



For the Citizens'
Rights Agreements

Assurance Review (Looked After Children and Care Leavers) Annex 1 -Wales

**Local Authority and Health and Social Care Trusts support for
Looked After Children and Care Leavers in making applications to
the EU Settlement Scheme (EUSS)**

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Executive Summary

In July 2022, the Independent Monitoring Authority for the Citizens' Rights Agreements wrote to all 22 local authorities (LAs) in Wales seeking assurance that they are discharging their responsibilities with regards to making and supporting EU Settlement Scheme (EUSS) applications on behalf all eligible looked after children, children in receipt of local authority care and support, and care leavers. Further detail of the IMA's methodology on looked after children and care leavers is [outlined in our Assurance Review](#).

All LAs responded, and the IMA has assessed the responses according to three categories:

- the robustness of the identification processes.
- accurate record keeping; and
- completion of retrospective checks.

The IMA has identified overarching concerns from the information provided.

Firstly, the lack of documented processes and written operational guidelines included in some LA responses, including the use of ethnicity as opposed to nationality to identify citizen eligibility; secondly, the lack of reference to the identification of non-EU and EEA EFTA family members of EU and EEA EFTA citizens. Finally, while most responses outlined a record keeping process, many lacked the necessary detail to assure the IMA of accurate record keeping.

The IMA has concerns in relation to whether local authorities in Wales are accurately capturing and storing all data on eligible children and care leavers and their EUSS applications in line with [Home Office guidance](#). In relation to retrospective checks, some LAs confirmed that these had not taken place and some responses did not clarify whether they had occurred. This is particularly important for eligible children and care leavers up to the age of 25 who may have left care up to seven years ago and may not have been identified.

In response to these concerns, the IMA will consider opening individual compliance investigations where LAs have not sufficiently demonstrated they are discharging their statutory responsibilities and which could impact the rights of children or care leavers under the Withdrawal and Separation Agreements.

Responses from Local Authorities in Wales: Summary

1. In order to establish whether all children and care leavers under LA remit are being identified and supported to make applications to the EUSS, the IMA wrote to all 22 LAs in Wales asking a series of questions with regards to the identification of all those eligible to apply, and subsequent support and monitoring of these applications.¹
2. The IMA received responses from all LAs and assessed them according in the following three areas:
 - the identification of eligible children and care leavers;
 - record keeping process; and
 - retrospective checks
3. The IMA has assessed the information provided by each local authority using a RAG (Red-Amber-Green) grading system using the definitions below with the aim of identifying potential good practice and/or areas for improvement.

	Identification	Record Keeping	Retrospective checks
Green	Response provides a detailed process for identification of eligible children and care leavers under the remit of local government. This includes the provision of supporting documentation outlining their process, and details of how the process and awareness of the EUSS has been disseminated to those identifying and supporting eligible children or care leavers.	Response explains a clear record keeping process which includes record of the EUSS application status/outcomes, contact details, and when the child or care leaver would be eligible to upgrade from pre-settled status to settled status.	Response confirms that retrospective checks of all children and care leavers have taken place.
Amber	Response provides a process for the identification of eligible children and care leavers under their remit in little detail. Local government body does not have supporting documentation or has not provided details of dissemination of information and the EUSS guidance to staff.	Response explains record keeping process. However, it is unclear, or it is not the case that all details of the EUSS application status/outcomes, contact details, and eligibility to upgrade from pre-settled status to settled status are consistently recorded for all eligible children.	Unclear from response whether retrospective checks of all children under the local government body's remit and care leavers have taken place.
Red	Response provides unclear identification process (for example, refers to identification of children using recorded ethnicity), and the local government body does not provide supporting documentation or detail of dissemination of information and process guidance to staff.	Response does not provide record keeping process or explains that it has not yet been established for the EUSS by the local government body.	Response indicates that retrospective checks of all children under the local government body's remit and care leavers have not taken place.

¹ Where this review refers to '(all) children and care leavers' this includes looked after children, children in receipt of local authority support and care, and care leavers.

