

Explanatory Memorandum to The Children Act 2004 (Children Missing Education Database) (Pilot) (Wales) Regulations 2025

This Explanatory Memorandum has been prepared by the Education Directorate and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Cabinet Secretary's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Children Act 2004 (Children Missing Education Database) (Pilot) (Wales) Regulations 2025.

I am satisfied that the benefits justify the likely costs.

Lynne Neagle MS
Cabinet Secretary for Education
26 March 2025

PART 1

1. Description

These Regulations place a statutory duty on (a) local authorities in Wales to develop and maintain a database of statutory school aged children who may be missing education, i.e. a 'CME database', and (b) local health boards (LHBs) and general medical services contractors to share basic information about children registered with them, with the local authority where the child is usually resident, for the purpose of establishing the CME database. The data sharing will not require the sharing of any medical data.

These Regulations are being made for pilot purposes only and apply to those local authorities named within the Regulations. Local health boards will share the dataset once during the course of the pilot. There are no requirements on local health boards to provide further updates after the initial dataset has been shared.

2. Matters of special interest to the Legislation, Justice and Constitution Committee

The Children Act 2004 (Children Missing Education Database) (Pilot) (Wales) Regulations 2025 ("the database regulations") will be made under section 29 of the Children Act 2004.

The Children Act 2004 (Commencement No. 10) (Wales) Order 2025 brought section 29 of the Children Act into force on 10 March 2025.

The database regulations follow the affirmative procedure and, if approved by Senedd Cymru, will come into force on 8 April 2025. There is provision in the database regulations that means that they will cease to have effect on 8 April 2026.

The CME database arrangements will be supported by a second set of Regulations – the Education (Information about Children in Independent Schools) (Pilot) (Wales) Regulations 2025 ("the information regulations"). The information regulations follow the negative procedure and place a requirement on proprietors of independent schools in Wales to provide basic information (child's name, address and date of birth) about children on roll with them, to the local authority where the child is ordinarily resident.

3. Legislative background

The database regulations will be made under powers found at section 29 of the Children Act 2004 ("the 2004 Act").¹ Section 29 provides that the Welsh Ministers may make Regulations that make provision in relation to the establishment and operation of any database or databases (for the purposes of

¹ <https://www.legislation.gov.uk/ukpga/2004/31/section/29>

arrangements under section 25 or 28 of the Children Act 2004, or under section 175 of the Education Act 2002). Section 29 was brought into force on 10 March 2025 by a Commencement Order (The Children Act 2004 (Commencement No. 10) (Wales) Order 2025).

Section 175 of the Education Act 2002 requires local authorities to make arrangements to ensure their education functions are exercised with a view to safeguarding and promoting the welfare of children. The introduction of the CME database is for the purpose of facilitating arrangements made under this section.

Section 29(12) of the 2004 Act requires that regulations made under sub-section (1)(a) and (5) require the Secretary of State's consent. The UK Government's Secretary of State for Education has provided her consent to the Welsh Ministers to make the database regulations, for pilot purposes.

The relevant functions of the Assembly in the Children Act 2004 were transferred to the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 ("the 2006 Act"). Paragraph 34 of Schedule 11 to the 2006 Act provides where a function to make subordinate legislation was conferred on the Assembly constituted by the Government of Wales Act 1998, if a Minister of the Crown had the same, or substantially the same function, then the corresponding Parliamentary procedure should apply to the Welsh Ministers once that function had been transferred.

The corresponding function in the 2004 Act for England is found at section 12 and section 66(3) of the 2004 Act and requires a draft of the instrument made to be laid before and approved by Parliament (i.e. it attracts the affirmative procedure). As a result of paragraph 34 of Schedule 11 to the 2006 Act, the same procedure is adopted for Wales.

