you can’t have one without the other.”⁶⁹⁰

845. The Minister explained that the progression steps and descriptions of learning have been designed with qualifications in mind:

“In terms of progression, there is (...) national scaffolding to set a national expectation of how we would expect a child’s knowledge, experience and skills to develop during their time in statutory education. (...)”

... as children progress through their education, and especially at what we would describe as post-14, as you’re working towards specific qualifications, subject disciplines that would enable progression on to traditional A-levels—we do need to ensure that there’s nothing that departs from that subject specialism that would prevent people from moving on, and we’ve been very clear around the progression steps, about how that detailed knowledge builds up over a period of time.”⁶⁹¹

Our views and recommendations: progression

846. We welcome the model set out in the Bill and associated documents for learners’ progression along a single learning continuum.

⁶⁹⁰ Oral evidence, CYPE Committee, RoP [para 100], 14 July 2020.

⁶⁹¹ Oral evidence, CYPE Committee, RoP [para 30 and 35], 14 July 2020.

847. We believe the Progression Code will need to accommodate learners with various levels of ability and recognise different levels of achievement, while setting high expectations for all learners which encourage them to reach their full potential. This includes learners with Additional Learning Needs (ALN) and children educated otherwise than at school (EOTAS), both of which we discuss in detail in chapter 10.

Recommendation 48. That the Welsh Government develop the Progression Code with a view to promoting the highest aspirations for all learners, supporting them to reach their full potential.

848. We note that, as drafted, the Bill requires the Progression Code to be made subject to an enhanced negative procedure. Due to the importance that the Code will have in supporting learners' achievement under the Curriculum for Wales, we believe it should require an enhanced affirmative procedure (as we have also recommended in respect of the What Matters Code and RSE Code).

Recommendation 49. That the Welsh Government amend the Bill to ensure that the Progression Code is subject to the enhanced affirmative, rather than the enhanced negative, procedure. The provision in section 72(2) requiring consultation on the Progression Code (or revised Code) should remain.

Assessment

Position in the Bill and wider background

849. In recent years, the Welsh Government has moved towards using assessment for informing teaching and learning primarily, rather than for school accountability purposes. This is the approach advocated by both the Organisation for Economic Co-operation and Development (OECD)⁶⁹² and Professor Donaldson⁶⁹³. This has included ending the publication of teacher assessment outcomes for pupils at primary school level, due to concerns that their inclusion in school performance measures was inhibiting their use to support the progression of individual learners.

⁶⁹² See OECD, *Improving Schools in Wales: An OECD Perspective*, 2014; and OECD, *The Welsh Education Reform Journey: A Rapid Policy Assessment*, 2017.

⁶⁹³ See Professor Graham Donaldson, *Successful Futures*, 2015; and Professor Graham Donaldson, *A Learning Inspectorate*, 2018. For further discussion of Professor Donaldson's recommendations on assessment, see Senedd Research, *Donaldson Review: Assessing what matters*, March 2015.

850. Alongside curriculum reform, the Welsh Government is developing a new school accountability framework separately to the Bill, and published draft evaluation and improvement arrangements in February 2019.⁶⁹⁴ The Minister has said that these are designed to “help bring about the cultural change that is ultimately needed to support the realisation of [the] new curriculum”.⁶⁹⁵

851. Section 58 of the Bill provides the Welsh Ministers with a power to make regulations about assessment arrangements as they relate to:

- the progress made by pupils and children;
- the next steps in their progression; and
- the teaching and learning needed to make that progress.

852. These regulations will be made under the Senedd’s negative procedure for subordinate legislation.⁶⁹⁶

853. The curriculum documentation published in January 2020 proposed three main roles for assessment under the Curriculum for Wales:

- supporting individual learners on an ongoing, day to day basis;
- identifying, capturing and reflecting on individual learner progress over time; and
- understanding group progress in order to reflect on practice.⁶⁹⁷

854. These purposes of assessment are not specified on the face of the Bill but could be reflected in any regulations made under section 58. The Welsh Government is expected to issue separate assessment guidance on supporting learner progression in addition to the overarching statutory guidance and the

⁶⁹⁴ Welsh Government, [Evaluation and improvement arrangements](#), February 2019.

⁶⁹⁵ Plenary, [RoP](#) [para 209], 10 July 2019.

⁶⁹⁶ Under the negative procedure, the Welsh Ministers must lay the subordinate legislation before the Senedd after it has been made. The Senedd then has a period of 40 days to object to the subordinate legislation. If the Senedd does not object then the subordinate legislation continues to have effect.

⁶⁹⁷ Welsh Government, Hwb, Curriculum for Wales 2022, [Supporting learner progression: assessment guidance](#), January 2020.

statutory guidance on each AoLE (provisional versions of all of which were published in January 2020⁶⁹⁸).

Stakeholders' evidence

855. Stakeholders highlighted the importance of assessment to delivering the new curriculum, including ADEW, who told us:

“...it’s really important that we have a clear and consistent and coherent understanding of what the assessment system requires from our pupils ...”⁶⁹⁹

856. A head teacher responding to our call for written evidence highlighted the importance of assessment:

“Effective assessment practice is crucial to the learning process, enabling every learner to make progress. (...)

The Curriculum for Wales places the focus of assessment in schools on formative assessment, taking place while the learning is happening, and considering the whole child – their knowledge, skills, experiences, attitudes, values and wellbeing.”⁷⁰⁰

857. Ceredigion Council described the different focus of assessment under the new curriculum compared to the current arrangements:

“Assessment is an integral part of the learning and teaching rather than an event at the end of the process. The principles reflect the need to consider assessment alongside progress. This is a change to the current system where assessment is mostly used to measure progress.”⁷⁰¹

858. Others also suggested the approach to assessment under the new curriculum will bring a welcome change. ERW told us:

“... the Curriculum for Wales has addressed the bad practice in learning and teaching that has evolved from the current assessment and

⁶⁹⁸ Welsh Government, Hwb, [Curriculum for Wales 2022](#), January 2020.

⁶⁹⁹ Oral evidence, CYPE Committee, RoP [para 131], 20 July 2020.

⁷⁰⁰ Written evidence, CYPE Committee, CAW 1 – A Bolt, Head teacher.

⁷⁰¹ Written evidence, CYPE Committee, CAW 54 – Ceredigion Local Education Authority.

accountability arrangements, which focus on school performance rather than on the learner.... (...)

... through decoupling assessment and accountability and instead placing assessment into pedagogical practice, where it belongs, it becomes an integral part of the curriculum and will therefore have a greater impact on both the professional understanding of assessment and the impact on outcomes for learners, so driving progress and achievement rather than attainment. (...)

...assessing what matters needs to be our guiding principle, and, whilst that may seem an obvious analysis, it's not always reflective of what we do in schools today, and, now more than ever, a purpose-driven curriculum needs purpose-driven assessment, reflecting and enhancing learning rather than detracting from it."⁷⁰²

859. Several stakeholders commented on the level of detail in the Bill's provisions for assessment. The Equality and Human Rights Commission said "there is little detail included on the face of the Bill regarding assessment"⁷⁰³, while the NEU said "there isn't a lot of detail within the legislation so far"⁷⁰⁴. Haverfordwest High School suggested that assessment of learning is not "yet developed sufficiently for the Bill to be introduced at this stage".⁷⁰⁵

860. An individual respondent to our call for evidence told us:

"Unfortunately, teachers are still very uncertain about how to assess against the new curriculum, which leaves a lot of uncertainty going forward."⁷⁰⁶

861. In contrast, GwE (North Wales) consortium told us "one of the biggest learnings that is in this Bill is not to over-prescribe assessment and the accountability".⁷⁰⁷ ERW believes the Bill "has enough detail in relation to the

⁷⁰² Oral evidence, CYPE Committee, RoP [paras 268-270], 20 July 2020.

⁷⁰³ Written evidence, CYPE Committee, CAW 184 – Equality and Human Rights Commission.

⁷⁰⁴ Oral evidence, CYPE Committee, RoP [para 241], 24 September 2020.

⁷⁰⁵ Written evidence, CYPE Committee, CAW 11 – Haverfordwest High VC School.

⁷⁰⁶ Written evidence, CYPE Committee, CAW 36 – Individual.

⁷⁰⁷ Oral evidence, CYPE Committee, RoP [para 280], 20 July 2020.

statutory elements” which schools will work within, while providing “autonomy for schools to be able to build the assessment as they build their curriculum”.⁷⁰⁸

862. ADEW agreed it is important that “we don’t start by being overly prescriptive”, although acknowledged “there’s still some work to do on understanding what that assessment process and system is going to look like”.⁷⁰⁹

863. ADEW also commented on assessment in the wider context of school accountability:

“... I think it’s really important as well that we are not driven by a performance accountability based system, so that there’s flexibility in the system for children to develop at a stage that is appropriate to them, with the overall aim of them achieving the best that they possibly can.”⁷¹⁰

864. Estyn told us:

“It has been evident with the current curriculum that accountability arrangements, particularly performance measures, have driven behaviours and, at times, led to unintended consequences. As the evaluation and improvement arrangements are finalised, it will be important that Welsh Government ensures they align with the principles of the new curriculum.”⁷¹¹

865. ASCL wrote that changes will be needed to what is currently a “high stakes accountability system” to ensure that the new curriculum is not a case of the “Emperor’s new clothes”:

“There needs to be reference to re-thinking a high stakes accountability system, which if it remains will simply mean that we will not have moved forward one jot. There is plenty of international evidence to show that this has a stifling effect upon relevant and authentic teaching and learning. This needs to be replaced by a fully functioning

⁷⁰⁸ Oral evidence, CYPE Committee, RoP [paras 268-270], 20 July 2020.

⁷⁰⁹ Oral evidence, CYPE Committee, RoP [para 132], 20 July 2020.

⁷¹⁰ Oral evidence, CYPE Committee, RoP [para 131], 20 July 2020.

⁷¹¹ Written evidence, CYPE Committee, CAW 20 – Estyn.

self-improving school system which while mentioned in the National Mission, has currently little traction.”⁷¹²

866. The NAHT said there is a need to “make sure that there is an accountability system that works with the school and not against the school”, adding:

“Another challenge will be ensuring—and I think this is really important—that the accountability and assessment systems match the adaptive process taken by that school. (...)

... there will need to be the creation of a high-risk, low-blame culture that will allow teachers to think outside the box and try these new things.”⁷¹³

867. The NASUWT suggested it is the “assessment system”, rather than the curriculum itself, that is “not fit for purpose”⁷¹⁴, while UCAC argued that the assessment and accountability arrangements should align with the “culture change” associated with the new curriculum and the type of “real-life skills” that PISA and the OECD measure⁷¹⁵.

868. To try to gauge children and young people’s views about current assessment arrangements, we asked them in our survey about the Bill what they thought about the way teachers provide them with feedback on their work and how they could improve:

- 26 per cent of respondents said teachers’ feedback is good and explains things sufficiently;
- 57 per cent said teachers’ feedback is okay but sometimes needs to be explained differently;
- 16 per cent said teachers’ feedback was not good and often needs to be explained differently.⁷¹⁶

⁷¹² Written evidence, CYPE Committee, CAW 26 – The Association of School and College Leaders Cymru.

⁷¹³ Oral evidence CYPE Committee, RoP [para 56], 24 September 2020.

⁷¹⁴ Oral evidence, CYPE Committee, RoP [para 156], 24 September 2020.

⁷¹⁵ Oral evidence, CYPE Committee, RoP [paras 235-236], 24 September 2020.

⁷¹⁶ Wavehill social and economic research, Curriculum and Assessment (Wales) Bill: Children and Young People’s Survey Analysis, October 2020.

The Welsh Government's response

869. In our first evidence session regarding the Bill, the Minister told us that regulations would “prescribe the operational details” that schools and settings would be required to follow in designing and implementing assessment arrangements. She said this “largely replicates” the current position, whereby the “majority of the operational detail” is set out in subordinate legislation (section 108 of the Education Act 2002).⁷¹⁷

870. Asked whether the regulations, which will be made under section 58 of the Bill, should be subject to the affirmative rather than the negative procedure, the Minister said the Bill as drafted reflected the existing legislative position.

871. During her second appearance, we put it to the Minister that there is very little on the face of the Bill regarding assessment, considering the fundamental role it will play in the new curriculum's delivery. The Minister replied:

“Assessment is an intrinsic part of the Curriculum for Wales, and it's certainly not separate from teaching and learning, and schools need to plan for that in their assessment arrangements. (...)”

The powers within the Bill do enable regulations to be made that prescribe the operational details that schools and other settings will need to follow in designing and implementing assessment arrangements. They also allow for any national assessment arrangements that we may wish to implement.”⁷¹⁸

872. The Minister's official added that the challenges regarding assessment lie in “implementation and the mindset change [in] how schools think”, as well as the legislation itself.⁷¹⁹

873. Commenting on the finding from our survey that almost three quarters of children and young people said that the feedback teachers give them on their work could be improved, the Minister said:

“It is telling, isn't it, [...]—very telling indeed. What's really important for children is that they want to know how they can improve—they want to

⁷¹⁷ Oral evidence, CYPE Committee, RoP [para 103], 14 July 2020.

⁷¹⁸ Oral evidence, CYPE Committee, RoP [para 143], 21 October 2020.

⁷¹⁹ Oral evidence, CYPE Committee, RoP [para 144], 21 October 2020.

do better, and that feedback from teachers is a key way in which they can understand about what their next steps in their learning are. (...)

... draft guidance on assessment, to support learner progression, was published in January of this year, so the guidance is already out there to schools. I guess, if we felt it was necessary, we could use powers within the Act to mandate that.”⁷²⁰

Our views and recommendations: assessment

874. We note that there is a strong consensus among those who gave evidence that effective assessment arrangements will be vital to the success of the new curriculum. Nevertheless, relatively little detail is included on the face of the Bill, with significant detail being left to regulations. While the Minister says this reflects the status quo, the absence of this detail makes it difficult for us to consider this element of the Bill fully.

875. Given the lack of detail on the face of the Bill and the importance of assessment arrangements in supporting the effective delivery of the curriculum, we believe:

- section 58(1) should be amended so that regulations *must* (rather than *may*) make provision about assessment arrangements; and
- the power to make regulations under section 58 should be subject to the Senedd’s affirmative rather than negative procedure. We believe this is necessary to ensure that there is an opportunity for sufficient scrutiny to be undertaken of arrangements that are considered to be key to the successful implementation of this Bill.

Recommendation 50. That the Welsh Government amend section 58(1) of the Bill to delete “may” and replace with “must”.

Recommendation 51. That the Welsh Government amend the Bill to ensure that regulations made under section 58 regarding assessment arrangements are subject to the affirmative procedure.

876. We welcome the emphasis on the main purpose of assessment being to inform teaching and learning, to identify individual pupil’s strengths and weaknesses, and to establish what needs to be done to help them improve. The

⁷²⁰ Oral evidence, CYPE Committee, RoP [para 148], 21 October 2020.

broader work to develop new school accountability arrangements must take account of this so that it complements the Bill and the approach of the curriculum.

877. We note that the Welsh Government published draft evaluation and improvement arrangements in February 2019. We believe the Minister should provide an update on where this work has reached, including specific reference to how it sits alongside the Bill and wider curriculum reform.

Recommendation 52. That the Welsh Government provide an update, in readiness for the Bill's implementation, on the ongoing work beyond the Bill to reform school accountability arrangements and explain how they will align with the new curriculum.

878. We note the fact that almost three quarters of the children and young people who responded to our survey on the Bill thought that the way teachers assess their work and provide feedback could be improved. The Minister agreed that this was "very telling". In light of this, we urge the Government to ensure that teacher assessment and feedback to learners are a key focus of the assessment guidance to be issued alongside the new curriculum.

Recommendation 53. That the Welsh Government ensure that teacher assessment and feedback to learners are a key focus of the assessment guidance to be issued alongside the new curriculum.

879. We note that the Minister's evidence suggests that the guidance on assessment, which will be published to support implementation of the curriculum, will not be statutory. If so, this differs to the Welsh Government's intention regarding other guidance to be issued under the Bill, and we are not clear why this is.

Recommendation 54. That the Welsh Government clarify whether the guidance to be issued on assessment will be statutory, and if it is not statutory, consider whether it needs to be.

Qualifications

Position in the Bill and wider background

880. Qualifications are not referred to in the Bill, and neither does it make any provisions regarding the role they are expected to play in relation to the new curriculum. This purpose of this is to separate the qualifications reform that the

Curriculum for Wales will necessitate from the actual design and development of the curriculum itself.

881. However, there is a clear recognition from the Government and its partners that qualifications will need to change in order to align with the new curriculum. The regulator, Qualifications Wales, is in the process of undertaking a series of consultations regarding the design and development of new qualifications. Under the Welsh Government’s planned timescale, courses leading to these qualifications will be studied from September 2025 when the first Curriculum for Wales cohort will be in Year 10.

882. Qualifications Wales has devised three steps to its management of qualification reform⁷²¹, involving public consultation at each stage, which aims to incrementally address key questions about what future qualifications should look like.

- Phase 1: The high-level approach which should shape the future range of qualifications for 16-year-olds (November 2019 – February 2020).
- Phase 2: Deciding which qualifications will be available (planned for early 2021).
- Phase 3: Designing and developing individual qualifications (planned for late 2021).

