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Welsh Government
Consultation – summary of response

Children missing education database

Draft Children Act 2004 Children Missing Education Database (Wales) Regulations

September 2024

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.

This document is also available in Welsh.

Overview

The Welsh Government undertook a consultation between 31 January and 25 April 2024 to gather views on the draft Children Act 2004 Children Missing Education Database (Wales) Regulations. OB3 Research was appointed by the Welsh Government to prepare this report which synthesises the responses received as part of the consultation exercise.

Action Required

This document is for information only.

Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

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Additional copies

This summary of response and copies of all the consultation documentation are published in electronic form only and can be accessed on the Welsh Government's website.

Link to the consultation documentation: [Children missing education database | GOV.WALES](#)

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Glossary

Acronym	Description
ALN	Additional Learning Needs
ADEW	Association of Directors of Education in Wales
CME	Children Missing Education
EHCP	Education, Health and Care Plan
EHE	Elective Home Education
EOTAS	Education Other Than At School
EWS	Education Welfare Service
GMC	General Medical Council
GMS	General Medical Service
GP	General Practitioner
HMRC	His Majesty's Revenue and Customs
HRA	Human Rights Act
IDP	Individual Development Plan
LA	Local authority
LGBTQ+	Lesbian, Gay, Bi, Trans, Questioning/Queer and other
LHB	Local Health Board
NDR	National Data Resource
NHS	National Health Service
PAS	Patient Administration System
PLASC	Pupil Level Annual School Census
UHB	University Health Board
WLGA	Welsh Local Government Association

1. Introduction

- 1.1 Welsh Ministers launched a consultation exercise in early 2024 to gather views on the Children Missing Education (CME) database proposal and regulations for local authorities and local health boards.
- 1.2 OB3 Research was appointed by the Welsh Government to prepare a report synthesising the responses received as part of this consultation exercise. The consultation period ran from 31 January to 25 April 2024 and this report sets out the findings of the analysis, including key messages and themes to emerge from consultation responses.
- 1.3 Further information about the strategy and consultation exercise is available [here](#).

Background to the consultation

- 1.4 The overarching legal framework for this work is the Children Act 2004¹ which was introduced to replace the previous Children's Act 1989, to cement the safeguarding of children into UK law. Section 29 of the Children Act 2004 allows for regulations to be made that will require local authorities to develop and maintain a database of all compulsory school age children in their area.
- 1.5 Using the powers afforded by the Children Act 2004, the then Minister for Education Kirsty Williams AM proposed to introduce regulations that would require local authorities to establish and maintain a database of all children of compulsory school age, as a means of identifying children who are missing education. It was also proposed that local health boards as well as independent schools would disclose basic information about children with the relevant local authority.
- 1.6 Children missing education (CME) are defined as those of compulsory school age who are not on a school roll, and who are not receiving a suitable education otherwise than being at school (such as at home, privately, or in alternative provision) and who have been out of any

¹ [Children Act 2004 \(legislation.gov.uk\)](https://legislation.gov.uk)

educational provision for a substantial period of time, usually agreed as four weeks or more.²

1.7 The Welsh Government consulted on a previous version of the draft regulations³ in early 2020. The feedback gathered as part of the consultation exercise⁴ found that there was not much support for establishing local authority databases of all compulsory school age children as this would not necessarily help with the identification of children not known to local authorities or missing education in their area.

1.8 In light of the feedback gathered as part of the consultation exercise, the Welsh Government revised its proposals for the regulations, and proposed via the Children Act 2004 Children Missing Education Database (Wales) Regulations that local authorities establish a database of children who are potentially missing education, rather than all children of compulsory school age⁵. The database would hold only basic information about children who are not on roll at school, educated other than at school, or not known to be in receipt of a suitable education at home. The regulations continue to propose that local health boards share information about children who are usually resident in their area with the relevant local authority on an annual basis. The consultation document also proposes that these regulations will be piloted and evaluated across a small number of local authority and local health boards areas, before being replicated across the whole of Wales.

About the consultation responses

1.9 The consultation exercise sought to gather stakeholder views on a total of 23 questions. Of these, 17 contained both a closed and open-ended question whilst the remaining ones were open-ended.

² Welsh Government (2017) Statutory guidance to help prevent children and young people from missing education Available at: [statutory-guidance-help-prevent-children-young-people-missing-education.pdf \(gov.wales\)](#) p.5

³ [consultation-document.pdf \(gov.wales\)](#)

⁴ [local-authority-education-databases-summary-of-responses.pdf \(gov.wales\)](#)

⁵ [Children missing education database \[HTML\] | GOV.WALES](#)

- 1.10 Three sections of the consultation questions were directed to local health boards (Questions 9-12), general medical services contractors (Questions 13-14) and local authorities (Questions 15-19).
- 1.11 Three of the questions related to the impact of the regulations upon those with protected characteristics (Question 20) and the Welsh language (Questions 21 and 22), which are mandatory questions adopted by the Welsh Government across all consultation exercises.
- 1.12 This analysis draws upon the views of 337 contributors. Of these:
- 244 were submitted via the online survey form. One of these submissions was only partially completed but has been included in the analysis
 - 41 were submitted via the written response form
 - 52 were children and young people who contributed to in-person focus group discussions.
- 1.13 Nearly all of the 285 written submissions (online and written response form) followed the consultation response form. Five submissions did not and were coded by the research team for analysis purposes.
- 1.14 The profile of those who responded to the consultation exercise is set out at Table 1.1, based on categorisation by OB3 Research. Whilst the database does not propose to capture information relating to children who are home educated, the profile indicates that the majority of individual responses were submitted by home educators and home education groups.

Table 1.1: Profile of consultation respondents

Categorisation by OB3	Type of respondent	Number
Individuals, home educators and home education groups	Individuals / Home educators	225
Individuals, home educators and home education groups	Home education groups	4
Local authority	Local authority	20
Local authority	Local authority representative body	1
Health stakeholders	Local health boards	3
Health stakeholders	General medical services contractors	3
Other stakeholders	Education stakeholders	6
Other stakeholders	Children and family stakeholders	5
Other stakeholders	Faith / secular groups	4
Other stakeholders	Other / third sector	6
Children and young people	Individual written submissions	8
Children and young people	Focus group participants	52
Total		337

- 1.15 A total of 21 submissions were received from local authorities, including a joint submission from the Welsh Local Government Association (WLGA) and the Association of Directors of Education in Wales (ADEW). Two local authorities submitted two submissions each, so in total 18 different local authorities contributed to the exercise, which is 82 per cent of all local authorities in Wales.
- 1.16 Three out of seven local health boards in Wales submitted a response, which is a 42 per cent response rate. Three additional responses were received from medical or health organisations or representative bodies.
- 1.17 A total of 225 submissions were received from individuals and home educators. Whilst these submissions were not all home educators based in

Wales, the response is broadly just over four per cent of all known home educated children in Wales, at 5,330 during the 2022/23 academic year⁶.

Approach to the analysis

1.18 Our approach to the analysis involved:

- attending an inception meeting with the client and accessing all consultation responses via a secure portal
- preparing a bespoke consultation analysis template in Excel and importing the content of all responses into this template
- undertaking an initial review of a sample of responses (30 per cent) to each of the 23 questions and developing a coding framework. The sample of responses to each question were randomly selected to ensure that a different set of submissions were considered for each. The coding framework allowed for the identification of common codes for labelling key phrases and issues and was used as an overarching framework for thematic analysis
- using the coding framework to categorise all consultation responses received, ensuring that the analysis was undertaken in a consistent manner without bias. New themes identified during this exercise were added to the coding framework
- analysing the response to each of the consultation questions. This included quantifying the numbers agreeing or disagreeing with closed questions as well as the numbers who did not offer a clear viewpoint. It also involved developing a narrative to provide insight into the open-ended responses provided, including a broad overview of how many respondents made specific points and from which respondent group they originate. Common responses for each question and differences in opinions between different respondent groups were highlighted. The analysis adopts Estyn's criteria⁷ when

⁶ 5,330 children and young people were known by local authorities to be electively home educated in Wales between September 2022 and August 2023 as set out here: [Pupils educated other than at school: September 2022 to August 2023 | GOV.WALES](#)

⁷ As set out here: [Estyn writing guide - English language.pdf \(gov.wales\)](#)

quantifying and reporting upon the quantitative and qualitative responses received for each question:

- nearly all – with very few exceptions
- most – 90 per cent or more
- many – 70 per cent or more
- a majority – 60 per cent or more
- half – 50 per cent
- around half – close to 50 per cent
- a minority – below 40 per cent
- few – below 20 per cent
- very few – less than 10 per cent.

Key considerations

1.19 It is worth reflecting upon four key methodological considerations which have informed this analysis.

Anonymised submissions

1.20 Half of the written submissions received (143 of 285) contained either very little or no information about the responding individual, which raises questions about the validity of these responses as they could contain multiple submissions from the same respondent. Of the 285 written submissions received:

- 45 submissions contained only the individual's first name, an initial, or initials, as well as the first part of their postcode
- 14 submissions contained only the individual's first name, an initial, or initials, and no postcode details
- 56 submissions contained only the first part of the individual's postcode, but no other information such as the individual's first name, an initial or initials

- 28 submissions contained no information at all, be that an individuals' first name, initial or initials, or the first digits of their postcode.

Geographical area of interest

- 1.21 The 244 online respondents were asked if they lived in Wales, if they had a business interest in Wales and to provide their postcode details. As shown at Table 1.2, the majority (155 of 244) either declared that they lived in Wales, provided a partial postcode based in Wales or have a business interest in Wales. A minority of online respondents either confirmed they did not live nor have a business interest in Wales, provided a partial postcode based outside Wales or did not respond.
- 1.22 Most of the online consultation submissions were from individuals and home educator respondents (220 of 244 responses). Of these, 60 per cent (133 respondents) had an interest in Wales and 40 per cent (87 respondents) either did not have an interest in Wales or did not provide the first part of their postcode to confirm their location. It is important to bear this in mind when reflecting upon the consultation responses, as these respondents may not be directly affected by the proposed regulations.

Table 1.2: Geographical area of interest, online consultation submissions

	Number	Proportion
Declared that they live in Wales or provided a partial postcode based in Wales	110	45%
Declared a business interest in Wales	6	3%
Declared that they live in Wales and have a business interest in Wales	39	16%
Sub-total, with an interest in Wales	155	64%
Declared that they don't live nor have a business interest in Wales or provided a partial postcode based outside Wales	54	22%
Not answered and no partial address provided	35	14%

	Number	Proportion
Sub-total, without a confirmed interest in Wales	89	36%
Total	244	100%

Home education campaign submissions

- 1.23 Another important consideration when interpreting the consultation responses is that many submissions draw upon campaign responses prepared by home education groups, including a national online campaign. As a result, many of the consultation question responses contain standardised text that may be attributed to a campaign. Where possible, these have been highlighted throughout this report, and it was not unusual for each consultation question to receive up to 25 responses containing the exact same text. All of these responses have been considered and coded by the research team, but it is important to consider that they do skew the quantification of responses received.
- 1.24 These have all been coded as 'individual' submissions, and the content of the submissions point to them being home educators in the main.

Weighting and grouping of responses

- 1.25 Each response has been given equal weighting within this analysis, regardless of the response method adopted or the extent to which a submission represents the views of a single individual, organisation, or wider membership group. It is also worth noting that some responses, such as membership-based organisations, represent the view of a larger number of organisations or members although it is not possible to identify the degree of variance of views within that membership.
- 1.26 Each consultation question has been analysed in the most appropriate way as determined by the research team. Often, this has involved analysing and presenting the findings by each of the five responding groups (i.e. individuals, home educators and home education groups; local authority stakeholders; health stakeholders; other stakeholders; and children and

young people). However, this was not a suitable approach to take for all consultation questions, particularly where the responses received were similar from these responding groups or where the questions were set for specific stakeholder organisations only.

Questions aimed at specific stakeholder organisations

- 1.27 Whilst some of the consultation questions (Questions 9 -19) were specifically for stakeholder organisations, other respondents chose to answer these as well. For these questions, we report upon the submissions received from these stakeholder organisations only.

Additional engagement with children and young people

- 1.28 Additional targeted engagement with 21 children and young people was also undertaken by the Welsh Government and Children in Wales as part of the consultation exercise. As this engagement took place after the consultation exercise period, the responses received have not been incorporated into this analysis report. Rather, the method adopted by the Welsh Government and Children in Wales is set out below, as well as the key findings of the additional engagement activity undertaken by the Welsh Government:

Additional engagement undertaken by Children in Wales

The consultation was issued to children and young people groups by Children in Wales who undertook engagement via their social media channels. Additionally, Children in Wales shared the document and a link to an online survey and collated the responses into one document. The Children in Wales survey was shared to the following networks:

- all members of the Young Wales forum
- all Children in Wales members (including individuals and organisations)
- all practitioners of the All-Wales Participation Worker Network (representing all 22 Local Authorities)
- members of the Young Carers Network
- the Third Sector Additional Needs Alliance (TSANA)

- Parents Connect
- Children in Wales schools' membership (with a request to respond and share with children, young people and their families).

Links to the document and online survey were also posted on the Young Wales Instagram and X accounts and linked on the Young Wales Link Tree. At the time of posting, the Young Wales account had 1,109 followers on Instagram, and 4,984 on X.

14 responses were received via the Children in Wales online survey and these have been analysed and summarised separately by Children in Wales.

Findings of the Children in Wales' additional engagement

A summary of the questions and 14 responses received to the Children in Wales' additional engagement are set out below:

	Yes	No	Don't know/no answer
Do you think the Children Missing Education Database will help local authorities know about all children in their area and make sure they get an education?	8	3	3
Do you think the Children Missing Education Database will help local authorities make sure children are cared for, safe and having their needs met?	8	3	3
Do you think that health boards should share the name, address, gender and date of birth of a child with the local authority?	7	5	2
Do you think the name, address, gender and date of birth of a child is enough information to help them find children missing education?	6	5	3
Can you think of any other ways local authorities can find children missing education?	5	5	4
Do you think this has any advantages or disadvantages for parents or carers?	6	3	5

We think local health boards should have to share information once a year. Do you think that's a good idea?	9	3	2
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The responses received suggest mixed emotions towards the introduction of the Children Missing Education Database. While some respondents thought that the database could be 'discriminatory', and could potentially force young people into 'inappropriate, unsafe and inaccessible educational settings', others saw value in how the system could allow young people to be 'safeguarded in a better way', and therefore be less likely to 'slip through the cracks'. The qualitative feedback suggests that young people do not know enough about the database, and would benefit from more information, specifically regarding the intent of the database, and how personal information is being distributed.

There was also a call for young people to be educated in spaces which fit their needs, and for their protected characteristics to be respected. Some participants noted that 'mainstream doesn't work for everyone', and that home education could be a better option for some. Some participants responded quite negatively to the introduction of the database and took the view that it should be a parent's decision on whether an education fits their child's needs, rather than a Welsh Government decision: 'You are not my co-parent.' There was also a focus on young people's wellbeing regarding how they choose to pursue their education, and that it should be respected, as there was 'nothing shameful' about missing school or being home-educated for wellbeing reasons.