4. Purpose and intended effect of the legislation

The purpose of the database regulations is to assist local authorities to undertake their duty under section 175 of the Education Act 2002, which is to make arrangements to undertake their education functions with a view to safeguarding and promoting the welfare of children². The regulations provide a mechanism for local health boards to share information with local authorities in order for local authorities to meet their safeguarding duties as set out in the Welsh Government's "Help prevent children and young people missing education" statutory guidance³ ("the CME guidance").

"CME" are children who are not on roll at school, not in education other than at school (EOTAS), and children who are reported to be electively home-educated (EHE) but where the local authority has not determined that they are in receipt of

² <https://www.legislation.gov.uk/ukpga/2002/32/section/175>

³ <https://www.gov.wales/statutory-guidance-help-prevent-children-and-young-people-missing-education>

a suitable education. CME does not include children who are EHE where the local authority has determined that the education at home is suitable, and it does not include children who are on roll at school but do not attend regularly.

Local authorities in Wales have always been clear that they require more support to be able to identify children who are missing, or potentially missing education. Children who do not receive an education are less likely to reach their full potential and face a variety of risks to their well-being, development, and their future prospects.

The relationship between missing education and safeguarding and welfare is well established. The Welsh Government's statutory CME guidance states that if a child is receiving an education, not only do they have the opportunity to fulfil their potential, they are also in an environment which enables local agencies to safeguard and promote their well-being. If a child goes missing from education, they could be at risk of significant harm. Research has shown that those children and young people who are not receiving an education are more likely to engage in criminal and anti-social behaviour, be at risk of harm from sexual exploitation and victimisation, abuse drugs and alcohol and be illegally employed.

The information regulations will provide local authorities with information about children living in their areas who are registered at independent schools. This will enable the local authority to make a record of this cohort of children, thereby reducing the number of children who are unaccounted for in the LA's education records, and providing a more accurate picture of the number of CME. These children will not be included in the CME database.

The database regulations place a requirement on local authorities to establish a CME database. They place a separate requirement on local health boards and general medical services contractors (GPs) to share basic, non-clinical information about children registered with them, with the relevant local authority, to enable the local authority to establish the database.

The feasibility of the data sharing approach between health and education bodies has been tested via two separate methods. The first exercise replicated the data linkage in the Secure Anonymised Information Linkage (SAIL) Databank, which records health data of citizens. The anonymised SAIL databank data was compared with local authority education data sets and against an estimate for the cohort of school age children based on the population of Wales for that year. Based on that year, the estimated total of children missing education for that year was 12,997⁴. This number was broadly consistent with the number of potentially missing children in the second exercise. Health data is therefore considered to be the most effective and reliable method to identify CME. The regulations aim to provide a mechanism for local authorities to identify children they do not currently know about, and to help them meet their duties in respect of those children.

⁴ [Children missing from state education: estimating numbers using linked administrative data | GOV.WALES](#)

Once the database has been generated using the health data, individual local authorities will use the information to either a) locate the unknown child and establish whether they are in receipt of a suitable education, or b) where a child is known to a local authority and the EHE is *not* suitable, discuss with the family options for securing suitable education. This could mean providing support for EHE, providing EOTAS provision, addressing potential barriers to attending school or taking formal action.

5. Consultation

The Welsh Government undertook a 12-week consultation⁵ on Draft Children Act 2004 Education Database (Wales) Regulations in 2020 (“the 2020 database regulations”) and on Draft Education (Information about Children in Independent Schools) Regulations 2020 (“the 2020 information regulations”). Both sets of draft Regulations supported the same proposal and would allow local authorities to cross reference information from local health boards and independent schools to correctly identify children who may be CME. The 2020 database regulations included a requirement for local authorities to record information about *all* children in Wales, rather than just those who were potentially missing education.

A summary of the responses from the 2020 consultation is included on the Welsh Government website - [Local authority education databases | GOV.WALES](https://www.gov.wales/local-authority-education-databases)

Following the consultation the proposals were reconsidered and revised to ensure that the scope of the regulations was proportionate. Specifically, the 2020 regulations were amended to include only information about children who are potentially missing education. Children currently known to the local authority as “EHE” and who may not be in receipt of a suitable education form a subset of this group.

