

Appendix B

Elective Home Education: Chronology of actions and progress

**[Some emphasis added by the
Children's Commissioner for
Wales]**



| No. | Date | Document | Summary or extract of relevant document or meeting | Children's Commissioner for Wales' comments and observations as at 2020 |
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| 1. | 6.12.11 | Dylan Seabridge died aged 8 years old | <p>Criminal charges against the parents were considered but the CPS decided that this would not to be in the public interest, primarily due to parents' mental health difficulties.</p> <p>An inquest was also conducted into Dylan's death.</p> <p>A serious case review was commenced but the case review system for Wales changed in 2013, so it was converted to a Child Practice Review following the conclusion of criminal proceedings and the inquest.</p> | |
| 2. | 2015 | <p>WG Consultation on elective home education guidance</p> <p>Consultation ran from May to July 2015</p> | <p>Summary of responses:</p> <p>In 2012 WG had consulted on legislative proposals to introduce compulsory registration and monitoring of home education. There were over 500 responses to that consultation; the majority of families and agencies working with families opposed the proposals but the majority of local authorities and organisations supporting children were in favour. The Minister for Education and Skills decided to consult on</p> | <p>CCfW responded to the consultation and called for statutory guidance and reference to children being seen.</p> <p>This consultation did not happen until 2015, three years after the original consultation in 2012, and the summary of responses was then not</p> |

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| | | <p>updates to the existing non-statutory guidance.</p> <p>The 2015 consultation had 153 responses. Extracts from the report and some summary narrative follow:</p> <p>"Main findings</p> <ul style="list-style-type: none"> • Home educators saw the new guidance as an attempt to introduce monitoring • Any role for local authorities in home education was generally opposed by the EHE community • Local authorities saw the guidance as too weak • Local authorities had concerns regarding the financial implications of any additional duties relating to EHE • Home educators required clarity as to the legal position regarding the role of local authorities in relation to EHE <p>Many respondents questioned the need for new guidance on home education at all, citing the 2006 guidelines as being adequate. Some respondents also indicated that support from local authorities was not only unnecessary, given the growing networks of support for EHE, but undesired.</p> <p>For many of the professionals who responded, the non-statutory status of the guidance gives it insufficient weight and does not go</p> | <p>published until January 2017. This meant that the proposals ran into the next Assembly term (as it was then called).</p> <p>NB the WG website reflects that the non-statutory guidance was published on 6th January 2016, but the actual document is dated January 2017 and the WG referred during 2016 to the guidance still being updated.</p> |
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| | | <p><i>far enough... For many of the professionals who responded, the fact that the guidance is non statutory is not enough. Many feel strongly that without compulsory registration and significant change in the law, the guidance is largely worthless.</i></p> <p><i>An important theme raised in a large number of responses to the first question is the definition of a suitable education.</i></p> <p><i>The responses overwhelmingly indicated a desire to see changes made to the document. These on the whole refer to the legal position of home education in Wales and the parameters within which local authorities are allowed to operate."</i></p> <p>Fears regarding monitoring came through strongly from a large number of respondents, referring back to the primary legislation as a reason why monitoring cannot be justified.</p> <p><i>Home educators highlighted sections of the document which they felt went beyond the legal parameters. These included listening to the views of children and young people, gaining an understanding of why a family chooses to home educate, the recommendation for an initial meeting, ongoing annual contact, and the request to see evidence of the leaning being undertaken.</i></p> | <p>Issues around what is a "suitable education" were picked up by the 2019 proposals.</p> <p>As early as 2015 therefore, the Government was 'on notice' that primary legislation was likely to be required in order to make changes to strengthen the position.</p> <p>Welsh Government officials and the Education Minister, in meetings with CCfW, have also sought to separate</p> |
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| | | <p><i>The inclusion of reference to child welfare drew criticism from home educators. Their view was that the two areas of safeguarding and elective home education are too easily combined and lead to a potentially dangerous misconception of home education. Views were expressed that these two issues should be separated out and that child welfare need not feature in a guidance document relating to EHE.</i></p> <p>Conclusions</p> <p><i>The development of new non-statutory guidance on EHE was based on an attempt to occupy common ground between home educators and the organisations that support them on the one hand, and local authorities and organisations that support the interests of children and young people on the other.</i></p> <p><i>The guidance was written in such a way as to promote a better understanding of EHE and set a new context for developing positive relationships between local authorities and the EHE community. Some responses to the consultation recognised this.</i></p> <p><i>However, the vast majority highlighted the difficulty that exists in bridging the gap between home educators and local authorities and other professionals. It is clear that there remain significant challenges in finding a balance between the freedoms</i></p> | <p>safeguarding and education issues since this time.</p> <p>WG education department convenes an all Wales Safeguarding in Education group which includes consideration of home education issues, so it is unhelpful to try to separate safeguarding from education.</p> <p>Local authorities have a legal duty under the Children Act 2004 to discharge their functions having regard to the need to safeguard and promote the welfare of children in their area.</p> <p>The consultation report does not set out what WG could/should/would do next. Neither does the report set out clearly how the responses have</p> |
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| | | <p><i>desired by home educators and the concerns and duties of local authorities.</i></p> <p>A CRIA was published with the consultation: "We believe that the guidance provided to LAs on supporting the EHE community will deliver a positive impact for children who are being home educated. Potential positive impacts for children, young people and their families include:</p> <ul style="list-style-type: none"> • Better clarity on the legislation regarding home education; • Better clarity on the rights, roles and responsibilities of LAs in relation to home education; • A more consistent approach across Wales to how LAs liaise with home educating families avoiding a "postcode lottery" - the guidance will aim to highlight good practice by LAs; • Clarity on what support is available to them from LAs; • We will monitor and measure success through ensuring ongoing dialogue and engagement with LAs and EHE stakeholders across Wales." <p>"The support and promotion of children's rights is intrinsic to the non-statutory guidance. The overriding priority of the guidance is to secure the best outcomes for children and young people who are electively home education through developing</p> | <p>been analysis and considered or how they have informed WG decisions.</p> <p>As is often the case with CRIA, the document doesn't explore any potential negatives so this isn't necessarily a complete analysis.</p> |
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| | | | <p>constructive partnerships between EHE families and local authorities.”</p> <p>“The advice to the Minister for Education & Skills confirms that this CRIA has been completed. No conflict with the UNCRC articles has been identified.”</p> | |
| 3. | 7.4.15 | <p>Written Questions from Mark Isherwood to Minister for Education Huw Lewis</p> | <p>WAQ68559 Mark Isherwood (North Wales): What rights does a local education authority have to demand evidence of educational provision from a home educating parent?</p> <p>Answer received on 7 April 2015 The Minister for Education and Skills (Huw Lewis): Section 436A of the Education Act 1996 places a duty on Local Authorities (LAs) which consists of two parts. The first part requires a LA to identify (so far as it is possible to do so) all learners of compulsory school age in their area who are not on a school roll. The second part requires a LA to establish if such learners are receiving a suitable education.</p> <p>WAQ68560 Mark Isherwood (North Wales): How does the Welsh Government ensure that demands made by local education authorities for home educating parents to provide evidence of the acceptability of their educational provision,</p> | <p>WG response refers to LA duties, but at this point would have been aware that LAs felt that the existing duties cannot be fully met when they do not have a complete list of those who are educating at home within their area or when local authorities don't have a legal power to see the child to assess educational provision if the family refuse access.</p> <p>LAs have been careful to act within the law and guidance and, as such, have felt that they are unable at times to take actions such as seeing and speaking to a child</p> |

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| | | <p>are in line with the 'Inclusion and Pupil Support - Elective Home Education' document?</p> <p>Answer received on 7 April 2015</p> <p>Huw Lewis: It is not the responsibility of the Welsh Government to ensure that the steps taken by LAs to establish whether a child is receiving a suitable education are commensurate with the Inclusion and Pupil Support guidance document. LAs must satisfy themselves that they are operating in accordance with the law and/or any associated guidance documents.</p> | <p>about their education and their access to all of their rights.</p> |
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| 4. | 13.8.18 | <p>Cordis Bright WG Commissioned Review of the implementation of the Child Practice Review Framework</p> | <p>"The review was not designed to evaluate the quality or impact of CPRs undertaken to date due to the limited numbers completed. The assessment of the wider impact of CPRs will follow at the appropriate time."</p> <p><u>Summary of key findings:</u></p> <p>Awareness varied according to professionals' level of involvement within the CPR process. More senior professionals were more likely to have been involved and have greater understanding and awareness.</p> | <p>The Review highlighted lower awareness amongst front-line practitioners; there have not been changes made to address this.</p> <p>The 2019 iteration of the guidance still says that "[th]e process will be completed as soon as possible but usually not more than six months from the date of a referral from the</p> |
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| | | | <p>Front-line practitioners' awareness appeared to be linked to whether they'd been involved in a Learning Event.</p> <p>There were some concerns about local criteria developing in the decision making for whether or not to undertake a CPR.</p> <p>CPRs were noted to be time consuming and take on average 12 months.</p> <p>Most stakeholders believed that there was considerable room for improvement in the dissemination of learning from CPRs, especially around wider national learning and how different regions could learn from each other.</p> | <p>Board to the Review Sub-Group." Whilst it is admirable to aim for swift conclusion of these processes, this does not recognise the realities of the position on the ground. This timescale is not mandatory so in reality is not serving a clear purpose.</p> <p>It is unclear what action if any the WG has taken to ensure greater dissemination of learning. The guidance has not been amended to reflect this so there is no set role for WG to disseminate or oversee findings. The action plans remain the property of the Boards and their responsibility to administer, meaning invariably learning stays at the local level.</p> |
| 5. | 8.10.15 | Written statement by Huw Lewis, Education Minister | <p>In May, the Welsh Government consulted on non-statutory guidance for local authorities on elective home education. The main purpose</p> | <p>Revised guidance was not published in winter 2015; it took until</p> |

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| | | | <p>of the guidance will be to assist local authorities with supporting their home-educating families, and to help create a more consistent approach to how LAs engage with their home-educating communities. The guidance will assist LAs to develop and improve upon their knowledge on home education.</p> <p>I was pleased that the consultation generated a considerable number of responses on a wide range of matters. I would like to take this opportunity to thank all those who responded to the consultation. The responses raised some important points, and it has taken longer than expected to thoroughly consider them all and incorporate the appropriate changes to the guidance. The intention was to publish the final guidance in September; however for the reasons I have outlined the guidance will be published this winter.</p> | <p>January 2017 for this to be done.</p> <p>There was a lack of information in the consultation report about how exactly the consultation had altered the finalised guidance if at all. There was no published narrative as to what had changed between the consultation version and the final version and why this was.</p> <p>The guidance was not amended significantly so the revisions did not "help create a more consistent approach to how LAs engage with their home-education communities".</p> |
| 6. | 26.1.16 | <p>Urgent question to the Minister for Health and Social Services Mark Drakeford, from Simon Thomas AM</p> | <p>Simon Thomas</p> <p>Will the Minister make a statement on safeguarding children in Pembrokeshire following the Dylan Seabridge case? EAQ(4)0690(HSS)[W]</p> | |

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| | | <p>Mark Drakeford</p> <p>The very sad death of Dylan Seabridge took place in December 2011. In the years that have followed, this National Assembly has placed the Social Services and Well-being (Wales) Act 2014 on the statute book, which both reforms and strengthens safeguarding services, including those provided to children in Pembrokeshire.</p> <p>Simon Thomas</p> <p>I thank the Minister for his reply, and he's right to point out that some improvements have been made in legislation, but what has emerged since the inquest a year ago into Dylan's death is that several opportunities were in fact missed by professionals who, perhaps, should have been more alert to the situation that he was in. It cannot be acceptable, no matter what we think of parental choice in this country, that a child of eight can die of scurvy in twenty-first century Wales. There were refusals to allow health professionals access to Dylan. A lot of talk has been about home schooling, but it seems to me that there is a health, as much as a schooling, aspect to this. I'm disturbed that we haven't had a published report from Pembrokeshire County Council on lessons learned from this case. Have you, Minister, or your colleagues received such a report, and are you in a position to publish any such information? And what further lessons have</p> | <p>The Act brought new safeguarding bodies and approach into force from April 2016 onwards, but these do not strengthen the safeguarding issues specifically in response to the Seabridge case.</p> |
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| | | <p>you learned as a Government about safeguarding children in this regard?</p> <p>Mark Drakeford Llywydd, a child practice review, which is being carried out by the safeguarding board in Pembrokeshire, is not yet complete, nor is it published, nor should we attempt here to bring any influence to bear on the board in the work that it does. I entirely share what the Member said about the terrible thought that a child would die in Wales in the circumstances that have been reported here. Members will be aware that the involvement of the police, the possibility of prosecution and so on has an impact upon the timetable that safeguarding boards can carry out some of their work, and that's been the case in this instance. What we have to do is to allow the board, with the independence that is absolutely properly afforded to it, to carry out its work, to complete it, to publish the report and then, quite certainly, we will look to Pembrokeshire council to provide us with a plan that shows how it will respond to any of the conclusions that the board will have reached.</p> <p>Joyce Watson An eight-year old boy has died of scurvy, and Dylan Seabridge should be alive and he should be well today, and we shouldn't actually be here discussing his death at all. So,</p> | <p>The completed CPR made strong recommendations to the Welsh Government; the WG has not taken the requisite actions in response to that report.</p> <p>The Member raises important issues in relation to movement between LA areas, which</p> |
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| | | <p>Minister, can you please confirm that the Social Services and Well-being (Wales) Act 2014 strengthens the whole safeguarding regime in Wales? Can you also confirm that plans are on track for its introduction in April this year, and that Pembrokeshire will be covered by those new arrangements? Minister, it is time that authorities recognise that the first duty that they have is to protect the child, not to hide behind artificial county boundaries, as seems to have happened, according to press reports, in this case. So, can you assure me that the Act will put the child first—not allow artificial land boundaries to get in the way?</p> <p>Mark Drakeford</p> <p>Llywydd, one of the key ways in which the 2014 Act strengthened safeguarding is in placing safeguarding boards on the six regional footprints, which means that in future no one local authority will be responsible for the oversight of its own services. That will certainly be the case in the case of Pembrokeshire County Council. The Act also places a new legal obligation on all those workers who are involved in potential safeguarding cases to make a report of any concerns that come to their attention to the local social services department. With both of those, together with the new independent national safeguarding board and a series of other changes brought about by the 2014 Act,</p> | <p>also applies to movement between Wales and England. This chronology represents repeated questions from CCfW as to how WG propose to deal with these issues; the 2019/20 proposals did not adequately deal with this point.</p> <p>The database proposals did not have adequate mechanisms to account for a moving population in a timely way and did not set out a clear mechanism of follow up at a national level for children and young people whose whereabouts appear unknown.</p> |
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I feel confident that they will strengthen our safeguarding arrangements, and quite certainly they put the focus very unambiguously on the needs of the child herself or himself.

Aled Roberts

Minister, I accept the need for independence with regard to the safeguarding regime, and also acknowledge the fact that there were legal proceedings. But, the inquest actually brought those proceedings to an end in January 2015. I understand that the serious case review was, in the words of the press briefings, 90 per cent complete in 2013, and I would respectfully suggest that the guidance for child practice reviews suggest that those reviews should be completed in a period between 12 weeks and six months. In the circumstances, given that the inquest concluded in January 2015, can I ask, whilst respecting the independence of the safeguarding board, that you give some assurance, in order that we can actually read all the evidence and form some conclusions, that that child practice review will be completed as soon as possible and will be published by the local safeguarding board in good time?

Mark Drakeford

I can certainly give an assurance that the report will be published once it is

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| | | | available. I, like all Members here, would want to see any such report completed in a timely fashion. I don't think it would be right for me to say anything here that would bring undue pressure upon the people who are responsible for carrying out this independent work, to complete it in a time frame other than the one that they think is necessary to complete their work. As soon as it is available, the better that will be, but they must be allowed the time that they think they need to complete it and then it will be published. | |
| 7. | January 2016 | Letter from CCfW to WG - Mark Drakeford Minister for health and social services, and Huw Lewis, Minister for Education and Skills | The letter states in relation to the forthcoming CPR - "I expect all duty bearers to move with haste to address any shortcomings" and that "Children's views and experiences must be heard" | |
| 8. | 23.2.16 | WG Consultation on 'out of school' education settings | The consultation sought views on the registration of settings such as supplementary or complementary schools (i.e. those offering support or education in addition to mainstream or core learning and which operate after school hours and on the weekends, and also tuition or learning centres (which can operate at any time of day), part-time schools or clubs. The aim of the proposal would be to "enable action to be taken where settings are failing | As at November 2020 the WG website page states 'outcome awaited', almost 5 years on. There is not a standard period of time for the outcome of consultations to be communicated as far as CCfW are aware, but 5 years is an excessive period of time |

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| | | | <p>to safeguard and promote the welfare of children, which includes failing to protect them from harm”.</p> <p>It would not apply to individual parents and families, but could include settings which provide education outside of school in support of home education.</p> | <p>and, regardless of the nature of the proposals, does not demonstrate a WG commitment to transparency or accountability.</p> |
| 9. | 17.2.16 | <p>Written statement from Huw Lewis, Minister for Education and Skills</p> | <p>In October 2015 I issued a statement outlining reasons why there was a delay in publishing non-statutory guidance for local authorities on elective home education. My intention at the time was to publish the guidance this winter allowing officials time to consider all of the responses received during the consultation exercise.</p> <p>In view of the expected release of the child practice review into the death of Dylan Seabridge, I have decided to defer publication of the guidance to allow us the opportunity to consider the review’s findings and ensure our guidance reflects them where appropriate.</p> <p>This statement is being issued during recess in order to keep members informed.</p> | <p>As far back as February 2016 there is an indication that WG would be responding to the Seabridge CPR in the elective home education guidance. This was not done however when the guidance reissued in 2017.</p> |
| 10. | 8.7.16 | <p>Publication of the Child Practice Review for Dylan Seabridge</p> | <p>Press release - “The report recommends that Welsh Government change the law so that the details of all elective home educated children are kept on a register and that they</p> | <p>Report is not currently available online - the guidance requires reports to be published for a minimum of 12</p> |

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| | | <p>are seen and spoken to and their wishes recorded on an annual basis".</p> <p>The CPR calls for a multi-agency protocol to be drawn up across mid and west Wales to safeguard children educated at home.</p> <p>The CPR notes that a home visit was undertaken in early July 2010, but entry to the household was denied with the father stating that the family did not wish to engage with LA1 in any capacity. Dylan was not seen by any professionals from the age of thirteen months.</p> <p>Page 5 - "There was overall agreement that the correct procedures were adhered to as far as the legal requirement regarding elective home education permitted. An important element of [the learning] event, therefore, focussed on the effectiveness of the current guidance and, in particular, the consultation document Welsh Government draft non-statutory guidance for local authorities on elective home education (2015)."</p> <p>Page 10 "The current legislation and guidance does not require that children are seen or spoken to as part of the process. In this case, if the child had been seen it is possible those practitioners may have been alerted to his ill health and/or had an</p> | <p>weeks only, and thereafter to be available upon request.</p> <p>The 2019 Wales national safeguarding procedures includes a practice guide to Safeguarding children who are home educated.</p> <p>This is not statutory guidance from WG however as the All Wales procedures are owned by the safeguarding boards and do not have statutory force. So although the guide says "children should be seen and heard" and refers to CPR evidence, this does not give individuals or agencies any additional powers or duties to enable them to see and speak to children about their education or wishes and feelings.</p> <p>As at November 2020 that practice guide still says "new statutory</p> |
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| | | <p>opportunity to explore with him his life style.”</p> <p>Page 11 “the absence of any requirement to ascertain the wishes and feelings of children who are being home educated seems in stark contrast to the commitment made by the Welsh Government in adopting the United Nations Convention of the Rights of the Child in their work with children”.</p> <p>Page 12 notes that children are routinely screened for health concerns when they are in school.</p> <p>The CYSUR Mid and West Wales Safeguarding Children Board to -</p> <p>Write to the Welsh Government, asking for changes to the legislation and statutory guidance on elective home educated children, to incorporate a requirements that parents and guardians annually register all such children with the Local Authority. In addition to this, that all such children should have to be seen and spoken to and their views and wishes are recorded annually. The legislation should state that the information held is also to be shared with the family GP and other relevant professionals.</p> | <p>guidance on elective home education is being developed by the Welsh Government and this practice guide will be updated once that new guidance is issued in 2020.”</p> <p>The CPR review highlights the fact that Dylan was “invisible” to universal services and makes the link that seeing him might have alerted practitioners to concerns. It would have also given the opportunity to talk about the suitability of his education. The review recognises that seeing Dylan would be “by no means certain” to have prevented his death but as a principle it is clear that it gave the opportunity to see the difficulties that existed.</p> <p>It is noted clearly that professionals followed</p> |
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| | | | | the legislation and guidance that was in place at the time, indicating that the legal framework was a key barrier rather than practice issues from not following relevant guidance. |
| 11. | 8.7.16 | ADSS media release "ADSS Cymru seeks to further enhance protection for pre-school and home educated children" | ADSS stated their intention to work the WG to consider how legislation and guidance could best be improved to ensure that both children who are pre-school and home educated are seen, supported and have their wishes and feelings recorded. In addition, a requirement to register children who have never been in a school would seem a proportionate way to ensure children receive the support and protection they are entitled to". | The professionals who would have a role in seeing children and maintaining a register see it as "proportionate" rather than over burdening them. |
| 12. | 8.7.16 | CCfW statement in response to CPR "CCfW calls for more rights for home educated children following the publication of a child practice review" | "While a parent's decision to electively educate their child at home is not a safeguarding matter in itself, I am concerned about a small number of children who are not in school and may have fallen under the radar. Under the current arrangements, it is possible for a local authority and health board to be unaware that the child is resident in their area and for that child not to be receiving any meaningful education and health care. This is the case in Wales and | No substantive changes have been made to the legislation or guidance since then. The 2019/20 proposals did not adequately deal with children moving into a new LA area and not registering with services. |

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| | | <p>throughout the UK. Children may also be deprived of other rights such as the opportunity to express their wishes and feelings about their education and to socialise and make friends.</p> <p>“Under the UNCRC and Welsh Law, every child has the right to an education. They have a right to express their wishes and feelings about their education and to be safe and healthy. I do not believe that it is too much to ask of parents that they register with their local education authority their decision to home-educate their child, and for the local authority to check that the education meets the child’s needs. I think it is vital that every child has the opportunity to express their view about their education and to be seen by a professional on at least an annual basis. Every child should receive health care, including routine checks and dentistry.</p> <p>“The death of Dylan Seabridge is a very sad case. I have read the CPR with interest and support all of the recommendations for improving systems and practice. I am calling on the Welsh Government to act and make the legislative changes that may prevent another similar tragedy”.</p> | |
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| 13. | 12.7.16 | <p>Extracts of the Plenary statement on the Dylan Seabridge Child Practice Review</p> | <p>"It is unacceptable that in our modern society a child should be invisible in this way."</p> <p>"The purpose of a Child Practice Review is to improve our services and help us to learn what needs to change. That is exactly what we intend to do in light of this report - learn lessons and improve services".</p> <p>The Cabinet Secretary notes that much is made of the EHE connection, but "it is far from the whole picture" as Dylan was invisible to a range of services.</p> <p>"...as a society, as a system he was let down and allowed to remain invisible and unreachable".</p> <p>Cabinet Secretaries for Communities and Children, Education, Health and the Minister for Social Services and Public Health were "working closely" to consider the lessons from the case.</p> <p>"Our response will be inclusive and seek to address the key issues of how services work together, how they pool their information and think 'family' rather than about individuals in isolation and about how we can prevent any child or young person from being so hidden from view that we cannot spot and address any risk of harm".</p> | <p>It is unclear what actions the WG has completed in order to address the concerns of children being hidden from view.</p> |
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| | | <p>“Whilst it is not routine practice to respond to CPRs, I and my cabinet colleagues feel that the unique issues raised by the case warrant us writing immediately to all safeguarding boards in Wales and the National Independent Safeguarding Board drawing their attention to the issues raised and the findings of this report.”</p> <p>Llyr Gruffydd AM noted that the process “must be moved forward with urgency” but there was no timetable in the Cabinet Secretary’s statement. He noted that this issue has been “discussed over a number of years and that the government needed to come to a direction of travel”.</p> <p>The Cabinet Secretary accepted the need for the government to be “a bit more robust on this”.</p> <p>Jenny Rathbone AM commented that children who were not in school needed extra special attention paid to them, as society looks out for children in school.</p> <p>The Cabinet Secretary said that he was unable to stand before the Assembly and state that there were no more Dylans, and this worried him.</p> | <p>Sending out copies of CPRs, whilst that is welcome, doesn’t in and of itself fix the issues and would not indicate a “robust” response.</p> <p>It is also unclear why WG are not routinely required to respond to CPRs, particularly where specific recommendations are targeted at them. This issue does not appear to have been considered in any revisions to the CPR guidance and represents another missed opportunity to strengthen the effectiveness of CPR recommendations at a national level.</p> <p>Could any current Government Minister stand before the Senedd today and say there are ‘no more Dylans’? given the lack of substantive changes to any legal</p> |
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| | | | | framework or guidance since this CPR. |
| 14. | 15.7.16 | Extract of letter from Cabinet Secretary for Communities and Children to Chairs and Members of Safeguarding Boards for children and for adults | <p>“As a Government, we are already considering this report and its influence upon the framework of guidance and regulation in place to support all professionals working with adults and children. Our approach will cross Cabinet responsibilities to ensure no individual is so invisible that the risks of harm they may be exposed to cannot be identified and addressed”.</p> | <p>This indicated that the WG was revising guidance and that lessons learned would be incorporated into the revised guidance.</p> <p>It does not indicate any urgency in taking additional actions specific to this case.</p> <p>No subsequent actions have been completed and implemented that directly address the shortcomings found in the CPR review in relation to elective home education.</p> |
| 15. | 9.8.16 | Extract of CYSUR letter to Cabinet Secretary for Communities and Children | <p>This is the letter indicated in the CPR to bring Action point 1 to the attention of WG.</p> <p>“Whilst any further powers of requirements must be proportionate we do not believe it is acceptable that in Wales a child can either be removed from school and/or never access them without them being seen or their wishes and feelings being recorded. Whilst legislation or guidance is not the only</p> | <p>This is a further assertion of the importance of seeing children and hearing/recording their wishes and feelings;</p> |

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| | | | <p>solution, we believe there is a strong and consistent view across education and child protection in Wales that action by government is needed.</p> | <p>this point has not been addressed by the WG.</p> |
| 16. | 17.8.16 | <p>Extracts from letter from Cabinet Secretary for Communities and Children to CCfW</p> | <p>"You know that officials across the ministerial portfolio are already working together to consider and act upon lessons from this case".</p> <p>"Our new guidance on elective home education, which we plan to publish in Winter 2016, is intended to help local authorities develop positive relationships with home educating communities and, where required, offer support. It will make clear that, where possible, local authorities seek the views of home educated children and young people in determining whether the education they are receiving is suitable.</p> <p>"We have delayed the publication of the guidance to ensure that it reflects, as far as possible, the from the child practice review into to the death of Dylan Seabridge"</p> | <p>When the guidance was reissued in 2017 it was largely unaltered and remained non statutory.</p> <p>It does not "make clear" the importance of seeking children's views nor does it directly reflect the learning from the CPR.</p> |
| 17. | Oct 2016 | <p>CCfW Annual Report 2015-16</p> | <p>Recommendation on EHE -</p> <p>"The Government should strengthen requirements for parents to register as electively home educating</p> | <p>WG response to this recommendation</p> <p>"we have revisited and strengthened our Elective Home Education guidance which will be</p> |

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| | | | <p>their children and for every child who is electively home educated to be seen by a professional at least annually so that they can express a view about their educational experiences.”</p> | <p>published in the coming weeks.” Note - the WG response makes no reference to children’s rights, and the revised guidance did not cover the points raised by the CCfW recommendation.</p> |
| 18. | 2.11.16 | <p>Answer to oral question not answered in plenary: From Education Minister Kirsty Williams to David Rees AM</p> | <p>14. Will the Minister make a statement on actions taken by the Welsh Government to support home education? OAQ(5)0046(EDU)</p> <p>We will be publishing revised non-statutory guidance in November to help local authorities improve support for the home educating community. We will also publish a leaflet for parents that clarifies the rights and responsibilities of home educators and key questions for parents to consider before deciding to home educate.</p> | <p>The guidance was not reissued in November 2016; it came out in January 2017.</p> |
| 19. | 8.11.16 | <p>First Minister’s Questions</p> <p>Question from Llyr Gruffydd AM on safeguarding in home education</p> | <p>“I’m sure you’ll be aware that the Children’s Commissioner has called on the Government to introduce statutory guidance to make it a requirement for parents to register the fact that they are home schooling their children. And it’s been made clearly recently in the CYPE Committee that she would be willing to use her statutory powers in order to</p> | |

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| | | | <p>encourage the Government to move in that direction.</p> <p>“Would you therefore agree with the Commissioner, myself and many others, that every day of delay runs the risk that another individual, and unfortunately we do have to say another individual, is let down by the Government because they run the risk of disappearing under the radar”.</p> <p>The FM responded -</p> <p>“Local authorities, of course, have the main responsibility here, but I’m not saying there that we don’t have any responsibility at all. We’ll ensure that the guidance that comes out will strengthen the situation of local authorities and will explain what the duties and rights of parents, children and local authorities are. We’ll continue to consider how efficient and effective that guidance will be. We want to ensure that it is effective, and if anything needs to be changed in the system we will do so. But at present, I’m confident that that guidance will go much further to ensure the safety of children.”</p> | <p>The FM’s response conflicts with the Cabinet Secretary’s letter, which assured CCfW that the guidance would address the CPR lessons.</p> <p>He also says the guidance will go much further but it was largely unaltered when it was reissued in 2017.</p> |
| 20. | 15.11.16 | Oral statement from Cabinet Secretary for Communities and Children Carl Sargeant | <p>Carl Sargeant</p> <p>The Commissioner also raised concerns about children who are under the radar of the universal services in health and education. We</p> | <p>During the Plenary debate on the report, Plaid Cymru moved an</p> |

