



Llywodraeth Cymru
Ymgynghoriad – crynodeb o'r ymatebion

Canllawiau anstatudol drafft ar gyfer awdurdodau
lleol ar addysg ddewisol yn y cartref

Dyddiad cyhoeddi: Ionawr 2017

Canllawiau anstatudol drafft ar gyfer awdurdodau lleol ar addysg ddewisol yn y cartref

Cynulleidfa	Awdurdodau lleol; plant a phobl ifanc sy'n cael eu haddysgu yn y cartref; rhieni/gofalwyr a pherthnasau sy'n addysgu yn y cartref; sefydliadau sy'n cynrychioli teuluoedd sy'n addysgu yn y cartref; sefydliadau sydd â buddiant mewn addysg ddewisol yn y cartref; sefydliadau sy'n gyfrifol am blant a phobl ifanc.
Trosolwg	Mae'r ddogfen hon yn rhoi crynodeb o'r ymatebion a gafodd Llywodraeth Cymru yn ystod ei hymgyngoriad yn 2015 ar ganllawiau anstatudol newydd i awdurdodau lleol ar addysg ddewisol yn y cartref.
Camau i'w cymryd	Dim – er gwybodaeth yn unig
Rhagor o wybodaeth	Dylid cyfeirio ymholiadau am y ddogfen hon at: Y Gangen Lles Disgyblion Yr Is-adran Cymorth i Ddysgwyr Y Gyfarwyddiaeth Addysg Llywodraeth Cymru Parc Cathays Caerdydd CF10 3NQ e-bost: WELLBEINGshare@cymru.gsi.gov.uk
Copïau ychwanegol	Mae'r ddogfen hon ar gael ar wefan Llywodraeth Cymru yn ymgyngoriadau.llyw.cymru/
Dogfennau cysylltiedig	<i>Canllawiau anstatudol i awdurdodau lleol ar addysg ddewisol yn y cartref (2016)</i>

Cynnwys

Crynodeb gweithredol	2
Ymgynghori	3
Y prif ganfyddiadau	3
Methodoleg ymateb	3
Casgliadau	17

Crynodeb gweithredol

Yn 2012 cynhaliodd Llywodraeth Cymru ymgynghoriad ar gynigion deddfwriaethol i gyflwyno system orfodol ar gyfer cofrestru a monitro plant a phobl ifanc sy'n cael eu haddysgu yn y cartref. Cafwyd mwy na 500 o ymatebion i'r ymgynghoriad oddi wrth awdurdodau lleol, teuluoedd sy'n addysgu yn y cartref a sefydliadau sy'n gyfrifol am addysg a phlant a phobl ifanc.

Roedd mwyafrif y teuluoedd sy'n addysgu yn y cartref ac asiantaethau sy'n cefnogi addysg ddewisol yn y cartref yn gwrthwynebu'r cynigion. Fodd bynnag, roedd mwyafrif yr awdurdodau lleol a sefydliadau sy'n gyfrifol am blant a phobl ifanc yn eu cefnogi. Ar ôl ystyried yr ymatebion i'r ymgynghoriad, penderfynodd y Gweinidog Addysg a Sgiliau beidio â symud ymlaen â'r ddeddfwriaeth, ac yn lle hynny y dylai'r canllawiau presennol ar addysg ddewisol yn y cartref gael eu diweddarau.

Ym mis Mai 2015 cynhaliodd Llywodraeth Cymru ymgynghoriad ar ganllawiau anstatudol newydd. Cyflwynir canfyddiadau'r ymgynghoriad hwnnw yn yr adroddiad hwn.

Ymgynghori

Lansiwyd yr ymgynghoriad cyhoeddus ar y canllawiau drafft anstatudol i awdurdodau lleol ar addysg ddewisol yn y cartref ar 8 Mai 2015, a daeth i ben ar 3 Gorffennaf 2015. Cafwyd 153 o ymatebion. Gofynnwyd i ymatebwyr lenwi holiadur gan ateb pum cwestiwn – un ohonynt yn gwahodd ymatebwyr i gynnwys unrhyw sylwadau ychwanegol am y canllawiau.

Y prif ganfyddiadau

- Roedd addysgwyr yn y cartref yn ystyried bod y canllawiau newydd yn ymgais i gyflwyno monitro
- At ei gilydd, mae'r gymuned addysg ddewisol yn y cartref yn gwrthwynebu unrhyw rôl i awdurdodau lleol mewn addysg yn y cartref
- Roedd awdurdodau lleol yn credu bod y canllawiau'n rhy wan
- Roedd awdurdodau lleol yn pryderu ynghylch goblygiadau ariannol unrhyw ddyletswyddau ychwanegol mewn perthynas ag addysg ddewisol yn y cartref
- Roedd addysgwyr yn y cartref yn gofyn am eglurder ynghylch y sefyllfa gyfreithiol mewn perthynas â rôl awdurdodau lleol mewn perthynas ag addysg ddewisol yn y cartref

Methodoleg ymateb

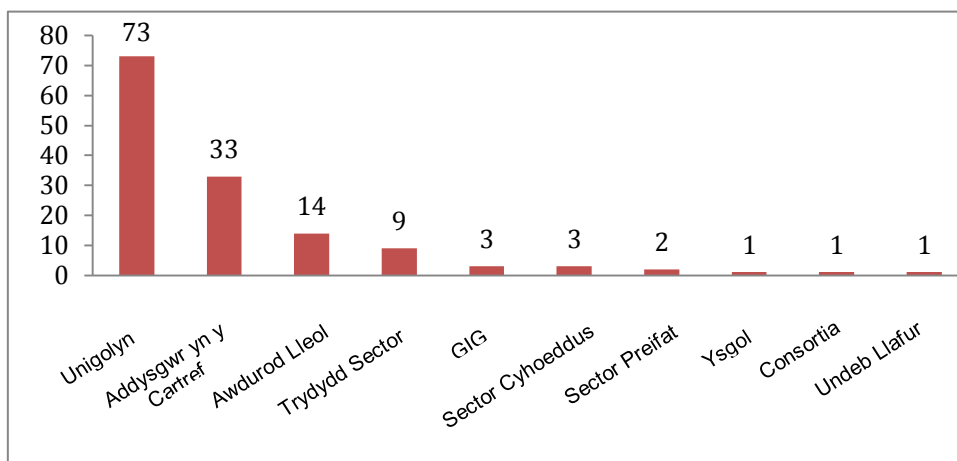
Roedd yr holiadur yn gofyn pum cwestiwn a oedd wedi'u llunio er mwyn galluogi Llywodraeth Cymru i ddadansoddi barn ymatebwyr ar sail ansoddol a meintiol.

