

Senedd Cymru
Y Pwyllgor Plant, Pobl Ifanc ac Addysg

Ymchwiliad i effaith argyfwng Covid-19
ar blant a phobl ifanc yng Nghymru

COV 126
Ymateb gan: Y Comisiwn Cydraddoldeb
a Hawliau Dynol

Welsh Parliament
Children, Young People and Education Committee

Inquiry into the impact of the Covid-19 outbreak on
children and young people in Wales

COV 126
Response from: Equality and Human Rights
Commission

About the Commission

The Equality and Human Rights Commission (the Commission) is a statutory body established under the Equality Act 2006. It operates independently to encourage equality and diversity, eliminate unlawful discrimination, and protect and promote human rights. The Commission enforces equality legislation on age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, and sexual orientation. It encourages compliance with the Human Rights Act 1998 and is accredited by the UN as an 'A status' National Human Rights Institution in recognition of its independence, powers and performance.

Introduction

The Equality and Human Rights Commission welcomes the opportunity to respond to the Children, Young Person and Education Committee's consultation scrutinising Covid-19 and its impact on children and young people (including students in further and higher education).

The equality and human rights implications of the coronavirus pandemic stretch far and wide. It has precipitated a global public health and economic crisis that is significantly impacting all areas of life for everyone throughout Britain.

Early evidence and information from our stakeholders indicates that coronavirus and responses to it may be directly impacting disproportionately on some groups, and causing indirect impacts by exacerbating existing inequalities across all areas of life.

Before the outbreak of coronavirus, we knew that persistent disadvantages faced by certain groups were leaving too many people behind. Our state of the nation report, '[Is Wales Fairer? 2018](#)', found that progress in some areas was overshadowed by alarming backwards steps in others. Prospects for disabled people, some ethnic minorities and children from poorer backgrounds had worsened in many areas of life.

At this time of national crisis, there is real danger that existing inequalities in education deepen.

The Legal Framework

Public authorities in the UK are bound by the Human Rights Act 1998 (HRA) which incorporates into domestic law the rights contained in the European Convention on Human Rights (ECHR). Article 2 of the First Protocol of the ECHR protects the right of every child to an education. This right, as with the other rights enshrined within the Human Rights Act 1998 must be protected from discrimination (Article 14, ECHR).

The Equality Act 2010 ('the Act') provides a legal framework that protects individuals from unfair treatment, promoting a fair and more equal society. Whilst the public health challenges posed by this crisis are unprecedented, it is essential that every individual and organisation continues to act lawfully.

The Act prohibits discrimination against someone because of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.¹

Section 20 of the Act sets out the reasonable adjustments duty. It requires organisations to take positive steps to remove barriers that disabled people face because of their disability.

Section 149 of the Act contains the Public Sector Equality Duty (the 'PSED'). The General Duty requires all public authorities and those exercising a public function to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations between those who share protected characteristics and those who do not.²

¹ Section 4, Equality Act 2010

² Section 149, Equality Act 2010

The Specific Duties for Wales set out steps that Welsh Government, as a listed body, must take in order to demonstrate that they are paying due regard to the General Duty. The Specific Duties in Wales are set out in the Equality Act 2010 (Specific Duties) (Wales) Regulations 2010.

Completing and publishing an Equality Impact Assessment (EIA) to assess impact is one of the Specific Duties in Wales and a key way in which public authorities can assess the expected impact of their policies as they are being developed, monitor their actual impact during implementation and stop or adapt their policies when evidence shows that they can lead to unlawful discrimination or disproportionately affect people with specific protected characteristics.

The United Nations Convention on the Rights of the Child (UNCRC) is a legally-binding international agreement setting out the civil, political, economic, social and cultural rights of every child, regardless of their race, religion or abilities. Welsh Government is able to build UN human rights treaties into Welsh legislation and policy. The Rights of Children and Young Persons (Wales) Measure 2011 requires Welsh Ministers to have due regard to the UN Convention on the Rights of the Child when exercising any of their functions. One important aspect of the UNCRC is the requirement to undertake a Child Rights Impact Assessment (CRIA) of any legislation or policy which will have a direct or indirect impact on children as set out in the Children's Scheme 2014.

