

Supplementary Briefing for the Children's Wellbeing and Schools Bill

Report Stage: Wales children's data extraction: legislative changes

March 16, 2025 (v.7)

This briefing addresses three connected legislative changes and how they affect the children of Wales in private, independent schools, or any child in Elective Home Education ("EHE"), and any other children not in state education, as well as any other child across Wales.

- **The Children's Wellbeing and Schools Bill¹** (that amends the Education Act 1996 and The Children Act 2004).
 - **Clause 4 (*Information sharing and consistent identifiers*)** affects potentially any child in England (and Wales, contingent upon the adoption of government amendments proposed on March 10th)
 - **Part 2, Clause 26 (*Registration*) of the Bill as of March 11, 2025** (formerly Clause 25 at Second Reading and Committee Stage) and noting that **Clause 31** (Expanding the scope of regulation and includes 18-year-olds) affects every child in England who is not in state education (and Wales contingent upon the adoption of government amendments proposed on March 10th)
- **The Children Act 2004 (Commencement No. 10) (Wales) Order 2025** (Made March 7, 2025 and came into effect three days later).² (Affects every child in Wales).
- **The Education (Information about Children in Independent Schools) (Pilot) (Wales) Regulations 2025.**³ (Affects every child in independent schools in 7 Local Authorities in Wales, laid March 10th coming into effect from 8 April to 20 May 2025).

We are calling for an immediate national statement on the full nature of the trial and what the Westminster-Wales deal involves, and a delay in the Bill process to allow proper parliamentary scrutiny by MPs, especially any MPs for Wales, and by the House of Lords.

All parents and pupils must be fully informed of the process and their rights, and how they will be respected, before any data could be lawfully copied and sent to Local Authorities, from education records (or NHS health records as was proposed in the related but separate Welsh Government 2024 consultation). Private school parents of children in Wales whose children are affected in the pilot (who may also be living abroad) need urgent information, with meaningful safeguards put in place. All parents and those of children not in state education also need urgent information to understand what these changes mean together, with regard to the Children Act 2004 (Commencement No. 10) (Wales) Order 2025.

We further propose related [amendments to the Children's Wellbeing and Schools Bill](#) [limited to the known drafting, since the nature of the Single Unique Identifier remains unconfirmed]⁴.

¹ The Children's Wellbeing and Schools Bill page <https://bills.parliament.uk/bills/3909> and Children's Wellbeing and Schools Bill as introduced <https://publications.parliament.uk/pa/bills/cbill/59-01/0151/240151.pdf>

² The Children Act 2004 (Commencement No. 10) (Wales) Order 2025

<https://www.legislation.gov.uk/wsi/2025/304/contents/made>

Archived: <https://web.archive.org/web/20250314110021/https://www.legislation.gov.uk/wsi/2025/304/contents/made>

³ The Education (Information about Children in Independent Schools) (Pilot) (Wales) Regulations 2025

<https://www.legislation.gov.uk/wsi/2025/308/regulation/1/made>

Archived: <https://web.archive.org/web/20250314102727/https://www.legislation.gov.uk/wsi/2025/308/regulation/1/made>

⁴ DDM Briefing Amendments for the Bill v. March 15, 2025

<https://defenddigitalme.org/wp-content/uploads/2025/03/CWBS-Bill-amendments-Report-stage-Commons.pdf>

Children in Wales to be used as Guinea Pigs in the Test-pilot for National Policy?

Particularly alarming is the use of children in Welsh private schools singled out as test subjects in the data extraction "pilot" in 7 authorities (Cardiff County Council, Carmarthenshire County Council, Gwynedd Council, The Isle of Anglesey County Council, Monmouthshire County Council, Powys County Council, and Rhondda Cynon Taff County Borough Council). Simultaneous changes last week to the *Children Act 2004* (via [Commencement Order 2025 No.10](#) came into effect 3 days after being made).

It appears that the government intends for children in Wales to be used as the guinea pigs (including private and independent schools in "a pilot"⁵) of children's [data extractions as set out in Clauses 26 and 31 of the Children's Wellbeing in Schools Bill](#). In amending the Education Act 1996 via the Children's Wellbeing and Schools Bill (page 17, Clause 26 powers under 436F), the Secretary of State will also obtain further new powers to compel the extraction of those data beyond the powers set out in the Welsh government 2024 Consultation on "children missing education". There has been no scrutiny of these combined legislative changes and new powers, or any published communication to families.