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| | <p>during response to CCfW Annual Report debate - Extracts</p> | <p>have revisited and strengthened our elective home education guidance and this will be published in the next coming weeks. We will need to consider and consult carefully on whether to move beyond that, but I want to be clear that our careful approach is about ensuring the best practical safeguards for all children. I recognise that early intervention is key to long-term health and well-being and I've outlined my priorities about tackling adverse childhood experiences and building resilient communities, and I think these align with many of the issues that concern the commissioner.</p> <p>Llyr Gruffydd..Finally, and this is an issue that I have raised with the First Minister previously, there is no legal requirement for parents to register with the local authority if they educate their children at home, and neither is there any requirement on local authorities to monitor or to inspect the home teaching provision. That isn't acceptable, in my view. In her report, the commissioner raises the issue in the context of the death of Dylan Seabridge. He was home educated and he had no contact with public services during the seven years prior to his death. I understand the concern among a number of people that there is risk of us tarring everyone with the same brush in trying to tackle that risk, but whilst there is an element of risk to one child in Wales, then I don't think that it's an overreaction</p> | <p>amendment calling for the strengthening of registration process for home education:</p> <p><i>Amendment 1—Rhun ap Iorwerth</i></p> <p><i>Add as new point to end of motion:</i></p> <p><i>Calls on the Welsh Government to resolve to implement the report's recommendations, and in particular those relating to:</i></p> <ul style="list-style-type: none"> <i>a) improving children's experiences of mental health care;</i> <i>b) introducing a national approach to statutory advocacy as a matter of priority; and</i> <i>c) strengthening the registration requirements of elective home education.</i> |
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| | <p>for us to go further than what we have seen happening in the past. It's not acceptable, in my view, that the current situation should persist. We need to tackle this issue as a matter of urgency.</p> <p>Jenny Rathbone I wanted to pick up on two things that are in the report and one that is not. First, I would also like to hear from the Minister about the children who are at risk when they're being home educated, simply because they're not being seen regularly by other services. As the UN Convention on the Rights of the Child observes, they do need to be seen by a professional at least annually, so they can express a view about their educational experiences, apart from anything else. So, I would press the Minister for a response on that particular point.</p> <p>Carl Sargeant ... I'd like to pick up on some of the points that Members have raised and have strong views on here today. I'll try to respond to the majority of those points, if I may. On the first issue, Darren Millar mentioned home education registration, as well as Llyr, and they had slightly opposing views, but the principle I think behind both Members' comments was about the protection of young people, and I think that's what we've got to be mindful of. Kirsty Williams and myself are</p> | <p>These amendments were not carried.</p> <p>The Cabinet Secretary did not address the express references to children's rights within this debate despite a legal duty to have due regard to UNCRC when Ministers are exercising any of their functions.</p> |
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| | | | in discussions about what they may look like for the future, but, ultimately, the issue for us all should be around the safeguarding of an individual. I think that's what has to drive our decision-making process but I do recognise that there is also lots of evidence from either side that is presented to both ourselves and Members in terms of making decisions longer term. | |
| 21. | 23.11.16 | Summary from note of CCfW annual meeting with the Cabinet Secretary for Education and Minister for Lifelong Learning and Welsh Language | The Cabinet Secretary noted that she was still considering the possibility of regulation of home education. | |
| 22. | 2.12.16 | Written response to question from Darren Millar AM, from Cabinet Secretary for Education | <p>WAQ71549 Will the Minister provide a list of those individuals and organisations the Welsh Government has consulted with in preparing the revised guidance on elective home education which will be issued in the coming weeks?</p> <p>The open consultation exercise on the new guidance ran from 8 May 2015 to 3 July 2015. We received 153 responses, of which 120 were from individuals and 32 from local authorities, the public sector, trade unions, the NHS, third sector and home educating groups. The Data Protection Act does not allow me to disclose the names of the individuals. I am, however,</p> | As with previous consultations on this topic, the vast majority of responses have come from individuals. This is an area where a strong and co-ordinated lobby has been able to |

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| | | <p>able to list the following organisations which responded:</p> <p>ADEW/WLGA Association of School & College Leaders Betsi Cadwaladr UHB Bridgend County Borough Council Cardiff County Council Carmarthenshire County Council Ceredigion County Council Children's Commissioner for Wales Conwy County Borough Council Education Otherwise Associates ERW Estyn Family Education Trust Flintshire County Council Heatherside Education Consultants Home Education Advisory Service Home Education Northern Ireland Home Education North Wales Home School Legal Defense Association Monmouthshire County Council National Union of Teachers NSPCC Wales Newport City Council Pembrokeshire County Council Powys Schools Service Safeguarding Children Services Save the Children Shiny Happy Children Home Education Group Swansea City and County Council Torfaen County Borough Council</p> | <p>push against the WG proposals.</p> <p>We don't know exactly how the responses are considered and analysed because there is no explanation of that within the consultation summary report. There is no narrative to say what has changes as a result of the responses.</p> |
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| | | <p>Vale of Glamorgan County Council Ysgol Eirias</p> <p>We will be publishing, alongside the revised guidance, a consultation report on the Welsh Government's website within the next couple of weeks.</p> | |
| 23. | 9.1.17 | <p><u>WG EHE Guidance</u> reissued - non statutory</p> <p><u>Minister's statement</u> upon issue: I am today publishing new non-statutory guidance for local authorities on elective home education. The guidance is designed to help local authorities support home-educating families and create a more consistent approach to how that support is provided. It will also assist local authorities develop and improve their knowledge of home education.</p> <p>While our new guidance seeks to strike a balance between the rights of children to receive a suitable education, to be listened to and be safe, and the rights of parents to home educate, I believe we need to adopt a more robust approach to education provision for all children, regardless of where that education is provided. This guidance will form part of a package of measures I'm considering to support local authorities, the home educating community and alternative providers, including the potential for introducing legislation.</p> <p>Those other measures will take time to</p> | <p>Aside from formatting and re-ordering paragraphs, it was difficult to find any substantive changes having been made to the guidance.</p> <p>The guidance reflects that professionals now have a duty to report concerns under s.130 SSWB Act but does not go further to give suggestions or good practice examples about seeing the child or asking their views about their education.</p> <p>This guidance was reissued six months after the Seabridge CPR was published but it doesn't address the</p> |

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| | | | develop. In the meantime, we will be offering training to local authorities on using the new guidance.” | concerns that the review raised. |
| 24. | 13.1.17 | ADSS Cymru media release | <p>New Guidance on Home Education -</p> <p>ADSS Cymru notes that whilst we have had little time to consider the new non-statutory guidance we do feel that it falls well short of what is needed to safeguard the very small number of home educated children who could be at risk. We welcome the fact that Welsh Government are considering further action including the possibility of new legislation. As the leadership organisation for Social Services we look forward to working with Welsh Government, Local Authorities and the Children’s Commissioner to support the development of further measures that will protect those children who are not known by any statutory agencies and could be at risk.</p> | <p>Previous WG statements talked about strengthening the approach for LAs and ensuring consistency across Wales in how LAs support home educating families.</p> <p>ADSS Cymru is the body representing all 22 LAs and they remained concerned after 5 years of work that the reissued guidance “falls well short of what is needed”.</p> |
| 25. | 25.1.17 | Notes of first meeting of Home Education lead officers stakeholder working Group | <p>According to the Terms of Reference, the group was established to facilitate partnership working to help LAs better support home educating families.</p> <p>The group will also help inform the development of regulations requiring LAs to establish a database of children not on school registers and not receiving a suitable education.</p> | CCfW were not invited to join this group until 2018. |

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| | | <p>The group is to deliver statutory guidance. New guidance will include a section on safeguarding, in response to the findings of the child practice review.</p> <p>New guidance would also be reviewed after a year to establish what elements have worked well and what has worked less well.</p> | <p>New guidance and regulations have not been delivered.</p> |
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| 26. | 27.4.17 | <p>Extracts of CCfW letter to WG (Cabinet Secretary for Communities and Children) regarding child practice reviews</p> | <p>Child Practice Reviews are intended to be an "effective learning tool" and the regional boards must be "open, honest and transparent when things go wrong and learn the lessons". Unfortunately this is not the experience of the families that we have spoken to. On reflection, I am uncertain how regional boards are able to practice in such a way if those wanting to raise concerns about the reviews they undertake are left with nowhere to go and are effectively silenced. If Wales is to truly improve the culture of learning from child protection cases, I am requesting that Welsh Government considers reviewing this aspect of the Child Practice Review process and guidance.</p> <p>The change from Serious Case Reviews to Child Practice Reviews and the resultant update to the guidance was made around the time when the National Independent Safeguarding Board</p> | <p>The involvement of families and the role of the NISB have remained unaltered in revisions to the CPR guidance.</p> |
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| | | | (NISB) was being created. It may have been the understanding of many professionals that the NISB would have a scrutiny role over the regional boards; now that the Board has been formed we know that this is not the case operationally. In my view it may be appropriate for my request to form part of the NISB's thematic review as contained in their work plan for 2017-18; I have copied in the Chair for information. I will also raise this in my next meeting with the NISB in June 2017. | |
| 27. | 16.5.17 | Notes of HE lead officers stakeholder working group | <p>WLGA presented data that they had gathered from LAs.</p> <p>They found a rapid rise in EHE children, faster than in England. They identified key points for deregistration - years 10 and 11 accounted for around 50% of secondary school de-registrations. Spikes were identified in September and January.</p> <p>LAs were concerned about how to capture those 'known but never registered at school'.</p> <p>The CYSUR draft protocol was also presented, to form the basis of a national protocol.</p> | <p>CCfW were not invited to join this group until 2018.</p> <p>This is despite the guidance being reissued, as this issue had not been resolved.</p> |
| 28. | 6.6.17 | Extracts of response from WG to CCfW re. child practice reviews | I am grateful for your observations about the way family members are involved in child practice reviews where abuse or neglect of a child is known or suspected. | |

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| | | | <p>My officials are currently considering whether it would be appropriate to make more explicit the responsibility for ensuring family members are able to access swift and coherent resolution of differences with those taking part in reviews and multi-agency professional fora. As you acknowledge though, the primary concern must be to ensure that agencies are able to learn from and address circumstances in which things have gone wrong.</p> <p>I will ensure the matters you raise are shared with Chairs of Safeguarding Boards. I am also copying this letter to Margaret Flynn, Chair of the National Independent Safeguarding Board.</p> | <p>It is not within the gift of safeguarding boards or the NISB to change the wider issues around dissemination of learning.</p> |
| 29. | 7.9.17 | Pembrokeshire Local Authority Corporate Overview and Scrutiny Committee paper | <p>"In 2012 Welsh Government consulted on a compulsory registration and monitoring scheme but decided not to legislate and to develop non-statutory guidance on home education instead".</p> <p>The 2017 guidance is said to fall "well short of what is needed to safeguard the very small number of children who are not in school and can, in rare cases, remain out of sight of all statutory agencies"</p> | |
| 30. | 9.10.17 | CCfW annual report 2016/17 | <p>Recommendation - "It remains my view that the Welsh Government needs to amend the current guidance to give it statutory force and</p> | <p>WG response: (not available on WG website</p> |

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| | | <p>include a compulsory register for all home educated children to ensure they do not end up "off the radar" from even universal services. It is also important that the revision of the guidance includes clear powers for local authorities to ensure that they are seeing children and speaking to them directly about their own education".</p> | <p>but found within CCfW records) Welsh Government Response: Accept in principle The Welsh Government shares the Commissioner's concerns that no child should be invisible to universal and statutory services. Therefore, our approach needs to be holistic, not just looking at education, but we need to consider how safeguarding in all services and agencies can be strengthened.</p> <p>Our revised guidance on elective home education, published last January, forms part of a package of measures we are developing to support Local Authorities and the home educating community. As part of these measures we are considering the potential for</p> |
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| | | | | <p>introducing legislation. However, we want to be absolutely certain before any steps are taken to introduce new legislation that we have considered carefully how effective existing legislation and policies are in supporting Local Authorities and home educators to meet their responsibilities. In doing so we need to be assured that legislative proposals would be proportionate and necessary.”</p> <p>Note - the WG response recognises the need to strengthen safeguarding arrangements, but in future officials were careful to separate out safeguarding from education issues.</p> <p>There is no mention of children’s rights or the actions taken to respond to the Seabridge CPR.</p> |
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| 31. | 9.8.17 | Notes of HE lead officers stakeholder working group | Under an agenda item on safeguarding, it was observed that the fact that LAs are not required to have a dedicated EHE coordinator almost certainly leads to a variation in safeguarding practices. | CCfW were not invited to join this group until 2018. Revisions to the guidance would give the opportunity to address this point. |
| 32. | Oct 2017 | Publication of the NISB commissioned CASCADE report | <p>Selected findings -</p> <p>"Home educated children tend to have poorer access to both universal and specialist services that are provided for children in school"</p> <p>Home education was identified as a feature in 11 SCR/CPR (3 are from Wales - Flintshire, Conwy and Cysur)</p> <p>"It is evident that some home educated children are abused and neglected. We have no reason for believing this is any more - or less- common than in the general population"</p> <p>"It is clear that where children are maltreated it can be more difficult for this to be identified if a parent wishes to limit access to a child, and home education can and did contribute to that. Parents who are abusing or neglecting their children can, do and have used home education as one of the</p> | <p>The report was commissioned by NISB in February 2017. It is dated October 2017 but was actually published in mid-November 2017.</p> <p>The report directly links suitable education, seeing the child and UNCRC. On page 13 it is noted that questions around Dylan Seabridge's death were the "impetus" for the report to be commissioned.</p> <p>The recommendations are not binding on WG; it is unclear how they decided which aspects to accept and take forward.</p> |

ways of limiting professional contact and therefore protection".

Recommendation 1 is for "a significantly enhanced support service for home educated children".

Recommendation 2 "clearer assessment of the needs and well-being of home educated children"

- There should be a register of home educated children in a similar way to the school register.
- Assessments of children should be undertaken "at regular intervals" and should "involve children"
- RE. compulsory registration... **"a voluntary scheme would be unlikely to have protected Dylan Seabridge or other children known to have suffered serious abuse or neglect whilst home educated.** We therefore recommend that registration and regular assessment should be legal expectations for parents choosing to home educate.

The report also recommends an improved response where abuse/neglect *is* identified, and a role for Estyn to inspect LA provision to support and assess home education.
Page 48 - "it is likely that a genuinely supportive approach to home education would

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| | | <p>reduce the need for more authoritarian measures.”</p> <p>Page 49 - “Yet, while a more supportive approach to home education is crucial, it would be naïve to believe that this would resolve concerns about the safety and well-being of every home educated child. ”</p> <p>“A particular problem is that under current provisions there is no right to see a child”.</p> <p>It is noted to be “necessary to consider whether there are other measures that might increase the safety of home educated children”.</p> <p>There are advantages to a register, especially one linked to the provision of support, and it would allow services to plan and meet needs.</p> <p>Page 50 “professionals questioned whether children who are nominally home educated but are not in fact receiving an education at home can be identified if they are not seen by professionals. This is a powerful point. We also do not believe it is consistent with the UNCRC...”</p> <p>The conclusion asks whether Wales’ liberal approach and non statutory guidance are “because this is in the best interests of the children, because Wales does not wish to</p> | |
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| | | | <p>provide the resources to work more effectively with home educated children or because home educating parents are one of the most effective lobbying groups in the UK.”</p> <p>Without a register and children being seen, “the danger is that the relatively small number of children experiencing serious abuse or neglect – children such as Dylan Seabridge – would continue to be invisible and unheard.”</p> | |
| 33. | Oct 2017 | National Independent Safeguarding Board (NISB) briefing on the CASCADE report | <p>CCfW have had sight of a briefing that was sent to :</p> <p>Cabinet Secretary for Health and Social Services Minister for Children and Social Care Cabinet Secretary for Education</p> <p>The briefing highlights the need for a new approach in Wales, based on the principles of the Social Services and Well-Being (Wales) Act 2014.</p> <p>The Board asked Ministers to give detailed consideration to the report findings and recommendations.</p> | We have been unable to ascertain how WG Cabinet Ministers responded to and considered the findings and recommendations highlighted in the briefing. |
| 34. | Oct 2017 | ADCS EHE analysis for England | <p>“many noted the absence of a registration requirement hinders the fulfilment of LA statutory duties to identify children who are</p> | This relates to England only but reflects the same position and |

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| | | | <p>not receiving a suitable full-time education and to safeguard them".</p> <p>"when the LA is denied the opportunity to see and speak to a child this is when the greatest concerns arise".</p> <p>One respondent LA commented "just to note that the numbers of children known to be educated at home are probably equalled in number by those educated at home within the LA who remain, quite lawfully, un-registered with the LA."</p> <p>"despite several SCR recommendations and the potential/reality of children not being known - the current legislation enables parents to remain under the radar and/or just provide a philosophy which may have been printed from the internet"</p> | <p>concerns as here in Wales.</p> |
| 35. | 12.12.17 | Letter from Pembrokeshire County Council to CCfW | <p>EHE was discussed by the Committee on 21.9.17 and 7.12.17. A letter also sent to the WG on the matter in September.</p> <p>"On behalf of the Committee I write in support of your position that parents or carers should register their intention to education their children at home and for children to be seen and listened to by a professional. The Committee strongly believes the current guidance is weak and</p> | |

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| | | | <p>does not allow a child to be seen or its voice heard."</p> <p>"Visits to home educated children should take place at least annually to ensure the voices of these children are heard and so that no child is lost within the system".</p> <p>"The wellbeing and rights of a child must take priority over the opinion and values of parents or guardians".</p> | <p>The current legal framework does not allow/ensure that this happens for all families.</p> |
| 36. | 13.12.17 | <p>Oral question from Llyr Gruffydd to Kirsty Williams, Minister for Education</p> | <p>LlG: 4. Will the Cabinet Secretary make a statement on home-schooled children? OAQ51462</p> <p>KW: Diolch yn fawr, Llyr. The Welsh Government respects the choice that some parents make to home educate their children. I'm considering how we can strengthen the support available to the home-educating community, not just limited to education support and services, but to include universal and specialist support services, where appropriate.</p> <p>LlG: You tell us you're considering it—I'm afraid it's been considered for a very long time now, and we know that the child practice review report published last year into the Dylan Seabridge case recommended firmly that changes in legislation were needed to require parents to register with a local authority children who are receiving home education,</p> | |

and also to ensure that those children are seen and spoken to annually. We're all aware that the Children's Commissioner for Wales has consistently also been calling for the current guidance to be given statutory force and for it to include a compulsory register for all home-educated children, with clear powers for local authorities to see those children and to speak to them directly about their education. Most recently an evidence-based review on the risks to children who are educated at home commissioned by the national safeguarding children board gives a damning verdict of the status quo, and has called for home-educated children to be registered and regularly assessed. I know local authorities as well have been calling for this and, as you recognise, we also recognise that parents have the right to choose to educate their children at home rather than at school, and home education isn't in itself a risk factor for abuse or neglect. You say you're considering the matter. Well, do you not agree that whilst there's any possibility that a child can become invisible and of another Dylan Seabridge being out there somewhere we need greater action and leadership from this Government? Can you tell us: when will you be taking definitive action?

KW: Thank you, Llyr. I think it is important that you said that being home educated in

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| | | <p>itself is not an indicator for risk or abuse to children. The Welsh Government did publish revised non-statutory guidance in January of last year, but you will be aware that I have accepted in principle the Children's Commissioner for Wales's recommendation for a statutory elective home-education register. Officials are currently working on the further detail of how that can be taken forward. But I have to offer a word of caution: that register would only apply to children of a statutory school age, and it cannot and it will not be the answer to those children who are unseen by the system, because even a register that is brought forward would only apply to children from the age of five and, potentially, there are children who could spend the first five years of their life unseen by services. And I think, whilst we can move forward in this regard, we have to be mindful that this is not the sole answer to the issue of safeguarding children whose parents, for whatever reason, are determined to keep them hidden from authority.</p> <p>Nick Ramsay: Cabinet Secretary, I'm pleased that you said that you respect the decision of parents who do wish to home school their children. It is a viable legal option and works very well in many cases. But you're also quite right to point out concerns that children who are home schooled need to be</p> | <p>It is interesting to note the use of the term "register" here as the WG has repeatedly insisted to CCfW that it is not their intention to create a register. Their response to CCfW annual report refers to measures and legislation only, not a register.</p> |
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| | | <p>monitored in the same way as children who can also disappear from the system when they're actually in what you would call a conventional school environment. Given what you've just said about the way that a register may well miss some of those children, what other potential is there for making sure that children—I think under the age of five you mentioned—don't slip through the gaps, whether they're in conventional schooling or home schooling, and that we are looking out for all our children?</p> <p>KW: The reason I mentioned the issue of potential gaps is because the powers that we have would allow—and they're existing powers, it should be said, for local authorities to satisfy themselves that children are in receipt of an adequate education. Those powers already exist, and I have given additional resources to local authorities to gain a greater understanding of the level of elective home education in their own areas and the reasons why parents choose it. Clearly, there will have to be measures undertaken by other Cabinet colleagues to look to safeguard those children who are below a statutory education age, and that's why, only last week, I, myself, and the Minister for children met with the national safeguarding board to discuss options with</p> | <p>The reference to existing powers is in conflict with WG contemporaneous assertions that they were considering further legislation at this point.</p> |
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| | | | regard to children under the statutory education age. | |
| 37. | 18.12.17 | Written question response from Kirsty Williams (Minister for Education), from Simon Thomas AM | <p>WAQ75408</p> <p>Question (12.12.17) What steps is the Welsh Government taking to protect home-educated children in Pembrokeshire?</p> <p>KW Response: I am committed to ensuring all children in Wales receive a suitable education, are safeguarded and have the opportunity to benefit from universal services.</p> <p>I have accepted, in principle, the recommendation by the Children's Commissioner for Wales for a statutory register for home-educated children and will be working with the Commissioner to take this forward.</p> <p>To help support local authorities identify home-educated children in their area, I will be challenging current ways of working to ensure we maximise opportunities for further strengthening collaborative approaches to protect the rights of these children to receive an education and to be safe.</p> <p>CYSUR Safeguarding Children Board has been working to develop a regional response to safeguarding electively home-educated children and officials are in regular contact with the Board to assist its implementation.</p> | |

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| | | | National safeguarding practice guidance in relation to electively home-educated children will also be developed. Keith Towler from the National Independent Safeguarding Board has agreed to chair a multi-agency task and finish group to lead this work early next year. | This guidance was to form part of the Wales National Safeguarding Procedures - non statutory guidance. |
| 38. | 4.1.18 | Western Mail article "Wales to register children who are schooled at home" | The article stated in the opening line that "a statutory register for the nearly 2,000 home-educated children in Wales is to be set up by the Welsh Government". | CCfW contacted WG on 5 th January to follow this up. CCfW were advised that the article was misleading and incorrect. Work was ongoing to feed into the Wales National Safeguarding Procedures and would reflect the current legal position; a practice guide of this nature could not make such a legislative change. |
| 39. | 16.1.18 | Cabinet minutes | 4.1 The Cabinet Secretary for Education introduced the paper, which asked Cabinet to agree that existing legislation should be utilised to assist Local Authorities in identifying compulsory school aged children who were not registered at a school, not in | CCfW have not seen the paper that was discussed in this meeting. |

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| | | <p>education otherwise than at school, and not receiving a suitable education.</p> <p>4.2 The Welsh Government respected the decision by some parents to educate their children at home, but this choice would need to be balanced against the rights of children to receive a suitable education.</p> <p>4.3 While there was no systematic way of ensuring that no child remained invisible to services, there were actions the Government could undertake which would reduce the opportunities available to those who wished to conceal children from public services, or to abuse or neglect them.</p> <p>4.4 The approach outlined in the paper was primarily about helping to ensure all children received a suitable education, while providing Local Authorities with a greater level of assurance of the wellbeing of home educated children.</p> <p>4.5 The issues regarding elective home education were well documented and contentious. It was accepted that while many home educators would be strongly against these proposals, others would recognise the importance of the action being taken by Government. For example, additional support would be developed, including help with registering for exams and by making Hwb, the</p> | <p>It is welcome to see reference to the need to balance rights considerations. It is unclear however how these children's rights considerations are taken forward by WG proposals.</p> <p>It is not clear the weighting given to these differing views or the influence that these views ultimately had on the decision of WG.</p> <p>The support package proposed alongside the 2019 consultation did</p> |
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| | | | <p>all Wales learning platform, available to all elective home education children.</p> <p>4.6 Cabinet welcomed the paper and agreed that it must be made clear that the Government was not against home education, but there was a need to stress the importance of advising Local Authorities to ensure that such children were able to access suitable support and were able to obtain recognised qualifications.</p> <p>4.7 Furthermore, such an approach would help ensure that those children receiving home education were also able to benefit from key Government initiatives and services.</p> <p>4.8 Cabinet approved the paper.</p> | <p>not entail login access to Hwb and the software it hosts (for example Office 365/Adobe Spark/Google Classrooms). The Home Educator's Handbook only highlighted access to the Hwb website, which is available to all the public.</p> |
| 40. | 17.1.18 | CCfW joint meeting with Ministers for Health and Education, Vaughan Gething and Kirsty Williams | <p>The agreed agenda included :</p> <p>Cross governmental working on whole school approaches to mental health and wellbeing; and Elective home education and safeguarding.</p> | <p>There was a difficult discussion at this meeting, as the two Ministers disagreed with CCfW concerns regarding lack of effective join up on these cross cutting issues.</p> <p>CCfW raised this matter further with the Permanent Secretary and the Head of the Cabinet Office, at the Joint</p> |

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| | | | | <p>Ministerial advisory group on mental health and at other relevant fora.</p> <p>It was subsequently accepted several months later that work by health and education departments <i>had</i> been undertaken separately and a single team was set up to work on the Whole School Approach.</p> <p>Concerns in relation education and safeguarding joint working remain largely unaddressed, as a joint working group was set up but not all of the work of the group has been able to progress because of the home education proposals not being taken forward.</p> |
| 41. | 30.1.18 | WG Written statement | Support for home educators will include help with exam registrations, the same health offers made to children in school, access to Wales' digital learning platform Hwb, exploring opportunities for home-educating | Help with exam registrations is done at a local level by some LAs but was not part of the support package |

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| | | <p>families to learn Welsh and support from Careers Wales.</p> <p>The Education Secretary has also announced that she intends to consult on using existing legislation to require local authorities to establish a database to assist them in identifying children not on a school register, not in education otherwise than at school and not receiving a suitable education. At the same time the Cabinet Secretary will consult on statutory guidance setting out the arrangements for the operation of the database and how it will be managed.</p> <p>The consultation will consider which partners will be able to contribute to providing the most complete database, such as local health boards, and whether independent schools should be required to tell local authorities about the pupils who attend those schools.</p> <p>The above powers could not be used to compel a parent to register that their child is being home-educated. However, the powers would enable the local authority to compile a reasonably complete database of children not on any local authority education or independent school register.</p> <p>The statutory guidance will outline the arrangements local authorities will be</p> | <p>proposed alongside the 2019 consultation - The home educators' handbook made it clear that families will still need to meet the costs of exams themselves and will still need to themselves contact examination centres to make a request to enter a private candidate.</p> <p>As above, the support package proposed alongside the 2019 consultation did not entail login access to Hwb and the software it hosts (for example Office 365/Adobe Spark/Google Classrooms). The Home Educator's Handbook only highlighted access to the Hwb website, which is available to all the public.</p> <p>Is a "reasonably complete" database a sufficient response to the Seabridge CPR,</p> |
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| | | <p>expected to put in place to identify home-educated children, and to assess the suitability of education.</p> <p>In order to be able to make an assessment the education is suitable, it would not be unreasonable for the local authority to see the child. This will be for the local authority to decide and will be influenced by a number of factors including the context and circumstances surrounding each individual child.</p> <p>The statutory guidance will provide clear advice to local authorities on this matter.</p> <p>The Education Secretary will announce further details to the National Assembly for Wales in a statement this afternoon.</p> <p>Announcing the plans today, Kirsty Williams said:</p> <p>I fully respect the choice of parents to home educate their children and nothing I am considering or proposing changes that. There are many valid, different and sometimes complex reasons why parents would choose to go down this route and in some cases this will be the best choice for the child.</p> <p>But this choice must be balanced with the right of children to receive a suitable</p> | <p>previous consultations and CCfW recommendations?</p> |
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| | | <p>education. Local authorities, by establishing a database supported by statutory guidance, will be able to assess whether a child is receiving a suitable education and, if they are educated at home, that home educators have the support they need.</p> <p>I know that home-educating families in Wales have previously had limited and varied levels of support from local authorities, and no support from the Welsh Government. I want that to change.</p> <p>That's why we're developing a package of educational support that includes making Hwb available to home-educated children, help with exam registrations, and exploring options for home-educating families to learn Welsh and a clear offer of support from Careers Wales.</p> <p>Balancing the right of the child to receive a suitable education with the choice of parents to home-educate is always going to be a challenge, but I believe the plans we will consult on represent a sensible and proportionate way forward."</p> | <p>At this stage there was over three years of the Assembly Term remaining which could have given sufficient time to progress primary legislation</p> <p>Some extra funding was made available to LAs for the 19-20 and 20-21 financial years and they could have used it for exams, but no long term change was integrated into these proposals.</p> <p>It is positive to see children's rights referred to in this statement. However, it is not possible to ascertain whether or to what extent the Government considered taking forward stronger proposals in order to give greater effect to children's rights and deliver upon their acceptance of CCfW</p> |
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| | | | | <p>annual report recommendations.</p> <p>The Cabinet Secretary mentioned the Cascade report as a contributing factor to this statement, and also recognised the limitations or challenges faces by local authorities.</p> <p>No progress or changes have been made since this statement was delivered so these challenges, described as "simply not acceptable" here, have not been adequately addressed.</p> <p>Consultation was expected in "spring 2019" and a clear indication that this course of action would allow swift action to be taken.</p> <p>The Cabinet Secretary acknowledged that it is not possible to know the size of the home</p> |
| 42. | 30.1.18 | <p>Plenary statement - extracts</p> | <p>LAs "currently have powers in relation to school attendance, but there is a challenge for them being able to identify children not registered at a school or receiving a suitable education otherwise at school".</p> <p>Being unable to provide reliable figures on EHE is described as "simply not acceptable".</p> <p>LHBs are noted as a potential partner to provide "the most complete database".</p> <p>"This approach will allow us to test the limitation of existing legislation and we can commence work immediately on developing the regulations and the statutory guidance".</p> <p>In response to Darren Millar AM's contribution -</p> <p>"Darren did ask a genuine question about the fact that, 12 months ago, we did non-statutory guidance and why move. Well research in this field is continually being developed, so we have been in receipt of the Cascade report that has been done that identified yet again that we really do not have a handle on the size of the home-educating population. We don't know what's going on..."</p> <p>In response to Llyr Gruffydd AM -</p> | |

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| | | <p>“When considering the approach, I have indeed looked at the legal obligations that we as Welsh Government are under, and that includes the UNCRC. Improving outcomes for all learners, whether electively home educated or in mainstream education, I believe, contributes to article 3, article 4, article 5, article 12, and articles 18, 19, 24, 28 and 29 of the UNCRC and we will continue, as we develop the statutory guidance, to ensure that a full children’s rights impact assessment is carried out at those stages. Certainly, those have been at the forefront of my consideration in looking at these issues.”</p> <p>Why not a register - “Well, a compulsory register - a compulsory register that would potentially criminalise parents if they failed to register - relies on those parents to do that. The issue is that that legislation would only be as good as our ability to enforce it which means you need to know who hasn’t registered”.</p> <p>“By placing the requirement on local authorities rather than parents, I think that gives us the best possible chance of identifying as many children as possible”</p> <p>“we’ll be working across Government with colleagues in health”</p> | <p>educating community. This will continue unless/until further measures are introduced.</p> <p>Naming articles of the UNCRC does not equate to due regard to children’s rights, as this requires consideration of how those articles are affected for different groups of children, and how any other articles that might be negatively impacted are analysed and actions can be mitigated around this.</p> <p>The Cabinet Secretary committed to ensuring a full CRIA would be carried out.</p> <p>By not introducing these proposals, this chance has been lost.</p> |
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| | | | <p>"This approach allows us to act now, whereas primary legislation would take longer, and again this is a consideration".</p> <p>"Does this mean we see a child? I don't think it would be possible to make an informed judgment about whether a child is in receipt of an adequate education without seeing a child, and we'll be working on how that should be approached <u>via the statutory guidance</u>"</p> <p>"I think most people out there will probably be surprised, listening to this debate or watching the news this evening, that we don't already do it - we don't already have this information. It's just knowing where those children are and being able to satisfy ourselves that those children are in receipt of a suitable education, balancing the rights of parents, but also the rights of the child."</p> | <p>The Cabinet Secretary expressed a clear view that seeing the child is necessary to assess suitable education. It is unclear whether advice to her already advised that this would not be able to be achieved for every child without taking forward primary legislation.</p> |
| 43. | 1.2.18 | ADSS Cymru media release | <p>Social Care leaders welcome Government's move on home schooling but 'more' needs to be done</p> <p>Commenting on the Welsh Government's announcement that while they will strengthen the policy and legislative framework around home educated children, they will not develop</p> | |

a statutory register, the President of ADSS Cymru, Dave Street said:

"We welcome the commitment from the Cabinet Secretary to introduce statutory guidance and we would be willing to offer our members' expertise to help develop those proposals in greater detail.

