



Llywodraeth Cymru
Welsh Government

IMPACT ASSESSMENT, DOCUMENT

Consultation on charitable non-domestic rates relief for private schools: children's rights impact assessment

An assessment of how the proposal to withdraw charitable relief from private schools affects children's rights.

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Policy objectives

The Welsh Government proposes to withdraw charitable rates relief from independent schools, bringing them in line with independent schools which do not have charitable status for the purposes of non-domestic rates. The primary impact of this proposal will be a small financial increase in the non-domestic rates liabilities of the affected independent schools. The increase in liability will vary and it would be for each school to choose how to adapt their business models to meet that cost, as other independent schools already do. The total additional liability for affected independent schools is estimated to be less than 2% of overall fee income.

Some respondents to a previous consultation on this matter stated that there would be a risk of displacement of pupils to the maintained sector, if an increase in fees resulted in parents making decisions to remove their children from independent schools. Over the previous 2 decades, independent schools have generally increased their fees year-on-year above inflation, without a reduction in pupil numbers compromising their viability ([Independent Schools Council Census 2023](#)). Schools may find other ways of fully or partially absorbing their increased liabilities (e.g. reducing surpluses, reserves or non-essential expenditure), rather than passing additional costs on to parents by increasing fees.

As such, the Welsh Government anticipate that identifiable indirect impacts upon children as a result of the proposal are not likely to occur, due to the modest scale of the financial implications. The potential for small increases in costs for some parents is recognised. It is possible that a small number of pupils may move to the maintained sector as a consequence. In that respect, it will not be possible to disentangle the impact of this proposal from that of the UK Government's plans in relation to VAT (which would be expected to have the greater potential impact on fees).

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The number of pupils who may move schools, as a result of the combined effect of the Welsh Government's and the UK Government's proposals, represents a very small proportion of overall pupil numbers in maintained schools (the [Institute for Fiscal Studies](#) has estimated the potential for displacement to be 3 to 7% of pupils in affected schools, which is equivalent to less than 0.1% of the maintained school population in Wales). This estimate largely relates to VAT changes and the contribution of withdrawing charitable rates relief is expected to be marginal. All children of compulsory school age are entitled to a state-funded school place.

Any impacts upon children are not inevitable and would be wholly indirect and entirely dependent on business decisions made by schools, which it is expected would seek to minimise the potential for impacts on their pupils or recruitment. They would also be dependent on the decisions of individual parents, in response to any increase in fees (which will not necessarily materialise or exceed previous annual increases).

Detailed consideration on possible impacts in relation to all articles of the United Nations Convention on the Rights of the Child has been undertaken. In each instance, no impact is anticipated. It is a basic expectation that these rights will be upheld for children, if they continue to attend their existing school, or at any other school they may attend in the private or maintained sectors.

Gathering evidence and engaging with children and young people

The eligibility of schools for charitable rates relief in Wales was [consulted](#) upon in 2020. The consultation received 51 responses, with respondents representing individuals, independent schools, maintained schools, local government, and representative bodies. A range of views, some in favour of maintaining current arrangements and others in favour of change, were received.

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Following the consultation, it was confirmed that any policy change in this area would require a proposed approach to be formulated and subject to a further consultation. The Welsh Government is, therefore, consulting on the proposal to withdraw charitable rates relief from independent schools. The consultation provides an opportunity for stakeholders to articulate the possible impacts of the proposal on the education sector.

No specific activities have been undertaken to seek the views of children and young people. This is because it will be for the individual schools to determine how to respond to the proposed change in their non-domestic rates liability (as with any other change which may affect their financial position and costs). Any impacts upon children would be wholly indirect and entirely dependent on business decisions made by schools, which it is expected would seek to minimise the potential for impacts on their pupils or recruitment. They would also be dependent on the decisions of individual parents, in response to any increase in fees (which will not necessarily materialise or exceed previous annual increases). It is not anticipated that children would be expected to have a detailed understanding of these matters to warrant direct engagement.

Identifiable impacts on children are not inevitable or considered likely to materialise. The Welsh Government would, however, expect schools affected by the proposal to have due regard to the impact on children of any changes that they may make as a result of increased liability. Where the schools make any decisions which would be expected to impact children, it is expected that these would be shared with both children and their parents.

Analysing the evidence and assessing the impact

Relevant United Nations Convention on the Rights of the Child (UNCRC) articles are considered below. The characteristics of the independent school that would be affected by the proposal have been considered in relation to the relevant

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articles.

In summary, there are no identified impacts of the policy on these rights. It is a fundamental expectation that they will be upheld within the education received by all school children in the independent and maintained sectors in Wales.

How does your proposal enhance or challenge children's rights, as stipulated by the UNCRC articles and its Optional Protocols?

Article 12

“ States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

“ For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law. ”

No impact.

The Welsh Government has not engaged directly with children about the proposal for the reasons set out above. Whether there is any affect on children will depend on decisions taken by the individual affected schools they attend. Any school taking a decision which may affect children would be expected to consider their views in accordance with this article and in relation to the specific impacts which may arise from than decision.

