

EXPLANATORY MEMORANDUM TO THE EDUCATION (PUPIL REFERRAL UNIT) (MANAGEMENT COMMITTEES ETC) (WALES) REGULATIONS 2014

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 Education (Pupil Referral Unit) (Management Committees etc) (Wales) Regulations 2014. I am satisfied that the benefits outweigh any costs.

Huw Lewis
Minister for Education and Skills

7 October 2014

1. Description

These Regulations place a statutory duty on local authorities to establish management committees for each pupil referral unit (PRU), or group of PRUs operating jointly under one management committee.

The Regulations provide details about the establishment of management committees, the categories of members, the composition of the management committees, the qualifications and tenure of office of members, the procedures of management committees, and the delegation of functions by local authorities to management committees.

2. Matters of special interest to the Constitutional Affairs Committee

None.

3. Legislative background

Section 569(4) and (5) of, and paragraphs 3, 6(2) and 15 of Schedule 1 to, the Education Act 1996 gives the Welsh Ministers the power to make regulations in relation to the constitution and roles of management committees of pupil referral units and the procedures for their operation.

The relevant functions of the Secretary of State in the Education Act 1996 were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 SI 1999/672 and then to the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

Section 71 of the Government of Wales Act 2006 allows the Welsh Ministers to do anything conducive or incidental to any of their other functions. The publication of the consultation response is made under those powers.

These Regulations are being made under the negative resolution procedure.

4. Purpose and intended effect of the legislation

The purpose of these Regulations is to improve the way PRUs are managed and improve the experiences and prospects of those children and young people who use them.

Although the vast majority of PRUs in Wales already operate under a management committee, reports from Estyn and the Care and Social Services inspectors, Edinburgh University and the Children's Commissioner for Wales suggest that clear direction on the remit and governance of management

committees will ensure greater consistency throughout Wales and an improved PRU sector.

The introduction of regulations will complement the wider work being undertaken in response to recommendations in the Edinburgh University's evaluation of education provision for children and young people educated outside the school setting.

The expectation is that the establishment of a management committee for each PRU, or group of PRUs operating jointly under one management committee, will ensure that similar standards governing schools will also apply to the way PRUs are governed.

5. Consultation

Details of the consultation undertaken are included in the Regulatory Impact Assessment.

Part 2 – Regulatory Impact Assessment

Options

Option 1: Do nothing

In the event of these Regulations not coming into force, then

- our aim to bring about improved, more robust and better managed PRUs will not be achieved.
- our aim to respond positively to the PRU sector's call for new guidance to be developed for management committees, based on a stronger legislative footing, will not be achieved.
- our aim to bring management committees more in line with governing bodies of maintained schools will not be achieved.
- the Minister's commitment to ensuring that children taught outside the school setting - many of whom are in PRUs - have improved outcomes and the opportunity to fulfil their potential, may not be realised.

Option 2: Make the legislation

By making the legislation, we will:

- strengthen the way PRUs are managed and put them on a similar footing to mainstream schools.
- make management committees more accountable for the way in which PRUs deliver their education provision.
- improve the experiences and prospects for children and young people in PRUs.
- be responding positively to calls from Estyn and the Care and Social Services inspectors, Edinburgh University and the Children's Commissioner for Wales to improve PRUs.

Costs and benefits

Option 1: Do nothing

This option would maintain the current policy and, as such, there are no additional costs or benefits associated with this option.

Option 2: Make the legislation

Under this option local authorities will be required to establish management committees for their PRUs in line with the requirements, as set out in the Regulations.

The vast majority of PRUs currently have management committees and many are already constituted in a way which is similar to that required under the new Regulations. As such, and as no issues of cost were raised in the consultation responses, we would expect any additional costs incurred in meeting these requirements to be minimal, for either the public or third sector.

The Regulations and the supporting statutory guidance will provide a platform which will ensure consistency in the way management committees are set up and the way they operate.

Consultation

A 12 week consultation ran from 31 March 2014 to 23 June 2014 on the draft Regulations and accompanying guidance. The consultation was drawn to the attention of a wide audience of key stakeholders including schools, local authorities, the Children's Commissioner for Wales, Governors Wales, Estyn and the teacher unions.

A separate child and young person's version of the consultation and consultation response form was also made available. Sixteen responses were received for the adult version of the consultation and one for the child and young person's version.

There was broad agreement to all of the proposals in the consultation. No amendments were considered necessary to the draft Regulations. However, one issue emerged which I consider justifies amendment to the draft guidance. The Children's Commissioner wanted to strengthen the pupil participation section of the guidance, whilst the NASUWT advised caution. Having considered all the responses, I have decided to strengthen the guidance to provide additional information and support on how management committees engage with pupils in the decision making process.

A summary of the consultation responses is available at <http://wales.gov.uk/consultations/education/pru-management-committee-regulations/?status=closed&lang=en>

Post implementation assessment

The Welsh Government will continually review the implementation of these Regulations through ongoing discussions with key stakeholders and Estyn. The review will take place over a two year period after the regulations come into force.