"However, while this is a positive step forward, in our professional view, more must be done.

"There is at present, an absolute consensus across education and social care leadership that children in Wales would be best safeguarded by a requirement to have their wishes and feelings considered in relation to their education and that ultimately, they should be on a register.

"This would give the best possible chance to prevent any single child slipping through the net."

Jake Morgan, Director of Community Services at Carmarthenshire County Council and ADSS Cymru's strategic lead on this issue, added:

"We welcome the opportunity to work with government on refining these proposals that

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| | | | <p>should better support children who are educated at home.</p> <p>However, we will be disappointed if the final result falls short of what has been recommended by the National Independent Safeguarding Board for Wales's comprehensive review into this important area of policy."</p> | <p>The draft statutory guidance and database regulations (2019/20) would have fallen short of the NISB recommendations. In the end even that has not progressed and the regulatory position remains unchanged.</p> |
| 44. | Feb 2018 | CCfW response to the Education Minister's announcement | <p>"In calling for more statutory regulation of elective home education in Wales I have had three aims. Firstly, that for all children in Wales can be accounted for and that none slip under the radar of universal services, and society in general. Secondly, that every child is receiving a suitable education and their other human rights including health care and safety. This cannot be achieved without the third aim, that every child should have the opportunity to be seen and their views and experiences listened to.</p> <p>"I am encouraged by the Welsh Government's acknowledgment that the current system does not ensure all children in Wales have a suitable level of education and that all children in Wales are protected. But currently, without the details, my calls to the Government remain the same.</p> | |

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| | | | <p>"I will expect to see a detailed Children's Rights Impact Assessment of these proposals and if this assessment demonstrates that the proposed measures do not achieve the goals I have set out then I will expect the Government to consider further measures, including new legislation. If that does not materialise, I have made it clear to Government that I will consider using my statutory powers to review their decisions.</p> <p>"I also look forward to seeing further details of how local authorities will be funded to carry out the very welcome package of support for home educated children and their families."</p> | |
| 45. | 20.2.18 | <p>Answers to written questions from Lynne Neagle AM (Chair of CYPE Committee)</p> | <p>When does the Cabinet Secretary intend to publish the consultation on elective home education? WAQ75928</p> <p>Does the Cabinet Secretary intend to publish a child rights impact assessment at the same time as the consultation on elective home education is published? WAQ75929</p> <p>Kirsty Williams: Before the end of this calendar year I intend publishing the consultation on using existing powers to require local authorities to establish a databases to assist them in identifying children not receiving suitable education,</p> | <p>The consultation was published towards the end of 2019, so almost a year of delay.</p> |

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| | | | <p>and on draft statutory guidance on the use of the database.</p> <p>I will publish a CRIA at the same time as the consultation document.</p> | <p>A CRIA was published with the consultation.</p> |
| 46. | 20.2.18 | <p>Written Questions responses to Mohammed Ashgar AM from Kirsty Williams, Cabinet Secretary for Education</p> | <p>WAQ75909 Tabled 13/02: What plans does the Welsh Government have to introduce compulsory registration of elective home education children?</p> <p>WAQ75910 Tabled 13/02: What safeguards are there to prevent intrusive monitoring of elective home education children by local authorities?</p> <p>Answered 20/02: The Welsh Government has no plans to introduce compulsory registration of electively home educated children. On the 30 January I announced plans to consult on using existing powers to require local authorities to establish a database to assist them in identifying children not receiving suitable education. The consultation will also consider which partners will be able to provide the most complete database, such as local health boards. To support local authorities in the operation of the database and in the arrangements to assess the suitability of education to children on the database, I will consult on statutory guidance to be issued to local authorities. The statutory guidance will include advice</p> | <p>This response does not mention consideration of further steps including the introduction of new legislation if this approach were deemed to be unsuccessful or ineffective in addressing the identified concerns.</p> |

for local authorities on making assessments regarding the suitability of education. This will ensure the approach is consistent, fair and transparent across Wales.

My full oral statement can be found at the link below.

Local authorities are under a duty to make arrangements to identify children not receiving a suitable education. Local authorities can make reasonable requests of home-educating parents to see examples of learning, such as projects, assessments etc. Parents have no legal duty to respond to such queries and they do not have to meet with or accept visits by local authority officers, they do not have to follow the national curriculum, nor provide formal lessons. The education provided must be suited to the individual child's age, aptitude, ability and special educational needs. Many parents, in consideration of their rights and responsibilities, already share with local authorities' information regarding the education provision they provide their children. It is up to the local authority to decide if they are satisfied that the education provided is "suitable". If it appears to a local authority that a child of compulsory school age in their area is not receiving a suitable education they shall serve a notice in writing on the parent

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| | | <p>requiring him to satisfy them within the period specified in the notice that the child is receiving such education.</p> <p>It is too soon to determine the exact costs of requiring local authorities to establish a database. However my officials have commenced work on a cost benefit analysis encompassing both the development of the database and a range of broader assessment arrangements and requirements which could be placed on local authorities. The cost benefit analysis will provide a range of options to inform how the database and statutory guidance will function. It will also explore the cost implications for other partners.</p> <p>Local authorities can already, if they so wish do so, provide training and support to parents or careers who choose to home-educate. However, local authorities are not responsible for the provision of home education or under any statutory obligation to financially support home-educated children. That said, they should, where possible, promote access to learning opportunities open to all children and young people in their area. Some local authorities provide links to youth support services, through information packs to home-educating parents. Others promote access to specialist</p> | |
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educational support services, such as education psychology and school nurses.

During my plenary statement on the 30 January I announced my intention to strengthen the support available to home educators, by developing a package of educational support. This package will include making Hwb available to home-educated children, additional learning needs support, help with exam registration, and exploring options for home-educating families to learn Welsh and a clear offer of support from Careers Wales. Some local authorities have encouraged and facilitated home-educators to take part in local authority training, such as safeguarding. Some home-educators have trained to become exam invigilators with the help of FE colleges and local authorities. As we develop the statutory guidance we will explore with local authorities and other agencies how we can develop consistent offers of training to home-educators.

<http://record.assembly.wales/Plenary/4901#C56758>

WAQ75911

(Tabled 13/2): How do local authorities in Wales assess the progress of elective home-educated children?

Answered 20/2: As above

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| | | | <p>WAQ75912 Tabled 13/2: What assessment has been made of the cost to local authorities of a system to assess and monitor every elective home educated child in Wales?</p> <p>Answered 20/2: As above</p> <p>WAQ75913 Tabled 13/2: What plans does the Welsh Government have to allow local authorities to provide training to parents or carers who choose to home educate their child?</p> <p>Answered 20/2: As above</p> | |
| 47. | 12.3.18 | Meeting of the HE lead officers stakeholder working group | <p>These minutes state "we hope to begin the formal consultation before the end of the year".</p> <p>4.7 "[official] confirmed when developing the statutory guidance Welsh Government will also develop a cost benefit analysis"</p> <p>4.8 the statutory guidance will include advice on a suitable education. "[official] recognised that providing advice on suitable education was going to be a challenge".</p> <p>Item 5 - analysis of EHE Data. 5.6 "[LA official] suggested that we should include whether the child has had a visit in the last 12 months - this would show levels</p> | <p>This is the first meeting CCfW were invited to attend, as observers.</p> <p>In the discussions about the statutory guidance, there was no mention by WG of seeing or speaking to children about the suitability of their education.</p> <p>Item 5 - anxiety is noted as one of the reasons for deregistration. This</p> |

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| | | | <p>of engagement. whether the child has been seen should also be included.</p> | <p>highlights the needs of young people withdrawing from school and the importance of them having support around them.</p> <p>This was the second time that this group raised the importance of seeing the child.</p> |
| 48. | 15.5.18 | Meeting of the HE lead officers stakeholder working group | <p>7.5 Data sharing - "the group discussed local authorities sharing data when they are aware of a EHE child being moved across local authority borders. This is already common practice within some local authority areas".</p> <p>9.9 "the statutory guidance should also reference cross border between local authority areas in Wales not just cross border with England."</p> <p>Developing previous discussions on the child being seen, WLGA suggested where a child has not been seen, the reason should be recorded by LAs (8.4.ii page 9)</p> <p>School attendance orders</p> <p>9.12 SAO are described as "a tool that must be used". "if there was an incident involving a child and the local authority</p> | <p>The minutes suggest that not all LAs routinely share data when a child moves to a new area. Cross border concerns were regularly raised in this and other fora but were not adequately addressed in the 2019/20 proposals.</p> <p>This does not recognise the practical challenges that LAs have referred to in progressing SAOs. In particular the absence of evidence of a suitable education cannot be asserted as evidence that there is</p> |

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| | | | <p>didn't use their powers appropriately to issue a school attendance order there will be a lot of questions regarding why.</p> <p>Review of guidance - 10.1 [official] started by acknowledging the criticism with the current non-statutory guidance. Following amendments and full consultation, the guidance will become statutory with some areas included which will remain non-statutory.</p> | <p><u>not</u> a suitable education taking place, which is a significant barrier when access is prevented (which is within compliance with the current legal framework).</p> |
| | 25.5.18 | <p>Meeting note CCfW/WG (not published, internal CCfW note)</p> | <p>Consultation target date is now February 2019.</p> <p>CCfW outlined two issues: * Child must be seen * Need to establish where they are to be seen</p> <p>WG official advised that not every child would be seen. Gave an example (which admitted was extreme) of terminally ill children. CCfW challenged this and did not believe that there appears to be any justification bar this very specific circumstance.</p> <p>CCfW emphasised that being seen to establish any health and education needs must be statutory to uphold all children's rights.</p> <p>WG official believed that ensuring children are seen does not have to be through</p> | <p>This is the first time that limitations to the statutory guidance proposals were properly raised with CCfW, as well as a delay to the consultation timeline.</p> |

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| | | | statutory guidance, but through better join up between services, and external organisations have responsibility here. CCfW disagreed with this. | |
| 50. | May 2018 | Introduction of the Home Education (Duty of Local Authorities) Bill (UK House of Lords) | Proposed clause as introduced: "A parent of a child receiving elective home education must register the child as such with their local authority. | This Bill purported to cover England and Wales; it appeared to be a part of the Education Act that remains at a UK level and isn't devolved. It was not supported by the UK Government. The Welsh Government did not publicly express a view in relation to this Bill. The Bill did not progress. |
| 51. | 11.6.18 | CCfW letter to WG official as follow up to the 25 th May 2018 meeting | You will be aware that I have already made a number of key calls for Welsh Government to improve the support and protections available to this particular group of children. These include: <input type="checkbox"/> Establishing a mandatory register of children in receipt of elective home education; <input type="checkbox"/> Strengthening local authorities' powers to enable them to appropriately establish | The three tests of a mandatory way to account for all children, suitable education and access to rights, and being seen and spoken to, have been consistent calls from CCfW. |

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| | | <p>whether children are receiving their right to education;</p> <ul style="list-style-type: none">□ For the voices of children and young people to be heard in the decisions that will affect them. <p>While I acknowledge Welsh Government is to make use of existing legislation to improve the home education system, I remain concerned about the lack of progress made since I came into Office. You will be aware that I have already considered making use of my powers to review the government's decision-making in relation to children's rights in this area of policy. This remains.</p> <p>In developing new policy, I will have three tests for improvement:</p> <ul style="list-style-type: none">□ Firstly, that all children in Wales can be accounted for and that none slip under the radar of universal services, and society in general.□ Secondly, that every child receives a suitable education and their other human rights, including health, care and safety.□ This cannot be achieved without the third aim, that every child should have the opportunity to be seen and their views and experiences listened to. <p>I am currently finalising my Annual Report, within which I'll be rating Welsh</p> | |
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| | | | <p>Government's progress in relation to this work. As such, I would be grateful if you could provide me with a written update outlining Welsh Government's plans and timescales for home education by 25 June. I would particularly like reassurance that the government is progressing plans for every child in elective home education to be seen and listened to.</p> | |
| 52. | 19.6.18 | <p>CYSUR letter to the Cabinet Secretary for Education</p> | <p>"As you know, CYSUR has strongly advocated for the introduction of new legislation in Wales to better support and safeguard children who are electively home educated. This followed the circumstances surrounding the tragic death of Dylan Seabridge".</p> <p>"As a Board, however, we feel that the decision not to introduce a compulsory register for children who are EHE, supported by a stronger legal framework, is a significant missed opportunity to offer more robust safeguards to a small number of unseen children who may be at risk of significant harm."</p> <p>"Proposal to introduce local databases, as outlined in your statement, will do little to assist professionals in identifying the need to undertake formal assessments for Care & Support or statutory Child Protection Investigations."</p> | <p>This is another reminder of the lack of action or progress in response to the Seabridge CPR.</p> |

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| | | | <p>The letter refers to an “overwhelming consensus from all safeguarding professionals” on the deficits in the current legal framework, referencing CASCADE and the CPR.</p> <p>“Mid & West Wales Safeguarding Board maintains its position that Welsh Government current proposals fall short of what is needed to adequately safeguard the very small number of children not visible to services, who may be at risk of significant harm”.</p> | |
| 53. | 28.06.18 | <p>Letter from WG official in response to CCfW letter of 11th June</p> | <p>“You will be aware that the Cabinet Secretary for Education issued an oral statement on 30 January outlining her commitment to strengthen the policy and legislative framework around home education.</p> <p>In her statement, the Cabinet Secretary announced her intention to consult on the requirement for local authorities to establish a database and accompanying statutory guidance to assist them in identifying children not receiving suitable education. Whilst it would not be appropriate to pre-empt the outcome of the consultation, I can assure you that we intend to consult extensively and to include home educated children as far as possible.”</p> <p>“The statutory guidance will set out the arrangements local authorities will be</p> | <p>The letter does not directly address the points about children needing to be seen to express views on their education (as well as to make sure they are happy and safe). Reference to the need for a range of agencies to contribute, and to broad and generalised participation duties on local authorities does not address the CCfW three tests.</p> <p>The participation duty in the Children and Families Measure does</p> |

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| | | <p>required to put in place for the operation of the database and how it will be managed as well as the activities local authorities will need to carry out in order to identify home-educated children not known to them, and not receiving a suitable education.”</p> <p>“Our primary policy objective with our proposed approach is to assist local authorities in undertaking their duties under section 436A of the Education Act 1996 to identify children not in receipt of suitable education and to take appropriate action to rectify this situation; in developing this approach there are a number of fundamental considerations not least to say the rights of the child to be heard and to be safe. We believe that current legislation provides us with scope to resolve the above issues. Section 29 of the Children Act 2004 has not previously been used to establish a database in Wales and we feel it is important to test the effectiveness of this, coupled with new statutory guidance, before considering whether a different approach, requiring primary legislation, would be more appropriate. We believe our proposed approach via secondary legislation is both proportionate and reasonable. To underpin this approach we will be strengthening and developing further the support available to meet the needs of the home educating community.</p> | <p>not relate specifically to EHE and doesn't guarantee that every child is seen/spoken to so this doesn't address the test.</p> <p>CCfW were concerned at lack of progress and this was not alleviated by the delays to the consultation process, and which ultimately led to the proposals being stopped in 2020.</p> |
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| | | | <p>"The Cabinet Secretary for Education has been adamant these proposals are a priority and are progressed as quickly as possible".</p> <p>"In terms of ensuring the voices of children and young people are heard in decisions affecting them, there is already a duty on local authorities to enable this. Local Authorities have a duty to promote and facilitate participation by children and young people in decisions which might affect them. The legal basis for this duty is Section 12 of the Children and Families (Wales) Measure 2010."</p> <p>"The Welsh Government is committed to supporting a child's right to an education, to be heard and [to be] safe. In developing regulations and statutory guidance these rights will remain at the forefront of our thinking".</p> | <p>The proposals have not been prioritised at any stage within the Assembly term, with delay at every stage and ultimately the proposals were withdrawn in mid 2020.</p> <p>The WG has not taken all necessary steps available to it to support this right and is therefore not <i>demonstrating</i> their regard for children's rights in Ministers exercising their functions.</p> |
| 54. | 4.7.18 | Letter from CCfW to Cabinet Secretary for Education | <p>"Despite having met with officials and followed up those discussions via this correspondence, I am still yet to receive clear assurance on whether or not the Welsh Government's policy intention is that home-educated children will be routinely seen and spoken to in relation to their education.</p> <p>As you know, my three key tests for the policy are:</p> | |

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| | | <p><input type="checkbox"/> Firstly, that all children in Wales can be accounted for and that none slip under the radar of universal services, and society in general.</p> <p><input type="checkbox"/> Secondly, that every child receives a suitable education and their other human rights including health, care and safety.</p> <p><input type="checkbox"/> This cannot be achieved without the third aim, that every child should have the opportunity to be seen and their views, including their views about their education, and experiences listened to.</p> <p>The response of 28th June refers to giving 'consideration' to these tests, but does not make explicit what the policy intent will be in relation to this matter.</p> <p>As you are aware this has been an issue of some concern to me for a number of years, as raised in previous meetings and noted in both my annual reports since I came into post. I am currently preparing my annual report for 2018-19 and have little to report in terms of progress on the three tests above.</p> <p>I am not alone in holding these concerns; the Association of Directors of Social Services Cymru and the Association of Directors of Education in Wales have both come out strongly on this issue, as they believe they need greater support and powers in order to be able to see children, which is fundamental</p> | |
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| | | <p>to ensuring that they are in receipt of a suitable education.</p> <p>Often when I talk about the need for children to be seen, the response is that this is a safeguarding issue and that all agencies need to play a role in this. I wish to make it clear that children having the opportunity to be seen and have their views heard is equally important in relation to their education provision and is not automatically related to safeguarding concerns.</p> <p>I have not been prescriptive as to who should see the child, and this is the sort of matter that could rightly be included as part of the consultative work. I am clear, however, that there needs to be a firm statement of policy intent on children being seen and listened to, in order for this policy to support and reach all home educated children and their families.</p> <p>Similarly to the recent consultation on the removal of the defence of reasonable punishment from law, the consultation should set out the clear children's rights issues and aims of the policy changes, and then consult on how to operate the policy, including seeing children, rather than whether or not to do so.</p> | |
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I also have concerns about the safeguarding aspects in relation to home education; we know from the most serious cases that when children are invisible to all services, the consequences can be extreme. I have continued to discuss the safeguarding aspects with the Minister for Children, Older People and Social Care and have copied the Minister into this letter for that reason.

I am aware that the Mid and West Wales Safeguarding Board has written to you on 19th June on the topic of safeguarding and home education, and that the Board maintains its position that Welsh Government's current proposals fall short of what is needed to adequately safeguard the very small number of children, not visible to services, who may be at risk of significant harm.

As you know from previous meetings and as stated in my scrutiny session before the Children, Young People and Education Committee on 18th October 2017, I have been keeping this policy area under review to ensure that actions are taken swiftly to ensure that children's rights are being upheld. I remain of the view that this is an area in which I will exercise my statutory powers unless sufficient progress can be made, with firm assurances on the Welsh Government's policy intent.

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| | <p>I have been calling for action in this area since 2015. There has been little progress in real terms since the formal statement in January 2018, and I now understand that the consultation will not take place until spring 2019. The recent correspondence states that this is a 'priority' and should be 'progressed as quickly as possible', but as at July 2018, I am unclear what the policy intent will be and whether or not children will be seen and consulted as part of ensuring that they have a suitable education, or adequately safeguarded.</p> <p>To that end I have been working with the law firm that advises my office and I am at the point of drafting Terms of Reference for a Review of the Welsh Government's exercise of their functions on this matter, using the powers in section 72B of the Care Standards Act 2000.</p> <p>Before I progress to drafting and issuing Terms of Reference, I wanted to take one final opportunity to seek clear assurance from the Welsh Government on the three tests for a successful policy within this area.</p> <p>Whilst a Review will require significant resource from my office, it will also have an impact on Government resources too. Therefore this is not a step that I take lightly; however I am convinced that this will need to</p> | <p>Despite the work that has taken place within WG, this statement about lack of progress in real terms remains as true at the end of 2020 as it was at this point 18 months prior.</p> |
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| | | | <p>happen without sufficient assurances on the contents of the policy and consultation scheduled for 2019.</p> <p>I look forward to receiving your response before the summer recess.</p> | |
| 55. | 9.7.18 | WG response to CYSUR Correspondence - extracts | <p>"A register will not on its own resolve the issue of safeguarding children whose parents, for whatever reason, have disengaged from services"</p> <p>It would require primary legislation so "prior to pursuing this approach I want to ensure we have exhausted the options that current legislation provides us with to resolve the issues identified regarding home-education".</p> <p>"The Cascade report has been very helpful in informing our considerations around home education"</p> | <p>It is unclear <i>how</i> the Cascade report has informed the considerations and policy development as its recommendations are not fully taken forward.</p> <p>It remains unclear how decisions to progress towards primary legislation were or would be considered, nor how they've monitored assessed the 'resolution' of the "issues identified regarding home-education".</p> |
| 56. | 10.7.18 | Meeting of the HE lead officers stakeholder working group | <p>Page 4 notes that the new Estyn framework will pick up if there is a high proportion of pupils moving schools, repeating year 10 or being off-rolled.</p> <p>Page 10 item 6 Schools are required by law to inform the LA of a child becoming home</p> | |

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| | | | <p>educated, within 10 days. There is a form detailing the information that the LA requires, although the school are not required to complete this form</p> | |
| 57. | 18.07.18 | <p>Response to CCfW from Cabinet Secretary for Education</p> | <p>"Whilst not wanting to repeat the content of the previous response from [official], I am of the opinion that our proposed approach is proportionate and reasonable."</p> <p>"I have been clear that the policy intent is to ensure that home-educated children and young people in Wales receive a suitable education, and that in so doing parents can be sign posted to other services that are available to them."</p> <p>"It is disappointing that you believe there has been little progress on the proposals since my statement in January as this is most definitely not the case. Developing the regulations and statutory guidance requires considerable work by officials to appropriately and informatively develop the policy."</p> <p>"The work to develop the secondary legislation in this area is not dissimilar to that of primary legislation. There are specific processes that need to be followed which are time consuming and resource intensive and cannot be done quickly. It is essential that we get this right. We must be transparent in our adherence to due diligence</p> | <p>CCfW view is that children being seen is part of ensuring that their education is "suitable". The Minister had also expressed such a view in the January 2018 Plenary statement.</p> <p>It is acknowledged that significant work was undertaken by officials in WG on this policy area. What is less clear however is whether the approach being taken was ever going to be sufficient to achieve the policy intent stated. Unfortunately work undertaken does not equate to progress having been made, as unless or until suitable statutory guidance or legislation is introduced, children's experiences of their</p> |

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| | | <p>in this process and cannot undermine the policy making process in any way by not considering the views of all stakeholders.”</p> <p>“Consequently, during the policy development stage I do not think it would be appropriate to provide absolute public assurances prior to the consultation. We have to consult with a range of stakeholders to inform the development of the policy, which includes your office.”</p> <p>“Furthermore, the EHE lead officers working group is undertaking a significant amount of work to contribute to the development of statutory guidance. There are work streams running within the group contributing to the development of statutory guidance. Your office has observer status at these meetings although I understand that no one has attended the last two meetings. I would be grateful if your officials would in future attend as it will enable a first hand understanding as to the level and volume of work being undertaken.”</p> <p>“You will also be aware that practice guidance on safeguarding children who are home educated has been developed with a multi-agency group chaired by Keith Towler on behalf of the Safeguarding Boards. This is to be shared in draft to the Safeguarding Children Boards for comment and will be</p> | <p>rights are unlikely to alter substantially.</p> <p>This is how CCfW measures WG progress against all annual report recommendations:</p> <p>Red = No evidence of policy or practice changes since the recommendation was made. No improvement in children’s experiences.</p> <p>Amber= Some evidence of policy or practice change but the recommendation has not yet been successfully achieved in full.</p> <p>Green = Recommendation implemented and notable differences for children and young people in receipt of a service or support.</p> <p>Progress on this policy area is <u>currently rated as Red</u> on the basis of the above criteria. It</p> |
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| | | | <p>issued for use in conjunction with the Wales Safeguarding Procedures in early 2019. Officials are continuing to engage with the Safeguarding Children Boards on this issue to consider what further safeguarding measures may be required.”</p> <p>“Should you decide to instigate a review this would be resource intensive. As a result, it will be inevitable that, in diverting resources from policy development to the review, there will be a delay in delivering our objectives. This would be hugely disappointing and, I believe, counter productive. However, I can assure you that every decision the government makes in this area will be based on what we believe to be right, as opposed to deciding policy based on threats, legal or otherwise, from various stakeholders.”</p> | <p>should be noted that WG had been on notice of CCFW considering using our formal legal powers on this issue since 2016.</p> <p>On the timeline proposed, changes would not be made until 2020 at the earliest, and would require a period of time before they are then further reviewed.</p> <p>These actions date back to the original 2012 consultation and the death of a child in 2011.</p> <p>The practice guidance referred to in the letter would not be statutory.</p> |
| 58. | 8.8.18 | Meeting between CCfW and WG officials | Consultation on the regulations, statutory guidance and support package is now anticipated to commence in “late spring 2019”. | On this timeline as it then stood, it would be March 2020 at the earliest before any |

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| | | <p>The commencement date of any changes would be March 2020.</p> <p>During this meeting WG official stated that it would not be possible to require children and young people to be seen through secondary legislation, so this will not be an area of consultation. The consultation will include that children 'should' be seen, and that this would be an expectation but there is a question about what powers LAs would have when they refused (e.g. those already recorded as Active Refusers).</p> | <p>changes would be made to the current guidance.</p> <p>WG were not proposing to introduce a requirement for all children to be seen. How does this correspond with acceptance (in principle) of the CCfW 2016/17 annual report recommendation to amend the current guidance to give it statutory force, include a compulsory register for all home educated children and ensure that the guidance includes clear powers for local authorities to ensure that they are seeing children and speaking to them directly about their own education? Their narrative does not indicate that it would not be possible to see children using secondary legislation.</p> <p>This mirrors the process that resulted in the</p> |
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| | | | | <p>2017 guidance; the guidance was "reissued" to indicate action being taken but in fact no substantive changes had been made.</p> |
| <p>59.</p> | <p>3.9.18</p> | <p>CCfW letter to WG Minister for Children, Older People and Social Care Huw Irranca-Davies regarding child practice reviews</p> | <p>As you may be aware, I was asked by BBC Wales on 2nd August 2018 to comment on child practice reviews (CPR). They ran a news story on this following the publication of the review published by Cardiff and the Vale Regional Safeguarding Children Board about the tragic death of [a child].</p> <p>It was back in April 2017, when I first wrote to the then Cabinet Secretary for Communities and Children regarding the CPR process, in response to some concerns that had been identified through my independent investigation and advice service. A copy of that letter is enclosed for ease of reference. In that letter I also raised concerns about the learning from CPRs potentially not being shared widely due to the fact that the process starts and ends with the Regional Safeguarding Board that conducts the review. This is something that I raised in subsequent face-to-face meetings with the Cabinet Secretary and the National Independent Safeguarding Board during 2017.</p> | <p>The process remains the same; Boards are required to send their final reports to WG for information only.</p> |

