

Curriculum and Assessment (Wales) Bill: Bill Summary (Stage 2)

February 2021



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1. Introduction

1. The Minister for Education, Kirsty Williams MS, introduced the **Curriculum and Assessment (Wales) Bill** [‘the Bill’] to the Senedd on 6 July 2020. The Bill is currently at Stage 3 of the **Senedd’s legislative process**.
2. Subject to its successful passage through the Senedd, the Bill will provide the statutory foundation for the Welsh Government’s reform of the curriculum for 3 to 16 year olds. It will replace the existing national curriculum in Wales, which was established in 1988 on an England and Wales basis, with a new Curriculum for Wales. Whilst devolution has enabled the curriculum to be adapted in Wales, most notably in 2010 with the introduction of the Foundation Phase in place of Key Stage 1, this legislation marks the first construction of a distinct Welsh curriculum.
3. The Bill marks a substantial departure from the relatively prescribed nature of the current national curriculum. Primarily intended to be purpose-led rather than content-based, with a greater emphasis on skills, the Curriculum for Wales gives schools considerable flexibility in designing their own curriculum, within a broad national framework provided by the Bill and associated codes and guidance. This new approach to the curriculum follows Professor Graham Donaldson’s **‘Successful Futures’** report in 2015.
4. The Bill provides for a Curriculum for Wales structured around four purposes, six Areas of Learning and Experience (AoLEs), three cross-curricular skills, four mandatory elements and several curriculum requirements. The remaining detail of the curriculum will be set out in three statutory codes and a suite of statutory guidance. The Welsh Government **published the Curriculum for Wales in January 2020**, which it intends making statutory following the Bill being passed.
5. For further details of the Bill itself, see the **Bill Summary** we published upon the Bill’s introduction. This paper focuses on the changes to the Bill at Stage 2, rather than what the Bill does and which is already detailed in the Bill Summary.

2. Stage 1 scrutiny

6. The **Children, Young People and Education (CYPE) Committee** scrutinised the general principles of the Bill at Stage 1. The **Finance Committee** and the **Legislation, Justice and Constitution Committee** also reported on their scrutiny of the Bill.
7. The CYPE Committee supported the general principles of the Bill and the purpose-led approach of the new Curriculum for Wales but expressed concern about its implementation and whether all children across Wales will get the same opportunities and experiences from their education.
8. The CYPE Committee made 66 recommendations. These focus on seeking the right balance between local flexibility and national consistency, and making sure that existing inequalities are not made any worse. The Committee recognises that the Bill's approach means that the new curriculum will not be exactly the same across all schools but urges that it must still be sufficiently consistent.
9. The Welsh Government's responses to the three Committees' reports can be found on the **Bill page** on the Senedd website.
10. The Senedd agreed the general principles of the Bill during the Stage 1 debate on **15 December 2020**.

3. Stage 2 amendments

Summary

- 11.** Stage 2 began on 16 December 2020, concluding on 29 January 2021. The CYPE Committee met to consider and dispose of the Stage 2 amendments on **29 January 2021**.
- 12.** 89 amendments were put forward at Stage 2. Of these, 40 were tabled by the Minister, while 49 were tabled by Committee Members (40 by Suzy Davies MS and 9 by Sian Gwenllian MS).
 - The 40 amendments tabled by the Minister were all agreed.
 - Of the remaining 49 amendments:
 - 42 were rejected.
 - 6 were either withdrawn or not moved following explanations and assurances given by the Minister (amendments 70, 89, 71, 72, 76, 79) [listed in the order they were considered by the CYPE Committee].
 - 1 amendment (amendment 82) fell due to being consequential to an earlier defeated amendment.
- 13.** The **minutes** and **transcript** of the CYPE Committee's meeting (**29 January 2021**) set out the proceedings in detail.
- 14.** The most significant agreed amendments were arguably:
 - A change in the mechanism used by the Bill to enable the continuation of the established practice in Welsh-medium settings of **immersing children below age 7 in the Welsh language**. Rather than giving individual settings a power to disapply the requirement to teach English, the Bill now makes English mandatory above age 7 (Year 3 onwards) only.
 - Several changes to the provisions for **Religion, Values and Ethics (RVE)**, compared to the Bill as introduced:
 - Where schools with a religious character are required to provide non-denominational RVE, they must all do so 'having regard' to the locally agreed syllabus set for all schools rather than there being differences depending on the school's governance category.
 - RVE provision will now reflect the traditions and convictions in 'Wales' rather than 'Great Britain' as per the Bill as introduced.