Additional engagement undertaken by the Welsh Government

The Welsh Government presented a child-friendly version of the consultation document at four separate local authority stakeholder groups. Local authority officers were asked to use their existing networks

to engage with children and young people. The document was also shared with the Children’s Commissioner’s office.

All stakeholders were advised that consultation responses could be submitted by the respondent directly or via whichever stakeholder had undertaken the engagement.

The Welsh Government arranged three regional events for children and young people in early May 2024. Due to low registration numbers, two events were held, in Conwy and Cardiff. The sessions included a presentation to children and young people on the proposals. Attendees were given the opportunity to complete child friendly consultation / response forms with the support of a parent or local authority officer (if required). Ten children and young people attended these events in total and seven response forms were completed.

Findings of the Welsh Government’s additional engagement

Seven response forms were received at two consultation events held on 7th and 8th of May. No demographic information was recorded. The questions and responses are set out below:

	Yes	No	Don't know/no answer
Do you think this will help local authorities know about all children in their area and make sure they get an education?	3	4	0
Do you think this will help local authorities make sure children are cared for, safe and having their needs met?	2	2	3
Do you think local health boards should share the name, address, gender and date of birth of a child with the local authority?	1	4	2
Do you think this is enough information to help them find children missing education?	3	1	3

Can you think of any other ways local authorities can find children missing education?	0	1	6
Do you think this has any advantages or disadvantages for parents or carers?	2	1	4
Do you think this has any advantages or disadvantages for you, or other children or young people?	4	0	3
We think local health boards should have to share information once a year. Do you think this is a good idea?	2	3	1

Three additional questions were included on the form. Most respondents did not complete this section. Additional comments captured included:

- 'It may feel invasive for families and undermining a parents ability to educate their child'
- 'understand the need to identify CME'
- 'we were worried how it would affect EHE children (known to LA)'
- 'all of this info is already known to my LA'.

Structure of this report

1.29 This report synthesises the key points made by contributors. It has been structured to correspond with the 23 questions. The report is therefore set out as follows:

- chapter two: considers the responses to Question 1 about the identification of children not known to local authorities
- chapter three: considers the responses to Question 2 in terms of local authority functions to safeguard and promote the welfare of children
- chapter four: provides an analysis of responses to Question 3 about the proportionality and sufficiency of the information being disclosed
- chapter five: reflects on responses to Question 4, in terms of alternative systems and processes adopted by local authorities

- chapter six: sets out the responses received to Question 5, the advantages and disadvantages of disclosing the data
- chapter seven: considers the views of respondents to Questions 6 to 8 in terms of frequency and access to information
- chapter eight: reflects on responses to Questions 9-12 relating to local health boards
- chapter nine: considers responses to Questions 13 and 14 relating to general medical services contractors
- chapter 10: sets out responses to Questions 15-19 relating to local authorities
- chapter 11: considers responses to Questions 20 and 21, in terms of protected characteristics and the Welsh language
- chapter 12: includes analysis of any themes or issues raised that were outside the direct remit of the consultation questions (Question 22).

2. Identification of children not known to local authorities and/or missing education

2.1 This chapter considers responses to Question 1 of the consultation exercise.

Question 1 Currently local authorities do not know about all children in their area but are still responsible for them. Do you think the requirements in the regulations will help local authorities to identify children not currently known to them and/or children missing education?

2.2 As shown at Table 2.1, a minority of consultation respondents thought that the requirements in the regulations would help local authorities to identify children not currently known to them whilst the majority did not. Local authorities, children and young people, and other groups (including education stakeholders, family and children groups, and third sector organisations) were most inclined to agree whilst individuals, home educators and home education groups were the most likely to disagree.

Table 2.1: Do you think the requirements in the regulations will help local authorities to identify children not currently known to them and/or children missing education?

	Yes	No	Don't know / No response	Total
Individuals, home educators and home education groups <i>(includes potential duplicates, and responses from outside Wales)</i>	14	208	7	229
Local authority stakeholders	20	0	1	21
Health stakeholders	2	0	4	6
Other stakeholders	12	6	3	21
Children and young people	52	8	0	60
Total	100	222	15	337

2.3 A total of 226 written responses were received for this question. We consider the responses submitted by the five key groups who contributed to the consultation exercise.

Local authority stakeholders

2.4 All but one local authority respondents (20 of 21 responses) thought that the regulations would help them achieve this objective. The remaining one did not know. Most local authorities (17 all 21) thought the regulations would help them achieve this objective⁸.

2.5 Four local authorities provided a qualitative response reinforcing their view that the regulations would strengthen existing processes. For instance:

‘A change in legislation to make it compulsory for parents to register their child with LA as home educated is required to ensure that Local Authorities can identify all children who may not be in receipt of suitable education.’

[Local authority]

‘We believe that the new regulations will strengthen our existing processes and allow for more comprehensive understanding of which children are in need of support and which children must be tracked and monitored.’ [Local authority]

2.6 Two local authorities stressed that the database would only work if children are registered with a General Practitioner (GP). One local authority, whilst supportive of the objective, raised caution about the possibility of errors within such a database. For instance if when providing a name, address and date of birth there could be errors in spelling; also data matching across large datasets is ‘never 100% accurate’; and some groups such as travellers and children who are educated outside Wales are difficult to track. As a result this local authority argued that whilst the database:

⁸ This is calculated on the basis that 18 local authorities contributed to the exercise. Three local authorities submitted two submissions each and one joint submission was received from the WLGA and ADEW.

‘could potentially close any gaps in the current system, however we do not feel that any system will ever be able to capture them all’ [Local authority]

Health stakeholders

- 2.7 Two local health boards agreed and the third agreed to some extent that the proposal would support the requirement to identify children. One issue raised related to the fact that some families do not register with a GP. One local health board suggested that the database would be ‘extremely challenging to deliver’ not least because of the difficulty to ascertain the total population but also because of difficulties determining within which local authority a child resides e.g. in cases where a child may reside at two addresses in the case of extended families. This local health board suggested that a more pragmatic and cost-effective solution would be for local authorities to access this data from a national database rather than local sources:

‘[it would be] possibly easier to access this data from the national (UK or Welsh) demographic service and to then have an intra-Welsh LA brokerage service to manage individuals who have ‘moved’ across Welsh LA boundaries.’ [Local health board]

- 2.8 A more mixed view was conveyed by the three other health stakeholders, and the key points raised related to difficulties associated in reporting for GP practices located in border areas, including issues around children resident in Wales but registered with GPs in England.

‘it is important to note that a large number of GP practices in Wales are located in border areas where data would not be shared with the LA as the patients will reside outside the area. Additionally, it may still not capture all children where they are resident in Wales but registered with GPs in England unless there is a process for those registered in England but resident in Wales to be included.’ [Health stakeholder]

Other stakeholders

- 2.9 Around half of other stakeholders (12 of 21 respondents) agreed that the regulations would help local authorities to undertake the duty.

‘We welcome the requirements set out in the regulations. There is a risk that children not in mainstream education become invisible to authorities, which may leave them isolated and without support.’ [Third sector stakeholder]

‘the regulations outlined seem poised to significantly enhance local authorities’ ability to identify children not currently known to them and those who may be missing education, including homeless young people.’ [Third sector stakeholder]

- 2.10 All but one education stakeholder agreed that the proposal would help with the identification of children.

‘The creation of the database with information being shared by the local health board on an annual basis will reduce the risk of such children not being identified.’ [Education stakeholder]

- 2.11 Children and family groups queried three points. The first related to the annual disclosure of data which was not perceived to be appropriate for capturing particular cases of children missing education (CME):

‘Children receiving care often move placement or schools between LAs mid-year and this means their social worker needs to complete an in-year admission. What information systems will be in place to ensure that a looked after child’s school moves are recorded between LAs throughout the year and that they are known to a children missing education team?’ [Children and Family groups]

- 2.12 The second key point queried by children and family groups related to how the needs of children attending a school out of county would be accommodated, which was considered to be often the case for learners with substantial additional learning needs.

- 2.13 The third point raised by children and family groups, echoing a similar point made by educational stakeholders related to the level at which data was being collected:

‘if the data was assessed at a national level, this would ensure better consistency and standardisation of data collection. Additionally it would

create more effective collaboration between local authorities when mitigating moving populations as well as enabling better communication between Welsh and English local authorities and health boards.’ [Children and Family groups]

- 2.14 Two faith / secular groups agreed and two disagreed that the proposal would help with the identification of children. One of the groups who agreed suggested that the regulations did not go far enough to protect those most at risk:

‘We support the introduction of the requirements in the regulations on the basis that they will help local authorities identify children not currently known to them, as well as those missing education. However, we are concerned that the requirements in the regulations may be insufficient for achieving a comprehensive list of all children missing education (CME) ...we are concerned a database which amounts to a “reasonably complete list” will not be complete enough to protect children most at risk.’ [Faith / Secular group]

- 2.15 The main issue raised by those who disagreed related to the need to distinguish between ‘children missing education’ and ‘children not receiving suitable education’ and one submission noted ‘this difference is never explained in the consultation.’ As such it is concluded that ‘local authorities will not be able to undertake this duty.’ [Faith / secular groups]

Children and young people

- 2.16 Many of the children and young people who contributed to this consultation exercise agreed with the proposals, although none of these provided a qualitative response. Those who disagreed were home-educated young people, who noted that the proposals were:

‘unfair’ [Children and young people]

‘I am not missing education. I am learning from home because school would upset me.’ [Children and young people]

Individuals, home educators and home education groups

2.17 Most individuals, home educators and home education groups disagreed with this question, with duplicate or similar wording included within many of the responses. The main points put forward by this cohort can be grouped into four key themes. These related to the:

- legality of proposals
- ethicality of proposals
- counter-productive nature of proposals and
- negative impact on access to health services

Legality of proposals

2.18 Around half of the individuals, home educators and home education groups who responded raised issues relating the legality of the proposals, including those who took the view that local authorities do not have the legal responsibility for determining if an education provided to children and young people is suitable. A total of 36 responses were identified as part of a campaign as they specifically used the statement that the 'law is being misused' in their submission, including:

'The law is being misused as authorities do not have the duties that are being claimed.' [Individual / Home educator]

2.19 These respondents argued that local authorities do not have a legal responsibility for determining if the education made available to home educated children is suitable, and questioned their capability of determining this:

'The proposal suggests a scheme where the LA determines if education is suitable, rather than the parent. This is not lawful and an LA is not equipped for this.' [Individual / Home educator]

Ethicality of proposals

2.20 Under this theme, a minority of individuals, home educators and home education groups emphasised the unethical nature of the proposal for local health boards to share data with local authorities, and regular use of terms

such as 'unethical' and 'moral/immoral' were made, including 16 identified campaign responses:

'It is both morally and ethically wrong and does not have a legal basis.'
[Individual /Home educator]

Proposals will be counter-productive

- 2.21 Submissions from a minority of individuals, home educators and home education groups argued that the proposals would be damaging and have the opposite effect to what is intended by driving those who are missing education 'further underground' and avoiding accessing other services as well. These submissions suggested that resources ought to be focused on children already known to be missing education. A total of 51 responses used the exact term 'opposite effect' within their submission.

'I feel that it will have the opposite effect on what the authorities want to achieve.' [Individual / Home educator]

Negative impact on access to health services

- 2.22 A minority of responses from individuals, home educators and home education groups considered the negative impact of the proposals on access to GP and local health board funded services. It was argued that the proposals would damage relationships between families and their GP, would result in parents de-registering their children or not accessing the GP in the first instance.

'Such proposals will create a climate of mistrust between Home Educators and health professionals and worse may actively encourage parents not to access Health Care Services simply because they exercise their legal right not to involve the local authority in their education. It has the potential to drive such children into being truly invisible to their local community.'
[Individual / Home educator]

- 2.23 Aligned to this theme, was a view that GPs would be in breach of confidentiality unless they obtained explicit consent to share data with local authorities.

‘The proposed requirements have legal, moral and ethical issues, including issues of informed consent and the potential for breaches of confidentiality for healthcare providers. This potentially damages trust between patients and healthcare providers and might prevent families from seeking healthcare. There is a real risk of these regulations creating a barrier to the most vulnerable children accessing healthcare and undermining the safeguarding that healthcare providers already carry out.’ [Individual / Home educator]

Other themes raised by individuals, home educators and home education groups

- 2.24 A few responses argued that the proposals conflated home education with CME.

‘The database should only contain children who are missing education, not those who might be - it should be assumed that parents are fulfilling their duty and the children are receiving a good education unless proven otherwise. It is not the LAs duty to know about every child.’ [Individual / Home educator]

- 2.25 A few responses argued that the proposals were a waste of resource, and both unproportional and unreasonable.

‘It’s a waste of money that could be better used elsewhere.’ [cited by six Individuals / Home educators]

- 2.26 Very few responses queried the definition of CME⁹ and why the database would not include details about children at school who did not attend regularly:

‘These databases are not truly databases of children missing education, because they do not contain any children who are on school rolls but who are missing education for a myriad of different reasons, but they will contain data of home-educating families who are providing a suitable education but

⁹ Children missing education (CME) are defined as those of compulsory school age who are not on a school roll, and who are not receiving a suitable education otherwise than being at school (such as at home, privately, or in alternative provision) and who have been out of any educational provision for a substantial period of time, usually agreed as four weeks or more.

who have exercised their lawful rights to not involve the local authority in that provision.’ [Three Individuals / Home educators]

- 2.27 Very few responses highlighted practical issues relating to the proposals, in that the creation of a list would not make it any easier to identify CME, because:

‘Providing local authorities with a list of 500,000 names isn't going to help them identify who is missing education. It will simply make the haystack bigger for finding the needles!’ [Individual / Home educator]

- 2.28 Very few responses from this cohort considered how the proposals went against children’s rights, and human rights more broadly.

‘It’s an infringement on privacy, basic respect, human rights and children’s rights. The proposals challenge articles of UNCRC.’ [Individual / Home educator]

- 2.29 Very few responses raised concerns about the safety of CME databases, how the data might be misused, and what processes would be in place to ensure that the data were held securely. For instance:

‘The consequences of a data breach of this kind of information are not properly addressed, nor is the safety of the data that will be kept in these databases.’ [Individual / Home educator]

- 2.30 Very few responses from this cohort made the point that the proposals presented home education in a negative light, which was damaging to home educating families:

‘Home educators are being unfairly targeted and treated with suspicion despite home education having equal legal status to mainstream education.. [Individual / Home educator]

3. Local authority functions to safeguard and promote the welfare of children

3.1 This chapter considers responses to Question 2 of the consultation exercise.

Question 2 Does this proposal assist local authorities with their arrangements made under section 175 of the Education Act 2002, which is to undertake their education functions with a view to safeguarding and promoting the welfare of children?