Mae'r dadansoddiad meintiol wedi'i seilio ar ddata o'r holiaduron a lenwyd. Mae'r canfyddiadau ansoddol yn adlewyrchu'r farn yn yr holl ymatebion ysgrifenedig. Nid oedd pob ymatebydd wedi darparu ateb i bob cwestiwn. Roedd rhai wedi cyflwyno ymatebion hir a manwl ar wahân i'r holiadur. Roedd rhai wedi dewis peidio â defnyddio'r holiadur o gwbl, ac yn lle hynny wedi darparu gwybodaeth yn eu hymateb ysgrifenedig eu hunain. Ystyriwyd pob un o'r ymatebion

Nid yw'r naratif sy'n dilyn pob cwestiwn yn ceisio cynnwys pob pwynt a wnaed, ond mae'n tynnu sylw at y prif faterion a themâu sy'n gysylltiedig â'r cwestiwn. Dyfynnwyd rhannau o'r ymatebion i bwysleisio pwyntiau penodol.

Mae ffigur 1 (drosodd) yn dangos niferoedd y gwahanol fathau o ymatebwyr e.e. addysgwyr yn y cartref neu awdurdod lleol. Mae hefyd yn nodi nifer yr ymatebion ar gyfer pob math o ymatebydd.

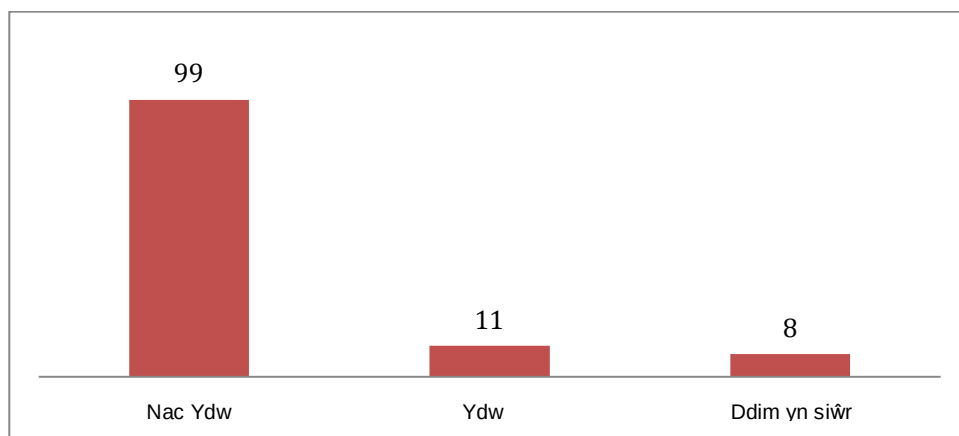
Ffigur 1: Niferoedd y gwahanol fathau o ymatebwyr



N = 140

Cwestiynau ac ymatebion

Ffigur 2: Cwestiwn 1: Ydych chi'n teimlo bod y canllawiau yn rhoi digon o gymorth i awdurdodau lleol allu cefnogi teuluoedd sy'n addysgu eu plant yn y cartref?



N = 118

Mae'r ymatebion i'r cwestiwn cyntaf yn dangos yn syth beth yw cryfder y gwrthwynebiad i'r canllawiau arfaethedig newydd.

Roedd nifer o ymatebwyr sy'n addysgwyr yn y cartref wedi nodi bod diffyg eglurder yn y canllawiau ynghylch sefyllfa gyfreithiol awdurdodau lleol mewn perthynas ag addysg ddewisol yn y cartref. Ym marn nifer, nid oedd angen cynnwys enghreifftiau o arfer da ac awgrymiadau ar gyfer gweithio mewn partneriaeth â theuluoedd. Teimlwyd y gallai awdurdodau lleol gamddehongli'r rhain ac y gallent hybu tuedd i fynd y tu hwnt i'r terfynau cyfreithiol canfyddedig:

“This guidance is not written in a clear and easy to understand way. Local authorities already overstep the mark on a regular basis, so it needs to be as clear and concise as possible, so that it cannot be misinterpreted, either accidentally or on purpose. The local authorities do not really have a role to play in Home Education, so any attempt for them to ‘take’ a role will cause more families to not engage. There is usually no ‘support’ any way. You have nothing to offer families, only additional pointless and unnecessary paperwork.”

“I have no wish to parade children in front of LA EHE staff and force them to jump through hoops (for monitoring and assessment) just so they are not forced to go to educational institutions that are failing. Children are individuals with different fears, aspirations, and outlooks. They cannot be dumped in a classroom with 30 others of the same age and force to learn what they have no interest in.”

Roedd nifer o ymatebwyr yn amau a oedd angen canllawiau newydd ar addysg yn y cartref o gwbl, gan nodi bod canllawiau 2006 yn ddigonol. Roedd rhai ymatebwyr wedi nodi hefyd fod cymorth gan awdurdodau lleol nid yn unig yn ddiangen, gan fod y rhwydweithiau cefnogi ar gyfer addysg ddewisol yn y cartref yn tyfu, ond yn annymunol:

“It will alienate a lot of families. Most HE families get the support and information they need from experienced Home Educators, and don’t need to work with the LA to enhance their provision. The LA should assume that their provision is satisfactory unless they have concerns to the contrary. This draft guidance gives the impression that the LA should attempt to have an active relationship with every HE family.”

