

SL(6)601 – The Children Act 2004 (Children Missing Education Database) (Pilot) (Wales) Regulations 2025

Background and Purpose

These Regulations are being made for pilot purposes and place a duty on certain pilot local authorities in Wales to develop and maintain a database of children who may be missing education, to be known as a children missing education (CME) database.

A duty is placed on local health boards and general medical services contractors to share basic information about children registered with them with the local authority where the child is usually resident, for the purpose of establishing the CME database. Local health boards will share this information once during the pilot. There is no requirement placed on local health boards to provide further updates after the initial dataset has been shared.

Procedure

Draft Affirmative.

The Welsh Ministers have laid a draft of the Regulations before the Senedd. The Welsh Ministers cannot make the Regulations unless the Senedd approves the draft Regulations.

Technical Scrutiny

The following three points are identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation;

In the preamble, it is unclear if the enabling powers should also cite “section 66(1)” of the Children Act 2004 as only some of the local authorities in Wales are included in the list of pilot local authorities in Schedule 1 to these Regulations? (e.g., section 66(1)(b) – different provisions for different cases or areas).

2. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation;

In the headnotes at the top of pages 1 and 3, there is a difference between the details of the section that are cited in the Children Act 2004. At the top of page 1 it refers to “section 66(3)” but at the top of page 3 it refers to section 66” of that Act. In addition, the details noted in the second paragraph of the preamble are also different because it refers to both “section 66(3) of the Children Act 2004” and “paragraph 34 of Schedule 11 to the



Government of Wales Act 2006". The legislation cited in both headnotes should be consistent with each other and with the second paragraph of the preamble which sets out the fulfilment of the condition requiring the Regulations to be laid in draft. It appears that the details regarding "paragraph 34 of Schedule 11 to the Government of Wales Act 2006" should not be included in the preamble but in footnote (3) on page 3 with an explanation regarding the procedure that these Regulations follow, including the fact that references to the Houses of Parliament in the Children Act 2004 should be interpreted as references to the Senedd.

3. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation;

In regulation 4, the term "usually resident" has been defined for that regulation and given the same meaning as in regulation 2(2) and (3) of the Local Health Boards (Directed Functions) (Wales) Regulations 2009. But the term "ordinarily resident" is also used in the other provisions of these Regulations although it is not defined. In the Welsh text, this means that the same term has been used for both the defined term "usually resident" in regulation 4 and "ordinarily resident" in the other regulations – "preswyllo fel arfer". This approach could be potentially problematic in future legislation, if both the terms were being used within the same provision of an instrument as there would be no way of distinguishing between them, and any difference as to their meaning, in the Welsh text.

Merits Scrutiny

The following three points are identified for reporting under Standing Order 21.3 in respect of this instrument.

4. Standing Order 21.3(ii) - that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd.

There is a sunset provision included in the Regulations. Regulation 1(2) provides that the regulations will come into force on 8 April 2025 and cease to have effect on 8 April 2026.

5. Standing Order 21.3(ii) - that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd.

These Regulations establish a pilot scheme for the creation of a CME database by pilot local authorities. Seven local authorities will be involved in the pilot. These are Cardiff County Council, Camarthenshire County Council, Gwynedd County Council, Isle of Anglesey County Council, Monmouthshire County Council, Powys County Council and Rhondda Cynon Taff County Borough Council.

6. Standing Order 21.3(ii) - that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd.

The Regulations will be made using powers contained in section 29 of the Children Act 2004. The Explanatory Memorandum dated 11 March 2025 states in section 2 that "a



Commencement Order is required to bring section 29 of the Children Act 2004 into force". It is our understanding that section 29 of the Children Act 2004 was brought into force on 10 March 2025 by The Children Act 2004 (Commencement No. 10) (Wales) Order 2025 (SI 2025/304 (W.60)), which was made on 7 March 2025 and laid on 10 March 2025.

Welsh Government response

A Welsh Government response is required to points 1, 2, 3 and 6.

Committee Consideration

The Committee considered the instrument at its meeting on 24 March 2025 and reports to the Senedd in line with the reporting points above.

