

# Final stage impact assessment

Title: Children Not in School

Type of measure: Primary legislation - Children's Wellbeing and Schools Bill

Department or agency: Department for Education

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## 1. Summary of proposal

1. The Department for Education (hereafter “DfE” or “the department” intends to legislate to:
  - A. Create compulsory registers of children not in school (CNIS) in each local authority area in England and Wales, and a duty on local authorities to support the children on their registers.
  - B. Introduce changes to the School Attendance Order process to make it more efficient, reducing the time children may spend in unsuitable education (this process will also be used where parents do not comply with their new duty to provide information for CNIS registers).
  - C. Create a requirement whereby a parent will need local authority consent to home educate if a child registered at a school is:
    - i. subject to an enquiry under Section 47 of the Children Act 1989, or
    - ii. on a child protection plan, or
    - iii. at a special school maintained by a local authority, special academy or non-maintained special school, or at an independent school which, in the case of a school in England, is specially organised to make special educational provision for pupils with special educational needs, or in the case of a school in Wales, makes additional learning provision for pupils with additional learning needs, and where the child became a registered pupil at that school under arrangements made by the local authority (hereafter referred to as “at a special school”)..
  - D. Create a power whereby if a child is subject to a s47 Children Act enquiry or on a child protection plan and is already being home educated, the local authority will be able to require them to attend school.

- E. Introduce a requirement for local authorities to consider the home environment and other learning environments when determining whether or not children should be required to attend school.
2. The Children Not in School Registers measures will make it mandatory for a child to be registered on their local authority's (hereafter "LA's" or "LA" where singular) Children Not in School register if they are:
- A. of compulsory school age,
  - B. living in the authority's area, and are either
    - i. not registered at a relevant school<sup>1</sup>.
    - ii. they are registered as a pupil or are a student at a relevant school but it has been agreed that they can receive some or all of their education otherwise than at the school (so for example, are flexi-schooled or the local authority has placed them in an alternative provision setting).
    - iii. they are a student registered at a further education setting that provides education for children aged 14 and above but they attend that setting on a part-time basis and do not also attend a school.
3. The introduction of the registration system will create the following duties:
- A. Duty on local authorities in England and Wales to maintain a Children Not in School register.
  - B. Parents of children who are eligible for inclusion on the register to provide certain information for it, such as the child's name, date-of-birth, and home address and details about the education provided, such as the amount of time being educated by a parent and by other people. If parents do not comply with this duty, it may give a local authority legal grounds for being able to conclude that a child does not appear to be receiving suitable education.
    - i. As with the current law, this determination will prompt the local authority to issue a notice requiring evidence that the education is suitable. If that evidence is not forthcoming, a School Attendance Order (SAO) usually must be issued.
    - ii. A parent who breaches such an order may be prosecuted and subject to a fine of up to £2,500 (increased by this legislation from £1,000, to bring it in-line with the offence of causing non-attendance at school).

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<sup>1</sup> "relevant school" means—(a) a school maintained by a local authority, (b) a non-maintained special school (within the meaning given by section 337A), (c) an Academy school or alternative provision Academy, (d) a school not falling within paragraph (c) that is registered under section 95 of the Education and Skills Act 2008 (register of independent educational institutions), (e) an institution in England within the further education sector that provides secondary education suitable to the requirements of children who have attained the age of 14 years, (f) an independent educational institution within the meaning of section 92(1) of the Education And Skills Act 2008, (g) a school that is included in the register of independent schools in Wales (kept under section 158 of the Education Act 2002) or (h) a public school, grant-aided school or independent school, within the meaning of section 135(1) of the Education (Scotland) Act 1980

- C. Duty on providers of out-of-school education<sup>2</sup> to provide information for the register in cases where they are providing education to an eligible child for more than a prescribed amount of time without any parent of the child being present.
- i. This is a reactive duty – providers will only have to provide this information when a local authority makes a request for it.
  - ii. Failure to comply with this duty by a provider will enable the local authority to issue a penalty fine. Regulations will be used to set the level of the monetary penalty.
- D. Duty on local authorities to provide support to families on their Children Not in School registers where it is requested by the parent.

## 2. Strategic case for proposed regulation

4. **Problem: Local authorities are unable to identify all children in their areas who are not in school and not receiving a suitable education and/or are of safeguarding concern, limiting local authorities' ability to take action to support those children**
5. Local authorities have a duty under section 436A of the Education Act 1996 to make arrangements to establish the identities of children in their area who are of compulsory school age, not registered at a school and are not receiving a suitable education. This means that local authorities must try to identify all home educated children in their area and make assessments on whether each child appears to be receiving a suitable education.
6. Parents are responsible for ensuring that their child is receiving a suitable education; and, under section 7 of the Education Act 1996, they can choose to do this by having their child attend a school “or otherwise” – for example, by home educating them. However, currently parents do not need to notify their local authority (or anyone else) that they are home educating. This makes it difficult for local authorities to fulfil their section 436A duty to identify all children not in school in their areas who are not receiving a suitable education. It also makes it difficult for local authorities to fulfil their legal duties to safeguard and promote the welfare of all children in their area, regardless of where they are educated.
7. This is the core problem that the proposals for mandatory Children Not in School registers intend to help fix. The duty on parents to provide information for these registers will help ensure that local authorities are aware of all children not in school in their areas. Local authorities can then identify which children are not receiving a suitable education and/or who are of safeguarding concern and take action to support - and, where needed - protect them. Within Wales, the development of the Children Missing Education database will complement these proposals. The arrangements will introduce a formal data sharing arrangement between health and education bodies and enable Welsh Local authorities to be aware of school aged learners who are not on any LA

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<sup>2</sup> Many home educated children will attend out-of-school education provision as part of their home education arrangements. Out-of-school education providers in scope of this legislation will likely include tuition centres and private tutors, for example.

education record (provided that the families have registered with G.P. surgeries). Local authorities will use the information from health and follow up with any family who have not formally informed the local authority that they are home educating their child.

8. **Evidence to support problem statement.** The problem of local authorities not being able to identify all children not in school in their areas is becoming more acute as time goes on. Data shows that in recent years elective home education (EHE) numbers in England and Wales have been increasing on an annual basis. The Department for Education's 2024/2025 EHE data publication<sup>3</sup> shows that there were an estimated 111,700<sup>4</sup> children in EHE in England on the Autumn census day in October 2024, up from 92,000 the previous year. In 2016, a data collection by the Association of Directors of Children's Services reported that there were just 36,500 children in home education in England (although it's important to note that the ADCS data collection had different data collection methodology compared to DfE collection). The numbers of EHE children in Wales have continued to increase at a similar rate. The Welsh Government's Educated other than at school (EOTAS) data release<sup>5</sup> confirms that in the 2023/24 academic year 6,156 children were known to be electively home educated in Wales. The same statistical data release for September 2016 – August 2017<sup>6</sup> records 1,724 known home-educated children<sup>7</sup>.
9. Most parents who home educate do so in their children's best interests, and many home educated children receive a suitable education that supports them to thrive. However, increasingly, parents of children with complex needs are choosing to home educate and may not be well prepared or equipped to provide a suitable education. In DfE's October 2024 data collection, local authorities reported that "mental health" is now one of the top reasons (14%) for parents choosing to home educate. Equivalent data is not published in Wales, although local authorities collate information on reasons behind de-registration from school. It has been reported anecdotally by Local Authorities that mental health is one of the significant factors behind de-registrations.
10. Dissatisfaction with schools due to lack of support around bullying, Special Educational Needs and Disabilities (SEND), or just more generally also appears to be a significant factor in parents choosing to home educate. In these cases, parents may not be providing a suitable education as they are unprepared due to feeling that they had no other option. The Department's data collection from October 2024 shows an estimated 39,700 children in England were children missing education (CME), 7% of whom were categorised as such a result of being in unsuitable EHE. In Wales, two separate data exercises<sup>8</sup> have been undertaken to estimate the numbers of children missing

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<sup>3</sup> [Elective home education, Autumn term 2024/25 - Explore education statistics - GOV.UK](#)

<sup>4</sup> It should also be noted that Local authorities are concerned that the numbers they have provided for the Department's EHE data collection are underestimates of the number of children not in school in their area as parents do not need to notify them that they are home educating.

<sup>5</sup> [Pupils educated other than at school: September 2023 to August 2024 \(revised\) \[HTML\] | GOV.WALES](#)

<sup>6</sup> [Pupils educated other than at School, 2016/17](#)

<sup>7</sup> As with numbers in England, it should be noted that numbers of home educated children in Wales are based on those who are known to local authorities. Local authorities in Wales have stressed that not all home educators make themselves known.

<sup>8</sup> [Children missing from state education: estimating numbers using linked administrative data | GOV.WALES](#)

education. The exercises cross-referenced anonymised census and health data from two separate sources. Both exercises indicated that the number of children estimated to be missing from education (in April 2021) could be as high as 12,000 (approximately 6%).