“No it doesn’t. The guidelines are confusing, the recommendations are encouraging local authorities to work outside of the law and home educators in the main DO NOT WANT SUPPORT. I have no idea why you find this concept so difficult to grasp. No matter how you dress it up, support is something that we should be allowed to ask for and not have it foisted upon us regardless of whether it’s wanted or not.”

Yr hyn sy’n glir mewn nifer o’r ymatebion yw maint y ddrwgdybiaeth ynghylch y canllawiau. Ym marn nifer o addysgwyr yn y cartref, mae’r canllawiau’n ymgais ar ran Llywodraeth Cymru i gyflwyno monitro ‘drwy’r drws cefn’. Mae’r ffaith bod y ddogfen yn argymhell rhyw fath o gyswllt a chymorth ar sail flynyddol gan awdurdodau lleol yn cael ei gweld yn gadarnhad o hyn. Roedd nifer o ymatebwyr wedi nodi nad oes sail gyfreithiol i awdurdodau lleol ymgymryd â gweithgarwch o’r fath. Y canfyddiad yw bod y canllawiau’n cyfarwyddo awdurdodau lleol i weithredu mewn ffordd sydd heb ei hawdurdodi mewn perthynas â’r rhieni a theuluoedd:

“Effectively amending legislation by the back door, by introducing non statutory guidance, damages trust. It shows a lack of honesty, and causes barriers to be built between our community and authorities.”

“The WG seems to have performed a U-turn from their original position of compulsory registration of all EHE children.”

“It should not be forgotten that the stated aim of the 2012 consultation concerned legislative proposals regarding the introduction of a compulsory system of registration and monitoring for home educated children and young people. After ‘an extensive process of engagement’ with the home educating community, does this once again underlie the differently worded version of the current consultation? No matter how

much the background and context section speaks of a new context for understanding and supporting EHE families in Wales, I still have an uncomfortable suspicion that compulsory registration and monitoring is waiting in the wings.”

Roedd ofnau addysgwyr yn y cartref wedi'u cyfleu'n glir: bod unrhyw gamau i gryfhau rôl awdurdodau lleol mewn perthynas ag addysg ddewisol yn y cartref yn gam tuag at system monitro. Mae drwgdybiaeth hyd yn oed ynghylch yr awgrym y dylai awdurdodau lleol geisio deall rhesymau rhieni dros ddewis addysg yn y cartref:

“At several points, the draft guidance encourages an intrusive approach. For example, it encourages local authorities to ‘develop an understanding of the reasons that a specific family has chosen to home educate’. Decisions about the education of children, in common with countless other decisions that parents make about the upbringing of their children are highly personal and private matters. If parents wish to discuss their reasons for choosing to home educate, that is a choice that they should be able to freely make, but it is not the business of the Local Authority to seek to elicit such information in a routine manner.”

Un o brif nodweddion y ddadl gyfredol ynghylch addysg yn y cartref yng Nghymru yw'r gwahaniaeth barn clir rhwng addysgwyr yn y cartref a gweithwyr proffesiynol. Mae'r gwahaniaeth barn hwnnw'n amlwg o hyd yn yr ymatebion i'r ymgynghoriad hwn. Ym marn nifer o'r gweithwyr proffesiynol a ymatebodd i'r ymgynghoriad, mae statws anstatudol y canllawiau'n golygu na fydd digon o bwys yn cael ei roi arnynt ac nid ydynt yn mynd yn ddigon pell:

“Non- statutory guidance is insufficient. There is a need for clarity via legislation and possibly a Code of Practice. While there continues to be no legal requirement for a parent to inform the LA or any public body that they are educating a child at home, the LA cannot discharge its statutory duty ‘to identify children in their area who are not receiving a suitable education’. The lack of a clear legal definition of ‘a suitable education’ further compounds the difficulty for the LA. Furthermore, LAs cannot discharge the duty to safeguard young people in their area if they have no means of identifying how many children are resident in the area. Similarly, it is not possible to discharge the duty in relation to the rights of the child and the right of the child to be heard for those children whose very existence cannot be identified by the LA. The most vulnerable, remain the most vulnerable.”

“The current legislative provision inhibits local authorities’ ability to, so far as possible; establish the identities of children and young people who are in receipt of home-education. I would, therefore, like the guidance to strengthen requirements upon parents to inform local authorities of their intention to assume responsibility of their child’s education. This would support local authorities to extend the appropriate levels of provision and develop a collaborative offer of support to parents and families choosing to home-educate.”

“A clearer line in respect to a Local Authority’s role in monitoring and reviewing practice would have strengthened the guidance.”

“Without compulsory registration there will continue to be children of school age unknown to the LA.”

“NSPCC Cymru/Wales feels that the guidance will help local authorities develop a constructive dialogue with elective home educating (EHE) families, but we feel it does not strike the right balance with children’s rights and welfare or place sufficient emphasis on how local authorities should ensure that elective home education delivers the best outcomes for every child or young person educated at home.”

“The principle of a child’s welfare being the paramount consideration is enshrined in the Children Act 1989 and all Welsh Ministers while exercising their duties must have due regard to the UNCRC. NSPCC Cymru/Wales recognises that parents have the right to educate their children at home providing that they fulfil the requirements of Section 7 of the Education Act 1996 and that the large majority of parents choose to home educate because they believe it is in the best interests of their child. However, there are a small minority of parents who choose to home educate when it is not in the best interests of their child.”