Open questions

1. The Education (Information about Children in Independent Schools) (Pilot) (Wales) Regulations 2025, "come into force from 8 April 2025 and cease to have effect on 20 May 2025," for a 5-week period. When will the children and their parents/guardians be informed (a) about extraction from educational settings and (b) about extraction from health settings in any of the pilot settings?⁶
2. Will the rest of the children in Wales' data in the scope of the consultation, held in state education and state health settings, also be extracted to Local Authorities in the same time period in a pilot, from 8 April 2025 to 20 May 2025?
3. Has there been any data impact assessment carried out of independent school pupils' data of the Secretary of State powers to extract the data to the national level?
4. What arrangements have been made for objections for the two stage process, at Local Authority or at national level, for any of the data to be copied and distributed?
5. Will the Secretary of State confirm what the Unique Single Identifier is to be (under the CWBS Bill Clause 4), or which will be used to link these records with health records (as per the 2024 Welsh Government Consultation), prior to the data extraction?

Background

In December 2024, the UK government introduced the Children's Wellbeing and Schools Bill ("the CWBS Bill") to Parliament. The Bill, which applied to only England on introduction, includes a range of provisions that create a precedent for individual child-level (named) personal data collection and onward distribution at local, regional and national levels, for a significant number of children for the first time, and in perpetuity.

⁵ ibid

⁶ List of pilot Local Authorities Wales are set out in The Education (Information about Children in Independent Schools) (Pilot) (Wales) Regulations 2025 <https://www.legislation.gov.uk/wsi/2025/308/regulation/1/made>

Second Reading and Committee Stage of the CWBS Bill have finished. Amendments to extend the clauses covering the areas above to Wales, have only been added on March 10, 2025, seven days before Report Stage. This was the final day for tabling amendments. If the amendments are adopted, certain provisions within the Children's Wellbeing and Schools Bill, will now be applied to Wales in the same way as in England. Education and social care policy and decisions are devolved in Wales, but there has been no scrutiny of these legislative changes that affect Wales, either in the Senedd or nationally, by the Bill Committee.

Its accompanying call for evidence has already closed, that might have enabled submissions of informed scrutiny and evidence to be provided. And there was no opportunity for scrutiny of these changes as they affect children and learners aged 18, including international students in Further Education in Wales, by Members of Parliament for Welsh constituencies at Second Reading or Committee Stage.

The Welsh government published a statement⁷ on March 10, 2025 which further states that, "Subject to agreement with the UK government **other areas** of the Bill may be included at a later stage," appear to suggest further changes will also be waived through without parliamentary and public scrutiny.

The statement omits any mention of the connected secondary legislation, *The Education (Information about Children in Independent Schools) (Pilot) (Wales) Regulations 2025* that, "come into force from 8 April 2025 and cease to have effect on 20 May 2025," for a 5-week period that will compel the extraction of data from independent schools to be sent to Local Authorities in Wales, and omit any mention of the Secretary of State powers to further compel Local Authorities to further copy it to national level.

There is no mention in this statement whether the rest of the children's data in the scope of the 2024 consultation, held in state education and state health settings, will also be moved in the same transfer window from 8 April 2025 to 20 May 2025. An individual request for the Data Protection Impact Assessment (DPIA) of the pilots was refused.⁸

Children in Wales in Independent Schools

There has been no scrutiny process for private and independent schools to respond to the Statutory Instrument, combined with the introduction of the relevant Wales amendments⁹ only now, less than a week before the Children's Wellbeing and Schools Bill Report Stage.¹⁰

⁷ Published on March 10, 2025 Welsh Government Written Statement: The Children's Wellbeing and Schools Bill <https://www.gov.wales/written-statement-childrens-wellbeing-and-schools-bill>
Archived:<https://web.archive.org/web/20250314101412/https://www.gov.wales/written-statement-childrens-wellbeing-and-schools-bill>

⁸ FOI request for the DPIA to the Welsh Government made in September 2024 was refused https://www.whatdotheyknow.com/request/children_missing_education_datab#incoming-2834501

⁹ List of Government Amendments Tabled on 10 March 2025 to the Children's Wellbeing and Schools Bill after Second Reading and Committee Stage, with Report stage scheduled for March 17, 2025 https://publications.parliament.uk/pa/bills/cbill/59-01/0177/amend/children_gov_amdts_0311.pdf

¹⁰ Defend Digital Me Children's Wellbeing and Schools Bill Committee Stage briefing (pp 17-18 make reference to subclauses of the Bill Clause 25 which is now Clause 26 as of March 11, 2025 https://defenddigitalme.org/wp-content/uploads/2025/02/Briefing_-Childrens-Wellbeing-and-Schools-Bill-1.pdf)

In Spring 2024, the Welsh government held a separate Consultation¹¹ on “children missing education” Databases and Regulations for Local Authorities and Local Health Boards (2024). The Welsh government’s Children’s Rights Impact Assessment to accompany that consultation, noted the risk that once it is known that health data would be used for non-health purposes, some families may choose not to present children to healthcare services, and the proposal makes no mitigations for this harm caused by the policy as outlined, to individuals or public health.