- Changes relating to the composition and administrative arrangements of Standing Advisory Councils and Agreed Syllabus Conferences.
- A new duty on specified persons (including head teachers and school governing bodies) to **have regard to the mental health and emotional well-being** of children and young people in the way they deliver the curriculum.

15. The Minister made a number of commitments during discussion of amendments tabled at Stage 2, including:

- Whilst arguing against an amendment requiring a statutory code on how Welsh will be taught in Welsh-medium and English-medium schools respectively (a ‘Teaching Welsh on a Single Continuum Code’), the Minister said the Welsh Government would develop a ‘Welsh language framework’.
- The Minister said she would work with the Relationships and Sexuality Education (RSE) Working Group to ensure menstrual well-being education would be included in the RSE Code.
- The Minister said the Welsh Government would work ‘as hard as we can’ to provide the detail on how RSE and RVE will be delivered under the new curriculum and she was ‘absolutely determined’ that a draft version of the RSE Code would be completed by the end of March 2021.
- Arguing that the duty to have regard to mental health and well-being was more important than mandating curriculum content on the face of the Bill, the Minister added she would review, and seek to strengthen, references to mental health within the Health and Well-being AoLE.
- Whilst arguing against an amendment to include a duty of due regard to the UN Conventions on the Rights of the Child and the Rights of Persons with Disabilities, the Minister said she would consider how the Welsh Government could respond positively to concerns in this area.

16. Amendments were grouped together to facilitate debate. There were 17 groups which are discussed in turn in the following section.

Group 1: History of Wales in all of its diversity, including Black and People of Colour History

17. Amendments were rejected which would explicitly require on the face of the Bill the teaching of History of Wales in all of its diversity, including Black and People of Colour History - whether as part of the Humanities Area of Learning and Experience (AoLE), as a mandatory element of the curriculum, or specified as a key concept in the code setting out ‘what matters’ within each AoLE.

Arguing against the amendments, the Minister said that such content would already be mandatory through the statutory guidance that will be issued to underpin the AoLEs.

Group 2: The Welsh language

- 18.** The Minister's amendments (Amendments 2 to 5) addressed one of the most prominent issues emerging from the Bill's scrutiny at Stage 1. They have the effect of not making the teaching of English mandatory until Year 3, enabling Welsh-medium settings to continue with the established practice of fully immersing children in Welsh up to age 7 to develop their Welsh language skills. As introduced at Stage 1, the Bill had provided for this possibility but it depended on individual settings disapplying the mandatory status of English prior to age 7.
- 19.** Another amendment (Amendment 8) tabled by the Minister inserted a duty on the Welsh Ministers to promote access to and availability of courses of study through the medium of Welsh. This replaces an existing duty on local authorities which will cease to apply when the new curriculum comes into effect.
- 20.** Amendment 44 was rejected, which sought to establish a statutory code for 'Teaching Welsh on a Single Continuum'. This is something the Welsh Language Commissioner has called for to provide clarity and direction on how Welsh will be taught in Welsh-medium and English-medium schools respectively under the new curriculum. The CYPE Committee highlighted this issue in its Stage 1 report and recommended that the Welsh Government work with the Welsh Language Commissioner to resolve it.
- 21.** The Minister said that whilst she did not see the need for a statutory code, the Welsh Government would develop a 'Welsh language framework' to address such concerns. She said such a framework will 'seek to provide particular support for those teaching Welsh language in English-medium schools, which, I acknowledge, is something that we need to do far better'.

Group 3: Lifesaving skills and first aid

- 22.** Amendments were rejected which sought to include lifesaving and first aid as a key concept within the What Matters Code and as a mandatory element in the curriculum.
- 23.** The Minister argued this was unnecessary as such items would be included in the statutory guidance issued regarding the AoLEs which make up the Curriculum for Wales.

Group 4: Menstrual well-being education

- 24.** Amendments were rejected which would require menstrual well-being education to be included in the statutory code on Relationships and Sexuality Education (RSE) and specified as part of the mandatory element of RSE.
- 25.** However, the Minister said that she would work with the working group developing the RSE Code to ensure this topic is included in the code.