A further consultation was undertaken from 31 January 2024 – 25 April 2024. Information about the consultation was provided to all key stakeholders including the WLGA, Children’s Commissioner for Wales, local health boards, local authorities and the General Medical Council (GMC).

Due to the complexity of the proposals and low response rate from children and young people in the 2020 consultation, targeted CYP engagement was undertaken for the second consultation in 2024. A youth friendly version of the consultation document was developed, and this was issued to local authorities, Children in Wales and the Children’s Commissioner for Wales, along with a request to undertake engagement on behalf of the Welsh Government. Responses gathered from those partners are included within the overall consultation response numbers, with separate analysis included within the consultation report.

The Welsh Government held two engagement sessions on 7 and 8 May for EHE children. These sessions focussed on clarifying the proposals, making the

⁵ <https://www.gov.wales/local-authority-education-databases>

distinction between CME and EHE, and explaining the proposals to the children and young people who attended.

A summary of the consultation responses is included on the Welsh Government website - <https://www.gov.wales/children-missing-education-database-html>

Regulatory Impact Assessment for the Children Missing Education Database proposals

Introduction

1. This Regulatory Impact Assessment has been developed to consider the implications of proposals to:
 - (a) require local authorities to establish a database of children of compulsory school age who are not on a school roll
 - (b) require local health boards and general medical services contractors to provide basic, non-clinical information about children registered with them to the relevant LA, for the database.

Policy context

Children missing education (CME)

2. Section 175(1) of the Education Act 2002 requires a local authority to make arrangements for ensuring their education functions are exercised with a view to safeguarding and promoting the welfare of children. In addition to any physical harms, promoting children's welfare includes preventing harm to a child's physical, intellectual, emotional, social or behavioural development. Children who do not receive their right to an education are unable to fulfil their potential, have fewer prospects in adulthood and a reduced chance of succeeding later in life.
3. Currently, local authorities are unable to meet their education duties in full as they do not know about all children living within their areas. This may be because a parent has moved to the area and not notified the LA or registered the child at school, or because a child has never attended school and the parent has not notified the local authority that they are educating at home. Regardless of the circumstances, local authorities are unable to meet their statutory duties if they do not know about a child or have information that confirms how they are receiving their education. These children are potentially children missing education or CME.
4. Existing legislation does not require parents and carers to notify the local authority that they are home-educating their child(ren), or that there is a child of compulsory school age who is not being educated. If a child has never been to school the local authority will not be aware of them unless the parent notifies them that they are living in the area and educating their child at home. Whilst it is likely that the majority of EHE children are in receipt of a suitable education, there may also be children who are not receiving an education at all. Until the local authority is assured that an EHE child is

receiving a suitable education then the child is potentially CME and the Welsh Government's statutory guidance on children missing education⁶ will apply. The CME category therefore includes a sub-set of EHE children.

Elective home education (EHE)

5. The context of EHE has changed across Wales and England in recent years and numbers of EHE children have increased steadily. In 2009/10, 1.6 per 1000 pupils in Wales were recorded as EHE. Since 2020 the rate has risen more significantly and was 13.0 per 1000 pupils in 2023/24. The rate increase is consistent across all local authorities and is captured in the annual "pupils educated other than at school"⁷ data release.
6. The aim of the regulations is to ensure local authorities know which children are potentially missing education and meet their section 175 duty. Once the names of these children are known, then the local authority can – in accordance with their wider duties - determine whether these children are receiving a suitable education.
7. Local authorities have no responsibility for the provision of EHE or a legal obligation to support it. However, under Section 436A of the Education Act 1996⁸, they are under a duty to make arrangements to enable them to establish the identities of children of compulsory school age who are not receiving a suitable education and to act if it appears they are not.
8. There is a duty on local authorities under Section 175 of the Education Act 2002 to 'undertake their education functions with a view to safeguarding and promoting the welfare of children'. Currently local authorities are unable to meet these duties as they are unable to identify all children they have responsibility for.
9. Whilst there is no evidence that being home-educated is in itself a safeguarding risk, children who are not seen on a regular basis by professionals with safeguarding duties are more likely to be at risk. Even if a child is *not* at risk of physical harm, missing education is in itself a safeguarding and welfare issue as that child is not receiving their right to education.
10. The rights of all children to receive an education apply equally. These proposals support the goal of a more equal Wales, a society that enables