3.2 As shown at Table 3.1, a few consultation respondents thought the proposal would assist local authorities with their arrangements made under section 175 of the Education Act 2022, whilst many did not. Local authorities, children and young people, and other groups (including education stakeholders, family and children groups, and third sector organisations) were most inclined to agree whilst individuals, home educators and home education groups were the most likely to disagree.

Table 3.1: Does this proposal assist local authorities with their arrangements made under section 175 of the Education Act 2002

	Yes	No	Don't know / No response	Total
Individuals, home educators and home education groups <i>(includes potential duplicates, and responses from outside Wales)</i>	9	209	11	229
Local authority stakeholders	19	1	1	21
Health stakeholders	2	0	4	6
Other stakeholders	10	7	4	21
Children and young people	25	25	10	60
Total	65	242	30	337

3.3 A total of 213 written responses were received for this question. We consider the responses submitted by the five key groups who contributed to the consultation exercise.

Local authority stakeholders

- 3.4 Nearly all local authority respondents (19 of 21 responses) thought that the proposal would assist them to undertake their education functions. Five qualitative responses were provided: four agreed that the proposal would help improve the safeguarding of children not attending school whilst one disagreed. One local authority respondent who agreed reported:

‘We believe that the proposal strengthens our ability to safeguard young people under Section 175 of the Education Act (2002). Currently, our systems are local and therefore variable between local authorities and the proposal will allow for improved tracking in terms of movement within and between authorities and identifying trends in terms of CME need. This in turn will lead to improved strategy to support CME learners. This will improve our ability to create a strategy that encompasses schools and other education services such as the PRU and our EHE provision.’ [Local authority]

- 3.5 Two local authorities reflected upon the opposition from the home education community to the proposed database. One suggested that a change in legislation was required to make it compulsory for parents to evidence that suitable education was being provided and the other suggested that the Welsh Government needed to work with ‘the Elective Home Educated lobby group to encourage them to agree to this database.’ [Local Authority]

Health stakeholders

- 3.6 Of the six health stakeholders, two local health boards agreed, and made the points that for the proposal to be effective:

‘the data [must be] valid and current’ [Local health board]

‘the requirements and instructions to us are set out in a way that Article 8 of the HRA¹⁰ and the Common Law Duty of Confidentiality are satisfied.’

[Local health board]

¹⁰ Human Rights Act

3.7 One of the other health stakeholders also noted the need for data to be current, and highlighted the need to address data about children moving between areas:

‘the approach of a one-off exercise per annum means that data will become out of date almost as soon as it is created. Movement of children in between the data extraction points, especially in border areas, may still see children missed and additionally cause upset to families affected.’ [Other health stakeholder]

Other stakeholders

3.8 Around half of other stakeholders (11 or 21 responses) thought that the proposal would assist local authorities with their arrangements made under section 175 of the Education Act 2002. Identification was highlighted as the first step towards being able to safeguard and promote the welfare of children and young people, as well as enhanced collaboration and timely sharing of data.

‘By establishing databases of children missing education (CME), local authorities can better identify vulnerable children who may be at risk of harm or who have disengaged from education. This proactive approach allows authorities to intervene early and provide necessary support and safeguarding measures.’ [Other stakeholder]

3.9 A key point made by other stakeholders in response to this question related to the fact that the data would be ‘reasonably complete,’ thereby suggesting that there would always be gaps:

- the data supplied by local health boards would only include information about children who are registered with a GP

‘if some of the children who are not known to local authorities are not currently registered with a GP, they will not be known to LHBs and therefore their details will not be shared.’ [Children and family group]

- the need to better account for the safeguarding risks posed by unregistered schools ‘many unregistered schools are located in

unsafe premises with unsuitable and untrained staff who go through none of the usual vetting procedures.’ [Faith / secular group].

- 3.10 The other key question raised by other stakeholders who objected to the proposal, was whether local authorities had a duty under Section 175 to identify children they did not know about. Instead it was suggested that local authorities focus on safeguarding children already known to them, including those excluded and unregistered from schools, as well as younger children of pre-school age.

‘It is clear that Section 175 does not create additional functions but is about how existing education functions should be exercised. The Welsh Government appears to be reading into Section 175 an implicit duty for LAs to identify children they do not know about. However, there is no such duty. We note the specific way in which Section 436A of the Education Act 1996 – which is the key relevant education function – is framed. It does not provide a basis for the Welsh Government’s broad proposal.’ [Faith / secular group]

Individuals, home educators, home education groups and children and young people

- 3.11 In this section we consider the qualitative responses submitted by individuals, home educators, home education groups and children and young people, as the nature of the written responses received were similar.
- 3.12 Many submissions provided a qualitative response (192 in total, 186 of whom disagreed and six either did not know or did not respond directly to the closed question). Overall, the content of responses received from this cohort were similar (often using the same text) to those responses submitted for Question 1. As such the main themes raised were the same as for Question 1, and related to the:
- legality of proposals
 - counter-productive nature of proposals
 - ethicality of proposals
 - negative impact on access to health services

- 3.13 It is worth noting that very few responses stated 'as above' (10 responses) or 'as stated in Question 1', therefore the quantification of some of these four issues is slightly lower compared to Question 1.
- 3.14 Where responses repeated the exact points made for Question 1, they are not repeated in this section but the arguments put forward should be considered by the Welsh Government. Rather, this section considers the main additional points raised by individuals, home educators, home education groups and children and young people.

Legality of proposals

- 3.15 Overall, there was a greater emphasis placed by the individuals, home educators, home education group and children and young people on this question being a 'misleading' question, and this term was cited by very few respondents in their submission. The main argument put forward by these respondents was that Section 175 was being 'misappropriated' and 'misused'. Respondents queried whether local authorities had responsibility for the safety and welfare of every child, including children it did not know about.

'it goes far beyond what the duties are under s175. Educational Functions are defined in schedule 36A and do not include children who are electively home educated.' [Individual / Home educator]

- 3.16 Very few respondents further perceived that Section 175 did not place a duty on local authorities to proactively monitor parents' private arrangements, but rather to provide services and respond reactively to welfare and safeguarding issues when they arise. Responses queried whether the duty of local authorities was to investigate cases where there was reasonable evidence of harm, as opposed to investigate all home education families in case there were instances of harm.

'This is misleading. The duty of LAs is to respond when it comes to safeguarding and welfare, not to actively seek out children. It should be assumed that parents are carrying out their parental responsibilities unless cause to believe otherwise.' [Individual / Home educator]

- 3.17 Very few responses also suggested that if the local authority did have a duty under Section 175 to be responsible for the safeguarding and welfare of all children, it would be responsible for addressing children's needs in all cases where they were not being met, and that it would not have the financial resources to do so.

'If the LA were responsible for the safeguarding and welfare of all children then it would also be culpable in cases where children's needs were not being met - where children are being failed by schools or other services. Of course, this is not the case. The LA's safeguarding duties, like their duty to education, is to act in cases where it appears there is risk or harm.'

[Individual / Home educator]

Proposals will make safeguarding children a more challenging task

- 3.18 A minority of responses questioned whether the proposals would result in improved safety and welfare of children and suggested that they would be more damaging in this respect. Two main reasons were provided for this, the first being that families would be less likely to access health and other services because they didn't want their data shared with local authorities and the second being that the proposals would divert resources away from existing safeguarding issues which local authorities needed to prioritise. Responses under this theme also discussed the need to prioritise safeguarding issues which happen within school settings and the trafficking of children into the UK.

'Children will de-register from local health care providers. This will be contrary to the local authorities intended outcome of safe-guarding and promoting the welfare of children.' [Individual / Home educator]

Confusion between safeguarding and home education

- 3.19 A few responses from individuals, home educators, home education groups and children and young people suggested that the question set in the consultation document implied that those who are not educated at school are at a greater safeguarding risk than those registered at a school setting.

‘Education and safeguarding are two different matters and should not be mixed. Children not in school who are home educated are not a safeguarding concern.’ [Individual / Home educator]

- 3.20 Very few responses took the view that parents, rather than local authorities, are responsible for their child’s welfare and that safeguarding only becomes relevant if the local authority suspects that a child is at risk.

‘The safe-guarding and promoting of the welfare of children is primarily for the child’s parents and only becomes a relevant consideration for an LA if it has reason to believe that child is not being appropriately look after by their parents.’ [Individual / Home educator]

Current regulations are sufficient

- 3.21 Very few individuals, home educators, home education groups and children and young people suggested that current regulations were sufficient and adequate, and that there was no need for further regulation.

‘I believe there is already sufficient regulations in place to help those who are vulnerable and require help from social services and the LA.’ [Individual / Home educator]

A register of home educated children

- 3.22 A final suggestion put forward by very few respondents in response to this question, was to develop a register of home educated children or to make it compulsory to register a home educated child with the local authority, rather than to introduce the proposed regulations.

‘If the LA¹¹ feels it needs to know about every child, then registration should be compulsory and effort and financial resources put into building good relationships between home educators and LAs and providing more resources for us.’ [Individual / Home educator]

¹¹ Local authority

4. Proportionality and sufficiency of information being disclosed

4.1 This chapter considers responses to Question 3 of the consultation exercise.

Question 3 Under the regulations, local health boards will disclose the information as required in the Schedule (name, address, gender and date of birth of child) to the local authority so that they can develop a children missing education database.

i) Do you agree that the information requested in the Schedule is reasonable and proportionate to enable the local authority to identify children not currently known to them and who may be missing education?

ii) Do you agree that the information requested in the Schedule is sufficient to enable the local authority to identify children not currently known to them and who may be missing education?

4.2 As shown at Tables 4.1 and 4.2, a minority agreed that the information required in the Schedule was reasonable and proportionate, and a minority agreed that it was sufficient to enable local authorities to identify children not currently known to them and who may be missing education. Many disagreed that the information required was reasonable and proportionate, and the majority disagreed that it was sufficient to enable local authorities to identify children not currently known to them.

Table 4.1: Do you agree that the information requested in the Schedule is reasonable and proportionate to enable the local authority to identify children not currently known to them and who may be missing education?

	Yes	No	Don't know / No response	Total
Individuals, home educators and home education groups <i>(includes potential duplicates, and responses from outside Wales)</i>	13	211	5	229
Local authority stakeholders	19	2	0	21
Health stakeholders	2	1	3	6
Other stakeholders	9	4	8	21
Children and young people	33	20	7	60
Total	76	238	23	337

Table 4.2 Do you agree that the information requested in the Schedule is sufficient to enable the local authority to identify children not currently known to them and who may be missing education?

	Yes	No	Don't know / No response	Total
Individuals, home educators and home education groups <i>(includes potential duplicates, and responses from outside Wales)</i>	17	181	31	229
Local authority stakeholders	12	5	4	21
Health stakeholders	2	0	4	6
Other stakeholders	7	4	10	21
Children and young people	50	8	2	60
Total	88	198	51	337

4.3 A total of 219 written responses were received for Question 3 (i) and 177 written responses for Question 3(ii). A further 10 responses stated that they

had answered Question 3(ii) at Question 3(i). There was a considerable degree of overlap in the qualitative responses submitted for both questions, and as such have been grouped together for consideration in this section.

- 4.4 We consider the responses submitted by the key groups who contributed to the consultation exercise.

Local authority stakeholders

- 4.5 Most local authority responses (19 of 21 responses) agreed that the information requested in the Schedule was reasonable and proportionate to enable them to identify children not currently known to them and who may be missing education. Around half (12 of 21 responses) thought that the information requested in the Schedule was sufficient to enable them to identify children not currently known to them and who may be missing education.

‘The information requested is proportionate and reasonable to enable Local Authority’s to identify children of compulsory school age and to allow them to exercise their duty to ensure that they are in receipt of suitable education.’ [Local authority]

‘The information is sufficient to identify any young people who are not currently in education. In fact, it is in keeping with the information we already use as an Education Welfare Service to complete CME and welfare checks; we often operate on a name and an address and this information being shared by health is more than enough for us to complete our statutory duties, while maintaining the dignity of the family and the choices they are making around education.’ [Local authority]

- 4.6 Seven local authorities suggested that more information should be captured for each child, such as their National Health Service number as this would provide a unique identifier for each child, thereby reducing the chance of any errors, particularly if there has been any change in name or addresses used. One local authority suggested that the data include ‘religion’, another suggested the inclusion of ‘a parent name, contact number and email address’ whilst another suggested it should include ‘Legal Surname; Legal

Forename; Chosen Surname; Chosen Forename; Gender; Date of Birth.’
[Local authority]

4.7 In answering this question, five local authorities reflected on the practical issues of accessing the data, and queries were raised about whether the software used by health services and local authorities would be compatible, to allow for easy identification of children not in education, and whether the data could be provided to local authorities in separate columns.

4.8 A couple of local authorities also stressed that whilst more information could be provided to make the task of identification easier, doing so could be detrimental to the relationships between local authorities and families.

Health stakeholders

4.9 All three local health boards were supportive of both questions, with one stating that:

‘The sharing of information would form a comprehensive list of children residing in a particular area. Within the health board, for example, the health visiting service, are informed of movements in and out of the area, [and] the sharing [of] this information would ensure that the LA are aware of these children.’ [Local health board]

4.10 Another health stakeholder reiterated their support for the proposals, and welcomed the fact that the Welsh Government had amended its approach as a result of the previous consultation, although was mindful that health services would still be required to share data on all children in order to establish a database of CME:

‘Sharing relevant information about a child or young person with the right people, in appropriate circumstances, can help to protect children and young people from harm and ensure they get the support they need to improve their wellbeing. We understand that as a result of consultation, Welsh Government has altered the proposed approach to establishing and maintaining the database. Instead of maintaining a list of all school-aged children, it will focus on those children and young people who may be missing in education. Although the database will eventually contain only this subset of children, the process of establishing it (as set out under the

draft Regulations) still requires local health boards (and potentially GP practices) to share information about all children ordinarily resident within the local health board.’ [Other health stakeholder]

4.11 Two health stakeholders, including one local health board, noted that clinical health services recorded sex, rather than gender, and that this needed to be reflected upon within the regulations. One health stakeholder questioned the relevancy of including this field, given that the purpose of disclosing the information would be to identify the location of the child rather than their sex or gender.

4.12 One health stakeholder also made the point that:

‘the schedule in the draft Regulations continues to make reference to the name, address and postcode, telephone number and email address of all parents of the child, the name and address of the person providing their education, and any additional learning needs they have. As this information isn’t going to be requested, it’s important that these references are removed from the Schedule to ensure this information isn’t inadvertently shared.’ [Other health stakeholder]

Other stakeholders

4.13 Other stakeholders expressed a more mixed opinion in response to these questions. Those who disagreed broadly felt that the proposals were disproportionate, damaging, and unethical, and reiterated the points previously discussed under Questions 1 and 2.