11. There are also concerns that rising numbers will mean a risk of more children being out of sight of safeguarding professionals and potentially at risk of harm. There is evidence to support this proposition, including cases where a child has been seriously harmed or died as a result of abuse or neglect whilst not in school, or having been removed from school for the purposes of EHE.
12. ~~[OBJ]~~ Between April 2023 and March 2024, the Child Safeguarding Practice Review Panel (CSPRP) received 330 serious incident notifications and rapid reviews. Ten per cent of those that died or were seriously harmed were not in school or receiving home education and 5% were not receiving any education at all.<sup>9</sup> In May 2024 the CSPRP published a thematic review of 27 serious safeguarding incidents involving 41 school age children (29 of whom appear to have been home educated, six considered to be missing education, with data not available for the remaining six). Of these 41 children, only 17 were known to local authority children's services at the time of the incident<sup>10</sup>. Sara Sharif was also removed from school in April 2023 under the guise of home education prior to her death (August 2023)<sup>11</sup>. Her father, stepmother and uncle were found guilty of her murder in December 2024.
13. In Wales [a formal review](#)<sup>12</sup> published in 2021 by the then Children's Commissioner for Wales concluded that the Welsh Government had failed in its duty to protect the rights of children who are home educated, and children in independent schools. The Commissioner highlighted the need to strengthen home education legislation and noted the lack of action taken by the Welsh Government following recommendations made in a Child Practice Review (CPR) published in 2016 in relation to the death of a home-educated child in Wales. In 2017, the National Independent Safeguarding Board (NISB) commissioned the CASCADE report. Recommendations included a significantly enhanced support service for home educated children, and clearer assessment of the needs and well-being of home educated children. The requirement included a register of home educated children, a more holistic assessment of the well-being and education of home-educated children undertaken at regular intervals and in the home as their place of education, and consideration of a legal expectation on parents.
14. In England, there is also evidence that children of safeguarding concern, including those on child protection plans, have poorer educational outcomes than the general child population. As of March 2024, children on a child protection plan and in each of the Child In Need social care groups were half as likely to achieve the expected standard in reading, writing and mathematics (combined) at Key Stage 2 compared to

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<sup>9</sup> [The Child Safeguarding Practice Review Panel - Annual Report 2023 to 2024](#)

<sup>10</sup> [Safeguarding children in Elective Home Education – Panel Briefing 3](#)

<sup>11</sup> [Safeguarding children in elective home education - GOV.UK](#)

<sup>12</sup> <https://www.childcomwales.org.uk/a-review-of-the-welsh-governments-exercise-of-its-functions-home-education-and-independent-schools/>

the overall pupil population. Pupils on child protection plans also had the highest proportion of pupils (57.5%) who were persistent absentees<sup>13</sup>.

15. The Department for Education ran a Call for Evidence in 2018 seeking views on proposals for statutory registers of children not in school. This was followed by a consultation in 2019, which proposed the four duties set out above and sought the public's views on the introduction of those duties. The majority of local authorities, schools and other safeguarding partners expressed support for the proposals, whilst the majority of home educating parents who responded were against. In the Department's response in 2022, under the previous Government, it was confirmed that legislation to introduce these duties would be pursued at a suitable opportunity.
16. The Welsh Government consulted on proposals to introduce local authority education databases in 2020<sup>14</sup>. The proposals required local authorities in Wales to hold databases containing information on all children of compulsory school age living in their areas, and to record how and where the child was receiving their education. The databases would be populated from existing education records and health records, which would be shared via local health boards. The majority of stakeholders expressed support for the proposals, whilst the majority of home educating parents who responded were against. The then Children's Commissioner for Wales felt that the proposals did not go far enough and called for primary legislation instead. The Welsh Government undertook a second consultation<sup>15</sup> in 2024 on revised proposals (by way of regulations) in relation to children missing education databases. The regulations require local authorities to record only children who are potentially missing education on the database. The arrangements are due to be tested via a pilot exercise in April 2025.
17. In the Department for Education's 2019 consultation, respondents drew attention to the fact that some parents of children eligible for registration would attempt to avoid their legal duty to provide information for local authority registers. The duty on certain providers of out-of-school education to provide information for local authority CNIS registers will be crucial in identifying some of these children who should be on registers, but are not. If a local authority has reason to believe that either an eligible child/ children are attending an out-of-school education provider and that the provider is educating these children at or above a prescribed threshold of time (which will be set in regulations), the local authority can make a request for the out-of-school education provider to provide information on the child(ren) for the CNIS registers. The provider must comply with this request by providing the local authority with all eligible child(ren)'s name, address, and date of birth; the total amount of time that the child spends receiving that education and the amount of time the child spends receiving that education without any parent of the child being actively involved in the tuition or supervision of the child for inclusion on the authority's CNIS register. The information must cover a period of three months ending with the date of the notice from the LA. A provider that fails to provide information requested, or provides false information, could

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<sup>13</sup> [Outcomes for children in need, including children looked after by local authorities in England, Reporting year 2023 - Explore education statistics - GOV.UK](#)

<sup>14</sup> [Local authority education databases | GOV.WALES](#)

<sup>15</sup> [Children missing education database | GOV.WALES](#)

be issued with a civil financial penalty. This will help ensure the local authority has a complete picture of all children not in school in its area.

18. **Out-of-school education providers.** No reliable data exists on the number of out-of-school education providers in England or Wales, much less how many are attended by home educated children. This is because most out-of-school education providers are not regulated under either education or childcare law, and therefore there is no requirement for them to register with Department, Welsh government or another regulatory body.
19. Given that the duty on out-of-school education providers will only fall on those providers that are catering to home educated children for a certain amount of time/ proportion of their education (the exact threshold will be consulted on and then set in regulations), not every provider will be in scope of our proposed measures. Where the policy intention is to try to set the threshold to only place the duty on those providers that are being used as part of a child's home educating arrangements (which will probably namely be private tutors and supplementary schools) rather than as extracurricular activities (sports clubs, youth clubs, etc), the majority of the providers should not be in scope. In the absence of certainty on the true number of providers in scope, we have used a figure of 100,000 providers in England in analysis as a conservative overestimate to demonstrate potential impacts.
20. We anticipate that one of the benefits of the Children Not in School proposals will be more accurate data on the number and profile of out-of-school education providers being used by home educating children. This is because parents of eligible children will be required to provide for local authority CNIS registers information on the out-of-school education providers that their children are attending, including: the name and address of the person providing the education, type of provider, and amount of time the child is receiving education from that provider. This means that post-implementation of the registers, we will have a much clearer idea of impact on out-of-school education providers; and, if necessary, we could use regulations to exempt certain types of providers from the duty.
21. Pre-implementation of the registers, we will be seeking to consult on the regulations with out-of-school education providers; and this consultation will help determine the number and profile of providers that will be in scope of the provider duty, and any unforeseen negative impacts (which we would then seek to mitigate ahead of implementation).
22. **Justification for intervention.** Rationale for government intervention: there are several aspects to the rationale for intervention related to children not in school registers. One important aspect is a merit good argument – the state and society as a whole place a value on children receiving a suitable standard of education, irrespective of whether this is provided in a school setting or at home. To this end, state and independent schools are required to meet agreed standards and inspections monitor their compliance with these. Similarly, Local Authorities have a duty to assess whether children in their locality are receiving a suitable standard of education. However, gaps in existing legislation prevent LAs from identifying children not in school in order to fulfil this duty. A further dimension to the rationale is around addressing potential market failures related to information asymmetries and principal-agent issues. Parents/guardians are the 'agent'



acting on behalf of the 'principal', their child. However, if parents are not able to support their children's education, this could lead to an underinvestment in education creating a justification for government intervention – in this case, to identify and offer support to home-schooling families. Finally, there are economic arguments related to the safeguarding aspects of CNIS registers. Incidents of child mistreatment have a detrimental effect on children's immediate and long-term outcomes and some of these can lead to negative externality costs to society as a whole, creating a market failure rationale for government to intervene to prevent these.

23. We need to take this action now due to the growing concerns from local authorities about the increasing number of children not in school who are not receiving a suitable education and/or are of safeguarding concern, particularly those that are not known to local authorities (which means action cannot be taken to protect and support these children). The duties on parents and providers to provide information for local authority CNIS registers will ensure that local authorities have a more complete picture of all children not in school in their areas, and can identify those who are not receiving a suitable education.
24. There are also concerns that more vulnerable children can be too easily removed from school and associated oversight and support; and that their educational and safeguarding needs are not being met --such as those who are subject to active section 47 enquiries, on child protection plans and/or registered at a special school. One of the key benefits to this regulatory change is enabling the reduction of safeguarding risks.
25. Another key benefit to this policy is through the potential attainment benefit to pupils. Specifically, any learner who is found to be missing education, or not gaining adequate education, who, as a result of this legislation, is instead able to get a proper education, will experience significant attainment benefits. We know that attainment is directly linked to potential future earnings.
26. When a local authority identifies that a child is not receiving a suitable education, it is important that they can take prompt, efficient action. Normally, this is in the form of the local authority issuing a School Attendance Order (SAO). If a SAO is issued the child must attend the school named in the order. The CNIS proposals also include changes to make the SAO process more efficient, for example by introducing statutory timelines on parts of the process and ensuring that the Order remains in place if parents breach it by removing their child from the school named in the order without having the order revoked. The proposals also increase the maximum penalty upon conviction for breach of a SAO from £1000 to £2,500 plus potential imprisonment. This is to bring the fine in line with that for knowingly failing to cause a child to attend the school at which they are registered, closing a potential incentive for parent whose child is not attending school to remove them for home education and run the risk of a much smaller penalty whilst not providing a suitable education. We will amend the SAO process so that the home and other learning environments are specific considerations when determining suitability. We will also expand the system so that SAOs can be issued to the parents of children subject to child protection processes to require them to attend school when it is considered that it is in their best interests to attend school.