Article 24 of the Convention on the Rights of Persons with Disabilities (CRPD) states that disabled people must be able to access general education and vocational training without discrimination and on an equal basis with others. This includes ensuring the availability of required support, facilitating the learning of Braille and where appropriate, that education is delivered through the most suitable means.

Before the Additional Learning Needs and Educational Tribunal (Wales) Act 2018 comes into force, Welsh Government, local authorities and schools must comply with the Education Act 1996 and Learning and Skills Act 2000 to make provision for pupils with Special Educational Needs or Additional Learning Needs (SEN/ALN). The Coronavirus Act 2020 allows Welsh Government to relax these provisions and they have indicated that they may do so. Welsh Government may also amend the Education (Special Educational Needs) (Wales) Regulations 2002 which includes timescales for assessments and reviews for SEN/ALN pupils. These changes have already been made in England. The Commission has contacted Welsh Government highlighting the need to complete an EIA and CRIA ahead of making any changes.

Welsh Government has amended the Education (Admission Appeals Arrangements) (Wales) Regulations 2005 (with the Education (Admission Appeals Arrangements) (Wales) (Coronavirus) (Amendment) Regulations 2020). We wrote to the Education Minister regarding this early in May, we were pleased to see both an EIA and CRIA were then published with this change. The changes allow for hearings by video/audio or on paper for a short period so that appeal hearings can still go ahead. None of the requirements to comply with the Equality Act 2010 in the School Admissions Appeal Code have changed.

Although the provisions of the Coronavirus Act 2020 relax provisions relating to children and social services in England, there is no similar provision relating to Wales. Local Authorities in Wales must therefore comply fully with the Social Services and Wellbeing (Wales) Act 2014 to support and protect children. Welsh Government has produced operational guidance for providers of children's social care services during COVID-19 which recognises that the coronavirus pandemic presents unprecedented challenges to families in vulnerable situations and places increasing pressure on children's services. This includes local authorities, care homes, adoption services, and fostering services.

Given the impact of poverty and social exclusion on educational attainment we are pleased that Welsh Government has continued to prioritise the commencement of the socio-economic duty in Wales. We will be continuing to work closely with officials to prepare guidance and information to ensure the successful implementation of the duty.

Response

We welcome your inquiry into the impact of COVID-19 on children and young people, including children in vulnerable situations, known as ‘vulnerable children’ by Welsh Government who are facing additional challenges during this period.

We recognise that these are unprecedented circumstances, and that Welsh Government has been required to make rapid and difficult decisions in order to safeguard public health. These decisions have had widespread impact on children and young people, in all aspects of life, with many children affected physically, emotionally and psychologically. However, in this submission, we identify aspects of Welsh Government’s response to coronavirus in the area of education in Wales which risk exacerbating existing inequalities and may lead to breaches of domestic and international human rights obligations.

Assessing Impact

The PSED and UNCRC include requirements to conduct impact assessments at the beginning of any proposed policy change in order to determine if any such proposals are likely to have a disproportionate impact on any protected characteristic.

We would like to take this opportunity to highlight Welsh Government’s responsibility under the PSED. Assessing impact is one of the Specific Duties in Wales and a key way in which public authorities can assess the expected impact of their policies as they are being developed, monitor their actual impact during implementation and stop or adapt their policies when evidence shows that they can lead to unlawful discrimination or disproportionately affect people with specific protected characteristics.

At a time when Welsh Government are not able to conduct the same consultation that they would usually do and where scrutiny is reduced, EIAs and CRIAs are essential to make better legislation. They would also give Welsh Government the opportunity to publish details of all of the engagement that they have been having with stakeholders. We accept that during this time, it may not be possible to prepare the detailed EIA/CRIAs that Welsh Government usually publish, but it is still a legal requirement to publish details of how they have assessed the impact on groups with protected characteristics when making decisions.

The impact of the closure of schools and educational settings, and other restrictions implemented for people with protected characteristics is significant.

To date the only statutory instrument with a published EIA and CRIA is the Education (Admission Appeals Arrangements) (Wales) (Coronavirus) (Amendment) Regulations 2020.