883. Qualifications Wales decided, following the phase 1 consultation on a set of guiding principles, that: qualifications should relate to and support the new curriculum; be available in English and Welsh; and contribute to a coherent and inclusive offer. It also decided that the GCSE brand should be retained with updated content and assessment arrangements, and that the Skills Challenge Certificate should be revised in the context of the wider changes to qualifications for 16 year olds.⁷²²

Stakeholders’ evidence

884. When Qualifications Wales launched its series of consultations regarding qualifications reform, Professor Donaldson described how curriculum reform was at a “critical point” saying:

⁷²¹ Qualifications Wales, [Qualified for the future](#).

⁷²² Qualifications Wales, [Decisions on how we will shape the future qualifications for 16-year-olds in Wales](#), 2020.

“One of the most critical factors for secondary schools in particular will be how does all the work in the curriculum relate to all the qualifications that young people will sit at the age of 16 and beyond. (...)”

Getting that right, getting the transition from the curriculum into qualifications, getting the articulation right between the nature of what we’re trying to do through the curriculum and the way in which that is subsequently recognised and the achievements are recognised through qualifications is critical to the success of the whole process.”⁷²³

885. As part of our scrutiny of the Bill, many stakeholders have emphasised the importance of effectively aligning qualifications with the new curriculum. ASCL summed up the need for qualifications to change, commenting that “the current qualifications system clearly isn’t fitting with the aspirations of the new curriculum”. Its representative described the need for “flexible” qualifications which are “reflective of the curriculum itself”.⁷²⁴

886. Local authorities in North Wales believe “it is vital that the nature and reform of qualifications takes place at pace” and are “communicated clearly”.⁷²⁵ The GwE consortium told us that “getting that proper marriage between the curriculum and appropriate ways of assessment” would be a “major step”.⁷²⁶

887. Employer and employability representatives participating in our virtual round table discussion discussed whether the curriculum should place greatest weight on developing skills or obtaining qualifications. However, a number of them believed that qualifications are important in evidencing achievement, providing a useful benchmark of ability and showing that an individual meets a required standard.

888. Some stakeholders were eager for a clearer picture of what qualifications will look like under the new curriculum. Colegau Cymru said “it is not clear how the new qualifications will work and whether they will retain a similar approach to subjects or follow the broader Areas of Learning and Experience”.⁷²⁷ Coleg Cambria said “more needs to be done to understand how GCSEs and A Levels fit into the

⁷²³ Qualifications Wales, [Qualified for the future](#).

⁷²⁴ Oral evidence, CYPE Committee, RoP [paras 48 and 149], 24 September 2020.

⁷²⁵ Written evidence, CYPE Committee, CAW 189 – North Wales Regional Response to include GwE and the 6 Local Authorities.

⁷²⁶ Oral evidence, CYPE Committee, RoP [para 284], 20 July 2020.

⁷²⁷ Oral evidence, CYPE Committee, RoP [para 271], 20 July 2020.

system”.⁷²⁸ The Equality and Human Rights Commission said “as yet, we do not have enough information on how the qualifications will support the curriculum”.⁷²⁹

889. For some, the issue of how qualifications will fit with the new curriculum should be addressed in the Bill itself, or at least resolved at the earliest stage. The NASUWT told us:

“The fact that qualifications are separate from this is a real weakness in terms of the new curriculum in Wales. (...)”

The issue is going to be what are the changes going to be in terms of the qualifications. How are they going to dovetail into the new curriculum? (...)”

We’ve got a problem in Wales of the tail wagging the dog in the situation of bringing in a new curriculum at a time when you haven’t touched the qualifications.”⁷³⁰

890. However, ERW highlighted its view that there will be further consultations when more information will be available but that “much of this can only be determined with an agreed curriculum in place”.⁷³¹

891. UCAC told us

“... the Government has been right to lead with the curriculum and changing the qualifications later, because otherwise there is a risk that qualifications would drive everything and that that feeds right back through the system—so, getting the curriculum right first is important.

But then, the result of that is we have to be brave about what we do with qualifications, perhaps not straight away, but over time, because the qualifications do need to dovetail with the curriculum. We can’t just have some kind of cultural and educational gap between the nature of the curriculum and the nature of the qualifications.”⁷³²

⁷²⁸ Written evidence, CYPE Committee, CAW 48 – Colegau Cymru.

⁷²⁹ Written evidence, CYPE Committee, CAW 3 – Coleg Cambria.

⁷³⁰ Oral evidence, CYPE Committee, RoP [paras 181, 230 and 232], 24 September 2020.

⁷³¹ Oral evidence, CYPE Committee, RoP [para 271], 20 July 2020.

⁷³² Oral evidence, CYPE Committee, RoP [para 253], 24 September 2020.

892. Qualifications Wales has told us on several occasions in recent years that the curriculum should define qualifications and not the other way around.⁷³³ When giving oral evidence on the Bill, its Chief Executive said:

“... there’s become such a focus on qualification for 14 to 16-year-olds and beyond that they become the personification of the curriculum rather than something that supports the curriculum and demonstrates achievement.”⁷³⁴

893. The regulator has also placed this in a wider context, illustrating the impact that arrangements for qualifications have on the approach taken by schools to the curriculum and the school improvement agenda:

“Under current arrangements, there can be a tendency for school improvement activities to focus on improving qualifications outcomes as an end in itself, rather than improved learner performance being the natural consequence of better teaching and learning. This approach can have several unintended negative impacts, such as a narrowing of the curriculum, prioritising teaching time for qualifications that feature in performance measures, offering qualifications based on their contribution to performance measures rather than value to learners, increasing pressure on assessment integrity, and teaching to the test.”⁷³⁵

894. Qualifications Wales therefore reported that it has “no concerns about the Bill not talking directly about qualifications”:

“... this is the curriculum Bill, and in this notion of curriculum leading qualifications, the curriculum coming first, we think that’s the right way of sequencing these things. The curriculum sets out the body of knowledge, the things that we’re expecting education to deliver. Qualifications will relate to that, and we’ll look at assessing a sample of knowledge, skills and understanding that are expected within that curriculum.”⁷³⁶

⁷³³ Oral evidence, CYPE Committee [RoP \[para 27\]](#), 22 January 2020; [RoP \[para 15\]](#), 6 December 2018; and [RoP \[paras 37 and 75\]](#), 6 December 2017.

⁷³⁴ Oral evidence, CYPE Committee, [RoP \[para 63\]](#), 17 September 2020.

⁷³⁵ Correspondence, [Qualifications Wales to CYPE Committee](#), 5 February 2020.

⁷³⁶ Oral evidence, CYPE Committee, [RoP \[para 88\]](#), 17 September 2020.

895. When asked about its decision to retain the GCSE brand despite the fundamental reform of the curriculum, Qualifications Wales said:

“We looked at it in a great deal of detail in the last consultation. We didn’t see that there was a great deal to gain through rebranding qualifications where there is public credibility and trust out there for them. It would be a huge task for us to rebuild that, and that might take attention away from the important decisions that we need to make about how we assess and design specific qualifications.”⁷³⁷

896. Employer and employability representatives concurred with this, urging for the GCSE brand to be retained even if the content changes.⁷³⁸

897. Asked how future qualifications will reflect the purpose-led nature of the new curriculum, Qualifications Wales said they are unlikely to directly assess against the four purposes but will evidence attainment against aspects of them. Its Chief Executive explained:

“... qualifications are always intended to be able to assess knowledge, skills and understanding. Maybe at the moment qualifications are focused too much on the first of those, on knowledge, so it’s about content recall, which is lower order skills rather than skills and understanding, which are higher order skills. It’s probably those higher order skills that are the important part of the purposes. So, actually, moving away from content recall into greater levels of evidence in knowledge and understanding will probably help to evidence the purposes.”⁷³⁹

898. In terms of the move away from traditional subject disciplines towards purpose-led broad areas, Qualifications Wales said that there was a “pretty clear preference” that individual qualifications “should continue to be structured mainly around subject disciplines,” rather “seeking to span the whole breadth” of an AoLE for example:

⁷³⁷ Oral evidence, CYPE Committee, RoP [para 86], 17 September 2020.

⁷³⁸ CYPE Committee, Evidence from virtual round table discussions with stakeholders, October 2020.

⁷³⁹ Oral evidence, CYPE Committee, RoP [para 64], 17 September 2020.

“... we don’t think there’s a demand there, as we see it, to move wholesale away from subject disciplines and all the way over to broad areas of learning, when it comes to qualification design.”⁷⁴⁰

899. Qualifications Wales added that there may be opportunities for “consolidating some subject areas”, through “integrated qualifications”. Schools could therefore have a choice between qualifications based on subject disciplines and those adopting a “more interconnected and holistic approach” reflecting the AoLEs.⁷⁴¹

900. Asked how it would go about the task of designing qualifications commonly taken across Wales, when schools will have their own local curriculum, Qualifications Wales said it will take a “qualification-by-qualification, subject-by-subject” approach. This will include looking at the “right balance” in relation to the levels of prescription and flexibility, as well as factors such as assessment methods.⁷⁴²

901. Qualifications Wales provided further information to us about the approach it will propose in its next consultation in early 2021:

“In the main we will propose that the main GCSE should continue to include many of the subjects that are currently available, rather than moving to much broader qualifications that seek to cover whole areas of learning and experience. We will also be suggesting some possible changes to subjects, to introduce some new ones and to combine existing ones. We will also identify potential opportunities for developing more integrated qualifications. (...)

A key consideration is to offer schools and learners the greatest possible flexibility to choose different combinations of qualifications to support broad and balanced curriculum experiences”.⁷⁴³

902. The regulator also highlighted that the most significant change will be not in the range of qualifications available but how they are assessed:

⁷⁴⁰ Oral evidence, CYPE Committee, RoP [paras 68-69], 17 September 2020.

⁷⁴¹ Oral evidence, CYPE Committee, RoP [para 69], 17 September 2020.

⁷⁴² Oral evidence, CYPE Committee, RoP [para 81], 17 September 2020.

⁷⁴³ Additional information submitted by Qualifications Wales following 17 September oral evidence session, CYPE Committee.

“The overall proposed range of subjects may not look radically different to the current one, but this could still lead to some significant changes in how individual qualifications are designed and assessed.”⁷⁴⁴

The Welsh Government’s response

903. The Minister was unequivocal about the need for qualifications to change in light of the curriculum:

“I’ve been very clear, and Qualifications Wales, our regulatory body, recognises, that qualifications will need to change to reflect the new curriculum, without a shadow of a doubt. (...)”

... the Bill inevitably leads to the need to review the nature of qualifications and it gives us, as I’ve said, a valuable chance to really think about qualifications for the future.”⁷⁴⁵

904. However, she stated that the curriculum had to be developed first and qualifications designed to correspond with them, not the other way round:

“The Bill is about a curriculum and designing a curriculum—it’s not about qualifications. (...)”

... it’s a really important point of principle that it’s the curriculum that dictates the nature of the qualification and we don’t retrofit the curriculum to fit the nature of the qualification. [...] there’s a culture that has grown up in Welsh education that says, ‘Well, you just tell us what’s in the qualification spec and the exam and then we will teach that.’ If we carry on doing that, this reform will not succeed. The qualifications have to come at the end and be dictated by the curriculum.”⁷⁴⁶

Our views and recommendations: qualifications

905. We note the clear view from the Welsh Government and the regulator (Qualifications Wales) that the curriculum must define qualifications, not the other way round. This approach was generally supported, albeit with disagreement among some stakeholders. Given the purpose-led approach of the new curriculum, and its aim to do more than simply ‘teach to the test’, we believe

⁷⁴⁴ Additional information submitted by Qualifications Wales following 17 September oral evidence session, CYPE Committee.

⁷⁴⁵ Oral evidence, CYPE Committee, RoP [para 150 and 153], 21 October 2020.

⁷⁴⁶ Oral evidence, CYPE Committee, RoP [para 150 and 153], 21 October 2020.

that deciding what pupils should learn first, and then designing qualifications to assess and demonstrate achievement after, is crucial to its success.

906. However, we also note the eagerness of the sector as a whole to know what the new curriculum really means for qualifications. While qualifications are not the only purpose of education, we recognise that they usually represent the culmination of a programme of learning and they cannot be an afterthought.

907. In light of this, we believe that, whilst the curriculum needs to be conceived and articulated first, the work to consider what qualifications will be needed to evidence achievement must follow swiftly. We note the series of consultations that Qualifications Wales are undertaking and urge that these seek and secure as much stakeholder involvement and input as possible.

Recommendation 55. That the Welsh Government work with Qualifications Wales to proceed with pace on the work to reform qualifications, ensuring maximum alignment between the qualifications available to 16 year olds and the Curriculum for Wales.

908. The purpose-led approach and framework nature of the new curriculum poses challenges in the design of qualifications. The move away from subject disciplines to broad Areas of Learning and Experience is likely to require a change to the direct correlation between the study of individual subjects and respective qualifications. However, Qualifications Wales told us there are likely to still be qualifications in subject disciplines, although this may vary according to a qualification-by-qualification and subject-by subject approach. In our view, the importance of designing qualifications according to the new curriculum cannot be overestimated.

909. We believe this area of work should be a priority for the Welsh Government and its partners, including Qualifications Wales in particular. Whilst we recognise that this is not a direct matter for the Bill itself, getting the qualifications offer right is absolutely crucial to the success of the new curriculum.

Recommendation 56. That the Welsh Government closely monitor and support the work of Qualifications Wales in reforming qualifications to align with the Curriculum for Wales and, whilst maintaining Qualifications Wales' role as an independent regulator, provide clear leadership and direction to ensure this work remains on track.

12. Implementation

The evidence we have gathered shows broad support for the general principles of the Bill. However, a significant proportion of this support is conditional on receiving further assurances about arrangements for its implementation. The need for professional learning was highlighted as a particular potential barrier to the Bill's successful implementation. Many stakeholders also emphasised that delivering the Bill's aims would be very challenging in light of the COVID-19 pandemic.

910. Like many pieces of legislation, the vast majority of the provisions in this Bill will come into force “on whatever day or days the Welsh Ministers may appoint by order”.⁷⁴⁷ Furthermore, the Welsh Ministers will be able to appoint different days for different purposes, so the Bill does not require that all provisions must come into force at the same time.⁷⁴⁸

911. While the Bill does not specify the date on which its provisions will come into force, the Welsh Government has indicated that it plans to roll out the new curriculum from September 2022, initially in primary school and Year 7 (usually the first year of secondary school), before it extends into subsequent year groups as these pupils progress through school, until they reach Year 11 in 2026/27. The Minister for Education has said that this timetable is unchanged despite the COVID-19 pandemic, although it will be kept under review.⁷⁴⁹

912. In October 2020, the Welsh Government published ‘Curriculum for Wales: The journey to 2022’. The document's stated purpose is to “set out for schools consistent expectations for the process of designing their curriculum and preparing to implement it from 2022 onwards”. It explains that these expectations have been developed by the Welsh Government, regional consortia and Estyn, to “aid schools in planning their approach and sequencing activities – and to guide the support Welsh Government and middle-tier organisations offer”. The stated

⁷⁴⁷ Section 79(2) of the Bill.

⁷⁴⁸ Section 79(3) of the Bill.

⁷⁴⁹ Oral evidence, CYPE Committee, RoP [para 25], 14 July 2020.

intention is that the document will be reviewed in 2021 “to ensure the expectations remain relevant and up to date”.⁷⁵⁰

913. The view of many stakeholders about the Bill’s implementation was summed up by Colegau Cymru, who stated that “this is more a delivery than a legislative challenge”⁷⁵¹. Employers with whom we spoke in our virtual round table discussions told us that while the opportunities provided by the Bill are “potentially game-changing”, implementation is the “potential pitfall”.⁷⁵² The Future Generations Commissioner expressed a similar view, explaining that:

“... the devil will be in the detail in terms of how this is implemented, because whilst the principles, I think, are sound, we could all write a set of principles that we all agree with on paper, but actually the implementation of that is a much bigger challenge.”⁷⁵³

914. The Organisation for Economic Co-operation and Development (OECD) has reviewed, and made recommendations about, the Welsh Government’s implementation of curriculum reform. The OECD reported in October 2020:

“The challenge for Wales at this stage is to remain true to the vision while shifting the perspective of the strategy from being policy-driven to one focused on schools. To ensure the intentions of the new curriculum translate into practice, it is essential for Wales to address several issues, including a lack of deep understanding of what successful realisation of the curriculum might look like in practice, challenges for schools to design their own curriculum, and implications in terms of developing specific capabilities.”⁷⁵⁴

915. Following the OECD’s report, the Welsh Government updated its improvement plan, ‘Education in Wales: Our National Mission’⁷⁵⁵ and published ‘Curriculum for Wales: The journey to 2022’⁷⁵⁶ setting out expectations on schools regarding the implementation of the new curriculum.

⁷⁵⁰ Welsh Government, [Curriculum for Wales: The journey to 2022](#), October 2020.

⁷⁵¹ Written evidence, CYPE Committee, CAW 48 – Colegau Cymru.

⁷⁵² CYPE Committee, Evidence from virtual round table discussions with stakeholders, October 2020.

⁷⁵³ Oral evidence, CYPE Committee, RoP [para 11], 8 October 2020.

⁷⁵⁴ OECD, [Achieving the new Curriculum for Wales](#), October 2020.