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Article 14

“ States Parties shall respect the right of the child to freedom of thought, conscience and religion.

“ States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.

“ Freedom to manifest one’s religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others. ”

No impact.

Some independent schools that would be impacted by the policy have a specific religious character (and may select their pupils in accordance with it). The policy is not targeted towards such institutions and nor does it affect their continued freedom to express that character. It is a basic expectation that these rights will be upheld for children, if they continue to attend their existing school, or at any other school they may attend in the private or maintained sectors.

As the potential for displacement from independent schools is considered minimal and these specific rights would be upheld in any school, no mitigating actions are proposed.

Article 23

- “ States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child’s active participation in the community.
- “ States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child’s condition and to the circumstances of the parents or others caring for the child.
- “ Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child’s achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development.
- “ States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to

widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries. ”

No impact.

The non-domestic rates system includes a full exemption for a property, or parts of a property, to the extent that it consists of property used wholly for the provision of facilities for training, or keeping suitably occupied, persons who are disabled or who are or have been suffering from illness. As such, some independent schools with very specialist provision of this type may be exempt from non-domestic rates completely (and will not be affected by a change to charitable rates relief). No independent schools in receipt of charitable rates relief which are specifically arranged to cater for pupils with additional learning needs have been identified (the majority of these schools are not registered as charities).

Whilst some of the schools which would be impacted by this policy have pupils with additional learning needs within their cohort, the proportion of such pupils is much lower than in the rest of the independent schools sector and in the maintained sector. Other similar schools which are not registered charities will already have greater non-domestic rates liabilities. It is a basic expectation that these rights will be upheld for children, if they continue to attend their existing school, or at any other school they may attend in the private or maintained sectors.

As the potential for displacement from independent schools is considered minimal and these specific rights would be upheld in any school, no mitigating actions are proposed. Some mainstream schools may not be able to provide the additional learning provision that an independent school can. In such a case, where the parent can no longer afford to send a child to the independent school, the local authority responsible for the child will have a duty to secure the provision.

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Article 28

“ States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

- “1. make primary education compulsory and available free to all
2. encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need
3. make higher education accessible to all on the basis of capacity by every appropriate means
4. make educational and vocational information and guidance available and accessible to all children
5. take measures to encourage regular attendance at schools and the reduction of drop-out rates

“ States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child’s human dignity and in conformity with the present Convention.

“ States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries. ”

No impact.

The policy will not remove these rights for any child. Selective private education will continue to be available to those who are able to access it and the vast majority will continue to access the statutory provision of education in the maintained sector throughout Wales.

The right to education does not give a person the right to learn whatever they want, wherever they want. The courts have ruled that the right to education relates to the education system that already exists. It does not require the government to provide or subsidise any specific type of education.

The proposal recognises inequities which exist within the education system, by removing a benefit from some independent schools that is not obtained universally across the sector. The benefit amounts to a public funding contribution towards the costs of private education available to those who can afford to pay for it. The proposal will provide a modest amount of additional funding for public services, including education.

As the potential for displacement from independent schools is considered minimal and these specific rights would be upheld in any school, no mitigating actions are proposed.

Article 29

“ States Parties agree that the education of the child shall be directed to:

- “1. the development of the child’s personality, talents and mental and physical abilities to their fullest potential
2. the development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations
3. the development of respect for the child’s parents, his or her own

cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own

4. the preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin
5. the development of respect for the natural environment

“ No part of the present article or Article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State. ”

No impact.

It is a basic expectation that these rights will be upheld within the education received by all children. Certain schools which would be impacted by the policy have a specific religious character. The policy is not targeted towards such institutions and nor does it affect their continued freedom to express that character.

With respect to the Welsh language, learning provision in the independent schools sector is more limited than in the maintained sector. As such, the proposal would remove a modest amount of public funding from independent schools which make a more limited contribution to the Welsh language and cultural identity than maintained schools.

As the potential for displacement from independent schools is considered minimal and these specific rights would be upheld in any school, no mitigating

actions are proposed.

Communicating with children and young people

As no direct impacts on children and young people are anticipated, no specific communication with children and young people is planned. The potential for any indirect impacts is considered to be minimal and wholly dependent on decisions made by affected schools and (if there is an impact on fees) the parents of their pupils. As such, it is expected that schools would communicate with children and young people about any changes which may impact them.

Monitoring and review

There are no identified impacts on children's rights arising from the CRIA for monitoring and review.

More generally, data on non-domestic rates from local authorities and the Valuation Office Agency will continue to be received on an annual basis. This will enable the Welsh Government to monitor the number and cost of properties receiving charitable rates relief.

The Welsh Government's annual Independent Schools Census will provide data to monitor numbers of learners in the independent schools directly impacted by this proposal. In relation to the potential for a very small amount of pupil displacement from independent schools, it will not be possible to disentangle the impact of this proposal from that of the UK Government's plans in relation to VAT (which would be expected to have the greater impact). It is also unlikely that minimal displacement would be detectable against normal fluctuations in pupil numbers. The consultation on this proposal will also provide an opportunity

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to consider any potential impacts that have not already been identified and included within this assessment.

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