4.14 Those who agreed suggested that:

‘the information requested in the Schedule is reasonable and proportionate to enable the local authority to identify children not currently known to them and who may be missing education. It is likely to be sufficient for local authorities to be able to match most pupils identified by the health boards easily.’ [Education stakeholder]

‘The selection of information in the Schedule appears to strike a balance between the need for effective identification and the importance of safeguarding individual privacy rights. By focusing on key identifiers without

delving into more sensitive personal information, the regulations maintain a reasonable and proportionate approach to data disclosure.’ [Third sector organisation]

4.15 The main points made raised by other stakeholders related to:

- the need to ensure that any data shared, particularly for vulnerable groups such as families in safe refuge because of domestic abuse or sexual violence issues, would be retained in confidence. One stakeholder also requested that any data shared should be contextualised by the receiving organisation, for instance:

‘for parents who are trying but struggling to get their child to school, it may be disheartening to know that such information is being processed but may not be contextualised. A person-centred and needs led process must be in place to ensure the specific needs of survivors of abuse and their families are considered.’ [Third sector organisation]

- protected characteristics data: one other stakeholder thought it important that gender information be included, as such data disclosure would allow local authorities to respect and acknowledge a trans child’s identity and prevent any cases of misgendering. Another stakeholder thought that data covering protected characteristics such as ethnicity and LGBTQ+¹² should be included. Another stakeholder highlighted the fact that National Health Service (NHS) numbers are changed for children recorded as wishing to change gender, which could put children and young people at risk of not being identified, and called for the regulations to consider the findings of the Cass Review¹³

‘It is pointless to pass the regulations proposed for more data-sharing between local health boards and local authorities unless the

¹² Lesbian, Gay, Bi, Trans, Questioning/Queer and other

¹³ [About the Review – Cass Review](#)

Welsh Government first accepts the Cass Review recommendations as relevant for Wales.' [Faith / secular group]

- the need for the proposals to outline the protocol for local authorities to follow when they cannot match the data provided with their own data.

Individuals, home educators, home education groups and children and young people

- 4.16 In this section we consider the qualitative responses submitted by individuals, home educators, home education groups and children and young people, as the nature of their responses were similar. A total of 191 submissions provided a qualitative response to the first part of the question and 165 provided a qualitative response to the second part of the question.
- 4.17 Of those who agreed with either of the questions posed, only two provided a qualitative response. In one case, one response questioned the relevance of capturing 'gender' data and the other believed that the regulations would capture CME who are 'completely off grid' but not those who have disengaged with schools.
- 4.18 Most individuals, home educators, home education groups and children and young people disagreed that the information required in the Schedule was reasonable and proportionate. The main points made were similar to those raised by the home education community for Questions 1 and 2, in that they challenged the legality of the proposals, the ethicality of proposals, the counter-productive nature of proposals and the negative impact on access to health services. Proposals were considered disproportionate, damaging and unethical and responses conveyed disagreement:

'This is unreasonable. This is disproportionate. Any data or information within health services should remain confidential within those services unless there is good reason to disclose. Reporting children missing education is not a good enough reason to disclose personal information/data.' [Individual / Home educator]

4.19 In answering Question 3 (i), a greater focus was placed by this cohort on the perceived breach of privacy and data protection, and the following quotes illustrate the strength of feeling about this issue.

‘This is unethical and a massive GDPR breach.’ [Individual / Home educator]

‘I object on the grounds that any information I give my GP is confidential.’ [Individual / Home educator]

4.20 Many individuals, home educators, home education groups and children and young people disagreed that the information required in the Schedule was sufficient. Respondents were keen to point out that they were not objecting on the basis of the information required being ‘insufficient’ but rather because it was considered excessive, unwarranted and unacceptable. An example of the submissions received include:

‘oh boy, what a leading question! if I answer yes, then it looks as if I'm agreeing, if I answer no it makes it look as if I think it's not sufficient and that you need more, and if I answer don't know then that's not true. I know what I think but your question doesn't allow me to say it - because it doesn't fit your narrative and agendas.’ [Home educated young person]

5. Alternative systems and processes adopted by local authorities

5.1 This chapter considers the responses to Question 4.

Question 4 Are there alternative systems and processes that would enable the local authority to identify a child they have no prior knowledge of?

5.2 As shown at Table 5.1, the majority of respondents thought that there are alternative systems and processes that would enable local authorities to identify children not previously known to them. A minority did not think this to be the case and a few did not know

Table 5.1: Are there alternative systems and processes that would enable the local authority to identify a child they have no prior knowledge of?

	Yes	No	Don't know / No response	Total
Individuals, home educators and home education groups <i>(includes potential duplicates, and responses from outside Wales)</i>	171	26	32	229
Local authority stakeholders	13	4	4	21
Health stakeholders	1	1	4	6
Other stakeholders	9	1	11	21
Children and young people	8	40	12	60
Total	202	72	63	337

5.3 A total of 223 written responses were received for this question of which many were from individuals, home educators and home education groups. A few were from local authority, health and other stakeholders and very few responses were from children and young people.

Local authority, health and other stakeholders

5.4 Written responses received from across all types of stakeholder responses offered suggestions for other systems or processes that could be utilised to identify a child they had no prior knowledge of. They included suggestions around:

- accessing His Majesty's Revenue and Customs (HMRC) or benefits information (including child benefits)

'HMRC would hold records of children resident in the LA via tax credit and child benefit records' [Local authority]

- other local authority information such as council tax and housing information

'Benefits/Council tax/Housing can assist providing the information shared is for safeguarding purposes' [Local authority]

- other health providers or health data

'Different health providers such as speech and language therapists' [Children and family group]

'Correlating LHB data with data held on the LA social care database will support with preventing looked after children missing out on their statutory education entitlement' [Children and family group]

- private and independent schools

'collaboration with private schools/settings in order to identify leavers' [Local authority]

'there also needs to be...sharing of information from all Independent schools' [Local authority]

- passport information
- private sector dentistry or private childcare provision data
- electoral data.

5.5 In all, 12 responses from local authorities described processes that they already had in place. These included descriptions of how local authorities

currently work closely with children's services, health partners and/or other partners such as the police. They also included specific examples of processes already being implemented including:

- live birth data already being collected, including NHS number (five responses)
- health visitors, community midwives and school nurses informing the local authority
- regular meetings being held between relevant agencies and the local authority such as education welfare service, children's services, police, youth service and housing
- accessing the school to school (s2s) system¹⁴ to identify or make enquiries about CME – although it was noted that the 'lost pupil area' of the system requires improvement
- collaborating with the police's 'Operation Encompass'¹⁵ to help identify CME
- identifying children who do not start reception at compulsory school age and making further CME checks in accordance with the local authority's current CME policy
- existing databases at local authorities from which intelligence about potential CME can be extrapolated
- use of an anonymous online form that members of the public can use to alert the local authority of any child that is potentially not attending school regularly which is then followed up by the CME team
- families voluntarily informing the local authority
- informal events held by the local authority for Elective Home Educated (EHE) families or other families who are not in mainstream

¹⁴ [School to school \(S2S\) data transfer system: guides - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guides/school-to-school-s2s-data-transfer-system)

¹⁵ Operation Encompass aims to ensure that schools have timely information of all police attended incidents involving children experiencing domestic abuse:
<https://www.operationencompass.org/>

education so that relationships are built to ensure the right support is provided to either work towards returning to school or move onto the EHE database.

- 5.6 Two responses were received from local health boards. One response suggested that use could be made of wider NHS data systems including those held by the ambulance service, Public Health Wales and prescription data held by NHS Shared Services. The other health board suggested that the General Medical Services notify the relevant local authority when a child is de-registered from a GP practice or registers at a new practice.
- 5.7 Two other stakeholders were firmly of the belief that consideration should be given to a statutory duty on parents to notify local authorities if their children are not educated within a mainstream school setting or EOTAS. This would lessen the risk of some children being missed off the database if they are not registered with a GP.
- 5.8 Very few of the written responses stated that they were not aware of any alternative systems or processes or did not make any specific suggestions.
- ‘[We] do not believe that there are better alternative systems...The proposals could be strengthened by requiring the resulting...database to be shared nationally so that all local authorities can consult. This may help identify and safeguard children who may move between different local authority areas’ [Education stakeholder]
- 5.9 Very few responses either stated that it was not possible, or that there was no need for this legislation.

Individuals, home educators, home education groups and children and young people

- 5.10 Of the responses received from these submissions, the majority stated that voluntary engagement and a focus on local authorities building trust and cultivating a good relationship with families not in mainstream education was a more alternative suitable approach.
- 5.11 Around half of the responses were identical or near identical in their wording on this point:

‘voluntary and respectful engagement, not mandatory deterrents.’

[Individuals / Home educators]

- 5.12 A minority of responses reiterated that there was no need for the legislation, that it was not possible to put a system or process in place or did not directly answer the question.
- 5.13 A few responses from this cohort suggested other systems or processes including those already in place by a local authority. These included suggestions to access birth registration data, child and other benefit data, as well as immigration data from the Home Office. Others suggested that information from referrals of specific concern from family members, police or other professionals should be shared in situations where there is cause to believe that the child is missing education or improving the follow-up system when a child is deregistered from school. Furthermore, others suggested that there should be a requirement for parents to inform the local authority of the decision to home educate:

‘Birth certificate database and the electoral role.’ [Individual / Home educator]

‘It should also be a requirement for parents to inform the local authority of any children that they choose to home educate. At present this is not the case if a child has never been registered at a school.’ [Individual / Home educator]

- 5.14 Very few responses suggested ways of developing positive relationships between local authority and home educating families including approaches based on outreach activities aimed at engaging home education families.

‘A much better approach would be to focus time and resources on increasing engagement with the home educating community in a non-threatening and respectful manner’ [Individual / Home educator]

6. Advantages and disadvantages of disclosing the data

6.1 This chapter considers responses to Question 5 of the consultation exercise.

Question 5 What, if any, advantages and disadvantages do you think there would be in the disclosing of the required data to populate the database?

6.2 Despite being asked to complete the section relevant to them, consultation respondents did not limit their response to the section most relevant to them.

Parents and carers

6.3 A total of 217 written responses were received for this question. Of these most were from individuals, home educators and home education groups.

6.4 In addition responses were captured from 52 children and young people who participated in focus group sessions, seven children and young people who engaged in regional Welsh Government events and 14 children and young people who engaged in the Children in Wales online survey.

Advantages

6.5 Very few written submissions identified advantages for parents and carers. In addition focus group sessions with children and young people identified advantages. The two main advantages mentioned were they could:

- lead to timely interventions and access to support for children and young people who are experiencing difficulties accessing education or who have additional learning needs, which in turn would lead to improved educational outcomes

‘Can be supported, as required, to access school places or other arrangements.’ [Local authority]

‘The new ALN¹⁶ regulations allow for the IDP¹⁷ to cover home educated children - parent could get access to further support’
[Individual / home educator]

- reduce the need for families to repeat information to different services:

‘families [of children with learning disabilities] not having to repeat information to different services. It can be exhausting having to explain the same information to different people involved within a child’s care. This would also enhance better collaboration between the LHBs and LA. There are already existing platforms such as the online toolkit ‘Multi-Me’¹⁸ that includes functions where information about a person is uploaded and they have permission who can access it such as different professionals.’ [Children and family organisation]

Disadvantages

- 6.6 The remaining written submissions identified disadvantages for parents and carers. These included responses which contained campaign material. For instance, 33 responses were identical and stated that the proposals:

‘harms access to healthcare and to external input into education by placing active deterrents, diverts taxpayer’s money from where it is really needed, treats parents who deregister due to school failings with increased and punitive suspicion, create climates of mistrust/suspicion, of stigma and of censorship that needlessly makes everyone’s jobs and lives more difficult, reduces engagement with statutory services.’ [33 separate responses from individuals, home educators and home education groups]

- 6.7 The main disadvantages identified related to:

¹⁶ Additional Learning Needs

¹⁷ Individual Development Plan

¹⁸ [Multi Me - Support Networking](#)

- reduced access and use of health care services, as home educated families would be less likely to access medical support, which was raised by around half of responses

‘this will harm access to healthcare by reducing engagement with healthcare professionals.’ [Individual / Home educator]

- home educating families being viewed with greater suspicion, mistrust and stigma, reported by a minority of responses. In total, the term ‘suspicion’ or ‘suspicious’ was used 74 times; the term ‘mistrust’ used 55 times and the term ‘stigma’ used 49 times within the submissions received

‘I feel like I’ve been put under suspicion for taking my autistic daughter out of school, I am trying to protect her not bring her any harm.’ [Individual / Home educator]

- concerns about privacy and confidentiality of data, including not wanting to share private data with local authorities, and concerns about the security of data held by local authorities, cited by a minority of responses. The security of domestic abuse victim data was also raised by respondents under this theme

‘Domestic abuse victims will be exposed to more control from the person who is harming their and their children’s life’ [Individual / Home educator]

- the possibility that the regulations would harm relationships between local authorities and home educating families, and that they would be less likely to turn to local authorities, as well as other providers of educational support, for support, raised by very few responses

‘I think it would create a hostile atmosphere between LA and parents’ [Individual / Home educator]

- Increased stress for families, identified by very few responses

‘Stress due to hassle of needing to prove repeatedly that child is not CME.’ [Individual / Home educator]

Children and young people

6.8 A total of 136 written responses were received for this question. Of these many were from individuals, home educators and home education groups.

6.9 Furthermore, responses were captured from 52 children and young people who participated in focus group sessions, seven children and young people who engaged in regional Welsh Government events and 14 children and young people who engaged in the Children in Wales online survey.

Advantages

6.10 Very few written submissions identified advantages for children and young people. In addition, focus group sessions with children and young people identified advantages. The main advantages of the proposals mentioned included:

- children and young people would be identified, safeguarded and supported

‘we have a duty to ensure children are aware why we have to check and safeguard in these situations.’ [Local authority]

‘the legislation and this requirement will strengthen our own ability to discharge our statutory duty to protect and promote the health of our residents, in that it will enable us to understand who are our residents and where we have gaps in our service offerings. In this way there are potentially benefits in addressing inequalities and ensuring the most vulnerable are known about and provided with proportionate care and support.’ [Local health board]

- children and young people who may not be accessing an education or an appropriate education will be identified, and the reasons for this will be determined e.g. not accessing the right specialist provision, or language and cultural barriers

‘ensure that young children have an education and are safe guarded.’ [Local authority]

Disadvantages

- 6.11 Most written submissions identified disadvantages for children and young people. These were primarily from individuals, home educators and home education groups and included campaign material which offered the same response as that provided under Question 5 'parents and children'. For instance, 24 responses were identical and reiterated that the proposals:
- 'harms access to healthcare and to external input into education by placing active deterrents, diverts taxpayer's money from where it is really needed, treats parents who deregister due to school failings with increased and punitive suspicion, create climates of mistrust/suspicion, of stigma and of censorship that needlessly makes everyone's jobs and lives more difficult, reduces engagement with statutory services.' [24 separate responses from individuals, home educators and home education groups]
- 6.12 The main disadvantages were similar to those identified for parents and carers, and included:
- reduced access and use of health care services, as home educated children would be less likely to access medical support, which was mentioned by a minority of responses
- 'This may reduce contact with healthcare professionals which will be detrimental to children's wellbeing.' [Individual / Home educator]
- home educated children and young people being viewed with greater suspicion and mistrust (mentioned by a minority of responses)
- 'The need for data on just home educated children outcasts us from the norm.' [Home educated child / young person]
- home educated children and young people being stigmatised from being included on a register, reported by a minority of responses
- 'Stigma of being 'on a register'.' [Individual / Home educator]
- concerns about privacy and confidentiality of data, including not wanting to share private data with local authority, and concerns

about the security of data held by local authorities, cited by a minority of responses

‘Children need to know that their personal information is being kept confidential. Local authorities are notorious for breaching GDPR, and children's information is sensitive. As a foster carer, I have become aware of how readily information is shared within LA's.’
[Other stakeholder]

- the negative impact on access to statutory support services, including local authority services, mentioned by a minority of responses

‘The result will be to reduce engagement with statutory services.’
[Individual / Home educator]

- the negative impact on mental health and wellbeing of children and young people, mentioned by very few responses, particularly children and young people who have had a previously challenging period in a school setting

‘Home educated children ... are likely feel to stigmatised and anxious about their education potentially being ‘inspected’ without any justification. This is particularly difficult for those children who have come into home education following a traumatic and stressful experience of schooling. For them, home is their ‘safe space’ and the idea of LAs requiring repeated investigations into their education will be perceived as very threatening indeed.’ [Individual / Home educator]

Local health boards and general medical contractors

6.13 A total of 115 written responses were received for this question. Of these, many were from individuals, home educators and home education groups.