27. It should be stressed that the only financial burden resulting from these measures on parents will be on those who are issued with a SAO, breach it and are convicted for that breach. Consequently, these costs are avoidable entirely through compliance. Together, these proposals will help ensure that less children are going under the radar and more receive a safe, suitable education.

### **3. SMART objectives for intervention**

#### **28. Objective 1: Enable local authorities to identify all children not in school in their areas**

29. The primary objective of the Children Not in School proposals is to require local authorities in England and Wales to create compulsory registers of all children not in school in their areas, and to enable them to ensure these registers are as complete as possible by placing duties on parents of eligible children and certain out-of-school education providers to provide information for those registers. This will enable local authorities to better fulfil their existing legal duty to identify children of compulsory school age in their areas who are not in school and are not receiving a suitable education. As mentioned previously, most local authorities already hold voluntary registers of children not in school but these are incomplete because there are no existing duties on parents or providers to provide information for them. Therefore, an early success indicator post-implementation could be to compare the numbers of children on local authorities' voluntary registers the previous year with the numbers of children on compulsory CNIS registers. We would expect an increase in the numbers of children because the duties on parents and providers should reveal many of the children not in school that local authorities are currently unaware of in their areas.

#### **30. Objective 2: Improve local authorities' ability to take action where they identify children who are not receiving a suitable education and/or are of safeguarding concern**

31. When LAs have identified children not in school in their areas who are not receiving a safe or suitable education, they must take action in line with their existing safeguarding and education duties. These measures will also put in place a consent mechanism for the following children so that they cannot move into home education without the local authority being satisfied that it is in the child's best interests and that the education to be provided is suitable: children who are subject to s47 enquires, on a child protection plan, or those who are at a special school maintained by a local authority, special academy or non-maintained special school, or at an independent school which is specially organised to make special educational provision (additional learning needs provision in Wales) for pupils with special educational needs (additional learning needs in Wales), where the child became a registered pupil at that school under arrangements made by the local authority. If a child that falls into one of the child protection categories is already being home educated, local authorities will have the power to require them to attend school if they decide that is in the best interests of the child.

32. Usually, when a local authority identifies that a child is not receiving a suitable education, they are required to begin the SAO process. A SAO requires the child to

attend the school named in the Order. However, many local authorities in England believe that the current SAO process is inefficient and reported their concerns to us through the recent consultation on proposed updates to the EHE Guidance for Local Authorities. Challenges with the ability to issue and enforce SAOs were detailed in the responses, including the length of the process and the difficulty of enforcing compliance, including prosecutions for breach. The Welsh Government does not hold information on the use of SAOs in Wales, or how consistently they are applied. An informal request for information issued to local authorities in 2022/23, with returns indicating that just 25 SAOs were issued across Wales that year despite the numbers of potential CME.

33. The CNIS proposals aim to make the SAO process more efficient by introducing statutory timelines, ensuring that an SAO remains in place if it is breached, and bringing the fine for breach of an SAO into line with the fine for knowingly failing to cause a child to attend school. The CNIS proposals will mean that local authorities, when determining whether to issue a SAO, must specifically consider the home and any other learning environment. SAO's scope will also be expanded so that they can be used to require children subject to child protection processes to attend school. This will strengthen local authorities' existing powers to support children back into a suitable and safe education and reduce their resource burden in terms of using these powers. We currently collect data on the number of SAOs issued in England, so post-implementation of the CNIS registers we could continue to monitor these numbers. An increase in SAOs issued could be seen as an early success indicator, but ideally we would want to see number of SAOs issued falling over time (as this would indicate that more children are receiving a suitable and safe education). Evaluation of this element in Wales would be done via direct requests to the 22 local authorities in Wales.
34. The above two objectives feed into the Government's Opportunity mission to "Break down the barriers to opportunity". The Children's Wellbeing and Schools Bill, which the Children Not in School proposals are part of, will put children and their wellbeing at the centre of the education and children's social care systems, and make changes to ensure children are safe, healthy, happy and treated fairly. More specifically, the Children Not in School proposals and associated measures will help progress the Department's objective to raise education standards for children, by ensuring that more children receive a suitable education and fewer slip under the radar.
35. The objectives directly contribute to policy agendas for Wales, as set out in the Programme for Government. The objectives support the goal of a more equal Wales, a society that enables children and young people to realise their rights, and in particular their right to education; and to achieve and thrive no matter what their background or circumstances.

## 4. Description of proposed intervention options and explanation of the logical change process whereby this achieves SMART objectives

36. The **preferred option** is to introduce legislation that will require local authorities to maintain registers of children not in school, including home educated children. Parents of children eligible to be registered will have a duty to provide information about their children for the register. Certain out-of-school education providers will have a duty to supply information about eligible children attending their provision when a local authority requests that information. Local authorities will have a duty to provide support to children on their CNIS registers when their parents request it. The proposals also include amendments to the existing School Attendance Order process to make it more efficient.
37. Where there is no existing requirement on parents to notify local authorities that they are home educating their children, the new duty on parents to provide information for local authority CNIS registers will help ensure that local authorities can identify all children not in school in their areas (**Objective 1**). We recognise that some parents will not fulfil their duty, despite this being a legal requirement. Therefore, the duty on certain out-of-school education providers to provide information for local authority CNIS registers will ensure that some of those children who are eligible to be on registers, but are not, are identified.
38. When children not in school are identified, local authorities can then make enquiries to determine which are not in receipt of a suitable education. In these cases, local authorities usually must begin the School Attendance Order process. Legislating to make this process more efficient will help local authorities to take action to support children back into a safe, suitable education (**Objective 2**).

### Theory of Change diagram

Situation	Aims
Local authorities are unable to identify all children in their areas who are not in school and not receiving a safe, suitable education and/or of wider safeguarding concern, limiting their ability to fulfil their existing legal duties and to take action to support those children	<ol style="list-style-type: none"><li>1. Enable local authorities to identify all children not in school in their areas</li><li>2. Improve local authorities' ability to take action where they identify children who are not receiving a safe, suitable education and/or are of wider safeguarding concern</li></ol>

Inputs and activities	Outputs	Change mechanism	Outcomes	Impacts
<p><b>Inputs</b> Duty on local authorities to maintain CNIS registers, using information they already hold on eligible children + information required to be provided by parents and certain out-of-school education providers; local authorities also to have a legal duty to provide support to home-educators who request it</p> <p>Requirement that parents must obtain local authority consent if they wish to home educate children who are at school in England or Wales and are subject to active enquiries under section 47 of the Children Act 1989 and/or Child Protection Plans (CPPs), or are registered at a special school.</p> <p>Power for local authorities to start the SAO process for children subject to a s47 Children Act 1989 enquiry or on a CPP who are being home educated but where it is considered that regular attendance at school would be in their best interests.</p>	<p>Out-of-school education providers and parents will provide required information to local authorities for inclusion on CNIS registers</p> <p>Parents will notify schools that they wish to remove their child from school to home educate; and, for children in scope, schools will notify local authority education and children's social care teams. local authorities will then decide whether or not to consent to the request to home educate.</p> <p>Sanctions for parents (e.g. they could be subject to attendance fines if they remove children from school without consent) and education providers (i.e. fines for not providing information for CNIS registers) who do not comply with the aforementioned processes.</p>	<p>Legislation is required to establish duties on local authorities, parents and out-of-school education providers– the government has stated it will introduce the registration duties and associated safeguarding measures as part of the Children's Wellbeing and Schools Bill</p>	<p><b>Short term</b> Eligible children's information will be recorded on local authority registers, and children previously unknown to the local authority will be identified. local authorities will use the registers to help them make enquiries into the suitability of each child's education. SAOs will normally be issued for any child not receiving a suitable education.</p> <p>Increased visibility of potentially vulnerable children. Children subject to child protection procedures and/or with an EHCP (Individual Development Plan (IDP) in Wales) cannot be removed from school, without consent local authority consent.</p> <p>local authorities will be able to use the SAO process to get children subject to a s47 Children Act 1989 enquiry or on a CPP into school.</p>	<p>local authorities hold and maintain compulsory CNIS registers</p> <p>Parents inform their local authority of their decision or request to home-educate and have access to support from the local authority, improving access for some families to resources, advice etc.</p> <p>Children of safeguarding concern, including those at risk of or experiencing significant harm, are identified, supported and protected by local authorities, schools and wherever possible their parents.</p> <p>OOSS develop stronger data collection practices e.g. recording required information at the outset of taking a child on rather than later when prompted to do so</p> <p>Improved attendance, attainment and educational outcomes.</p>

Inputs and activities	Outputs	Change mechanism	Outcomes	Impacts
<p>Changes to the School Attendance Order (SAO) process to make it more efficient, reducing the time children may spend in unsuitable education (where use of this process will be the sanction on parents who do not comply with their new duty).</p> <p>Further changes to the SAO process so that local authorities in England and Wales have a duty to specifically consider the child's home environment and other learning environments when determining whether a child should be required to attend school; and to start the SAO process if so.</p> <p><b>Activities</b> Statutory and non-statutory guidance will be issued to assist local authorities and schools in the exercise of their new duties, including how to identify whether a setting is in scope of the provider duty to provide information and in terms of when it might be appropriate to issue fines to providers for failure to provide information. Complementary guidance to be issued to parents and providers to inform them of their new duties.</p>	<p>Local authority: when determining whether or not children should be required to attend school, local authorities will be required to consider the home environment and other learning environments.</p>		<p><b>Long term</b> More complete picture of all children not in school in each local authority, including those of safeguarding concern.</p> <p>Fewer children in receipt of unsuitable education (and for a shorter period of time) and/or at risk of harm, due to increased ability to identify these children, introduction of the local authority consent mechanism for children in scope, and the improvements to the SAO process.</p> <p>Improved visibility of out-of-school education providers that home educated children are attending.</p> <p>Positive benefits to children and society if legislation identifies and reduces the number of children who could be receiving unsuitable or unsafe education.</p>	

Inputs and activities	Outputs	Change mechanism	Outcomes	Impacts
Sector engagement including consultations will take place to determine which settings will be in scope of the provider duty, including direct inputs from such providers.				