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| | | <p>At present - as was the case in 2017 - the CPR guidance does not specify what should happen should a family member be dissatisfied with any aspect of the Review or its outcome. In addition, whilst copies of all reviews have to be sent to the Welsh Government and published online for 12 weeks, there is no automatic process for the learning from these reviews to be collated and analysed thematically, to identify any ongoing trends or concerns.</p> <p>The response to my letter issued in June 2017 and is attached for ease of reference. The letter notes that officials were at that point considering the need to strengthen the guidance in relation to support and involvement of family members.</p> <p>We were also informed by officials at that time that the guidance relating to CPRs was to be reconsidered via an internal process, as it had been in place for a number of years and the National Independent Safeguarding Board had since been established, along with the Social Services and Well-being (Wales) Act 2014. I am not aware of the guidance being revised or reissued, and I have not received any further updates on the issues raised within the previous correspondence.</p> <p>In my recent media interviews, I stated that national leadership from the Welsh Government</p> | <p>The 2019 amendments to the guidance were to take account of the new Wales Safeguarding Procedures; the guidance has not been amended substantively.</p> <p>This would remain true at present.</p> |
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| | | <p>was needed to ensure that lessons from reviews are learned across Wales and in different sectors.</p> <p>Whilst I understand that copies of reviews are sent to all of the safeguarding boards, this does not necessarily highlight and draw together any repeated themes or issues of concern. It is unclear what, if anything further, is done with all of the reviews that are received. Public Health Wales' National Safeguarding Team have recently undertaken an 'Analysis of Emerging Themes from Child Practice, Adult Practice and Domestic Homicide Reviews in Wales for 2017-18'. In this they specifically noted that "learning was not consistently shared on a wider basis with colleagues across NHS Wales", which was leading to inconsistent practice.</p> <p>It is extremely positive that the Public Health Wales 'Learning from Reviews' group has taken the decision to disseminate information and early learning as widely as possible within the health sector. My concern is that this isn't automatically the responsibility of any particular agency or Government and therefore it isn't guaranteed that this will happen routinely or on an ongoing basis. The PHW report notes a number of areas where professionals across a range of agencies are unsure about risk assessment criteria, referral thresholds and/or are not</p> | <p>It remains unclear whether this is common practice or was undertaken specifically in relation to the Dylan Seabridge case. Such a duty or action is not reflected in the guidance.</p> <p>The NISB 2019-20 Thematic Review is welcome; it is unclear how WG have or will take this learning forward however.</p> |
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| | | | <p>following national guidance. This can therefore highlight a further role for national leadership in raising awareness of new and important guidance and practice resources.</p> <p>I would like to see the guidance revised to require the Welsh Government to take a more formal coordinating role to ensure that themes and repeat concerns are picked up and addressed through training and practice. Sending out copies of reviews without any direction or analysis is unlikely to be sufficient to ensure that lessons are acted upon and practice is changed as a result of these important review reports being published.</p> <p>Should the guidance be revised, I would also ask you to consider strengthening the wording around family members' involvement as detailed in previous correspondence. Finally, I would also query why review reports are only required to be published for 12 weeks and I would suggest that this could also be amended in the guidance to ensure that reports can be accessed whenever they are needed.</p> | <p>Publications requirements have not been changed; not all CPRs are currently available to be accessed online at any time. There are 20 CPRs on the NISC website; the 2020 thematic report notes that 29 had been undertaken as at January 2020.</p> |
| 60. | 7.9.18 | CCfW letter to WG First Minister Carwyn Jones regarding | As you will be aware, since I began in post in 2015, I have made a number of calls in relation to elective home education and children's rights, including in my last two | |

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| | Elective Home Education | <p>annual reports to you. In the preparation of my annual report for 2017-18 I have once again found myself considering this issue and the steps that I should take in order to ensure that children who are being educated at home have full access to all of their rights.</p> <p>During this period, and especially this year, my team and I have been in regular contact with the Cabinet Secretary for Education, the Minister for Children, Older People and Social Care, and the relevant teams of officials from safeguarding and education.</p> <p>Following a meeting and follow up correspondence with officials in May and June 2018 where I expressed my concerns about the lack of tangible progress to date and the messages I was hearing about the content of any likely changes, I wrote to the Cabinet Secretary for Education, as Cabinet policy lead in this area, to ask for a clear statement of the Welsh Government's policy intent. My letter and the response to this are attached for ease of reference.</p> <p>You will be aware that this issue has been considered on a number of occasions by Welsh Government, but no tangible changes to legislation have been made. The death of Dylan Seabridge in 2011 and the subsequent criminal investigation, inquest and Child</p> | |
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| | | <p>Practice Review have brought the issue into sharp focus in Wales. The Child Practice Review concluded in 2016 that the Welsh Government should be requested to bring about:</p> <p>"... changes to the legislation and statutory guidance on elective home educated children, to incorporate a requirement that parents and guardians annually register all such children with the Local Authority. In addition to this, that all such children should have to be seen and spoken to and their views and wishes are recorded annually. The legislation should state that the information held is also to be shared with the family GP and other relevant professionals."</p> <p>There have been a number of assurances from your Ministers since the publication of this Child Practice Review that there would be movement on this issue and a strengthening of the framework around elective home education.</p> <p>However, we find ourselves in a position where nothing has changed in terms of the experiences of children and their families and from what I have been told by officials, no new policy or guidance will be in place until 2020 at the earliest - meaning nine years will have passed since Dylan Seabridge's tragic death and four years since the Child Practice Review. This despite the</p> | <p>This continues to be the case, with no new policy or guidance having been, or in the process of being, issued.</p> <p>This is the core issue at the heart of this 2020 Review by CCfW. It is not a lack of action that is being noted but a lack of sufficiently strong and adequate response by the WG to</p> |
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| | <p>Cabinet Secretary's statement in January 2018 clearly stipulating that following a secondary legislation route would lead to a swifter response.</p> <p>In addition to my concerns around timescales, of particular concern has been the statement made to me and members of my team in meetings with officials that this consultation will not be able to consider the issue of requiring that all home educated children must be seen and listened to by a representative of the local authority.</p> <p>I am concerned both at the lack of pace in taking forward changes, but also the strength and adequacy of the response from the Welsh Government to the issues raised by my office and many other authorities, including the National Independent Safeguarding Board, the Association of Directors of Social Services and the Association of Directors of Education. I feel that I may now have exhausted all of the options available to me to work through this issue and seek a positive resolution without resorting to a use of my formal powers. I have concluded that a formal review will be necessary and will move to instigate such a review by 22nd October 2018 unless you are able to provide sufficient reassurances as sought in my previous letter to the Cabinet Secretary, which are repeated below.</p> | <p>the accepted issues identified.</p> <p>Legal advice had been obtained and Terms of Reference drafted in readiness to commence the Review the following month.</p> <p>From this point on, WG position on this issue did appear to shift in tone and content. In particular their response to the 2017/18 annual report strengthened their commitments.</p> <p>There followed a series of meetings and letters, and a notable shift in the WG position and lines.</p> <p>For this reason it was concluded that a Review would not be commenced at this point but that this would be reflected upon further if the Government actions did</p> |
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| | | <p>Whilst the Cabinet Secretary for Education is responsible for elective home education, the issues are related more broadly to safeguarding children and children's rights as well. Any review would relate to the Welsh Government's exercise of their functions across any and all of those areas, and as such I am raising this with you directly as First Minister.</p> <p>For clarity, I am seeking reassurance that the Government has firm plans to ensure:</p> <ul style="list-style-type: none">• that all children in Wales can be accounted for and that none slip under the radar of universal services, and society in general,• that every child receives a suitable education and their other human rights including health care and safety,• and that, in order to achieve the above two aims, every child should have the opportunity to be seen and their views and experiences listened to (including those whose parents currently choose to opt out of voluntary systems of engagement with local authorities). <p>I look forward to receiving your written response dealing with the above points.</p> | <p>not match their commitments to CCfW.</p> <p>With the benefit of hindsight, it is extremely unsatisfactory and disappointing that this approach ultimately did not lead to the introduction of any stronger measure to protect children's rights.</p> |
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| | | | <p>The following meetings will provide opportunities again to discuss elective home education and the Welsh Government's policy intent face-to-face and in more detail as necessary:</p> <ul style="list-style-type: none"> • 26th September - my quarterly meeting with the Minister for Children, Older People and Social Care • 2nd October - my annual meeting with the Cabinet Secretary for Education • 10th October - our annual meeting. | |
| 61. | 13.9.18 | <p>Response to CCfW letter on child practice reviews, from the Minister for Children, Older People and Social Care Huw Irranca-Davies</p> | <p>Thank you for your letter of 3 September and for raising these important issues regarding Child Practice Reviews (CPR) with me.</p> <p>I agree that it is imperative that lessons from CPR are shared in a meaningful way to ensure that learning has a direct impact on improving future practice. We must also ensure that families are appropriately engaged in the CPR process.</p> <p>Cross departmental work is being considered to take forward proposals on Safeguarding reviews. These proposals include work to create a central repository for all reviews where key learning can be extrapolated and disseminated across Wales.</p> <p>Subject to the outcome of decisions on these proposals it is our intention to review the</p> | <p>The CPR guidance was reissued in 2019 to</p> |

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| | | <p>current guidance on CPRs. I have asked my officials to ensure that any review of guidance includes stronger direction on the need to be consistent in positively engaging family members in the CPR process.</p> <p>You will also be aware that the National Independent Safeguarding Board work (NISB) plan 2018-19 includes commissioning an overview of Child Practice Reviews since 2016.</p> <p>All Child / Adult Practice Reviews published since 2016 will be available on the NISB's website.</p> <p>I have asked my officials to ensure you are kept updated on our progress in taking forward this work. We will share more detailed information with you as soon as it becomes available.</p> | <p>coincide with updates to the Wales Safeguarding Procedures but no substantive changes have been made.</p> <p>The NISB website does have a page for published child practice reviews with some reports dating back to 2014.</p> <p>The Dylan Seabridge review from July 2016 does not appear on that site.</p> <p>As part of this review we have also seen additional child practice reviews that have been undertaken since 2016 but do not feature on the NISB website. They do feature on the regional board websites but this does not go towards the establishment of a national repository for learning lessons.</p> |
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| | | | | <p>Note - We only requested CPRs that related to the terms of our Review; there may also be additional CPRs not featuring on this website.</p> |
| <p>62.</p> | <p>24.9.18</p> | <p>First Minister response to CCfW letter regarding Elective Home Education</p> | <p>“Whilst I fully recognise your commitment on this area and a clear desire to see rapid change, I would echo the Education Secretary’s response that whilst progress is being made on our proposals, developing the regulations and statutory guidance is time consuming and resource intensive and cannot be done quickly. In order to develop regulations that are fit for purpose and to conduct a formal consultation that is meaningful it is vital that wide ranging discussions with stakeholders takes place. It is imperative that we get this right and that the regulations and guidance are fit for purpose both for the local authority and the home educating community.</p> <p>In terms of the three areas you seek reassurances on I agree that all children in Wales should be accounted for and not slip under the radar of universal and statutory services; this clearly stretches beyond the remit of home education. The Welsh Government has instigated cross departmental work to consider the strengthening of multi-agency</p> | <p>This was six years on from the 2012 consultation; how much more time would be needed for meaningful consultation and progress amounting to concrete changes?</p> <p>This work has not progressed due to the statutory guidance not being issued.</p> |

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| | | <p>processes for those children not in routine contact with universal services.</p> <p>Secondly, the primary purpose of requiring local authorities to develop a database of home educated children is to ensure that they are receiving a suitable education.</p> <p>Thirdly, the statutory guidance will include advice for local authorities (LAs) on making assessments regarding the suitability of education. It will make clear that in order to be able to make an assessment that the education is suitable, the LA should see the child. The appropriate frequency for seeing the child will be influenced by a number of factors including the context and circumstances surrounding each individual child. We need to be sure that our guidance is in keeping with what is appropriate for determining the suitability of education.</p> <p>The guidance will also take into account that there will be what we would consider rare and exceptional circumstances when seeing the child will not be necessary or appropriate. The guidance will advise on what some of these circumstances could be, but will not be an exhaustive list. Such circumstances for example will include when a child is suffering from a life limiting or life debilitating illness. In those circumstances the child will be seen by health</p> | <p>It is surprising to see this statement some six months on from the Minister's Plenary statement about the proposals. It is unclear how the issue of seeing the child was to be resolved, in the face of existing</p> |
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| | | <p>professionals and the guidance will address how LAs can satisfy themselves that in those circumstances the child is seen by appropriate services.</p> <p>We will give careful consideration to determining the appropriate frequency for seeing the child. This will be influenced by a number of factors and the context and circumstances surrounding each individual child. We will also need to consider a risk based approach, and financial and resource implications for LAs.</p> <p>Later this year we will have established an Interim Youth Work Board chaired by Keith Towler. The role of the Board is to secure the strategic direction of youth work in Wales. We will work with the Board to consider how their agenda can support opportunities for home-educated children and young people to express their views and have their experiences listened to; this will form part of the consultation in order to ensure that home-educating parents as well as home-educated children and young people have the opportunity to share their views on engaging with home-educated children.</p> <p>I would like to further assure you that in the development of the regulations and statutory guidance careful consideration will be given to children's rights, and equality</p> | <p>recommendations including from the Seabridge CPR for annual visits, which LAs themselves did not seem to describe as an onerous or unnecessary burden on them.</p> <p>The WG do not evidence whether/how consideration had already been given to</p> |
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| | | | <p>and human rights. The regulations and statutory guidance aim to ensure that a LA is assisted so that it can carry out its functions to establish whether, or not, children within its area are receiving a suitable education. The proposals should also assist in children taking full advantage of the educational opportunities (and other opportunities) available to them. However, if down the line we are of the view this approach has been insufficient to assist local authorities to meet their duty to identify children not receiving a suitable education, then we will consider what further measures we need to pursue, including new legislation.”</p> | <p>children’s rights, for example by considering the introduction of primary legislation not just statutory guidance.</p> <p>There is also acknowledgment here that the 2018 proposals may not be sufficient; as it stands even those changes have not been made so the position is no further forward. How does this assist LAs in carrying out their functions or take forward children’s rights?</p> |
| 63. | 26.9.18 | <p>Quarterly meeting with Minister for Children, Older People and Social Care Huw Irranca-Davies</p> | <p>FM letter received by CCfW this week but this had not yet been seen by the Minister.</p> <p>SH noted it offers some clarity on LAs seeing the child but there are questions remaining.</p> <p>Safeguarding sits within the Minister’s portfolio. What extra authority do LAs have if parents refuse visits? WLGA data indicates up to 1/3 refusers in some areas.</p> <p>The Minister had met with the Education Minister yesterday - there is lots of ongoing engagement between their officials.</p> | <p>It is difficult to see the evidence of what this engagement consists of or amounts to.</p> |

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| | | <p>They are exploring links to significant harm and child protection, and whether lack of access/information on education can be seen as a reasonable cause to suspect significant harm and therefore allow LAs to enter the home? Could the statutory guidance raise this and other issues like failure to present at health appointments as "flags" for concern/action?</p> <p>CCfW noted that this may be difficult and could send a difficult message to those parents already concerned about this work.</p> <p>The Minister's view was that there remains a fundamental issue in the rare cases of those determined to hide from professionals, those invisible families particularly those moving from across the border.</p> <p>SH said she still has concerns whether secondary legislation will work/be sufficient? Will it actually be quicker? Taking time is fine but only if this is to get it right.</p> <p>SH asked would the Minister be satisfied with the WG response to DS case? He said they would need to take stock of this urgently, in the next few weeks. His view is that there may be more they can do within the existing framework and he is determined to explore</p> | <p>This was a view expressed to all Ministers and officials in such discussions.</p> <p>It is unclear what happened to this; the question remains whether Ministers or other stakeholders would be satisfied with the WG</p> |
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| | | | <p>this fully. Not just the education work but wider issues around invisible children.</p> <p>SH reflected that the bottom line for CCfW is 'can we reassure LAs that they will be able to do more under these proposals?'</p> <p>SH spoke about Wales leading the way on this and commented that the UK Government may also explore this. Noted that WG are not currently supporting the Bill in the House of Lords however. The Minister was not aware of this Bill but asked officials to get information on this for him to follow up.</p> | <p>response to the Seabridge case.</p> |
| 64. | Oct 2018 | CCfW annual report 2017/18 | <p>Progress and recommendation:</p> <p>I am disappointed at the delays in taking forward the Government's stated proposals and that the government has not included in its policy statements the goal that every child receiving home education should be seen by a professional and have the opportunity to express their views.</p> <p>I recommend that the Welsh Government brings their updated policy forward to consultation this year, with the aims of meeting the following three tests in full:</p> | <p>WG response:</p> <p>"The Welsh Government Response: Accept all three tests</p> <p>The Welsh Government acknowledges the concerns the Children's Commissioner for Wales has about the timing of the consultation on the regulations and statutory guidance. Developing the regulations and statutory guidance requires considerable</p> |

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| | | | <ul style="list-style-type: none"> • Firstly, that all children in Wales can be accounted for and that none slip under the radar of universal services, and society in general. • Secondly, that every child receives a suitable education and their other human rights including health, care and safety. • This cannot be achieved without the third aim, that every child should have the opportunity to be seen and their views, including their views about their education, and experiences listened to. | <p>work. A key part of this is extensive engagement with a wide range of stakeholders, not just on the educational elements of the statutory guidance, but also on the wider issue of accessing universal services.</p> <p>In addition, we are developing a handbook for parents who are currently home educating their children or considering this option.</p> <p>Taking all this into account, it is not feasible to bring forward the consultation as to do so would seriously risk the successful development and implementation of the revised policy. It is essential we get this right for children, young people and their families.</p> |
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| | | | | <p>The Welsh Government shares the Commissioner's view that all children in Wales should be accounted for.</p> <p>Alongside the work on home education we have instigated cross departmental work to maximise and coordinate the opportunities for children to have access to, and be seen by, public services and that this prompts an appropriate and proportionate safeguarding response.</p> <p>We intend to strengthen the support to the home education community across Wales, including helping to ensure that home educated children and young people have the same opportunities to access universal services. This package will include: making Hwb available to home-educated children; ALN</p> |
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| | | | | <p>support; support with exam registrations; exploring options for home-educating families to learn Welsh; and a clear offer of support from Careers Wales. In addition, we will consider the development of online resources to raise awareness of home education amongst public services.</p> <p>The Welsh Government has been discussing the development of these proposals with local authorities and home educators to ensure the package of support meets the needs of the home-educating community. If, in future, we are of the view this approach has been insufficient to assist local authorities to meet their duty to identify children not receiving a suitable education, then we will consider what further measures we need to</p> |
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| | | | | <p>pursue, including the possibility of new legislation.”</p> <p>Note - the WG response acknowledges the delays that have already taken place. There is no mention of children’s rights in their response. At the time it was positive to see them accept the three tests, but this chronology sets out how CCfW have challenged WG policy intent in relation to those tests when actions did not match that stated commitment in full.</p> <p>The formal acceptance of these tests, reiterated in meetings with the FM was instrumental in the decision not to pursue a review at this point, as it indicated that there would be better outcomes i.e. faster change, if CCfW supported WG work on the basis that it</p> |
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| | | | | <p>would deliver these commitments for children.</p> |
| <p>65.</p> | <p>2.10.18</p> | <p>CCfW annual meeting with Education Minister Kirsty Williams</p> | <p>CCfW note of the meeting records that EHE was a formal agenda item.</p> <p>FM letter received last week, noting an expectation that LAs <i>should</i> see all school aged children. WG still working on their proposals but the Minister noted a desire to give "as much power as possible to LAs to see children". WG also exploring information sharing between services.</p> <p>WG referred to actions LAs can already take such as School Attendance Orders (SAOs). Noted that currently there is a difference in LA practices.</p> <p>SH asked if the time had come to move to primary legislation if other options don't work?</p> <p>Minister asked how this would work with parents who don't comply and noted the need to "fully exhaust current legislative powers". A database would be a new introduction so they would need to see what difference this makes first.</p> <p>SH noted her concerns about the consultation not being until late spring next year, that</p> | <p>The opportunity to test whether a database is a suitable measure has been lost; this could mean further delay again if this approach is taken forward in the new Senedd Term.</p> |

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| | | <p>it potentially won't move on much from current guidance other than status, plus it will then take time to implement.</p> <p>Minister noted that she has "set an expectation" via her statement for children to be seen. Many families will change behaviour when the framework is changed, but there will always be families outside this.</p> <p>SH - WG need to be prepared to take all necessary steps.</p> <p>Minister also asked how do WG create a system to satisfy themselves on suitability of education? who should visit the family?</p> <p>SH - it should be a suitable education professional, with relevant safeguarding training. They should take a broad view of a suitable education. LAs should develop services <u>with</u> families to seek buy in. In particular circumstances it could be health professionals e.g. extreme examples. SH suggested these would be suitable questions for the consultation.</p> <p>Minister asked whether it is appropriate to meet a child with an ALN if person is unfamiliar to them. SH - the consultation can explore that but if this is known about the approach can be planned accordingly.</p> | <p>This was one of the CASCADE report recommendations</p> |
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| | <p>SH asked about the current House of Lords Bill? WG thought it shouldn't cover Wales, and not likely to go through in any event. SH queried this as that part of the Education Act covers England <u>and</u> Wales, but they were firm about this.</p> <p>SH asked again about their policy direction, will there be an expectation of all children being seen? This is the 'principle' WG are working to but noted it will be for compulsory school age children only.</p> <p>SH stated that we need to have confidence about what is different and what it will take forward. SH also wants to have confidence that the consultation will have measures as to what will happen with active refusers. WG working on this now; couldn't yet say what this looks like.</p> <p>CCfW asked about the legal position and WG views that not seeing a child would meet the child protection threshold. Minister has been advised the threshold would be met for s.47 inquiries, which allows entry. SH noted that the two most concerning cases showed that, legally, thresholds haven't been met for such interventions.</p> <p>Finally SH asked about last week's plenary statement suggesting consultation in Autumn term? Minister apologised as this was an</p> | <p>This contradicts some other statements made by WG officials.</p> |
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| | | | error, officials to write to the Member to correct this statement. | |
| 66. | Oct 18 | CCfW annual meeting with WG Head of the Cabinet Office | <p>As part of this meeting, CCfW updated on the recent correspondence and meetings taking place.</p> <p>In particular, CCfW highlighted the apparent lack of cross government co-ordination on key pieces of work that impact upon children, notably:</p> <ul style="list-style-type: none"> • Education and health departments working separately on a whole school approach to supporting mental health and wellbeing; and • Safeguarding and home education matters. | |
| 67. | 17.10.18 | CCfW annual meeting with First Minister Carwyn Jones | <p>CCfW note of meeting records that EHE was a formal agenda item.</p> <p>SH gave a reminder of the background to our recent correspondence and talked about local authorities' concerns around the powers available to them to support families. We absolutely agree with the proposals around offering extra support to families but we are seeking confirmation of the WG policy intent around children being seen.</p> <p>The FM said the following:</p> | |

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| | | <ul style="list-style-type: none"> • He has no problem with LAs knowing that a child is home educated and where they are • He doesn't see this as an imposition on parents any more than birth and death registration, he thinks that this is entirely reasonable • He stated it is about how they do this • He said a voluntary approach is to be taken at present • If this works then fine, but in principle he supports a legislative solution if professionals still don't know where children are • He described legislation as "inevitable" if the proposed approach does not work • However he noted that this would of course take time and it would likely be into the next Assembly term (he will no longer be an AM at that point) • He also reflected that he would expect the vast majority of home educating parents to welcome additional help, support and resources. <p>SH reflected that it has taken a long time to get to this point and we aren't further forward than we were last year. SH asked about seeing children, noting that there needs to be a proper and timely response from WG to the recommendations from the Dylan Seabridge case, which had included annual visits.</p> | <p>The position as at 2020 is untenable, as these measures have not been trialled so WG could still argue that it is too soon to say whether primary legislation is required, despite notes within this chronology about whether or not the database proposals were sufficient.</p> |
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| | | | <p>The FM said he "wouldn't rule out a register".</p> <p>SH stated the need for strong commitments and without too much delay. She spoke of our office as 'bridge' between LAs and WG, and that as ever we are happy to work with bodies to get proposals right.</p> <p>SH reflected that we'd be seeking a written commitment on actions and timelines as a follow up to this meeting.</p> <p>The FM stated that he is happy for us to tell anyone what his views are and what he has said today.</p> | |
| 68. | 9.11.18 | CCfW letter to FM | <p>Further to our meeting on 17 October 2018, I write to seek further written confirmation of the Welsh Government's position regarding home education and the forthcoming consultation expected in spring 2019. I am grateful to your officials for swiftly providing a note of our meeting.</p> <p>Our meeting was the last in a series of meetings and discussions I have held with a range of officials, the Minister for Children, Older People and Social Care, and the Cabinet Secretary for Education. These meetings followed a series of correspondence over the summer, as I was seeking clarification of the Welsh Government's</p> | |

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| | | <p>position ahead of the consultation in 2019. In particular, I was seeking assurances around my three tests for the policy, including that all children in Wales should be accounted for, that every child receives a suitable education and that every child must have the opportunity to be seen by a local authority representative and their views and experiences listened to.</p> <p>I've copied the relevant section of your official's note from 17 October's meeting in full, for ease of reference:</p> <ul style="list-style-type: none">• The CCfW outlined her concerns about home-educated children, particularly the very small minority of cases where children were vulnerable.• The FM said that he supported the principle of children being seen and known by services. The issue was how this was achieved - he would be prepared to support primary legislation and a register if this was required. But this should only be done if the planned improvements via the database and statutory guidance weren't effective.• If primary legislation and a register were eventually required, the FM said that the primary legislation could in practice not be introduced until the next Assembly Term. | <p>Officials were already aware at this stage of the potential limitations of the secondary legislation approach, in terms of meeting CCfW three tests in full.</p> |
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| | | <p>For me the most important aspect is children being seen and known by services, and I welcome your confirmation at that meeting that the government intends to take statutory measures to achieve that goal. The statutory guidance that comes out to consultation in 2019 must make this expectation clear in writing and set out the steps that local authorities must take to achieve this. A stated aim of the guidance should be that children can access their rights to be heard and to receive a suitable education.</p> <p>Please would you confirm that the proposals that are consulted upon will set out how the database and related work will ensure children are known about by local authorities and then seen?</p> <p>Please would you also confirm that the proposals consulted upon will be clear about what powers the proposals give to local authorities to enable them to maintain contact with children and their families, and to offer them the support that I understand will be included in the new arrangements? In order for the new statutory guidance to be successful, local authorities will need to be confident that they have enhanced means to achieve this in instances where families are refusing the authority access to speak with children.</p> | <p>This appeared to give confirmation that this policy aim would be achieved through this approach, despite the doubts that had been expressed to CCfW.</p> <p>Additional tools for LAs to meet their duties had long been a factor in making these changes.</p> |
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| | | <p>The work of the EHE Stakeholder group will be crucial to the success of these proposals in my view, and I would like your confirmation on how these points will be worked through closely with local authorities in particular, in setting up the arrangements for information sharing under the database. There are statutory and societal expectations on local authorities to safeguard children living in their area and to support their well-being, but we all agree that this cannot be done if children are not known to them.</p> <p>As you will know I have maintained regular contact with ADSS, ADEW and the National Independent Safeguarding Board on this issue. It is also an issue of significance to the Children, Young People and Education Committee. For that reason I have copied them all in to this letter, and I would be grateful if you would include them in your reply please.</p> <p>The reason I have been pursuing this issue and considering formal use of my statutory powers at this point is that I do not want to be in a position next year where the proposals introduced do not meet the requirements that I believe are necessary, as do local authorities and safeguarding professionals. As you recognised in our recent meeting, should the database and</p> | <p>It is very unfortunate that this concern was borne out, by the deficiencies in the approach selected as well as the overall lack of progress in this regard.</p> |
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| | | <p>statutory guidance not be effective in achieving those aims, further primary legislation will be inevitable. Provided that I receive a clear written response to the questions I have posed above I am content to wait for the consultation in spring 2019 and not invoke my statutory powers. If possible, it would be helpful if I could have your written response before my appearance in front of the Children, Young People and Education Committee on 22 November, due to the keen interest that members have taken in this issue, or at the latest before you depart as First Minister. I would also say at this point that I would expect the proposals to be introduced swiftly following the necessary consultation period, in order to maintain pace. As we discussed, I am concerned that your government's response to high-profile, tragic cases such as that of Dylan Seabridge has been slower than I and others would have expected.</p> <p>This area of work will remain a key priority of mine. Should I, at any time, become concerned about the contents of the consultation or the pace of change thereafter, I will again consider the commencement of a formal review of the Welsh Government's exercise of its functions on this issue as a matter of urgency.</p> | <p>Responses to this letter and in subsequent meetings gave assurance to CCfW that it would not appear to be necessary to invoke those statutory powers.</p> <p>This is what ultimately led to the launch of the CCfW review in 2020.</p> |
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| | | | <p>As I have previously stated, my preference is always to work alongside the government where this is possible in order to secure the best outcomes for the children of Wales in the swiftest and most effective manner. I have continued to do this but reserve the right to review the government's functions in relation to this matter should the proposals be unable to protect children in Wales experiencing their rights in full.</p> <p>I look forward to receiving your response.</p> | |
| 69. | 21.11.18 | <p>WG letter (Minister for Education) to CCfW in response to letter to FM</p> | <p>With reference to your letter of 9 November to the First Minister regarding Elective Home Education, I have been asked to respond.</p> <p>The Welsh Government shares your view that all children in Wales should be accounted for and this clearly stretches wider than the educational remit. We have instigated cross departmental work to develop and deliver policy that will support systems which increase routine contact between public services and children. This work will also include multi agency procedures to ensure that where a child is not seen by public services this prompts an appropriate and proportionate safeguarding response.</p> <p>In terms of elective home education proposals as I have previously stated, the primary policy intent is to ensure that home educated</p> | <p>The WG work around routine contact with public services has been affected by lack of progress in the home education proposals.</p> |

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| | | <p>children in Wales receive a suitable education. In order for the local authority to satisfy itself of the suitability of education provision by the parents it is reasonable in most cases for the local authority see the child. Where families refuse the local authority access to see the child then the local authority will need to consider if it can conclude a child is receiving a suitable education. If not, then the local authority already has powers to issue school attendance order (SAO). The statutory guidance will make clear the expectations on local authorities in these circumstances. If a local authority is of the view there is a safeguarding issue they should, as now, follow existing safeguarding procedures.</p> <p>The statutory guidance being developed will outline activities the local authority can undertake to identify children and young people of compulsory school age not currently known to them. The right for children and young people to be seen and listened to is a fundamental one and local authorities will be encouraged to make every effort to ensure that home educated children have access to the same levels of support and opportunities as those in mainstream school as well as have the opportunity to share their views regarding the education they are receiving.</p> | <p>"Reasonable in most cases" to see the child differs slightly in emphasis from the Minister's January 2018 statement as follows: <i>"In order to be able to make an assessment the education is suitable, it would not be unreasonable for the local authority to see the child"</i></p> <p>The response does not indicate how LAs will have the power to access the home which might provide the evidence needed to follow either the SAO or safeguarding procedures.</p> |
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| | | <p>To be clear, these proposals will not provide local authorities with new powers. Rather, in addition to providing statutory guidance to local authorities to enable them to establish the identities of children who are not receiving suitable education, it will make it clear what existing powers local authorities have at their disposal and will strongly reinforce the expectation that these powers will be utilised appropriately in order to ensure that those children do receive a suitable education.</p> <p>The EHE stakeholder group has three meetings scheduled between now and the launch of the formal consultation. These meetings will provide an opportunity for sharing the draft guidance and promoting discussion on its content prior to the consultation. Following a clearly set legislative process the intention is that the new regulations and statutory guidance will come into force in March 2020. The coming into force date reflects the work that will need to happen post consultation; including updating the statutory guidance and regulations following an analysis of the responses, but also amending the various assessments and the regulatory impact assessment. I will also be seeking Cabinet approval on the final regulations and statutory guidance.</p> | |
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| 70. | 22.11.18 | <p>CYPE Committee annual scrutiny of CCfW work and annual report - extracts from transcript</p> | <p>Janet Finch-Saunders asked about frustrations at the recommendations rated as "red" - showing little progress.</p> <p>[20] Sally Holland:on some of those, I'm particularly frustrated—elective home education would be one of them.</p> <p>Later in the Session, questions from Sian Gwenllian:</p> <p>I am very aware that you have been consistently calling on the Welsh Government to make it compulsory for parents to register the fact that they are home educating in order to ensure that those children can be seen and that there is discussion about the education that they receive. I know that Llyr Gruffydd, my predecessor on this committee and my predecessor as Plaid Cymru education spokesperson, feels very strongly on this issue too. But the response from Government has been very disappointing to date. Perhaps you could just run through where we're at at the moment in terms of the Government's response, because a copy of a letter from Kirsty Williams has been received by the committee, although you originally corresponded with the First Minister and had those discussions with the First Minister. Can you just go through some of the recent</p> | |
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background on that correspondence and where we are at the moment?