⁶ [statutory-guidance-help-prevent-children-young-people-missing-education.pdf](#)

⁷ [Pupils educated other than at school: September 2023 to August 2024 \(revised\) \[HTML\] | GOV.WALES](#)

⁸ <http://www.legislation.gov.uk/ukpga/1996/56/section/436A>

people to fulfil their potential no matter what their background or circumstances (including socio-economic background and circumstances).

Options

11. Two options are considered for the purposes of this Regulatory Impact Assessment. Option 2 is the preferred option.

- Option 1 - Continue the status quo – i.e. do nothing / do the minimum
- Option 2 - Make regulations to (a) require each individual local authority to establish a database of compulsory school age children in their area who may be missing education, and (b) require local health boards to share specific data with local authorities. This will allow local authorities to identify children known to health services but who are currently not known to the LA. **This is the preferred option.**

Option 1: Continue the status quo (do nothing / do the minimum)

12. This option would rely on the current statutory guidance for CME without further changes to policy to support local authorities to identify children not known to them, including those on roll at independent schools. The current statutory EHE guidance would also remain in place. LAs would be expected to rely on processes as outlined in the current statutory guidance, including establishing or utilising voluntary data sharing arrangements and good practice with other agencies.

Context

13. One of the key drivers for the proposals is the Welsh Government's long-standing commitment to children's rights under the United Nations Convention on the Rights of the Child (UNCRC)⁹. Since the enactment of the Rights of the Children and Young Persons (Wales) Measure 2011¹⁰, Welsh Ministers are required to have due regard to the UNCRC when making decisions. This is critical in securing positive outcomes for children and young people in Wales by creating a culture, which respects, promotes and upholds children's rights. Under the UNCRC all children have a right to education. Additionally, the Welsh Government believes that a child's educational journey should be one of the most enriching and rewarding times of their life.

⁹ https://downloads.unicef.org.uk/wp-content/uploads/2010/05/UNCRC_summary-1.pdf

¹⁰ <http://www.legislation.gov.uk/mwa/2011/2/contents>

14. Non-statutory EHE guidance was issued in 2017. The guidance was intended to set a new context for developing positive relationships and mutual respect between local authorities and the home educating community. However, local authorities argued that it was ineffective in assisting them to undertake their statutory duties and requested strengthened guidance, on a statutory basis. Statutory guidance was therefore published in 2023¹¹ and aimed to clarify the balance between the rights of the parents to home educate, the rights of the child to receive a suitable education, and the responsibilities of local authorities. Whilst the guidance does not require home educators to notify the LA that they are home-educating, it states that if a local authority is not able to determine that an EHE child is in receipt of a suitable education, the child is in scope of the CME guidance.
15. Under Option 1, the current statutory guidance would remain in place in this Senedd term but nothing more. Local authorities would be expected to continue with current informal data-sharing arrangements, or establish new voluntary arrangements with other agencies, as per the guidance. Key engagement about EHE and CME would continue with local authorities, but they would continue to seek further support by way of legislation or strengthened guidance, to enable them to undertake their existing statutory duties – or introduce additional ones.
16. The Children’s Commissioner for Wales has highlighted the Welsh Government’s inaction in this area and has called for primary legislation¹². Despite the move in 2023 to statutory guidance from non-statutory guidance for EHE, this still does not address the main concern that local authorities are unable to identify all children within their boundaries. They are therefore unable meet their safeguarding and welfare duties in respect of these children.
17. Whilst there are not concerns about children who are on roll at independent schools, the inability of local authorities to identify those children means that this cohort is currently included within the numbers of potential CME, resulting in inaccurate estimates and inability of local authorities to undertake their statutory duties. To meet this objective, a mechanism to support the statutory EHE and CME guidance would be required.