⁷⁵⁵ Welsh Government, [Education in Wales – Our National Mission: update October 2020](#).

⁷⁵⁶ Welsh Government, [Curriculum for Wales: The journey to 2022](#), October 2020.

Potential barriers to successful implementation

916. In the evidence we have received during Stage 1, professional learning and the availability of financial resources have been the most commonly cited potential barriers to the Bill’s successful implementation.

917. Other potential barriers raised with us included:

- the quality of teaching and leadership;
- the extent of workforce engagement, co-construction and collaboration;
- the need to deliver this change alongside other significant reforms, including the Additional Learning Needs (ALN) transformation programme;
- the availability of learning/teaching resources and materials, and expert support;
- the Welsh-medium capacity of the education workforce (discussed in more detail in chapter 5; and
- communication about the Bill’s implications.

918. In relation to professional learning and the quality of teaching and leadership, the Explanatory Memorandum states:

- “...professional learning will be critical to ensure awareness and engagement of all practitioners with the new curriculum and to equip practitioners with the appropriate skills in relation to a purpose-led curriculum”;⁷⁵⁷
- the ‘National Approach to Professional Learning’ (launched in 2018) creates a “vision fit for the evolving education system in Wales for all educational practitioners”;⁷⁵⁸
- this aligns with the ‘Schools as Learning Organisations’ approach (launched in 2019) which “supports the wider transition to a self-improving education system”;⁷⁵⁹

⁷⁵⁷ Welsh Government, Explanatory Memorandum, para 8.177.

⁷⁵⁸ Welsh Government, Explanatory Memorandum, para 3.126.

⁷⁵⁹ Welsh Government, Explanatory Memorandum, para 3.134.

- £24 million was allocated over two years (2018/19 – 2019/20) for professional learning to allow schools to prepare for the new curriculum, with an additional allocation being “available during 20/21 to further support curriculum implementation”;⁷⁶⁰
- “It is anticipated that funding of £15 million per annum will continue going forward”, ending in 2025-26 “as the new curriculum will be embedded by that point”.⁷⁶¹

919. With regard to workforce engagement, co-construction, collaboration and communication, the Explanatory Memorandum states that “the Welsh Government has discussed and consulted extensively on reforming the current National Curriculum since 2012, and has adopted a co-construction model of working with partners” and that the Bill’s provisions have been “informed and shaped” by this. It goes on to say:

“Curriculum reform and the wider education reform process has been characterised by co-construction. This will continue to be a crucial feature of the approach moving into implementation. There will be a need for significant engagement and communications activity with key stakeholders so that everyone understands what’s changing and what the curriculum and assessment reforms mean for them. The main activities are expected to include a public awareness raising campaign, engagement with children and young people about the changes affecting their education and engagement events and activities aimed at the education workforce.”⁷⁶²

920. With regard to education reform in Wales, the Explanatory Memorandum states that the Bill is “part of a wider programme” and “is one lever being used to support a broad programme of educational reform”.⁷⁶³ It further acknowledges that:

“... the education system in Wales will need sufficient support and resources to enable the effective implementation of the curriculum reforms alongside other changes in the system.”⁷⁶⁴

⁷⁶⁰ Welsh Government, Explanatory Memorandum, para 3.135.

⁷⁶¹ Welsh Government, Explanatory Memorandum, para 8.179.

⁷⁶² Welsh Government, Explanatory Memorandum, para 8.175.

⁷⁶³ Welsh Government, Explanatory Memorandum, paras 1.1 and 8.2.

⁷⁶⁴ Welsh Government, Explanatory Memorandum, para 8.3.

Stakeholders' evidence

Initial teacher education (ITE) and professional learning

921. The need for adequate professional training and learning to deliver the new curriculum was a clear theme throughout the oral and written evidence we received, with Estyn describing it as the “key driver to the successful roll out” of the Curriculum for Wales.⁷⁶⁵

922. Many stakeholders raised concerns about whether the true scale of the professional learning required has been fully appreciated, particularly in areas such as RSE and RVE (discussed in more detail in chapters 6 and 7 respectively), human rights (discussed in more detail in chapter 4) and mental health (discussed in more detail in chapter 4). The Catholic Education Service raised concerns about what it felt was a lack of consideration of the impact the planning and preparation of the new curriculum will have on the required opportunities for professional learning.⁷⁶⁶

923. The ASCL described professional learning as “vital” to the legislation’s success, explaining that the new approach will require a “high quality teaching workforce” that is “fully trained in the delivery of deep learning, new pedagogies, continuous assessment, developing subject knowledge and depth and the science of learning”.⁷⁶⁷ In oral evidence, its representative pointed to the importance of time, money and evidence-based approaches to deliver this.⁷⁶⁸ The NEU described training as “key” to the Bill’s implementation.⁷⁶⁹

924. The Welsh Language Commissioner also commented on the importance of ITE, professional learning and development, and the capacity of the profession to deal with the size and scale of the proposed changes. This was raised not only in relation to the implementation of aspects of the Bill that concern language, but to broader aspects too:

“I think that the major questions that emanate from this legislation are the support that is going to be given to the leadership within schools

⁷⁶⁵ Written evidence, CYPE Committee, CAW 20 – Estyn.

⁷⁶⁶ Written evidence, CYPE Committee, CAW 225 – Catholic Education Service.

⁷⁶⁷ Written evidence, CYPE Committee, CAW26 – The Association of School and College Leaders Cymru.

⁷⁶⁸ Oral evidence, CYPE Committee, RoP [para 62], 24 September 2020.

⁷⁶⁹ Oral evidence, CYPE Committee, RoP [para 165], 24 September 2020.

and also to the profession in general, because of the scale of the change.”⁷⁷⁰

925. The Education Workforce Council argued that sufficient time, professional learning opportunities and support would “ultimately determine whether the underlying aims of the Bill are successfully fulfilled”. It emphasised the importance of ensuring that all parts of the workforce had access to this:

“Although teachers and learning support staff in schools make up the main part of the EWC’s Register, all other registrant groups are supporting learners and will be both directly and indirectly involved in the curriculum journey. It is therefore essential that each of these parts of the workforce (including supply staff) are able to undertake suitable professional learning. It is also essential that the head teachers and other leaders, as well as governing bodies, who will be principally responsible for delivering the new curriculum should continue to have access to a dedicated programme of professional learning and support.”⁷⁷¹

926. The EHRC recommended that teachers and learning support workers receive training “that is consistent at a national level rather than varying in quality depending on locality and provider”. It added that it was “vital” that teachers were given sufficient time to undertake this training and evolve their practice in relation to the new curriculum.⁷⁷²

927. The change of culture necessary among the workforce to implement this Bill was highlighted as a potential barrier by some. The Future Generations Commissioner warned against underestimating the significance of the change the flexibility in the new curriculum introduced.⁷⁷³ UCAC described it as a “paradigm shift”:

“It is an entirely new way of teaching, so there will be new techniques. It is going to be a revolution. So, that will take up teachers’ time and that of teaching staff.”⁷⁷⁴

⁷⁷⁰ Oral evidence, CYPE Committee, RoP [para 29], 8 October 2020.

⁷⁷¹ Written evidence, CYPE Committee, CAW 111 – Education Workforce Council.

⁷⁷² Written evidence, CYPE Committee, CAW 184 – Equality and Human Rights Commission.

⁷⁷³ Oral evidence, CYPE Committee, RoP [para 26], 8 October 2020.

⁷⁷⁴ Oral evidence, CYPE Committee, RoP [para 210], 24 September 2020.

928. The NAHT told us that the “high level vision” of the new curriculum will be a “huge cultural shift for the profession”,⁷⁷⁵ especially those who have only been exposed to the curriculum introduced in 1988:

“A specific challenge for school leaders will be instilling the brave new working amongst staff (...) it will be a mammoth task for some headteachers to change the mindset of some staff, to tear them away from their familiar systems that they’re used to, and to free them up to be creative and to say that it’s okay to make errors, because this is the new way of working and encourage them to use their own judgment.”⁷⁷⁶

929. The Education Workforce Council emphasised the importance of ITE “in preparing the next generation of teachers in Wales to engage with the new curriculum” and warned of the need to keep accreditation criteria under review to ensure that they reflect the requirements of the new curriculum.⁷⁷⁷ UCAC highlighted the need to consider arrangements for providing adequate training about the new curriculum for those qualifying outside Wales:

“... there is a real need for us to consider how we assist them [the cohort of new teachers qualifying outside Wales] to make that transition to a system that is going to be increasingly divergent in Wales, with an entirely different curriculum and different assessment requirements. I’m not suggesting that we should be building any walls—of course, we do need teachers in Wales—but we need to ensure that they are qualified and that they do understand the system that they’re coming into.”⁷⁷⁸

930. The importance of professional learning and development was a key theme across our virtual round table discussions about the Bill. Some of the children and young people we spoke with told us that they felt teachers would need a lot of training and support to deliver the new curriculum. Some of the parents and carers who spoke with us also felt that professional development may be needed to guard against teachers focusing their teaching on areas in which they are most comfortable. Representatives of higher education, further education and adult learning emphasised the importance of training for teachers on curriculum

⁷⁷⁵ Written evidence, CYPE Committee, CAW 28 – NAHT Cymru.

⁷⁷⁶ Oral evidence, CYPE Committee, RoP [para 55], 24 September 2020.

⁷⁷⁷ Written evidence, CYPE Committee, CAW 111 – Education Workforce Council.

⁷⁷⁸ Oral evidence, CYPE Committee, RoP [para 224], 24 September 2020.

development, and sought assurances that, in creating their school curricula, head teachers and governors would have training in working with further education colleges and employers in order to meet the demands of the local economy.⁷⁷⁹

Quality of teaching and leadership

931. Leadership and the quality of teaching were raised by some stakeholders as potential barriers to the Bill's implementation. A head teacher who responded to our call for evidence, argued:

“The philosophy of a purpose driven curriculum relies on a high quality professional workforce”.⁷⁸⁰

932. Estyn's written evidence stated that the quality of teaching and learning will “provide the most important contribution to the successful development” of the new curriculum, but highlighted that it “remains too variable, particularly in secondary schools”.⁷⁸¹ When asked to expand on this in oral evidence, HM Chief Inspector of Education and Training said that the “current curriculum hasn't helped to reduce variability” which he suggested is “an argument for change”. He also told us how the approach to teaching would change under the new curriculum:

“The new curriculum is based on the latest research. It allows for more varied teaching and learning approaches and that doesn't mean greater variety in quality necessarily. It should lead to improved teaching and learning.”⁷⁸²

933. Estyn cited the quality of leadership as “another important enabler for the successful implementation of the new curriculum”. Its written evidence suggested that the effectiveness of schools' delivery of the new curriculum will correlate directly with the quality of leadership in schools, and it called for professional learning for senior leaders on curriculum reform as a consequence:

“Where leaders think through and introduce new systems sensitively and in a considered manner, curriculum reform is progressing well (...)

⁷⁷⁹ CYPE Committee, Evidence from virtual round table discussions with stakeholders, October 2020.

⁷⁸⁰ Written evidence, CYPE Committee, CAW 1 – Mrs A. Bolt, Head teacher.

⁷⁸¹ Written evidence, CYPE Committee, CAW 20 – Estyn.

⁷⁸² Oral evidence, CYPE Committee, RoP [para 39], 17 September 2020.

Where leaders do not fully consider the underpinning aims of the new curriculum, they do not plan strategically enough when developing a vision for the curriculum, or for learning and teaching (...)

Thus, effective professional learning for senior leaders on curriculum reform should be a key priority.”⁷⁸³

934. Head teacher and school leaders unions recognised the importance of leadership to the Bill’s implementation. The ASCL stated that “instructional leadership” was needed to deliver the legislation successfully,⁷⁸⁴ while the NAHT told us that the Bill’s requirements demand a different approach to what leadership teams have been used to⁷⁸⁵. They highlighted that some school leaders would need support to implement and deliver these new expectations:

“... many senior leadership teams have come through a very narrow system up to now, which will require some support from others, depending on the school.”⁷⁸⁶

Workforce engagement, co-construction and collaboration

935. Teaching unions highlighted that engagement with the profession was important to the successful implementation of the Bill. The NEU felt engagement had been relatively high in pioneer schools, but “mixed” elsewhere.⁷⁸⁷ The NASUWT reported “very little engagement with the profession”⁷⁸⁸ while UCAC described engagement as “slightly piecemeal (...) but improved over time”⁷⁸⁹. UCAC concluded by stating:

“What will be important now, of course, will be to ensure that there are opportunities for thorough engagement throughout the system from now until September 2022.”⁷⁹⁰

936. The co-construction of the Bill was flagged as an area of importance to its successful delivery. The Education Workforce Council emphasised that it would

⁷⁸³ Written evidence, CYPE Committee, CAW 20 – Estyn.

⁷⁸⁴ Oral evidence, CYPE Committee, RoP [para 59], 24 September 2020.

⁷⁸⁵ Oral evidence, CYPE Committee, RoP [para 55], 24 September 2020.

⁷⁸⁶ Oral evidence, CYPE Committee, RoP [para 55], 24 September 2020.

⁷⁸⁷ Oral evidence, CYPE Committee, RoP [para 165], 24 September 2020.

⁷⁸⁸ Oral evidence, CYPE Committee, RoP [para 167], 24 September 2020.

⁷⁸⁹ Oral evidence, CYPE Committee, RoP [para 169], 24 September 2020.

⁷⁹⁰ Oral evidence, CYPE Committee, RoP [para 169], 24 September 2020.

“provide the Welsh Government with important feedback regarding issues or barriers to successful implementation” and enable solutions to be found.⁷⁹¹

937. An individual respondent to our written consultation emphasised the importance of co-construction across primary and secondary schools, but warned of the resource this requires:

“The continuity and progression across the age range of 3-16 requires staff both within and across primary and secondary settings to be co-constructors so that concepts are developed and delivered in a co-ordinated manner. This requires yet more time/input from staff alongside the day job.”⁷⁹²

938. Collaboration within and between schools, as well as with other relevant bodies, was highlighted as important contributors to the Bill’s successful implementation. Estyn’s representatives told us about the importance of creating opportunities for staff to work together, emphasising this does not have to mean time out of the classroom if creative approaches are adopted.⁷⁹³ The NAHT emphasised that collaboration across the wider education system, between local authorities, consortia and Estyn, was also important.⁷⁹⁴

939. Some higher education, further education and adult learning representatives who took part in our virtual round table discussion about the Bill warned that while collaboration is happening at a local level in some cases, this is “at the will of individual heads”. They commented that while collaboration can work well if schools, local authorities and further education work together, there is no framework in place to support that work.⁷⁹⁵

940. The ASCL listed the “sharing of excellent practice” as an important factor in the delivery of the Bill’s aims.⁷⁹⁶

⁷⁹¹ Written evidence, CYPE Committee, CAW 111 – Education Workforce Council.

⁷⁹² Written evidence, CYPE Committee, CAW 101 – John Fabes, Post-16 lead officer.

⁷⁹³ Oral evidence, CYPE Committee, RoP [para 55], 17 September 2020.

⁷⁹⁴ Oral evidence, CYPE Committee, RoP [para 25], 24 September 2020.

⁷⁹⁵ CYPE Committee, Evidence from virtual round table discussions with stakeholders, October 2020.

⁷⁹⁶ Oral evidence, CYPE Committee, RoP [para 261], 24 September 2020.

Delivering the new curriculum alongside other major reforms

941. Managing the introduction of the new curriculum alongside other significant education reforms, including ALN transformation, qualifications reform, and inspection and evaluation change, was highlighted as a challenge to the Bill's implementation.

942. The British Association of Teachers of the Deaf voiced concern about the potential barrier caused by the need to deliver more than one significant reform at once:

“... schools have had a great deal of challenges over the past six months and [I] am concerned that implementing the new curriculum could overwhelm schools, particularly with changes to ALN too.”⁷⁹⁷

943. The NEU highlighted the importance of the Curriculum and Assessment Bill and the ALN Act working “hand in hand”. It also drew attention to similarities they face in terms of the challenges to their successful implementation, including funding:

“... if the ALNET Act doesn't actually provide proper support, then we're passing a lot of responsibility from that Act down to schools, in the same way that this [the Bill] is passing responsibility down to schools, and that inevitably has costs attached to it to ensure that there's support there for every learner to engage in the curriculum and fulfil their potential. Those are great aims, and I think it's right that they're there, but I think there needs to be investment to ensure that there is support there for children so that teachers can provide support for all of them.”⁷⁹⁸

944. The Royal College of Speech and Language Therapists commented on the challenges posed to schools by having to deliver more than one transformative reform agenda at the same time, particularly in light of COVID-19:

“Members have raised concerns about the timescales for the implementation of the bill given the huge pressures schools and settings are facing as a result of the pandemic and the sea-change represented by the introduction of the Additional Learning Needs legislation in September 2021. Whilst the legislation should fit together

⁷⁹⁷ Written evidence, CYPE Committee, CAW 159 – British Association of Teachers of the Deaf.

