

Explanatory Memorandum for:

- *The Education (Head Teacher's Report to Parents and Adult Pupils) (Wales) Regulations 2011*
- *The Education (Pupil Information) (Wales) Regulations 2011*
- *The Education (School Information) (Wales) Regulations 2011*
- *The Education (School Performance and Absence Targets) (Wales) Regulations 2011*
- *The School Governors' Annual Reports (Wales) Regulations 2011*
- *The National Curriculum (Amendments to the Key Stage 2 and Key Stage 3 Assessment Arrangements) (Wales) Order 2011*

This Explanatory Memorandum has been prepared by the Department for Education and Skills (DfES) and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the above listed Regulations.

Leighton Andrews
Minister for Education and Skills

Date:29 July 2011.....

EXPLANATORY MEMORANDUM

1. Description

This suite of legislation will implement the Welsh Government's policy on collecting, publishing and sharing information about schools and pupils.

1.1 The Education (Head Teacher's Report to Parents and Adult Pupils) (Wales) Regulations 2011

These Regulations will replace and revoke, in two parts, the *Education (Pupil Information) (Wales) Regulations 2004* which currently specify requirements in relation to reporting to parents and adult pupils, and to the maintenance of curricular and educational records and the transfer of information through the Common Transfer System when pupils change schools. It is proposed to divide the Regulations to simplify them and provide greater clarity.

The proposed Regulations will cover reporting to parents only i.e. the reports that parents receive from schools about their child's progress.

Amendments will:

- require that specified information be reported to parents and adult pupils at least once a year
- require the inclusion of a standard comparative report provided by the Welsh Government with each annual report to parents or adult pupils; and,
- extend statutory reporting requirements to cover pupils in or at the end of the Foundation Phase in line with requirements at other key stages.

1.2 The Education (Pupil Information) (Wales) Regulations 2011

These Regulations will replace and revoke, in two parts, the *Education (Pupil Information) (Wales) Regulations 2004* which currently specify requirements in relation to reporting to parents and adult pupils, and to the maintenance of curricular and educational records and the transfer of information through the Common Transfer System (CTS) when pupils change schools. The proposed Regulations will set out the information to be maintained in academic and curricular records and the information which must be provided through the CTS to another school when a pupil relocates.

The CTS is a secure electronic system used to transfer a pupil's record electronically when they move from one school to another. The CTS ensures that pupil information moves electronically when pupils relocate, thus reducing the administrative burden of data collection and increasing the accuracy and continuity of records. It also supports local authorities in meeting their obligations to identify and prevent pupils from going missing from education by facilitating the identification of records where pupils leave one school and do not appear to register at another. The CTS operates on a statutory basis in Wales. It is a service shared with England (although not statutory there),

helping to ensure a better flow of information for pupils who may cross the border during their education.

The Regulations specify that a pupil's record must conform to a standard format and they add references to the Unique Learner Number (ULN). This is a unique identifier which can be allocated to a pupil and helps to distinguish between pupils with the same name. Once allocated, pupils can use their ULN at any stage of their education, even as an adult learner.

Amendments will:

- extend the information to be provided electronically to a following school when a pupil relocates to include the ULN (where available for pupils over 14 year of age); and,
- require that the information is provided in a specified format to help reduce bureaucracy where related to the use of non-standard IT systems.

1.3 The Education (School Information) (Wales) Regulations 2011

These Regulations will replace and revoke sections in the *Education (School Information) (Wales) Regulations 1999* (as amended).

The current Regulations cover individual school prospectuses and local authority composite prospectuses. A school prospectus provides general information about a school, such as the number of pupils, names of teachers, school policies and rules. It provides parents with information about the school their child attends. A local authority composite prospectus covers the admissions policies for the schools in that authority's area. It provides parents with information to help them consider which school they would like their child to attend.

Amendments in relation to school prospectuses will:

- require the inclusion of a comparative report of results in end of phase teachers assessment and external examinations (where applicable) provided by the Welsh Government;
- require the prospectus to show the school's language category e.g. English-medium, dual stream; the number of places available for entry (for secondary schools) and information about the member of staff with responsibility for looked-after children.
- update the information to be included to reflect the requirements of the Welsh Language Education Strategy namely to require governors to publish details of how Welsh is used as the medium of instruction separately for each Key Stage and to provide more information about the language of instruction and any limitations that may limit the parents' opportunity to choose the language of instruction.