Costs

¹¹ [Elective home education guidance | GOV.WALES](#)

¹² [A Review of the Welsh Government’s exercise of its functions: Home education and Independent Schools - Children’s Commissioner for Wales](#)

18. There are no additional costs for the Welsh Government associated with this option.
19. There are no additional costs for local authorities under Option 1 because there would be no change to the current expectations on local authorities to make arrangements to identify children not receiving a suitable education. Equally there would be no change to the process of applying a school attendance order (SAO). Local authorities have powers to issue an SAO and may do so if the parent of a child of compulsory school age fails to prove that the child is receiving a suitable education, and where the authority believes the child should attend school. The SAO would require the child to attend the school named in the SAO.

Benefits

20. A potential benefit of the do nothing / do the minimum option would be no additional direct costs, Option 2 would incur costs on public services and potentially the justice system.

Disbenefits

21. There are a number of disbenefits associated with Option 1. Primarily it does not seek to address any of the concerns raised by local authorities and other stakeholders with safeguarding duties. Local authorities and organisations with responsibility for children and young people, including the Children's Commissioner for Wales and the National Independent Safeguarding Board (NISB), have consistently argued that the current legislative framework is not robust enough to enable local authorities to identify children living within their areas, and be able to effectively undertake their statutory duties.
22. The CME statutory guidance sets out how local authorities should undertake their duties and the mechanisms or networks that can be used. However, there are no formal or consistent mechanisms in place to support local authorities to apply the guidance, ensure consistency of approach, and enable the identification of all children.
23. Local authorities are under increased pressure to manage the increase in numbers of school de-registrations, identify all children, and determine suitability of education for all children living in their areas who are not in school. Numbers of EHE children have increased significantly since the development of these proposals, and in particular since the Covid-19 pandemic. Whilst local authorities have information relating to children who have been deregistered from school, the increased EHE cohort will include children who have never been to school, and children who have moved from

another area or country. Unless the parent contacts the local authority voluntarily, these children remain unknown and are potentially CME.

24. If we maintain the status quo these concerns will not be addressed.

Option 2: Introduce regulations to enable the introduction of a CME database with a limited number of local authorities as part of a CME Pilot.

25. This option provides for two sets of regulations that aim to provide local authorities with a more complete education data set and consistent data sharing mechanisms. Regulations requiring local authorities to establish a CME list or database, and requiring local health boards to provide information to identify unknown children, would be introduced. Separate regulations that place a duty on proprietors of independent schools to inform local authorities about children on roll with them, would be implemented alongside. Arrangements would be piloted with some local authorities in the first instance.

Context

26. Local authorities have a duty to make arrangements to identify children who are not in receipt of a suitable education either at school or otherwise – this can include those children who are known to the local authority as well as those children who are not known. Local authorities have consistently argued they have difficulty in fulfilling this requirement as there is no duty on parents to ‘register’ their children with the local authority if they are educated at home. Information about children on roll at independent schools is also not currently provided to local authorities, resulting in larger gaps in data and difficulty determining how children who are not in maintained schools or EOTAS, are receiving their education.

27. To support the proposal under this option, separate regulations requiring information about pupils in independent schools to be shared with local authorities, would be required. This information is needed to ensure that the CME arrangements are robust, and that children attending independent schools are removed from potential CME enquiries.