Yn ogystal â hyn, mae gweithwyr proffesiynol a hyd yn oed rhai addysgwyr yn y cartref wedi tynnu sylw at y goblygiadau ariannol posibl i awdurdodau lleol os bydd ganddynt rôl fwy mewn perthynas ag addysg ddewisol yn y cartref:

“It is helpful that the draft guidance highlights that local authorities do not have to fund EHE however some of the cited examples contradicts this in the sense that best practice involves considerable spending by local authorities. It is challenging for local authorities with reducing budgets to work with EHE networks in this way and support EHE learners.”

Neu fod diffyg cydbwysedd yn y canllawiau o blaid addysg yn y cartref:

“The only thing that struck me is that the general remarks on page 5 amount to an advertisement for home education, setting out its advantages. These are not wrong, but are not balanced by the advantages of schooling such as access to skilled pedagogy, subject expertise and superior facilities and equipment, which parents are unlikely to possess, and of course the value of being part of a school community. The opening comments on page 3 do refer to high quality local schools, but this is rather skimmed over. The point could be given greater prominence, and referred to on page 5 in order to provide balance. It would also be an opportunity to underline the pride which we trust the Welsh Government takes in the excellence of so many of its schools!”

Un thema bwysig a godwyd mewn nifer mawr o’r ymatebion i’r cwestiwn cyntaf yw’r diffiniad o addysg addas:

“And only for the latter cases where a concern is raised, how can LA officers decide whether the educational provision for EHE is ‘suitable’ if currently it has not been defined what ‘suitable’ entails?”

“‘Suitable’ education remains undefined”

“A ‘suitable education’ remains undefined. This is an area of concern for the LA and families. It is too open to interpretation and it remains an area that needs to be tightly defined, in the interests of all EHE children.”

“The guidance reiterates what is already known/understood by Local authorities. There is still ambiguity in respect to monitoring of provision and assessing if EHE parents/

providers are delivering a suitable education. A clear definition of what is 'suitable education' (i.e. suitable to age, ability and aptitude and any special educational needs a learner might have) would be useful."

Thema arall a gododd yn yr ymatebion gan addysgwyr yn y cartref oedd nad ydynt yn ystyried bod y canllawiau'n anstatudol. Y canfyddiad o'r canllawiau yw eu bod yn gyfres o ofynion yn hytrach nag argymhellion. Ym marn nifer, mae'r rhain yn set o gyfarwyddiadau i'w dilyn gan yr awdurdod lleol, yn hytrach na set o bamedrau sy'n ceisio cyfleu ymagwedd gyffredinol at addysg ddewisol yn y cartref, gan ganiatáu i awdurdodau lleol deilwra eu hymatebion i'r darlun lleol. Ym marn nifer o'r gweithwyr proffesiynol a ymatebodd i'r ymgynghoriad, nid yw'r ffaith bod y canllawiau'n anstatudol yn ddigon. Roedd nifer yn teimlo'n gryf bod y canllawiau'n ddiwerth i raddau helaeth os na cheir cofrestru gorfodol a newid sylweddol yn y gyfraith.

Roedd cyfran helaeth o'r ymatebion gan addysgwyr yn y cartref yn canolbwyntio ar y ffaith nad oes rhagdybiaeth yn y canllawiau fod popeth fel y dylai fod oni bai fod tystiolaeth i'r gwrthwyneb. Mae hwn yn wahaniaeth allweddol rhwng y canllawiau newydd arfaethedig a chanllawiau 2006. Yng ngolwg nifer, roedd hwn yn ffactor allweddol sy'n rhoi argraff gyffredinol bod y canllawiau'n hybu rôl monitro'r awdurdod lleol. Roedd nifer wedi nodi nad ydynt yn dymuno cael cymorth gan yr awdurdod lleol, a bod y rhwydweithiau cymorth presennol ar gyfer addysg ddewisol yn y cartref yn ddigonol:

"This document oversteps the boundaries and opens families up to having Local Authorities trying to be prescriptive about a family's education provision."

"The new draft is less clear than the existing 2006-2008 guidance. It does not address the areas where that guidance needed improvement and clarification of some specific points of legislation, but brings in additional issues – not all of which are relevant to home education. This will only confuse the situation further, and is likely to lead to deterioration of relationships between LAs and home educating families."

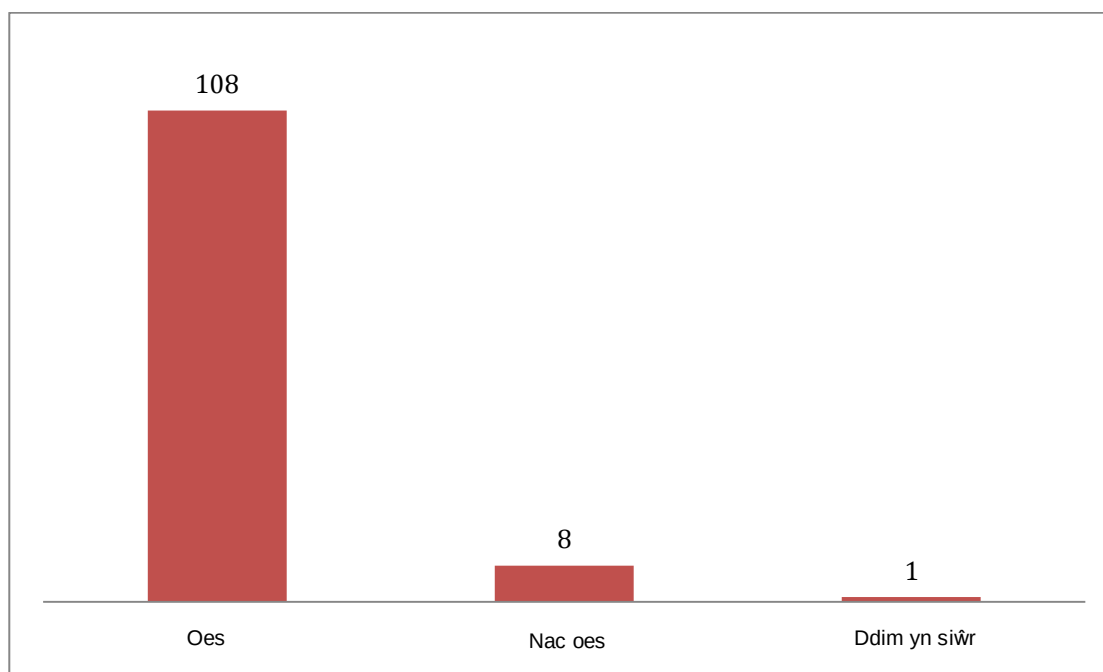
"The draft guidance has not made a sufficiently clear demarcation between what is required by legislation and what is not. In order to develop constructive partnerships with home educators, LAs need to be honest and above-board about what is legally required and what is voluntary. The draft guidance is just going to cause confusion and conflict because a lot of the recommendations for the LA have no legal basis, and parents have no legal duty to comply."