Welsh Government must conduct and publish an EIA and CRIA for any new amendment, legislation or policy. Where EIAs and CRIAs have not been completed, we urge Welsh Government to rectify this and to now publish an EIA and CRIA of the current circumstances in order to ensure that there has been due consideration about how the proposals will affect different groups of young people, and mitigating actions should this identify negative impacts.

Reopening of schools

We note the statement by the Education Minister on 3rd June 2020 announcing that schools will begin to reopen from the 29th June.

As Welsh Government progresses plans to re-open schools, and some pupils remain at home, additional equality and human rights issues are likely to emerge. These include possible health and safety risks for teachers and children, which may disproportionately impact those from ethnic minority backgrounds.³ There is also a risk that schools may increase the use of restraint and exclusions to try to control the behaviour of children, whilst maintaining social distancing measures.⁴ In February 2020, we launched an inquiry into how schools in England and Wales are monitoring and recording their use of restraint and restrictive interventions, following concerns about its use and the lack of data available.⁵ Furthermore, on the 5th June 2020, we announced our inquiry into the impact of coronavirus on ethnic minorities.⁶

It is important to understand the impact of reopening of all schools to all year groups. This includes understanding whether, by making their local school available, the attendance of children in vulnerable situations and disadvantaged children, young carers and those sharing protected characteristics, including Gypsy, Roma and Travellers, increases, as suggested by the Education Minister. Understanding how well these groups are represented will allow Welsh Government to put appropriate measures in place where necessary, to prevent attainment gaps growing.

Welsh Government should ensure attendance data (and permitted non-attendance), is captured and disaggregated into protected characteristics and categories of vulnerability to understand levels of attendance and implement appropriate actions to ensure vulnerable children are attending school where possible, and receiving appropriate support if not.

³ D Batty, The Guardian, (26 May 2020), [Plans to reopen English schools 'fail to address risk to BAME staff'](#).

⁴ We have had longstanding concerns in relation to the use of restraint and exclusions: Equality and Human Rights Commission (October 2018), [Is Britain Fairer?](#), ch 2; Equality and Human Rights Commission (March 2019), [Human rights framework for restraint](#). We also launched an inquiry in Feb 2020 into how schools in England and Wales are monitoring and recording their use of restraint and restrictive interventions, following concerns about its use and the lack of data available, further details [here](#).

⁵ Further restraint inquiry details [here](#)

⁶ <https://www.equalityhumanrights.com/en/our-work/news/inquiry-impact-coronavirus-ethnic-minorities>

We welcome that the Education Minister has considered how best to increase attendance of children in more vulnerable situations and disadvantaged children. However, due to the ongoing need for some parents and pupils to continue to shield, including young carers, there will still be a number of children who will be unable to attend their local educational setting, perhaps for some time to come.

Welsh Government should develop a plan for those children who will not be able to ‘check in, catch up, and prepare’, to ensure that they are not disadvantaged in any way and receive the appropriate support and resources.

With schools and councils making their own decisions over managing the return, it is important that Welsh Government gives clear guidance on the way forward, including reiterating responsibilities under the PSED and how it can be complied with in the current circumstances.

Welsh Government should remind Local Authorities, schools and councils of their responsibilities under the PSED to ensure that appropriate EIAs and CRIAs are completed to determine if modifications are likely to have a disproportionate impact on any protected characteristic.

As plans are developed for this phased return to schools, Welsh Government should engage with stakeholders and consider equality and human rights implications and produce appropriate EIAs and CRIAs. This should consider:

- those returning to school, those who may remain on remote learning, the Post-16 sector and provision for SEN/ALN learners; and**
- the impact on existing inequalities such as attainment gaps⁷.**

⁷ Is Wales Fairer? Page 20 onwards: <https://www.equalityhumanrights.com/sites/default/files/is-britain-fairer-2018-is-wales-fairer.pdf>

Welsh Government should use relevant information including the ‘Coronavirus and Me’ survey (published 7th June) to help inform these impact assessments.

Looking ahead, schools will need to prepare for the possibility of further closures, due to a possible resurgence in coronavirus or another national emergency.