## 5. Description of shortlisted policy options carried forward

39. The following table presents an assessment of our shortlisted policy options.

Options carried to shortlist	Objective 1- Identify children not in school	Objective 2 – Improve local authority ability to take action
Option 1 – Compulsory CNIS registers incl. all duties and safeguarding measures	Yes	Yes
Option 3 – Compulsory CNIS registers w/o provider duty	Partially	Partially
Option 4 – Guidance only	No	No

40. **Option 1: The legislative option** i.e. compulsory CNIS registers including duties on parents and certain out-of-school education providers, and safeguarding measures

41. This is our preferred option as discussed in-depth in the previous and following sections of the assessment, including the potential impact on small and medium businesses and our proposed mitigations.

42. **Option 3: Legislation to require local authorities to maintain compulsory CNIS registers, but without the duty on certain out-of-school education providers to provide information for the registers**

43. We considered ways to introduce the measures without the provider duty. This would have avoided impacts on businesses entirely as there would be no regulatory burden on providers to provide information to local authorities at all. However, it is our view that not including the provider duty would lead to not all children being captured on local authority Children Not in School registers. Without the duty on out-of-school education

providers to share information with the local authority, there could be scenarios of local authorities being aware that EHE children attend a particular setting but are unable to request further information on those attending or to check information with their own register. Therefore, not having the duty on providers would make it harder for Local authorities to identify children who are eligible to be on their registers but are not. More children are likely to go under the radar, possibly receiving unsuitable education or no education at all.

#### **44. Option 4: Strengthen existing non-statutory guidance, rather than creating legislative duties**

45. We have explored whether updates to the existing non-statutory guidance (2019 Elective Home Education: Guidance for local authorities/Parents) would be sufficient to meet our policy objectives in England. We ran a consultation from October 2023 to January 2024 to receive feedback from Local authorities, home educating families, and other stakeholders in England on how the guidance could be strengthened. Given that the guidance hasn't been updated since 2019, stakeholders broadly welcome it being refreshed. Making the guidance clearer would have the advantage of improving consistency of practice across local authorities, particularly in terms of how they engage with home educating families and therefore keep their voluntary registers. However, while there is an expectation that local authorities will follow non-statutory guidance, local authorities **must** follow legislation. Updating non-statutory guidance would also mean that parents and out-of-school education providers are not under any duty to provide the local authority with information on home educating children. This would continue to leave local authorities with an incomplete picture of the number of children not receiving a suitable education, and therefore hinder their ability to take the necessary steps to address these cases.
46. The position in Wales is slightly different as statutory elective home education guidance<sup>16</sup> was published in May 2023. Local authorities are therefore expected to follow the guidance when applying their EHE processes. However, home educators have strongly opposed the guidance and its statutory status since it was published. The Welsh Government has anecdotal evidence that opposition from home educators on certain aspects, e.g. the view that local authorities should see and speak to the child as part of a suitability assessment, is often challenged. An independent evaluation of the guidance will be undertaken in late 2025 to determine whether this is the case, and how effective the guidance has been in helping local authorities undertake their statutory duties. The guidance will remain in place in Wales but amended to reflect the new legislative position.
47. **Small and Micro Business Assessment (SaMBA) and medium-sized business impact assessment.** The preferred option of compulsory CNIS registers with accompanying duties on parents and out-of-school education providers will have a direct impact on SMBs. This option will place requirements on some education providers to collect and store data and respond to requests to provide that data to local authorities. There is also the potential financial impact of a fine where the duty to provide

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<sup>16</sup> [Elective home education guidance | GOV.WALES](#)



information is not complied with, however, these costs are avoidable with compliance. This impact is mitigated by the fact that information will only be required to be shared upon request rather than as a regular, proactive duty. We have previously tested the impact of the CNIS measures, when they were within 2022's Schools Bill, on out-of-school representatives through the Department's Out-of-School Steering Group, with no significant concerns raised. There will be a public consultation prior to implementation to establish the most appropriate level to set the threshold that brings a provider into scope of the duty, which will keep the number of businesses affected at the most appropriate level. For any providers that are captured by the threshold, but are not appropriate to be in scope of the duty – we will have a delegated power that will enable us to exempt these providers from the duty; again, this will ensure that the number of businesses affected is reduced. As part of our legislation engagement, we will ensure we re-engage with the Out-of-School Setting steering group to ensure that impacted businesses are kept abreast of the impact of the measures. Finally, local authorities will not be able to issue fines for non-compliance in the first three months of the legislation coming into effect. This will allow providers time to adjust to their new requirements without fear of financial sanction.

48. We recognise that there is a potential secondary impact on providers through the duty on local authorities to provide support to home-educators who request it. One form of support we envisage is through the signposting to resources or providers for assistance with education provision. This may lead to local authorities preferring certain providers or larger, more well-known businesses thus potentially taking some business away from other, smaller providers.
49. We anticipate that the net direct annual costs to small and medium businesses in England will be c.£0.1m and the Welsh costs will be considerably lower. We will revisit and revise this figure once more data is available, likely ahead of the introduction of the secondary legislation that will implement the provider duty. Our calculations on the potential costs for businesses are set out in section 6(2) and the SaMBA section of the evidence base below. [Impact assessment continued on the next page, with the regulatory scorecard].

## 6. Regulatory scorecard for preferred option

### Part A: Overall and stakeholder impacts

(1) Overall impacts on total welfare		Directional rating
(i) <b>Description of overall expected impact</b>	<p>The creation of compulsory CNIS registers will have a positive effect on society as Local authorities will be better equipped to identify children who are not receiving a suitable education otherwise than at school and/or are of wider safeguarding concern. They will then be able to determine more clearly how such children can be helped and (wherever necessary) protected, either by arranging their attendance at a school or in alternative provision or providing more support for their education at home. The clearer identification of home-educating families who are doing a good job in the best interests of their child will allow local authorities to focus resources on those who are not and strengthen their ability to identify where a child may be at risk of harm or other safeguarding concerns. The provision of stronger data will enable policy-makers to consider underlying trends on national and local levels in drivers of home education where it is not in the best interests of children. This will aid more robust and targeted policy-making and guidance updates across all areas of education and children's social care.</p> <p>Separate to this there could be indirect benefits by virtue of the new duty on local authorities to provide support to home educating families that request this.</p> <p>We anticipate that the measures will enable the identification of greater numbers of children who are receiving unsuitable education, or those who are at risk of harm, and returning those children to school or other appropriate and safe settings. This benefit will outweigh the potential expected costs of the measures and enable more children to grow up with an education that will allow them to access more opportunities in life and society.</p> <p>The consent mechanism provision and the expansion of the SAO process will help to prevent more vulnerable children being moved into an unsuitable or unsafe home education, and to move more children who are in an unsuitable learning environment into a safe and suitable learning environment. This will improve the education these children receive and therefore remove barriers to their opportunities in life.</p>	<b>Positive</b>  <b>Based on all impacts (incl. non-monetised)</b>
(ii) <b>Monetised impacts</b>	<p>Total £ NPSV (central estimate): -£13.8m (-£65.6m to -£2.5m)</p> <p>All costs included in this figure are discussed in the relevant business/household sections. <b>We have not monetised any benefits as the registers will provide valuable information that enables further measures to be taken to support children and families. The benefits of those further actions cannot be monetised at this stage due to uncertainty over what they might be; consequently, their effectiveness and impact cannot be evidenced yet.</b></p>	<b>Negative</b>  <b>Based on likely £NPSV</b>