Amendments in relation to composite prospectuses will require additional information to be included namely:

- the school's language category e.g. English-medium, dual stream
- the local authority's policy on food and drink in schools

- the local authority's policy on school uniform
- availability of financial assistance for pupils
- the local authority's policy on entering pupils for public exams
- the local authority's policy on special educational needs.

1.4 The Education (School Performance and Absence Targets) (Wales) Regulations 2011

These Regulations will replace and revoke the *Education (School Performance and Unauthorised Absence Targets) (Wales) Regulations 1999* (as amended).

The Regulations cover how the Welsh Government measures a school's performance and how a school manages absenteeism amongst pupils. The Regulations need to be amended to update the interpretations to reflect developments since the Regulations first came into force. The amendments clarify the terminology and interpretations, and require schools to provide the information in a succinct form. They also reflect the move towards schools setting their own targets, rather than targets being set by the Welsh Government. This ties in with the School Effectiveness Framework and the emphasis on self-evaluation. Based on the information in its data set, teachers will evaluate their school's progress and set realistic targets to improve their own performance.

Amendments will:

- clarify the terminology and interpretations specifically in relation to external examinations;
- reduce the number of specified targets by removing the requirement to set targets for gender difference;
- require schools to set a minimum of three targets in addition to those specified that reflect the priorities identified through self evaluation and consideration of core data sets and other comparative information (guidance will highlight that these should reflect national priorities as they apply in relation to the individual school); and,
- establish the right of the local authority to request that a governing body revise a target where the local authority is not satisfied and to set a target for the school where it remains unsatisfied with a revised target.

1.5 The School Governors' Annual Reports (Wales) Regulations 2011

These Regulations will replace and revoke the *School Governors' Annual Reports (Wales) Regulations 2001* as amended. The Regulations require amendment to update the terminology to reflect policy developments and ensure consistency, and to clarify the interpretation of terms used.

The Regulations cover the information published in the governors' annual report to parents.

Amendments will:

- require that the school's governing body demonstrate awareness of the key information in their school's All-Wales Core Data Set.
- require the inclusion of a comparative report of results in end of phase teachers assessment and external examinations (where applicable) provided by the Welsh Government;
- require schools to engage with the community and be community focused. This will involve forming links with agencies such the police.
- update the information to be included to reflect the requirements of the Welsh Language Education Strategy namely to publish details of how Welsh is used as the medium of instruction separately for each Key Stage (and the Foundation Phase, if appropriate) and to provide more information about the language of instruction and any limitations that may limit the parents' opportunity to choose the language of instruction.
- better reflect engagement with sporting activity at the school
- reflect requirements to ensure accessibility to and safety of toilet facilities as well as cleanliness.

1.7 The National Curriculum (Amendments to the Key Stage 2 and Key Stage 3 Assessment Arrangements) (Wales) Order 2011

The *National Curriculum (Key Stage 2 Assessment Arrangements) (Wales) Order 2004* specifies the assessment arrangements for the second key stage and the *National Curriculum (Key Stage 3 Assessment Arrangements) (Wales) Order 2005* specifies the assessment arrangements for the third key stage. Both place a duty on teachers to assess pupils in schools in Wales no later than two weeks before the end of the summer term.

Amendment will:

- align the date by which teachers must determine their end of key stage assessments with the established National Data Collection arrangements, namely no later than twenty working days before the end of the summer term.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

This subordinate legislation will impose negligible additional costs on schools and local authorities. As a result, no regulatory impact assessment has been undertaken in relation to these Regulations.

3. Legislative background

The Welsh Ministers' powers to make these Regulations are derived from:

The Education (Pupil Information) (Wales) Regulations 2011 - sections 408, 563 and 569 of the Education Act 1996.

The Education (Head Teacher's Report to Parents and Adult Pupils) (Wales) Regulations 2011 -

sections 408 and 569 of the Education Act 1996.

The Education (School Information) (Wales) Regulations 2011 - sections 29, 408, 569 of the Education Act 1996 and sections 92 and 138 of the School Standards and Framework Act 1998.

