

New Year Feedback of Experiences to Welsh Councils January 2025

As another year closes on and a fresh one begins, we at Home Ed Cymru trust it will again be helpful to engage and reflect on the experiences of home educators in Wales, both to encourage and if necessary to help dismantle any difficulties. We look forward to your engagement and thoughts on these reflections.

We bear in mind not only the many profound benefits of home education for children in Wales, but also on the importance of preserving the lawful rights for children's home education to be unique, individualised and child-focused rather than one that could be pressurised to conform to standardised approaches or concepts of how education should "appear".

From our communications with various LAs across Wales, as well as feedback from home educators, it is encouraging to see that it is generally appreciated by LAs in Wales that there is no lawful basis for insisting on "visits" or "meetings" as part of any informal enquiries about a family's educational provision.

Likewise, it is encouraging to see that it is generally appreciated that there is no lawful basis to insist on seeing "samples of work", let alone to somehow inspect children "producing" these. Indeed, home education is often such a very different process to school-based education that children are not required to "work" – but rather learning is so often enabled to be a fun experience that takes many and varied forms, in a wide variety of locations and times, often dictated by a child's unique interests (as well as their age, abilities and aptitude). Of course, this is one of the many benefits of home education, and one that would be greatly damaged by any lack of understanding in relation to any perceived requirement for the production of "work", let alone consideration of requesting "samples" of it. The Welsh Government have confirmed that there is no duty on parents to evidence education. In response to any informal enquiries under S436A of the Education Act 1996, a written response from parents that confirms the child is home educated rather than missing education is more than sufficient to conclude such enquiries.

It is also encouraging to see that the vast majority of LAs understand that deregistration from mainstream education is an instruction with immediate effect, not a request nor a process.

It is also encouraging to note that the vast majority of LAs understand that formal enquiries and the issuing of legal measures such as Notices to Satisfy or School Attendance Orders are measures of last resort to only be used in very exceptional circumstances, with education presumed to be suitable unless there is good reason to believe otherwise.

However, research by the charity Educational Freedom has shown concerning figures on the use of these measures in a tiny minority of Welsh LAs. Reflection on this research would, we are sure, be very beneficial to all.

We attach that information here for your review:

<https://educationalfreedom.org.uk/forced-compliance.../...>

<https://educationalfreedom.org.uk/home-education.../>

As various LAs have recently, or are due to, rewrite their local policies on EHE, it would be helpful to ensure that the following few key points are at the forefront of the minds of the policy authors:

- 1) Despite the publication by Welsh Government of updated Guidance for EHE (2023), there has been no change to the underpinning law relating to home education. Whilst that document seeks to offer guidance for LAs regarding home education, as acknowledged in the document itself and confirmed by the Equity in Education Team at Welsh Government, much of the document is non-statutory. Therefore, it is pertinent that LAs ensure that local policies and/or other communications do not seek to imply new legal responsibilities or duties that do not in fact exist. We appreciate that the WG guidance is not the clearest of documents and unfortunately is ambiguous on much of what is true legal duty and that which is merely the desire/political agenda of the policy writers, making it hard for LAs to ensure that their own policies are not stipulating that which is unlawful. Again, the tone of the WG guidance has been criticised by the home educating community as being overly dictatorial, discriminatory and laden with prejudice. We sincerely hope that these flaws are not carried over into local policies.
- 2) There is no lawful basis to insist on “*monitoring*” home education, and it would, of course, be a significant matter of concern if local policies were to include such a concept.
- 3) There is no lawful “*duty to ensure every child has a suitable education*”, but rather the role of LAs and their staff is simply a reactive one to act “*if it appears*” that a child is not receiving an education, as per the Education Act of 1996.
- 4) The responsibility for suitability of education, and therefore the decision on what is suitable, legally lies with parents not the council. Should there be a difference of opinion between parent and council staff on the suitability for an individual child, then the final decision would lie with a court of law (as opposed to the council itself).
- 5) All communications must be transparent, respectful and lawful, providing the full range of information required for informed consent to any suggestions for action such as requests for “samples of work” or “invitations” to “meetings”. If meetings are to be offered to families, then communications must clearly convey that these are purely voluntary, that there would be no negative repercussions for declining

such an offer and that there are in fact a range of ways for families to respond to any informal enquiries.