Group 5: Relationships and Sexuality Education (RSE)

- 26.** None of the amendments in this group were agreed. They included requiring school governing bodies and early years providers to consult with parents on the RSE provided to pupils, for RSE to encourage learners to have regard to the value of family life and a requirement on the Welsh Ministers to issue the RSE Code by the end of March 2022.
- 27.** Whilst arguing against the amendment regarding the timeframe for issuing the RSE Code, the Minister said she was 'absolutely determined' that a draft version would be ready for consultation by the end of March 2021.

Group 6: Implementation timeframe

- 28.** Amendments were rejected which would have allowed a school to delay adoption of the curriculum it had designed for up to one year due to disruption from COVID-19. The Bill does not specify when the new Curriculum for Wales will become statutory, although the Welsh Government plans to phase its introduction from September 2022. The Welsh Government published its **Curriculum for Wales: Implementation plan** in January 2021.
- 29.** The Minister agreed that the disruption from COVID-19 is a 'real issue' but argued the solution was not to 'slow things down' but to support individual schools in preparing for implementation.

Group 7: Religion, Values and Ethics (RVE)

- 30.** The Minister's amendments, which were agreed, addressed recommendations made by the CYPE Committee in its Stage 1 report.
- 31.** Amendments 15 to 17 removed what some stakeholders argued was an anomaly in the differing requirements on schools with a religious character, according to their governance category. The Bill provides for schools with a religious character to design and deliver a form of RVE according to their own faith as well as a form of RVE in line with the locally agreed syllabus set for all schools. However, as introduced at Stage 1, the Bill required voluntary aided

schools with a religious character to offer a form of RVE that ‘accords with’ the agreed syllabus whilst voluntary controlled schools with a religious character only had to provide RVE ‘having regard’ to the agreed syllabus. The Bill, as amended at Stage 2, requires all schools with a religious character – whether voluntary aided or voluntary controlled – to offer RVE ‘having regard’ to the agreed syllabus.

- 32.** Amendments 18 to 20 replaced the requirement for RVE to reflect traditions and philosophical convictions in ‘Great Britain’ in the Bill as introduced to traditions and philosophical convictions in ‘Wales’.
- 33.** Amendments 29 to 34 changed the provisions in the Bill as introduced relating to the composition and administrative arrangements of Standing Advisory Councils for RVE and Agreed Syllabus Conferences, which make decisions about the RVE provided in each local authority area. The amendments responded to concerns raised during Stage 1 about the impact the provisions in the Bill as originally drafted could have on voting rights within the organisations.

Group 8: Curriculum implementation: Exceptions

- 34.** Amendment 62, which sought to require the Welsh Ministers to lay a statement before the Senedd when making exceptions to curriculum requirements in order to facilitate development work and experiments, was rejected. The Minister said the existing requirement for information to be published alongside the direction was sufficient.
- 35.** Amendments 63 and 64 regarding appeals against temporary exceptions for individual children were also rejected.

Group 9: Education otherwise than at school (EOTAS)

- 36.** Amendment 65, which was aimed at ensuring the curriculum in EOTAS is suitable for individual learners, was rejected. The Minister said it was unnecessary as the Bill already provides for this.
- 37.** Amendments 67 and 68 relating to the complaints process regarding the curriculum provided in a Pupil Referral Unit and other education settings, were also rejected.

Group 10: Assessment and progression

- 38.** Amendment 6, tabled by the Minister, responded to the CYPE Committee’s recommendation that the Bill should compel rather than permit the Welsh Ministers to make regulations about assessment arrangements.

39. However, the Minister argued against Amendment 69, which would have required the Welsh Ministers to set annual progression targets in the three mandatory cross-curricular skills of literacy, numeracy and digital competence. The CYPE Committee subsequently rejected this amendment.

Group 11: Mental health and emotional well-being

40. Amendment 7, tabled by the Minister, responded to recommendation 9 of the CYPE Committee's Stage 1 report that the Bill should specifically refer to mental health and well-being and its place in the curriculum. The amendment, which was agreed, places a duty on specified persons to have regard to the mental health and emotional well-being of children and young people when exercising functions under the legislation.