Welsh Government should develop the sector’s resilience and ability to meet the needs of all learners by working with schools and local authorities, with the participation of children, to:

- **Put a proper recovery plan in place, including individualised support packages for children who have fallen behind in their education;**
- **Strengthen aspects of the curriculum to focus on building empathy, safe relationships and well-being and Human Rights Education; and**
- **Prioritise inclusive education for children with SEN/ALN and adequately resource children’s services to meet any increased demand.**

Concerns about the safeguarding gap created by school closures

School closures have reduced the safeguarding role of schools in respect of children in vulnerable situations, leaving many at risk. While government guidance specifies that schools should remain open for children identified as 'vulnerable', the narrow definition excludes other at-risk groups; for example children with SEN/ALN will not have a statement if they are at 'school action plus' or 'school action' under the SEN Code of Practice for Wales (the new ALN (Wales) Act 2018 is not yet in force), and uptake of school places by 'vulnerable' children has been low. Data Cymru and Welsh Government statistics⁸ show an average of just 2.7% of vulnerable children attended educational settings between 24th March and 29th May 2020.

Welsh Government should collect attendance data for each category of vulnerable child and then use it to make sure that the appropriate support for pupils with SEN is provided, and identify additional support required by other pupils, whether they are attending hubs or are at home.

⁸ <https://gov.wales/attendance-local-authority-settings-during-coronavirus-covid-19-pandemic>

There are particular concerns about the impact of school closures on children at risk of abuse and neglect – including domestic abuse, harmful practices⁹, online abuse and grooming¹⁰ and children at risk of criminal exploitation – and the lack of a ‘back-up system’ to ensure their safety. Disabled children are more likely to be subject to abuse or neglect, and can face challenges in reporting abuse.¹¹ LGBT young people may also be at risk of abuse in the home from hostile family members. Schools have crucial role in safeguarding and supporting children and young people who have experienced abuse.

Welsh Government should support schools to monitor and identify indicators of abuse when children return to school, ensuring they have the resources to support those who have experienced abuse. Welsh Government should also monitor children’s services to ensure appropriate support is available and provided as necessary.

9 Including female genital mutilation and forced marriage: see Oxford Against Cutting (May 2020), Launch of lockdown poster campaign to support those at risk of female genital mutilation (FGM) or forced marriage; The Independent (May 2020), Coronavirus could cause rise in witchcraft and possession allegations in UK, police say

10 BBC News (27 March 2020), Coronavirus: Online child abuse warning during lockdown; The Children’s Society (April 2020), Covid-19’s impact on children at risk of abuse, neglect and exploitation.

11 The NSPCC has highlighted that disabled children and young people are three times more likely to be abused or neglected than non-disabled young people: see NSPCC (2020), *Coronavirus (COVID-19) and keeping children safe from abuse*; and Social Care Institute for Excellence (April 2020), *Safeguarding children and families during the COVID-19 crisis*.

Disproportionate impact of school closures on children with SEN/ALN

The guidance issued by Welsh Government states that, where possible, learners with statements of SEN will continue to have their needs met, with Local Authorities taking all reasonable steps to ensure the necessary provision is delivered by their school and/or registered childcare setting. Due to the relaxed approach to the national minimum standards for regulated childcare and the impact of the current situation on resourcing, there is a risk that the ratio of appropriately qualified teaching staff available to children with SEN/ALN may not be appropriate.

Currently all local authorities in Wales remain under obligation to comply with the law and regulations regarding Special Educational needs. There is no immediate change to the duties on local authorities. Under the Coronavirus Act 2020, Welsh Government has the power to modify this requirement, rather than an absolute duty, which would mean that Local Authorities would be able to use 'reasonable endeavours' to deliver the provision. Welsh Government has indicated that they will be using this power. It is crucial for Welsh Government to provide effective oversight of local authorities' and health bodies' efforts in this regard whether or not this power is used, in order to ensure that decision-making complies with equality and human rights obligations.

Where the power to modify duties on local authorities under the Coronavirus Act 2020 is used and modifications are made, Welsh Government should ensure that appropriate EIAs and CRIAs are completed. These should determine if modifications are likely to have a disproportionate impact on any protected characteristic.