6.14 We first consider the five responses received from the health sector, before summarising the responses from other cohorts.

Views of local health boards and general medical contractors

6.15 The main advantages the proposals were considered to be that it would:

- assist these organisations to meet their safeguarding and welfare requirements, and
- assist local authorities to comply with the legislation set out in the Children Act 2004 and Section 175 of the Education Act 2002.

6.16 The main disadvantages of the proposals were thought to be:

- potential for excessive data to be shared on each return, if the same data would be provided each time
- additional burden on the health sector to extract and share the information
- additional risk of GP practices needing to share the information with their local health board for passing on to local authorities, and whether there would be less risks involved with a more direct sharing of data between GPs and local authorities
- a question as to whether the local health board should be a Data Controller (and not just a Data Processor as is suggested in the consultation document) if they are required to undertake a data matching exercise and rationalise GP lists provided, before sharing them with local authorities
- a question as to how any duplicate data from local health boards and General Medical Services (GMS) contractors would be managed
- potential of misaligned boundary areas, the fact that Local health board and GP areas may not directly align with local authority areas may result in inaccuracies
- the possibility that the data would not be up to date at the point of sharing it with the local authority
- the data may not reflect accurate information about deceased children, resulting in a risk that parents of children who are deceased might be contacted

- that parents/carers would need to be informed of the process, their consent obtained, and that local authorities needed to ensure confidentiality of data was being maintained.

Views from local authorities and other stakeholders

6.17 These submissions recognised that the proposals would result in additional workload for the health sector and that concerns about data privacy and the handling of patient information would need to be overcome.

6.18 One response thought it would improve collaboration between the health sector and local authorities to identify children missing school, thereby creating:

[‘a more comprehensive and effective support for vulnerable children.’ \[Third sector organisation\]](#)

Views from individuals, home educators and home education groups

6.19 The submissions from this cohort focused on the broad disadvantages of the proposals. As these issues have already been discussed at length in the analysis of consultation responses received for Question 1 to Question 5ii, they are not quantified and discussed in detail here. A few responses (19 responses) used the same text as for previous Question 5 responses. The main themes raised related to:

- additional workload and work pressures facing the health sector
- issues around confidentiality, privacy of data, and data protection issues
- issues relating to patient-contractor relationship, and erosion of trust between patient and health care provider.

Local authorities

6.20 A total of 116 written responses were received for this question. Of these many were from individuals, home educators and home education groups.

6.21 We first consider the 19 responses received from local authorities, before summarising the responses from other cohorts.

Views from local authorities

6.22 Of the 19 local authorities who answered this question many identified advantages of the proposals. It was noted that the proposals would:

- make it easier to identify children missing education as a result of local authorities being able to access 'accurate and up to date list of children' residing in their area on an annual basis, mentioned by the majority of local authorities. The proposals would help local authorities identify children sooner and adopt more complete and robust safeguarding procedures
- better allow local authorities to exercise their duty to ensure that children of compulsory school age are in receipt of a suitable education, cited by a minority of local authority respondents
- enable local authorities to develop a better understanding of the needs of children in their area, and therefore put in place appropriate interventions, including 'preventative and response actions' and 'professional advice and guidance' identified by a few respondents
- develop greater consistency in approach across Wales, via a single CME database for Wales and allow for the sharing of information, such as ALN, within and outside of local authority areas.

6.23 The main disadvantages of the proposals related to:

- the additional workload for local authority staff, and the implications this would have upon staff resourcing and funding, mentioned by a minority of local authority respondents. It was anticipated that the proposals would result in additional tasks such as cross-checking databases, collaborating with other local authorities, dealing with turnover of children moving in and out of the area, and addressing any issues when access to data might not be forthcoming. Local authorities expressed concerns that no additional funding or resources would be made available to them to undertake these

- the potential negative impact upon relationships between local authorities and the home education community, mentioned by very few respondents.

Views from health and other stakeholders

6.24 These stakeholders identified similar advantages to those set out by local authorities. In addition, these stakeholders suggested that the proposals would also allow local authorities to better plan for the future needs of children. In terms of disadvantages, the key additional point made by one health stakeholder related to the need to consider how public services would meet their privacy obligations in terms of informing individuals that the data was being routinely shared for this purpose.

Views from individuals, home educators and home education groups

6.25 Of the responses received from this cohort, 19 used the exact same text as they had previously used for Questions 5i to 5iii and are not considered in detail again here. Very few responses reflected upon the advantages of the proposals whilst the majority reflected upon the disadvantages.

6.26 The main advantage was identified as enabling local authorities to identify children not receiving a suitable education.

6.27 The disadvantages were thought to include:

- the potential negative impact upon relationships between local authorities and the home education community, as the former would be required prioritise the tasks of checking up on families as opposed to supported them, thus risk alienating home educating families
- the increased workload for local authority staff, which would detract from other priorities and place additional pressure on limited resources. There may be a danger that local authorities would become overwhelmed with the amount of data gathered
- the danger that sensitive data may be mishandled or accidentally shared.

Other stakeholder organisations

6.28 A total of 69 written responses were received for this question. Of these, many were from individuals, home educators and home education groups.

6.29 We first consider the 12 responses received from other stakeholder organisations, before summarising the responses from other cohorts.

Views from other stakeholder organisations

6.30 The majority of other stakeholder organisations identified advantages of the proposals. These primarily echoed the benefits already discussed in this chapter such as being able to better identify children not receiving education, by accessing more accurate and up to date data for children and young people in their area, thereby allowing local authorities to intervene and provide the necessary support. Two responses highlighted the benefits of improved collaboration:

‘Other stakeholders, such as schools, community organisations, and government agencies, may benefit from improved collaboration and information sharing facilitated by the database. This could lead to better coordination of services and support for children missing education.’ [Third sector organisation]

‘Sharing this information can greatly benefit the population at a broader level by facilitating local and regional planning tailored to the specific needs of the community and supporting evidence-based decision making. This data would allow more informed decision making, allocation of resources efficiently and implementation of targeted interventions to address local challenges and improve overall well-being – in line with the Wellbeing of Future Generations (Wales) Act 2015.’ [Children and family organisation]

6.31 Around half of the responses identified disadvantages, and these related to issues around data sharing, increased workload for local health boards and local authorities, potential disengagement with parents, and increased distrust between authorities and families. Despite this however, two stakeholders argued that ‘the advantages far outweigh the disadvantages.’ [Educational stakeholder].

Views from individuals, home educators and home education groups

- 6.32 Of the 54 responses received from individuals, home educators and home education groups, 19 were identified as campaign responses as they used the exact same text as they had previously used for Questions 5i to 5iv and are not considered in detail again. An analysis of responses received to this question reveals that no new issues were raised. The responses highlighted the disadvantages associated with the proposals.

7. Frequency and access to information

7.1 This chapter considers responses to Questions 6, 7 and 8 of the consultation exercise.

Question 6 The draft regulations propose that local health boards disclose information to local authorities annually. Do you agree with an annual return?

7.2 Table 7.1 below shows that a minority of consultation responses agreed and the majority disagreed with the proposal for local health boards to disclose information on an annual basis. Children and young people, and local authorities were most inclined to agree whilst individuals, home educators and home education groups were the most likely to disagree.

Table 7.1. Do you agree with an annual return?

	Yes	No	Don't know / No response	Total
Individuals, home educators, and home education groups <i>(includes potential duplicates, and responses from outside Wales)</i>	7	206	16	229
Local authority stakeholders	12	6	3	21
Health stakeholders	0	2	4	6
Other stakeholders	4	9	8	21
Children and young people	52	7	1	60
Total	75	230	32	337

7.3 A total of 218 written responses were received for this question. We consider the responses submitted by the five key groups who contributed to the consultation exercise.

Local authority stakeholders

7.4 All local authority respondents who provided additional comments (11) suggested that the information should be provided to them at least annually. More frequent timescales suggested by this cohort included

quarterly, half termly, or termly so that information could be received in a timely manner.

7.5 Suggestions about when this information should be provided included:

- in alignment with the academic year
- at the beginning of September
- at the same time as Pupil Level Annual School Census (PLASC) data requests
- in-line with similar scheduled returns such as those for EHE or when a child reaches school age

‘This needs to be shared on a more frequent basis...a yearly return would be quickly out of date and circumstances for children can change rapidly.’ [Local authority]

‘It would be useful to have a quarterly or half year return of information. Twelve months is a considerable long period for children’s information not to be shared.’ [Local authority]

Health stakeholders

7.6 Four health stakeholders provided a written response to this question. Two responses suggested that information should be received more frequently than annually and suggested it would be more appropriate to update the database as soon as notification of the movement of children is received by the local health board.

‘If this data is not utilised and followed up by LAs within a very small timeframe then the data may be irrelevant. This is specifically important where it may relate to children who have subsequently passed away. Completing an annual return will also only provide a snapshot in time and not where situations change or individuals move in or out of Wales, this will be especially important in border areas’ [Health stakeholder]

7.7 Two of the responses suggested alternative approaches. For example, if the local health board sourced data from the national Welsh demographic service, which operates by taking inputs from numerous administrative

systems (including the Patient Administration System (PAS), the GP record, and the child health database) then a near real time database could be achieved at minimum cost. The other suggested that the National Data Resource (NDR) system, when fully functioning and underpinned with legislation, might be a more appropriate approach in the future.

Other stakeholders

- 7.8 The majority of the written responses provided by children and family groups, education stakeholders, faith/secular and other groups suggested more frequent data returns than an annual basis:

‘No I feel it should be more regularly than that, at least termly or twice yearly [Children and family groups]

‘The decision to collect this data on an annual basis rather than more regularly through a ‘live database’ risks allowing vulnerable children to fall through the cracks’ [Faith / secular group]

- 7.9 Only two responses provided suggestions as to when would be the most appropriate time to share the information:

‘The information disclosed by local health boards should align with the terms in the academic year i.e. local health boards to disclose information to local authorities three times per year at the beginning of each term’ [Education stakeholder]

‘...sharing the information annually is reasonable, and that it would advantageous that the sharing of this information coincides with the annual PLASC collection date as this is likely to help with accuracy and workload.’ [Education stakeholder]

- 7.10 All other written responses from this sub-group reiterated that the information should never be provided under any circumstances.

Children and young people

- 7.11 Five of the six children and young people who contributed further comments to this question stated that the information should never be returned to local authorities as it is private.

‘not returned at all’ [Children and young people]

‘no you shouldn’t be doing any return because these proposals are wrong.’
[Children and young people]

Individuals, home educators and home education groups

- 7.12 Most individuals, home educators and home education groups disagreed with this question, and stated in their written responses that the information should not be provided to local authorities at all as it would be a breach of privacy for the patient:

‘The information should not be shared at all.’ [Individual / Home educator]

- 7.13 Some of the responses provided additional information about the reasons why the proposals were not required, and mainly noted the increased workload and cost implications. These points are covered under the analysis of other questions in this consultation and are not repeated here as they do not relate to this specific question.

- 7.14 Very few individuals and home educators believed that more frequently provided information was required or suggested that a child’s details could be shared by the local health board only if there were concerns surrounding the welfare of the child:

‘Should be more frequent quarterly or term.’ [Individual / Home educator]

‘Only where there is suspected abuse.’ [Individual / Home educator]

Question 7 What would be the implications of a more frequent data return in terms of technical, administrative and resource implications on (i) local health boards, (ii) local authorities and (iii) other.

- 7.15 A total of 432 individual responses were provided across the three sub-sections of this question ranging from 165 responses for Question 7(i), 164 responses for Question 7(ii) and 103 responses for Question 7(iii).

- 7.16 The responses to the question are analysed below under the most relevant sub-section. Responses provided by individuals, home educators and home education groups that are broader in nature or relevant across more than

one sub-section of the question, are discussed in a separate section at the end.

Implications on local health boards

- 7.17 Three local health boards responded to this question. The main issue raised that would have an implication specifically on local health boards is the potential for an increase in their workload as a result of additional administrative requirements. One local health board suggested that from an information governance perspective there would be an increased need to undertake data quality checks [Local health board]. Concerns were raised by another local health board that this could place further strain on ‘already compromised workforces’ [Local health board].
- 7.18 The third local health board suggested that if the data was sourced from the national Welsh demographic service, then a near real time database and flow would be achievable at minimum cost, with the key cost then on the brokerage service required to validate duplicate addresses.
- 7.19 Other stakeholders (local authorities, education and others) mainly offered generic comments about the potential increase in staffing resource and costs for local health boards as a result of a more frequent data return. It was also suggested that a more frequent return could generate a lack of trust in the health service more generally.
- 7.20 Three responses from other stakeholder respondents considered that developing an efficient system and appropriate technology from the outset would be crucial to avoid generating additional workload commitments:

‘More frequent data returns would require robust systems and processes for data collection, management and sharing within local health boards.’ [Other stakeholder]

Implications on local authorities

- 7.21 Similar to the previous sub-section, the main concern raised in relation to the implications on local authorities was the increase in the workload that could result from a more frequent data return. 20 responses were received from local authorities and nearly all raised this as a concern. A minority of the

responses received from local authorities and other stakeholders also state the importance of ensuring that systems, process and software are put in place to alleviate this concern:

‘Whilst this database is needed, it will come with extra workload on a stretched service for the managers to complete’ [Local authority]

‘Without the correct software there is the potential for this to be very labour intensive including the cross referencing of data...this would [be] dependent on what system is utilised to collect this information and whether it could be programmed to provide this information on a more regular basis [Local authority]

‘There is perhaps a need for standardised recording systems across local authorities to facilitate effective data collection and sharing.’ [Children and family groups]

Implications on others

7.22 Some additional implications on others (excluding local authorities and local health boards) were raised by respondents in this section. Responses tended to highlight the impact on more specific audiences such as within health (GPs in particular), education (schools in particular), the third sector and others:

‘More coordinated approach between health staff – Health Visitors, Community Dentists’ [Education stakeholder]

‘The process for GP annual returns as described would require manual input by GPs and practice teams. A clear standardised and agreed process...is required and must be developed nationally.’ [Other health stakeholder]

‘Strengthen holistic thinking between social services, health and education.’ [Education stakeholder]

‘Schools administrative workload increase however existing management information systems in schools can be adapted to include ready-made data return reports exportable to local authorities [Children and family group]

‘Other stakeholders such as schools, third sector organisations, and government agencies, may need to adapt their systems to accommodate

more frequent data updates from local health boards and local authorities
[Other stakeholder]

Implications raised by individuals, home educators, home education groups and children and young people

- 7.23 A high volume of responses from individuals, home educators, home education groups and children and young people were identical in nature and repeated across all three sub-questions¹⁹. They focused on six issues which are briefly discussed in turn below:

Increased workload

- 7.24 It was argued that increased workload is likely to divert time and attention away from meeting the known needs of children.