⁷⁹⁸ Oral evidence, CYPE Committee, RoP [para 206], 24 September 2020.

to produce more inclusive learning environments, it will nevertheless place significant additional pressures on schools and settings at a time when they are having to focus on logistical challenges caused by the impact of COVID-19.”⁷⁹⁹

945. A number of witnesses warned, however, that the curriculum’s implementation and impact should not—and cannot—be considered in isolation. HM Chief Inspector of Education and Training highlighted that:

“... the curriculum for Wales is part of a system of education reform that is more wide-ranging than just changing the curriculum. It’s important, of course, that it’s not just the curriculum that’s changing, but that we have a system of educational reform that takes into consideration teaching, learning, assessment, leadership, professional learning, evaluation, school improvement, and so on.”⁸⁰⁰

946. Qualifications Wales emphasised the importance of not viewing the curriculum as a “panacea” for the improvement in education that people want to see. Its representatives emphasised that it was one part of wider system change:

“... it is a catalyst for this system-wide approach, and it’s only if the whole system changes will we get the outcomes that we’re really looking for.”⁸⁰¹

947. The Children’s Commissioner also warned that the Bill was part of a wider wholesale reform of the system, and should not be expected to do everything:

“... this Bill and this curriculum development is only part of a wider wholesale reform of the system, and this Bill won’t be able to do everything. So it’s got to be seen in the landscape of additional learning needs reform, reforms of inspection and evaluation arrangements...”⁸⁰²

948. The ASCL agreed:

⁷⁹⁹ Written evidence, CYPE Committee, CAW 145 – The Royal College of Speech and Language Therapists.

⁸⁰⁰ Oral evidence, CYPE Committee, RoP [para 10], 17 September 2020.

⁸⁰¹ Oral evidence, CYPE Committee, RoP [para 60], 17 September 2020.

⁸⁰² Oral evidence, CYPE Committee, RoP [para 42], 8 October 2020.

“... the curriculum doesn’t stand on its own right, it’s not a separate event: it’s supported by all the other reforms that we have in the system.”⁸⁰³

Concerns about an alleged “implementation gap”

949. While the Future Generations Commissioner stated that she was “fully supportive” of the approach of the Welsh Government’s approach to the new curriculum, she expressed concern about its implementation. The Commissioner referred to what she termed “the implementation gap”, describing it as:

“... the frequent gap between the aspiration set out by Welsh Government in policy and legislation and their commitment to delivery on the ground.”⁸⁰⁴

950. The Commissioner explained that, in her view, “while new policies and legislation show promise (including this Bill), Government often have an overly optimistic view of what it takes to implement these”.⁸⁰⁵ In oral evidence, she told us:

“... there is quite a pattern here of Government policy and legislation where the resources required and the amount of time required for implementation, culture change and so on, is under-resourced, and I’m not seeing anything in the regulatory impact assessment that gives me much comfort as to whether that’s being addressed in this instance.”⁸⁰⁶

951. The Commissioner argued that a “requirement on head teachers and those involved in developing the curriculum to be indicating how they’re thinking about what they’re doing in the long term” is needed.⁸⁰⁷

Financial resources

952. In addition to the training requirements for the Bill’s successful implementation, the NAHT and ASCL highlighted their views that funding is the main potential barrier.⁸⁰⁸ The ASCL told us that “school finances are currently not

⁸⁰³ Oral evidence, CYPE Committee, RoP [para 63], 24 September 2020.

⁸⁰⁴ Written evidence, CYPE Committee, CAW 55 – Future Generations Commissioner for Wales.

⁸⁰⁵ Written evidence, CYPE Committee, CAW 55 – Future Generations Commissioner for Wales.

⁸⁰⁶ Oral evidence, CYPE Committee, RoP [para 26], 8 October 2020.

⁸⁰⁷ Oral evidence, CYPE Committee, RoP [para 27], 8 October 2020.

⁸⁰⁸ Oral evidence, CYPE Committee, RoP [para 165], 24 September 2020.

healthy” and suggested that costs related to COVID-19 and higher exam fees for schools will compound this.⁸⁰⁹

953. The Future Generations Commissioner argued that there was an “urgent need for intensive investment” for teachers to be able to deliver the aspirations in the new curriculum. She argued that, without “significant extra investment and support”, the Bill’s implementation would be “hugely challenging”.⁸¹⁰

954. As noted in chapter 8, the early years sector cited the financial pressures facing many providers as a potential barrier to implementation.⁸¹¹

955. The financial implications of the Bill are considered in more detail in chapter 13.

The availability of educational resources and materials, and expert support

956. As noted in chapter 6 in relation to RSE, and chapter 7 in relation to RVE, a number of stakeholders highlighted the importance of high quality educational resources and materials, and expert support and input, to the implementation of the new curriculum.

957. The National Library of Wales emphasised the importance of educational resources being in place before the new curriculum is introduced.⁸¹² UCAC agreed, telling us:

“The educational resources to go along with the curriculum are going to be vital (...) to provide a framework and scaffolding, if you like, a structure, to ensure that the right kinds of things are provided.”⁸¹³

958. In our virtual round table discussions with employers, some emphasised the importance of drawing on external expertise to support the effective teaching of the Curriculum for Wales. They argued that the Bill needs to be seen as part of “the wider context of schools opening their doors to employers and other

⁸⁰⁹ Written evidence, CYPE Committee, CAW 26 – The Association of School and College Leaders Cymru.

⁸¹⁰ Oral evidence, CYPE Committee, RoP [para73], 8 October 2020.

⁸¹¹ Our reports on the [Childcare Funding \(Wales\) Bill](#) (January 2019) and [School Funding in Wales](#) (July 2019) referred to the difference between the rates of funding for Foundation Phase (educational) provision in non-maintained nurseries and for the Childcare Offer, and the impact this has on the early years sector.

⁸¹² Written evidence, CYPE Committee, CAW 64 – National Library of Wales.

⁸¹³ Oral evidence, CYPE Committee, RoP [para 184], 24 September 2020.

stakeholders who are better placed to deliver some of the work-related education to young people”. Some employers also told us that while the curriculum is delivered in schools, it needs to embrace other organisations.⁸¹⁴

Communicating about the curriculum

959. The importance of communication and information about the Bill to the legislation’s successful implementation was highlighted by some stakeholders.

960. The six local authorities in North Wales and the GwE consortium told us:

“Communication at all levels and with all stakeholders is vital for the new curriculum and the wider reforms to ensure that the rationale behind the changes are clear and supports understanding of the wider public perception.”⁸¹⁵

961. The Education Workforce Council agreed, describing communication with learners and parents as “essential”:

“Communications with these groups need to be simple, clear and accessible to all, so that the various audiences understand the nature of the changes that are coming and how they can participate fully in the process.”⁸¹⁶

962. The ASCL agreed that engagement with parents and communities was important, adding that successful implementation would also need to involve employers.⁸¹⁷

963. Some of the parents and carers who took part in our virtual round table discussion about the Bill emphasised the need to consider how they are being informed about the changes and consulted about their local school’s curriculum. They felt that engaging parents and carers in dialogue early, and ensuring they are

⁸¹⁴ CYPE Committee, Evidence from virtual round table discussions with stakeholders, October 2020.

⁸¹⁵ Written evidence, CYPE Committee, CAW 189 – North Wales Regional Response to include GwE and the 6 Local Authorities.

⁸¹⁶ Written evidence, CYPE Committee, CAW 111 – Education Workforce Council.

⁸¹⁷ Oral evidence, CYPE Committee, RoP [para 60], 24 September 2020.

involved in the process, will help them support their children’s learning. They called for a framework for parental engagement.⁸¹⁸

964. The need to communicate about RSE specifically is considered in chapter 6 of this report.

The Welsh Government’s response

965. In relation to the implementation of the Bill, and the potential barriers to that, the Minister recognised the challenges:

“I think it’s important to recognise—and the Government certainly recognises—the challenges in delivering what’s in this Bill. I don’t think it’s the Bill itself, actually, that is the issue; I think it is the mechanism by which you deliver the Bill, and I think changing the Bill and giving greater detail in the Bill is not what’s needed. What’s needed is Government action, and I would argue we’re taking that action in how we can deliver what is in the Bill, and that’s around initial teacher education and professional learning and resources. So, I think, to answer your question—I don’t want to give the impression that we think everything is fine—I think the challenge is not the Bill; the challenge is making good what is in the Bill, and that requires policy interventions in other areas to operationalise what is in the Bill.”⁸¹⁹

966. The Minister listed the following actions taken by the Welsh Government to seek to mitigate these potential barriers to implementation:

- the investment of “record amounts of money into professional learning”;
- the establishment and funding of the National Academy of Educational Leadership;
- the provision of opportunities to increase in-service training days;
- the allocation of funding to regional consortia “to support professional learning and cluster work among schools”; and

⁸¹⁸ CYPE Committee, Evidence from virtual round table discussions with stakeholders, October 2020.

⁸¹⁹ Oral evidence, CYPE Committee, RoP [para 67], 21 October 2020.

- the funding of schools as “learning organisation models to develop the whole-schools capacity”.⁸²⁰

967. The Minister pointed to the Welsh Government’s recently published ‘Curriculum for Wales: The journey to 2022’, which “sets out shared expectations of what curriculum realisation really means for practitioners and school settings”. She further explained that the aim of that document is to:

“... help schools prepare for designing and implementing the new curriculum. Those shared expectations, I think, understand and reflect that schools will be in different places in designing their curriculum and the aim of that document is to support schools wherever they are on that journey.”⁸²¹

968. The Minister also said the Welsh Government was learning from the Scottish experience, particularly the challenges faced there, which she said appeared to be related to implementation rather than the curriculum’s overall approach:

“[In Scotland] people were concerned about a lack of scaffolding and guidance to individual schools, and, in reaction to that, then schools were overwhelmed and swamped with huge amounts of implementation guidance. So, we’ve looked at that about ensuring we get the balance right.”⁸²²

969. In relation to professional learning specifically, the Minister explained that the Welsh Government “absolutely recognise the fundamental importance of professional learning” and that the list above demonstrates the resources made available, both financial and in terms of support, for that purpose.⁸²³ She also stated that the content of ITE had been “radically reformed” in order to prepare future teachers to take advantage of the opportunities afforded by the new curriculum.⁸²⁴

970. With regard to the place of the new curriculum in the context of wider educational reform—especially ITE and other professional learning developments—the Minister argued that it was “at the centre”:

⁸²⁰ Oral evidence, CYPE Committee, RoP [para 165], 21 October 2020.

⁸²¹ Oral evidence, CYPE Committee, RoP [para 157], 21 October 2020.

⁸²² Oral evidence, CYPE Committee, RoP [para 22], 14 July 2020.

⁸²³ Oral evidence, CYPE Committee, RoP [para 165], 21 October 2020.

⁸²⁴ Oral evidence, CYPE Committee, RoP [para 12], 14 July 2020.

“... ITE reform, ensuring that our initial teacher education is as good as it needs to be. We’re reforming our newly qualified teachers’ induction years and mentoring, looking to provide those ongoing professional qualifications right through to Master’s level. So, the curriculum is driving reform in other areas, not least in professional learning, from the beginning of a teacher’s career right the way through to those that aspire to and lead our schools.”⁸²⁵

971. The Minister warned, however, that the success of the Bill’s implementation ought not to be measured in isolation, nor only in relation to the raising of standards:

“On its own, is it going to by itself raise standards? No, but it’s an important part of a wholesale education reform that is outlined in the national mission from the Welsh Government.”⁸²⁶

Our views and recommendations: potential barriers to implementation

972. It is clear from the evidence we have received that giving effect to the Bill’s provisions, and realising the legislation’s aims and ambitions in educational settings across Wales, will be no mean feat. We agree with the employers who attended our virtual round table discussion that the new curriculum has the potential to be a “game changer” for our children and young people’s education. Nevertheless, we are very conscious that attention needs to be paid—and care taken to address—the potential barriers outlined above. In our view, failure to do this poses significant risks the Bill’s successful implementation.

973. We welcome the Welsh Government’s publication of the ‘Curriculum for Wales: The journey to 2022’ document which seeks to assist with the planning, sequencing and supporting of schools to implement the new curriculum. We note that that this has been informed by the OECD’s review of the implementation of curriculum reform to date. We strongly support the Welsh Government’s stated intention to review that document in 2021. We believe this is essential given the inevitable impact the COVID-19 pandemic (considered in detail in the next section) will have on the educational settings charged with implementing the provisions in this Bill.

⁸²⁵ Oral evidence, CYPE Committee, RoP [para 165], 21 October 2020.

⁸²⁶ Oral evidence, CYPE Committee, RoP [para 12], 14 July 2020.

Recommendation 57. That the Welsh Government, in light of our conclusion that the potential barriers identified as part of our Stage 1 scrutiny pose significant risks to the Bill’s successful implementation:

- proceed at pace with its intention to review the ‘Curriculum for Wales: The journey to 2022’ document and use the learning from that exercise, and any further advice from the OECD, to inform the implementation of the Bill (including the relevant timescales); and
- set out the steps it will take to satisfy itself and stakeholders that all settings will be able to implement this legislation effectively from day one.

974. As noted in chapter 3, we believe the success of the approach the Bill takes to the new curriculum will depend in no small part on adequate professional learning. In our 2017 report on teachers’ professional learning and education, we argued that it was essential that the teaching workforce received the training and development it needed to meet the demands of the new curriculum.⁸²⁷ Three years later, we still agree with the statements made as part of that inquiry (by the Minister and HM Chief Inspector respectively) that “the quality of our education system cannot exceed the quality of our teachers” and that “the most important factor in how well learners develop and learn is the quality of teaching”.⁸²⁸

975. In light of the importance we attach to quality teaching and leadership, we are concerned that teachers’ and leaders’ professional learning was highlighted by stakeholders as an area affected by the COVID-19 pandemic (considered in detail in the next section), and that this could pose a significant risk to schools’ ability to prepare for—and deliver—the new curriculum effectively.

Recommendation 58. That the Welsh Government, taking account of the impact of COVID-19, provide assurances before the end of the Bill’s passage through the Senedd that it will:

- assess the extent to which professional learning and development opportunities have been affected by the pandemic;

⁸²⁷ CYPE Committee, [Report on the Teachers’ Professional Learning and Education Inquiry](#), December 2017.

⁸²⁸ Plenary, [Oral Statement: Educational Leadership](#), 16 May 2017, and [Estyn Annual Report 2015-16](#)

- commit to providing the substantial additional support we believe will be needed to make up for the impact of the pandemic on professional learning and development; and
- provide an update on how peer-to-peer and cluster work is supporting professional learning and development, and to what timescales.

976. We note the importance stakeholders attach to engagement, co-construction, collaboration and communication as contributing factors to the Bill's successful implementation. Given the understandable focus on managing the impact of COVID-19 and ensuring that education remains available to our children and young people during this period, there is a significant risk that focus on preparations for the new curriculum could be crowded out. This is of particular concern when we take into account that the new curriculum is one of a number of significant reforms currently underway within the education sector.

Recommendation 59. That the Welsh Government provide assurances about how plans for engagement, co-construction, collaboration and communication relating to the implementation of the new curriculum have been—and will be—adjusted to take account of COVID-19's impact.

977. We recognise the concerns raised about the sufficiency of the funding available to deliver this ambitious Bill. We also realise that these are amplified by questions about how robust and accurate the calculations in the Bill's RIA are (which we discuss in more detail in chapter 13). Our 2019 inquiry into school funding concluded that there is not enough money going into the education system in Wales and not enough finding its way to schools.⁸²⁹ This, coupled with the impact of this Bill and the programme of wider educational reform facing our schools, leads us to conclude that funding could be a very real barrier to the successful implementation of the Curriculum for Wales. We discuss this further and make a recommendation in relation to the impact of this Bill on school funding in chapter 13.

978. We note the comments made to us about the importance of ensuring that adequate educational resources and materials, which align with the new curriculum's aims, are available to assist schools with implementation, particularly during the early days of its roll out. We further note the calls outlined in this chapter, and in other chapters, for external expertise to be available, and drawn upon, to shape schools' curricula.

⁸²⁹ CYPE Committee, [School Funding in Wales](#), July 2019.

Recommendation 60. That the Welsh Government undertake further work to ensure that, as part of the preparation for—and roll out of—this legislation, external expertise is sought to inform schools’ curricula and educational resources. New materials and resources, in both languages, should be developed nationally but be suitable for local adaptation, in keeping with the subsidiarity principle that underpins the Curriculum for Wales.

The impact of COVID-19 on the Bill’s implementation schedule

979. The vast majority of the planning for this Bill was undertaken in advance of the COVID-19 outbreak in spring 2020. The Explanatory Memorandum accompanying the Bill acknowledges the “uncertainty created by the COVID-19 pandemic”,⁸³⁰ and states:

“The full scope of implications of the COVID-19 crisis to curriculum reform (including the implementation of the Bill) is not yet known. The development and implementation of the Curriculum for Wales continues to be a priority for the Welsh Ministers.”⁸³¹

Stakeholders’ evidence

980. Views on the impact of COVID-19 on the Bill’s implementation and timetable were mixed. While the majority of witnesses acknowledged the scale of disruption experienced as a consequence of the pandemic, there were a range of opinions about what this should mean for the Bill’s implementation timetable. These ranged from those who thought that delivering the current timetable for phased roll-out from 2022 was more important than ever, to those who described it as “entirely implausible”⁸³² to maintain the timescales planned in the period before the pandemic.

981. WLGA representatives told us they were “entirely content” to make progress according to the existing timetable and that “the profession is ready to move on this now”.⁸³³ ADEW added:

“... the profession has been working to prepare for the implementation of this for a number of months now, and so it is important that we continue to work with urgency and maintain momentum and work in

⁸³⁰ Welsh Government, Explanatory Memorandum, para 8.8.