Data Cymru and Welsh Government statistics show an average of just 2.7% of vulnerable children attending educational settings between 24th March and 29th May 2020. The number attending at the beginning of lockdown (1.2%) has increased in the weeks since, to 3.9%, but this is still low, and suggestive of a large number of vulnerable children not receiving the support they require.

Welsh Government should monitor the provision of support provided to vulnerable children and young people, and ensure those who stay at home receive the support they need, including specialist equipment, training materials and social care. Local authorities should provide evidence to demonstrate the uptake and adequacy of available learning provisions.

Anecdotal feedback suggests that additional learning support is not being proactively offered to those with statements of SEN, and that schools equipped to support these children and young people are closed. On 28th April, Welsh Government advised that parents who want to find out more about the support available to them and their children should get in touch with their local education authority. There is a risk that families with parents in vulnerable situations may not be in a position to ask for this help. Snap Cymru reference such an example in their own submission to this inquiry; e.g. a vulnerable situation where a mother with a young child with ADHD had not engaged with anyone – (school included) for three weeks or more. SNAP Cymru made contact and found the mother had not been taking essential medication in this time.

Attainment gaps for young people with SEN/ALN are of particular concern for the Commission. [‘Is Wales Fairer? 2018’](#) sets out:

- Attainment was substantially lower for children with SEN/ALN than those without SEN/ALN. Children with severe learning difficulties and children with profound and multiple learning difficulties had the lowest attainment.

- Only one in five pupils with SEN/ALN (20.6%) reached the attainment threshold, compared with two-thirds of pupils without SEN/ALN (66.6%). Attainment was particularly low for pupils with social, emotional and behavioural impairments (16.6%), speech, language and communications needs (15.6%), general learning difficulties (14.9%), and moderate learning difficulties (9.7%). Data were not available on pupils with severe or profound and multiple learning difficulties.

There is a risk that without appropriate support being offered at this time, the Coronavirus outbreak could further widen attainment gaps. Under existing conditions, there is a risk that children and young people with additional learning needs may be disadvantaged because of a lack of resource capacity to keep them safe, and the mental impact of social distancing as required. These children and young people need the structure of learning and skills provision delivered by people who are knowledgeable, skilled and committed to give the highest standards of care. In many cases, this care cannot be replicated in the home environment.

The long term impact on attainment for this group of children could be massive. As lockdown measures are eased and schools start to return, if their safety cannot be guaranteed their return will be delayed.

It has become clear that the closure of schools and other restrictions enforced during this time may further widen the inequalities that we already see within society. Gaps in available data, for example in relation to the religion or belief of children, and the lack of disaggregated data, including by ethnic group and impairment type, mean that we do not have a full picture of the equality and human rights issues arising from the pandemic.

Impact of remote learning on widening educational inequalities

We welcome Welsh Government's commitment to making online learning available. However, online learning is a creative alternative to classroom learning which poses challenges for children who have limited or no access to technology or the Internet or do not have adequate parental support. Inequalities in the home-learning environment risk undermining the right to education, and exacerbating existing attainment gaps for certain groups including disabled pupils, some ethnic minorities and those who are socioeconomically disadvantaged.

We welcome Welsh Government's intention to raise standards and ensure reduction of attainment gaps will remain a focus during these extraordinary times. However, access to technology is a significant concern. There are particular issues with digital exclusion for some pupils sharing protected characteristics, including Gypsy, Roma and Travellers. ['Is Wales Fairer? 2018'](#) found there continues to be areas of digital exclusion, particularly in rural areas of Wales. Additionally, it was found that households in social housing were less likely to have access to the internet in 2016/17 (72%) compared with those in privately rented or owner-occupied housing (88% and 87%)

Although there has been an extra £3 million pledged to support 'digitally excluded' learners in Wales, we are concerned about delays in children and young people receiving this provision, and the lack of detail around how this will be implemented. For example, many children from lower income families share a laptop with siblings and working parents, or live in a mobile phone-only household. Without appropriate resources, there is a risk that these children, already amongst the most educationally disadvantaged, may fall further behind.

Welsh Government should ensure assessments of the impact of school closures on attainment gaps are disaggregated by protected characteristics and socio-economic background. Sufficient funding should be secured for schools to develop individualised support plans tailored to the needs of particular groups.