RAG Grading: Local Authority Responses

Local Authority	Identification	Record keeping	Retrospective checks
Blaenau Gwent	Amber	Green	Green
Bridgend	Amber	Amber	Amber
Caerphilly	Amber	Green	Green
Cardiff	Amber	Green	Green
Carmarthen	Red	Amber	Green
Ceredigion	Amber	Red	Green
Conwy	Red	Red	Amber
Denbighshire	Amber	Green	Green
Flintshire	Amber	Green	Green
Gwynedd	Amber	Amber	Green
Isle of Anglesey	Red	Red	Green
Merthyr Tydfil	Amber	Amber	Green
Monmouthshire	Amber	Amber	Green
Neath Port Talbot	Red	Red	Red
Newport	Amber	Amber	Amber
Pembrokeshire	Amber	Green	Green
Powys	Amber	Amber	Red
Rhondda Cynon Taf	Amber	Amber	Green
Swansea	Amber	Amber	Green
Torfaen	Red	Amber	Red
Vale of Glamorgan	Amber	Amber	Green
Wrexham	Green	Green	Green
GREEN	1	7	16
AMBER	16	11	3
RED	5	4	3

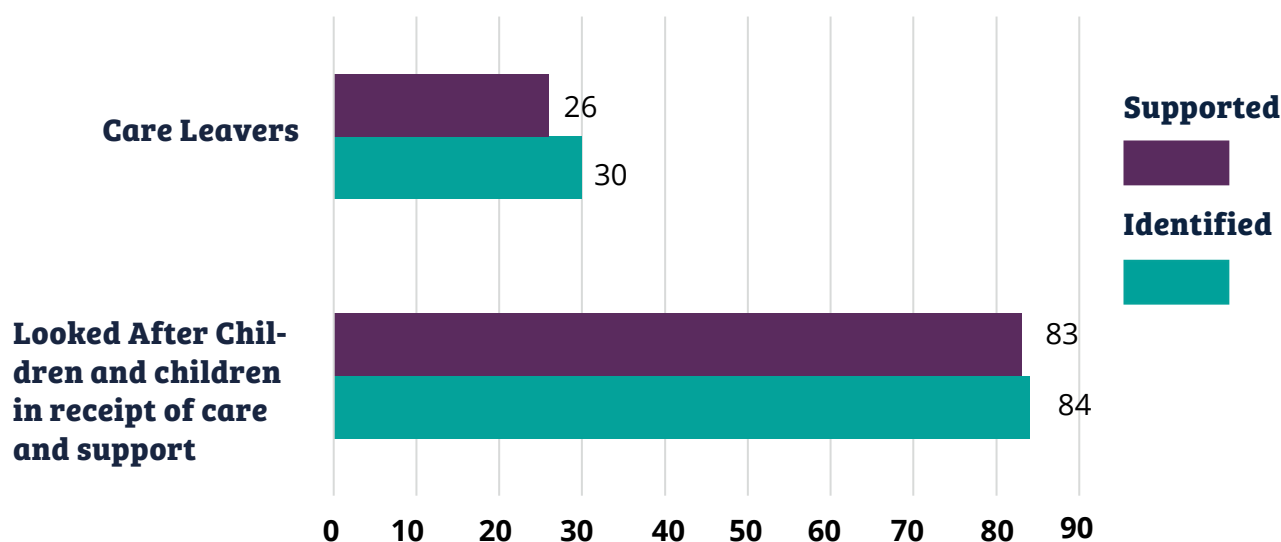
The position in Wales

Support for identified eligible children and care leavers

Where children and care leavers have been correctly identified, responses indicate that they are generally being supported by the Local Authority.

- The IMA requested the numbers of eligible children and care leavers who have been identified and received support. Figure 1 below compares the total numbers of children and care leavers identified who are eligible to apply to the EUSS versus those who have been supported as detailed in responses.

Figure 1. Graph comparing numbers of children and care leavers who are eligible for the EUSS identified vs. supported



- The graph demonstrates that the majority of children and care leavers identified were subsequently supported to submit EUSS applications. 99% of children who were identified went on to be supported by the LA. This figure is lower amongst care leavers. 87% of care leavers identified were supported by the LA.
- The responses provided explanations for these discrepancies. In the case of the one child in care not yet supported, the relevant response explained that they are seeking specialist legal advice prior to beginning the application process. With regards to the four care leavers unsupported, two are likewise seeking specialist legal advice; one chose to make their own application independent of support; and another was reported by the relevant LA to be refusing engagement with services. This response to the latter case assured the IMA, they are continuing to attempt to contact and engage with this care leaver.

Identification of eligible children and care leavers

On the basis of the responses received, the IMA is not sufficiently satisfied at this stage that all eligible children and care leavers are being identified and supported.

7. All responses provided detail of processes for identifying eligible children and care leavers within the LA's remit.
8. Just one response was graded as 'green' for their identification process. This response provided the IMA with a detailed summary of the LA identification process, their strategies for disseminating information on the scheme to staff, as well as supporting documentation and written operational guidelines and processes specific to the EUSS.
9. In relation to the high proportion of responses which were graded as either amber or red (95%), the IMA has identified three overarching concerns.