⁸³¹ Welsh Government, Explanatory Memorandum, para 3.116.

⁸³² Oral evidence, CYPE Committee, RoP [para 188], 24 September 2020.

⁸³³ Oral evidence, CYPE Committee, RoP [para 33], 20 July 2020.

a connected way to address any challenges that might come, because we've been anticipating this change for a long time, and we believe that, actually, the change will benefit our learners."⁸³⁴

982. Regional Consortia representatives also agreed that it was “possible to maintain the timescales that are planned”. They attributed this to the fact that the workforce has already been focused on its implementation, guidance is available, and “a significant amount of professional learning” has already taken place nationally and regionally.⁸³⁵ They added that professional learning programmes will be adapted to meet the current circumstances and delivered in a blended way, and that ITE is also evolving in response to the COVID-19 pandemic.⁸³⁶

983. Stonewall representatives emphasised the importance of sticking with existing timescales for the Bill's implementation, explaining that they were particularly keen to avoid any delay given the importance they attached to improving provision of RSE.⁸³⁷ The National Secular Society and Humanists UK also emphasised the importance of maintaining the timetable on the basis that “we've waited a long time” for reform, but acknowledged the pressure placed on teachers.⁸³⁸

984. Head teacher and teacher unions acknowledged the importance of implementing the Bill, but cautioned that “COVID is more than a distraction”.⁸³⁹ The ASCL's written evidence stated that the pandemic “has had and will continue to have an impact on the speed of implementation”, adding “we are in a crisis”.⁸⁴⁰ In oral evidence, the ASCL's representative acknowledged that the pandemic had brought some progress with digital delivery and a focus on health and well-being, but called on the Welsh Government to keep the implementation timescale under review:

“At the moment, headteachers, teachers and leaders are absolutely flat out in crisis management and crisis leadership, and I think if we were to pretend that nothing had happened, it would potentially derail what is

⁸³⁴ Oral evidence, CYPE Committee, RoP [para 35], 20 July 2020.

⁸³⁵ Oral evidence, CYPE Committee, RoP [para 211], 20 July 2020.

⁸³⁶ Oral evidence, CYPE Committee, RoP [paras 212 and 214], 20 July 2020.

⁸³⁷ Oral evidence, CYPE Committee, RoP [para 269], 8 October 2020.

⁸³⁸ Oral evidence, CYPE Committee, RoP [paras 309 and 311], 15 October 2020.

⁸³⁹ Oral evidence, CYPE Committee, RoP [para 37], 24 September 2020.

⁸⁴⁰ Written evidence, CYPE Committee, CAW 26 – The Association of School and College Leaders Cymru.

an excellent curriculum piece, which we feel could bring the country forward significantly. If it's pushed into a date, basically because the date sits there and isn't kept under review, I really worry that we will lose what is a terrific piece of policy. It has to be kept under review. It is not a small matter."⁸⁴¹

985. The NAHT's representative agreed that, while she believed the appetite for the new curriculum remained particularly among school leaders, the timing "is possibly ambitious given the pressures schools are under at the moment". She warned that "pinning our hopes on a date, just because that date has been set, is probably a bit unrealistic", especially in light of the fact that she believed professional learning has been "put on the back burner" due to COVID-19.⁸⁴²

986. The NASUWT described the timescales as "entirely implausible" and like "paint[ing] a ship in the middle of a hurricane"⁸⁴³, saying "a realistic timescale would be to wait until the crisis is over"⁸⁴⁴. UCAC had a different view, arguing that it was "not entirely impossible"⁸⁴⁵, adding that the situation should be kept under close eye but "in an ideal world [we] would be sticking to it because there is so much of a need for this new curriculum".⁸⁴⁶

987. Both UCAC and the NEU agreed that the process to pass the Bill should proceed as planned, and consideration of the timescales for its implementation to follow if necessary.⁸⁴⁷ The NEU's representative added that flexibility was needed on implementation because "a lot of things are going to have to happen in terms of training and investment, and I'm not 100 per cent confident that that's the case".⁸⁴⁸

988. Estyn and the Future Generations Commissioner acknowledged the challenges faced by the education sector because of COVID-19, but referred to some of the opportunities that have also arisen during the pandemic. The Future Generations Commissioner told us "schools have had to fast-forward new

⁸⁴¹ Oral evidence, CYPE Committee, RoP [paras 36 and 37], 24 September 2020.

⁸⁴² Oral evidence, CYPE Committee, RoP [paras 39 and 43], 24 September 2020.

⁸⁴³ Oral evidence, CYPE Committee, RoP [para 188], 24 September 2020.

⁸⁴⁴ Additional information submitted by NASUWT following 24 September 2020 oral evidence session, CYPE Committee.

⁸⁴⁵ Oral evidence, CYPE Committee, RoP [para 190], 24 September 2020.

⁸⁴⁶ Oral evidence, CYPE Committee, RoP [para 190], 24 September 2020.

⁸⁴⁷ Oral evidence, CYPE Committee, RoP [paras 312 and 314], 24 September 2020.

⁸⁴⁸ Oral evidence, CYPE Committee, RoP [paras 192 and 196], 24 September 2020.

approaches and innovative approaches over the last six months”⁸⁴⁹ while HM Chief Inspector of Education and Training explained:

“In a way, there are two contrasting elements with regard to COVID. On the one hand, the crisis has taken up the time, resources and energy from reforming the curriculum, the time allocated to planning and so on has been lost, there’s no doubt about that. And of course, we don’t know what will happen in future. But it could be argued that the key aspects of curriculum reform have been accelerated as a result of the crisis. That’s very clear in terms of digital content—for staff and learners. And the focus on the health and well-being of learners that is a key element of the curriculum reform has also been expanded and accelerated at this time; better communication with families has also come to the fore (...) So, on the whole, I think these two things are in balance, and it is feasible that we can keep to the current timetable.”⁸⁵⁰

989. The Children’s Commissioner emphasised the importance of working with schools, who she described as being “under more pressure than ever before” but argued that the Bill should progress to the planned timescales:

“... children have waited long enough for this reform. Some of them have waited almost their entire primary or secondary school schooling for this. I think we need to move forward, but with understanding that it will take time to embed and that we need to support our teachers as much as possible to do this well.”⁸⁵¹

990. In our call for written evidence on the Bill we asked specifically for views about the impact of COVID-19 on implementation. The National Library for Wales described the timescales as “tight”⁸⁵², while Colegau Cymru warned that contingency planning might be needed due to the impact of the pandemic⁸⁵³. A head teacher who responded to our consultation described the pandemic as:

⁸⁴⁹ Oral evidence, CYPE Committee, RoP [para 113], 8 October 2020.

⁸⁵⁰ Oral evidence, CYPE Committee, RoP [para 30], 17 September 2020.

⁸⁵¹ Oral evidence, CYPE Committee, RoP [para 117], 8 October 2020.

⁸⁵² Written evidence, CYPE Committee, CAW 65 – The National Library of Wales.

⁸⁵³ Written evidence, CYPE Committee, CAW 48 – Colegau Cymru.

“... a massive barrier, because schools don’t have the capacity to do much at the moment other than try to remain open and provide the best education and catch-up programme that we can for our pupils”.⁸⁵⁴

991. Swansea Council shared similar views, and believed that it would be sensible to review the implementation timeline “in light of the pressures created by the pandemic”:

“A significant barrier to the implementation of the bill is the current pandemic. The lockdown has resulted in a massive disruption to pupils’ learning and schools’ planning. As a result, school leaders have been focussed on reconfiguring as emergency childcare centres, delivering distance and blended learning, and now, the return to school, with all the challenges that is bringing, and, will continue to bring, this year. Therefore, schools are not in the best position to release staff to design, develop and trial new curricula.”⁸⁵⁵

992. A response from Haverfordwest HighSchool argued that there is “insufficient time for schools to adequately prepare” and described the current timetable as “far too demanding/too quick”.⁸⁵⁶

993. Many respondents thought that existing challenges facing practitioners, teachers and leaders presented a potential barrier to engagement with the new curriculum. From these perspectives, the current demands placed on teachers leave little time for planning and preparation, as well as engaging with any professional development. Some highlighted issues such as the inadequate cover to attend training and that some training had been cancelled due to lockdown restrictions. Overall, some felt that the legislation should revisit the timeframes surrounding the implementation of the new curriculum, or ensure sufficient support and training is made available.⁸⁵⁷ Views were summed up by the NEU’s response, which said:

“Any workload implications need to be managed to ensure that teachers and support staff have enough time to undertake the extra expectations within the Bill, outside of the classroom. Extra INSET days allocated are welcome – but more time is needed to ensure that

⁸⁵⁴ Written evidence, CYPE Committee, CAW 84 – Alan Tootill, Head teacher.

⁸⁵⁵ Written evidence, CYPE Committee, CAW 142 – Swansea Council.

⁸⁵⁶ Written evidence, CYPE Committee, CAW 11 – Haverfordwest High VC School.

⁸⁵⁷ Wavehill social and economic research, Curriculum and Assessment (Wales) Bill: Consultation Analysis, October 2020.

training can be undertaken and the work completed, especially in the context of Covid-19 and the additional work that that has meant to keep staff and learners safe and learning.”⁸⁵⁸

The Welsh Government’s response

994. Responding to the concerns raised about the potential barriers to implementation created by the COVID-19 pandemic, the Minister told us:

“Clearly, I cannot ignore the significant disruption caused to the education system by COVID-19.”⁸⁵⁹

995. However, given that the Bill itself does not specify a timescale for the new curriculum’s introduction, the Minister emphasised the important distinction between the legislation progressing through the Senedd on the one hand, and timescales for implementing its provisions on the other:

“... whilst I accept that there is a lot of discussion to be had around implementation, this Bill stands alone from that. We can’t have any implementation at all unless this legislation is passed.”⁸⁶⁰

996. The Minister stated that the Welsh Government’s recently published ‘Curriculum for Wales: The journey to 2022’:

“... allows schools to move at a pace that is appropriate to them, recognising the challenges they’re facing at the moment—just keeping the doors open in some cases and dealing with the challenges that COVID brings.”⁸⁶¹

997. While acknowledging the challenges posed by COVID-19, the Minister told us that teaching unions had reported many of their members wishing to push on “even in these most difficult of circumstances”. She added:

“... in some ways, there’s a belief that moving more quickly to some of the principles in the curriculum is even more important than ever, because of COVID-19.”⁸⁶²

⁸⁵⁸ Written evidence, CYPE Committee, CAW 49 – National Education Union Cymru.

⁸⁵⁹ Oral evidence, CYPE Committee, RoP [para 12], 14 July 2020.

⁸⁶⁰ Oral evidence, CYPE Committee, RoP [para 12], 14 July 2020.

⁸⁶¹ Oral evidence, CYPE Committee, RoP [para 157], 21 October 2020.

⁸⁶² Oral evidence, CYPE Committee, RoP [para 158], 21 October 2020.

998. The Minister also told us that the Welsh Government has, in recognition of the impact of COVID-19, loosened certain requirements on schools. The Minister argued that this, coupled with having no routine inspections from Estyn, “has freed up some time that schools are then being able to use to work towards some of the implementation”.⁸⁶³

999. During our first and last oral evidence sessions with the Minister on the Bill (July and October 2020 respectively) the Minister stated that the Welsh Government had not departed from its 2022 target date, but would keep it under review given the current circumstances.⁸⁶⁴

Our views and recommendations: the impact of COVID-19

1000. As noted in our views in the previous section of this chapter, we are very concerned about the impact of the COVID-19 pandemic on the implementation of new curriculum. However, like the Minister and others, we would emphasise that the new curriculum’s implementation is a separate matter to the passage of this Bill, the completion of which must be a priority for this Senedd.

1001. While COVID-19 has created challenges for our education system many of us could not have imagined, it has also shone a light on why changes to our curriculum are so needed. Given the length of time this reform has been in the pipeline, we would be very reluctant to see timescales slip. Nevertheless, it is clear to us that the education system is under significant pressure and an assessment of the feasibility of the planned timescales for implementation is needed. In calling for this assessment we emphasise that we have not concluded that a delay is necessary, merely that it is prudent—in the circumstances—to consider what is feasible. On that basis, we welcome the Minister’s confirmation that the timescales for implementation remain under review.

Recommendation 61. That the Welsh Government undertake, before the start of Stage 3, an assessment of the feasibility of the planned timescales for the implementation of the curriculum. In making this recommendation we emphasise that we do not believe the timetable for the Bill should change, nor are we concluding that a delay to the implementation timescales is necessary, merely that it is prudent—in light of the impact of the COVID-19 pandemic—to consider what is feasible.

⁸⁶³ Oral evidence, CYPE Committee, RoP [para 159], 21 October 2020.

⁸⁶⁴ Oral evidence, CYPE Committee, RoP [para 12], 14 July 2020 and RoP [para 159], 21 October 2020.

Monitoring and reviewing the Bill's implementation

1002. The Bill does not include provisions relating to inspection or monitoring, nor requirements in relation to reviewing, its implementation. However, the Explanatory Memorandum states that “the inspection framework will be reformed to support the Welsh Government’s new Evaluation and Improvement framework” and that plans are in place to undertake a post-implementation review.⁸⁶⁵

1003. The Explanatory Memorandum explains that:

“New evaluation and improvement arrangements are being developed through co-construction with a range of stakeholders including schools, Estyn, local government, regional consortia, and taken international research into consideration. These arrangements will align and support the emerging curriculum framework”.⁸⁶⁶

1004. It also states that “the evaluation and improvement arrangements will include the introduction of national consistency in self-evaluation to support high quality, school improvement work” and that school improvement priorities “will need to reflect more widely than attainment and attendance of pupils, not being constrained so as to exclude factors such as well-being, learner satisfaction, equality and inclusion, and curriculum provision”.⁸⁶⁷

1005. The Explanatory Memorandum also explains:

“It is intended that existing provisions for evaluation and improvement will provide the legislative base to ensure the arrangements support the new curriculum framework.”⁸⁶⁸

1006. In relation to the post-implementation review, the Explanatory Memorandum states:

“The post-implementation review (PIR) will form part of a wider programme of evaluation of the curriculum reforms. The programme will not be designed as a single backward-looking assessment of

⁸⁶⁵ Welsh Government, Explanatory Memorandum, para 8.189 and chapter 11.

⁸⁶⁶ Welsh Government, Explanatory Memorandum, para 3.122.

⁸⁶⁷ Welsh Government, Explanatory Memorandum, paras 3.123-3.124.

⁸⁶⁸ Welsh Government, Explanatory Memorandum, para 3.125.

impacts but rather an ongoing process of learning, of which an evaluation of impacts will form an important part.”⁸⁶⁹

1007.It goes on to explain that:

- a “formative evaluation will be conducted in the early years of implementation to understand early successes and challenges, and whether the curriculum reforms are having the intended consequences”, enabling “any necessary changes to be made to policies to increase their effectiveness”; and
- “an impact evaluation will look at the consequences of reforms as they take their effect and after a sufficient period to allow longer term outcomes to emerge”.⁸⁷⁰

1008.The Welsh Government commits to an “evaluability assessment” starting “in parallel with the Bill’s passage through the Senedd” and says it will “identify how high quality evidence about the implementation and impacts of the reforms can be reliably collected and presented”.⁸⁷¹

1009.The Welsh Government also says it will produce a detailed evaluation plan following the “evaluability assessment”, and commits to carrying out an economic evaluation, including a review of the costs and benefits set out in the RIA.⁸⁷²

1010.The Explanatory Memorandum states that the evaluability assessment will be completed by Summer 2021, the evaluation plan will be undertaken in 2021/22, and there will be a review of the first five years following Royal Assent by Summer 2026.⁸⁷³

1011. The Welsh Government says the longer term impact of the legislation will be understood from the outcomes for children and young people as they progress from their schooling into examinations, further and higher education and training, and adult life in general.⁸⁷⁴

⁸⁶⁹ Welsh Government, Explanatory Memorandum, para 11.1.

⁸⁷⁰ Welsh Government, Explanatory Memorandum, para 11.1.

⁸⁷¹ Welsh Government, Explanatory Memorandum, para 11.2.

⁸⁷² Welsh Government, Explanatory Memorandum, paras 11.4-11.5.

⁸⁷³ Welsh Government, Explanatory Memorandum, para 11.7.

⁸⁷⁴ Welsh Government, Explanatory Memorandum, para 11.7.

Stakeholders' evidence

Inspection, monitoring, assessment and accountability

1012. The Future Generations Commissioner told us that “how implementation and roll out [of the Bill] is monitored, assessed and inspected is key” to its ultimate success.⁸⁷⁵

1013. The development of “new evaluation and improvement arrangements” were described as “imperative”, for both the Bill’s successful implementation and the realisation of wider education reform, by the six local authorities in North Wales and the GwE consortium.⁸⁷⁶

1014. GwE consortium representatives emphasised the importance of Estyn’s role in ensuring all necessary elements of the curriculum are covered by education settings.⁸⁷⁷ They also emphasised the importance of the inspection and monitoring approach to the successful delivery of the Bill’s aims more broadly:

“They [Estyn] have got a very important role in framing how they will be going around inspecting these particular areas, because these are the kinds of things that drive the behaviours and the principles of the curriculum will have to be embraced by all partners who want to make this work, really, especially on the accountability side.”⁸⁷⁸

1015. The Welsh Language Commissioner argued that the school accountability system needed to improve in order to realise the culture change required for the Bill’s successful implementation.⁸⁷⁹ UCAC also emphasised the importance of the system for assessment, monitoring and accountability “aligning” with the “culture change” introduced by the new curriculum.⁸⁸⁰ The NAHT agreed, emphasising the importance of accountability (and assessment) systems “match(ing) the adaptive process taken by that school”:

⁸⁷⁵ Oral evidence, CYPE Committee, RoP [para 84], 8 October 2020.