41. The Minister said that such a duty would be more effective in ensuring mental health is given prominence within schools than including it as a mandatory element of the curriculum on the face of the Bill. She added that mental health will already be a key concept within the Health and Well-being AoLE but undertook to review and seek to strengthen this.

Group 12: Duties: United Nations Conventions

42. Amendments in this group sought to place a duty on relevant persons exercising functions under the Act to have due regard to the UN Convention on the Rights of the Child (UNRC) and the UN Convention on the Rights of Persons with Disabilities. The amendments sought to give effect to recommendation 13 of the CYPE Committee's Stage 1 report.

43. Similar provisions exist within the Social Services and Well-being (Wales) Act 2014 and the Additional Learning Needs and Education Tribunal (Wales) Act 2018, although in both cases these were added by amendment following scrutiny.

44. The Welsh Government has historically resisted having a 'due regard' duty on the face of legislation and, as stated above, similar provisions are only in other Acts because of scrutiny and amendment during the Senedd's legislative process. This is because it believes the UNCRC already has statutory status through the Rights of Children and Young Persons (Wales) Measure 2011 and new legislation should not replicate what is already on the statute book. Furthermore, the Welsh Government's stance is that the UNCRC is aimed at states rather than frontline service providers and it is for governments to ensure compliance through laws, administrative actions and other measures.

45. Whilst arguing against the amendments, the Minister undertook to consider how the Welsh Government could respond positively to the Committee's recommendation, 'striking that balance between promoting rights and ensuring that there's a manageable situation for individual headteachers and schools'. The amendments were subsequently either withdrawn or not moved.

Group 13: Provision of information

46. An amendment was rejected, which sought to require relevant persons to provide information about how they are meeting various 'have regard' duties in the Bill.

Group 14: General duties and guidance

47. Amendment 21, tabled by the Minister, inserted a duty on specified persons (e.g. head teachers, school governing bodies, further education institutions) to co-operate with each other where they consider this would facilitate the exercise of their functions under the Act.

48. Amendments 22 to 24 made minor drafting changes to the Bill.

49. Other amendments in this group were rejected. However, whilst arguing against Amendment 74 concerning a timescale for the availability of guidance on RSE and RVE, the Minister said the Welsh Government would work 'as hard as we can' to provide the detail on how these two mandatory elements of the curriculum will be delivered.

Group 15: Detained children and young persons

50. Amendment 25, tabled by the Minister, inserted a new section enabling the Welsh Ministers to make regulations applying the Act to children and young people detained under the criminal justice system in Wales. Without the amendment, such children and young people would not be subject to the curriculum entitlements contained in the Act.

Group 16: Reporting

51. An amendment sought to require the Welsh Ministers to publish a report on the operation of the Act at yearly intervals until 2028. In light of the publication of the Curriculum for Wales: Implementation Plan and the Welsh Government's commitment to issue annual reports, together with opportunities to discuss this further at Stage 3, the Member withdrew the amendment.

Group 17: General

- 52.** Amendments in this group made several changes to procedures for codes and regulations, including requiring that the RSE Code be subject to the Senedd's affirmative rather than the negative procedure.

4. Next steps: Stage 3 and beyond

- 53.** The Bill's journey through Stage 3 of the Senedd's legislative process began on 1 February 2021. During this stage, Members of the Senedd (including the Minister) have the opportunity to table amendments to the [Bill as amended at Stage 2](#). Amendments that have been tabled can be found on the [Bill page](#).
- 54.** The whole of the Senedd will dispose of the amendments tabled at Stage 3 in Plenary on Tuesday 2 March 2021. The Senedd will then be asked to vote on whether or not to pass the Bill at Stage 4, which is scheduled for 9 March 2021.
- 55.** If passed by the Senedd at Stage 4, a Bill must receive Royal Assent from the monarch before formally becoming a piece of law.
- 56.** The Welsh Government plans to introduce the Curriculum for Wales on a phased basis from September 2022, initially in primary school and Year 7 (usually the first year of secondary school). It will then be rolled out to subsequent year groups as these pupils progress through school, until they reach Year 11 in 2026/27.
- 57.** The Welsh Government will need to issue the various codes and guidance before the new curriculum's introduction and has published an [implementation plan](#).