(1) Overall impacts on total welfare	Directional rating
<p><b>(iii) Non-monetised impacts</b></p>	<p>We have not identified any additional costs, further to those already covered in the sections below.</p> <p>We have not identified any additional costs, further to those already covered in the sections below.</p> <p>We have identified one potential, positive distributional household impact from the Children Not in Schools Register (CNIS) measure. It includes a duty on LAs to offer support to home-educating families. The support duty may be more likely to benefit middle and lower income families. Parents who choose to home educate bear the financial responsibility for doing so since a state school place (or state-funded place) is available for their child. Middle and lower income families may find this financial responsibility more burdensome than those in higher income brackets. Therefore, the new requirement on local authorities to provide advice and information to assist with home education may support middle and lower income families to access resources and information that they would otherwise be unable to due to their financial situation (for example, where families may currently not have the funds to get access to information that is only available through subscriptions to third-party websites or resource hubs).</p> <p>The position in Wales is that there is already an agreed package of support for home educators which comprises statutory and non-statutory elements and the above measure would complement and enhance this.</p> <p>However, it is not possible to quantify this or accurately calculate the potential level of positive impact – where we do not currently hold data on the numbers of home educating families currently in receipt of social benefits. Equally, local authorities will need to consider requests for support on a case-by-case basis, according to the needs of the individual child. With the introduction of the statutory registers, such data will be possible to collect, which could be used to inform future departmental policy on such areas,</p> <p>One of the key benefits to this regulatory change is enabling the reduction of safeguarding risks. The consent mechanism will help local authorities to identify vulnerable children and prevent children from moving into home education where doing so would potentially create safeguarding risks or place them in an unsuitable learning environment. This will ensure more children are in appropriate education settings.</p> <p>Another key benefit to this policy is through the potential attainment benefit to pupils. Specifically, any learner who is found to be missing education, or not gaining adequate education, who, as a result of this legislation, is instead able to get a proper education, will experience significant attainment benefits. We know that attainment is directly linked to potential future earnings.</p>

<b>(1) Overall impacts on total welfare</b>		<b>Directional rating</b>
<b>(iv) Any significant or adverse distributional impacts?</b>	Potentially negative distributional impacts for households due to the new requirement to submit information to a local authority and, for some of those who fail to do so and subsequently cannot evidence a suitable education, a fine resulting from breach of a School Attendance Order – outlined in the section below.	<b>Negative</b>

<b>(2) Expected impacts on businesses</b>		
<b>(i) Description of overall business impact</b>	<p>The businesses that will be affected by the proposals are out-of-school education providers, such as private tutors and supplementary schools. However, not all out-of-school education providers currently in operation will be in scope of our proposals. This is because the duty to provide information for local authority CNIS registers will only apply to those providers that are providing education to a child who is eligible for registration on a LA's CNIS registers; and is meeting a threshold (to be set in regulations) in terms of the number of hours/ proportion of a child's education being provided.</p> <p>As the out-of-school education sector is not regulated under education or childcare law, there is no requirement on these providers to register with DfE/Welsh government or a single regulatory body. This means that we do not hold data on the number of providers currently in operation. We have previously estimated that there may be more than 100,000 in England based on open-source research. We have conducted sensitivity testing on this estimate for all analysis. The maximum number of providers tested is double our estimate (200,000), and the minimum number of providers tested is 25% of our estimate (25,000). We go into more detail on these figures – alongside other sensitivity tests – in the costs and benefits to business calculations section. Welsh Government do not hold data on the number of out of school education providers.</p> <p>We will have a more accurate figure of how many providers will be in scope of the provider duty following a planned consultation on the regulations and statutory guidance post-Royal Assent. The consultation will enable us to determine where the threshold for the duty should be set and which providers should be exempt from it.</p> <p>Where providers are in scope of the duty, they will be expected to do the following:</p> <ul style="list-style-type: none"> <li>• Familiarise themselves with statutory guidance to be published as pre-implementation of the CNIS registers to ensure they understand their responsibilities and whether they are in scope</li> <li>• Collect the following information: child's name, date of birth, and home address; and the amount of time the child spends receiving education at the provision</li> </ul>	<b>Negative</b>

## (2) Expected impacts on businesses

	<ul style="list-style-type: none"> <li>Keep a record of this information for at least 3 months, as local authorities can also request information about relevant children that have recently left the provision</li> <li>If a local authority requests information, confirm whether or not they're providing education to children at or above the threshold (to be set in regulations); and, if so, to provide the local authority with the aforementioned information</li> </ul> <p>We believe that burdens on individual businesses will be minimised by the fact that the information providers will be required to share (e.g. child's name and address) is information that they should hold already for safeguarding or business purposes; and that they only need to provide the information on request from the local authority rather than proactively.</p> <p>Local authorities will not be able to issue penalty fines within 3 months of the duty coming into force. This will allow businesses time to adjust to the new duty and requirements upon them without facing the prospect of financial sanctions for failing to comply straightaway.</p>	
<b>(ii)</b> <b>Monetised impacts</b>	<p>EANDCB, central: £0.1m (£0.0m<sup>17</sup> - £1.4m)</p> <p>We assume there are potentially four types of costs to non-school settings associated with the new legislation:</p> <ol style="list-style-type: none"> <li><b>Familiarisation time:</b> All providers of out-of-school education will need to familiarise themselves with the new legislation, to check whether any actions apply to them or not. This will be achieved through review of the section of statutory guidance relating the provider duty, which we estimate will run to around 10 pages.</li> <li><b>Reporting time:</b> Providers of out-of-school education, with children eligible for inclusion on the registers, that are also attending the setting for a substantive proportion of their education, will be required to send necessary information to LA.</li> <li><b>Data collection time:</b> Sourcing information internally held for relay to the local authority, or where providers of out-of-school education voluntarily seek to collect the data required by local authorities in this legislation (i.e. name, address, parent details etc.) if not already held.</li> <li><b>Cost of fines<sup>18</sup>:</b> If a business providing out-of-school education, with children eligible for the inclusion on the registers, does not provide necessary information to its LA, the local authority will have power to issue a penalty fine.</li> </ol> <p>The costs and benefits to business calculations section has a full explanation of assumptions used and sensitivity analysis conducted. The ranges presented here account for those sensitivity checks. Low estimates incorporate all "best case" (lowest cost) scenarios, whilst high estimates incorporate all "worst case" (highest cost) scenarios.</p>	<b>Negative</b>  <b>Based on likely business £NPV</b>

<sup>17</sup> Rounds down to zero.

<sup>18</sup> We have counted these costs as **indirect** in order to present a sense of scale, however, they are entirely avoidable through compliance. Consequently, they do not impact the EANDCB estimates.

## (2) Expected impacts on businesses

<b>(iii) Non-monetised impacts</b>	As some providers may incur extra costs in needing to collect data they do not already hold, the new duties may encourage providers to keep better data from the outset of taking on a new child to their setting. This could have a side-effect of improving health and safety in those settings, for example being able to contact a parent in the event of an emergency.	<b>Positive</b>
<b>(iv) Any significant or adverse distributional impacts?</b>	No	<b>Neutral</b>

## (3) Expected impacts on households

<b>(i) Description of overall household impact</b>	<p>Parents who electively home educate are most likely to be impacted, where the children eligible to be registered on local authority CNIS registers will namely include children of compulsory school age who are not registered at a school. Costs incurred on parents will be in relation to their new duty to provide information to local authority CNIS registers if their child is eligible to be included on them, where currently no such obligation exists.</p> <p>Parents will be required to provide the following information if they hold it: child's name, date of birth, and address; parents' names and addresses; and in relation to any out-of-school education providers that the child is using – the name, address, type of provider and amount of time the child is spending being educated there. Some parents may also supply voluntary information, for example on reasons for choosing to home educate. The main impact for these households will be the cost (in terms of time spent, rather than a direct monetary cost) of compiling this information and relaying it to the local authority for inclusion on their registers. Information would need to be provided:</p> <ul style="list-style-type: none"> <li>• Upon becoming eligible for registration on a local authority CNIS register</li> <li>• Upon request from the LA</li> <li>• Upon a change of circumstances e.g. move to another local authority area/change of address, change in the out-of-school education providers that the child is using</li> <li>• When the child is no longer of compulsory school age or otherwise not eligible to be registered</li> </ul>	<b>Negative</b>
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### (3) Expected impacts on households

	<p>As the only required information is basic and should be known to the parents already, we do not envisage that this should take a great amount of time to communicate to their LA. In most cases, simple online correspondence or a phone call will be used, with paper-based alternatives being used if needed.</p> <p>We believe that this small burden is justified to ensure children are safe and receiving a suitable education; and in particular to support the identification of CME and enable local authorities to take the necessary action to address these cases. It would also bring EHE into line with school provision, where pupils are registered with the school, ensuring all children are registered in one form or the other.</p> <p>The benefit of registration to parents will take the form of a duty on local authorities to provide support to those parents of children on CNIS registers who request it. If a registered parent/child requests support, the local authority will be obliged to provide advice and information relating to the education of the child.</p> <p>One further potential impact on households will be the increased financial penalty for those parents who are convicted in a criminal court of breaching the terms of a school attendance order. The maximum penalty will be raised to £2,500, bringing in line with the fine for knowingly failing to cause a child to attend school. More families could potentially be caught by this as failure to provide information for a LA's register will be an additional trigger for the local authority to instigate the SAO process, which may increase the number of families who are subject to that process and subsequently result in a conviction. There is also potential for more SAOs to be issued on the basis that the home or other learning environment has been considered to be unsuitable or that (for child protection cases) it is considered that it is in the best interests of the child to attend school. However, such a burden will be avoided if the parent can demonstrate that a suitable education is being provided, that the home and other learning environments have been made suitable and where relevant, that it is in the best interests of the child to receive education otherwise than at school, or by complying with the SAO if it is issued by sending their child to the school named in the order.</p> <p>We can predict from Ministry of Justice data that the number of families ultimately subject to a fine for breach of a SAO will be low compared to the overall number of SAOs that are issued.</p>	
<b>(ii) Monetised impacts</b>	EANDCH: £0.9m (£0.3m - £3.3m) in England. Welsh costs will be approximately 16% of the identified English costs based on latest EHE learner numbers in England and Wales.	<b>Negative</b>