Welsh Government should seek to ensure that the provision of digital devices and internet access is available to children of all ages who do not have adequate access to computers or the internet, including those in primary education.

Impact of remote learning on children and young people's mental health and safety

We are concerned that remote learning potentially increases the risk of exposure of both children¹² and young people to online harms.¹³ We know that the spectrum of online harms disproportionately affects those who share certain protected characteristics. As a result, we welcome the Online Safety resource for Wales.¹⁴

12 National Crime Agency (04 April 2020), Law enforcement in coronavirus online safety push as National Crime Agency reveals 300,000 in UK pose sexual threat to children; NSPCC (27 March 2020), Hundreds of children counselled over impact of coronavirus outbreak; The Independent, Coronavirus: 90% fewer child sex abuse images taken down during pandemic, watchdog warns. The Guardian (22 April 2020), Harassment fears as students post extreme pornography in online lessons.

13 "Online harms" is the umbrella terms for a spectrum of harmful online behaviour – from child sexual abuse, terrorism and revenge porn through to hate crime, harassment and intimidation/bullying. We have also provided evidence on our more general concerns about mental health to the Health and Social Care Committee, accessible here.

14 <https://hwb.gov.wales/zones/online-safety>

Given the current increased dependence on digital technologies, Welsh Government should encourage UK Government to deliver on its commitment to work with the technology industry to reduce exposure of children and young people to online harms,¹⁵ while ensuring that any measures adopted are consistent with the right to freedom of expression.¹⁶

The impact of school closures on social isolation and related mental health issues among children and young people also raises concerns.¹⁷

Early evidence suggests certain groups may be experiencing particularly poor mental health, including children and young people. According to a longitudinal study which is tracking mental health across the pandemic, one in four adults (24 per cent) in the UK have felt lonely because of Coronavirus. The most affected group were young people (aged 18-24 years) – with more than four in ten (44 per cent) saying they felt lonely¹⁸.

Despite this, evidence suggests people are already experiencing greater difficulty and delays accessing mental health services, including services for children.¹⁹ These delays risk exacerbating the existing mental health inequalities present before the pandemic.²⁰

15 Department for Digital, Culture, Media & Sport and the Home Office (12 February 2020), Online Harms White Paper – Initial consultation response.

16 See Article 10, European Convention on Human Rights and Article 19, International Covenant on Civil and Political Rights (ICCPR). We also raised this issue in our recent submission on the ICCPR: Equality and Human Rights Commission (March 2020), Civil and political rights in Great Britain, p 90.

17 Childline has reported an unprecedented spike in demand for their services since the outbreak of COVID-19. See: NSPCC (27 March 2020), Hundreds of children counselled over impact of coronavirus (COVID-19) outbreak; A survey of 2111 young people up to the age of 25 years with a mental health history in the UK showed 83% said that the current pandemic and associated restrictions had made their conditions worse. See YoungMinds (March 2020) Coronavirus: Impact on Young People with Mental Health Needs. BBC News (19 May 2020).

18 <https://www.mentalhealth.org.uk/news/almost-quarter-adults-living-under-lockdown-uk-have-felt-loneliness>

19 Child and Adolescent Mental Health Services have reported significant drops in referrals as normal referral routes such as schools and GPs have become more difficult to access. See Thomas, R. (10 April 2020), 'Major drop off in referrals to children's mental health services', Health Service Journal.

20 See e.g. Williams, E. et al. (18 February 2020), 'What are health inequalities?', The King's Fund, and Commission for Equality in Mental Health (January 2020), 'Briefing 1: Determinants of mental health'.

While the majority of those who responded to the ‘Coronavirus and Me’ survey said that while they know where to get help in regards to their mental health and wellbeing, only 39% of young people aged 12-18 would feel confident seeking school counselling at the current time. The Royal College of Psychiatrists is ‘monitoring early signs that child and adolescent suicide rates may have risen since the lockdown began’.²¹

Welsh Government should commit to long-term funding of pastoral therapeutic care in schools, as well as child and adolescent mental health services, during and after the pandemic, along with resources to publicise nationally the availability of these services.²²

Concerns about discrimination in approaches to grading

The Commission expressed early concern about proposals to replace GCSE, AS and A level exams with predicted grades this year. We highlighted evidence that there may be patterns of conscious or unconscious bias when teachers predict grades, with particular implications for ethnic minority pupils, including Gypsy, Roma and Traveller pupils, and children with SEN/ALN.