28. Whilst the database regulations cannot be used to compel a parent to register that their child is EHE, the view is that both sets of regulations combined would provide the local authority with a reasonably complete list of children not previously known to them (and therefore potentially CME), including children who are said to be EHE, but where the parent has not notified the

local authority that they are home-educating, and not provided information to demonstrate the child is receiving a suitable education.

29. This option does not remove a parent's choice to home-educate, but it does aim to provide a mechanism for local authorities to be aware of children who are currently not known to them, and be assured that they are not CME.

Costs

Welsh Government

30. There are no direct costs to the Welsh Government associated with this option other than opportunity costs relating to staff time, i.e. time of the policy lead that would be spent on other areas of work/policy development.

Local authorities

31. Local authorities already have databases of children who they know are EHE, in alternative local authority provision, and information about pupils on maintained school rolls. Although the costs associated with this option should be minimal, these have not been defined. However, any additional costs would arise from staff time spent recording the information received from independent schools on the local authority's education database, before cross-referencing the education data with information from LHBs.
32. As the regulations would be made to support a pilot of the arrangements, the cost implications will form part of the evaluation process. The pilot would be a means of gathering data on the impact on LAs, including capacity and cost implications. If the arrangements are implemented across Wales (via new regulations) following the pilot, a full assessment of the costs will be undertaken. The impact assessment will be informed by the evaluation report.
33. This option may remove some of the work associated with investigating ad hoc enquiries as the information will be supplied to the local authority from local health boards as one complete data set on an annual basis. Currently, local authorities rely on informal data sharing arrangements with other teams within the local authority, other public bodies, or information submitted about children not in school from members of the public. The local authority will use any information received as a basis for enquiries to the parent/carer, to determine whether the child is receiving a suitable education and where that provision is taking place. Whilst local authorities have reported that some of their current arrangements are effective and

result in identifying CME, they have also raised concerns about inconsistency in when and how this information is received.

34. The additional costs for local authorities under Option 2 are associated with the cross-referencing of existing local authority education data with health data, to separate the information on children who are potentially CME from the information about children who are known to be receiving an education. However, this process will only be undertaken on an annual basis and is a mechanism to help local authorities meet existing statutory duties.
35. The procedures for issuing SAOs or Education Supervision Orders remain unchanged¹³, however, introduction of a CME database may result in more children being identified who are not receiving an education. Local authorities may be required to consider issuing more SAOs as a result of this. This could initially result in increased staff time being focussed on this area of work, depending on the number of children identified who were previously unknown to the local authority. However, the SAO process is aligned to existing legislation and the duty on the local authority to ensure that a child is receiving a suitable education. SAOs are not issued as a punitive measure but issued when evidence has not been provided by a parent.
36. If the parents do not register the child at a school after the SAO has been issued, the local authority may choose to prosecute. The case will then go to the Magistrates Court and the parent(s) will be given the opportunity to show that a suitable education is being provided.
37. If, the Court find that the education provided is not suitable, parents can face a fine of up to £1000. If the parent(s) are acquitted, the Court can direct that the SAO be discharged and no longer in force.

Local Health Boards

38. Some local health boards may already have informal data sharing arrangements in place with local authorities and provide information they hold on school age children; however, this is not consistent across Wales. Where these systems are not in place, there would be a small additional cost of administration for health board partners to establish these data sharing mechanisms. Given the information will only need to be provided on an annual basis, it is thought that any increase in cost would be small.

