

Leighton Andrews AC/AM

**Y Gweinidog dros Blant, Addysg & Dysgu Gydol Oes
Minister for Children, Education & Lifelong Learning**



Llywodraeth Cynulliad Cymru
Welsh Assembly Government

Eich cyf/Your ref CA397
Ein cyf/Our ref: MB/LA/229/10

Janet Ryder AM
Chair, Constitutional Affairs
Committee
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

12 March 2010

Dear Janet,

Thank you for your letter of 5 March 2010 drawing my attention to the merits report prepared by the Constitutional Affairs Committee on the School Funding (Wales) Regulations 2010.

I accept that the Explanatory Memorandum might have been fuller and more comprehensive. That would have helped the reader without prior knowledge of this topic. The Explanatory Memorandum was drafted as it was because much of the body of the regulations is no different than the three sets of regulations that are being replaced. With hindsight I agree that this was not the best course of action.

I note also your points about percentages and figures with regards to the power for local authorities to recover excessive school budget surpluses. This was a drafting error which reflected an earlier version of the regulations, and led to an inconsistency within the Explanatory Memorandum which should not have occurred. My officials have corrected it and I enclose a revised Explanatory Memorandum that puts it right.

I assure you that future memoranda from my Department will be fuller in their explanation, where that is appropriate. I was pleased that your Committee was able to commend the Assembly Government's intention to meet our commitment to introduce three-year funding for schools in spite of the shortcomings of the Explanatory Memorandum. These regulations achieve that and so I trust that they will be supported by Assembly Members.

*Yours sincerely
Leighton Andrews*

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Wedi'i argraffu ar bapur wedi'i ailgylchu (100%)

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Janet Ryder AC
Cadeirydd y Pwyllgor
Materion Cyfansoddiadol
Cynulliad Cenedlaethol
Cymru
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12 Mawrth 2010

Annwyl Janet,

Diolch am eich llythyr dyddiedig 5 Mawrth 2010 yn tynnu fy sylw at yr adroddiad rhinweddau a baratowyd gan y Pwyllgor Materion Cyfansoddiadol ar Reoliadau Cyllid Ysgolion (Cymru) 2010.

Rwy'n derbyn y gallai'r Memorandwm Esboniadol fod yn llawnach ac yn fwy cynhwysfawr. Byddai hynny wedi helpu'r darlleneydd heb wybodaeth flaenorol am y pwnc hwn. Drafftwyd y Memorandwm Esboniadol ar y ffurf honno gan nad yw llawer o gorff y rheoliadau'n wahanol i'r tair set o reoliadau sy'n cael eu disodli. O edrych yn ôl, rwy'n cytuno nad dyma oedd y ffordd orau o weithredu.

Rwyf hefyd yn nodi'ch pwyntiau ynghylch canrannau a ffigurau o ran y pŵer i awdurdodau lleol adfer gwargedau gormodol yng nghyllidebau ysgolion. Camgymeriad wrth ddrafftio oedd hwn oedd yn adlewyrchu fersiwn gynharach o'r rheoliadau, ac arweiniodd at anghysondeb yn y Memorandwm Esboniadol na ddylai fod wedi digwydd. Mae fy swyddogion wedi cywiro hyn ac rwy'n amgáu Memorandwm Esboniadol diwygiedig sy'n unioni'r cam.

Gallaf eich sicrhau y bydd memoranda gan fy Adran yn y dyfodol yn llawnach eu hesboniad, lle bo hynny'n briodol. Roeddwn yn falch bod modd i'ch Pwyllgor ganmol bwriad Llywodraeth y Cynulliad i gyflawni'n hymrwymiad i gyflwyno cyllid tair blynedd i ysgolion er gwaethaf diffygion y Memorandwm Esboniadol. Mae'r rheoliadau hyn yn cyflawni hynny ac felly hyderaf y bydd Aelodau'r Cynulliad yn eu cefnogi.

Yn Gywir

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Explanatory Memorandum to School Funding (Wales) Regulations 2010

This Explanatory Memorandum has been prepared by the Department of Children, Education, Lifelong Learning and Skills and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 24.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the School Funding (Wales) Regulations 2010

Leighton Andrews
Minister for Children, Schools and Lifelong Education

1. Description

These Regulations revoke and replace the LEA Budget, Schools Budget and Individual Schools Budget (Wales) Regulations 2003, the Schools Budget Shares (Wales) Regulations 2004 and the Education (LEA Financial Schemes) (Wales) Regulations 2004 in relation to financial years that commence on or after 1 April 2011. They make provision for the funding of maintained schools in Wales for those financial years.

2. Matters of special interest to the Subordinate Legislation Committee

These regulations raise no issues of special interest.

3. Legislative background

The Welsh Ministers can make the School Funding Regulations 2010 in exercise of the powers conferred on the National Assembly for Wales by sections 45A, 45AC, 47, 48, 49 and 138(7) and (8) of, and paragraphs 1(7) and 2B of Schedule 14 to, the School Standards and Framework Act 1998, and now vested in them.

The instrument is subject to the affirmative procedure.

4. Purpose & intended effect of the legislation

Welsh Ministers are responsible for setting the framework under which schools are funded. These regulations replace three separate sets of regulations with a single consolidated piece of legislation.

The new regulations will introduce two key changes to the way in which Local Authorities allocate budgets for the schools they maintain and to the way they monitor and hold schools to account for their spending. The legislation is cost neutral in financial terms, and will impose no additional burdens on local authorities.

These regulations make the following changes:

- When allocating budgets for schools authorities will provide schools with a three year forecast for each allocation they receive rather than the single year they currently do;
- Changes the date by which local authorities are required to notify the Welsh Ministers of their proposed Schools Budget from 31 January to 14 February. This will enable better co-ordination with the local authority budget setting process; and
- These regulations will provide authorities with the ability to take certain specific action when school surpluses reach certain levels. When surpluses are £50,000 or more in a primary school, £100,000 or more in a secondary school or special school, authorities will be able to direct schools to spend balances. If the governing body does not comply with the direction, the amount could be clawed back with the proceeds applied to the authority's Schools Budget.

This legislation will facilitate key improvements in the financing of schools and in the monitoring and management of school expenditure.

Three year forecasts:

A three year forecast will allow schools to improve their financial planning and the requirement to provide a forecast will also sharpen local authority performance and will encourage better forward planning; better and tighter projection of future need and better use of those projections.

Surplus balances:

A modest level of surplus represents sensible management but excessive balances tie up funds unacceptably. Holding excessive balances for no specific purpose represents poor financial management. Of course schools will on occasion save for a specific purpose and that will still be allowed to happen as authorities will use the powers provided by this legislation at their discretion. This legislation will provide authorities with a suite of powers that will allow suitable action to be taken in all circumstances.

5. Consultation

Consultation has been extensive and has taken place at each stage of development. It included;

- Initial consultation was carried out with all local authorities, all school budget fora and all teacher unions;
- Consultation on a second cut of draft legislation following changes made as a result of responses to first consultation;
- Further development was undertaken with a working group the membership of which consisted of local authority education finance experts and teacher union representatives; and
- Final review of draft regulations.

Consultees represent all relevant stakeholders. Consultation length and format varied among the different episodes of consultation. The initial two written consultations were for 12 and 8 weeks respectively. Consultation with the working group was less structured with a meeting of the whole group taking place and conversation and discussion taking place with individual members of the group. For the final review of draft regulations consultees have had in excess of 12 weeks to provide any final comment.

6. Regulatory Impact Assessment (RIA)

No regulatory impact assessment has been prepared. These regulations replace existing legislative provision with minor modifications and as such an RIA is not required.