

Explanatory Memorandum to the Welsh in Education Strategic Plans and Assessing Demand for Welsh Medium Education (Wales) Regulations 2013

This Explanatory Memorandum has been prepared by the Department for Education and Skills 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 Welsh in Education Strategic Plans and Assessing Demand for Welsh Medium Education (Wales) Regulations 2013 and I am satisfied that the benefits outweigh any costs.

3 December 2013

1. Description

The Welsh in Education Strategic Plan and Assessing Demand for Welsh Medium Education (Wales) Regulations 2013 make provision in relation to:

- Assessing the demand for Welsh-medium education
- Duration of the Welsh in Education Strategic Plan (WESP)
- Form and content of the WESP
- Submission of the WESP to Welsh Ministers
- Timing and manner of publication of the WESP
- Consultation of the WESP
- Review of the WESP

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

There is no specific information which the Minister wishes to bring to the attention of the Committee.

3. Legislative background

The Welsh Ministers have the power to make Regulations in relation to Welsh in Education Strategic Plans under sections 86, 87 and 97 of the School Standards and Organisation (Wales) Act 2013 (“the 2013 Act”).

The School Standards and Organisation (Wales) Act 2013 (Commencement No.3) Order 2013 brought the Welsh Minister’s regulation making powers in sections 86 and 87 of the 2013 Act into force on 3 December 2013.

Section 86 of the 2013 Act allows the Welsh Ministers to make provision in relation to when and how to make an assessment of demand for Welsh medium education.

Section 87 of the 2013 Act allows the Welsh Ministers to make provision about the following matters:

- the form and content of a plan;
- the timing and duration of a plan;
- keeping a plan under review and its revision;
- consultation during the preparation of a plan;
- the submission of a plan for approval;
- when and how to publish a plan.

4. Purpose & intended effect of the legislation

The Regulations set out the:

- the form and content of a plan;
- the timing and duration of a plan;
- keeping a plan under review and its revision;
- consultation during the preparation of a plan;
- the submission of a plan for approval;
- when and how to publish a plan.

The Regulations will also set out in what circumstances the Welsh Ministers may require a local authority to carry out an assessment of the demand among parents in its area for Welsh-medium education. The Regulations provide that there are 3 pre-conditions that must be satisfied before a local authority is obliged to carry out an assessment. Those pre-conditions are as follows:

- more than 50% of pupils in schools in its area are assessed in either the Welsh language development area of learning (in the foundation phase) or the language, literacy and communication skills area of learning (in the foundation phase) through the medium of English on the third Tuesday in January in the school year immediately preceding the current school year;
- the local authority has not carried out such an assessment in the previous 3 years; and
- the Welsh Ministers have informed the local authority in writing that it must carry out an assessment.

The third Tuesday in January is the day when local authorities must provide to the Welsh Ministers the information they require as part of the Pupil Level Annual Census (PLASC). This provides a cut-off date which will enable the Welsh Ministers to determine whether the 50% threshold figure has been met.

The Regulations further provide that a local authority must carry out an assessment of either the whole or part of its area, as the Welsh Ministers determine.

In addition to the outcomes expected by delivery of the WESP above, we expect that the proposals in the Regulations will result in:

- the establishment of an improved local authority planning system for Welsh-medium education. The main result of this will be greater coherence and consistency in the provision of Welsh-medium school places to fulfil projected need or demand in each locality and across regions;
- introduction of WESPs as the main mechanism for taking forward the national strategic direction for Welsh-medium education and provide accountability to Welsh Ministers;
- publication of regular annual data and reports on progress on national targets for Welsh-medium education by local authorities;

- more opportunities for learners to access Welsh-medium education; and
- more learners with higher-level skills in Welsh.

Should WESPs not be placed on a statutory footing, there would be no effective means of enforcement on local authorities to prepare and implement a Plan. As a result, it is likely that the fragmented and reactive approach to the planning and provision of Welsh-medium education would continue. Additionally a statutory planning system for Welsh-medium education (Welsh Education Schemes under the Welsh Language Act 1993) would be replaced by a non-statutory system.