SH: I've concentrated, in what I've been calling for, on what I want to see the outcomes for children to be, and I've discussed with Government the fact that how that is done—whether it's by registers, databases, or whatever—I think is something that would be right for consultation and further discussion with all parties. But I'm very clear what I want to see as a result for children, and that is for them to receive all of their human rights under the United Nations Convention on the Rights of the Child, including, of course, first and foremost in this context, their right to a suitable education, but also their other rights: their right to have a say about decisions that affect them; their right to decent healthcare and to be safe. So, that's been my intention all along. You'll be aware that I've made calls about this in the past and continue to work on it closely.

In response to my annual report call last autumn, the Cabinet Secretary did make a statement in Plenary in January of this year about an intention to move forward with some new moves, and I reiterated what I was looking for from that. I've been keen to try to achieve those goals through any move. I think, as is probably clear in the

A focus on children's rights and outcomes for children is still required; this includes consideration of whether primary legislation should in fact now be brought forward.

correspondence that you've been copied into, by the early summer of this year, I was concerned about both the pace of that work and potential direction of it. I wasn't receiving full assurances from officials that the plans for the statutory guidance—and I'm pleased that the national minimum standards will be statutory—were going to achieve what I hoped for in terms of all children being seen, because to achieve those goals that I set out, I'm quite clear that we can't be sure that a child's receiving a suitable education unless someone's met them and seen them.

So, I was concerned about that. I wrote for clarification to the Cabinet Secretary for Education. I didn't feel I received that clarification in that response, and I decided that because it was a cross-governmental issue, and because the issues I was particularly concerned about—including whether the Government has made an adequate response to the recommendations following the death of Dylan Seabridge in Pembrokeshire—that I should, in fact, ask the First Minister for his view. I had three meetings coming up in the early autumn with the Minister for Children, Older People and Social Care, the Cabinet Secretary for Education and with the First Minister, routine meetings, and I discussed the issue with all three of them. I then wrote, as

CCfW view again reflects on the lack of adequate WG response to the Seabridge CPR

you're aware, to the First Minister to ask for written confirmation of our discussion, where I felt that I had received assurance that my aims would be met.

As you're aware—because we asked for the committee to be copied in in the response—I received a response only yesterday, in fact. So, I actually think that in terms of saying what my next steps would be, it would be rather irresponsible for me to make any declarations today before I've had a chance to fully analyse the contents of that letter, and to discuss it fully with my team. But I would like to continue to engage with the committee on this issue, and we'd be very happy to come back, if the time could be found by committee, to discuss further when I've had time to fully analyse the response from the Cabinet Secretary.

SG: Are you disappointed that the response is from the Cabinet Secretary, where your discussions have been, as you say, intragovernmental—with the First Minister, and you've had those assurances orally, but you haven't had those assurances from the First Minister on the record, and that, in fact, he's passed it on to the—? It's back now with the Cabinet Secretary for Education, so it looks as if it's being bandied around back and forth, and that can go on for a long time.

SH: That will be part of my analysis of what I should do next. I suppose, in general, in terms of disappointment, this has felt like a bit of a **war of attrition**, really, with Government in trying to secure the **basic rights of children who are home educated**. And all along—I must restate that this is a very wide group living in lots of different circumstances, many of whom I am absolutely sure are thriving, as home-educated children, and my office and I have recently engaged with home-educated children to listen to their views on this issue specifically. But it has felt, actually in contrast to many of the other issues where I've felt I had a much more positive engagement with Government on human rights issues—this has been a really difficult one to reach clarity on. The Government's aims in terms of achieving those rights I've set out, those aims for children—

SG: Why do you think that is? Why is there this resistance? Or is that not a fair question? Is it a political reason?

SH: I think that's going to be exactly a part of my analysis next, and if I were to go on to use my powers as commissioner, obviously, that would be part of the analysis.

Concern expressed at even securing the most basic of rights for all children in Wales.

SG: So, using your powers as commissioner is an option that you could take, once—

SH: Yes. I was quite clear in my letter to the First Minister that that option was still on the table.

SG: And what would that entail if you decided, 'Okay, I've had enough of this—this is not good for children and there are children falling under the radar, and that, heaven forbid, there could be circumstances again similar to what we've seen'? If you come to that conclusion, what exactly does 'invoking statutory powers' mean?

SH: None of the Welsh children's commissioners have previously reviewed the functions of Government, under the legislation functions of Government, in fulfilling the rights of children. So, this would be new territory if it were to happen. I think that, in terms of courtesy to the Government, if I were to take this step, I should probably discuss the terms of reference with them first, but keep committee completely engaged in that. And I would commit today to keeping up clear communication with committee as we move forward, however it goes next.

But my power is to review whether the Government has fulfilled its functions. And,

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| | | | so, of course, I'd be interested in how decisions had been made, advice to Ministers over a specific time period, and I would publish my conclusions. | |
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| 71. | 6.12.18 | CCfW quarterly meeting with Minister for Children, Older People and Social Care Huw Irranca-Davies | <p>Extract from WG minutes:</p> <p>1. Elective Home Education</p> <p>The Commissioner welcomed the text on Elective Home Education (EHE) in the Government Response to her Annual Report on 30 November. This text had been signed off by the Cabinet Secretary for Education. The Commissioner was pleased that the three tests had been accepted and this represented a shift and a more assertive commitment. She still had some concerns about what this will mean in practice and what the guidance will contain. She will attend the meeting with the officials and lawyers on 17 Dec and will send a list of areas where she would be looking for assurance.</p> <p>[Official] agreed to share an embargoed working draft of the guidance ahead of the meeting and will consider the language of the guidance with the Commissioner who is looking for terms like 'must' rather than 'should'.</p> | It was agreed that Welsh Government would take minutes of all ministerial meetings with CCfW, but in practice this has not been a regular occurrence unfortunately. |
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The Commissioner made it clear that before she received the Government's Response she had been ready to launch the proposed review of Government actions in this area. The meeting on the 17th December will be important in terms of providing further reassurance although she recognised that statutory guidance can only go so far. [Official] said they had met with ADEW and ADSS on this issue and were working closely with Social Services colleagues in the WG. The Commissioner recognised that greater cross-government working was taking place. She would like to work collaboratively with the WG but is also being scrutinised. Both the Commissioner and [official] will share questions and draft guidance ahead of the meeting on 17th December. The Commissioner understood that there will be no formal legal advice at the meeting.

ACTION: [official] will share an embargoed copy of the draft guidance with the Commissioner ahead of the 17 December meeting.

ACTION: The Commissioner will share a list of her queries / areas of concern about the guidance with RC ahead of the 17 December meeting.

[official] said that WG is committed to finding ways to offer support to families

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| | | | <p>that decide to home educate. The Commissioner welcomes the additional support that is becoming available. The Minister asked how this support compares to England. [official] confirmed that, when fully developed, it would be more effective than that available in England.</p> <p>The Commissioner emphasised that it was the hidden children that are the concern for her. This required cross-government collaboration.</p> <p>Finally, the Commissioner reiterated her thanks for the Government Response. This had been very welcome - this extended to the whole Response. She also appreciated what the Minister had said in the Plenary debate.</p> | |
| 72. | 6.12.18 | Meeting of HE lead officers stakeholder group | <p>Update provided from group reviewing current non-statutory guidance, alongside revised draft English guidance. They highlighted the issue of 'off-rolling'. Action - WG to discuss this further with Estyn.</p> <p>WG also noted a funding and training need for LAs as many are "struggling with their general capacity to deliver their existing legal duties in relation to EHE children".</p> <p>WG had shared some draft chapters of revised guidance for consideration and comment. The minutes state that "The LA should only visit homes if agreed by the EHE families".</p> | <p>WG are well aware of limitations on LAs at this stage, but not proposing any new statutory provisions that would give them greater power to meet these duties.</p> <p>This is a clear barrier to all children being seen.</p> |

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| | | | <p>Children not known to the LA are considered to be "missing education". Then, suitability has to be demonstrated as it cannot be assumed.</p> <p>WG highlighted current data sharing arrangements in Blaenau Gwent, who use live birth data to cross-reference school and LA registers.</p> | |
| 73. | 6.12.18 | CCfW email to WG officials | <p>Ahead of the meeting on 17th December, we thought it would assist to focus those discussions by setting out some of our key questions in relation to this area. Our understanding is that the primary purpose of this meeting is to provide clarity on what will be included, and what can/can't be included in the revised statutory guidance. On that basis, some of these questions may appear obvious to those who have been working on these proposals, but the answers to these questions would greatly assist our understanding, not having been party to any prior internal discussions on these topics.</p> <ol style="list-style-type: none"> 1. Can and will the Guidance state that local authorities (via a suitable representative) <u>must</u> see a child who is educated at home? 2. Can and will the Guidance provide an expectation for parents to provide information for the purposes of the LA | |

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| | | | <p>database and/or register their intentions with their local authority?</p> <p>3. What consideration has been given to the database itself being established or operated by the Assembly as provided for by S.29 (1) (b) Children Act 2004 if necessary? Would this include any additional powers for information gathering?</p> <p>4. S.29 (14) is not exhaustive nor a complete list of what any guidance <u>must</u> contain; it simply says what any guidance or directions <i>may</i> contain as regards the operation of a database. Does this therefore allow freedom to include anything in the guidance, such as any or all of the requirements considered above?</p> <p>5. How will the language be updated for example "consider", "recommend", "steps you <i>might</i> take" ?</p> <p>6. How will Education Supervision Orders fit within the Guidance?</p> | |
| 74. | 17.12.18 | CCfW meeting with WG policy officials and lawyer | Draft chapter of guidance had been shared in advance confidentially - only seen by RT and SH. CCfW reflected that this showed a shift in emphasis, it places expectations on parents and feels a lot stronger than previous iterations. | |

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| | | <p>But how will it develop to meet the 3 tests as the annual report response indicates? This feels like a gap currently.</p> <p>WG noted that they needed to do more work on achieving the policy intent of empowering LAs.</p> <p>WG noted however, in response to CCfW queries, that the statutory guidance can't say 'must' as this is not in the originating legislation.</p> <p>In relation to the exceptions noted in the draft ("when not to see the child") some of those issues are based on real cases. CCfW reiterated concern shared with officials previously that a section setting out lots of circumstances when a child doesn't have to be seen is opening up new and additional loopholes, and sends the wrong message.</p> <p>WG referred to seeing the child as the safeguarding aspect of the guidance. CCfW noted that this is not just a safeguarding issue, it is about enabling them to have their say on their education and circumstances. Schools do this; they discuss education with pupils but are also able to spot safeguarding concerns by doing so.</p> | <p>Why then is the approach of statutory guidance being pursued if it cannot achieve WG policy intent for children to be seen as part of assessing suitable education?</p> |
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| | | <p>WG are exploring how to make better use of contacts with universal services, and what happens when children are not in contact with these services. Looking at how to establish a concern within the guidance, such as an assumption to see/hear the child across agencies. Also looking to increase routine contact points.</p> <p>There was a discussion of the legal thresholds and disagreement over whether legal thresholds would be met in relation to safeguarding if a child is not seen. There is no right to insist on seeing the child and the absence of evidence of concerns may not be enough to establish that a concern exists.</p> <p>CCfW asked about changes to practice guidance including response to the CPR and importance of seeing the child. WG view was that unless there are concerns, you don't need to insist on seeing the child alone. This is a cyclical argument however as you can't establish a concern based on limited information only.</p> <p>CCfW view on seeing the child is that the exceptions in the draft would essentially encourage or allow parents to refuse for the child to be seen. Experienced professionals should be able to proceed sensitively - e.g. education professional with safeguarding training, ALN experienced practitioners etc.</p> | <p>WG work around contact with universal services has not been able to progress due to the home education guidance not having been updated as this would have been based on the expectations within that guidance.</p> |
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| | | <p>CCfW accept that there will be exceptions and circumstances that arise, but why list them proactively in the guidance? Instead of listing exceptions and a heading on not seeing the child, CCfW suggested WG consult on this further.</p> <p>It is also really important to set out in guidance who from the LA is required to sign the case off if a family is considered to have exceptional circumstances? This should be escalated to a senior person like a Head of Service rather than putting pressure on the practitioner on the doorstep.</p> <p>Knowing the family, why they've chosen to home educate, any additional needs etc. is all part of the ongoing relationship and support arrangement with the LA.</p> <p>WG noted that none of the UK guidance contains anything on assessing suitability of education, so the WG approach will be completely new.</p> <p>If a family is not being open/deferring visits, LAs will be expected to go down the SAO route.</p> <p>WG also felt that the guidance is strong even though it says "should" see the child not "must". Their advice is that LAs must have regard to a should, and must be able to set</p> | <p>This is a shift from what the Minister said in January 2018.</p> |
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| | <p>out why they haven't followed this if so. WG also noted that they don't think that LAs must see children all of the time.</p> <p>WG advised that the statutory guidance will be issued pursuant to S.436A Education Act, and is all about securing a suitable education.</p> <p>The database proposals come under the Children Act 2004 duties on LAs.</p> <p>CCfW asked whether consideration had been given to the Assembly owning the database, as this is provided for under the Children Act. Answers were a mixture of no/not sure.</p> <p>It is expected that there will be a fair minority of parents that will resist visits, so CCfW asked how are LAs being empowered so that children can be seen under this proposed guidance?</p> <p>WG view is that if they refuse a visit and there is no reasonable reason for this, this should prompt further conversations within the LA, and this will be linked to the safeguarding aspects of the guidance. If they still refuse, the LA should escalate to SAO or other provisions to seek access.</p> <p>CCfW reiterated that more clarity is needed for frontline professionals. Currently there</p> | <p>The chronology shows the WG approach moving between one single database and a system of 22 databases, with no real clarity as to aims and intent.</p> |
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| | | <p>are too many ifs and buts - how will the practitioner respond any differently to resistant families than under the current arrangements?</p> <p>WG asked again why CCfW feel the child should be seen? Gave the example of a child with ALN, they might not be able to have the conversation. CCfW view remains that suitably qualified/experienced practitioners will be able to do this. It comes back to LA needing to have knowledge of and contact with the child.</p> <p>CCfW also reiterated the importance of using rights and rights based language in all of the documents, as the guidance needs to reflect and ensure that children's rights are being achieved and respected.</p> <p>WG asked for CCfW view on a young person who is 'Gillick competent' (<i>note - this is a term used to mean a child who is a minor but has sufficient understanding and maturity to express their own views meaningfully</i>) and does not want to speak to LA? Should they be seen?</p> <p>CCfw - this should be down to the officer visiting the family, but how would they know this unless they've seen/spoken to the child. Noted that children have the right to their own views. CCfW would expect LA to still go</p> | <p>Having accepted CCfW three tests, why were WG still asking this question about children being seen?</p> |
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| | | <p>out at set frequency as set out in the guidance, and this gives the child a meaningful opportunity to be seen and heard.</p> <p>WG view is also that the child doesn't have to be seen/met in the home for example if they regularly attend a community based group it will give a better reflection of their education in the place it is primarily received.</p> <p>CCfW noted however that for children educated mainly at home - suitability would include their home environment.</p> <p>WG invited further comments from CCfW on the exceptions, where the current draft doesn't meet the three tests and where there is a perceived lack of strength/clarity.</p> <p>EHE practice guide is drafted based on the current guidance. But includes a <i>presumption</i> to see the child.</p> <p>CCfW asked about the status of that guidance - it is part of the Safeguarding Procedures owned by the safeguarding boards, so it will be non-statutory guidance. It will form part of the 'Working Together' suite of guidance. Drafts to be completed by end of financial year.</p> | |
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| | | | <p>Safeguarding chapter of draft EHE guidance is currently 'less formed'. It will reflect however that S.47 investigation should follow if you have reasonable cause to suspect harm, this should refer to professional curiosity.</p> <p>SH asked how the current draft will be tightened up and amended to meet the three tests in full.</p> <p>WG confirmed that their intent is what they said in the annual report response, that is what they are aiming to do. But they can see where people will exploit/resist aims and will look at what else can be changed.</p> | |
| 75. | 16.1.19 | CCfW introductory meeting with new Minister (Deputy Minister for Health and Social Services) Julie Morgan | EHE was not on the agenda but was discussed as part of a wider discussion around cross-Governmental working and areas that can fall between departments. | |
| 76. | 22.1.19 | Meeting of HE lead officers stakeholder group (CCfW note) | <p>The group reviewed the Chapter on Efficient and Suitable Education that CCfW had previously seen. WG had removed the sections about when children shouldn't be seen and made clear children should be seen on at least an annual basis.</p> <p>There were mixed views about the chapter, some welcomed the changes as being what is needed to see children, but others felt it</p> | The 2020 consultation on these proposals made clear that the information sharing and database was not a tracking tool and therefore would have limitations in identifying children that were not known to |

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| | | <p>would shift the meaning of the meeting, rather than an 'informal chat' they would now be needing to convey that they are assessing suitability of education which might make families very defensive and more difficult to reach.</p> <p>There was discussion about the frequency of visits and strengthening the information about when exactly the SAO process is triggered.</p> <p>The group also reviewed the chapter on Identifying Children not known to Local Authorities - the basis of the database. This chapter was far less complete, more in note form.</p> <p>The proposal now isn't a national database but will be 22 different databases. Authorities are being directed to take active steps to identify children, which is positive, e.g. assessing school roll data to see if children are disappearing etc. However, if a child is picked up as not present then they must then contact all of the other LAs individually, then contact some English LAs if needed and then if they haven't found the child there isn't a clear next step. WG were unable to state what should happen then but suggested going to the police.</p> | <p>universal services. Instead the aim of the proposals was to annually share information about children who were already known to local health services or who attended an independent school in the authority. The intention of this was that authorities would be better able to identify if any children known to health who were not known to any education services (for example through school registration or through existent engagement with the home education lead officer). Whilst these steps would support local authorities in their existent duties to identify children missing education, the scope of the database had significant limitations in terms of its ability to ensure that no child slips</p> |
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| | | | | under the radar of universal services and society in general. |
| 77. | 14.2.19 | CCfW introductory meeting with new First Minister Mark Drakeford | <p>Introductory meeting with the new FM.</p> <p>EHE was not on the agenda but we discussed wider Governmental working and the possibility of a Sub Committee of Cabinet to look at children's issues. EHE was one of the examples where policy work could have been moved on more quickly, and where conversations 'at the very top' could escalate issues as necessary as well as including cross portfolio views and interest.</p> | |
| 78. | 19.3.19 | CCfW quarterly meeting with Deputy Minister for Health and Social Services Julie Morgan | <p>EHE was not on the agenda but was referred to under an item on the 30 year anniversary of the UNCRC (Nov 2019).</p> <p>CCfW were encouraging WG to mark the occasion with events and awareness raising, to increase the profile of children's rights and show how it relates to policies and decision making in WG. We encouraged the WG to highlight key policies influenced/led by rights, such as the Bill to remove the defence of reasonable punishment, curriculum reform, council tax exemption for care leavers, the ALN Act and code, and any other strands as part of a bigger narrative across WG.</p> | |

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| | | | <p>CCfW highlighted that this would give the opportunity to frame the forthcoming EHE guidance in this light, using rights based language.</p> | |
| 79. | 2.4.19 | <p>DfE updated guidance on elective home education</p> | <p>DfE created and published a detailed guide for parents to sit alongside the guidance for local authorities.</p> <p>The parents' guide notes that education may not be deemed suitable if it leads to excessive isolation from the child's peers, and thus impedes social development.</p> <p>The guidance also reflects some of the known pressures such as 'off-rolling' practices, where parents are 'encouraged' to de-register their child from school if their needs aren't being met or if their attainment or attendance results are impacting on the school's performance data.</p> | <p>By contrast, Wales' published information only includes a four page leaflet for parents.</p> <p>This takes the format of FAQs. In response to the question "I am interested in educating my child at home. What should I do?" the response directs parents to write to the school asking for the child's name to be removed from the roll. It does not reflect the many considerations a parent may need to take into account before taking such a decision.</p> <p>The 2019 consultation did include specific guidance for home educating families, which did explore and</p> |

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| | | | | <p>advise families about wider considerations such as off-rolling and Additional Learning Needs and also alerted families to opportunities for community engagement and access to other services. However this guidance for families is also not currently being brought forward due to the decision not to pursue statutory change.</p> |
| 80. | 11.4.19 | CCfW meeting with WG officials | <p>Information from CCfW internal note:</p> <p>There were questions remaining for CCfW; wanting to address these pre-consultation if possible. Acknowledge progress made but some worries about certain aspects.</p> <p>Noted announcements in England to work on proposals for a register. WG noted that this would need primary legislation.</p> <p>WG views was that some of the England proposal is similar to the plans for Wales but not going as far in some places. Wales also going further in the development of a support offer.</p> | |

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| | | <p>SH raised the need to ensure cross-border issues have been actively thought about if there will be different systems, particularly if the perception is that Wales' regime is less strong as it doesn't include a Register. WG colleagues actually feel the Wales proposals are stronger.</p> <p>WG confirmed that regardless of the announcements in England, the Minister will not be changing her proposals, but reiterated that a Register has not been ruled out for the future. They noted a need to be realistic about what we can do now.</p> <p>CCfW noted some ongoing concerns from LAs about the proposals and had offered to broker a roundtable meeting prior to the consultation but this had not been accepted.</p> <p>WG reflected ongoing discussions and feedback from LAs. WG will still refine things at/after consultation stage.</p> <p>We went on to discuss the draft Regulations; WG have also started a series of technical workshops with IT colleagues in WG developing the database. First discussion was a few weeks ago.</p> <p>We had seen proposals for 22 individual LA databases but WG stated today that their intention is to have one single database.</p> | <p>This is more than a year after the Plenary statement about making these changes - time is now a factor dictating what actions can/will be taken.</p> <p>CCfW were surprised to hear that these discussions had not been progressed before this point, over a year on from the Minister's Plenary statement.</p> |
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| | | <p>Discussions were ongoing as to who would be the data controller. One organisation will need to own and host.</p> <p>We asked how this would work, would LAs log in to search for children in their area and all Wales for example? But this was still part of the ongoing discussions. We noted the need to ensure the database can capture the movement of families to different LA areas based on CPR experiences. This could match up to the regional LHB data too.</p> <p>WG said that there might be some compromises required but the One Wales database is the way it will go.</p> <p>CCfW raised that these plans did not seem particularly well developed; we were informed that this work would continue in parallel with the consultation rather than delaying the consultation. WG accepted that there is still a lot to do but the revised guidance needs to be ready for passage next year.</p> <p>SH asked why the draft guidance had been amended so the views of the child would no longer required to feed in to the LA suitability report? WG noted that this should be included in the guidance and this would have been an oversight only.</p> | <p>In addition, messaging about one single database was a change from the discussions that we had in December 2018, and this was the first discussion of one single database; it appeared that the proposals were still very early in their development.</p> <p>Note; the proposals as introduced in 2020 did not follow a One Wales database approach.</p> |
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| | | <p>SH asked about the possibility of introducing a requirement to move straight to the SAO process if child has not been seen?</p> <p>WG confirmed again that the child must be seen to assess suitability. However they agreed to make this more overt in relation to SAO trigger process.</p> <p>CCfW noted that we will be looking for the proposals to meet our three tests, and others including LAs and the CYPE Committee would be looking to us for our view on that. Previous information we'd seen wasn't meeting the "knowing where children are" test and CYPE Committee will be closely following this, as will the media.</p> <p>On the topic of suitable education and other rights, WG noted that the DfE guidance deals with this well on how not having a suitable education can impair development, and this will be copied across. We encouraged reference to Article 29 UNCRC in this context.</p> <p>CCfW noted that we would need to scrutinise every word when the proposals are released, to ensure commitments are being followed through; this is what we do with all departments' proposals. We will be closely scrutinised around this too so we need to be certain that things are right. A Rights</p> | <p>Previously WG had referred to Wales leading the way on this. The proposals had taken so long to be developed however that this was no longer the case, and Wales is not any further forward than the other three UK nations.</p> |
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| | | | <p>based approach gives a moral authority to the proposals and would be harder for people to argue against. England proposal is also helpful to show it isn't just Wales taking this forward.</p> <p>Lastly we were informed that there would be some further short delay in the timeline.</p> | |
| 81. | 18.4.19 | WG email to Estyn | <p>WG noted some "good lines" about Ofsted's role in the DfE guidance, and sought views on inclusion of these in the revised WG guidance. These relate to Ofsted scrutinising LA practices around withdrawals from school and so called "off-rolling".</p> | Estyn published a report on Pupil registration practices in October 2019. |
| 82. | 29.4.19 | Estyn response email to WG | <p>Notes that the Local Government Education Services (LGES) inspection framework, under Inspection Area 2 - 2.2 Support for Vulnerable Learners, states the following:</p> <p style="padding-left: 40px;">Inspectors may evaluate the local authority's oversight of children educated at home by their parents, including children and young people with statutory plans for their education. Inspectors may consider whether the local authority provides useful guidance and sign posting for support for parents educating their children at home.</p> <p>Local authorities are expected to self-evaluate their work in this area.</p> | |

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| 83. | 8.5.19 | Meeting of the HE lead officers stakeholder group (CCfW note) | <p>OB3 Research into costs / practices / processes around EHE in LAs was shared.</p> <p>12% families decline meetings and a further 13% ignore requests (across all LA responses); annual visits are not routine in all LAs currently - 6 cite lack of capacity; currently LAs do have their own databases (e.g. Excel spreadsheets).</p> <p>Huge concerns raised by LAs around capacity and funding to meet requirements of the new ALN Act in relation to EHE.</p> <p>New Data Cymru data collection shows 2,653 EHE children and young people as of 15 Jan 2019 (represents rise from 2,292 in 2018). Notably only 40% of children had received a visit from LA officer within the last 12 months.</p> <p>There was a presentation on the database to identify children missing education but this work was only very recently started. There was previously (before this work) going to be 22 separate databases. Data controller not yet confirmed. Ongoing issues with cross border data and potentially 'ownership' of actions - and also issues around concrete actions to take but it is looking like Wales-wide info sharing now.</p> | <p>The 2019 guidance included details about the duties of local authorities to meet the requirements of the 2018 ALN Act, and increased emphasis on the need to see the child would have enabled LAs to better meet their duties under the 2018 Act. Without this guidance these LA concerns remain unaddressed.</p> |
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| | | | <p>Comments were invited on the current statutory guidance and support offer.</p> <p>New anticipated date for consultation is July. The following will be consulted on: Guidance; Handbook for Home educators; and RIA and IIA.</p> | <p>The consultation documents were published at the end of July 2019. The regulations around local authority databases took place separately, with documentation published in January 2020.</p> |
| 84. | 14.5.19 | CCfW email to WG with feedback on draft guidance (summary) | <p>Feedback against CCfW three tests:</p> <p>Identifying children - this looks promising with the new 'Once for Wales' detail, but this would depend on the details of the Regulations and of the database and approach. Asked that the Regulations could be included in the July consultation for clarity. Also noted some cross border issues and that the actions for children that are identified as missing are currently weak and unclear.</p> <p>Human rights including education comes through strongly in guidance.</p> <p>Children are seen and their views heard: Reflected that there are still problems about being children seen and sent some detailed feedback in relation to this.</p> | <p>WG response: (summary)</p> <p>Accepted points around needing to strengthen the child being seen and grounds to issue SAO. WG would add that without seeing the child suitable education cannot be assessed and therefore an SAO is appropriate and also add this to the flowchart.</p> <p>They aren't intending to consult on database regulations in July as they are still scoping and mapping current systems. However, they would include as much detail about the</p> |