Benefits

¹³ Section 437 of the Education Act 1996 – School attendance orders

39. The benefits of education to both children and the broader society are clear. Education can break generational cycles of poverty by enabling children to gain the life skills and knowledge needed to cope with societal challenges. Education is strongly linked to concrete improvements in health and nutrition, improving children's very chances for survival. Education empowers children to be full and active participants in society, able to exercise their rights and engage in civil and political life. Education is also a powerful protection factor: children who are in school are less likely to come into conflict with the law and much less vulnerable to rampant forms of child exploitation¹⁴.
40. Children not receiving a suitable education are at significant risk of underachieving, being victims of harm, exploitation or radicalisation, and becoming NEET (not in education, employment or training) later in life. Option 2 will help local authorities identify children not receiving a suitable and efficient education. The option provides local authorities with a mechanism to identify children not included on any education data set and therefore not known to them. The local authority will use the information to undertake enquiries, ensure these children are in receipt of a suitable education, and reduce this risk.
41. Missing education is a welfare issue and Option 2 supports the Welsh Government's policy aim of protecting children's rights and promotes child welfare and wellbeing. The regulations would help local authorities identify children not known to them allowing them to take action to ensure that those children are receiving a suitable education. This is compatible with the UNCRC, specifically Articles 28 and 29 – the right to an education. Local authorities have an additional safeguarding duty in respect of all children living in their areas. The current inability of local authorities to identify all children contravenes this duty.
42. Introducing a data sharing requirement on independent schools provides an additional benefit as it opens a channel of communication between local authorities and independent schools in their area. This reduces the risk of children falling under the radar if they have moved between the state and independent sectors, or between EHE and the independent school sector.
43. Testing the arrangements via a pilot in the first instance provides an opportunity to measure the outcomes and amend the regulations, if necessary, ahead of implementing across all local authorities. If arrangements are implemented across Wales following the pilot, the

¹⁴ <https://www.hrw.org/report/2016/06/09/education-deficit/failures-protect-and-fulfill-right-education-through-global>

regulations would help strengthen current legislation under the Education Acts and Children Act 2004 and ensure consistency of approach across Wales.

Disbenefits

44. Option 2 does not meet the full ask of stakeholders meaning that further legislative measures may be required at a later stage. The regulations would not require parents or carers to register with their local authority if their child is not registered at school. Instead, they introduce a formal data sharing arrangement between local authorities and health boards with a view to identifying children not currently included on the local authority education dataset. As there would not be a requirement on parents to notify the local authority if they were home-educating, this option would not help to differentiate between children who are EHE and unknown to the local authority, and CME.
45. This option may not capture data on all children who are not in school as there may be children who are not registered with a GP and therefore not included in the health data.
46. Home-educating groups continue to oppose any form of registration or system of identification. Whilst this option balances the policy requirements with the views of EHE groups, the option may still create discord between home educating families and local authorities and impact on their ability to undertake their duties. This disbenefit has been mitigated as far as possible as the proposals aim to identify children who are CME.
47. As there is currently no requirement on parents to notify their local authority if they are home-educating, the local authority does not know about all EHE children. If the LA cannot determine that an EHE child is in receipt of a suitable education, or a parent of an EHE child fails to make themselves known to the LA, the child is potentially CME. The child would then be included on the CME database until the LA is assured that the education provided by the parent is suitable and efficient. Primary legislation would be required to address this concern, enable local authorities to identify all EHE children, and determine that they are not CME.
48. Strengthened legislation to address safeguarding and welfare concerns about children not known to local authorities has been recommended by the Children's Commissioner for Wales and the National Independent Safeguarding Board. Primary legislation that would place a duty on parents to register with their LA if they are home-educating would establish a clear line between EHE and CME, and support local authorities to identify

children they are not aware of. This may be considered in the future, pending wider developments.

Competition Assessment

49. The making of the Regulations is not expected to impact on the competitiveness of businesses, charities or the voluntary sector.

Post-Implementation Review

50. The arrangements will be fully tested via the pilot approach and an independent evaluation will be undertaken alongside its implementation. The evaluation will assess the impact of the regulations on local authorities, LHB partners and independent schools and any associated costs/time factors. It will assess whether the database arrangements are effective in identifying children who may be missing education and whether amendments to the regulations are required ahead of arrangements being implemented across all local authorities in Wales.