‘increased distraction from addressing known needs in a hunt for hypothetical unknown ones, without the capacity to meet the needs of either’
[Home education group]

Increased costs

- 7.25 Responses typically stated that the proposals were a misuse of public funds that could be better utilised elsewhere or that it added to the strain already faced by the public sector.

‘Divert funding from the provision of healthcare for the community’ [Individual / Home educator]

Risks of data breaches

- 7.26 Responses suggested that the more often information is shared, the greater the risk of data breaches:

‘There will be an increased chance of sensitive information being mishandled or accidentally shared by LAs as they are already busy and under resourced...’ [Individual / Home educator]

Increased deterrents to healthcare

¹⁹ One exact sentence is repeated 108 times across the three sub-sections. A number of other responses use the exact wording of elements of the sentence in addition.

7.27 Responses raised the potentially negative impact of people being less likely to access healthcare due to concerns over the use and sharing of their data. They argued that this could result in the breakdown of the relationship between healthcare providers and the community they serve, with patients feeling less safe.

'Families less likely to seek healthcare.' [Individual / Home educator]

Increased deterrents to public services

7.28 Concerns were also raised that a more frequent data return would impact home educating families, particularly their relationship with public organisations including local health boards, GP services and local authorities.

'Home educating families would...be subject to the negative consequences of increased levels of suspicion, stigma and scrutiny, and would naturally and inevitably become more cautious and mistrustful of statutory services...'
[Individual / Home educator]

7.29 The home education community (and a few local authorities) raised concerns that a more frequent data return would erode the relationship between local authorities and the home education community:

'Exacerbation of breakdown of trust and respect between local authority staff and home education families' [Home education group]

Increased motivation for families to move location

7.30 It was suggested that families may feel the need to move around to avoid being found or would wish to move out of Wales to avoid being impacted by the change.

'I know some families who would want to move away from Wales due to this intrusive breach of privacy.' [Individual / Home educator]

Question 8 Who within the local authority would need access to the children missing education database in order to carry out their functions

7.31 224 consultation respondents provided an answer to this question. The responses submitted to Question 8 are analysed below, by the five key groups who contributed to the consultation exercise.

Local authority, health and other stakeholders

7.32 Many of the responses received from stakeholder organisations (including local authorities, local health boards, education, faith and secular groups) provided specific suggestions as to who within the local authority would need access to the data.

7.33 A minority of the responses received to this question suggested that specific roles within the education team would require access to the database such as the education welfare officer, inclusion officer, those in pupil support roles, or those with specific responsibility for areas such as attendance, CME, EHE or EOTAS, looked after children or ALN.

7.34 Local authority responses primarily suggested that specific officers within the education welfare team and monitoring information officers or data officers should be able to gain access.

‘Education Welfare Services leads. Safeguarding leads. Local authority CME data leads.’ [Local authority]

‘CME Officer, Information Officer (data team), education welfare officers.’ [Local authority]

7.35 Providing access to those with responsibility for child protection, safeguarding or those working in social services in various roles was also suggested by very few stakeholder responses. Very few responses also suggested that access would be required for others such as youth support services, youth justice or other local authorities:

‘Education services and social care services.’ [Local health board]

‘School safeguarding and attendance teams, social services, admissions teams, data team, youth support services, youth justice.’ [Local authority]

Individuals, home educators, home education groups, and children and young people

- 7.36 Many of the qualitative responses to this question either stated that there should be no database or that no-one should have access to such a database. These responses are almost all from individuals, home educators, home education groups or home educated children and young people who responded to the consultation.

‘No one should be accessing any information that is not expressly permitted by the parents of children.’ [Individual / Home educator]

- 7.37 Very few of the responses from individuals, home educators and home education groups provided a more direct answer to the question, often suggesting limited access to the database but only if absolutely necessary and proposing that access should be limited to specific individuals within the education department or those involved in safeguarding.

‘If it were in force, which it should not be, it should be strictly reserved to home education staff.’ [Home education group]

8. Local health boards

- 8.1 This chapter considers responses to Questions 9 to 12 of the consultation exercise, which were for local health boards. Other respondents chose to respond to these questions; however, we take the view that it would not be appropriate to report upon any non-health based responses.

Question 9 Can you identify any key privacy risks and associated compliance and corporate risks?

- 8.2 As shown in Table 8.1, one local health board stated that they could identify privacy risks and associated compliance and corporate risks, while the other two did not provide a response (though went on to detail some potential risks in their written response).

Table 8.1 Can you identify any key privacy risks and associated compliance and corporate risks?

	Yes	No	Don't know / No response	Total
Local health boards	1	0	2	3

Local health boards

- 8.3 Three local health boards provided a written response to this question. All three highlighted practical data management challenges associated with the proposals, such as a need to clarify how the data would be managed, processed and safeguarded. Two emphasised the need for key governance documentation to be developed and strict processes to be established, including a code of practice and data disclosure agreements.

'Data Sharing: How will it be shared? By whom? Security of data when shared? Data Disclosure Agreement would be required. Children must be afforded protection in respect of their data as less aware of risks. Require clear Privacy Information/Notices - child appropriate.' [Local health board]

- 8.4 Two local health boards also noted that there is a risk the proposal could breach confidentiality and privacy rights. To address this risk, one highlighted a need to consider how the Common Law Duty of Confidence

and section 8 of the European Human Rights Act can be satisfied, while the other noted that:

‘parents would need to be made aware that this information needs to be shared with LA, otherwise this would be breaching privacy and confidentiality.’ [Local health board]

- 8.5 One local health board also drew attention to the General Medical Committee’s concern:

‘relating to the impact on trust and practitioner-patient relationships non-consensual data sharing can cause. Such experiences can cause some to feel unsafe accessing health care. Clarification as to whether a code of practice will be established to safeguard the privacy of individuals and ensure that the data is accurate should be considered.’ [Local health board]

Other health stakeholders

- 8.6 One other health stakeholder chose to provide a written response to this question. They echoed the views of local health boards, noting the need for clarity around data control responsibilities and appropriate governance.

‘It is not clear from the information provided what the HB will do with GMPs²⁰ data when it is disclosed to them. If there is any data matching or rationalising then they will become a data controller and not merely a data processor as implied. This will need to be clearly articulated in the appropriate information governance documentation and made publicly available.’ [Other health stakeholder]

Question 10 Do existing protocols concerning data of children who have died ensure that any processing of that data does not lead to any inappropriate communications with families?

- 8.7 As shown in Table 8.2, one local health board stated that existing protocols do not ensure that any processing of data does not lead to any inappropriate communications with families, while the other two did not provide a response.

²⁰ General Medical Practitioner

Table 8.2: Do existing protocols concerning data of children who have died ensure that any processing of that data does not lead to any inappropriate communications with families?

	Yes	No	Don't know / No response	Total
Local health boards	0	1	2	3

Local health boards

8.8 Three local health boards provided a written response to this question. Two reported that existing protocols are mostly sufficient, noting that [‘the Welsh Demographic Service has access to databases regarding deaths and updates records accordingly’](#) and that [‘records are marked as “deceased”](#). [Flags would need to be up to date and reliable’](#).

8.9 The other local health board noted that health boards may not have the most up-to-date data and there is currently a risk of inappropriate communications:

[‘No, although information may be updated on one database, without having a live database that is updated continuously, it may lead to inappropriate communications.’](#) [Local health board]

Other health stakeholders

8.10 One other health stakeholder chose to provide a written response to this question. They echoed the views of one local health board and expressed concern that health boards may not have the most up-to-date data available.

[‘No. It is a concern that HBs may not have the most up to date data or access to all relevant data sets that would enable an effective deceased patient check. This is normally undertaken by Digital Health and Care Wales and presents a real concern for proceeding with this process. GPs are likely to bear the direct impact of those families who are upset by this process being introduced.’](#) [Other health stakeholder]

Question 11 Do you have any previous experience of this type of data disclosure and processing?

- 8.11 As shown in Table 8.4, one local health board stated that they do have experience of this type of data disclosure and processing, while another stated that they do not. One local health board did not respond.

Table 8.4: Do you have any previous experience of this type of data disclosure and processing?

	Yes	No	No response	Total
Local health boards	1	1	1	3

- 8.12 Only one health stakeholder (not a local health board) provided a written response to this question. They noted that:

'Health Boards regularly report/ disclose information for statutory reporting purposes. However additional unresourced reporting requirements will add to the workload at already stretched GP practices.' [Other health stakeholder]

Question 12 Are there additional resource and technical implications of processing and disclosing the required data to local authorities?

Local health boards

- 8.13 Three local health boards submitted written responses to this question. One of these noted that there would be additional staff resources and expertise required:

'Someone would need to be responsible for processing the data, with already increasing workloads and role responsibilities, staffing and resources would need to be considered.' [Local health board]

- 8.14 The likely need for clear governance processes were also highlighted by two local health boards. This included a code of practice and internal governance checks.

'If a code of practice in support of the information sharing is to be established, this may have implications, but until the detail is known no impact assessment can be undertaken.' [Local health board]

8.15 Two also noted that there would be resource and cost implications of undertaking data validation.

‘The key area to consider is the validation and handling of contradictory or duplicate data around one individual and determining how to manage it.’

[Local health board]

‘Time needed for the necessary IG checks and validations of data.’ [Local health board]

Other health stakeholders

8.16 Two other health stakeholders chose to provide a written response to this question, both of whom also emphasised the need for stringent governance processes. This included the need for codes of practice, templates, information governance checks, regular audits of the CME databases and assessments of how each local authority collects, stores and use the data. One stakeholder noted that this would require the involvement of the Information Commissioner Office.

‘A suite of nationally agreed documents and template processes will aid in this function.’ [Other health stakeholder]

‘Governance around the CME database should be as stringent as the SAIL databank²¹ and should be built on examples of good practice. The Welsh Government, along with the Information Commissioner Office, should ensure the data is appropriate managed and in line with existing data confidentiality regulations and guidance. This should require a regular audit of the CME databases.’ [Other health stakeholder]

8.17 One noted a current lack of detail about who would be responsible for managing and sharing data and emphasised the need for appropriate resources and budget to allow them to undertake their work.

‘Furthermore, there is no detail regarding who exactly would be responsible for submitting the information within LHBs and GMS contractors. The existing demands on health board and general practice staff are well documented. If fulfilling the duties of the regulations require additional staffing, or there are

²¹ [Home - SAIL Databank](#)

envisioned costs, this should be detailed and a budget allocated. It would not be suitable for individual clinicians, paediatricians or general practitioners to be responsible for submitting this information.' [Other health stakeholder]

9. General medical services contractors

- 9.1 This chapter considers responses to Questions 13 and 14 of the consultation exercise. This question was aimed at general medical services contractors (categorised in this analysis as ‘other health stakeholders’). Other respondents chose to respond to these questions; however, we take the view that it would not be appropriate to report upon any non-health based responses.

Question 13 Can you identify any key privacy risks and the associated compliance and corporate risks?

- 9.2 As shown in Table 9.1, none of the three other health stakeholders provided a direct response to the closed question.

Table 9.1: Can you identify any key privacy risks and the associated compliance and corporate risks?

	Yes	No	No response	Total
Other health stakeholder	0	0	3	3

- 9.3 Two health stakeholders chose to provide a written response to this question. One highlighted concern regarding whether the regulations would override existing data protection legislation:

‘it is not clear if the regulations would create a legal duty on GPs (as GMS contractors) to transfer the required data to the LHB or LA (for the purpose of creating the database), that clearly overrides their data protection obligations and the common law duty of confidentiality that healthcare professionals owe to the patients they serve. If it is not clearly the case that the regulations would override these obligations, then there is a potential conflict with our professional standards which is likely to act as a barrier to the data being shared.’ [Other health stakeholder]

- 9.4 The other noted a lack of clarity regarding what LHBs will do with the data once received and discussed in detail the relative roles of data controller and data processor and what this might mean for compliance with the new regulations.

'It is unclear what Health Boards will be required to do with data from GPs once received – whether they will be rationalising the data set and matching with existing HB-held information. Where a HB will undertake these processes, they would be making controllership decisions. Where they are merely obtaining and processing (i.e. sending the data on and the LA will undertake that processing) it could be argued that the data should be sent directly to the LA by GPs and not via the HB.

As data controllers, practices retain responsibilities for handling all requests for access to the data, for example, subject access requests made by patients or requests from third parties such as insurance companies and solicitors. GP data controllers may delegate these activities but remain responsible for the final output. GP partners are ultimately liable on a personal level for any sanction levied by the Information Commissioner's Office in the event of any data breaches or release of inappropriate information.

Where the HB is considered a processor, a Data Processor Agreement will be required. It is also expected that there would be a Data Protection Impact Assessment and fair processing information provided. It is not clear who would have this responsibility from the consultation although it is vital that such documents are consistent on a national basis.

GPs and their partners within practices bear joint and several liability for data governance and would be subject individually to criminal levy if a breach of GDPR caused the ICO to levy a criminal fine. This can be significant up to €30m Euro or a percentage of annual turnover, and potentially could lead to bankruptcy and closure of practices in extreme cases. This must be clearly and absolutely mitigated by the legal process and safeguards such as DPIAs and DSAs²² as well as enshrining the legality of the data transfer process in primary legislation.' [Other health stakeholder]

²² Data Sharing Agreement

Question 14 Do existing protocols concerning data of children who have died ensure that any processing of that data does not lead to any inappropriate communications with families?

9.5 As shown in Table 9.2, there were no direct responses to the closed question from other health stakeholders.

Table 9.2: Do existing protocols concerning data of children who have died ensure that any processing of that data does not lead to any inappropriate communications with families?

	Yes	No	No response	Total
Other health stakeholders	0	0	3	3

9.6 One specific response to this question was received from a health stakeholder. They noted some concerns regarding how up-to-date relevant data might be and expressed concerns regarding the likelihood of emotional upset for bereaved families.