### (3) Expected impacts on households

	<p>We have monetised the same four types of costs to be faced by impacted households:</p> <ol style="list-style-type: none"> <li>1. <b>Familiarisation time:</b> All parents of home educated children will need to familiarise themselves with the new legislation, to check whether any actions apply to them or not. This will be achieved through review of the section of statutory guidance relating the provider duty, which we estimate will run to around 10 pages.</li> <li>2. <b>Reporting time:</b> All parents who provide home education will be required to send necessary information to their LA.</li> <li>3. <b>Data collection time:</b> Collating information for relay to the LA. While it's likely that parents will already hold all information on their child, we have included this cost as a conservative measure to incorporate time collating data on their specific learning patterns and rationale for home learning.</li> <li>4. <b>Cost of fines</b><sup>19</sup>: If a parent home-educating their child, who is eligible for the inclusion on the registers, does not provide necessary information to their local authority, the local authority may commence the SAO process. If the parent does not provide evidence of a suitable education during this process, the local authority will issue the SAO. If the parent breaches the SAO, they will be guilty of an offence and liable for a fine and potential imprisonment</li> </ol> <p>The ranges presented here account for sensitivity checks. Low estimates incorporate all "best case" (lowest cost) scenarios, whilst high estimates incorporate all "worst case" (highest cost) scenarios.</p> <p>We do not believe that any costs will be passed on to households from business.</p> <p>We have not been able to monetise any benefits to households associated with this legislation.</p>	<p><b>Based on likely household £NPV</b></p>
<p><b>(iii) Non-monetised impacts</b></p>	<p>All expected costs have been monetised.</p> <p>Some parents may benefit from the duty on local authorities to provide support to those who request it. If a parent of a registered child requests support, the local authority will be obliged to provide advice and information.</p> <p>Another key benefit to this policy is through the potential attainment benefit to pupils. Specifically, any learner who is</p>	<p><b>Positive</b></p>

<sup>19</sup> We have counted these costs as **indirect** in order to present a sense of scale, however, they are entirely avoidable through compliance. Consequently, they do not impact the EANDCH estimates.



### (3) Expected impacts on households

	found to be missing education, or not gaining adequate education, who, as a result of this legislation, is instead able to get a proper education, will receive significant attainment benefits. We know that attainment is directly linked to potential future earnings.	
<b>(iv) Any significant or adverse distributional impacts?</b>	No	<b>Neutral</b>

## Part B: Impacts on wider government priorities

Category	Description of impact	Directional rating
<b>Business environment:</b>  <b>Does the measure impact on the ease of doing business in the UK?</b>	The measures will only impact out-of-school education providers in England and Wales that have children eligible for inclusion on the Children Not in School registers attending their settings. As highlighted above costs are expected to be minimal where the duty to provide information to local authorities is reactive and the information requested should be information which providers already collect to support the safeguarding of children. There may be some additional costs where a provider has to obtain data they do not already have but these costs ought to be minimal as information is acquired through correspondence or a phone call as necessary.	<b>May work against</b>
<b>International Considerations:</b>  <b>Does the measure support international trade and investment?</b>	Not applicable – only impacts providers in England and Wales.	<b>Neutral</b>
<b>Natural capital and Decarbonisation:</b>  <b>Does the measure support commitments to improve the environment and decarbonise?</b>	N/A – we would anticipate a neutral impact where the main implication of the CNIS measure is the supply of information to local authorities (the majority of which we would anticipate taking place via electronic means).	<b>Neutral</b>

## 7. Monitoring and evaluation of preferred option

50. We aim to undertake the first post-implementation review once the first year's worth of data from the CNIS registers has been returned to the department by local authorities and analysed. Information from Wales will be returned separately but will also inform the review. This assessment will take place on a yearly basis thereafter using each year's data as a comparator.

51. The CNIS legislative proposals include powers to require local authorities to provide information from their CNIS registers to the Department/ Welsh government. Using this power, we will collect and analyse the following information from local authority registers to determine how successfully the proposals have met our policy objectives:

- a. Number of children registered on CNIS registers
- b. Number of children recorded as CME
- c. Number of SAOs issued

- d. Number of children with EHCPs in England (or IDPs in Wales) who are in special schools/CPPs/s47 enquiries given consent to be EHE/declined consent
52. To identify the impact of the proposals on households and businesses, we will also request data from local authorities on:
- a. Number of fines (and amounts) issued to out-of-school education providers
  - b. Support provided to home educating families under the local authority support duty
  - c. Number of SAOs that resulted in a conviction and then fine
53. In the first year, we will compare this data against the data we hold as part of the voluntary data EHE/CME data collection that we undertake termly with local authorities. Comparison of this element in Wales would be done via direct requests to the 22 local authorities in Wales.
54. To complement the analysis of this data, we will also undertake engagement with key stakeholders post implementation through forums and roundtables. By providing forums for local authorities, parents, and out-of-school education providers to air their views on the impact of the legislation, we should be able to capture information on whether there have been any unintended consequences or disproportionate burden on households or businesses.

## **8. Minimising administrative and compliance costs for preferred option**

55. In relation to the duty on out-of-school education providers, we do not anticipate that the administrative and compliance costs will be high to begin with, as the information required will be information such providers should be holding as part of their wider business and safeguarding responsibilities. The legislation will provide for the Secretary of State and Welsh ministers to issue guidance to local authorities on the exercise of their duties. This will include guidance on how requests for information should be in a similar and consistent form and manner, including on how information could be provided electronically to save on time and administrative costs. Local authorities will be advised on the use of discretion regarding when to issue a penalty notice for failure to ensure that businesses are not overly burdened with costs when more patience or understanding could be applied, depending on the circumstances.
56. Some funding will be made available to local authorities in the initial stages of implementation to assist with any increased costs relating to register set-up or maintenance, but we anticipate these costs will be minimal. A full New Burdens Assessment (NBA) will be completed and will consider a one-off familiarisation cost and annual funding. The NBA will also consider the impact of the new duty to provide support and determine the most appropriate level of financial assistance to be provided to all local authorities and on what basis funding levels are to be allocated (e.g. size of local authority, number of EHE children in each area, existing financial pressures, ring-fenced funding etc). Wales already provides funding to local authorities to enhance existing capacity to enable LAs to determine that learners are in receipt of a suitable

education and an amount of funding based on EHE numbers to enable the LA to develop a local offer for families.

# Declaration

Department:

Department for Education

Contact details for enquiries:

[Legislation.division@education.gov.uk](mailto:Legislation.division@education.gov.uk)

Minister responsible:

Minister Morgan

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed:

Sign here 

Date:

Date 19/03/2025

## Summary: Analysis and evidence

For Final Stage Impact Assessment, please finalise these sections including the full evidence base.

Price base year: 2024/25

PV base year: 2024/25

All figures presented in 2024/25 prices across a 10 year appraisal period

	Business as usual (baseline)	Option 1: Preferred way forward	Option 3: legislation with no provider duty	Option 4: update non-stat guidance
<b>Net present social value</b>	£0m	-£13.8m (-£65.6m - -£2.5m) This figure only includes our estimates for costs to households and business in England. Costs for Wales are anticipated to be between 6-8% of costs displayed for England.	-£9.4m (-£34.2m - -£2.3m) This figure only includes our estimates for costs to households and business. Costs for Wales are anticipated to be lower than 5% of costs displayed for England.	-£3.4m (-£9.6m - -£1.1m) As we have not been able to quantify benefits, this figure only includes our estimates for costs to households and business. Costs for Wales are anticipated to be lower than 5% of costs displayed for England.
<b>Public sector financial costs</b>	£0m	£0.0m We have not monetised any public sector costs. However, there will likely be some additional administrative cost associated with data collection and storage for LAs.	£0.0m We have not monetised any public sector costs. However, there will likely be some additional administrative cost associated with data collection and storage for LAs.	£0.0m We have not monetised any public sector costs. However, there will likely be some additional administrative cost associated with data collection and storage for LAs.

	<b>Business as usual (baseline)</b>	<b>Option 1: Preferred way forward</b>	<b>Option 3: legislation with no provider duty</b>	<b>Option 4: update non-stat guidance</b>
<b>Significant un-quantified benefits and costs</b> (description, with scale where possible)	No additional costs or benefits.	By having better data on CNIS, LAs and DfE/WG will be able to identify children needing support or alternative provision to ensure they receive an appropriate education and are safeguarded. This option offers the most complete data collection.	Excluding certain providers will result in a less complete data collection that also reduces the LAs and national government's ability to support children to receive an appropriate education and improve safeguarding, significantly reducing the expected benefits.	The voluntary nature of the data collection in this option means the expected benefits will be significantly smaller in scale than the preferred option.
<b>Key risks</b> (and risk costs, and optimism bias, where relevant)	N/A	Many assumptions are highly uncertain. The risks associated have been mitigated by conducting thorough sensitivity analysis, explained in detail in the calculations sections.	Due to severe time constraints, alternative options have been costed based on an expected proportion of costs compared to the preferred option, based on the proportion of take up we expect from businesses and households. Therefore, these costs are implicitly uncertain. Crucially, the alternative options are likely to offer significantly fewer benefits than the preferred option.	
<b>Results of sensitivity analysis</b>	N/A	Thorough sensitivity analysis conducted Full explanations of sensitivity testing in calculations sections.	Ranges presented, based on a proportion of costs compared to the preferred option.	