Lack of documented processes and written operational guidelines

95% of responses did not supply the IMA with a written EUSS specific process for identifying and supporting all eligible children and care leavers with their EUSS applications. A formalised written process may ensure improved consistency in the application of the identification process, and greater awareness of the EUSS and LA responsibilities amongst staff.

Using ethnicity as opposed to nationality to identify eligibility

The second concern of the IMA is the apparent use of ethnicity as opposed to nationality by certain LAs in order to identify eligible EUSS applicants within their remit. Four LAs referred to filtering/identifying children using ethnicity. By filtering via ethnicity alone, LAs will not be able to correctly identify eligible EU and EEA EFTA children and their family members. It is particularly concerning that these responses refer to ethnicity as opposed to nationality. This may especially impact eligible children and care leavers who are third country nationals.²

Identification of non-EU and EEA EFTA family members of EU and EEA EFTA citizens

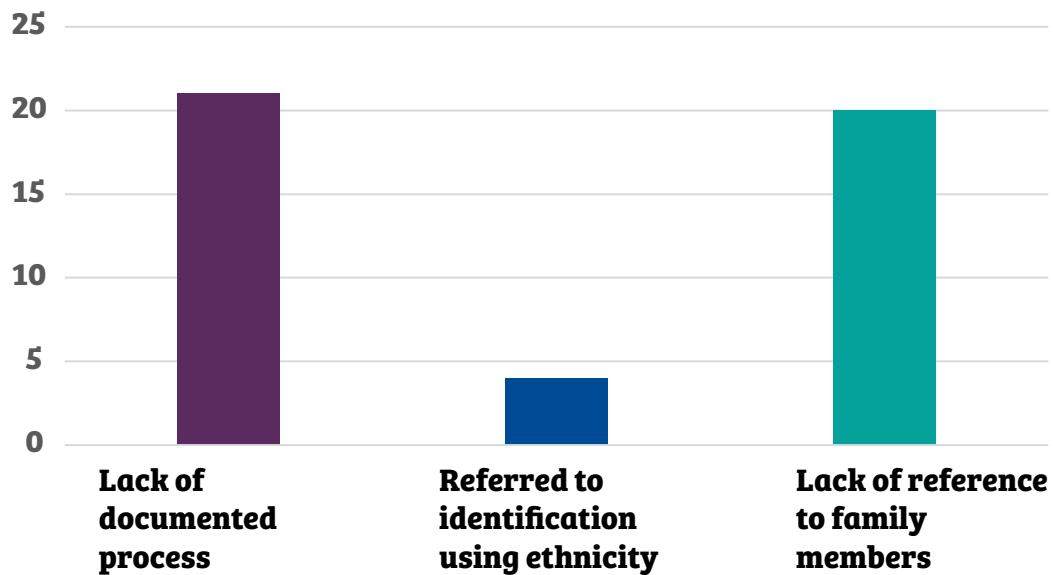
The IMA's third overarching concern lies with the identification of non-EU and EEA EFTA family members of EU and EEA EFTA citizens. Given that the majority (91%) of responses did not provide written documentation and operational guidelines with the details of their identification processes, it is unclear whether the necessary frameworks are in place to identify non-EU and EEA EFTA children and care leavers who may be eligible to apply to the EUSS.

Identifying these children and care leavers would require obtaining the nationality of family members, a process which is only referenced in two responses. The IMA is particularly concerned about those who explicitly mention identifying children via filtering of EU citizenship only, as this would clearly exclude other cohorts (including EEA EFTA citizens) who may be eligible to obtain pre-settled or settled status.

² A third-country national is a citizen of a state that is not a member of the EU nor a citizen of Iceland, Lichtenstein, Norway or Switzerland.

10. Figure 2 shows how often these concerns arose.

Figure 2. Number of responses which indicate key concerns regarding identification processes

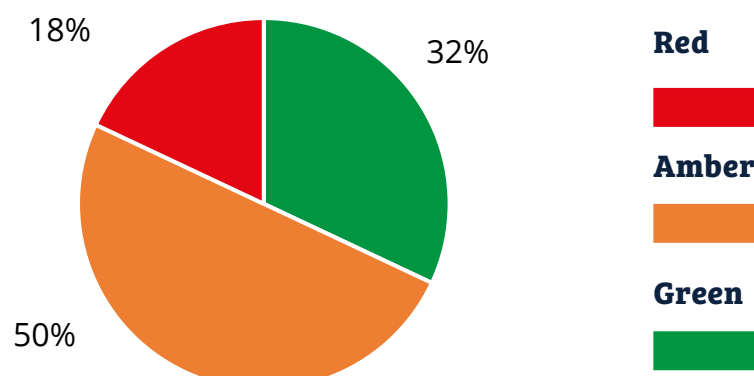


Record keeping process

The IMA is not satisfied that based on responses provided, accurate and up-to-date records are being kept in relation to EUSS applications of all eligible children and care leavers in each LA.