Er hynny, nid oedd pob un o'r ymatebwyr yn gweld y canllawiau'n gam yn ôl:

"Compared to the consultation in 2012, these guidelines show a much greater understanding of the dynamics of EHE, acknowledge a range of concerns I brought forward in the previous consultation and clearly promote a good collaboration between LEA and the EHE community. I appreciate the time and research that went into that."

"One of the most important and most welcome statements in the draft guidance is found in section 3.5: 'It is important to keep in mind that the decision to home educate rests with the parents. Local authorities and schools should respect parental choice.' These sentiments should be a governing principle that is reflected throughout the guidance."

Ffigur 3: Cwestiwn 2: Oes unrhyw beth ar goll o'r canllawiau y dylid ei gynnwys? Os felly, beth?



Fel y mae ffigur 3 yn dangos, mae mwyafrif helaeth yr ymatebion yn mynegi awydd i weld newidiadau yn y ddogfen. At ei gilydd, mae'r rhain yn ymwneud â sefyllfa gyfreithiol addysg yn y cartref yng Nghymru a'r paramedrau y caniateir i awdurdodau lleol weithredu oddi mewn iddynt.

Mae'r ymatebion gan addysgwyr yn y cartref yn dangos pryder ynghylch hepgor datganiadau a oedd yn y canllawiau blaenorol ynghylch y rhagdybiaeth bod addysg yn y cartref yn addas oni bai fod tystiolaeth i'r gwrthwyneb:

"This document fails to state the that the law tells LAs that they must assume the education provided by a home educating family is suitable unless there is evidence that it is not. This should be unambiguously stated at the start of this document."

"You need to state that there is no legal basis for routine monitoring of homeeducated children and that parents do not need to comply with local authority demands. You also need to point out that LA's have to assume that an education is taking place, unless they have a legitimate concern that there isn't and the LA must list their concerns so that a parent can answer. Parents need to know this, to prevent LA's from deliberately misinforming parents."

"The guidance doesn't say that the monitoring of home education is not legally enforceable and that the legal presumption should be that parents are fulfilling their educational duties, unless welfare concerns arise."

Roedd pryderon ynghylch monitro yn amlwg yn y sylwadau gan nifer mawr o ymatebwyr:

"The guidance omits to state that there is no legal basis for the routine monitoring of HE nor does it state that the presumption should be that parents are fulfilling their legal

duties, unless or until concerns should arise. As a HE family, we are well supported by our families, friends, local community and in particular, our HE community. We do not require assistance regarding education from the LA and, having deregistered my children from the LA, any guidance from the LA is irrelevant to us."

"This document fails to state that the law tells LAs that they must assume the education provided by a home educating family is suitable unless there is evidence that it is not. This should be unambiguously stated at the start of this document."

"It also gives the false impression that LAs have to monitor the education provided by home educating families whereas monitoring has no actual legal basis in law, this should be made very clear."

"The current guidelines explicitly state that a family should be assumed to be fulfilling their legal duties unless there is evidence to the contrary. While this is the usual position (assumption of innocence rather than guilt) this doesn't appear to be the position most local authorities assume. An explicit stating of this would be useful."

Roedd nifer o ymatebion yn nodi nad oes cyfeiriad yn y canllawiau at addysg hyblyg. Mae'r ymatebion hyn, oddi wrth addysgwyr yn y cartref a gweithwyr proffesiynol, yn amlygu'r farn bod yr opsiwn hwn yn bwysig ar ddwy ochr y ddadl:

"I couldn't see anything about flexi-schooling in the draft guidelines. Flexi-schooling being the option to send the child to school for part of the week and home educate for the rest of the week. It is not something I've ever considered or know much about, but flexi-schooling is a popular option for some families, thus it should be included in EHE guidance."

"Flexi-schooling is missing. It was included in the current guidance and should be included in this. It would be at the school's discretion and has proved valuable for some parents and their children. This would provide additional options for parents and provide a way forward for the parents who would like to provide some teaching themselves but do not wish or do not feel sufficiently confident to provide it all. It would be helpful if the code for recording the time when a flexi-schooled child is being taught under EHE was 'Not Required to Attend' rather than authorised absence – the current requirement to use authorised absence definitely discourages schools from agreeing to flexi-school arrangements."

"There is no mention of flexi-schooling, which is an approach that many families find provides the best fit for their child. As above, clearer steps outlining best practice and the range of responses to be expected from home educators (from 'yep, home edding, we're good, be in touch if we need to' to 'help, can you give me a curriculum please') would probably be helpful. Flowcharts can be good :)"

"There is no consideration given or promotion of flexi-schooling (Inclusion and Pupil Support document- 2008), which could be a compromise in certain cases and avoid total removal of a learner from accessing mainstream education. It does not mention flexi-schooling, which really needs clear guidance if confusion is to be avoided."

"An opportunity has been missed by WG to influence flexi-school arrangements by agreeing a code which does not penalise schools for agreeing to flexi school in terms of overall school attendance."