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| | | | | <p>database in the consultation document as possible.</p> <p>They are in discussion with England and WLGA and LGA around info sharing, and establishing joint guidelines around this. WG still not sure where data will sit - who is data controller.. 'conversation still developing'.</p> <p>Advised that they will share with us the guidance after it has gone through legal (pre-consultation) and explain if anything we have requested has been removed.</p> <p>WG are anticipating potential for legal challenge by judicial review, which could delay implementation.</p> <p>They will develop the CME (children Missing</p> |
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| | | | | Education) guidance starting in September. |
| 85. | 29.7.19 | <p>Welsh Government Press Release - Guidance on home education in Wales published for consultation</p> | <p>The draft statutory guidance sets out what local authorities need to do to identify children not being taught at school and provides advice on how to assess the suitability of the education those children receive.</p> <p>The guidance states that children should be seen as part of the assessment of suitability of education once a year, unless there are other issues that warrant more frequent meetings. The guidance also clarifies the support local authorities should make available to home educators in their area.</p> <p>A handbook has also been developed with advice and support for people currently providing or considering home education for their children. The guidance also aims to ensure the support for home educators is consistent across Wales.</p> <p>The Welsh Government plans to consult later this year on regulations to require local authorities to establish a database to help them identify children who are not registered at a school, or are not on an education otherwise than at school (EOTAS) register, and then to determine whether the children are receiving a suitable education.</p> | <p>In the absence of these proposals being taken forward, it could be seen that LAs do not have the information and powers they need to identify children in their area.</p> |

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| | | | <p>The Education Minister, Kirsty Williams, said:</p> <p>This statutory guidance will help local authorities to support families who decide to home educate their children, while reinforcing the levers available to local authorities where a suitable education is not being provided.</p> <p>Our overriding priority is to secure the best outcomes for home educated children and young people by developing constructive partnerships between home education households and local authorities. This consultation provides an opportunity for everyone to have their say to help us ensure this approach is reasonable and proportionate.</p> <p>The best interest of the child is paramount and whether educated in school or at home, we remain committed to ensuring all children are supported to be the best they can and reach their full potential."</p> | <p>How have WG contributed to or achieved this priority, in not taking the proposals forward?</p> <p>There is limited reflection of children's rights within this statement.</p> |
| 86. | 29.7.19 | <p>Written Statement from Kirsty Williams (Cabinet Statement): Consultation on Statutory Guidance for Local Authorities on Home Education and a</p> | <p>I am pleased today to be launching a consultation to seek views on draft Statutory Guidance for Local Authorities on Home Education and a Handbook for Home Educators.</p> <p>The national strategy - "Prosperity for All" - recognises that a child's educational</p> | |

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| | <p>Handbook for Home Educators</p> | <p>journey should be one of the most enriching and rewarding times of their life and provide them with the knowledge and skills to fulfil their potential.</p> <p>Every child has a fundamental right to an education. The Welsh Government respects the decision by some parents to educate their children at home, but this must be balanced with the absolute right of children to receive a suitable education. We are taking steps to ensure all children receive their entitlement to a suitable education, and that families receive support should they want it to support them in their efforts to home educate.</p> <p>The statutory guidance represents a shift in current expectations of local authorities and will assist them to carry out their current duty to ensure children receive a suitable education. In addition to providing clarification on the characteristics of a suitable education, the statutory guidance reinforces the levers available to local authorities to use when a suitable education is not being provided. It also clarifies the support local authorities could make available to home educators in their area.</p> <p>In particular the guidance:</p> | <p>Without taking these steps, these entitlements cannot be ensured nor can the support for families be properly realised.</p> |
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| | | <ul style="list-style-type: none"> • States that children should be seen as part of the assessment of suitability of education as a minimum annually, unless there are other issues that warrant more frequent meetings • Reinforces the requirement that local authorities must take action if it appears that parents are not providing a suitable education. <p>I am particularly keen to ensure that home educating parents should feel confident these proposals are not designed to infringe on their right to private family life. The best interest of the child is paramount and whether educated in school or at home, the Welsh Government remains committed to ensuring that children are supported to be the best that they can be in an ever changing and challenging world.</p> <p>A number of universal health, care and support services and youth services are facilitated through school and as a result, some home educated children and their families may not be aware of their entitlements and potentially miss out on key initiatives and services. That is why we have produced a handbook for home educating families which brings together a variety of useful information and resources.</p> | <p>This handbook with useful information and resources has also not been brought forward so this awareness raising has not happened.</p> |
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| | | <p>I previously announced my intention to consult on using existing powers found in section 29 of the Children Act 2004 to establish regulations to require local authorities to establish a database of compulsory school age children, including those who are not on any education register. The regulations will also place a duty on local health boards and independent schools to share a minimal amount of non-clinical information to populate the database. These powers will enable local authorities to compile a reasonably complete database of children not on any education register to assist them in identifying children who are not receiving a suitable education.</p> <p>Consultation on the draft regulations will take place separately. This is due to an extensive scoping exercise officials are undertaking with representatives from local authorities, independent schools and local health boards. We want to ensure the database is as comprehensive as it can be, but does not place a disproportionate administrative burden on local authorities, local health boards and independent schools.</p> <p>I want to reiterate the Welsh Government respects the decision by parents to home educate their children. The draft guidance acknowledges that home education can be a uniquely individualised approach for children</p> | <p>This 'extensive scoping exercise' was very late in getting underway.</p> |
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| | | | <p>tailored to the specific needs and interests of each child.</p> <p>This consultation provides everyone with an interest in home education to have an opportunity to have their say to help us further develop our proposals and try to address any concerns going forward. To support this, we will be running a number of consultation workshops across Wales. This will include workshops specifically for children and young people to ensure that their right to be heard under Article 12 of the UN Convention on Rights of the Child is upheld.</p> <p>This statement is being issued during recess in order to keep members informed. Should members wish me to make a further statement or to answer questions on this when the Assembly returns I would be happy to do so.</p> | |
| 87. | 29.7.19 | WG Consultation Home education: statutory guidance for local authorities and handbook for home educators | <p>The consultation ran to 25 October 2019.</p> <p>ARAD research were commissioned to undertake the analysis of the 437 responses.</p> <p><i>386 responses were from individuals</i></p> <p><i>A large proportion of responses took the opportunity to express their views on a wide range of themes relating to home education but beyond the scope of the question around a fifth felt the guidance went against parents' rights.</i></p> | <p>As with the 2015 consultation, the report summarising the responses does not set out what should happen next or how these responses have been or will be taken forward.</p> <p>The summary of this consultation's responses</p> |

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| | | <p><i>Differences in views between different respondent groups Individuals and home education organisations were far more likely than other respondent groups to disagree with the question and raise the concerns discussed in the section above. Local authorities, education stakeholders, health sector organisations and safeguarding boards were more likely to express agreement with the question.</i></p> <p>The integrated impact assessment published with the consultation includes a CRIA.</p> <p>It is noted that "By introducing regulations requiring local authorities to develop a database and by issuing statutory guidance combined with an offer of educational support for parents, the Welsh Government will be directly implementing Article 4 which calls on states to "undertake all appropriate legislative, administrative and other measures to the implementation of the rights recognized in the present convention".</p> <p>"In developing these proposals officials will continue to be mindful of the need to ensure that, as far as possible, it supports the UNCRC. The Welsh Government acknowledges it will be a challenge to balance the rights of the child with the choice of parents to home educate, and to ensure that we do not</p> | <p>was published in December 2019.</p> <p>By <u>not</u> introducing these regulations and statutory guidance, the WG is therefore not taking all appropriate steps to realise the Convention Rights for this group of children.</p> |
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| | | | <p>infringe upon the freedom parents have to make decisions on what they believe are valid choices for their children. Whilst some parents may argue this approach will infringe on their family privacy, the Welsh Government believes this is outweighed by the responsibility to ensure that children and young people receive a suitable education and have the opportunity to develop into the best that they can be; to be well-educated, safe, happy and have high levels of wellbeing and to develop the skills and knowledge they need to play an active role in their communities and wider society."</p> | |
| 88. | 12.9.19 | <p>WG cross governmental officials meeting to discuss CCfW annual report recommendations shared under embargo</p> | <p>The meeting went through each recommendation in turn.</p> <p>On home education, SH noted that there had been lots of ongoing work between WG and CCfW. CCfW are seeking implementation of the acceptance of last year's recommendation.</p> <p>WG noted that this recommendation was not a surprise, and that it is a factual/fair reflection. Consultation currently live; CCfW will be responding. WG views is that the new statutory guidance represents a "dramatic shift" in policy and expectations, and goes further than anywhere else in the UK.</p> | <p>This annual session was introduced to help officials understand the background to CCfW recommendations, before formally replying to those recommendations in November of each year. It also helps to ensure all information is correct and up to date.</p> <p>This is one of a number of occasions where WG refer to their proposals going further than any other UK nation; this is unfortunately meaningless if such</p> |

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| | | | | <p>proposals are not enacted.</p> <p>The consultation on the statutory guidance was live at this point. Consultation on the database regulations was not part of this consultation, that element was to follow as the details had not yet been worked out.</p> <p>We have not been able to ascertain when/whether advice around primary legislation has been given to the Minister.</p> |
| 89. | 20.9.19 | CCfW meeting with WG officials | <p>74 responses had been received to date; this is a lot at this point in the consultation window. We had not yet submitted our response and remained concerned about what we saw as loopholes and the lack of detail around the database proposals. In particular we wanted to discuss the timeline and next steps.</p> <p>Until all responses are received WG can't be certain what the Minister will decide. However they indicated a view that primary legislation would not give more "in practical terms"</p> <p>We had been considering the views of children and families, and also Local Authorities. We've been receiving feedback from both sides that nothing has changed.</p> <p>WG felt they'd reflected a lot on LA views, but might need to do a bit more on assessing suitability.</p> <p>LAs remain concerned that they can't pursue an SAO just because child hasn't been seen which is what the guidance indicates. This has maintained our concerns that at the end of all this process some of the loopholes won't be addressed and actually the whole premise isn't strong enough.</p> | |

The Minister originally said she would move to primary legislation if this proposal doesn't work - it has been so long already - is it now time shift into that work?

WG did not answer directly but noted plans to discuss in detail at the forthcoming ADEW national meeting.

On the database proposals, these have not yet been shared with the Minister, WG still discussing with lawyers.

When asked about the intention they said it will be a database of all compulsory school aged children in the LA area. Not an EHE specific database - it will include all children - not singling out home educating families.

"Each LA will establish their own database."

WG still scoping out technical issues around existing systems in LAs. All have a database of some kind already, so the Regulations will formalise those arrangements. Guidance will cover things like data transfer from independent schools and LHBs.

WG still trying to clarify or refine the data that will need to be requested from LHBs - name, DOB, gender, parental responsibility,

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| | | <p>postcode - the least amount to enable a match to be generated based on proportionality.</p> <p>SH queried whether there will be a national database? The Once for Wales approach previously advised.</p> <p>WG - it will be 22 databases, one for each LA. WG will develop a matching tool to match data from HWB records against LHBs and Independent Schools' records. Where these are not matched - i.e. the name shows on one register and not another - they can start enquiries then to locate.</p> <p>WG clarified further that it is actually software not a database.</p> <p>Legislative requirement on LAs is to identify children in their area only, so if they are not living in their area they do not have a duty towards them and their education.</p> <p>WG acknowledged that if a child is not known to GP or LA, this solution won't find them.</p> <p>SH asked about children not seen since birth - if they are not at their last known address they are then "missing" - not just missing education but missing generally. Will the LA then need to approach all other LAs?</p> | <p>This is a change to what was advised at the last meeting with WG officials, back to the original proposals we had seen. We have not been able to ascertain when or why decisions were taken around this point.</p> |
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| | <p>WG view was that LAs wouldn't need to do this, as the LA is only responsible for finding those within their area.</p> <p>WG also reiterated that a missing child is a safeguarding issue not an education matter. Accepted there is a role for education but it is a bigger issue.</p> <p>If a family is registered in a new area they will show up from this system via the health list there (eg if born in Swansea but no longer at a Swansea address, if they've moved to say Conwy they'd come up on the Betsi LHB list (in theory if registered) so they'd flag up to Conwy LA that way and the health record will provide their new address.)</p> <p>WG also noted that the LA has overarching safeguarding responsibilities so they can follow up within their own LA e.g. across departments like checking housing records. The Regulations will ensure only those who need access will have it.</p> <p>SH asked about concerns we'd heard from families, that these proposals will lead some to go totally off grid in terms of health services. Is this a specific question for the Minister? Would she reconsider at that point with a formal duty to register? We acknowledge some will never comply but that would be a more robust system.</p> | <p>This seemed to be a major shift in policy intent, this had not been discussed previously. There did not appear to have been detailed consideration of what happens if a child appears to be missing.</p> |
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WG advised that they are not convinced on the case for primary legislation and a register.

We asked whether all those required to have dealt with the necessary matters to enable data sharing; we note that data sharing takes a lot of background work.

WG- Pembrokeshire LA have just agreed an Information Sharing Protocol with the health board - fuelled in part by the Seabridge case. There had been some concerns initially about the justification to share info but they have ironed those out. They noted that there is always concern at a new policy being introduced but after a couple of years it becomes the norm.

SH noted that a Register would come with the prospect of a sanction for non-compliance. WG still unsure whether it would shift stubborn behaviours any more though. They felt that some families see the potential for SAO as enough to comply but there will always be some who won't.

We asked again about timescales. November had been the aim; WG said "that's still the plan but need to be realistic and wait to see what comes back from the consultation".

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| | | | <p>SH noted that the 2015 consultation took a very long time to report back - not until 2017. There could realistically be thousands of responses but we are still concerned about speed. We've been waiting a long time since the Minister's announcement which was January 2018.</p> <p>SH reiterated that we need to see the policy intent achieved in full, as it has been stated. WG noted that if what they are proposing isn't clear enough perhaps that could be changed.</p> <p>SH encouraged WG to strengthen the proposals, as falling between both camps isn't going to achieve anything. WG can aim to create an alliance with those who will work with LAs as this is important, but also something strong enough to reach those who won't engage. We don't want children to be told state visits are a bad thing and people putting pressure on them as this messaging is not helpful.</p> <p>Lastly in relation to the database regulations that are to follow, WG said the Regulations will be drafted by Lawyers and won't be up for change or advance comment.</p> | |
| 90. | Oct 2019 | CCfW annual report 2018-19 | <p>Progress and recommendation</p> <p>Over the year, Government has been responsive to my ongoing involvement in development of</p> | <p>WG response</p> <p>The Welsh Government Response: Accept.</p> |

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| | | <p>this policy area, with public consultation on the guidance due in late spring. Government officials have also engaged with other stakeholders, including home educating families and local authorities.</p> <p>Although I have been frustrated by the time it is taking for Government to issue guidance for consultation, I have been reassured that Government is consulting widely to ensure that the information sharing approach and guidance are practicable and will enable local authorities to see children and to identify children missing education.</p> <p>I will continue to scrutinise the policy against the three tests laid out in my 2017-18 recommendation, and I retain the option to formally review the Government's actions in this area if the guidance published for consultation in 2019 indicates Government is not exercising its function to ensure these policy aims will be met.</p> <p>Recommendation Welsh Government must implement statutory guidance giving effect to my three tests in full in 2020, to ensure children's rights are being respected wherever they are educated.</p> | <p>New statutory guidance for local authorities on home education was out to consultation for 12 weeks from 31 July to 21 October 2019. The purpose of the proposals is to ensure that children who are home educated receive a suitable education and the guidance reinforces the options available to local authorities if they believe this is not the case. This will strengthen the Welsh Government's commitment to ensuring children and young people are given the chance to thrive and fulfil their potential.</p> <p>471 responses were received to the consultation which will require detailed consideration by officials. The intention is to publish in the Statutory Guidance along</p> |
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| | | | | <p>with Regulations in 2020.</p> <p>Note - WG response is similar to the previous year but the WG commitment to ensuring all children get the chance to thrive and fulfil their potential was ultimately not taken forward when the proposals were discontinued. There is no consideration of children's rights within this response.</p> |
| 91. | 1.10.19 | CCfW annual meeting with the Education Minister Kirsty Williams | <p>EHE was an agenda item as part of the annual report discussion.</p> <p>SH stated that we would give our detailed response to the current guidance in our consultation response. We consider the new guidance makes it more likely children and young people will be seen, but we are concerned that LAs do not have enough power to their elbow.</p> <p>We will be attending ADEW this Friday; WG will also be there to discuss the consultation and guidance further. SH reflected that WG and CCfW seem to be hearing slightly different messages from LA Directors</p> | <p>Government do not appear to have listened to or accepted LA concerns during this process, including the concerns</p> |

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| | | <p>of Education, so this will be helpful to have an open discussion at which both organisations are present.</p> <p>The Minister said it was a challenge to get local authorities to do what they can / to implement guidance on a consistent basis and that they may hide behind 'not having enough powers' when they do.</p> <p>SH asked what would trigger a move to primary legislation. The Minister responded that this would not be realistic in the next 18 months and wouldn't happen. Education had used up all their legislative slots and would not have any more access to legal resource due to Brexit.</p> <p>Officials questioned what would be the policy intent in primary legislation that is not covered by current guidance. SH agreed that it is important that we keep a close eye on how LAs respond, and importantly that if this doesn't give them what they need then what do they think would?</p> <p>The Minister would like to see the evidence from LA lawyers about what is not strong enough in their view and what they would need to feel confident, stating that 'implementation is key'.</p> | <p>set out by the Seabridge CPR.</p> <p>The Government could have acted sooner if they wanted to enact primary legislation; how was this considered?</p> <p>LAs have not had the opportunity to implement this guidance as it has not been brought forward by WG.</p> |
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| | | | <p>SH noted that there is potential to make small changes within the secondary guidance that would make it clearer, as previously shared with officials, e.g. Director of Education signing off children that are not seen. We will also include this in our consultation response.</p> | |
| 92. | 4.10.19 | <p>ADEW meeting</p> <p>CCfW attended to meet with ADEW members - the extract is a summary of internal CCfW notes</p> | <p>CCfW shared our three tests and explained that we were speaking with professionals and home educators to help develop our understanding of how far the guidance meets the three tests.</p> <p>The following points were made:</p> <ul style="list-style-type: none"> • EHE a growing concern- an escalation of numbers. Trying to understand why, but the following things seem to drive this choice: bullying; ALN provision; attendance. • Necessary for LAs to be more hands on in their approach -a desire to engage, to facilitate regular seminars / meetings to support families and build relationships with this community. • The statutory picture is that the LA is expected to monitor the suitability of education with 'both hands tied behind their back' and 'blindfolded'. When families choose not to engage this understanding is stymied. The new | <p>It is concerned that these are not new points being raised by LAs; these are also points that CCfW had raised with WG separately.</p> <p>In particular, the lack of any new tools, and difficulties with the evidence to satisfy the SAO process are significant barriers to LAs discharging their duties under the existing legislation as it stands. This indicates that the approach under secondary legislation is insufficient to meet their concerns.</p> <p>LAs shared CCfW view that the guidance, as</p> |

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| | | <p>guidance and proposed direction from WG doesn't give confidence.</p> <ul style="list-style-type: none"> • The guidance doesn't give any new tools to LAs. If a parent refuses to allow the child to be seen that is their position and if the LA has concerns they need to provide evidence of them. Refusal to engage is not sufficient at present to enable entry to the home and this guidance doesn't change that. • These concerns were raised with WG in the draft stage but have not been changed in the document out to consultation. • Families are communicating with each other and have created template letters quoting the primary legislation to support them declining visits as LAs cannot take any further evidence. • LA lawyers concerned there wouldn't be enough evidence to apply for a School Attendance Order (SAO) without seeing the child. You would need positive proof that no education is taking place rather than a gap or lack of evidence. • 'seeing' the child is the most important requirement of this guidance. this guidance doesn't have the rigour to enable engagement. • Would prefer a mandatory register than the database proposals - they already do | <p>drafted, isn't sufficiently strong on seeing the child to enable engagement with all families.</p> <p>LAs remain of the view that a Register would be preferable, albeit that it is never guaranteed that parents will register.</p> |
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| | | | <p>what is indicated in the guidance (linking up between health etc) but this doesn't cover a moving population. Belief that a mandatory register would be better, though accept this would not be failsafe.</p> | |
| 93. | 20.10.19 | <p>Letter of legal advice to Assembly members from Protecting Home Education Wales</p> <p>Legal advice enclosed from David Woolfe QC</p> | <p>The advice related to the consultation on the draft statutory guidance and sought AMs' support to challenge the legality of the proposed guidance and to ask the WG to withdraw the guidance.</p> <p>The advice sets out where they believe the WG have gone too far in overstating the position in respect of visits and monitoring duties.</p> <p>The advice concludes that "if the matters set out above are adopted in the final guidance following consultation, then that final guidance will mis-state or misunderstand the law and so be unlawful (and/or leads to illegality by local authorities acting in the light of it)."</p> | <p>The advice queries the extent to which WG have fully considered the UNCRC.</p> <p>We have been unable to ascertain how this advice has impacted Welsh Government decision making, but note references by officials to them expecting or anticipating a Judicial Review if they brought proposals forward.</p> <p>Has this impacted the ultimate decision?</p> |
| 94. | 6.11.2019 | <p>CYPE Committee annual scrutiny session with CCfW</p> <p>Extracts from transcript</p> | <p>Sian Gwenllian: I know that you have been campaigning to ensure that children who are home educated aren't invisible and that they do have their rights, and that you've been frustrated by the lack of progress. But, by now, do you think that progress is going to</p> | |

happen in terms of the Government, and are those criteria that you set out going to be responded to?

Sally Holland: I've discussed this with the committee before, and particularly last year. This time last year, I was sat here saying how frustrated I was, really, at the lack of progress. At that point, as you know, I was seriously considering using my legal powers to review the Government's progress on the issue. And I raised the issue again, asked for an acceptance of my three tests—that all children should be known about and seen in Wales, that they should get all of their rights, including, of course, the right to an adequate education, a suitable education. And to do those things, we need to see children and meet with them.

There was a turnaround, following my last committee appearance, with the Government—the First Minister, indeed, fully accepting of three of those tests and saying, 'This is now our policy position', which I was pleased to see. There then followed quite a protracted period in which I was intensively discussing with Government and officials what that could look like in terms of implementation, which culminated in the consultation that has just closed. Of course, I've given a very full response to the consultation. I'm sure you'd

Conducting this Review has called into question just how much of a turnaround/shift in WG policy and intentions had taken place in reality.

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| | | <p>like to know what my view is of the current suggested draft guidance.</p> <p>I think, when we look at where we were, just over a year ago, there has been a big shift—there's no doubt about it—a big shift towards meeting my three tests. In particular, I think that the draft guidance would make it far more likely that children will be seen.</p> <p>And we've got a far clearer idea of how that would happen and what would happen if they weren't seen. We have pointed out areas that we think are loopholes within that that we would like to see tightened and, of course, in terms of my first test, of knowing where children are, we've had policy statements about what the Government's intentions are there, and there's some of it in the draft guidance around developing a database. And rather—. They've decided to go along that route—so, to strengthen requirements on public bodies to make sure they're aware of all children in their area and what form of education they're receiving, whether it's through a state school, an independent school or being home-educated. And they intend to provide stronger mechanisms to do that. But the detail of that has not yet been published, so I cannot say that that first test, whether it has been met or not, because those details are not there yet. We expect that to be published imminently. I haven't</p> | <p>CCfW had urged WG to issue the Database regulations as part of the 2019 consultation, as not seeing these alongside the guidance caused a lot of queries in the consultation responses.</p> |
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seen the draft of that in advance, so I cannot say yet. My judgment's reserved on that aspect.

SG: Okay. What you said there was that it's much more likely that children would be on the radar, therefore. But are you confident that every child will be accounted for within the new guidance?

SH: I think, to be honest, under any system, it would be hard to guarantee that, just as our child protection systems, for example, cannot guarantee, however robust they are, that every child will be safe, in other contexts. So, I think that—. I do have some sympathy for the Government's argument, for example, that, if they were to simply implement a register, which would be a requirement for parents to come forward, then some—a small number, I expect, but some—parents would also resist that requirement too. However, we have laid out very clearly to Government where we think there are some loopholes in the guidance as it's been published, the draft guidance that's been published. And I have asked what the prospects are of improvement before it's published, and they're working to quite a tight timescale. I'm aware that they've had a very high volume of responses, and I believe the analysis is going to be done independently. I'm waiting for—. Obviously,

we'll wait to see what the Government comes back with, but we are concerned that, within the guidance, there are indications that there may be occasions where a local authority may be able to assess the suitability of education without seeing a child, still, and I don't think myself that that's possible.

SG: We have received correspondence—well, I have had correspondence—from an organisation that claims, after they had legal advice, that the guidance, as it currently stands, is unlawful, and that it would be unlawful for local authorities to use this guidance. You've already mentioned making it obligatory to hold meetings with families or with the child individually, and that kind of thing. There are claims that that is not lawful. Do you have a particular view on that?

SH: Yes, I'm aware of those claims. Obviously, the Government will have had their own legal advice before they put out their draft guidance, and I'm sure they'll be working on a response to that. The key issue, and the key discussions I've had with the Minister, when I've had the chance to discuss this with her, has been how much they can do under secondary legislation—which is what they're attempting to do this under, which was an attempt to do it quickly. It hasn't actually been very quick, but it was an

attempt to do this more quickly and proportionately—and what would need primary legislation. So, my understanding is that they've worked hard to make sure that the guidance uses the full extent of what can be done through secondary legislation, but, clearly, there are different legal interpretations and I'm sure there are going to be robust legal discussions about that. But I made it clear in my response to the Government that if the assessment—if they go ahead with this guidance and the assessment is that it is not effective in this sense, then they'll need to move swiftly towards primary legislation to make sure that we have proportionate and suitable regulation of this area, which is a very, very under-regulated area, and won't—

SG: We may need primary legislation for other reasons—the reasons laid out in these letters, that it's not actually lawful to do it through the secondary process—and that could kick the whole thing into the long grass for ages.

SH: Which would be really concerning. So, I want the Government to do everything it's got the legal power to do at the moment, but they're going to have to give serious consideration as to whether primary legislation should go forward alongside, or in quick succession. I am continually

CCfW still don't have a firm view from WG about the efficacy of their proposed 2019/20 approach or how/when the need for primary

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| | | | <p>concerned about how this has all unfolded over the years, how long it's taken. There's been talk about this going forward for a number of years since the child practice review recommendations on the death of Dylan Seabridge. It's very complex; I'm not at all suggesting to the Government it's easy. It's a very complex area to work in, as we all know. It's a highly emotive area. People feel very personally pro or against it, a bit like many other areas that this committee considers. So, it is very complex. It's been a very difficult area, I think, for the Government to work up their guidance on. However, it's a shame that it still remains so controversial and so opposed by sections of the home educating community, who I don't think speak for everyone who's home educating.</p> <p>SG: It may have been easier to introduce primary legislation from the outset.</p> <p>SH: Absolutely, if you look back.</p> | <p>legislation would be explore further.</p> |
| 95. | 21.11.19 | EHE stakeholder reference group (CCfW note) | <p>1. Careers Wales (CW) presentation</p> <p>Information shared about processes and data sharing. Careers Wales are currently working with about 300 young people who are EHE. An increase from around 100 just over a year ago, thanks to push from LAs. They noted that there are often 'significant</p> | <p>A meeting of the group in September 2019, at the point the consultation was live, had been cancelled.</p> |

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| | | <p>discrepancies' between the number of young people they have recorded as EHE and those recorded by the authority. They didn't feel that they had a legal basis to pass on data about EHE young people to the LA and they are not doing this when there is a discrepancy.</p> <p>Careers Wales also come across YP possibly missing education. They are also not passing on this data to LA. This was challenged as they can / should pass this on and they agreed to look into this.</p> <p>There is nothing in the agreement that gives the LA the power to share data with Careers Wales if the parents say no. Careers Wales need active (not assumed) consent. CCfW asked about YP's consent i.e. does young person get asked if they want to engage with careers service or just parents. This was not currently clear.</p> <p style="text-align: center;">2. Consultation update</p> <p>471 responses received. WG anticipating 'significant redrafts'. A high level summary report (commissioned) will be published early next year.</p> <p>* Legal challenge by 'Protecting Home Education in Wales' crowd funded advice from David Woolfe QC. WG response to this: this challenge is flawed because it states 'the</p> | <p>WG informed CCfW by email of the following points:</p> <ul style="list-style-type: none"> • Overwhelming feedback from the group to cancel the September meeting. • LAs have had significant opportunity to consider the guidance prior to the consultation • Guidance was co-produced with LAs. • Regulations being prepared for consultation. Significant priority, but referred to reduced capacity in the team after the end of a fixed term secondment, leaving a gap to be filled. <p>The reduction in capacity in the team at such a key point in the process does not</p> |
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| | <p>guidance suggests meetings are statutory and it doesn't, it states should.'</p> <p>* Also, considerable unease from LAs was noted because of this challenge. Concerns that the guidance sets out something LAs cannot actually do.</p> <p>3. Discussion about the Data Cymru capture led by WLGA</p> <p>This is continuing and will be done Jan 14th 2020 to inform policy.</p> <p>4. Database regulations update.</p> <p>'a database of all children and young people ordinarily resident within the LA'.</p> <p>WG advised that they need to consider all the consultation responses before issuing the consultation on the draft Regulations. WG couldn't commit to it being out before Christmas but this is the aim.</p> <p>WG reiterated that minister would move to primary legislation if needed. CCfW asked about evaluation plans and what would trigger this. WG said that they wouldn't be able to evaluate in 2021. It would need to 'bed in' first. Their current thinking is that evaluation of how this is working wouldn't start before 2022.</p> | <p>indicate this work being given "significant priority".</p> <p>This rebuttal from WG indicates that their position on seeing the child is not firm; how does this meet CCfW three tests in that case?</p> <p>CCfW regularly raised concern with WG that this timeline was too long and evaluation needs to commence straight away. The concern was always that opportunities to</p> |
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| | | | <p>5. Support offer</p> <p>Hwb discussed; there is no clear reason given as to why EHE young people can't have logins.</p> <p>CCfW asked if there would be more of a national support offer. WG said they would advise the Minister if /what there should be when they've read all the consultation responses.</p> <p>LAs shared some examples of local support, some examples: Wrexham - parent voice group; free local swimming lessons for EHE; weekly sports club for EHE children / young people. Pembrokeshire - fortnightly sport and music club, at least 25 families including some previously unknown to the LA. Carmarthenshire - National Botanic Gardens is offering special EHE membership and running lots of activities for home educated young people. RCT - supporting exam entry, also BTEC training and exams for young people and parents. Gwent - offering Agored Cymru qualifications to EHE young people.</p> | <p>strengthen the proposals if needed would be years down the line, given previous experiences this does not give a great deal of confidence.</p> |
| 96. | 11.12.19 | CCfW meeting with WG officials | CCfW had seen today's written statement on EHE and the amended timeline. | |

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| | <p>Note meeting was about EHE and independent schools</p> | <p>WG advised that the original consultation was extended slightly as the public events were right at the end of the window and people wanted to reflect on what they'd heard/discussed at those events before submitting their responses. WG didn't anticipate the technical and legal detail within the majority of responses, and they weren't just copied and pasted so the analysis is time consuming.</p> <p>Flavour of objections to the proposals -</p> <ul style="list-style-type: none"> • Responses reflect the view that LAs should only act where it appears a child is not in receipt of education • Confusion over database/register • Some people still think there is one national database • Discrimination - and comparisons made to sex offender's register by respondents • Forced visits - seeing children in secret, mandatory interviews • Lack of expertise in LAs to judge suitability • Lots of queries on what a suitable education actually looks like - LAs liked the suggested characteristics of what it looks like but were asking for more • Not compliant with UNCRC Article 16 or Article 8 ECHR | <p>Having consulted on the issue previously and received hundreds of responses, it is surprising that this level of detailed response was not "anticipated"</p> |
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- Biased/persecution
- Negative language around home education.