‘GP clinical records may not be fully up to date with this information, and therefore any combined data set should be checked against relevant data sets. Information on patient death is often and routinely delayed due to the poor standard of discharged and data transfer from secondary care. Ordinarily for national programmes of work this is completed centrally using the most up to date data available, however even this is not a guarantee due to the annual nature of data extraction. We would have very low confidence that introduction of this legislation will not see events of significant emotional upset for bereaved families.’ [Other health stakeholder]

10. Local authorities

- 10.1 Questions 15-19 were specific questions for local authority respondents. Other respondents chose to respond to these questions; however, we take the view that it would not be appropriate to report upon any non-local authority responses.

Question 15 Do you (the local authority) believe that your existing children missing education systems and processes enable you to be confident you are aware of all children of compulsory school age within the local authority area?

- 10.2 As shown in Table 10.1, very few local authorities stated that their existing systems enable them to be confident they are aware of all children of compulsory school age within the local authority area. Around half stated that their systems do not enable them to be confident, while a minority didn't know or didn't respond.

Table 10.1: Do you (the local authority) believe that your existing children missing education systems and processes enable you to be confident you are aware of all children of compulsory school age within the local authority area?

	Yes	No	Don't know / No response	Total
Local authority stakeholders	2	12	7	21

- 10.3 The two local authorities who responded 'yes' to the closed question explained their responses further. One noted that 'a national requirement for sharing data between LHBs and independent schools will ensure this' while the other explained that it is more difficult when 'a child has not entered the education system or has moved from out of county. Health information would significantly bridge this gap.'
- 10.4 A total of 17 further responses were provided to explain why local authorities either responded 'no' to the closed question or stated that they didn't know or provided no response. A minority of these explained in general terms that although they endeavour to be aware of all children, they cannot guarantee it.

A few provided examples of existing systems which are in place, such as effective referral systems or accessing birth data systems.

'We also access the s2s system to identify or make enquiries with regards to children who are missing education. The "lost pupil" area in the system needs to be improved. A notification system would be beneficial as at present, officers must regularly log in to the system to look at updates.' [Local authority]

- 10.5 A few also cited some key barriers to ensuring they are able to state confidently they are aware of all children of compulsory school age within the local authority area. The movement of children between local authority areas (and countries) is a barrier to awareness. Local authorities also find it difficult to become aware of children who have never been in the state education system or registered as EHE. A couple noted that it is challenging to identify children born before the birth data intake started. Finally, one noted that the local authority would have to be told if a child registered to attend a school did not attend regularly.

'We are aware that our current systems including school reporting and information on birth data from Health allows us to track those learners. However, we are simply unaware at the moment of the number of children in the LA who have never been in receipt of education within a school system and were either born before the Birth Data intake started or have moved into the LA but were born elsewhere.' [Local authority]

'We are only aware of the children that move into the area, if a previous LA has informed us or parents contact the LA themselves. The current system is dependent on the parents sharing that information to either the imparting LA or the incoming LA.' [Local authority]

Question 16 Do existing protocols concerning data of children who have died ensure that any processing of that data does not lead to any inappropriate communications with families?

10.6 As shown in Table 10.2, around half of local authorities stated that their existing protocols concerning data of children who have died ensure that any processing of that data does not lead to any inappropriate communications with families. A minority didn't know or didn't respond while only one responded 'no'.

Table 10.2: Do existing protocols concerning data of children who have died ensure that any processing of that data does not lead to any inappropriate communications with families?

	Yes	No	Don't know / No response	Total
Local authority stakeholders	12	1	8	21

10.7 Nine local authorities who responded 'yes' to the closed question explained their responses further. These outlined specific examples of how their existing protocols work in practice, which may vary between local authorities but primarily include mechanisms to ensure their management information systems (MIS) are updated as needed. Examples include:

'Our MIS System (Teacher Centre) can flag if a child has died and updating with this information 'ring-fences' the child's record. A child's death is also flagged on our Social Services data system (Care First).' [Local authority]

'Where children have died, this will normally be picked up and marked within local authorities' management information systems via Registrar information and/or directly from sources such as schools etc.' [Local authority]

10.8 A further seven responses were provided to explain why local authorities either responded 'no' to the closed question or stated that they didn't know or provided no response. These responses primarily noted that they do have fairly robust systems in place but acknowledged there may be gaps in the information they receive from certain sources, such as sources outside their local authority.

'If children's services have been notified, we would be aware. However, this is the only mechanism that we currently have.' [Local authority]

'To an extent - we receive (where applicable) weekly data from the Registrars relating to children and young people who have died at the local hospital and we update our records promptly. We have no information on those who may have died at a hospice or hospital in another LA.' [Local authority]

'An Education rep from the LA is notified and attends PRUDiCs²³ so is able to cascade information within the authority and there is a process for recording and making records inactive. If a pupil is under the care of medical teams, there won't be a PRUDiC and information generally will be shared with the LA by schools and families and the process regarding records followed. However, if a family is EHE, I am not confident that this information would be shared unless there was a PRUDiC.' [Local authority]

Question 17 Can you identify any key privacy risks and the associated compliance and corporate risks?

10.9 As shown in Table 10.3, around half of local authorities stated that they could not identify any key risks, a minority stated that they could, and a minority didn't know or didn't respond.

Table 10.3: Can you identify any key privacy risks and the associated compliance and corporate risks?

	Yes	No	Don't know / No response	Total
Local authority stakeholders	5	11	5	21

10.10 Whether or not they stated that they could identify any key risks, 15 local authorities provided further written comments. Around half of these emphasised the need to ensure appropriate and clear information sharing protocols are in place, particularly data disclosure agreements, privacy notices

²³ PRUDiC (Procedural Response to Unexpected Deaths in Childhood): <https://phw.nhs.wales/services-and-teams/national-safeguarding-service/safeguarding-latest-guidance/specific-groups-accordion/prudic-procedural-response-to-unexpected-deaths-in-childhood/>

and data protection impact assessments. Local authorities noted that such protocols will ensure parents, health providers and local authorities are all appropriately informed about any potential data transfers. National, consistent protocols were highlighted as a way of achieving this.

'Under GDPR health would need to have privacy notices and data disclosure agreements. This will be reliant on health ensuring they have discussed this with the child's families prior to uploading their information onto a database to be shared with education services...Clear ISP to be in place to ensure that parents, agencies and Local Authorities are clear with regard to what data can be shared and for what purpose, this will ensure that information shared is in compliance with data protection legislation.' [Local authority]

'In respect of Information Governance, there is potentially an issue around transparency and complying with Principle (a) of the UK GDPR (lawfulness, fairness and transparency) in that we/health board would need to advise parents that we are sharing and compiling this data. We would also need to put a WASPI Data Disclosure Agreement in place for the sharing. Some LAs may also decide that they need a Data Protection Impact Assessment.' [Local authority]

- 10.11 A few also emphasised the need for strict security protocols to dictate how the data is transferred, managed, stored and utilised. This includes control of access to the data, data encryption and how data controllers will ensure they carry out their data protection obligations.

'Security protocols will need to be established in respect of the database, for example regarding access control and encryption of data, as well as agreed methodologies for the secure transfer and sharing of data. Consideration needs to be made of how the database will enable data controllers to carry out their data protection obligations in respect of data subjects (i.e. implementation of agreed retention periods, ability to amend data, secure deletion of data, measures to ensure accuracy of data etc.).' [Local authority]

- 10.12 Very few examples were provided of suitable protocols which may currently be in place.

‘The LA has appropriate processes for data processing in place, however, should a risk be identified, this would progress in line with corporate risk management process and discussed with the Information Compliance Team where required.’ [Local authority]

10.13 Very few local authorities emphasised the need to ensure children’s safeguarding and welfare, for example the need to ensure child details are kept secret where necessary for child protection reasons and the need to ensure families aren’t deterred from accessing healthcare. They emphasised that children’s safeguarding is paramount.

‘Safeguarding trumps all. Provided all information sharing protocol and privacy notices are in place. GDPR teams can support.’ [Local authority]

‘This could result in children not being able to access medical information, because parents want to avoid ‘detection.’ [Local authority]

Question 18 Do you have any previous experience of this type of processing?

10.14 As shown in Table 10.4, the majority of local authorities noted that they had experience of this type of processing. A few did not and a few didn’t know or didn’t respond.

Table 10.4: Do you have any previous experience of this type of processing?

	Yes	No	Don’t know / No response	Total
Local authority stakeholders	14	4	3	21

10.15 Two local authorities provided written responses to this question. One explained that they already receive live birth data while the other wrote:

‘We have policy and procedures in place for CME & EHE (where education may not be suitable). We are aware of GDPR with sharing of children’s data who are EHE (where education may not be suitable) and seek permission from parents/carers to share any personal data. For those that are within the education system there is a WASPI in place.’ [Local authority]

Question 19 Are there additional resource and technical implications of processing the data received from local health boards?

10.16 As shown in Table 10.5, the majority of local authorities stated there would be additional resource and technical implications of processing the data. Few did not think there would be any additional implications, while few didn't know or didn't respond to the question.

Table 10.5: Are there additional resource and technical implications of processing the data received from local health boards?

	Yes	No	Don't know / No response	Total
Local authority stakeholders	13	4	4	21

10.17 A total of 18 written responses were received from local authorities. Of the four who stated that there wouldn't be additional implications, two provided further explanation. While one explained they weren't sure as yet, the other explained that:

'If we were able to link the data to our existing CME tracker it wouldn't involve much extra processing. The workload may increase if the numbers of known CME increases.' [Local authority]

10.18 Six local authorities expressed general agreement that additional time and/or staff resources would be needed without elaborating further.

10.19 The remaining nine local authorities highlighted examples of resource and technical implications of processing the data. The main examples of resource and technical implications are noted below, although some local authorities emphasised the need for further detail on the proposal.

- Time to format, validate, cross-check and reconcile the data received, the complexity of which would depend on the format of the data received.
- Staff time to undertake follow-up activities where potential CME are identified, including administrative work and involvement from other local authority teams (such as education welfare). This could be

aggravated if higher numbers of CME are identified through the new database.

- Strengthening existing local authority systems of recording data.
- Establishing effective mechanisms for cross-local authority border working when children move.
- Work to ensure compatibility between existing agency data management systems.

‘Management of workload in addition to other roles and responsibilities would increase, for example home visits, updating the database to ensure it is current, making any enquiries with other authorities, sending enquiry letters for people who the local authority believe have moved to another area, school attendance order applications due to evidence the child is not in receipt of education, which have already increased.’ [Local authority]

‘The data gathering system would require the need for people at ‘end of process’ so that the data is checked appropriately to ensure there are no discrepancies; without further information it is difficult to determine what the implications of an annual data exchange would mean for resources and time.’ [Local authority]

‘The system of recording data would need to be strengthened as would ICT support to set this up and a means of processing and separating those pupils who are known to be in school, EHE where there is sufficient education in place, EOTAS, PRU etc.’ [Local authority]

10.20 A couple of local authorities noted that NHS numbers would make it less challenging and time-consuming for local authorities to identify the correct children.

11. Protected characteristics and the Welsh language

11.1 This chapter considers responses to Questions 20 to 22 of the consultation exercise.

Question 20 Do you think anything in the draft regulations could have a disproportionate impact on those with protected characteristics?

11.2 As shown in Table 11.1, the majority of respondents thought that elements of the draft regulations could have a disproportionate impact on those with protected characteristics, while a minority didn't know or didn't respond. Individuals, home educators and home education groups were the most likely to state that the regulations could have a disproportionate impact. Local authorities were the least likely to think anything could have a disproportionate impact.

Table 11.1: Do you think that anything in the draft regulations could have a disproportionate impact on those with protected characteristics?

	Yes	No	Don't know / No response	Total
Individuals, home educators and home education groups <i>(includes potential duplicates, and responses from outside Wales)</i>	169	3	57	229
Local authorities	2	14	5	21
Health stakeholders	0	0	6	6
Other stakeholders	5	2	14	21
Children and young people	7		1	8
Total	183	19	83	285

11.3 A total of 161 written responses were received for this question. In addition responses were captured from 52 children and young people who participated in focus group sessions, seven children and young people who engaged in regional Welsh Government events and 14 children and young people who engaged in the Children in Wales online survey

11.4 We consider the responses submitted by the five key groups who contributed to the consultation exercise. The issues raised were often discussed by very few respondents, so in this section we mostly report on the absolute number of respondents who raised them.

Local authorities

11.5 One local authority identified a potential disproportionate impact on minority ethnic groups, since their local authority area has a higher number of minority ethnic families who are elective home educators. Another identified a potential disproportionate impact on home educating families, noting that ‘there is also the potential for pushing some families more underground who are opposed to be on this database, including those who are currently open and working with the local authorities, for example some of the Elected Home Educated families’. This latter local authority also noted that if gender were to be included on this database (though it is not currently proposed) this could have a potential disproportionate impact relating to gender self-identification.

11.6 Four local authorities did not identify a specific disproportionate impact but noted that such a risk may arise in future as work on the database progresses. Two of these local authorities went on to explain that such risks must be weighed against the potential benefits of the proposed database.

‘It would depend on the extent to which children and their parents with protected characteristics were identified as CME following the cross-checking exercise. On the basis that every child has a right to a suitable education, these draft regulations go a necessary step further to ensure this.’ [Local authority]

‘This is always a risk with data sharing; the gain is safeguarding the child, and we have to balance this against risks; such data could ensure over time, that we are providing the right services to the relevant groups. Information could be used for self-evaluation process for positive impact.’ [Local authority]

11.7 One local authority felt the proposal would allow them to ‘be more proactive in providing early support and intervention’. [Local authority]

Health stakeholders

11.8 Health stakeholders did not provide written responses to this question.

Other stakeholders

11.9 Other stakeholders raised the following potential disproportionate impacts:

- Disability (six responses). Two emphasised the need to ensure the local authority developed an inclusive approach to working with families with disabled children, offering appropriate support without judgement. One stakeholder organisation explained the proposal would have a significant positive impact on those with disability, noting that disabled children and young people often have specialist educational needs which a database can ensure are being met. One stakeholder explained there would be a negative impact since there is an increased risk that those with ALN 'will incur all the stigma of being labelled "missing education" - on the basis that they "may" be missing education - but without any enhanced provision.'
- Race (six responses) and religion (two responses). One stakeholder noted that 'services conducting assessments or educational monitoring must be culturally sensitive and avoid bias' while another noted that access to mainstream schooling isn't always readily available to children from certain communities. One stakeholder organisation explained the proposal would have a significant positive impact on children and young people since 'the risk of children missing education, and the associated risk of children attending unregistered educational settings, is elevated amongst children belonging to certain religious communities'. Another thought the proposal would have a disproportionately negative impact on children from the Gypsy, Roma and Traveller communities, since they are more likely to be engaged in work and 'could be pre-emptively classed as "potentially missing education" and would go onto the CME database as soon as the local authority became aware of their race or ethnic minority status'. Another also identified a potentially negative impact, noting that:

'there are significant abuses in the way in which children's information can be stored and shared– often in the name of safeguarding but yet in ways which cause harm to children. Black and other racialised children, Muslim, migrant children are particularly at risk. There are clear examples of this with sharing across government departments and processes, on which there is consensus.' [Other stakeholder]

- Age (two responses). One respondent noted the proposal could have a disproportionately negative impact on all children, while another noted a potentially negative impact on older adults who provide care for grandchildren.
- Sex (two responses). One respondent noted a potential positive impact on girls from more traditionally patriarchal communities who may not receive as much education.
- Sexual orientation, gender and victims of domestic violence (one response each). One stakeholder noted that the proposal is likely to have a positive impact on LGBTQ+ children who 'are highly unlikely to receive appropriate, inclusive relationships and sex education in an unregistered school environment'. Another noted that it is important for data collection process to be inclusive and support gender self-identification.