Roedd addysgwyr yn y cartref wedi nodi adrannau yn y ddogfen a oedd yn mynd y tu hwnt i'r paramedrau cyfreithiol yn eu barn nhw. Mae'r rhain yn cynnwys gwrandau ar farn plant a phobl ifanc, deall pam y mae teulu'n dewis addysgu yn y cartref, yr argymhelliad ar gyfer cynnal cyfarfod cychwynnol, cyswllt blynyddol parhaus, a'r cais am weld tystiolaeth o'r dysgu a gafwyd:

"There is no legal basis to require evidence of education at all except in cases where there are concerns that the level of education is not acceptable."

"There is no legal basis for local authorities to speak to children and young people. It is never appropriate to attempt to override the parental duty in this manner."

Yn achos gweithwyr proffesiynol a'r rheini sy'n gweithio mewn awdurdodau lleol, roedd y galw am gryfhau'r sefyllfa ddeddfwriaethol ac ychwanegu addysg hyblyg yn agweddau pwysig ar yr ymatebion. Roedd rhai gweithwyr proffesiynol hefyd wedi nodi bod angen tynnu sylw a mynd i'r afael â'r arfer gan ysgolion o annog teuluoedd i ddewis addysgu yn y cartref neu ddatgofrestru:

"NSPCC Cymru/Wales feels that the draft guidance needs to be strengthened in order to emphasise children's rights and in particular Article 3 (best interests), and to assist local authorities to fulfil their safeguarding responsibilities towards children and young people who are educated at home."

"Guidance should be explicit about LA challenging schools that appear to be encouraging EHE for pupils at risk of exclusion, unable to meet ALN (Additional Learning Needs) terms & physical & mental health needs. This seems to be increasing."

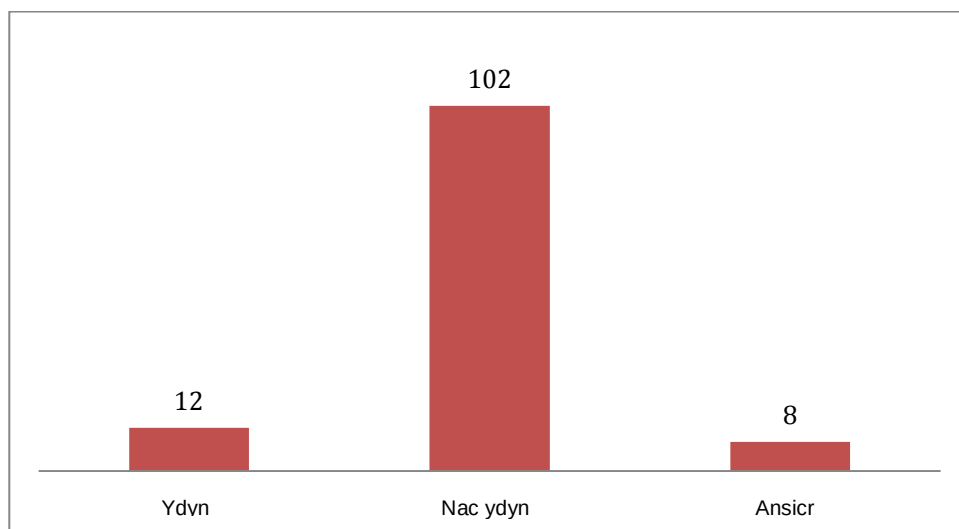
"Illegal off-rolling and forced deregistration are real problems which are damaging both to the families concerned and to home educators who are not in this category. This problem does not apply to families who are not known to the authorities. It is a school-related problem and it should be addressed quickly by a routine and respectful enquiry to parents as soon as the deregistration is notified to the local authority"

Roedd nifer o ymatebwyr hefyd yn galw am gynnwys gwybodaeth am gymwysterau fel IGCSE:

"Guidance should be included on public examination options for EHE parents including IGCSEs and GCSE and GCE entry as private candidates. In addition, guidance should be included on access to College courses."

Mae'r atebion i'r cwestiwn, 'Ydy'r canllawiau yn amlinellu'n glir y sefyllfa gyfreithiol mewn perthynas ag addysgu ddewisol yn y cartref yng Nghymru?' yn ailfynegi'r ymatebion i'r ddau gwestiwn blaenorol, ac mae'r themâu yn yr ymatebion ysgrifenedig yn adlewyrchu'r un pryderon i raddau helaeth. Felly mae'r rhan fwyaf o'r ymatebion yn yr adran hon yn ymwneud â sicrhau bod yr amlinelliad o'r sefyllfa gyfreithiol yn gywir a herio rhai o'r adrannau yn y ddogfen yr ystyriwyd eu bod yn annog awdurdodau lleol i weithredu y tu hwnt i'w paramedrau cyfreithiol. Mae'r rhain yn ymwneud ag ymweliadau blynyddol, diogelu plant, y cyfeiriad at ganllawiau statudol Llywodraeth Cymru i helpu i atal plant a phobl ifanc rhag colli addysgu (2010), deall rhesymau rhieni dros ddewis addysgu yn y cartref, a cheisiadau am dystiolaeth o ddysgu.

Ffigur 4: Cwestiwn 3: Ydy'r canllawiau yn amlinellu'n glir y sefyllfa gyfreithiol mewn perthynas ag addysg ddewisol yn y cartref yng Nghymru?



N=122

Y weithdrefn a ddisgrifiwyd ar gyfer hysbysu ysgolion am dynnu enw disgybl oddi ar gofrestr yr ysgol oedd un o'r meysydd yn y canllawiau y nodwyd bod angen eu hailystyried a'u diwygio.

Roedd rhieni sy'n addysgu yn y cartref wedi galw eto am gynnwys datganiadau i'r perwyl nad oes sail gyfreithiol i fonitro addysg yn y cartref.