²¹ Royal College of Psychiatrists (2020), ‘[COVID 19 and Mental Health April 2020](#)’.

²² UN Committee on the Rights of the Child (3 June 2016), Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland. See also an open letter to Government on young people’s mental health during lockdown by over 30 organisations (May 2020).

We welcomed Qualifications Wales decision to consult on the exceptional arrangements for awarding exam grades this year²³ and provided evidence. Together with the Children's Commissioner for Wales, we wrote to the Education Minister to recommend urgent action to support schools and teachers in predicting grades and ranking students. We received a positive update from the Minister.

We are pleased that Qualifications Wales have taken on board our recommendations. Guidance on the approach that teachers should take to predicting grades and ranking pupils, to minimise the risk of conscious or unconscious bias²⁴ has been shared with exam centres by WJEC.

Qualifications Wales have provided further information to heads of centres, on their obligations in relation to the Public Sector Equality Duty²⁵.

We also raised within our response to Qualifications Wales concerns that for a number of reasons some learners may not be able to receive a centre assessment grade and rank. This may have a disproportionate impact on certain groups of young people that are home schooled. While we know the home education sector is diverse, reasons for home learning can, for example, be because of additional learning needs and religious beliefs.²⁶

To ensure that this process is effective:

²³ Qualifications Wales (28th April 2020), [Consultation on the arrangements for the summer 2020 exam series](#).

²⁴ Ofqual (22 May 2020), [Guidance for Heads of Centre, Heads of Department and teachers on objectivity in grading and ranking](#).

²⁵ Qualifications Wales (18th May 2020) Information for Centres on the submission of Centre Assessment Grades.

²⁶ <http://safeguardingboard.wales/wp-content/uploads/sites/8/2017/11/2017-11-14-Home-Education-Report-Final-13.10.17.pdf>

Qualifications Wales should conduct an evaluation of the exceptional arrangements for awarding grades once the process has concluded. If the evaluation reveals higher than average disparities for pupils sharing particular protected characteristics, or from socio-economically disadvantaged backgrounds, these should be investigated by Qualifications Wales.

Qualifications Wales should publish information in easy to understand and accessible formats about the routes available for pupils to challenge the grades that they are awarded through this year's exceptional arrangements, including on grounds of suspected unlawful discrimination.

Qualifications Wales should ensure the guidance on objectivity in grading and ranking is clearly included and referenced within its own 'Information for Centres on the submission of Centre Assessment Grades.'

Qualifications Wales need to provide an update on how to mitigate disadvantage for private candidates so these students are not disadvantaged in receiving their grades.

Higher Education

Welsh Government's Resilience Plan for post-16 learning, launched to support education for over-16s²⁷ demonstrates that widening access remains a commitment. Given the concerns about discrimination in approaches to grading these arrangements may impact on admissions to higher education, both now and in the near future. We welcome HEFCW monitoring institutional performance and evaluating behaviour in relation to admissions to Welsh institutions.

²⁷
https://www.hefcw.ac.uk/documents/publications/corporate_documents/Policy%20statement%20on%20higher%20education%20English.pdf

In taking account of admissions, HEFCW should set out clearly how they will monitor and evaluate admissions to HE institutions in Wales over the next three years, to identify whether particular protected groups are adversely affected, in order to ensure the commitment to widening access is maintained.

Furthermore, there are concerns about the lack of a consistent approach to student assessments, with some universities cancelling non-essential exams while others continue with assessed course work and online examinations. Students who do not have access to the required technology and disabled students are likely to be adversely impacted, given uncertainties about the extent to which the different approaches will accommodate reasonable adjustments.²⁸

HEFCW should clarify the need for higher education providers to involve students and representative bodies at an early stage in the process of developing their approach to assessments. This should include reminding them of their legal obligations under the Equality Act.

²⁸ NUS (14 April 2020), 'National approach needed to exams, assessment and 'no detriment' [on-line press release]