⁸⁷⁶ Written evidence, CYPE Committee, CAW 189 – North Wales Regional Response to include GwE and the 6 Local Authorities.

⁸⁷⁷ Oral evidence, CYPE Committee, RoP [para 329], 20 July 2020.

⁸⁷⁸ Oral evidence, CYPE Committee, RoP [para 280], 20 July 2020.

⁸⁷⁹ Oral evidence, CYPE Committee, RoP [para 29], 8 October 2020.

⁸⁸⁰ Oral evidence, CYPE Committee, RoP [para 235], 24 September 2020.

“... there will need to be the creation of a high-risk, low-blame culture that will allow teachers to think outside the box and try these new things.

We must also ensure that accountability processes are responsive enough. Are there skills in the middle tier to support this? Is Estyn going to understand what a school is trying to achieve? (...)

... for the new curriculum to thrive, all these strands must operate in harmony.”⁸⁸¹

1016.UCAC further emphasised the importance of a good monitoring system being in place early “to ensure that what is provided to learners is in accordance with the general expectations and that there is support for schools according to need if those expectations aren’t met”.⁸⁸²

1017.Sport Wales told us that the inspection approach could have a “significant impact” on implementation. “How schools are evaluated, through both formal inspection and informal mechanisms such as peer to peer cluster support” was described as important. It argued that “these should evaluate the quality of provision specifically, across the curriculum”.⁸⁸³ The Children’s Commissioner for Wales also commented on the need to “monitor, evaluate and address inequalities in both what [settings] teach and how children are learning through that teaching and the outcomes for those groups.”⁸⁸⁴

1018.In relation to the inspection regime and its relationship with the new curriculum, Estyn told us:

“We’re currently preparing for our 2021 inspection framework for schools and there’s a far greater focus on curriculum in our framework. But, each year, as we get closer to roll-out and as the curriculum goes through the years of secondary, we’ll be reviewing our framework to make sure we raise expectations year on year to support progress with the new curriculum. So, I think we’ll be providing as well that objective

⁸⁸¹ Oral evidence, CYPE Committee, RoP [paras 56-57], 24 September 2020.

⁸⁸² Oral evidence, CYPE Committee, RoP [para 183], 24 September 2020.

⁸⁸³ Written evidence, CYPE Committee, CAW 215 – Sport Wales.

⁸⁸⁴ Oral evidence, CYPE Committee, RoP [para 42], 8 October 2020.

independent advice to you, as Members, so that you can monitor the progress as well as we implement.”⁸⁸⁵

1019.Evidence on assessment and qualifications is considered in more detail in chapter 11.

Post-implementation review

1020.Little evidence was submitted to us in relation to the Bill’s provision for post-implementation review. However, the EHRC called on the Welsh Government to ensure that equality considerations and implications across protected characteristics are embedded into plans to undertake a post-implementation review. Its written evidence argued that this was necessary to ensure that “the Welsh Government are able to fully understand and assess the [Bill’s] impact on children and young people with protected characteristics” and that relevant equality information needed to be collected and used for this purpose in accordance with the Public Sector Equality Duty.⁸⁸⁶

1021.The EHRC went on to state:

“Although an equality impact assessment has been completed on curriculum reform, the Welsh Government must use monitoring, evaluation and review processes to ensure that the actual impact matches the impact that was anticipated, and that relevant actions have been implemented.”⁸⁸⁷

The Welsh Government’s response

1022.With regard to the inspection, monitoring and accountability regime, the Minister said:

“... schools will not be operating in an accountability-free zone. So, when you think about the role of the school improvement services and an ongoing accountability regime, our school improvement services and challenge and support advisers will be looking to the school to demonstrate the suitability and the compliance of their local curriculum with the Bill. (...) Estyn will be continuing to carry out its role in ensuring that curricula are suitable. And as we develop our new

⁸⁸⁵ Oral evidence, CYPE Committee, RoP [para 49], 17 September 2020.

⁸⁸⁶ Written evidence, CYPE Committee, CAW 184 – Equality and Human Rights Commission.

⁸⁸⁷ Written evidence, CYPE Committee, CAW 184 – Equality and Human Rights Commission.

accountability framework to look at a wider set of performance within our school system, the nature of that curriculum and its suitability is something that we would expect the school to be reporting on and held accountable for. So, there's a variety of levels of accountability to ensure that the curriculum is suitable and is scrutinised by organisations outside of the individual school itself."⁸⁸⁸

1023. The Minister added that she recognised that, in terms of realising the Bill's aims, "the real challenge starts when, hopefully, this piece of legislation is passed". She referred to the recent challenge "laid at our [the Government's] door by the Organisation for Economic Co-operation and Development"⁸⁸⁹, about how you operationalise this and how you make it real for practitioners' individual schools".⁸⁹⁰ She went on to explain:

"... using and building on the work of the recommendations from the OECD, it's really important that we understand what success of implementation looks like. So, that's why we are setting up a research and evaluation programme, and that will begin prior to Royal Assent. That's why we've published the journey document, that's why we're publishing our shared expectation document so every part of the system knows what they're expected to do between now and 2022."⁸⁹¹

Our views and recommendations: monitoring and reviewing implementation

1024. We believe that monitoring, accountability and evaluation arrangements are crucial to being able to both assess the extent to which the Bill has been implemented successfully, and to make any adjustments to the future approaches of—and support available for—educational settings. In light of this, we welcome the adjustments that are being made to Estyn's inspection framework to take account of the new curriculum.

1025. We note the concerns raised in evidence about the negative impact (and sometimes perverse incentives) created by existing accountability and assessment arrangements. We recognise the importance of striking a careful but clear balance between robust and transparent accountability (to maintain and improve the quality of education our children and young people receive), and the need to

⁸⁸⁸ Oral evidence, CYPE Committee, RoP [para 13], 21 October 2020.

⁸⁸⁹ OECD, [Achieving the New Curriculum for Wales](#), 5 October 2020.

⁸⁹⁰ Oral evidence, CYPE Committee, RoP [para 161], 21 October 2020.

⁸⁹¹ Oral evidence, CYPE Committee, RoP [para 162], 21 October 2020.

measure outcomes in more sophisticated ways than exam results alone (to protect and improve the well-being and satisfaction of pupils and professionals alike).

1026. We recognise that the curriculum on its own will not—and cannot—address all the challenges our education system faces. Nevertheless, it is a crucial part of the jigsaw and the way in which we monitor and review the Bill’s implementation will be key to its success. On that basis, we welcome the Welsh Government’s intention to undertake a post implementation review of its implementation.

1027. We recognise and understand the Welsh Government’s desire for this to form part of wider evaluations of the curriculum reforms, and its intention to ensure that it is not “a single backward looking assessment of impacts but rather an ongoing process of learning”. While we do not doubt the current Welsh Government’s intention to undertake this important work, future administrations will inherit the laws we pass, and they may not share the same level of commitment to the mechanisms that are key to their effective implementation. As such, we believe the Bill should be amended to include a duty on the Welsh Ministers to review its implementation. In recognition of potential concerns about retaining flexibility and an ability to consider this alongside the implementation of other education reforms, we do not think this duty need be complex or rigid, but we do believe that the requirement to uphold it ought to be written in statute.

Recommendation 62. That the Welsh Government amend the Bill to include a duty on the Welsh Ministers to review the implementation of the Bill and its provisions.

13. Financial implications

As part of our scrutiny of the Bill's general principles, we considered the Regulatory Impact Assessment, which assesses the Bill's costs and benefits. This chapter summarises the evidence we received and the views we drew. It should be read alongside the Finance Committee's report, which considers the Bill's financial implications in more detail.

1028.The Regulatory Impact Assessment ("RIA") within the Explanatory Memorandum sets out the options considered by the Welsh Government and estimates the costs and benefits of the legislation.

1029.The Bill's RIA and financial implications are considered in detail by the Finance Committee.⁸⁹² As such, we do not seek to repeat that detailed scrutiny here. Instead, we outline the evidence presented to us in relation to the financial implications of the Bill and give our views and recommendations in light of that.

The options in the Regulatory Impact Assessment

1030.Two options are presented in the RIA:

- **business as usual**, which is the retention of existing provisions relating to curriculum and assessment; and
- **introduce the legislation** (the preferred option), which is the replacement of existing provisions with the new curriculum and assessment arrangements set out in Professor Graham Donaldson's 'Successful Futures' review.

1031.The RIA does not discuss any other options.

Stakeholders' evidence

1032.As noted elsewhere in this report, there is a broad consensus that the current curriculum is not fit for purpose and wide agreement that there is a need for legislation. As such, the majority of the comments we received about the financial

⁸⁹² Finance Committee, [Financial Implications of the Curriculum and Assessment \(Wales\) Bill](#), December 2020.

implications of the Bill related to the calculations for introducing the legislation (discussed in the next section), as opposed to the need for the RIA to explore alternative options.

1033. Audit Wales was the exception, highlighting its concerns about what it felt was a lack of exploration of alternative options in the RIA:

“We consider that it is currently difficult to assess the need for, or the value for money of, the Bill because the Explanatory Memorandum does not consider whether the Government’s aims could be met by any other route or reform. (...)”

Without consideration of any other option for achieving all or some of the Government’s stated aims for education reform, we cannot assess whether the proposals are likely to provide value for money.”⁸⁹³

The Welsh Government’s response

1034. When asked by the Finance Committee why no options besides business as usual or introducing the legislation were considered in the RIA, the Minister for Education explained that a “middle-ground approach” was not acceptable and that “adding bits” to the current curriculum would “exacerbate the problem”.⁸⁹⁴

1035. The Minister added in her evidence to the Finance Committee that the needs of employers and society had changed significantly since the development of the national curriculum and that “only a wholesale approach was appropriate”.⁸⁹⁵

1036. We also asked why the Welsh Government presented the available options as a binary choice between the status quo and the particular course of action set out by the Bill. The Minister outlined her arguments as to why she believes the Bill and the approach it takes to the Curriculum for Wales are the most preferable in terms of raising educational standards.⁸⁹⁶ However, she did not explain how the Welsh Government had considered other options geared towards achieving

⁸⁹³ Written evidence, CYPE Committee, CAW 205 – Audit Wales.

⁸⁹⁴ Oral evidence, Finance Committee, [RoP \[paras 14-15\]](#), 21 September 2020.

⁸⁹⁵ Oral evidence, Finance Committee, [RoP \[para 15\]](#), 21 September 2020.

⁸⁹⁶ Correspondence, Minister for Education to CYPE Committee, 5 November 2020 and oral evidence, CYPE Committee, [RoP \[paras 3-18\]](#), 14 July 2020.

school improvement and higher standards, rather than a wholly new curriculum and this particular type of curriculum.

Our view: the options in the Regulatory Impact Assessment

1037. We note Audit Wales’s concerns about the extent to which the RIA enables an assessment of whether the legislative proposals are likely to provide value for money. While we are persuaded from the evidence we have received that there is a need to legislate as proposed by the Welsh Government, we recognise that other options could have been explored in the RIA to provide a more thorough demonstration of value for money considerations. We note that this is an important function of an RIA.

1038. We urge the Welsh Government to reflect on the Finance Committee’s view that the RIA is a key tool to critically assess a range of methods and to provide an evidence based approach to policy making decisions, and that “RIAs often seem to be a “by-product” of the decision making process, rather than driving it”.⁸⁹⁷

The estimated financial implications of the preferred option

1039. The **total cost** of the Bill is estimated at a total of between £327.9 million and £619.9 million between 2021-22 and 2030-31.⁸⁹⁸

1040. The RIA identifies costs under three categories, and attributes them to three groups:

- **£175.4 million of “administrative costs” to the Welsh Government:** These administrative costs are listed as including funding to support professional learning, the provision of Welsh language resources, funding national and regional networks, and direct staff and communications costs.
- **Between £146.0-£438.0 million of “compliance costs” to schools:** These compliance costs are described as “both direct and opportunity professional learning costs as they [schools] design and implement their new curriculum”. It is explained that these have been calculated “through a survey of Innovation Schools across Wales” and that they are expected to be incurred between 2021-22 and 2025-26.

⁸⁹⁷ Finance Committee, [Financial Implications of the Curriculum and Assessment \(Wales\) Bill](#), December 2020.

⁸⁹⁸ Welsh Government, Explanatory Memorandum, page 53.

- **£6.5 million of “other costs” to Qualifications Wales:** These other costs are described as those to be incurred by Qualifications Wales in light of its work to review and reform vocational and general qualifications in response to curriculum reform. They include consulting on and developing qualification criteria, and approving and monitoring the new qualifications, and are expected to be incurred between 2021-22 and 2027-28.⁸⁹⁹

1041. The RIA also estimates that over £100 million of “**sunk**” costs⁹⁰⁰ have been incurred between 2015 and 2021, before the implementation period. It states that the majority of these costs (£89.1 million) have been incurred by the Welsh Government, with the rest borne by the regional consortia, Estyn, Qualifications Wales, and the National Academy of Educational Leadership.⁹⁰¹

1042. The RIA states:

“Engagement with a number of key stakeholders such as the WLGA, ADEW and Estyn had to be paused as they prioritised their response to the Covid-19 pandemic. As such, it has not been possible to quantify the impact on these organisations. The intention is to start engaging with these organisations again at an appropriate point and any additional information received will be shared with the Senedd during Stage 1 scrutiny before being incorporated into a revised RIA at the end of Stage 2. The cost of the impacts on these organisations are unknown.”⁹⁰²

1043. The Welsh Government’s estimated range for schools’ “**compliance costs**” is between £146.0 million and £438.0 million between 2021-22 and 2025-26. The RIA describes the reasons for this wide margin as follows:

“The school costs have been estimated using survey responses from a small sample of Innovation Schools. These schools were used because their earlier engagement with the new curriculum and assessment arrangements meant they were better placed to estimate the likely resource requirements. However, the Innovation Schools are not

⁸⁹⁹ Welsh Government, Explanatory Memorandum, pages 53-54.

⁹⁰⁰ There are a number of costs relating to curriculum and assessment reform which have either already been incurred or which are expected to be incurred before the Bill receives Royal Assent. These are described as “sunk costs” in the RIA.

⁹⁰¹ Welsh Government, Explanatory Memorandum, paras 8.113-8.137.

⁹⁰² Welsh Government, Explanatory Memorandum, page 55.

representative of the wider school population, and even these schools provided a wide range for the potential resource needs. To reflect the uncertainty in the analysis of school costs, a range of +/- 50% of the central estimate has been assumed.”⁹⁰³

1044. The Welsh Government asked Innovation Schools⁹⁰⁴ to estimate the potential impacts of the new curriculum on their respective schools. The purpose was to extrapolate the potential impact on all schools from the data Innovation Schools provided. However, the RIA acknowledges that:

“... [the] clearer understanding of the new framework, which enabled Innovation Schools to provide an informed view on costs, does have a downside because it does not account for the ‘getting up to speed’ that some other schools may require, and therefore their anticipated costs of implementation may be lower than non-Innovation Schools. There is currently a broad continuum of readiness for the new curriculum in schools, from those setting out on the very initial stages of understanding the implications of the new curriculum framework and its supporting legislation for their schools, to those that have already been preparing either proactively or because they have been more closely involved in the process of developing the curriculum framework.”⁹⁰⁵

1045. The RIA refers to a number of “unquantified costs”, including in relation to the:

- “expected additional costs around equipping staff to deliver elements of the six Areas of Learning and Experience (AoLEs), and other new mandatory curricular and cross-curricular elements”;⁹⁰⁶
- new assessment and qualifications arrangements;
- EOTAS sector;

⁹⁰³ Welsh Government, Explanatory Memorandum, page 56.

⁹⁰⁴ Innovation Schools were schools engaged with the proposals for the new curriculum and assessment arrangements. They received additional funding relating to this role. Up until late 2019 there were 16 innovation schools (of the 1,480 schools noted by StatsWales as operating in Wales in 2019/20). One school left the programme in late 2019, leaving 15 remaining Innovation Schools.

⁹⁰⁵ Welsh Government, Explanatory Memorandum, paras 8.23.

⁹⁰⁶ Welsh Government, Explanatory Memorandum, page 55.

- non-maintained nursery settings; and
- costs facing key stakeholders such as the WLGA, ADEW and Estyn, engagement with which “had to be paused as they prioritised their response to the Covid-19 pandemic”.⁹⁰⁷

1046. The main concerns raised with us regarding the financial implications of the Bill relate to:

- the method adopted to estimate the costs associated with the legislation, and what that means for their likely accuracy;
- unquantified costs and the impact of COVID-19 on gathering the necessary financial information; and
- the funding available for professional learning specifically, given its central role in the successful implementation of the Bill.