11.10 One stakeholder stated that there would be no disproportionate impact while three made other comments. Another stakeholder expressed more general concerns regarding the lack of trust in public services' handling and use of such data, including poor information sharing processes.

Children and young people

11.11 Four children and young people provided a written response to this question. All four expressed concern that the proposal would have a disproportionately negative impact on home educating families, while three felt it would have a negative impact on those from low socio-economic backgrounds. Two expressed concerns with the way in which the consultation had addressed Gypsy, Roma and Traveller communities. Two expressed concerns that older

grandparents may not want to care for grandchildren if they are anxious about the database, while one noted that those with disabilities would be the most likely to be negatively affected if they choose to disengage from health services as a result of the proposal and that women – as primary providers of home education – would also be negatively affected.

‘You are picking on home educated families because you think you can because there are not so many of us and so you think you can get away with it...You are picking on people who really need to see doctors and dentists because they have health problems but who want to be private and not having the council messing up their education or have all the silly hassles of dealing with the council.’ [Child or young person]

Individuals, home educators and home education groups

11.12 These respondents felt that the proposal could have a disproportionately negative impact on the following protected characteristics and other characteristics: disability, victims of domestic abuse, race, home educating families, age, sex and low socio-economic status. The following paragraphs consider each of these points in turn.

11.13 Respondents felt that the proposals would have a disproportionately negative impact on disabled children and young people. They explained that this group is more likely to have regular engagement with healthcare services, more likely to be educated outside a school environment and potential disengagement from healthcare services would have a greater impact on their health and wellbeing.

‘Disabled children and or families where the parents are disabled would be clearly disproportionately affected. They would clearly be in greater contact with healthcare services. And if they chose to avoid healthcare services if they felt this legislation to be too immoral and intrusive, or of the damage to the trust-based clinician-patient relationship were too great, then they have the most to lose in terms of being able to thus safely access the health care they require.’ [Individual / Home educator]

11.14 Although not a protected characteristic, victims of domestic violence were also highlighted as a group which might experience a disproportionately negative

impact. Respondents explained that victims of domestic violence are in a particularly vulnerable position and the risk of data breaches (such as sharing contact details with abusive parents) poses a significant risk to their wellbeing.

‘These proposals will impact victims of domestic violence, due to the need to record ALL parents and carers, even those who no longer have direct involvement in the child’s care. The potential for data breaches is huge, particularly if an abusive ex-partner is listed on a child’s records and may be inadvertently contacted by local authority staff...The knowledge that their data will be shared is likely to make victims of domestic violence extremely cautious about engaging with any health care setting.’ [Individual / Home educator]

- 11.15 Respondents also felt that the proposals would have a disproportionately negative impact on those of certain minority ethnic communities, particularly Gypsy, Roma and Traveller communities. A few noted that certain ethnic communities may already face barriers in accessing appropriate statutory education or healthcare services.

‘GRT²⁴ families are openly and unashamedly earmarked in these proposals to be a group under suspicion, which is inflammatory, discriminatory and unacceptable.’ [Individual / Home educator]

- 11.16 Home educating families were also identified as a group which may experience a disproportionately negative impact from the proposals. These responses noted that EHE families warrant protection as a minority group and that the proposals disproportionately target such families, risking conflating CME with EHE children.

‘These proposals infer that home-educators, as a minority group, are untrustworthy inferior sub-group of the community, by “registering” children as potentially/likely CME unless parents can proactively evidence otherwise.’ [Individual / Home educator]

²⁴ Gypsy, Roma and Traveller

11.17 Responses also identified a potentially negative impact for those of a certain age; they noted that older grandparents may be more anxious about caring for grandchildren in light of the new database.

‘Elderly members of society may well be more sensitive to the stigma of being placed on such databases and may therefore feel forced to choose between enduring both that stigma and whatever purposes the council employee would use their contact details for, including potentially being part of “formal enquires” but remaining involved in the lives of children they care about, or avoiding being involved in their children’s lives and education.’ [Individual / Home educator]

11.18 Women were also identified as being more likely to experience a disproportionately negative impact from the proposals, since they are more likely to be the primary providers of home education.

‘Women: the main facilitators of home education are usually women. They are also the ones who are likely to be most aware of the impact on their children of areas like non-consensual data sharing. They will have to make difficult decisions about whether to access healthcare or risk the local authority interfering in their private family life.’ [Individual / Home educator]

11.19 Finally, respondents also identified a disproportionate impact on those of low socio-economic status, who may already be less likely to engage with healthcare services and statutory education services as well as being less able to afford private healthcare.

‘Lower socioeconomic groups who are unable to afford private healthcare and may avoid accessing state health.’ [Individual / Home educator]

Question 21 What, in your opinion, would be the likely effects of the draft regulations on the Welsh language? We are particularly interested in any likely effects on opportunities to use the Welsh language and on not treating the Welsh language less favourably than English.

- Do you think that there are opportunities to promote any positive effects?
- Do you think that there are opportunities to mitigate any adverse effects?

- 11.20 A total of 161 written responses were received for this question, although 22 of these stated that they didn't know how to respond or couldn't provide a comment, or simply responded 'no' without further comment. In addition responses were captured from 52 children and young people who participated in focus group sessions, seven children and young people who engaged in regional Welsh Government events and 14 children and young people who engaged in the Children in Wales online survey.
- 11.21 We consider the responses submitted by the five key groups who contributed to the consultation exercise.

Local authorities

- 11.22 Of the 12 local authorities who provided a response to this question, half felt that the proposal would have no impact on the Welsh language. The other half noted that there may be a potential for a slightly positive impact if the database allows them to identify children and young people who would normally have no contact with Welsh in a non-Welsh speaking home; in which case the local authority could signpost them to Welsh language resources.

'The draft regulations will enable LAs to identify learners, not necessarily from Welsh speaking families, to receive some level of Welsh language education and reduce the inequity with those educated in mainstream education. This would allow resources to be made available to assist parents opting to home educate. Likewise, assist those from Welsh speaking families to receive support from the LA and choose Welsh language as a viable option for their children's education.' [Local authority]

Health stakeholders

- 11.23 Only one health board responded to this question, noting that 'English language is widely used and generally the preferred communication between many health boards and LA departments, however, an option to access the database in Welsh would prevent discrimination.' [Local health board]

Other stakeholders

- 11.24 Nine other stakeholders responded to this question. Three noted that the regulations would have no or minimal impact on the Welsh language, although

one went on to echo local authorities' points regarding the potential to identify children who could benefit from signposting to Welsh language resources. Another two stakeholders also felt there could be some positive impact on the Welsh language if there is a risk CME are lacking necessary Welsh-medium provision.

'I believe that children who have never attended, or who have withdrawn from education are often without Welsh language skills. Early years immersion in Welsh language provides young children with an underpinning knowledge of vocabulary and these skills are built on throughout primary school and secondary school. Without the basics in Welsh language, CME are disadvantaged as they miss out on Welsh language and culture. Welsh language is embedded within the curriculum in offer to children and if this is not present in a 'suitable' education offered by parents, then a child risks future educational problems and isolation within the local community.'

[Education stakeholder]

- 11.25 Four stakeholders noted the importance of ensuring the regulations, database and associated processes (including the process of assessing whether effective education is being provided) are bilingual and give due attention to the Welsh language. These stakeholders didn't generally foresee any wider impact of the regulations on the Welsh language.

'The database would need to be bi-lingual to allow people to work in the language of their choice. The regulations document will also need to be available in Welsh, for those predominantly Welsh medium local authorities, and this will ensure that Welsh is treated no less favourably than English.'

[Education stakeholder]

- 11.26 One stakeholder felt the regulations would have a negative impact on the Welsh language through acting as a deterrent to families accessing Welsh-medium provision (a point which was also raised by the home education community and discussed further below).

Children and young people

11.27 During the focus group discussions, 52 children and young people all agreed that as long as Welsh language provision is offered and is an option to children, the regulations would have no impact on the Welsh language.

11.28 Four children and young people provided a written response to this question. All four expressed concern that the regulations would have a negative impact on the Welsh language by making it more likely children and young people would disengage from public services offering Welsh language support and potentially migrate out of Wales.

Individuals, home-educators and home education groups

11.29 Most responses to this question were received from individuals, home-educators and home education groups, including campaign responses. The majority of the responses received from this cohort noted that the regulations would deter families from engaging with statutory services, including from accessing Welsh language resources and opportunities. This also included deterring families from staying in Wales if they do not feel their rights are being respected, making it harder for them to access Welsh language support. As such, these families felt the regulations would have a negative impact on the Welsh language.

‘The 2023 Welsh guidance on home education has already made home educators more wary and suspicious of local authorities, expressing decreased desire or intent to engage with LAs beyond what is necessary. Further unwanted legislation would exacerbate this, home educators would be less likely to take part in any LA offers of classes or resources that promote learning Welsh as a second language.’ [Individual / Home educator]

11.30 Very few responses also raised the following points:

- general or broad statements that the regulations would have a negative impact on the Welsh language
- there would be no positive or negative impact on the Welsh
- Welsh language isn’t a priority since there are bigger concerns to address with regard to the proposals

- it is unfair to impose Welsh language on families who do not wish to teach it
- alternative options for improving Welsh language support

‘It will only have adverse effects in my opinion.’ [Individual / Home educator]

‘I don't believe this would have any effects on the Welsh language. There are no opportunities in most communities for home educators to access Welsh language home education activities. Although there are resources online. If WG genuinely want to increase Welsh language amongst HE community then engage genuinely with the community and bring supporting home educators under Menter Iaith's remit.’ [Individual / Home educator]

Question 22 In your opinion, could the draft regulations be formulated or changed so as to:

- have positive effects or more positive effects on using the Welsh language and on not treating the Welsh language less favourably than English or
- mitigate any negative effects on using the Welsh language and on not treating the Welsh language less favourably than English?

11.31 A total of 144 written responses were received for this question, although 28 of these stated that they couldn't answer the question or referred to their previous responses to Question 21. We consider the responses submitted by the five key groups who contributed to the consultation exercise.

Local authorities

11.32 Three local authorities noted that the regulations would not have any impact on the Welsh language while four explained how the regulations could be formulated as to have a positive effect on the Welsh language. Two noted the need to ensure all documentation is bilingual while two proposed that the data gathering process could be used to positively support access to Welsh language resources.

‘In gathering the information within the draft regulations, the LA should make the parental experience a positive one, by offering Welsh language support, guidance and resources to parents when educating at home.’ [Local authority]

Health stakeholders

- 11.33 One health board responded to this question, stating that ‘[having an option to access the database in Welsh would prevent discrimination](#)’.

Other stakeholders

- 11.34 Two other stakeholders stated that no particular changes could be made to the regulations to have a more positive impact on the Welsh language, while one noted that documentation must be bilingual. Two emphasised that the importance of the Welsh language must be acknowledged in the drafting of the regulations and associated processes.

‘[Ensure that opportunities for pupils to study Welsh language and English are considered when noting if education is ‘effective’ or not. Receiving education in the home should not be a way of avoiding learning the Welsh language.](#)’
[Education stakeholder].

Children and young people

- 11.35 Of the four children and young people who provided additional comments in response to this question, three stated that the negative effects cannot be mitigated and three echoed previous points regarding the likelihood of them migrating out of Wales.

Individuals, home educators and home education groups

- 11.36 The majority of responses to this question were received from this cohort and included campaign responses. Very few of these responded with a brief ‘no’ or ‘none’ response without further elaboration. However, many argued that the overall negative effects of the regulations (not specifically limited to the Welsh language) cannot be mitigated and that the proposals should be abandoned.

‘[None of the key negative effects of these proposals can be mitigated, including the negative effects on the Welsh language. The only option available is to abandon these proposals before they cause even more harm and take a completely different, less hostile, more respectful approach to home education.](#)’ [Individual / Home educator]

11.37 Very few took this opportunity to echo concerns raised in Question 21 about the potential for families to disengage with statutory services offering access to Welsh language resources and support.

11.38 Very few also made suggestions as to how to better support the Welsh language, though these primarily disagreed with the proposals overall.

'Make classes available to all, especially as a family unit and you will get uptake and people speaking together.' [Individual / Home educator]

12. Other issues raised

12.1 This chapter sets out an analysis of any themes or issues raised that were outside the direct remit of the consultation questions (Question 23).

Question 23 If you have any related issues which we have not specifically addressed, please use this space to report them

12.2 Most submissions received for this question were submitted by individuals, home educators and home education groups reinforcing their objection to the proposal and outlining the same points as considered for previous questions.

12.3 Individuals, home educators and home education groups also raised specific points relating to the consultation process itself including that there had been no ‘child friendly version of this consultation’ in place until very late, that the ‘consultation process is flawed as significant information is missing’ from the consultation documents, and no consideration had been given to the likely ‘costs and benefits’ of the proposal.

12.4 Other specific points made by the remaining contributors related to:

- the need to calculate the costs incurred from the proposals, and the opportunity to do so when piloting the planned database:

‘At a time when local authority budgets are under severe pressure it is disappointing that no attempt has been made to identify the costs of the proposals for the accompanying Integrated Impact Assessment (IIA), even though the IIA itself recognises there are potential financial and workload implications for authorities. [Local authority]

- the possibility of alternative options, such as undertaking the task at a national level, via a national database:

‘Given that Central government already receives PLASC and EOTAS data annually from each LA, has consideration been given instead to Central Government receiving all LHB data and carrying out the cross-checking exercise against their existing data, before then issuing each LA with their ‘potential CME’ list to carry out further checks?’ [Local authority]

‘It is also disappointing that the database is not Wales wide. This does not allow to capture children who are moving between local authorities or between England and Wales.’ [Children and family group]

- the need for greater guidance to local authorities such as a local authority reporting template, advice on monitoring and review processes, and guidance when data cannot be matched,

‘The Welsh government have the opportunity to provide a template format to every authority to ensure consistency of feedback and yearly returns to Welsh government aiding consistent feedback for all local authorities.’ [Local authority]

‘It is unclear from the consultation if and how the database will be monitored and reviewed. The regulations should specify a clear review process with timescales attached.’ [Children and family group]

‘The draft bill could possibly be strengthened by outlining the protocol for local authorities to follow when they cannot match the data provided from LHBs with their own data.’ [Education stakeholder]