Roedd nifer o addysgwyr yn y cartref wedi anghydweld â'r datganiad 'Mae dilyn olrhain plant a sicrhau eu bod yn ddiogel yn her wirioneddol i awdurdodau lleol.' Roedd nifer o addysgwyr yn y cartref wedi datgan y farn nad oes sail gyfreithiol i hyn, ac mai dyletswydd ymatebol sydd gan yr awdurdod lleol.

Roedd addysgwyr yn y cartref wedi beirniadu'r ffaith bod cyfeiriad at les plant wedi'i gynnwys. Eu barn nhw oedd ei bod yn rhy hawdd cyfuno maes diogelu plant a maes addysg ddewisol yn y cartref, a bod hyn yn arwain at gamsyniad o addysg yn y cartref a all fod yn beryglus. Mynegwyd y farn y dylid gwahanu'r ddau fater hyn ac nad oes angen cynnwys lles plant mewn dogfen ganllaw ar addysg ddewisol yn y cartref:

"Whilst I applaud any approach which builds the trust between LA's and EHE's, I believe that a lack of transparency in this document will not achieve that. The issues of safeguarding, ensuring a child is receiving a suitable education (which still in my view needs defining from the Governments point of view) and supporting EHE families' remains muddled. EHE families are suspicious and in many instances with good reason. LA's still overstep their rights and responsibilities and seem unclear themselves what they are trying, or are obliged / entitled to do. There needs to be clearer aims and definitions and more openness."

"Safeguarding is a reactive duty to concern, not a proactive duty to check there is no concern"

"There is no proactive duty to make sure children are safe and no legal basis upon which to do so. Parents are responsible for keeping their children safe. When Las do

have charge of children they have demonstrated a woeful inability to do so. One only has to think of the Wrexham, Gwynedd and Rotherham scandals."

"Local authorities have no legal basis upon which to ensure that children are safe, their duty is a reactive one. It is the responsibility of the parent to ensure that their child is safe."

"It is disturbing that council employees see the fact that they cannot see the child as a reason for suspicion of parents, how many strangers do you invite in to inspect your own children? Home educated children are seen out in the community, by other home educators, by GPs, librarians, shopkeepers, museum staff, and on and on and on."

Mewn cyferbyniad â hyn, roedd gweithwyr proffesiynol yn mynegi'r farn bod y canllawiau'n rhy wan ar faterion o'r fath ac yn ffafrio mesurau mwy cadarn:

"Perhaps Welsh Government should re-visit Compulsory Registration? I don't think parents should have to seek permission from LA's to commence EHE but if registration was compulsory LA's would be able to capture those children who have never attended school and any who cross county borders."

"Children who attend school are seen daily by professional people. If parents refuse to accept home visits then children who are EHE are an increasing child protection risk."

"There have been Serious Case Reviews and Child Practice Reviews involving children who have been home educated. Children have died in appalling home conditions. Had these children been seen, perhaps referrals to child protection might have been made and child deaths prevented."

"In the current situation education authorities may offer support and monitoring of educational provision but this can be refused by parents. By putting this monitoring on a statutory footing, not only will we be ensuring the child's right to an education but we might also identify the rare but devastating situation of child abuse."

"If families choose not to cooperate with the LA how are Officers to ensure the welfare and safeguarding of EHE children?"

Yn olaf, roedd rhai addysgwyr yn y cartref yn herio'r adran ar gyrchoedd triwantiaid ac yn gofyn am ei hailystyried.

"Home educating parents need to be made aware that professionals involved in truancy sweeps may need to verify any information given to them in these circumstances."

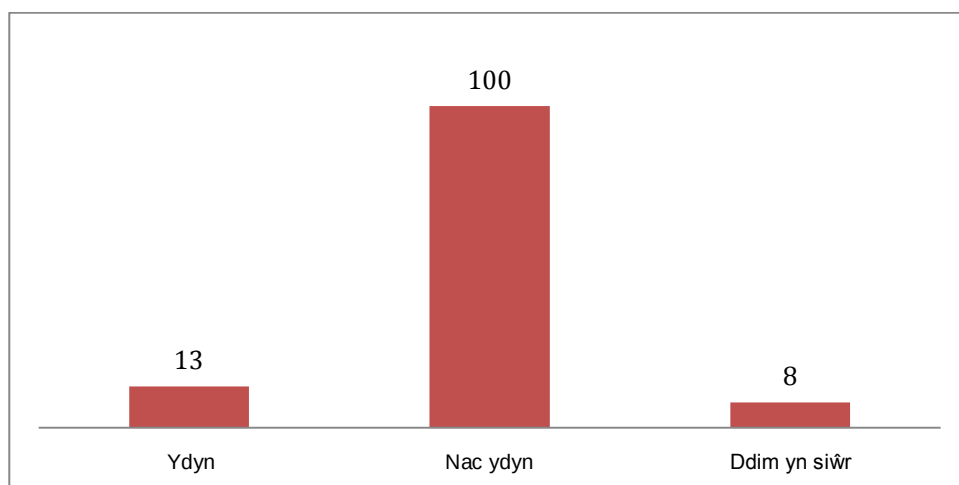
"Professionals have no right to do so unless they suspect an offence has been committed."

"There is no legal basis for 'professionals involved in truancy sweeps' to require home educating parents to verify any information given to them in these circumstances. A police officer may not require information unless he or she suspects that an offence has been committed."

“With regard to section 5.2 of the draft guidance, the guidance should state that those taking part in truancy sweeps, including police officers, should be aware of the fact that not all home educated children and young people are known to the local authority and that there is no requirement that they should be known. The key point to emphasise is that: ‘No further action should be taken where children indicate that they are home educated unless there is a reason to doubt that this is the case.’”

Roedd ymatebion yn dangos cryfder y teimlad ymysg addysgwyr yn y cartref ynghylch unrhyw rôl i awdurdodau lleol mewn perthynas ag addysg ddewisol yn y cartref.