The use of Innovation Schools’ data to estimate costs

Stakeholders’ evidence

1047. A number of those who commented on the financial implications of the Bill raised concerns about the use of Innovation Schools’ data to estimate costs.

1048. The Church in Wales and the Catholic Education Service raised concerns about the robustness of this approach to calculating estimated costs.⁹⁰⁸ This was summed up by the Church in Wales’s written evidence which, while acknowledging that the Welsh Government recognised the limitations of the use of Innovation Schools’ data, argued:

“... the use of a very small number of Innovation schools who are already involved in the process to assess these costs (...) cannot possibly form a secure base from which to project system-wide costs. In some instances, responses were received from as few as four schools and even these, show significant variation in proposed costs.”⁹⁰⁹

⁹⁰⁷ Welsh Government, Explanatory Memorandum, page 55.

⁹⁰⁸ Written evidence, CYPE Committee, CAW 171 – Church in Wales and CAW 225 – Catholic Education Service.

⁹⁰⁹ Written evidence, CYPE Committee, CAW 171 – Church in Wales.

1049.All of the unions we heard from expressed similar concerns. The NAHT told us that the cost estimates are “not representative of the 1,500 schools across Wales” and do “not consider the complexities associated with the allocation of school funding”.⁹¹⁰ It argued, therefore, that they were “not an appropriate measure” for costs.⁹¹¹ The NASUWT agreed, commenting that the estimated costs are “based on very limited and unrepresentative experience gained from [15] Innovation Schools” and that the understanding of the resource implications is based on an “unacceptably uncertain basis”.⁹¹² The NEU described the approach as “unfortunate”⁹¹³ while UCAC believed it “isn’t an entirely thorough reflection of the entire system”⁹¹⁴.

1050.In relation to the data drawn on by the Welsh Government, the Future Generations Commissioner told us:

“They make reference to the fact that their dialogue with some schools have shown that they are treating it not as an additional burden, but mainstreaming it. Of course, that is the position that we would want to be in, but my experience with the future generations Act is you cannot assume that everyone is in that position, and if you base your resourcing requirements around that, then you’re destined to have a whole category of organisations—organisations in my terms, but schools in this regard—who are ill equipped to deliver these new requirements. So, I think there’s got to be some fundamental look at that.”⁹¹⁵

1051.When asked about the methodology adopted in the RIA to estimate costs, Estyn acknowledged “it would be better to look at a wider range of schools” than the Innovation Schools.⁹¹⁶ The WLGA also stated that there was now a need to “look further afield and broaden that”.⁹¹⁷

⁹¹⁰ Written evidence, CYPE Committee, CAW 28 – NAHT Cymru..

⁹¹¹ Oral evidence, CYPE Committee, RoP [para 138], 24 September 2020.

⁹¹² Written evidence, CYPE Committee, CAW 21 – NASUWT.

⁹¹³ Oral evidence, CYPE Committee, RoP [para 316], 24 September 2020.

⁹¹⁴ Oral evidence, CYPE Committee, RoP [para 320], 24 September 2020.

⁹¹⁵ Oral evidence, CYPE Committee, RoP [para 112], 8 October 2020.

⁹¹⁶ Oral evidence, CYPE Committee, RoP [para 123], 17 September 2020.

⁹¹⁷ Oral evidence, CYPE Committee, RoP [para 160], 20 July 2020.

1052.In contrast the Education Workforce Council commented that the use of Innovation Schools represented a “reasonable mechanism” but highlighted the need to keep funding under review.⁹¹⁸

The Welsh Government’s response

1053.When asked about the estimated costs contained in the RIA, the Minister acknowledged that “there’s a significant range of figures contained within the supporting documentation”.⁹¹⁹ She explained that “the main area of uncertainty is around the value of staff time, so those figures aren’t—it isn’t real money, in the sense that that is the real money that we have got to find to implement the Bill”.⁹²⁰

1054.In relation to the use of Innovation Schools’ data, the Minister told us:

“...we felt it was appropriate to ask those schools—some of the schools—that had been most deeply involved in the development to date, and therefore had the deepest understanding of what would be required under the curriculum to provide those costs. It would have been very difficult for a school that perhaps hadn’t been so greatly involved to be able to give an estimation. Those schools are ones that had been deeply involved in the development of the curriculum, had been trialling new approaches, had been looking at professional development needs, and therefore we felt that they were best placed, although I acknowledge that there is a limited number.”⁹²¹

1055.The Minister’s official further explained that:

“...we based the assessment that’s in the Bill from speaking with schools about what they anticipated their costs are likely to be, and that reflected a really wide range, which I guess is reflective of the curriculum, about schools making choices about (...) their approach to developing the curriculum and the extent to which they feel that requires significant investment in professional learning and time away from the classroom that might require cover to be provided. (...)

... we worked with innovation schools, because they had been funded last year to look at the curriculum as a whole, so at the point at which

⁹¹⁸ Written evidence, CYPE Committee, CAW 111 – Education Workforce Council.

⁹¹⁹ Oral evidence, CYPE Committee, RoP [para 112], 14 July 2020.

⁹²⁰ Oral evidence, CYPE Committee, RoP [para 112], 14 July 2020.

⁹²¹ Oral evidence, CYPE Committee, RoP [para 198], 21 October 2020.

we were able to gather information on costs, they had the most, I suppose, rounded overview of what actually [taking] forward the curriculum would mean.”⁹²²

1056.When asked about the wide range in the estimated costs, the Minister’s official explained:

“I think we’ve done the best we can by asking schools what they think it would cost, and then presented the fact that that was a broad range that they came back with. And I think us plucking a figure wouldn’t be accurate and wouldn’t have been particularly helpful.”⁹²³

Our views and recommendations: the use of Innovation Schools’ data to estimate costs

1057.We recognise the challenges the Welsh Government faced in terms of selecting a suitable method for estimating the costs of this Bill’s provisions for schools. We note that Innovation Schools were asked to provide data on the grounds that their early engagement with the new curriculum and assessment arrangements put them in a more informed position to estimate the likely resource requirements. We further note that, in light of the uncertainty involved, a range of +/- 50 per cent of the central estimate has been assumed.

1058.Nevertheless, given that the Welsh Government acknowledges that Innovation Schools are not representative of the wider school population, that only a small sample was used, and that even these schools provided a wide range for the potential resource needs, we are concerned that the robustness of the figures provided is questionable.

1059.We believe that the Welsh Government, in order to provide a more comprehensive and potentially more accurate estimate of costs, should have sought information from schools not yet engaged at the same level as Innovation Schools in the development of the new curriculum. We believe that this would have provided a truer reflection of the likely costs of the Bill, especially in light of the wide spectrum of schools’ readiness (or otherwise) for its implementation.

Recommendation 63. That the Welsh Government, before publishing a revised Explanatory Memorandum after Stage 2, and with a view to estimating more representative and accurate costs, undertake further work on the RIA. This

⁹²² Oral evidence, CYPE Committee, RoP [paras 115-116], 14 July 2020.

⁹²³ Oral evidence, CYPE Committee, RoP [para 116], 14 July 2020.

should draw on information from schools that have not been engaged in the development of the new curriculum to the same extent as Innovation Schools.

Unquantified costs and the impact of COVID-19 on gathering financial information

1060.The Future Generations Commissioner told us that she had “some concern that the RIA seems to suggest that a number of the costs are not known”. She told us that, overall, she did not think that the RIA “explains anywhere near enough in terms of the cost of implementation of this”, adding “we are looking to implement these fundamental changes against a backdrop of reducing education funding [in real terms] as a result of austerity”.⁹²⁴

1061.In a similar vein, Audit Wales stated that “more information is needed to understand the full costs associated with the Bill”.⁹²⁵ Its written evidence expanded on this point, explaining that:

“It is right that the Memorandum acknowledges the limitations and uncertainties of estimates, but not including any attempt at an estimate tends to distort the overall picture.”⁹²⁶

1062.The Children’s Commissioner listed costs related to equipping staff to deliver the six AoLEs, and other new mandatory curricular and cross-curricular elements, that she felt were not adequately covered. These included RSE and the whole-school approach for well-being. She stated that she would be “in favour of a stronger investment in education to account for those costs [including ALN reforms] over the next few years”.⁹²⁷

1063.HM Chief Inspector of Education and Training explained what he viewed as the difficulties of estimating costs in relation to this Bill:

“... these calculations, estimates, are incredibly difficult to undertake. It’s partly because it’s very difficult to distinguish between an activity that’s directly related to the curriculum, or to a particular set of legislation around the curriculum, and more general ones. (...)”

⁹²⁴ Oral evidence, CYPE Committee, RoP [paras 111-112], 8 October 2020.

⁹²⁵ Written evidence, CYPE Committee, CAW 205 – Audit Wales.

⁹²⁶ Written evidence, CYPE Committee, CAW 205 – Audit Wales.

⁹²⁷ Oral evidence, CYPE Committee, RoP [paras 116], 8 October 2020.

It's also difficult to distinguish between what we are doing now, compared to what we would have done anyway, because, clearly, we always have done work on things related to curriculum and subjects and so forth.”⁹²⁸

1064.Qualifications Wales’ representative agreed that it is difficult to distinguish between costs associated with the curriculum and what would otherwise have been incurred as part of “a natural element of some reform”. He did, however, highlight that the financial impact on awarding bodies of developing new qualifications to reflect the new curriculum were not covered in the RIA.⁹²⁹

1065.With regard to the impact of COVID-19 on cost estimates in the RIA, the Catholic Education Service stated that “the RIA does not reflect information on costs from a number of strategic partners due to Covid-19”. It also highlighted concerns that, in its view, costs will be incurred as a consequence of the Bill are not quantified in the RIA as not all stakeholders were sighted on all provisions in the Bill.⁹³⁰

1066.When we asked WLGA and ADEW in July 2020 about the “pause” to their work to estimate the costs of the Bill as a result of COVID-19, they explained that they had been asked to submit updated information to the Welsh Government by September 2020.⁹³¹ Their representatives stated, however, that given the unknown cost elements, and the impact of COVID-19, it was “key” to monitor costs “as we go forward”.⁹³²

1067.The NAHT went further, calling on the Welsh Government to commit to a wider review of how the Bill would impact schools in terms of funding. Its representative argued that there was a “need to reach out to a much broader group of schools and find out exactly what this new curriculum is going to mean in terms of identifying cost”.⁹³³

1068.The ASCL’s representative argued “some financial certainty” was needed because “current finances are not in a healthy position and probably won’t be for some period of time”, especially in light of COVID-19; “many schools already are operating a deficit budget that is extraordinarily difficult”; and a “world-class

⁹²⁸ Oral evidence, CYPE Committee, RoP [paras 116-117], 17 September 2020.

⁹²⁹ Oral evidence, CYPE Committee, RoP [para 119], 17 September 2020.

⁹³⁰ Written evidence, CYPE Committee, CAW 225 – Catholic Education Service.

⁹³¹ Oral evidence, CYPE Committee, RoP [paras 158 and 163], 20 July 2020.

⁹³² Oral evidence, CYPE Committee, RoP [paras 156], 20 July 2020.

⁹³³ Oral evidence, CYPE Committee, RoP [para 138], 24 September 2020.

system can't be done on a shoestring".⁹³⁴ She explained, however, that she felt this is "something that can be resolved" and not, in her view, a problem to be viewed as "terminal".⁹³⁵

1069.Representations were also made by the further education sector about costs not included in the RIA. Colegau Cymru told us that while the RIA focused on the costs of the age 3-16 curriculum, in its view:

"... there are inevitable consequential costs for the post-16 sector (...) These costs will need to be addressed and funding provided if a sharp and unhelpful rupture between pre and post-16 learning, that risks disengaging learners, is to be avoided."⁹³⁶

The Welsh Government's response

1070.In relation to the impact of COVID-19 on the ability of stakeholders to provide estimates relating to the Bill's costs, the Minister confirmed that a number of key stakeholders were invited to submit additional evidence to inform the costs in the RIA.⁹³⁷ In October 2020, the Minister confirmed that most of that delayed work had been completed.⁹³⁸ The Minister agreed to write to us with an update, which we received on 5 November. In summary, this update stated that:

- the Welsh Government was seeking to address points raised about the need to factor in costs related to the post-16 sector to ensure that the new curriculum succeeds in its aims, even though the Bill relates to the compulsory curriculum;
- work was ongoing to identify potential costs resulting from any changes to qualifications, including costs for awarding bodies, but that a full RIA would be undertaken following Qualifications Wales' consultation on the qualifications for the new curriculum; and
- in relation to expected additional costs around equipping staff to deliver elements of the six AoLEs, and other new mandatory curricular and cross-curricular elements, the Minister referred to additional support

⁹³⁴ Oral evidence, CYPE Committee, RoP [para 140], 24 September 2020.

⁹³⁵ Oral evidence, CYPE Committee, RoP [para 142], 24 September 2020.

⁹³⁶ Written evidence, CYPE Committee, CAW 48 – Colegau Cymru.

⁹³⁷ Correspondence, Minister for Education to the CYPE Committee, 5 November 2020.

⁹³⁸ Oral evidence, CYPE Committee, RoP [paras 167], 21 October 2020.

being provided to the Catholic Education Service and Church in Wales (this is considered in the next section).⁹³⁹

1071. With regard to the unquantified costs relating to the non-maintained nursery settings and EOTAS, the Minister's official said:

"The principles that underpin the foundation phase are already quite well established, obviously, and they are quite similar to the principles of curriculum reform. So, the approach to this is already something that we're progressing, and is very familiar to people already. The numbers of particularly EOTAS settings—there aren't as many as there are for schools, so we consider that the sorts of numbers and financial implications for innovation schools, which was set out in the RIA, will be sufficient to enable us to work with those settings, and a range of settings, in order to deliver curriculum reform."⁹⁴⁰

Our views and recommendations: unquantified costs and the impact of COVID-19 on gathering financial information

1072. We recognise the significant disruption caused by COVID-19 and the need to enable relevant stakeholders to pause their work on the costs of this Bill to prioritise their responses to the pandemic. However, given that the timescales for the implementation of the Bill have not changed since the pandemic began, this information needs to be reflected in the estimated costs for the Bill as a matter of priority, to ensure that a sufficient understanding of the costs involved—and funding needed—is available.

Recommendation 64. That the Welsh Government ensure that the RIA is updated with the information on costs provided by key stakeholders who were delayed from completing their work due to the COVID-19 pandemic, and that this is reflected fully in the revised Explanatory Memorandum that will be published after Stage 2.

1073. Our significant concerns about the school funding situation are a matter of public record in our report of July 2019,⁹⁴¹ and are repeated elsewhere in this report, particularly chapter 12.

⁹³⁹ Correspondence, Minister for Education to the CYPE Committee, 5 November 2020.

⁹⁴⁰ Oral evidence, CYPE Committee, RoP [paras 199], 21 October 2020.

⁹⁴¹ CYPE Committee, [School Funding in Wales](#), July 2019.

1074. In order for the Bill to be implemented successfully, estimated costs need to be as accurate as possible, and funding available where it is needed. This is even more important given the context of the wider reforms underway in the education sector currently (e.g. ALN Transformation), and the impact of COVID-19.

1075. Our concerns are not eased by the level of uncertainty about the unquantified costs of this Bill. While we recognise that there are challenges associated with estimating these costs, we also recognise that—without further assurances—schools will be understandably anxious that any financial burden arising from this Bill will fall to them. We call on the Welsh Government to make a clear statement that this will not be the case, and that sufficient funding will be allocated and available to deliver what is required to implement the Bill.

Recommendation 65. That the Welsh Government state clearly that the financial resources required to implement this legislation successfully will be provided, to allay concerns that existing school funding constraints, other changes to be implemented such as ALN transformation, and the impact of COVID-19 will leave schools unable to resource this ambitious reform.

1076. We provide our views on the Bill's provisions as they relate to the early years in chapter 8 and the perspectives of stakeholders who feel that such costs are not reflected in the RIA. Our recommendation 34 calls on the Welsh Government to undertake work to estimate the Bill's cost implications for funded non-maintained nursery settings, and provide this to the Senedd to aid its consideration of the Bill.

Funding for professional learning

1077. As noted in chapter 12, professional learning among relevant staff was viewed by a significant number of respondents as vital to the successful implementation of the Bill. Among those who commented on the financial implications of the Bill, securing sufficient funding for professional learning was a key concern. This was summed up by the written evidence submitted by six local authorities in North Wales and the GwE consortium, which stated:

“Appropriate funding will be imperative to support schools to realise the new curriculum and in particular supporting the commitment of professional learning of all the workforce.”⁹⁴²

⁹⁴² Written evidence, CYPE Committee, CAW 189 – North Wales Regional Response to include GwE and the 6 Local Authorities.