It is vital that any communications in relation to informal enquiries are clear in conveying that there are a range of ways in which to respond, not only to respect the principles of informed consent and be non-coercive in correspondence, but also because if a visit is the only cited way of responding adequately, then there is the risk of a council assuming a family have declined to respond to enquiries if their response is to decline a visit. If the initial communications regarding any informal enquiries are clear in communicating that there are a range of ways in which families may choose to respond, then the risk of mistakenly assuming that parents are not communicating in response when exercising their lawful right to decline the offer of a meeting is removed.

6) Likewise, if forms are provided as a potential way for families to respond to informal enquiries, then there must be full transparency in all communications to ensure each family is fully aware that the completion of said forms is not a requirement. It would be very helpful for LAs to reflect on the reasons why many families choose not to use such council-written forms, including how such forms often reflect a school-centric approach to education and/or ask for information that is not legally required. Further to this point, may we again take the opportunity to direct your attention to the email sent to all LAs in Wales by Home Ed Cymru on 4th February 2024, addressing the significant concerns with the non-statutory, unpublished and seemingly outdated supplementary materials produced by Welsh government, that, if used as written, would risk council employees acting unlawfully. If you would like a copy of this email, please do let us know.

7) It is of course vital to continually be aware that any appearance of overstepping of lawful remits or duties in policy/communication or action is counterproductive to all parties, creating a climate of mistrust and suspicion of the LA from the home ed community, damaging any previously beneficial work by council staff. Fundamentally, any overstepping is counter to the wellbeing of home educated children.

We are also aware of a significant wave of destructive and poorly informed media reports in the wake of the tragic case of the horrendous abuse and murder of Sara Sharif. That child was already known to not only the local authority but many other agencies; she was already on numerous “registers”, having been placed on a child protection plan from birth, and agencies repeatedly failed to use existing powers to intervene to protect her from visible abuse, during her many years in school, as well as at deregistration. It is unethical in the extreme to see the case of this poor child weaponised, misreported and distorted to promote personal political agendas as we have seen of late, and we trust that LAs in Wales would not seek to do so, including in any influence on re-drafting of local policies. If you would like to discuss the issues surrounding the misrepresentative reporting of this awful case, please do let us know.

It would be extremely beneficial to all parties to ensure that the LA involve the home ed community **at the writing stage** if updating local policies. Every good policy is shaped by those with lived experience of that which it seeks to impact. For a council and public servants to adequately serve the community, it is vital that those with lived experience are fully involved in development of policies and in reviewing and reflecting on practice. Indeed, point 2.27 of the 2023 Wales guidance on EHE confirms that home educators should be involved in reviewing local procedures and practices. This approach can help address any potential inaccuracies, readily demonstrate any positive or negative impacts on families, and also highlight how both tone and content of any policies may be perceived by the home ed community, to facilitate true transparent and productive communication and relationships. We trust that LAs will seek to engage positively and productively with home educating groups and families.

In addition, we would encourage each LA to regularly audit and listen to the experiences and opinions of local home educators in relation to their published policy and conduct, on an open, non-selective, purely voluntary and anonymised basis, to ensure that practice is always transparent, respectful and lawful.

Regarding the potential roll-out of Welsh Government's "CME" database proposals, many, including the British Medical Association and the General Medical Council in addition to home educators, have expressed significant concerns including in relation to ethics, endangerment of children and lawfulness. We would again encourage LAs to consider the unethical and counterproductive nature of these proposals, alongside the very considerable measures and mechanisms that need to be in place to handle the significant volume of data required of these databases.

In the interests of ensuring that this process is fully transparent and as safe as possible, we request that each LA to share with us any and all measures and plans you have in relation to these databases.

Thank you for your time in reading our email. If we at Home Ed Cymru can be of any help in discussing or expanding on any of the issues raised here, please do not hesitate to contact us, and may we again take this opportunity to wish you all a happy and peaceful 2025.

Kind regards,

Home Ed Cymru