Draft consultation document for database will need to be reframed to respond to these views and concerns. Some families have recognised the need to be known about etc. but very much in the minority.

Safeguarding has raised a lot of concerns amongst families.

SH noted that we had been concerned at the proposals potentially being completely derailed, so today's statement is reassuring on this. WG confirmed their plan is to strengthen not dilute contents of guidance, and that the complexity of responses does justify the extended timescale to get it right.

SH expressed frustration that we could have done primary legislation in this time.

SH asked about encouraging LAs to have an implementation group, that includes families. LAs could employ experienced home educators to support visits perhaps?

WG recognised that there are some trust issues, similar to when Estyn visits a school, people worry it is about finding

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| | | <p>problems and not supporting/recognising progress. Cultural change needed, and demystifying the experience. SH noted that the best LAs probably do this already but a clear expectation from WG will be constructive. WG felt this was a reasonable suggestion, and can certainly put this in the guidance.</p> <p>SH asked for information about the Regulations. WG confirmed they would be coming out in the new year, still working through a lot of the detail.</p> <p>SH noted from the responses to the first consultation that a strong message from the Minister at the launch of the Regulations might be helpful, to state health information itself is not being shared, as this is putting families off from registering with health services.</p> <p>WG unconcerned about this potential de-registration from health/universal services, but the consultation will ask about likelihood of disengaging with health.</p> <p>Some people have said they would need parental consent to share any information, but this is a misunderstanding as the database will be the lawful basis for sharing.</p> | |
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| | | | <p>Regulations will be made under the affirmative procedure, so will have to be debated.</p> <p>We discussed a number of different support options for WG to consider.</p> <p>SH then asked about WG evaluation plans? Policy leads are working with colleagues in KAS on an evaluation framework. Recognised that the Minister has committed to evaluating this approach, so they are engaging with colleagues with relevant expertise.</p> <p>SH emphasised the need to ensure this is in place from the start. WG noted that the WLGA data work already provides a baseline which is good.</p> <p>WG noted that timescale will be the challenge, as they need to give proposals enough time to bed in, but clearly need a plan of action and to gather information and regularly assess this against a baseline.</p> | |
| 97. | 28.1.20 | <p>NISB published Thematic Review of Child Practice Reviews</p> | <p>This piece of work was undertaken as an "opportunity to maximise the value from such reviews; these are costly investments and are potentially underutilised as learning resources."</p> <p>The Review looked at a sample of 20 reports, and undertook focus group, supported by an online survey.</p> | |

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| | | <p>There were four themes identified:</p> <ol style="list-style-type: none"> 1. Hierarchy of Knowledge: professional knowledge was seen to take precedence over personal knowledge, with the former seen as 'objective' and the latter 'subjective'. This led to 'tunnel vision' and conclusions being reached and setting the narrative that potentially overlooked new evidence. 2. Information sharing/recording: Information sharing was regularly noted to be an area for improvement in the CPRs. Practitioners remain unsure when they can share information, even when this relates to child protection. Record keeping was also identified as an issue. 3. Partial assessment: they found practitioners sometimes evaluating people as individuals without due regard for their domestic/family context, and this was particularly problematic for children. It was not always clear the full make-up of the family or who they were involved with. 4. Voice of the child: "Children's voices or the perspective of the child were sometimes missing and/or not always | <p>It is not mentioned in the Review but information sharing <i>following</i> the completion of a CPR is also an ongoing issue as learning is not routinely disseminated widely.</p> <p>The WG guidance does state that the review process "must consider</p> |
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| | | <p>central to practice “ “The CPRs often did not really consider the experience from the perspective of children/young people. In this respect, the reviews seemed iterative of practice.”</p> <p>“It was often not clear whether children had been spoken to in the process of the CPR, or how directly practitioners worked with children in practice”</p> <p>“Whilst the aim of the change to the CPR model ‘was to take a more streamlined, flexible and proportionate approach to reviewing and learning from what are inevitably complex cases’ (WG guidance; 2012), it may be that learning is somewhat compromised by this overly pared-down approach.”</p> <p>Recommendations included:</p> <ul style="list-style-type: none"> • CPRs should be deposited in a central repository to facilitate learning pan Wales and should be indexed by the issues arising. • More details need to be included in CPRs • Regular publication of the major themes emerging to be produced and disseminated widely • CPRs should be uploaded on Safeguarding Board websites for more than 12 weeks. | <p>each child’s perspective and experience individually” but this has been in the guidance for many years and does not appear to have had a clear impact.</p> <p>This is a key finding and work is still needed to strengthen practice and CPR processes in the regard. The WG statutory guidance would have been a key opportunity to highlight this.</p> <p>It is unclear how WG responded to this or other NISB reports.</p> |
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| | | | <ul style="list-style-type: none"> • CPRs should always be published with the attached action plan • Training for CPRs (2016) should be revisited to ensure the child is centre stage and how their voice might be presented where they cannot be spoken to. | |
| 98. | 30.1.20 | WG Consultation Local Authority education databases | The consultation timeline was extended following the onset of the Covid-19 pandemic and restrictions, so it ran until 13 May 2020. | <p>The consultation launched exactly two years following the Minister's Plenary statement announcing the intention to bring forward new guidance and regulations. This is a long gap in what was a policy upon which a significant amount of work had been undertaken prior to 2018.</p> <p>As at December 2020 the consultation is marked as "reviewing responses".</p> |
| 99. | 12.2.20 | Meeting of the HE stakeholder reference group (CCfW note) | WG gave feedback on the consultation, noting families thought the tone of guidance and handbook 'felt punitive'. WG planning to work with families on tone and style. | |

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| | | <p>Face-to-face events. Young people in these events felt visits were acceptable, but should be supportive and never unannounced.</p> <p>LA queried how effective the guidance would be as their internal legal advice was that they would have the power to pursue SAOs on basis set out in guidance (ie not enough evidence of education). WG lawyers of a different opinion.</p> <p>LAs also said it would be helpful if the deregistration process included a meeting with LA before de-registration - would enable them to better challenge school / and see if they could support young person to stay.</p> <p>One LA reflected that around 80% of their EHE population were avoiding Fixed Penalty Notices for non-attendance.</p> <p>Seeing the child</p> <ul style="list-style-type: none"> - Some home educators positive about seeing child. Most not: 'intrusion / or saw it as safeguarding check' - LA officers expressed disappointment with 'should', wanted 'must' be seen. - Issuing SAOs was also seen as 'going nuclear' but WG were firm that this was their expectation. | <p>How have/will these young people's views be taken forward?</p> <p>Has this difference of legal advice impacted on decision making? We have been unable to see papers to determine this.</p> <p>Again this shows how WG have not taken note of LA views - they are the ones to whom these duties apply.</p> |
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| | | | <p>- CCfW query about where visits would be, WG said they were not intending to specify in the home.</p> | |
| 100 | 19.2.20 | <p>CCfW meeting with WG officials</p> <p>Note this meeting covered a range of education issues, including independent schools too</p> | <p>WG Stakeholder group took place last week; mainly focused on the database consultation. Contentious aspects for LAs included assessing suitability of education.</p> <p>At March meeting WG will share a redraft of the relevant chapter. They've engaged with Estyn and Ed Psychologists to inform this redraft. They will expand on what a suitable education looks like - consultation responses and meetings showed that what is missing is a focus on the wider well-being of the child - not clearly set out.</p> <p>Recently announced funding proposals to support families are good news and CCfW welcomed that, and have told YP that we are engaged with about this, in general terms.</p> <p>CCfW shared a question that had been raised with us: how will home education children's views be directly reflected in the guidance as the high level response to the first consultation has already been published but this doesn't set out individuals' views. WG noted that the amended wording/tone of the final guidance will reflect children's</p> | |

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| | <p>views. WG are happy to hear their ideas and continue to meet with people.</p> <p>SH reflected that things have moved an awful long way, and the latest iterations move closer to the three tests than what has gone before. Our responses have dealt with specific feedback on gaps and weaknesses but we welcome overall direction. Noted it could have just been easier to have a Register through primary legislation of course.</p> <p>WG keen to ensure messaging is strong and happy to keep in touch with CCfW between meetings. SH noted that the real issue is to ensure LAs feel empowered to see children. WG view is still that the LAs who complain about lack of powers haven't tried using SAOs so can't speak authoritatively - CCfW pushed back on this as LAs don't feel they've been able to evidence this so haven't applied for SAOs on that basis.</p> <p>SH spoke again about 'scary' messages being given to children about state monitoring/visits, so encouragement and reassurance for LAs and the community will be key.</p> <p>SH suggested again a Peer visitors network. WG said this has not been ruled out but can see some potential difficulties, as community views on approach to education vary</p> | <p>Issues about evidential thresholds have been raised throughout the process, and not resolved by this approach.</p> |
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| | | | <p>enormously. WG are exploring a system/process for appeals so if the LA concluded that education is not suitable, there could be a stage <i>before</i> SAO for it to be heard by an impartial party perhaps. Showing reasonable steps have been taken before getting to SAO (evidence) as well as giving families opportunities. Members of the community could be a panel member - this came from their consultation responses so should be welcomed.</p> | |
| 101. | 20.5.20 | CCfW meeting with WG senior officials | <p>WG advised that Cabinet had decided as of this week to limit the work of the Education Directorate to things that don't require lawyers' input, which means that the Home Education Regulations and statutory guidance will not be going ahead.</p> <p>Government will still aim to publish some information for parents but nothing like the proposals that they had in place. The Minister will be writing to us to set out what their plans are. The meeting had a packed agenda and there were lots of officials present from across Government so we were unable to discuss this further. SH noted that we would wait to see the Minister's letter, but clearly this would be a significant concern for us.</p> | <p>Meetings were occurring regularly to discuss issues arising from Covid-19, but an update on other work was provided by WG Director of Education at this meeting.</p> <p>This information was not in the public domain at this point and was only expressed to CCfW verbally.</p> <p>The information for parents was not published by end 2020. WG website still hosts their three page 2017 information leaflet as</p> |

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| 102. | 4.6.20 | CCfW meeting with Education Minister | <p>The meeting had been arranged to talk about Covid-19 issues including exams 2020. However at the meeting the Minister advised that she had some "not very good news".</p> <p>Because of the need to deal with Covid-19, the level of legal resource available to WG is massively curtailed. This has meant that substantial pieces of legislation will have to be dropped across portfolios.</p> <p>The priority in Education is the Curriculum bill so introducing new EHE regulations will not be possible within those constraints. Covid, Brexit, and the curriculum and local government Bills have had to be prioritised.</p> <p>SH noted the current pressures on WG but expressed enormous disappointment at this, and has questions on the decision making.</p> <p>Asked whether WG can buy in legal support for things like this which are already worked through in years of detail? It feels like a poor use of public resources to lose that work if it falls again.</p> <p>More fundamentally we would like to know in writing on what basis these Regulations were pulled compared to other work. SH is not suggesting the curriculum bill should be</p> | <p>We were aware of the decision from the recent officials' meeting but had been told the Minister would be writing to us with more details.</p> <p>It should be noted that Brexit was also given as a reason in the 2019 annual meeting with CCfW as to why further changes like primary legislation could not be considered.</p> |

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| | | <p>pulled but what was the weighting, and the consideration of impact on children's rights, safeguarding issues?</p> <p>We've witnessed how much C-19 is a challenge but this makes it more important than ever, it's not in our overview survey report published this week but we received lots of free text comments from young people saying they hope to continue with home education so we would anticipate a spike as some families have thrived in this period. Some will also continue to be concerned about safety of returning to school and/or vaccinations issues. Also school is a key safeguarding net for many, the lack of referrals in meantime really highlights this and bolsters the argument for visits and safeguards - this should go to WG priorities as a whole and therefore it is a real risk to drop the EHE work.</p> <p>The Minister noted that they have advertised for additional legal capacity. The Minister also shared the concern that families might decide to continue at home and that those children will be "lost to education".</p> <p>WG will continue to keep this decision under review - if there's a change of circumstances on legal capacity, they will continue to check what can be done.</p> | <p>The rising number of families seeking to de-register their children from school (due to Covid), continues to be of concern if this decision isn't being made in a positive and proactive context but simply because of worries about public health. This reality continues however, and should be a further reason to prioritise the introduction of a support mechanism for all EHE families.</p> |
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| | | | SH confirmed she will follow up this meeting in writing, and seek a written response. | |
| 103. | 16.6.20 | <p>CCfW letter to the Education Minister</p> <p>See also independent schools chronology Appendix C: entry 53</p> | <p>Thank you for meeting with me on Thursday 4th June 2020, to discuss the education department responses to the Coronavirus pandemic, as well some specific policy areas.</p> <p>In that meeting you advised that the Welsh Government will no longer be bringing forward Regulations and Statutory Guidance in relation to elective home education. In addition, planned work around improving the regulatory landscape for Independent Schools will not proceed either, with exploration of changes that can be made on a voluntary basis instead.</p> <p>As you will recall I expressed my enormous disappointment at these decisions and I stated that I would write to you to set out my concerns and with some questions that I believe need to be answered about how these decisions were reached.</p> <p>Elective Home Education</p> <p>I am concerned that, for elective home education in particular, years of policy work and a number of public consultations have taken place; the work was at an advanced stage and the 2019 and 2020 consultations on guidance and regulations were intended to bring these into force by May 2020.</p> | |

I am concerned at the waste of resources in reaching this stage, as well as the fact that the changes won't come into force of course. As you will be acutely aware from meetings, correspondence and committee evidence across recent years, this has already been a topic that has been overdue in my view, as the response to the death of Dylan Seabridge is inadequate and incomplete without the introduction of new measures with statutory force.

This is a view reflected by the National Independent Safeguarding Board's commissioned report in 2017, which recommended a register of all home educated children as well as for children to be seen at least on an annual basis.

The Child Practice Review for Dylan Seabridge itself highlighted that professionals followed the legislation and guidance that was available at the time and recommended that Welsh Government change the law so that the details of all elective home educated children would be kept on a register and that they are seen and spoken to and their wishes recorded on an annual basis.

Local Authorities have repeatedly expressed concern that the current non statutory guidance does not give them sufficient

grounds to intervene to support families and ensure that children are receiving an education that meets their needs.

This has been the subject of recommendations in my annual report every year since 2015/16, most recently in the 2018/19 report my recommendation was that "Welsh Government must implement statutory guidance giving effect to my three tests in full in 2020, to ensure children's rights are being respected wherever they are educated."

The Welsh Government response was to accept the recommendation, stating the following:

"New statutory guidance for local authorities on home education was out to consultation for 12 weeks from 31 July to 21 October 2019. The purpose of the proposals is to ensure that children who are home educated receive a suitable education and the guidance reinforces the options available to local authorities if they believe this is not the case. This will strengthen the Welsh Government's commitment to ensuring children and young people are given the chance to thrive and fulfil their potential.

471 responses were received to the consultation which will require detailed consideration by officials. The intention is

to publish in the Statutory Guidance along with Regulations in 2020.”

I would therefore like a formal written response on the following points:

1. When was the decision taken not to take these changes forward?
2. How was the decision to not take these changes forward reached and by whom?
3. What information was presented to the decision maker(s) in order for this decision to be taken?
4. What was the weighting to any decision making; was there consideration of work already undertaken and public commitments to actions for example?
5. What was the conclusion of the Children’s Rights Impact Assessment that accompanied that decision? I would like to see a copy of that impact assessment in full. If no such report exists I would like to know how the decision took into account the different considerations of children’s rights and the necessary balancing exercise in deciding which pieces of legislation and guidance would be prioritised.
6. Given the explanation that constraints around legal resourcing has been a driving factor behind this decision, has there been specific consideration of sourcing additional legal capacity specifically to work on the statutory changes around home education, in

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| | | <p>order to ensure that work undertaken to date will not be lost, and that the protections being taken forward by the statutory guidance and regulations can be maintained?</p> <p>7. How has safeguarding been directly considered in reaching this decision?</p> <p>I understand that the Coronavirus pandemic has required unprecedented levels of urgent work across every area of public life not least in relation to the changes to education arrangements. However, in my view it is even more important therefore to capitalise on the work already undertaken. All we know at present is that some level of disruption will remain in force for the foreseeable future; on this basis it could be several more years before any such changes were to be introduced, assuming also that there would be the continued political will to do so following the 2021 Elections.</p> <p>The consultation document for the statutory guidance states that such guidance “seeks to ensure that all children regardless of where they are educated, receive a suitable education”. It also notes that there is a balance of parents’ and children’s rights to be undertaken, but introducing the statutory guidance and regulations is proposed in order to “protect the rights of children and young people”.</p> | |
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| | | <p>It can therefore be inferred from the document that not taking these steps may mean that the Welsh Government are not exercising their duties under the Rights of Children and Young Persons (Wales) Measure 2011 if they are not taking the steps they have identified as necessary in order to protect all children's rights wherever they are educated.</p> <p>As has been observed by a drop in referrals to children's services at the outset of lockdown measures being introduced, schools are a key safety net in noticing and monitoring need and concerns from children in their families, and education professionals would usually be a primary source of referrals, for all levels of care and support needs.</p> <p>As I stated in our recent meeting, I also feel strongly that this is a particularly risky time to withdraw commitments made to better protect the rights of home educated children and young people. Home education as a policy area is directly implicated by the current pandemic. Early analysis of the 'Coronavirus and Me' survey indicates that many children have found home learning positive, and my team have already highlighted several comments stating a wish to continue home education permanently. We know as well the anxiety many families feel about returning to school settings. This</p> | |
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evidence indicates that there could be an increase in deregistration from schools in the forthcoming period. This makes it ever more pressing that Government brings about the necessary statutory change to ensure this group of children have the support and protection that they need to learn and thrive.

As you know back in summer 2018 I indicated that I would have no option but to undertake a review using my statutory powers to review the Welsh Government's exercise of their functions if I felt that little progress had been made. The subsequent dialogue between my office and Welsh Government meant that my office did not progress with a review. This is because Government responded with changes that led to greater collaborative working across Government and with key stakeholders, and progress in bringing forward the statutory guidance and regulations. However I am now concerned that the end result of that work will be that no meaningful changes are introduced and once again opportunities to learn and make changes as a result of the serious case reviews/child practice reviews and will be lost.

On that basis, subject to the responses to the questions contained within this letter, I will have no alternative but to instigate my duty and obligation to undertake a review of

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| | | | <p>the Welsh Government's exercise of their functions in relation to this policy area, including the decision making that has recently been undertaken.</p> <p>I appreciate that the remaining Senedd term until the 2021 elections is short and for that reason I would undertake a short and targeted review. In doing so I would be seeking to highlight whether there are any lessons to be learned for future governments in exercising their functions to protect and uphold children's rights. Bearing in mind the extreme pressures that I am aware Government officials and Ministers are under during the current crisis, my team will aim to keep requirements for information from officials to a minimum.</p> | |
| 104. | 22.6.20 | WG written statement | <p>This statement is to update Members on the proposals for home education statutory guidance and the draft database regulations.</p> <p>The evolving national response to Covid 19 has had significant implications on resources within Welsh Government - this includes, financial, policy and of course on the legislative plans for this Government term.</p> <p>Developing the proposals for home education statutory guidance and the draft database regulations has been a priority for me; however, these proposals require a</p> | <p>The proposals were at the very end of the process having consulted on draft guidance and</p> |

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| | | <p>significant amount of resource to drive them forward.</p> <p>The new pressures on the day to day work within the Government and the significant impact of Covid 19 on our resources has meant some difficult decisions have had to be made. It will not now be possible to complete the planned work on the home education statutory guidance and database regulations within this Government term.</p> <p>I want to take this opportunity to thank those stakeholders who have been involved in the development of the proposals and particularly those who took the time to respond to the consultations.</p> <p>While I am disappointed we cannot continue the development of these proposals I hope that the planned reforms can be taken forward by the next Government at the earliest opportunity. In the meantime, Government officials will explore possible policy options for meeting the needs of home educated children.</p> <p>These are unprecedented times and, as I am sure you will agree, resources have to be prioritised to the management of the impact of Covid 19 in Wales.</p> | <p>regulations. Whilst we do not underestimate the work required to bring forward the final proposals to the Senedd for approval, the work was in its latter stages and so this does not appear to be wholly transparent as to any issues arising from the consultations and the updated WG position in respect of these changes.</p> |
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| <p>105.</p> | <p>Jun 2020</p> | <p>CCfW statement on website</p> <p>"Welsh Government should not abandon years of work on urgent changes to protect the rights of home educated children"</p> | <p>In response to the Welsh Government's decision to not bring forward new Regulations and Statutory Guidance for elective home education in this Senedd term, the Children's Commissioner for Wales, Professor Sally Holland, said:</p> <p>"Welsh Government should not abandon years of work on urgent changes to protect the rights of home educated children.</p> <p>"Welsh Government has announced that new Regulations and Statutory Guidance for elective home education will not be brought forward this Senedd term.</p> <p>"I understand that the Coronavirus pandemic has required unprecedented levels of urgent work across every area of public life but this is not the time to withdraw commitments to the rights of home educated children.</p> <p>"I have written to the Minister to express my enormous disappointment at this decision; setting out my concerns and a number of questions that I believe need to be answered about how these decisions were reached.</p> <p>"Years of policy work have taken place, including several public consultations, to bring about much needed change in this area, with new statutory guidance and regulations due to have been implemented this year.</p> | <p>This picks up the points above about concerns about growing numbers of children being de-registered from school.</p> |
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| | | <p>"This change was long overdue and has been the subject of recommendations in my annual report every year since 2015/16. The Government's response to the tragic death of Dylan Seabridge is inadequate without the introduction of new measures with statutory force; a view shared by the National Independent Safeguarding Board's commissioned report in 2017 and highlighted by the Child Practice Review for Dylan Seabridge.</p> <p>"The pandemic is unlikely to disappear any time soon. All we know at present is that some level of disruption will remain in place for the foreseeable future and on this basis it could be several more years before any new laws and guidance around home education might be introduced. And there is ongoing disruption to children's school attendance, with growing anxieties amongst some children about returning to schools and the potential for the numbers of electively home educated children to rise in the immediate future.</p> <p>"I have previously indicated that I would use my statutory powers to review the Welsh Government's exercise of their functions if little progress had been made to better protect the rights of home educated children. I have reiterated this to Government in my letter and await their response to the several questions I have raised about the decision-</p> | |
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| | | | <p>making that has recently been undertaken and how children's rights have been considered and upheld as part of this."</p> | |
| <p>106.</p> | <p>1.7.20</p> | <p>Letter from the Education Minister to CCfW - note also referred to in independent schools chronology Appendix C: entry 54</p> | <p>Thank you for your letter of 16 June regarding your concerns about the decision to pause the development of the home education reforms.</p> <p>As I outlined at our meeting on 4 June, developing the national response to Covid19 has had significant implications on resources within Welsh Government - this includes, financial, policy and of course on the legislative plans for this Government term. Given the new and unprecedented pressures on the day-to-day work within the Government, the Cabinet undertook a prioritisation exercise to evaluate what was and was not deliverable and to analyse the potential options for alternative solutions.</p> <p>I would like to assure you that home education remains one of my priorities and I was extremely disappointed that I had to take the difficult decision to pause work on the reforms. I can confirm that I considered a range of scenarios and mitigating actions, including options for alternative support, but ultimately I had to take the decision to focus limited resources on the Government response to Covid19 and to ensure that schools were able to operate in the current circumstances. The unprecedented situation we find ourselves</p> | <p>This makes it unclear as to whether it was a Cabinet decision or a decision made by the Minister, as it refers to Cabinet above but this says "I had to take the decision..."</p> |

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| | | <p>in unfortunately means that there are limited resources for other areas of work within Welsh Government.</p> <p>I do not think that the work that we have carried out to date is a waste of resources and whilst it is not possible to continue with these proposals at this time, I believe that we have provided a solid foundation for future work in this area. I will continue to promote children's rights and will ensure that local authorities are accountable for the delivery of their statutory responsibility to ensure that all children in their locality are receiving a suitable education regardless of where that may be provided</p> <p>I would like to confirm that I hope that work can re-start towards the start of the next financial year if resources allow and I understand that my officials are shortly meeting with counterparts in Social Services to discuss key themes and next steps for home education following a meeting with the Deputy Minister for Health and Social Services. I was pleased that the Welsh Government was able to welcome and accept the recommendations made in your 2018/19 report and I made sure that resources were made available to ensure that we were able to deliver on the response. At the time our response was published, on 3 December, it was our intention to publish both guidance and regulations in 2020. However, as</p> | <p>There were foundations to this work available at the start of the Senedd term in 2016 but this has not resulted in changes being made.</p> <p>The Senedd pre-election restrictions will commence from April 2021 so it is unclear how work will be able to be taken forward under those restrictions.</p> <p>Acceptance of the recommendations is pointless if it doesn't amount to positive change.</p> |
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| | | <p>I have outlined in this letter, unfortunately the unforeseen onset of Covid19 has changed the landscape for everyone in terms of what can and cannot be delivered.</p> <p>You asked a number of questions in your letter, let me answer them in order.</p> <p>1. When was the decision taken not to take these changes forward? This decision was taken at a Ministerial meeting to discuss the legislative programme on the 30 April. This meeting was chaired by the First Minister and covered the legislative portfolios of a number of Ministers (all of whom were in attendance).</p> <p>2. How was the decision to not take these changes forward reached and by whom? Let me assure you, the decision to pause the home education proposals was not taken lightly or in isolation. It was reached following a cross Government exercise which evaluated current resources against workload in light of the unprecedented need to respond to Covid19 and the potential implications of the ending of the EU transitional period.</p> <p>This means that we have had to make some really difficult decisions, including legislative prioritisation across the Government. In my portfolio, my priority has to be ensuring delivery of the curriculum and reforms to the ALN system.</p> | <p>The letter makes no reference to the CCfW concerns that 'the response to the death of Dylan Seabridge is inadequate and incomplete without the introduction of new measures with statutory force.'</p> |
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| | | <p>3. What information was presented to the decision makers in order for that decision to be taken? Ministers were presented with a range of information to take into account before making a final decision on priorities including a range of scenarios and mitigating actions. As part of the decision making process, we were also provided with information on the amount of Welsh Government resource and an analysis of the level of complexity involved in each of the areas, for example in this instance, there was a high probability that the proposals would be subject to legal challenge (judicial review/JR).</p> <p>Additionally, confirmation was provided that officials have not been able to progress with necessary engagement with local authorities, local health boards and other stakeholders, due to Covid19. This information highlighted that local authorities are not able to prioritise this work, given the current demands that the Covid19 outbreak is placing on them, and all available local authority resources are now focused on maintaining critical services. Local authorities will continue to prioritise their response to Covid19 for the foreseeable future, including putting in place arrangements for the safe increased operation of schools, prioritising</p> | <p>This answer isn't particularly clear, other than noting a clear concern about the prospect of a legal challenge to these proposals. It is hard to avoid the conclusion, in the absence of other available evidence, that this has been the driving factor behind this decision.</p> <p>Local Authorities continue to call for these measures to be brought forward. This is actually unusual when it will mean introducing new duties and requirements on them to undertake additional actions. This makes their request for these provisions to be enacted carry even more weight as it is made notwithstanding those additional requirements.</p> |
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| | | <p>the health and wellbeing of learners and education staff.</p> <p>It was also clear that local health boards have experienced the biggest impact of the pandemic, and this will remain a significant issue for them as they continue to focus on front line working to mitigate and manage the impact of Covid19.</p> <p>4. What was the weighting to any decision making; was there consideration of work already undertaken and public commitments to actions for example? The response to Covid19 has, by necessity, taken priority over the majority of all other Welsh Government programmes of work.</p> <p>Weighting of decisions was based on the need to prioritise;</p> <ul style="list-style-type: none"> • the response to Covid19; • legislation required for European transition; and • legislation, which is a legal necessity that must be made under any circumstances. <p>New and substantial legislative workstreams have arisen because of Covid19 which needed to take priority including making amendments to existing powers as well as utilising the notice powers under Schedule 17 to the Coronavirus Act 2020.</p> | <p>The Government response indicates clearly that Children's rights, and pre-existing commitments to uphold these, have not been key factors in reaching this decision.</p> |
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| | | <p>5. What was the conclusion of the Children's Rights Impact Assessment that accompanied that decision? I would like to see a copy of that impact assessment in full. If no such report exists I would like to know how the decision took into account the different considerations of children's rights and the necessary balancing exercise in deciding which pieces of legislation and guidance would be prioritised.</p> <p>During the initial stages of Covid19, Ministers have been keen to ensure that we continue to meet our statutory obligations, and as you are aware, an Integrated Impact Assessment (IIA) has been drafted for decisions taken early in the pandemic. Unlike normal IIA's, this will set out the impact of decisions that have been taken, rather than proposed policy proposals, to provide a transparent account of the actions and mitigations that the Welsh Government has had to take during this emergency period. This will of course include the CRIA. Decisions taken after this initial period will be subject to individual IIA's and CRIA's.</p> <p>In this instance, the CRIA had not been conducted at the time of the Ministerial meeting on the 30 April. The decision was taken because Welsh Government had to urgently move resources to other areas to support the priority response to the pandemic and on balance, it was decided to proceed with the Curriculum Bill and the reforms to ALN</p> | <p>Given that this is a significant decision, and clearly an exercise of WG's functions, and not an emergency decision in the context of other decisions such as school closures in March 2020, there is no justification for not undertaking an analysis of children's rights as part of this meeting's considerations. This does not comply with the WG duties under the 2011 Measure and the Children's Rights Scheme 2014.</p> |
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| | | <p>You will also be aware from the work my officials have been engaged in with your office regarding integrated impact assessments that understanding the impact of the pandemic and our subsequent response on children's rights and how this can be mitigated, has been at the forefront of our decisions. I am grateful for the responsive way your office is working with us during this emergency period to help inform our decision making.</p> <p>The best interests of the child remains at the heart of Welsh Government decision making and the home education proposals were fundamentally about ensuring compliance with children's rights and, in doing so, ensuring that children of compulsory school age receive a suitable education. This consideration will be reflected in the CRIA, which will be published in due course.</p> <p>6 Given the explanation that constraints around legal resourcing has been a driving factor behind this decision, has there been specific consideration of sourcing additional legal capacity specifically to work on the statutory changes around home education, in order to ensure that work undertaken to date will not be lost, and that the protections being taken forward by the statutory guidance and regulations can be maintained I considered a range of scenarios and mitigating actions,</p> | |
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| | | <p>including options for alternative support before I reached the difficult decision to pause work on home education. However, ultimately I had to take the decision to focus limited resources on the Government response to Covid19, on ensuring that schools were able to operate in the current circumstances and on the implications relating to EU transition.</p> <p>7. How has safeguarding been directly considered in reaching this decision? The proposals have always primarily been about ensuring home educated children receive a suitable education. As I have said previously, safeguarding remains everyone's responsibility. In November, the Welsh Government published Working Together to Safeguard People guidance, which reinforces the requirements already in place.</p> <p>While I am disappointed we cannot continue the development of the home education proposals at this time, where pressures and resources allow, my officials will continue to work to try to make improvements and aim to;</p> <ul style="list-style-type: none"> • provide supplementary advice to the current guidance on safeguarding; • publish the handbook for parents who are home educating; • continue to fund the home education post in Careers Wales specifically for home educated young people; | <p>The 2019 guidance contained no relevant changes in respect of safeguarding children other than at school; such changes could not be made in the Working Together guidance unless/until the revised statutory guidance and regulations has been made.</p> <p>No updates have been provided in respect of these pieces of work.</p> |
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| | | <ul style="list-style-type: none">• take forward work on the DEWI system to ensure it has the functionality so that when the database regulations are taken forward the system is in place to process the data from the outset. <p>In addition, my officials will be contacting local authorities to gather information about some of the issues home educating families may be experiencing as a result of Covid19. This will focus on the wellbeing of these children, and awareness and access to information and will help identify whether we need to do some targeted work with home educating communities during this time.</p> <p><i>[the remainder of the letter then covers independent schools]</i></p> | |
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| 107. | 3.7.20 | CCfW meeting with ADEW (Association of Directors of Education in Wales) | <p>CCfW meets regularly with ADEW and this meeting was to discuss a range of issues, including EHE.</p> <p>Members had not seen CCfW recent statement - we agreed to share after this meeting</p> <p>CCfW explained the WG statement issued last week and our position in relation to this. We understand WG are considering what could still be done this Senedd term and would be interested to hear LA views on what could be possible.</p> <p>ADEW - Until there is some sort of registration there will be potential safeguarding risks. LAs can make demands and ask a lot of questions, and LAs will do their best across services to support and engage but 'we still don't know what we don't know'</p> <p>Concerns remain about children moving between areas, being under the radar, etc. Not sure what more can be done within this context and believe this view would be shared by AWHOCS (Association of Welsh Heads of Children's Services).</p> <p>Lack of legislation/guidance is a barrier. The position is even more confused now as LAs were given a new element in the grant last week - £40k to support this agenda but for</p> | <p>LAs remain of the view that they do not have the tools they need to meet their duties and that they lack sufficient authority in</p> |
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| | | | <p>access to exams etc. so this could just encourage families to stay out of school.</p> <p>LAs frustrated that the WG proposals have been put on hold.</p> <p>It's a mixed bag, some families do great work but some are not known. LAs need the authority to resolve situations.</p> <p>Group feeling was that parents really know their rights under the current system, know they don't have to engage and will say so. Don't always feel LAs are able to do their best.</p> <p>CCfW view is that Primary legislation next Senedd term (if not before) is likely to be needed to get this right, to ensure the need to see children and assess their education offer. It could be seen as an opportunity to do it better as the most recent proposals weren't perfect.</p> <p>All present were in agreement with this position. They reiterated that they can't adhere to guidance if the person doesn't want to work with them.</p> | <p>certain situations to take actions. This was a concern in the Seabridge CPR so this position has not changed.</p> <p>This concern also applied to previously expressed concerns by LAs about how they would meet obligations of the 2018 ALN Act in relation to home educated children. The 2017 guidance on home education will be out of date and inconsistent with the 2018 ALN Act.</p> |
| 108. | 26.8.20 | ADSS Cymru (Association of Directors of Social Services) letter to | The letter raised ADSS' disappointment and concern at the home education regulations and guidance not being progressed. | |