“One identified potential negative effect of the proposals is the potential for families to fail to register with a GP if they felt strongly that they didn’t want their details shared with local authorities”.

This harm alone should end the plans, making them too high risk for the very children suggested could be identified in this way. Not only failing in its intended aim but causing new harm, as we outlined in our consultation submission.¹²

Private schools and educational settings will be required to communicate with all of the authorities “where the child was usually resident” to share the personal details of every pupil on-roll (ca 10,000 pupils according to The Independent Schools Council¹³). This will have implications for children not usually resident in Wales, from day pupils to boarders, British and non-British pupils, as well as for their healthcare professionals. Potential further complications may be foreseeable if children in their care for education are not registered with any of the Local Health Boards (LHBs) and general medical services contractors in scope. This, one must infer, would trigger a ‘not matched’ result in the process, but if and how that would be acted on or what significance it may be assigned is unclear.

Discriminatory impact assessment identified in Wales and at National Level

The Welsh government 2024 consultation singled out, “Gypsy, Roma and Traveller (GRT) learners whose families have made the decision to home educate” and much of the Children’s Wellbeing and Schools Bill was even debated ahead of the publication of its own equality impact assessment. The Final Stage Impact Assessment was only published on January 30th on the Bill page, and the others have not been published on the Bill page at all. In fact, debate ran so fast that when Munira Wilson MP tried and failed to get the Equality Impact Assessment discussed on January 30th after the Minister mentioned it and moved quickly on, Wilson did not get the chance again ([p309](#), on page 175 of 232).¹⁴

The Children’s Wellbeing and Schools Bill [Equality Impact Assessment](#), published by the DfE on January 30th 2025 (but not on the Bill page), found risk of digital discrimination in the ability of some parents without online access that will be an expected necessary feature of the reporting, as well as that:

¹¹ Welsh Government consultation 2024 which received a vast number of objections, including concerns raised by health organisations <https://web.archive.org/web/20250314143429/https://www.gov.wales/children-missing-education-database>

¹² Defend Digital Me consultation Submission (April 2024)

<https://defenddigitalme.org/wp-content/uploads/2024/04/Numbered-copy-of-Welsh-government-consultation-response-children-missing-education-databases-DDM.pdf>

¹³ The Independent Schools Council brings together seven associations of independent schools, their heads, bursars and governors representing over 1,400 independent schools in the UK and overseas. <https://www.isc.co.uk/about-isc/>

¹⁴ Defend Digital Me (February 7, 2025) *Impact Assessment and scrutiny not fit for purpose: the CWBS Bill so far*

https://defenddigitalme.org/wp-content/uploads/2025/02/PBC151_ChildrensWellbeing_1st-10th_Compilation_04_02_2025-DDMEd.pdf

“the CNIS proposals may have a disproportionate impact on those of Jewish ethnicity and the Gypsy, Roma, Traveller (GRT) community.” (Paras 145, 151, 154 and 184, 186, 187).

The [Regulatory Policy Committee \(RPC\) published its Opinion](#) on February 3rd saying, “As originally submitted, the IAs in respect of the Bill were not fit for purpose.” The leading reason was, “Lack of evidence to support the problems under consideration in the rationale for intervention.”

The Rt Hon Damian Hinds MP, has repeatedly framed this issue in the Bill debates as a lack of clarity about, “what is the problem they are trying to solve”. And while government MPs chastised the framing, they have also failed to answer it, not only in Committee but seemingly to the RPC as well. The RPC on [page 6 finds](#), “A number of IAs could also improve their application of the critical success factors, as these are either provided only in the shortlist, not fully explained or do not align with the specific key critical success factors as set out in the Green Book.”

Furthermore, it is unclear from the oblique reference on page 16 if the Committee writing the RPC saw the Equality Impact Assessment at all, as they mention [it could benefit from considering further that it “might” impact “Gypsy, Roma, Traveller communities” disproportionately](#). (The [Equality Impact Assessment](#) published [on the DfE website](#) did find this, but it’s not included in the [Final Stage Summary](#) nor available from [the Bill page](#)).

There’s been little to no mention of the [Human Rights Impact Assessment](#) of, for example Clause 25 (436C, 436E(3)), where there are confidentiality and privacy risks (aside from the damage it will do to trusted relationships between families and providers), but no risks are mentioned of the impact of [parents or providers being asked to routinely hand over detailed personal data about the other](#) without their permission, or against their will, or even the detail of the documented privacy effects, including that, “*Information shared may include personal data (relating to individuals) or private correspondence.*”