# Evidence base

## NPSV: monetised and non-monetised costs and benefits of each shortlist option (including administrative burden)

### Costs

Monetised costs of our preferred option are broken down in more detail in the following sections.

Costs for alternative options are more uncertain. They are based on proportions of the costs in our preferred option – proportions are based on estimated rates of compliance amongst businesses and households. For both option 3, and option 4, the estimated rate of additional compliance amongst businesses is 0%, meaning no additional costs to business, this is because there is no duty placed on businesses in either option.

Option 3 has an estimated 100% additional compliance rate amongst households, as parents will have a duty to report data to their local authority. Consequently, option 3 carries the full additional cost burden of option 1 on households.

Option 4 has an estimated 33% additional compliance rate amongst households. This is based on an estimate of additional compliance based solely on additional guidance. There is no statutory duty placed upon parents in this option, and consequently no potential cost of fines.

### Benefits

One of the key benefits to this regulatory change is enabling the reduction of safeguarding risks. The NSPCC found that the discounted lifetime costs per victim of non-fatal child maltreatment is estimated to be c.£116k<sup>20</sup>. This figure is likely to be on the conservative side as the definition of maltreatment used is broad but presents a good sense of scale to the potential benefits of the policy.

For both shortlisted alternative options, the benefits would be significantly lower than our preferred option. This is because there would be large evidence gaps on EHE children and their learning environments. This would also greatly limit our ability to understand the attainment and employment outcomes of EHE children, which is another key benefit. It's also likely that, due to the non-statutory nature of these options, the evidence gaps are more likely to contain the children that could benefit most from intervention.

## Costs and benefits to business calculations

### Business Net present value: -£4.4m

We assume there are potentially four types of costs to non-school settings associated with the new legislation:

1. **Familiarisation time:** All providers of out-of-school education will need to familiarise themselves with the new legislation, to check whether any actions apply to them or not. This will be achieved through review of the section of statutory guidance relating the provider duty, which we estimate will run to around 10 pages.
2. **Reporting time:** Providers of out-of-school education, with children eligible for inclusion on the registers, that are also attending the setting for a substantive proportion of their education, will be required to send necessary information to local authority.

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<sup>20</sup> [The economic costs of child maltreatment in the UK: a preliminary study \(nspcc.org.uk\)](https://www.nspcc.org.uk/what-we-do/research-and-evidence/economic-costs-of-child-maltreatment/)



3. **Data collection time:** Sourcing information internally held for relay to the local authority, or where providers of out-of-school education voluntarily seek to collect the data required by local authorities in this legislation if not already held.
4. **Cost of fines:** If a business providing out-of-school education, with children eligible for the inclusion on the registers, does not provide necessary information to its local authority, the local authority will have power to issue a penalty fine. We have counted these costs as indirect in order to present a sense of scale, however, they are entirely avoidable through compliance.

Whilst all providers of out-of-school education will incur a familiarisation time cost, only those who provide a substantive proportion of a child's education will incur reporting and any data collection time costs. We are uncertain over how many providers already collect the required data; as such, we have considered the overall cost of the legislation both with and without a new data collection time burden for all providers of out-of-school education (where we acknowledge that some providers may proactively decide to collect the relevant information following implementation of the duty).

In order to quantify time costs across the system, we assume the following time demands from the new legislation:

- Based on average reading times<sup>21</sup>, the additional 10 pages of guidance will equate to 21 minutes of familiarisation time per setting.
- 10 minutes data collection time per student. This is an annual cost. We expect that all settings should hold the information required as part of their responsibilities around safeguarding and child welfare but cannot definitively rely on this due to the lack of regulation of the sector and unknown data protection practices or standards.
- 10 minutes reporting time per student. This is an annual cost, and is thought to be a conservative estimate, as reporting will take place via short phone calls or emails.

We assume that these tasks draw on administrative staff time, who are paid an average hourly wage of £18.50 (inclusive of a 30% uplift for employer NICs and pensions). The outcome of these assumptions is shown in the Monetised Impacts table in section (2) of Part A of Section 7 above. The assumptions set out above represent our best estimates on time demands associated with the new legislation. We have conducted sensitivity testing on the following assumptions due to their uncertainty. The ranges presented (both in this section, as the total business NPV, and the EANDBC figure in section 7a2) represent the results from all sensitivity tests combined. The maximum figures show the 'worst case' scenarios, while minimum figures show the 'best case':

- **The total number of providers of out-of-school education.** Our best estimate is 100,000 providers in England, but this is highly uncertain. Estimates for Wales are not available.
  - We believe that many of these providers will not be impacted by these regulations as i) many of them won't support any students that are majority home-educated, and ii) many that do support students will already collect their data. As such, we have estimated results with a low estimate of 25,000 impacted businesses.
  - It's also possible that there are more providers that we don't know about. To present a full sense of scale, we have also shown results in the event that there are 200,000 providers impacted.
- **The number of EHE children.** DfE's published estimate on EHE children as of October 2023 is 92,000 (not including just over 6,000 for Wales). This figure has been uplifted to account for non-response from some local authorities.
  - It's possible that there are more EHE children not counted, however this is incredibly uncertain, therefore, we have completed sensitivity tests with double the number of EHE children (184,000 for England only).
- **The proportion of EHE children learning at non-school providers.** Our best estimate for this figure is 10%, this is based on our engagement with local authorities and home-educator

<sup>21</sup> [How many words do we read per minute? A review and meta-analysis of reading rate - ScienceDirect](#)

stakeholders which has informed our understanding of the cohort's use of non-school education facilities; however it is incredibly uncertain due to the lack of data available.

- This assumption is incredibly uncertain. To show the 'worst case' scenario, we have tested this assumption by assuming 100% of EHE children are learning in these settings.
- **The familiarisation time for businesses.** We believe that the relevant guidance will be 10 pages long, which will take the average reader c.21 minutes to read.
  - We have conducted sensitivity testing doubling the time spent reading to 42 minutes.
- **The data collection time for businesses.** We have estimated that each business will spend 10 minutes per year, per pupil, collecting necessary data. This is driven by the fact that the data is simple, and collection will likely take place via short phone calls or emails.
  - It's likely that businesses educating children will already hold most (if not all) necessary data, we have tested this assumption with half the time spent collecting data per child (5 minutes).
  - Due to the inherent uncertainty of this assumption, we have also tested it with double the time spent on data collection (20 minutes).
- **The reporting time for businesses.** We have estimated that each business will spend 10 minutes per year, per child, reporting data to local authorities. As above, this is driven by the fact that the data is simple, and reporting will likely take place via short phone calls or emails.
  - Businesses with multiple learners would likely report all learners at once, and as such benefit from economies of scale on this assumption. We have tested this assumption by halving the time taken per child per year to 5 minutes, although it could feasibly be lower.
  - Due to the inherent uncertainty of this assumption, we have also tested it with double the time spent on reporting (20 minutes per pupil per year).
- **The cost of fines** to businesses are the most uncertain cost associated with this legislation. Since they are avoidable through compliance, we have chosen to include them as indirect costs to present a sense of scale.

## Impact on small and micro businesses

We have estimated that costs may equate to:

- 85% of business familiarisation costs could be attributable to SMBs, which represents c.£0.6m of costs in the first year (less than £10 per SMB).
- Data collection and reporting costs to businesses each round down to £0.0m in our central estimates. Consequently, even if 100% of businesses were SMBs, the costs would be very small, particularly per SMB.
- If 85% of business fine costs were faced by SMBs, it would represent c.£3.7m of costs over the 10-year appraisal period, based on our central estimates.
- This results in a total expected net cost to SMBs per year of c.£0.4m. However, since the cost of fines are avoidable through compliance, we have included them as indirect costs. We estimate that the total net direct cost to SMBs per year will be **c.£0.1m**.

## Costs and benefits to households' calculations

We do not anticipate any pass through costs to households from businesses offering out-of-school education for children – where the cost to businesses, to comply with the new duty to supply certain information on request to local authorities, is expected to be minimal.

Parents who electively home educate are most likely to be impacted, where the legislation will place a new obligation on them to inform their local authority of their intention to home educate, where

currently no such obligation exists. The costs incurred would be in relation to the supply of required information to support accuracy of the Children Not in School Registers (i.e. name, date of birth, and address of child; parents' names and addresses; means by which they are being education, such as the details of settings at which they are receiving part of their education); and any voluntary information, for example on reasons for electively home educating, that parents wish to provide.

We assume that impacted households will face the same four types of costs associated with the new legislation:

1. **Familiarisation time:** All parents of home educated children will need to familiarise themselves with the new legislation, to check whether any actions apply to them or not. This will be achieved through review of the section of statutory guidance relating the provider duty, which we estimate will run to around 10 pages.
2. **Reporting time:** All parents who provide home education will be required to send necessary information to their local authority.
3. **Data collection time:** Collating information for relay to the local authority. While it's likely that parents will already hold all information on their child, we have included this cost as a conservative measure to incorporate time collating data on their specific learning patterns and rationale for home learning.
4. **Cost of fines:** If a parent home-educating their child, who is eligible for the inclusion on the registers, does not provide necessary information to their local authority, the local authority will have power to issue a penalty fine. We have counted these costs as indirect in order to present a sense of scale, however, they are entirely avoidable through compliance.

