

**Explanatory Memorandum to the National Curriculum (Desirable Outcomes, Educational Programmes and Baseline and End of Phase Assessment Arrangements for the Foundation Phase) (Wales) (Amendment) Order 2016**

This Explanatory Memorandum has been prepared by the Education and Public Services Group and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

**Cabinet Secretary's Declaration**

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

Kirsty Williams, AM  
Cabinet Secretary for Education  
10 August 2016

## **1. Description**

1.1 This Order amends the National Curriculum (Desirable Outcomes, Educational Programmes and Baseline and End of Phase Assessment Arrangements for the Foundation Phase) (Wales) Order 2015.

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

2.1 None.

## **3. Legislative background**

3.1 The Order is made under sections 108(2)(b)(iii) and 210 of the Education Act 2002. These powers were conferred on the National Assembly for Wales and were transferred to the Welsh Ministers by paragraph 30 and 32 of Schedule 11 to the Government of Wales Act 2006.

3.2 This Order is subject to annulment and is being made using the negative resolution procedure.

## **4. Purpose & intended effect of the legislation**

4.1 Revised Foundation Phase Areas of Learning for Language, Literacy and Communication Skills and Mathematical Development were made a statutory curriculum requirement from 1 September 2015 by the National Curriculum (Desirable Outcomes, Educational Programmes and Baseline and End of Phase Assessment Arrangements for the Foundation Phase) (Wales) Order 2015 (“the 2015 Order”). Changes to existing subordinate legislation to reflect updates to the Foundation Phase Outcomes and National Curriculum attainment targets came into force at the same time.

4.2 Additionally, the legislation introduced a statutory requirement for maintained schools, maintained nurseries and nurseries funded to provide education in Wales to conduct a baseline assessment within 6 weeks of each child entering Reception Year. The legislation included a statutory requirement to use the Foundation Phase Profile assessment tool, which is based on the revised AoLs, to produce the baseline assessment.

4.3 The legislation also set out that the end of Foundation Phase assessment against the revised Outcomes would be phased-in on the basis of following the Reception Year cohort of 2015/16, so that the first assessment against the revised Outcomes would take place in Summer Term 2018.

- 4.4 The new baseline assessment in Reception Year has been well received by schools and non-maintained settings to the extent that the Foundation Phase Profile is being used extensively on a non-statutory basis by nurseries prior to Reception Year and also by Flying Start settings.
- 4.5 In discussion with stakeholders it has been identified that the scoring system for the Full Profile of the Foundation Phase Profile (FPP), to be used for assessment at the end of the Foundation Phase should be refined in order to adequately allow for cases where children are not able to achieve an outcome for a particular skill ladder. As schools would not be using the Full Profile to provide end of Phase assessments until summer 2018 there is not an issue of comparability of outcomes over time. These changes are reflected in a new version of the Foundation Phase Profile Handbook, which is referred to in the 2015 Order as the statutory guidance for using the FPP. Amendments to the Order are therefore required in order to refer to the revised guidance which was published in June 2016.
- 4.6 At the same time, the opportunity is being taken to make further amendments to the 2015 Order to ensure that there is clarity on which pupils are required to have a baseline assessment, how often and the range of outcomes. The 2016 Order therefore amends the 2015 Order to introduce the following changes on a statutory basis:
- give legal effect to a new version of the 'Profile handbook', published in June 2016
  - clarify that the children to be assessed are those children in their baseline assessment year, defined as the year in which they attain the age of 5
  - clarify the definition of 'compact profile skills' i.e. the skills which are included in the Compact version of the Foundation Phase Profile which is required to be used for the baseline assessment.
  - clarify that there is a new level of 'above Outcome 6' for high attaining pupils
  - clarify that only one baseline and one end of phase assessment is needed for each child

## **5. Consultation**

- 5.1 No formal consultation has been undertaken on this Order as it makes only minor amendments to changes which have been subject to extensive consultation previously.

## **6. Regulatory Impact Assessment (RIA)**

- 6.1 The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to this Order. As a result it was not considered necessary to carry out a Regulatory Impact Assessment as to the likely costs and benefits of complying with this Order. This Order is making only minor amendments to update references and clarify definitions.