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| | | WG Education Minister Kirsty Williams | <p>They noted CCfW and others' recent comments and concurred that this is not the time to pull back from previous commitments to protect these children's rights.</p> <p>The letter refers to the Dylan Seabridge case and the 2017 CASCADE report, noting that the Seabridge CPR recommendations are vitally important to prevent such a case from happening in the future.</p> <p>They acknowledge the hugely positive experiences for many children when they are suitably educated and supported at home, but also the challenges observed by many during the COvid-19 lockdown period in getting the right environment and opportunities for children to learn and develop. It was noted as being difficult to support those children who were registered and known to the education sector.</p> <p>As set out in the CASCADE report home education is not a risk factor for abuse or neglect, but they note that home education reduces professional contact and scrutiny.</p> <p>ADSS view of the regulations was that they would have significantly improved the level of scrutiny and reduced the risk of a child being under the radar of the local authority, who have a statutory duty to proactively look to identify children not known to them.</p> | |
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| 109. | 27.8.20 | Meeting between WG (Deputy Minister for Health and Social Services) and NISB | <p>Home education concerns were raised at this meeting.</p> <p>NISB were advised that Covid-19 meant legal expertise and capacity was not in place to support this work, as well as some opposition to the proposals.</p> | |
| 110. | 1.9.20 | Response from the Education Minister to ADSS Cymru | <p>The letter notes that the national response to Covid19 has had significant implications on WG resources which required the Cabinet to undertake a prioritisation exercise.</p> <p>The response to Covid19 has taken priority over the majority of all other WG programmes of work.</p> <p>The Minister states that home education remains one of her priorities and her extreme disappointment at having to pause work on the reforms. The Minister reflects that local authorities would not have been able to prioritise engagement work to develop the proposals either.</p> <p>The letter reflects that particular impact on LHBS from the pandemic, and that this will remain a significant issue.</p> <p>The letter states that "safeguarding remains everyone's responsibility" and refers to the Working Together guidance reissues in</p> | <p>This is an unusual position to take in a response to LAs asking for more to be done.</p> |

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| | | | <p>November, to reinforce the existing requirements,</p> <p>Where possible officials will aim to give supplementary advice to the current guidance on safeguarding, publish the handbook for parents , continue to fund a post in Careers Wales and work on the DEWI system functionality ready for whenever database regulations are taken forward.</p> <p>The Minister advised that education officials also continue to meet with counterparts in Social Services to discuss key themes and next steps for home education when resources allow.</p> <p>The minister concludes that she will continue to promote children's rights and ensure that local authorities are accountable for the delivery of their statutory responsibility to ensure that all children in their locality are receiving a suitable education regardless of where that is delivered.</p> | <p>These commitments are very vague; trying or aiming to have discussions where possible doesn't amount to any firm conclusions, timelines or actions.</p> <p>It is extremely difficult to hold the WG to account on vague comments like these.</p> <p>LAs have raised that they face barriers in delivering their statutory responsibilities which is precisely why they are concerned at these proposals being paused.</p> |
| 111. | 7.9.20 | CCfW letter to WG | <p>CCfW wrote to provide advance notice of the decision to undertake a review of WG functions:</p> <p>I am writing to notify you that I have decided to review the exercise of functions of Welsh Ministers in relation to two education policy matters, pursuant to Section 72B of the Care Standards Act 2000. These are elective home</p> | |

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| | | <p>education, and the regulation of independent schools.</p> <p>This decision to conduct a Review follows the letter from the Minister for Education on 1st July 2020, advising me formally that the Government had made the decision not to progress the issuing of statutory guidance and regulations relating to these two areas of education policy during this Senedd term.</p> <p>Before formally commencing the review on 21st September 2020, as a courtesy I am sending Terms of Reference which set out the scope, methods of review and timescale. As is clear in the Terms of Reference, the review will be primarily document-based and I expect to complete it before the end of the calendar year. Importantly, I do not expect this review to impede any ongoing policy work in relevant departments within Welsh Government, nor would I wish it to. Most of the review will entail the analysis of documents that should already be in existence, as well as reviewing documents that are in the public domain.</p> <p>I am not currently proposing to hold any oral evidence sessions. Indeed, separately from the review, I will ensure that my officers continue to engage regularly with government officials on all children's rights issues in relation to education and safeguarding. In addition, this will not detract from the work</p> | |
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| | | <p>of the announced review of the 2020 exams series. Although both relate to education policy, they cover different areas of responsibility within Government.</p> <p>I have considered carefully the planned reviews including the exams review and the public inquiry, which will inevitably consider children's rights matters, but felt that scrutiny of policy decisions in relation to home education and independent schools are unlikely to progress without a discrete piece of work to focus on those areas.</p> <p>Whilst I understand and appreciate that the Coronavirus pandemic has had a significant impact on the workings of Government across every department and function, I am duty bound to speak out on matters affecting children's rights, especially when it is difficult for those children affected to have their voices and views heard directly by decision makers. Elements of this review will focus on decisions and actions pre-pandemic.</p> <p>Attached is a copy of the Terms of Reference; the full reasoning for commencing this Review are set out within. Any comments received back by 18th September 2020 will be considered and may be taken into account in preparing the final document. These Terms of Reference will be available to the public on request. I will include details of the review in a report I'll</p> | |
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| | | <p>be publishing week commencing 21st September 2020, with my assessment of how Coronavirus has affected children over the past six months, and how public services have responded to children's needs in this period.</p> <p>The review will be led in my office by Rachel Thomas, Head of Policy and Public Affairs, who will be the main point of contact for this work. She will be supported by a cross-function project team, including three senior management team members. I would be grateful if you could identify ahead of the commencement of the Review a senior official within the Welsh Government who:</p> <ul style="list-style-type: none">- will be a single point of contact with this office for the Review;- will coordinate the distribution, completion and return of any required documents within the timescales of the Review; and- will keep the relevant Senior Officials within Government informed. <p>As set out in the Children's Commissioner for Wales Regulations 2001, you will receive a copy of any final report resulting from the review prior to its publication. I will also continue to monitor the Government's response to any recommendations following publication of the report, as set out in those Regulations.</p> | |
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| | | | <p>I have taken considerable steps to work with your Government to progress these issues throughout my term as Commissioner but some of my fundamental concerns for children in the policy areas outlined remain. As a result, and in accordance with my role to safeguard the rights and welfare of children and young people, I am now duty bound to commence this review.</p> <p>I wish to make it clear that in doing this review there is no intention to attribute personal blame or judgement on the decisions of actions of any official or Minister. Instead, the review is intended to look at the effectiveness of Welsh Government's delivery of its functions in relation to the two areas of decision making outlined. In doing so, it is likely to provide some commentary on the delivery of the Welsh Government's legal obligations in relation to children's human rights.</p> | |
| 112. | 22.9.20 | Intention to undertake review published in CCfW Coronavirus and Us report | <p>CCfW will:</p> <p>Use our legal powers to review how the Government has reached some decisions during the pandemic. These are the decisions not to take forward key planned pieces of work: guidance on protecting children's rights when they are educated at home and in independent schools.</p> | |

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| 113. | 22.9.20 | Announcement of the Children's Commissioner for Wales' review of Welsh Government actions | <p>Professor Sally Holland, Children's Commissioner for Wales, is to review the Welsh Government's response to Dylan Seabridge's death in 2011 and the registration of staff at independent schools.</p> <p>The use of the Commissioner's statutory powers will focus on the Government's response to the Dylan Seabridge Child Practice Review, implementation of public commitments, basis for decision making relating to home education and independent schools within the Government and the consideration of children's rights throughout all of this work.</p> <p>The Commissioner's review follows the Government's decision not to proceed with planned regulatory changes before the Senedd elections in May 2021.</p> <p>The aim is to draw up recommendations on next steps that should be taken by this or a future Welsh Government to safeguard the rights of children educated at home or in independent schools.</p> <p>Every child in Wales has a right to a suitable education. There is concern however that a small minority of those who are educated at home might not be in receipt of a suitable education, and Government and local authorities have a role to play in ensuring that children are not missing education, as</p> | |
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| | | <p>well as supporting families with education at home. The Commissioner is also concerned at the lack of action to ensure that teachers in independent schools are required to register with the professional regulator, the Education Workforce Council.</p> <p>Professor Sally Holland, Children's Commissioner for Wales, said:</p> <p>"For years, we've made repeated calls to improve the legal framework to protect these children's rights and have been particularly concerned about the Welsh Government's response to the death of Dylan Seabridge in 2011.</p> <p>"Reforms to elective home education regulations and registration requirements for independent school staff have been proposed by two successive governments but have not proceeded. I wish to examine why this has happened.</p> <p>"In a situation like a pandemic, it is easy for the focus to shift away from children's human rights when in fact all decisions by Government should be grounded in a children's rights approach.</p> <p>"Whilst I understand and appreciate that the pandemic has had a significant impact on the workings of Government across every department</p> | |
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| | | | <p>and function, we have a duty to safeguard the rights and welfare of children and young people. Elements of this review will focus on decisions and actions pre-pandemic and I have made a commitment that this work should not impede any ongoing policy work in relevant departments within Government.”</p> <p>The Commissioner has made clear that the review will not seek to blame individual ministers or officials but instead seek to explore the barriers to making progress in the areas under review. A formal report and recommendations will result from this work in the new year.</p> <p>The announcement comes as the Children’s Commissioner publishes Coronavirus and Us, a report providing an overview of children’s rights in Wales during the pandemic so far. It includes details of how the Commissioner’s team have responded to the pandemic. The next few weeks will see the Commissioner publish a series of detailed briefings and workshops on the impact of the pandemic on groups of children and young people, including BAME children, those with a disability and 15-18 year olds.</p> | |
| 114. | 24.9.20 | Meeting with Minister and Deputy Minister for Health and Social Services, Vaughan | The Review was on the agenda as an item to note, following formal commencement of the work. | |

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| | | Gething and Julie Morgan | The Ministers noted receipt of the letter from CCfW and that WG would await the outcome of the work. | |
| 115. | 28.9.20 | WG impact assessment published | This document is the WG's overall integrated assessment for Covid education decisions at the start of the pandemic. This included decisions taken in regard to the delays in home education. | <p>This impact assessment was published several weeks after WG were notified of the CCfW review taking place, and a week after the review had launched.</p> <p>CCfW had seen draft education CRIA documents during summer 2020 in which the home education decision was not mentioned.</p> <p>This CRIA does not contain any analysis of the decision and reinforces the CCfW concern that CRIA are being used retrospectively to 'justify' decisions already taken. Without analysis there is no understanding or evidence of how WG have considered children's rights in making this decision.</p> <p>It should also be noted that the Minister confirmed in writing (entry 106 in this chronology) in July</p> |

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| | | | | <p>2020 that "the CRIA had not been conducted at the time of the Ministerial meeting on the 30 April"</p> <p>Lastly, the link to this CRIA was provided to CCfW by Welsh Government officials on 11th February 2021; on 18th February 2021 the link was no longer working - Page not found</p> |
| 116. | Oct 2020 | CCfW annual report 2019-20 | <p>I have made recommendations in my last four annual reports about home education, emphasising the need for statutory change to protect children's rights, with the aims of meeting the following three tests in full:</p> <ul style="list-style-type: none"> • Firstly that all children in Wales can be accounted for and that none slip under the radar of universal services, and society in general. • Secondly that every children receives a suitable education and their other human rights including health, care and safety. • This cannot be achieved without the third aim, that every children should have the opportunity to be seen and their views, including their views about their education, and experiences listened to. <p>As stated by my office in correspondence, meetings and committee evidence throughout my</p> | <p>No formal recommendation was made as the Review was already underway, so there is no formal response from WG in this year.</p> |

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| | | <p>term as Commissioner, this policy change has been long overdue, as the Welsh Government's response to the death of Dylan Seabridge and subsequent Child Practice Review is inadequate and incomplete without the introduction of new measures with statutory force. This is a view reflected by the National Independent Safeguarding Board's commissioned report in 2017, which recommended a register of all home educated children as well as for children to be seen at least on an annual basis.</p> <p>The Welsh Government response to my annual report for 2017-18 was published on 30th November 2018, accepting these three tests for this policy, and in 2019 they brought forward draft Statutory Guidance and a Home Educators Handbook. Draft Regulations for new local authority databases to identify where children are educated were published for public consultation in January 2020. Statutory change was intended for implementation in 2020.</p> <p>I responded comprehensively to both consultations, welcoming the steps taken to strengthen the ability of local authorities to ensure children are receiving their human rights, including their rights to education, participation and safety. I also highlighted potential loopholes that should be strengthened further through the re-drafting process and through evaluation.</p> | |
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| | | | <p>What needs to happen next? As announced in September 2020 I am using my statutory powers to review the Government's functions regarding this area of policy-making. A statutory report will follow.</p> | |
| 117. | 8.10.20 | WG Safeguarding in Education Meeting | <p>LAs raised concerns at a huge spike in September of requests to de-register children from school. There would usually be a flurry of requests in each September but this is far higher than usual.</p> <p>It is primarily thought to be linked to worries about the virus rather than a long term or ideological wish to home educate.</p> <p>Schools have to comply when parents ask to remove their child from the school roll. Schools and LAs are trying all sorts of way to work with families and work out arrangements such as flexi-schooling in the short term but unsure how long this can/will continue.</p> | <p>CCfW were represented at this meeting as observers.</p> <p>CCfW had raised this risk with WG, including at a Ministerial level. It highlights that the Covid context should give greater priority to this work rather than taking a decision to de-prioritise this policy area.</p> |
| 118. | 8.10.20 | <p>CYSUR safeguarding board letter to WG</p> <p>Copied to CCfW and NISB</p> | <p>The letter was sent following the announcement of CCfW undertaking a formal review of the WG.</p> <p>The letter notes disappointment that a key recommendation of the Dylan Seabridge CPR, for changes to be made to the legislation and statutory guidance on elective home educated children remains outstanding several years after Dylan's death.</p> | |

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| | | | <p>The letter also refers to the 2017 Cascade report.</p> <p>CYSUR have completed a CPR which will publish in November 2020; it highlights the "vulnerabilities of a small but significant group of children who are educated at home and remain hidden in their communities" and the challenges faced by statutory agencies due to the weaknesses in the legal requirements.</p> <p>The letter also notes a risk of rising numbers of children not attending school due to the COVID-19 global pandemic.</p> <p>Suspending the publication of the statutory guidance is noted as a wasted opportunity to strengthen the safeguards as such a crucial time.</p> | |
| 119. | 6.11.20 | <p>CYPE Committee annual scrutiny session with CCFW</p> <p>Extracts from transcript</p> | <p>Sian Gwenllian: What is the situation in terms of the rights of home-educated children? Are you seeing that there is an increase in the number of those home-educated children following the pandemic? Have you undertaken any research into that field?</p> <p>Sally Holland: Specifically to look at now, the situation now and the pandemic, there's no official data on any change in take-up of elective home education, however we do know,</p> | |

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| | | <p>unofficially—well, not unofficially, but through meetings with local authorities et cetera that there has been an increase in uptake this year. We'll know for sure what that increase is in January when the pupil level annual return data is submitted, and we'll know whether that's an ongoing trend because some local authorities have found that for some families it's about anxiety around the virus, rather than a kind of proactive, positive decision, 'We want to home educate.' And so there's perhaps some reassurance to be done, or some negotiation to be done, rather than deregister the child from school. We will know more by January where we're at on that.¹²⁸</p> <p>We did find in our survey—some children responded to say, 'I've been really enjoying. The experience of home education has gone really well for me and my family, and we're thinking of carrying this on after the summer.' So, I think for some people it will be a positive decision, having had a good experience last summer. But what we wouldn't</p> | |
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want is people taking it up because of fears—health fears et cetera. I would only want people to take up elective home education if it's absolutely the right thing for them and for their child in particular. So, it's really important we get that right. [129](#)

In terms of what the situation for children's rights and home education is—the start of your question—as you'll be aware, I'm in the middle of a formal review of Government functions in relation to that area, because I was disappointed that the decision was made that because of the pressures of COVID, they were unable to proceed with the statutory guidance that was planned to be proceeded with this year before the election. We've discussed this with you as a committee many times; you know what my views are on what should happen there. I don't want to pre-empt the findings of my review, but the situation is that we're still—the situation and rights of home-educated children haven't changed because that hasn't been implemented. So, I think that's the short answer.

SG: Wouldn't it have been better for you to use your statutory powers to review the Welsh Government's actions in respect of elective home education sooner?

SH: Well, I would defend the fact that I haven't done it until now, and I think it's something that we've thought about very, very hard, and we've discussed with the committee over many years. It's certainly something that's been a live consideration for us as an office, for me as commissioner, for a number of years, because, as you know, I've been unhappy about the lack of regulation in this area for a number of years. However, the work I've done with Government in terms of making the case, including saying that I may need to use powers, and we have got to the point of having legal advice on doing that two years ago, and we're at the point of doing it, we have seen progress and agreement, actually, from Government, that this was necessary, and progress in that. I felt that each time we've made a formal decision not to go ahead with

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| | | <p>using our powers, that has been because the Government has made a proactive step forward. If we had been still stuck where we were two or three years ago, I would have used my formal powers to review before now.¹³²</p> <p>I think with the review that we're in the middle of doing now, we're trying to keep it short so that we can get early results. We hope to report in January on that, for the current Government to respond to it. We expect to be able to say what we think should happen next in this area. We also think it's got some wider implications. We're looking at independent schools as well, of course—the regulation of independent schools as well. We think it's got some wider implications for how cross-cutting issues—so safeguarding plus education, for example, is one part of this—are dealt with right across Government. So, I think in terms of our devolved Government, there are likely to be recommendations on how they can work more practically across Government. The third thing that we would expect to come out from this review would be</p> | |
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perhaps some reflections on my power itself and on my position as children's commissioner and my ability to create changes in a timely manner, because there are some issues around what powers I have to encourage the Government to move forward in children's rights areas. I'm sure the committee will look at that report with real interest.

SG: I was going to ask when this report will be published—this review, rather—with regard to home education, and when you expect to receive a response from the Government, because the Government have said that they won't be bringing forward anything new during the term of this Senedd. So, we're not going to see change at the moment.

SH: We've progressed it as quickly as we can, and we're at the moment negotiating how to safely access the papers that we've requested from Government and will be analysing everything as it comes to us. The Government has, formally, three months to respond to one of our reports, but we would hope they would respond as quickly as they can, and we'd expect them to make changes as quickly as they can. The education Minister, in her response to me when I wrote expressing my concern about

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| | | | <p>the decision to not move ahead with the two areas of reform this year, did say that if they were able to get the legal support they needed, they would try to move forward particularly with the independent school reforms. And I would encourage them to continue to move forward in both areas as quickly as they're able to do so.</p> | |
| 120. | 5.11.20 | <p>CYSUR Child Practice Review published</p> <p>CYSUR 6 2018</p> | <p>On 5th November 2020, during the course of this Review, the CYSUR Safeguarding Children Board covering Mid and West Wales published a Concise CPR relating to a family of 7 children, aged between 1 and 14 years old. The parents chose to educate the children at home, and the report notes that, in doing so, they were compliant with the Education Act 1996. The children were never enrolled in school and did not come to the attention of Education until 2011.</p> <p>The parents are described as "very diligent" in communicating with the Schools Service and gave no cause for concern through this or the annual monitoring that took place. Parents were aware however that there is no legal requirement for the children to be seen at home or spoken to, and used this knowledge to prevent professionals from having access to the children. Parents are also noted to have displayed superficial compliance with legal requirements, which actively seeking to keep the children hidden.</p> | <p>There is a learning point for the Board to write to the Government to highlight the risks of social isolation for electively home educated children, and to request that the statutory guidance includes the requirement for children to be seen and spoken to by professionals for their wishes to be heard and understood. We have seen a copy of the letter to the Government undertaking this action.</p> <p>We have not seen any response to this letter.</p> |

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| | | | <p>The report identifies practice failings not directly related to home education. Nevertheless, they also identified learning in respect of deficiencies in the home education guidance; there is no requirement for children to be seen or spoken to about their education, nor is there any guidance in relation to socialisation for home educated children. They conclude that "there is a strong case for changes to the guidance on elective home education to ensure, that as part of the process, children should have their views, experiences and wishes considered, if they are of a sufficient age and understanding to contribute."</p> <p>In the words of one of the children, SC, "every kid should attend school. If not, then education officers should come to the house. There must be a suitable living and learning environment. It should be the kids' choice whether to be home educated".</p> | |
| 121. | 20.11.20 | CCfW received consultation papers from WG | In response to the 25 th September document request, WG sent CCfW anonymised/redacted copies of the consultation responses from the 2015 and 2019 consultation processes. | Responses were sent via secure (password protected) emails and were only seen by some members of the CCfW review project. Documents stored securely in compliance with CCfW document retention policy. |

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| 122. | 26.11.20 | <p>Public hearing of the IICSA inquiry into residential schools</p> <p>Evidence provided by WG</p> | <p>WG official repeatedly stated that the Social Services and Well-being (Wales) Act 2014 safeguarding provisions are under review with a view to strengthening the arrangements further.</p> | <p>Such a review has not been discussed with CCfW.</p> <p>CCfW is aware that the implementation of the Act is subject to an external review but was unaware that safeguarding aspects are particularly being considered by WG, nor what this may entail.</p> |
| 123. | 3.12.20 | <p>Letter from CCfW to WG to chase response on documentation availability</p> | <p>In my letter to you of 25th September 2020, I wrote to make a formal request for a range of Government documents, to inform my Review and to be used in the conduct of the Review.</p> <p>I have not received a formal response to that letter nor has my team had access to the majority of the papers requested, save for the redacted consultation responses.</p> <p>The Terms of Reference for the Review indicated that the analysis of Government papers would need to take place during November 2020. Nevertheless I am prepared to consider a short extension to this, provided the papers could be made available to my team in the week commencing 7th December 2020.</p> <p>For the avoidance of doubt, I would be happy for my team to view papers at the Government offices, rather than to receive copies of the</p> | <p>The WG response was not received until Friday 11th December; indicating that further time would be needed to consider the papers.</p> |

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| | | | <p>papers, but I would expect to be able to refer to the documents we have had sight of in our report methodology and conclusions. I would be willing to summarise the contents of documents rather than to quote directly from them, but it is vitally important for the integrity and transparency of this Review that I am able to evidence what documents I have seen and how I've reached my conclusions.</p> <p>This piece of work is a formal Review of the Government's exercise of their functions using my statutory powers, and therefore it is crucial for accountability purposes that all steps taken in this work can be clearly evidenced and recorded.</p> <p>Please could you therefore confirm as a matter of priority whether such unqualified access can be granted in the revised timeframe of week commencing 7th December, or whether the Government will not be willing to share any further papers with my office.</p> <p>I look forward to receiving your written response.</p> | |
| 124. | 11.12.20 | Letter response from WG | Thank you for your email dated 3 December concerning information for your review of functions of Welsh Ministers in relation to home education and the regulation of independent schools. | |

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| | | | <p>I am grateful for the clarity provided in your letter that confirms that you would like to pursue a formal approach to the provision of information outlined in your letter to the First Minister on the 7 September.</p> <p>It may be helpful if I set out the considerable amount of work that has taken place within Government and with your team since receipt of your letter:</p> <ul style="list-style-type: none">• In discussions with your officials, I confirmed my understanding that the current powers granted to you as the Children's Commissioner were not sufficient to require Welsh Ministers to release information for your review in this instance. As such, it was likely that Welsh Minister's would need to treat your request for information under the Freedom of Information Act;• I have been actively discussing the possibility of using an informal approach to allow you access to the documentation you requested. As part of that informal approach, you have already received copies of the following documentation:<ul style="list-style-type: none">- all responses to the 2015 consultation on Draft non-statutory guidance for local authorities on Elective Home Education (anonymised as relevant); | <p>CCfW were told on 29th October 2020 that an FOI request would not be supported by WG and therefore no documents would be made available through this route.</p> |
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| | | | <ul style="list-style-type: none">- all responses to the 2019 consultation on Draft statutory guidance for local authorities: 'Home Education - statutory guidance for local authorities and a handbook for home educators' (anonymised as relevant);- all responses to the 2020 consultation on Draft regulations for local authority education databases including the written summaries of face to face 'Table Talk' consultation events (anonymised as relevant). <p>Arrangements for the general publication of these documents has begun and we hope that they will be released on the Welsh Government website shortly.</p> <p>Since your letter of the 7 December, I have confirmed with the Minister for Education and the First Minister that a formal approach would mean that the rest of the information that you have requested would need to be treated as an FOI request.</p> <p>This means that officials in Welsh Government will need to consider the contents of each of the documents you have requested, before deciding whether to apply exemptions to the release of information. If we believe that exemptions would be applicable, then depending on the exemptions used we would need to</p> | |
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| | | | <p>prepare advice to the Counsel General to see if he is satisfied with our proposals and rationale for exemptions.</p> <p>Given the work that still needs to be completed, I would estimate that I will be able to provide more information on what documentation will be released in the week commencing 21 December.</p> | |
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