Ffigur 5: Cwestiwn 4: Ydy'r canllawiau yn amlinellu'n glir gyfrifoldebau awdurdodau lleol mewn perthynas ag addysg ddewisol yn y cartref?



N=121

Ym marn yr ymatebwyr hyn, mae'r canllawiau'n amlinellu rôl i'r awdurdod lleol nad yw'n bodoli yn y gyfraith:

"The responsibility of the LEA is simple – if they have no concerns regarding home education then they do not need to take any action. This document seems to make things far more complicated than necessary."

"I fail to understand the need for the LA to exercise any jurisdiction over my children's education since we have deregistered them from a system which we deemed unsatisfactory. We are confident that we can offer our family a significantly better all-round life experience and gain certificates along the way should we desire. I do hope the WAG's final decision will be to maintain the status quo as regards HE and to disregard this guidance as it is not relevant to us."

"I have referred several times above to the need for a change of attitude on the part of local authority staff who have dealings with home educating parents. In my opinion they also need to be clearly briefed regarding the distinction between what the law actually says and any policies a government would like to implement."

"There is currently no legal duty for an LA to monitor home educated children and yet in your document this duty is mentioned several times. The current guidelines are perfectly adequate and already fit for purpose. The problem arises when the LA does not follow them and presumes to know better in regards to the above monitoring or type of education provided."

"There are too many duties given that there is no requirement for families to see a Local Authority officer or register with a Local authority. This guidance does not help LAs with hard to reach families, those families that refuse to meet with the LA officer or those families that will meet with the LA officer, but will not allow their children to meet the LA officer."

Roedd rhai ymatebwyr yn gwrthwynebu'r rôl arfaethedig i'r awdurdod lleol mewn perthynas â gwrando ar farn plant sy'n derbyn addysg yn y cartref neu'r rheini y mae eu rhieni wedi penderfynu eu tynnu o'r ysgol:

“Wrongly presenting the position of a child under the UNCRC; misrepresenting the parental duty in respect of mediating their child’s rights. The draft puts the LA in a role as overseer and arbiter of educational choice, which role is unsupported in law.”

“Article 12 (of the UNCRC) provides that children have the right to say what they think should happen when adults are making decisions that affect them, and to have their opinions taken into account.”

“This is incorrect. Article 12 provides a right to express views and for due weight to be given to those views in accordance with the age and maturity of the child, not a right to have opinions taken into account.”

Serch hynny, cafwyd cefnogaeth gan swyddogion awdurdod lleol a gweithwyr proffesiynol eraill mewn perthynas â'r lle sydd i lais y plentyn mewn penderfyniadau ynghylch addysg yn y cartref:

“The voice of the child should be incorporated into decision making and review processes relating to EHE – how can LA undertake this task if they do not meet with the child, or when they are not aware that child is being educated at home by parents? Where is the voice of the child?”

Unwaith eto mae'r gwahaniaethau barn clir rhwng awdurdodau lleol a chyrff proffesiynol sy'n cynrychioli buddiannau plant a phobl ifanc yng Nghymru ar y naill law ac addysgwyr yn y cartref ar y llaw arall ynghylch dyletswyddau'r awdurdod lleol yn amlwg yn yr ymatebion i'r cwestiwn hwn.

“In the current situation education authorities may offer support and monitoring of educational provision but this can be refused by parents. By putting this monitoring on a statutory footing, not only will we be ensuring the child’s right to an education but we might also identify the rare but devastating situation of child abuse.”

“The proposed guidance clearly sets out the legal position of elective home education in Wales. I am, however, concerned that its non-statutory status does little to support local authorities to ensure that all home-educated children and young people within its boundaries are identified and are receiving an education that will allow them to develop and reach their full potential. I would like to see any new iteration of this guidance document to be given statutory status. Achieving this, would build on existing progress and improve the effectiveness of collaborative practice between local authorities and the elective home education community in Wales to ensure the best outcomes for children and young people in receipt of home education are collectively secured.”

Manteisiodd nifer o ymatebwyr ar y cyfle i ategu'r farn a fynegwyd mewn ymateb i gwestiynau blaenorol pan ofynnwyd iddynt nodi unrhyw faterion cysylltiedig a oedd heb eu trafod eisoes. Roedd eraill wedi darparu gwybodaeth fwy manwl am ffyrdd o wella'r canllawiau. Roedd rhai ymatebwyr wedi manteisio ar y cyfle hwn i dynnu sylw yn fwy cyffredinol at y prif ystyriaethau o ran addysg ddewisol yn y cartref a'u barn am awdurdodau lleol.

Casgliadau

Roedd y canllawiau anstatudol newydd ar addysg ddewisol yn y cartref wedi'u datblygu er mwyn ceisio dod o hyd i dir cyffredin rhwng addysgwyr yn y cartref a'r sefydliadau sy'n eu cefnogi ar y naill law, ac awdurdodau lleol a sefydliadau sy'n hybu buddiannau plant a phobl ifanc ar y llaw arall.

Roedd y canllawiau wedi'u llunio mewn ffordd sy'n ceisio hyrwyddo gwell dealltwriaeth o addysg ddewisol yn y cartref, a gosod cyd-destun newydd ar gyfer meithrin cysylltiadau cadarnhaol rhwng awdurdodau lleol a'r gymuned addysg ddewisol yn y cartref. Roedd rhai ymatebion i'r ymgynghoriad yn cydnabod hynny. Fodd bynnag, roedd y mwyafrif helaeth yn tynnu sylw at yr anhawster a geir wrth geisio pontio'r bwlch rhwng addysgwyr yn y cartref, awdurdodau lleol a gweithwyr proffesiynol eraill.

Mae'n glir bod heriau sylweddol o hyd wrth gydbwysu'r rhyddid y mae addysgwyr yn y cartref yn ei geisio a phryderon a dyletswyddau awdurdodau lleol.