Subject to the views of the Assembly, we anticipate that regulations would come into force on 31 December 2013, and that it would be a statutory requirement for local authorities to submit WESPs to the Welsh Ministers for approval in the first year on 20 January 2014 and thereafter every 20 December in compliance with the Regulations.

5. Consultation

A consultation was undertaken. Details are included in the RIA below.

6. Regulatory Impact Assessment (RIA)

A Regulatory Impact Assessment was undertaken on the School Standards and Organisation (Wales) Act 2013, these Regulations are made as a result of the Welsh Ministers exercising the powers conferred on them by sections 86(1), 87 and 97 of that Act. The Regulations describe the form and content the Welsh in Education Strategic Plans must take and there are no additional requirements to consider from those noted on the face of the Act.

There are no additional costs to consider from those outlined in the Regulatory Impact Assessment of the School Standards and Organisation Act (Wales) 2013. The expected costs are presented in the following table:

Regulations Section	Matter	Expected administrative burden/cost
Schedule 1, Regulation 3	Carrying out a survey to measure demand	The average costs of administering and analysing surveys is estimated at a maximum of £15,000 each. The guidelines recommend undertaking surveys once every 3 years. The total maximum

		estimated cost per annum would, therefore, on average, be around £5,000 per local authority, which would equate to around £110,000 per annum across all local authorities. These costs are already being incurred by some local authorities.
Schedule 2 and 3, Regulation 5	Form and content of the WESP	In terms of administration costs, the annual costs to the Welsh Government associated with the submission by each local authority of a WESP for approval and monitoring is estimated (based on 3 full time equivalent (FTE) staff and associated travel costs) to be around £116,000. Annual administration costs for the local authorities are estimated to equate to around £14,000 per local authority.
Regulation 4	Duration of the plan	N/A
Regulation 6	Date for submission of the plan to Welsh Ministers	N/A
Regulation 7	Date on which the Plan must be published	N/A
Regulation 8	The manner of publication of the local authority's Plan	There are some modest costs in respect of publication of WESPs, estimated to be a maximum of £2,000 per local authority.
Regulation 9	The persons and bodies that a local authority must consult on the draft plan	Annual administration costs with WESP for the local authorities are estimated to equate to around £14,000 per local authority.
Regulation 10	The date by which the	N/A

Consultation

The draft Welsh in Education Strategic Plans and Assessing Demand for Welsh Medium Education (Wales) Regulations 2013 were subject to an 8 week web based consultation between 28 June 2013 and 23 August 2013.

In the main there was general agreement with the proposals. The draft regulations have been amended and propose 3 changes to the regulations:

- The minimum consultation period local authorities must undertake has been reduced to 8 weeks as this will accommodate the internal processes necessary for local authorities to present the Plan to the requisite internal committees in order to ensure effective ownership of the Plan.
- The Office of the Children's Commissioner for Wales has been removed from the list of statutory consultees at their request as the Commissioner does not consider that this type of consultation is within the Commissioner's statutory remit.
- The review process has been simplified. The review will consist of reporting on progress against the targets in the original Plan together with amending the Plan as a result of the review. Subject to the approval process by Welsh Ministers provided for in legislation this amended Plan will be published in accordance with the Regulations. Welsh Ministers propose to dispense with the requirement to publish a report since the policy intent can be achieved by publication of the amended Plan.

A summary and analysis of responses has been produced and will be published shortly on the Welsh Government website at

<http://wales.gov.uk/consultations/education/draft-welsh-education-strategic-plans-regulations-2013/?status=closed&lang=en>

Competition Assessment

The proposed Regulations do not affect business, charities and /or the voluntary sector

Post Implementation Review

Local authorities will monitor and review statistics and processes on an annual basis. Welsh Government will be provided with data upon request.

The legislation will be reviewed to establish the actual costs and benefits and whether it is achieving its desired effects after two years. This will allow for the new system to bed in and comparable data to be available.