1078. Rhieni Dros Addysg Gymraeg (Parents for Welsh Medium Education) emphasised the importance of ensuring that plans to prepare the workforce for teaching the new curriculum are “fairly and fully funded”.⁹⁴³ Swansea Council highlighted the need to meet the financial costs to release staff for necessary training,⁹⁴⁴ as did Neath Port Talbot Local Authority which stated:

“The need to plan for and provide financial support for professional learning is of vital importance.”⁹⁴⁵

1079. While the ASCL welcomed “the commitment outlined within the Explanatory Memorandum, to provide continued funding to support professional learning activities during the implementation period”,⁹⁴⁶ a number of stakeholders raised significant concerns. The NEU stated that, by its calculations, the funding for training included in the RIA is “not enough”.⁹⁴⁷

1080. The Association of Schools for Welsh Medium Education (CYDAG) told us it was “not confident” that INSET day provision would be sufficient.⁹⁴⁸

1081. As noted in chapter 6 and chapter 7, there were also significant concerns about the costs associated with professional learning, particularly in relation to the specific mandatory elements of the new curriculum. Welsh Association of Standing Advisory Councils on Religious Education (WASACRE) and National Advisory Panel for Religious Education representatives expressed the view that the RIA does not take sufficient account of the need for specific professional learning for RVE.⁹⁴⁹ WASACRE’s written evidence expressed further concern that finances set aside for professional learning could be used flexibly and are not ring fenced for RVE. Both it and the Church in Wales were worried that this could affect the degree of specialist teaching available in this area, and highlighted this as a

⁹⁴³ Written evidence, CYPE Committee, CAW 72 – Rhieni Dros Addysg Gymraeg (Parents for Welsh Medium Education).

⁹⁴⁴ Written evidence, CYPE Committee, CAW 142 – Swansea Council.

⁹⁴⁵ Written evidence, CYPE Committee, CAW 31 – Neath Port Talbot Local Authority.

⁹⁴⁶ Written evidence, CYPE Committee, CAW 26 – The Association of School and College Leaders Cymru.

⁹⁴⁷ Oral evidence, CYPE Committee, RoP [para 205], 24 September 2020.

⁹⁴⁸ Written evidence, CYPE Committee, CAW 64 – CYDAG.

⁹⁴⁹ Oral evidence, CYPE Committee, RoP [paras 155 and 157], 15 October 2020.

particular concern given that the Bill does not provide a right to withdraw from RVE.⁹⁵⁰

The Welsh Government's response

1082. We asked the Minister whether the estimated costs in the RIA gave sufficient attention to the professional learning that is going to be needed to deliver this legislation effectively. The Minister emphasised that the Welsh Government recognised the “fundamental importance of professional learning” and recognised that:

“... no education system can exceed the quality of the people that stand in front of our children day in, day out.”⁹⁵¹

1083. The Minister listed the areas in which the Welsh Government had invested “record amounts of money” in professional learning. These included:

- funding for the National Academy of Educational Leadership;
- provisions to increase in-service training days;
- funding to regional consortia to support professional learning and cluster work among schools; and
- funding for schools as learning organisation models.⁹⁵²

1084. The RIA states that, in addition to the above, the Welsh Government will continue to provide £15 million per year for professional learning to support the implementation of the Bill until 2025-26.⁹⁵³

⁹⁵⁰ Written evidence, CYPE Committee, CAW 163 – Welsh Association of Standing Advisory Councils on Religious Education and CAW 171 – Church in Wales.

⁹⁵¹ Oral evidence, CYPE Committee, RoP [para 165], 21 October 2020.

⁹⁵² Oral evidence, CYPE Committee, RoP [para 165], 21 October 2020.

⁹⁵³ Welsh Government, Explanatory Memorandum, para 8.179.

Our views and recommendations: funding for professional learning

1085. We have outlined elsewhere in this report our views and recommendations as they relate to the professional learning we believe is needed to:

- deliver specific elements of the Bill effectively; and
- successfully implement the new Curriculum for Wales as a whole.

1086. In chapters 6 on RSE and 7 on RVE, we recommend that the Welsh Government:

- produce a framework outlining the core professional learning, resources and specialist support likely to be needed to deliver RSE and RVE under the new curriculum;

1087. In chapter 12 on implementation, we recommend that the Welsh Government, in light of the impact of COVID-19:

- provide an update on its assessment of the extent to which professional learning and development opportunities have been affected by the pandemic; and
- commit to providing the substantial additional support we believe will be needed to make up for the impact of the pandemic on professional learning and development; and
- provide an update on how peer-to-peer and cluster work is supporting professional learning and development, and to what timescales.

1088. In chapter 5 on English and Welsh languages, we have recommended that the Welsh Government:

- ensure that the required scale of planning, funding and training is provided to support the effective implementation of the single continuum for the teaching and learning of Welsh under the new curriculum.

1089. Given the fundamental importance ascribed by stakeholders to the role of professional learning in the delivery of this legislation, and the concerns that these are not fully reflected in the RIA, we believe that further assurances are needed about the estimated costs of—and funding available for—professional learning to support this Bill.

Recommendation 66. That the Welsh Government:

- update the RIA to reflect the concerns raised in our Stage 1 scrutiny about the scale of professional learning required to implement this legislation successfully;
- provide revised estimated costs in light of that update; and
- commit to providing the funding necessary to deliver this level of professional learning.

Annex A: List of written evidence

Public consultation

All [consultation responses](#) can be viewed on our website.

Of the 230 valid responses we received to our consultation, 120 were submitted by individuals in a personal capacity, 21 by individuals responding in a professional capacity, and 89 by organisations.

The following responses were submitted by either an organisation or an individual in a professional capacity. All other responses were received from individuals in a personal capacity so their names have been removed in accordance with our [privacy policy](#).

Reference	Organisation
CAW 1	A Bolt, Head teacher
CAW 2	Kim Morgan, Teacher
CAW 3	Coleg Cambria
CAW 4	Parents Voices in Wales CIC
CAW 5	Professor Russell Sandberg, Professor of Law, School of Law and Politics, Cardiff University
CAW 11	Jane Harries, Headteacher, Haverfordwest High VC School
CAW 15	Invalid
CAW 16	British Heart Foundation Cymru
CAW 17	Professional Association for Childcare and Early Years Cymru (PACEY)
CAW 19	Early Years Wales
CAW 20	Estyn
CAW 21	National Association of Schoolmasters Union of Women Teachers (NASUWT)
CAW 22	Qualifications Wales
CAW 23	Franksbridge Primary School
CAW 24	Mudiad Meithrin
CAW 26	The Association of School and College Leaders Cymru (ASCL)

CAW 27	Undeb Cenedlaethol Athrawon Cymru (UCAC)
CAW 28	National Association of Head Teachers Cymru (NAHT)
CAW 30	Dyfodol i'r Iaith
CAW 31	Neath Port Talbot Local Authority
CAW 32	Royal College of Nursing Wales
CAW 33	Rhondda Cynon Taff County Borough Council
CAW 34	Susan Quirk, Faculty Lead for Technology at secondary school
CAW 43	Bible Society
CAW 48	ColegauCymru
CAW 49	National Education Union Cymru
CAW 50	National Secular Society
CAW 51	Welsh Women's Aid
CAW 53	Brook Cymru
CAW 54	Ceredigion Local Education Authority
CAW 55	Future Generations Commissioner for Wales
CAW 56	Endometriosis UK
CAW 57	Submission on behalf of several organisations and individuals
CAW 58	Education Directorate, Swansea Local Authority
CAW 60	National Society for the Prevention of Cruelty to Children Wales (NSPCC)
CAW 61	Deaf Friendly Business Solutions
CAW 62	Stonewall Cymru
CAW 63	Professor EJ Renold, Professor of Childhood Studies
CAW 64	Association of Schools in favour of Welsh Medium Education (CYDAG)
CAW 65	The National Library of Wales
CAW 66	Invalid
CAW 69	Holy Family RC Primary School
CAW 70	Welsh Language Commissioner
CAW 71	Invalid
CAW 72	Parents for Welsh Medium Education

CAW 81	Cymdeithas yr Iaith, Carmarthen Region
CAW 84	Alan Tootill, Head teacher
CAW 85	Relationship and Sexuality Education (RSE) Action Group
CAW 86	NDNA Cymru (National Day Nurseries Association Wales)
CAW 87	St John Ambulance Cymru
CAW 88	Together for Children and Young People (2) Programme
CAW 90	Invalid
CAW 91	Gwynedd Council
CAW 92	Carmen Beveridge, Headteacher
CAW 93	Kate Madden, Assistant Headteacher
CAW 97	Children's Commissioner for Wales
CAW 98	Play Wales
CAW 99	Invalid
CAW 100	St. Joseph's Junior School
CAW 101	John Fabes, Post-16 lead officer
CAW 104	Invalid
CAW 106	Cytun, Churches together in Wales
CAW 111	Education Workforce Council
CAW 113	Ysgol Bendigaid William Davies Catholic Primary School, Llandudno
CAW 114	Neath Port Talbot Standing Advisory Council on Religious Education
CAW 117	Children in Wales
CAW 118	SEWC LA Improvement group
CAW 120	Bishop Vaughan Catholic School
CAW 122	Professor Alison Mawhinney, Professor of Human Rights Law, Head of Bangor Law School, Bangor University
CAW 123	FTWW: Fair Treatment for the Women of Wales
CAW 125	Laura Taylor, Headteacher
CAW 130	Torfaen Standing Advisory Council on Religious Education
CAW 132	James Torrance, Assistant Headteacher
CAW 133	Newport Standing Advisory Council on Religious Education

CAW 136	Monmouthshire Standing Advisory Council on Religious Education
CAW 137	National Advisory Panel for Religious Education Wales (NAPfRE)
CAW 138	Wrexham Standing Advisory Council on Religious Education
CAW 139	Resuscitation Council UK (RCUK)
CAW 142	Swansea Council
CAW 144	Cllr. Joanne Collins, Chair, Blaenau Gwent Standing Advisory Council on Religious Education
CAW 145	Royal College of Speech and Language Therapists, Wales
CAW 147	Mencap Cymru
CAW 151	Samaritans Cymru
CAW 154	Caerphilly Standing Advisory Council on Religious Education
CAW 157	Max Richard Ashton, PhD Student, Cardiff University
CAW 158	Welsh Local Government Association (WLGA)
CAW 159	Lyndsey Stringer, Teacher of the Deaf and Chair, British Association of Teachers of the Deaf - Cymru
CAW 160	British Red Cross
CAW 162	Dr Louise Brown, Standing Advisory Council on Religious Education Member
CAW 163	Welsh Association of Standing Advisory Council on Religious Education
CAW 165	Dr Caroline Maybury, Foundation Governor, St Padarn's Roman Catholic Primary School
CAW 171	The Church in Wales
CAW 172	Venerable Edward Morgan Catholic primary school
CAW 174	Roman Catholic Archdiocese of Cardiff
CAW 176	Wales Humanists
CAW 177	Diocese of Menevia
CAW 179	Bangor University Law School
CAW 184	Equality and Human Rights Commission
CAW 185	Policing in Wales
CAW 187	Mind Cymru
CAW 189	North Wales Regional Response to include GwE and the 6 Local Authorities

CAW 191	Invalid
CAW 200	Adele Thomas, Teacher of Religious Studies
CAW 202	Robert Jenkins, Headteacher
CAW 205	Audit Wales
CAW 207	St Padarn's RC Primary School
CAW 210	Sylfaen Cymru Ltd.
CAW 211	Diocese of Menevia St. Padarn's Roman Catholic School
CAW 214	Prof Anthony Towey, Director, Aquinas Centre for Theological Literacy
CAW 215	Sport Wales
CAW 216	Religious Education Movement Wales
CAW 224	Cymdeithas yr Iaith
CAW 225	The Catholic Education Service
CAW 228	Mudiad Addysg Grefyddol Cymru
CAW 231	Bishop Vaughan Catholic School
CAW 232	St Richard Gwyn Catholic High School
CAW 237	National Deaf Children's Society Cymru
CAW238	Invalid

Additional information

This information was submitted to the Committee to follow up on issues arising during oral evidence sessions. It can be found on the [Bill webpage](#).

Title	Date
Minister for Education	12 August 2020
Qualifications Wales	7 October 2020
Estyn	30 September 2020
Mudiad Meithrin	9 November 2020
Association of School and College Leaders Cymru (ASCL)	3 November 2020
National Association of Headteachers Cymru (NAHT)	4 November 2020

National Official Wales, National Association of Schoolmasters Union of Women Teachers (NASUWT)	2 November 2020
National Education Union Cymru (NEU)	3 November 2020
Undeb Cenedlaethol Athrawon Cymru (UCAC) (Welsh only)	23 October 2020
Children's Commissioner for Wales	28 October 2020
Brook, NSPCC, Professor EJ Renold, Stonewall Cymru and Welsh Women's Aid	23 October 2020
Welsh Language Commissioner	21 October 2020
The Catholic Education Service	4 November 2020
The Church in Wales	4 November 2020
Minister for Education	5 November 2020

Other Bill-related correspondence from the Minister for Education to us

This information was sent to the Committee by the Minister. It can be found on the [Bill webpage](#).

Title	Date
Letter from the Minister regarding revisions to the Explanatory Memorandum	1 September 2020
Letter from the Minister regarding the Bill's provisions as they relate to Religion, Values and Ethics ("RVE") and Relationships and Sexuality Education ("RSE")	12 August 2020
Letter from the Minister regarding the Bill's financial implications	4 August 2020
Letter from the Minister to Suzy Davies MS regarding the role of the RSE Working Group	20 July 2020

Annex B: List of oral evidence sessions

The following witnesses provided oral evidence to the Committee on the dates noted below. [Transcripts of all oral evidence](#) sessions can be viewed on the Committee's website.

Date	Name and Organisation
14 July 2020	<p>Kirsty Williams MS Minister for Education, Welsh Government</p> <p>Claire Bennett Director, Communities and Tackling Poverty, Welsh Government</p> <p>Ceri Planchant Lawyer, Welsh Government</p>
20 July 2020	<p>Cllr Ellen ap Gwynn Deputy Spokesperson for Education and Welsh Language, Welsh Local Government Association</p> <p>Sharon Davies Head of Education, Welsh Local Government Association</p> <p>Karen Evans Chair, Association of Directors of Education in Wales</p> <p>Debbie Hartevelde Managing Director, Education Achievement Service (EAS) for South East Wales</p> <p>Anna Bolt Head of Curriculum Reform and Innovation, Education through Regional Working (ERW)</p> <p>Clara Seery Managing Director, Central South Consortium Joint Education Service (CSC)</p> <p>Natalie Gould Senior Lead for Curriculum Reform, Central South Consortium Joint Education Service (CSC)</p> <p>Arwyn Thomas Managing Director, North Wales School Effectiveness and Improvement Service (GwE)</p>
17 September 2020	<p>Philip Blaker Chief Executive, Qualifications Wales</p> <p>Emyr George Director for Policy and Reform, Qualifications Wales</p> <p>Meilyr Rowlands Her Majesty's Chief Inspector, Estyn</p> <p>Claire Morgan Strategic Director, Estyn</p>

	<p>Dave Goodger Chief Executive Officer, Early Years Wales</p> <p>Claire Protheroe National Manager for Wales, Professional Association for Childcare and Early Years Cymru (PACEY Cymru)</p> <p>Sarah Coates Policy and Strategic Partnerships Manager (Wales), National Day Nurseries Association Cymru (NDNA Cymru)</p> <p>Eleri Griffiths Policy Manager, Mudiad Meithrin</p>
24 September 2020	<p>Eithne Hughes Director, Association of School and College Leaders Cymru (ASCL)</p> <p>Laura Doel Director, National Association of Headteachers Cymru (NAHT)</p> <p>Rebecca Williams Deputy General Secretary and Policy Officer, Undeb Cenedlaethol Athrawon Cymru (UCAC)</p> <p>Neil Butler National Official Wales, National Association of Schoolmasters Union of Women Teachers (NASUWT)</p> <p>Mary van den Heuvel Wales Senior Policy Officer, National Education Union Cymru (NEU)</p>
8 October 2020	<p>Professor Sally Holland Children's Commissioner for Wales</p> <p>Jane Houston, Education Policy Adviser, Office of the Children's Commissioner for Wales</p> <p>Sophie Howe Future Generations Commissioner for Wales</p> <p>Heledd Morgan Change Maker, Office of the Future Generations Commissioner for Wales</p> <p>Aled Roberts Welsh Language Commissioner</p> <p>Kelly Harris Business Development and Participation Lead, Brook</p> <p>Professor Emma Renold Professor of Childhood Studies, School of Social Sciences, Cardiff University</p> <p>Iestyn Wyn Campaigns, Policy and Research Manager, Stonewall Cymru</p> <p>Dr Sarah Witcombe-Hayes Senior Policy Researcher (Wales), National Society for the Prevention of Cruelty to Children (NSPCC) Cymru</p>

	<p>Gwendolyn Sterk Head of Public Affairs and Communications, Welsh Women's Aid Cymru</p>
15 October 2020	<p>Angela Keller Adviser for Wales, Catholic Education Service</p> <p>Elizabeth Thomas Provincial Director of Education, Church in Wales</p> <p>Paula Webber Executive Officer, Wales Association of Standing Advisory Councils on Religious Education (WASACRE)</p> <p>Libby Jones Chair, National Advisory Panel for Religious Education (NAPfRE)</p> <p>Dr Ruth Wareham Education Campaigns Manager, Humanists UK</p> <p>Kathy Riddick Wales Humanists Coordinator, Humanists UK</p> <p>Alastair Lichten Head of Education and Schools, National Secular Society</p>
21 October 2020	<p>Kirsty Williams MS Minister for Education, Welsh Government</p> <p>Georgina Haarhoff Deputy Director, Curriculum and Assessment, Welsh Government</p> <p>Kate Johnson Senior Lawyer, Welsh Government</p>