11. A third of responses from LAs were graded green for record keeping processes as they confirmed consistent recording of all applications made, their outcomes, contact details, and any timescales for upgrades from pre-settled to settled status (see figure 3). Those responses which suggest best practice in this area demonstrated evidence of written documentation and guidelines for staff with regards to their record keeping process to ensure accuracy and consistency.

Figure 3. RAG grading of record keeping



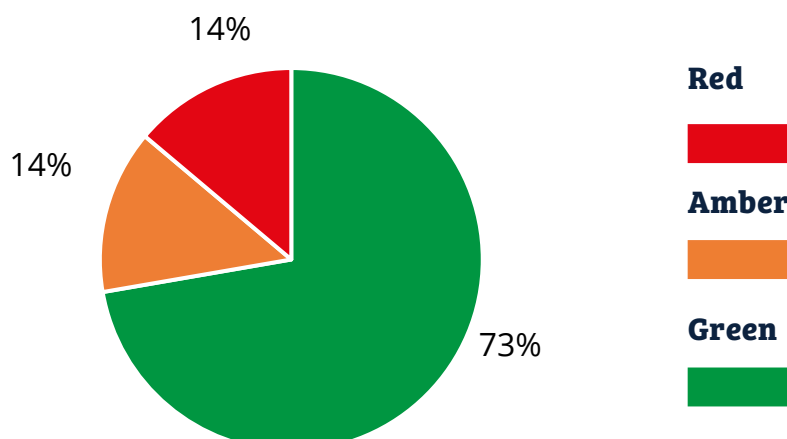
12. A key concern for the IMA is that half of the 22 LA responses outlined unclear record keeping practices. These responses indicated either that an application's status/outcomes, contact details, and timescales for pre-settled status to settled status upgrades were not recorded; or it was unclear whether all these were recorded; or they were not recorded for all cohorts of children and care leavers. 18% of responses reported either having not yet established a clear record keeping process or did not provide any detail of such process.
13. Responses from Swansea Council and Newport City Council raise concerns for children in receipt of LA care and support. Swansea Council's response reported identifying eight children in receipt of LA care and support for whom they cannot confirm whether they have been supported to apply to the EUSS due to undeveloped recording capabilities. Newport City Council's response additionally noted that they do not have a record keeping process for children in receipt of LA care and support.
14. The majority of responses did not demonstrate a clear record keeping process for all eligible children and care leavers, including record of EUSS application status/outcomes, contact details, and when the child or care leaver would be eligible to upgrade from pre-settled status to settled status. The IMA has concerns regarding those responses which stated that they do not hold records for children in receipt of LA care and support.

Retrospective checks

Whilst the majority of responses report completing full retrospective checks, the IMA remains concerned that more than a quarter of responses did not assure the IMA that these checks have occurred.

15. The majority (73%) of responses report completing full retrospective identification checks in respect of all children, including care leavers up to 25 who may have left care up to seven years ago (see figure 4).

Figure 3. RAG grading of record keeping



16. The IMA's key concern in this regard lies with those responses where it is either unclear that these checks have been conducted, the response does not provide confirmation, or the response confirms that these checks have not occurred. Powys County Council's response, though graded as red, confirms that despite these checks having not occurred, they will be completed.
17. Despite the majority of responses being graded as green for retrospective checks, based on the responses provided, the IMA has concern about 28% of responses regarding accurately conducting full retrospective checks of all children and care leavers.

Next steps

18. Analysis of the responses received from all 22 LAs in Wales has enabled the IMA to identify potential overarching issues with regards to the identification of all eligible children and care leavers and the LAs' ability to undertake accurate record keeping and apply robust retrospective checks.
19. In response to these potential issues, the IMA will open individual compliance investigations for specific LAs where there are concerns they have not demonstrated how they are discharging their statutory responsibilities, which in turn could impact the rights of a child or young person under the Withdrawal and Separation Agreements.
20. The IMA recognises that it is possible that in responding, individual LAs have not sufficiently articulated how they support the cohorts above. During compliance investigations, the IMA will work with LAs to understand how responsibilities are being discharged, refer to the principles identified in the assurance review, and may make further recommendations and/or utilise monitoring periods. Following the conclusion of all compliance investigations, the IMA will produce an updated compliance report for each part of the UK.
21. The IMA reserves the right to consider further action such as an inquiry or litigation in line with its statutory powers.