The School Governors' Annual Reports (Wales) Regulations 2011 - sections 30 and 210 of the Education Act 2002.

Education (School Performance and Absence Targets) (Wales) Regulations 2011 - sections 19 and 54 of the Education Act 1997 and sections 63 and 138 of the School Standards and Framework Act 1998.

The National Curriculum (Amendments to the Key Stage 2 and Key Stage 3 Assessment Arrangements) (Wales) Order 2011 - sections 108(3)(c), (7), (8), (9), (10) and (11) and 210(7) of the Education Act 2002

The above statutory instruments will be brought forward according to the procedure appropriate in each case by 1 September 2011. This Explanatory Memorandum applies to the entire legislative package and is being laid at the same time as the Regulations.

4. Purpose and intended effect of the legislation

The suite of legislation is intended to implement the Welsh Government's policy on collecting, publishing and sharing information about schools and pupils. That policy is being implemented in response to changes in policy such as the introduction of the Foundation Phase and the actions outlined in the Minister's speech of 2 February 2011.

The proposed changes to these Regulations align existing practice more closely to the policy changes which have occurred since the existing Regulations were laid or amended. Specifically, the revised Regulations will support the following policy objectives.

4.1 Making data more accessible and meaningful

As part of the move to electronic collection of end of phase assessment data, we have introduced comparative reports which provide a standardised, graphical view of a school's results set against those for their local authority and Wales and the five-year results trend for the school. When national results are validated and published, these reports are updated to also provide analysis of the school's results in comparison with its free school meal benchmark group. By requiring that schools include these reports alongside pupil reports, in the school prospectus and within the governors' annual report we will:

- reduce the bureaucratic burden on schools since the reports are produced centrally and are easily accessible via an online tool;
- increase accessibility and engagement by a wider audience since the reports are graphical in nature;
- ensure data is considered in context as the reports include comparison over time, comparison with local authorities in Wales and comparison with the free school meal benchmark group.

Since these reports are provided by the Welsh Government, it will be easier to tailor them to meet any future policy needs. These amendments simply require the inclusion of whichever reports are produced. It would also be possible to extend the coverage of these reports to include any future additional information such the band to which a school has been allocated.

4.2 Making self evaluation a central element of school planning

The introduction of All-Wales Core Data sets for primary and secondary schools from September 2009 has been a key driver in promoting the role of robust data analysis and self evaluation as a tool for driving school improvement. By establishing in Regulation the role of core data sets in governors' considerations of school performance and target setting we will:

- promote better governor engagement with the core data sets, school self evaluation and target setting; and
- ensure that targets better reflect the priorities of individual schools and the needs of pupils

4.3 Meeting Ministerial priorities for improvement

The proposed changes, although minor, help to meet a number of the priorities for action set out in response to PISA 2009, end of key stage and external examination results. They will also support the School Standards Unit in its role of facilitating improvements across the school system through the consistent use of data and analysis.

Introducing a requirement for the Governors' Annual Report to note the key points arising from the school's self evaluation and consideration of the All-Wales Core Data Sets (for primary and secondary schools) will help to ensure that governing bodies consider comparative data as part of their annual cycle and provide a reference point for Estyn to verify this engagement during remit or inspection work

Linking self evaluation and the core data sets to the annual target setting process will further enhance governors' engagement with the data. Governors are required already to publish targets and progress against them in their annual report to parents. Targets based on the outcome of self evaluation will give greater scope, without adding undue burden, for targets to reflect both national and local priorities and the differing needs of different pupil groups.

Enhancing the role of the local authority in agreeing targets for schools will support them in meeting their obligations to provide differentiated challenge and support. It will support the setting of more stretching yet realistic targets that reflect the potential of individual pupils, raise expectations and raise aspiration. We envisage that targets set in this way will better support robust national target setting based on pupil expectations and best practice with challenge in-built throughout the system.

5. Consultation

Officials have carried out substantial informal consultation engaging with and discussing our intentions with ADEW, school governors and other stakeholder groups. However, no formal consultation document was issued. There is nothing contentious or significant within the changes proposed and I therefore considered that a formal consultation was not necessary on this occasion.