In order to quantify time costs across the system, we assume the following time demands from the new legislation:

- Based on average reading times<sup>22</sup>, the additional 10 pages of guidance will equate to 21 minutes of familiarisation time per setting.
- 10 minutes data collection time per student. This is an annual cost. While it's likely that parents will already hold all required information on their child, we have included this cost as a conservative measure to incorporate time collating data on their specific learning patterns and rationale for home learning.
- 10 minutes reporting time per student. This is an annual cost, and is thought to be a conservative estimate, as reporting will take place via short phone calls or emails.

In the absence of data on parents who choose to home educate, we assume that their time will equate to that of the average UK wage, which results in an hourly rate of £24.47 (inclusive of a 30% uplift for employer NICs and pensions). We assume that one parent will face the costs per household. The outcome of these assumptions is shown in the Monetised Impacts table in section (3) of Part A of Section 7 above.

The assumptions set out above represent our best estimates on time demands associated with the new legislation. We have conducted sensitivity testing on the following assumptions due to their uncertainty. The ranges presented throughout this impact assessment represent the results from all sensitivity tests combined. The maximum figures show the 'worst case' scenarios, while minimum figures show the 'best case':

- **The number of EHE children.** DfE's published estimate on the number of EHE children in England was 92,000 on census day 2023. This figure has been uplifted to account for non-response from some LAs. We do not have data on the number of households that account for these 92,000 children. As such, we have chosen to assume that each household will account for one child as a conservative assumption (i.e. 92,000 households face familiarisation costs). The equivalent figure in Wales is 6,156 (based on latest published data September 2024).

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<sup>22</sup> [How many words do we read per minute? A review and meta-analysis of reading rate - ScienceDirect](#)

- It's highly unlikely that each EHE child will be from a separate household. Parents who choose to home-educate one child are likely to do so for every child. 55% of families with dependent children have more than one child<sup>23</sup>. To demonstrate the effects of this, we have conducted sensitivity analysis where we assume that any parent with more than one child will only face the familiarisation costs once, resulting in 66,700 parents facing the familiarisation costs, instead of the original 92,000. In Wales the equivalent number of families would be 3,386 instead of the original 6,156.
- It's possible that there are more EHE children not counted, however this is incredibly uncertain, therefore, we have completed sensitivity tests with double the number of EHE children (184,000 in England or circa 12,000 in Wales), which also results in the same number of parents facing familiarisation costs.
- **The familiarisation time for parents.** We believe that the relevant guidance will be 10 pages long, which will take the average reader c.21 minutes to read.
  - We have conducted sensitivity testing doubling the time spent reading to 42 minutes.
- **The data collection time for parents.** Although it's likely that parents will already hold all information on their child, we have included this cost as a conservative measure to incorporate time collating data on their specific learning patterns and rationale for home learning. We have estimated that each household will spend 10 minutes per year, per child, collecting and collating necessary data.
  - As it's highly likely that parents will already hold all necessary data, we have tested this assumption with no time spent collecting data per child.
  - Due to the inherent uncertainty of this assumption, we have also tested it with double the time spent on data collection/collation (20 minutes).
- **The reporting time for households.** We have estimated that each household will spend 10 minutes per year, per pupil, reporting data to local authorities. As above, this is driven by the fact that the data is simple, and reporting will likely take place via short phone calls or emails.
  - As the information required is so simple, we have tested this assumption with half the time spent on reporting (5 minutes per pupil per year).
  - Due to the inherent uncertainty of this assumption, we have also tested it with double the time spent on reporting (20 minutes per pupil per year).

The final potential cost to households is through penalty fines issued due to SAOs. Since they are avoidable through compliance, we have chosen to include them as indirect costs to present a sense of scale.

The maximum potential fine is increasing from £1,000 to £2,500, however, it's important to note that most fines related to SAOs are lower than the maximum.

We believe that the cost burden is justified to ensure children are safe and receiving a suitable education; and in particular to support the identification of CME and enable local authorities to take the necessary action to address these cases. It would also bring EHE into line with school provision, where pupils are registered with the school, ensuring all children are registered in one form or the other.

The benefit of registration to parents will take the form of a duty on local authorities to provide support to those who request it. This duty will not apply to those EHE families who are not registered, who may have a request for support legitimately turned down and receive no assistance.

## Business environment

- We do not believe that these measures will affect the business environment. The measures will only impact out-of-school education providers in England and Wales, that may have children eligible for inclusion on the Children Not in School registers attending their settings; and as highlighted above costs are expected to be minimal where requests are made for

<sup>23</sup> [Families and households in the UK - Office for National Statistics \(ons.gov.uk\)](https://ons.gov.uk/familiesandhouseholds)

information which they would already be expected to hold to support the safeguarding of children. There may be some additional costs where a provider has to obtain data they do not already have but these costs ought to be minimal as information is acquired through correspondence or a phone call as necessary.

## **Trade implications**

No identified impacts

## **Environment: Natural capital impact and decarbonisation**

- We have considered the measures and conducted an Environmental Impact Assessment. We anticipate a neutral impact - the main implication of the CNIS measures is the supply of information to local authorities (the majority of which we would anticipate taking place via electronic means).

## **Other wider impacts (consider the impacts of your proposals)**

- Equalities Impact Assessment has been carried out.
- Child's Right Impact Assessment has been carried out.

## **Risks and assumptions**

### **Evidence base for EHE and CME**

We rely on data collections made by the Department as our source of information for England. Data on EHE numbers has only been available since 2016 in the form of a voluntary survey of LAs conducted by the Association of Directors of Children's Services. This ran annually until 2021 and achieved a typical response rate of 81%. That survey was replaced from 2022 onwards by the Department's voluntary data collection, taking place on a termly (3x a year) basis. The Department's collection has requested more information points from LAs and achieved a response rate of between 91-100%, strengthening our data sources. This data collection also includes CME information, which has only been collected since 2022. The CME data so far has identified a far wider range of practices and interpretations by local authorities of terms and duties, so can be seen to be less reliable though it is clear already that improvements are being made to consistency of approach across local authorities. Reported figures for known EHE children in Wales are captured via the annual EOTAS data release, which has recorded estimated numbers of EHE children in Wales since 2009.

### **Out of school settings**

Out-of-school settings are unregulated in both England and Wales and neither the Department nor Welsh government hold data on the numbers or information about who attends them. In England, the Department have previously estimated that there could be around 100,000+ out-of-school settings (based on figures available on websites of sports, youth, education and faith sector bodies (but excluding private tutors). Many of these settings would not be in scope of our proposals. We have also estimated that over a million children receive a form of private tuition, through a centre or a tutor. However, there is extensive limitations to this data, which require caution, in part because there is no requirement for any of these types of settings to formally register with anyone e.g. Ofsted /Estyn, another regulatory body or their local authority. Where there is a potential for double counting. It would also not be appropriate to rely on this data to illustrate impact as many settings would be out of scope of our proposal as they would not provide part of the education of a child not in school (e.g. sports clubs, Sunday schools, etc.). Further, we are only concerned with children

attending such settings for part of their education who are not on a school roll. The policy is the same for Wales, with many home educated children thought to be attending an out of school provider for part or all of their education. Without mandatory registration requirements on home educating parents and out-of-school settings to provide this information to local authorities, the Welsh Government is unable to provide estimates.

Whilst we are able to cite data provided to the Department from local authorities in England on children in elective home education (92,000 on census day October 2023) and CME (33,000 on that same date), that data is somewhat limited, firstly because LAs only have to provide it on a voluntary basis and not all authorities have provided returns (either in part or in full), and secondly as there is no requirement for parents to inform their local authorities that they are home-educating and so reported numbers are of those children known to the local authority only. Finally, it is not currently known how many of those children are attending an out-of-school setting at all, nor of those who do how many are doing so for part of their education. This position is mirrored in Wales; whilst numbers of known home-educated children are reported in the annual EOTAS data return<sup>24</sup>, these are estimates of the cohort and may not reflect the actual number of children.

### **School Attendance Orders**

In England, data was not collected on SAOs prior to the 2021/22 academic year. The no. of SAOs issued in 2022 and 2023 is collected by DfE by academic year (as part of the EHE/CME data collection referred to above) whereas the prosecution and conviction data is collected by the Ministry of Justice by calendar year, so it is not possible to precisely map the total number of SAOs issued in those years to the number of prosecutions and convictions. In Wales, this information is not routinely collected by the Welsh Government. An informal request of all 22 LAs (100% return rate) showed that 23 SAOs were issued to home educating families in academic year 22/23 and of those 23, 13 resulted in further legal action due to non-compliance.

### **Assumptions about increased use of SAOs and increased fines upon conviction for breach**

Families who fail to provide information required, or provide false information, will leave the local authority unable to make an assessment that a child may not be receiving a suitable education and commence the procedures for issuing a School Attendance Order for that child. Where an Order is made and not complied with, the recipient may be prosecuted under section 443 of the Education Act 1996 in line with existing law. The effectiveness of this measure as a sanction will be reviewed in the form of analysis of the data returned by local authorities to establish how high participation in the registers by parents is in each area, and engagement with local authorities to understand rates of refusal to provide information.

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<sup>24</sup> [Pupils educated other than at school: September 2023 to August 2024 \(revised\) \[HTML\] | GOV.WALES](#)