

EXPLANATORY MEMORANDUM TO THE COLLABORATION BETWEEN MAINTAINED SCHOOLS (WALES) REGULATIONS 2008

This Explanatory Memorandum has been prepared by the Department for Children, Education, Lifelong Learning and Skills and is laid before the National Assembly for Wales.

- (i) **Description** – These regulations will enable two or more school governing bodies to formally work together in a collaborative manner through the establishment of joint committees, should they choose to do so. Governing bodies are under no obligation to do this. Joint committees will be able to make decisions and take actions on matters delegated to them by the participating governing bodies.
- (ii) **Matters of special interest to the Subordinate Legislation Committee** – None.
- (iii) **Legislative Background** – These regulations have been made under sections 19(3), 23, 26, and 210(7) of The Education Act 2002 which have been transferred to Welsh Ministers. The regulations are subject to the negative resolution procedure.
- (iv) **Purpose and intended effect of the legislation** – One of the Welsh Assembly Government's key aims is to raise educational standards in all maintained schools in Wales. Making regulations that allow schools to work together collaboratively will help achieve that aim. It also supports the Welsh Assembly Government's policy for public service organisations to work together where it will benefit the public.

Schools can already work together on an informal basis. However, the drawback under current arrangements is that decision making is slow and the scope for collaborative working is not fully exploited. At present in any joint venture the individual governing bodies need to agree proposals separately. Thus, in practice collaborative working tends to be limited and is usually undertaken by school headteachers and members of the senior management team rather than at governing body level. This arrangement is problematic and laborious because governing bodies are limited to making decisions about their own school. Any joint working parties established by two or more governing bodies cannot make decisions on their behalves. Matters requiring a decision have to be referred back to the individual governing bodies.

The regulations introduce a process which will allow two or more school governing bodies (there is no limit on the number of governing bodies who could work collaboratively) to work

together and establish joint committees. This would result in a formal and more efficient and effective framework being in place to support collaboration arrangements. It would make decision making for collaborative activities more streamlined which will benefit the schools, the pupils and parents.

By facilitating collaboration, the regulations will make it more attractive for schools to work together. In turn this should help schools to more easily share and benchmark good practice, develop new approaches jointly and promote activities which individual schools might find difficult to sustain.

There may be a range of circumstances in which governing bodies could wish work together, including:

- Bringing weaker schools into a cluster with better schools;
- Smaller rural schools working together to exploit economies of scale and opening up opportunities to share expertise in management, staffing and curriculum issues;
- Cross phase arrangements eg secondary schools and their feeder primaries or junior schools and their feeder infant/nursery schools; or
- Raising educational standards by encouraging schools to work together curriculum delivery, shared leadership, and joint action to tackle inclusion or provision of community services.

The regulations set out the framework requirements for joint governing body committees including:

- the arrangements for establishing joint committees including membership, constitution and terms of reference;
- proceedings of joint committees including election of chair, voting and quorum;
- appointment of clerks to committees and their duties;
- role of non governor members of joint committees;
- rights of persons to attend joint meetings;
- restrictions on who can take part in meetings joint meetings;
- minutes of joint meetings.

(v) **Implementation** – The provisions for the Assembly Government to make regulations on the establishment of joint committees and governing body collaboration are now 5 years old as they are contained in the Education Act 2002. Schools and LEAs in Wales have been aware for some time that the Assembly Government would be making regulations on joint working as similar regulations have been in place in England since 2003.

(vi) **Consultation** – It is not intended to carry out a consultation on these regulations. The RIA explains why.

REGULATORY IMPACT ASSESSMENT ON THE DRAFT COLLABORATION OF MAINTAINED SCHOOLS (WALES) REGULATIONS 2008

(a) Options

Option 1 – Do Nothing

If regulations are not made schools will continue to work collaboratively in a limited way. The arrangements will be ad hoc, long winded and less effective. The ability of governing bodies to work together will be restricted and that will probably limit their willingness to seek to work collaboratively.

Schools are likely to work in isolation and will fail to capitalise on the potential of collaboration. This will impact on the effectiveness and efficiency of their work. It would be at odds with the emphasis on public service providers working together espoused by the Making the Connections agenda.

Benefits

There are no benefits for schools, members of staff, pupils and parents if the status quo continues. Option 1 limits the potential of governing bodies to work together.

Costs

Option 1 does not incur any direct costs. By limiting the potential of school governing bodies to work together it is likely that opportunities for effective and efficient joint approaches will be missed or not exploited fully. This means that option 1 is likely to have opportunity costs.

Option 2 make the Legislation

Making the regulations will put in place formal arrangements for joint working that governing bodies and schools in Wales have been waiting for, for some time. The regulations will permit governing bodies to work together within a formal framework and establish joint committees to provide a range of services to benefit schools, pupils and parents.

Benefits

Some of the benefits that can be gained by making provision for joint working include:

- Putting collaboration onto a formal basis;
- Speeding up decision making;
- Bringing focus and purpose to make collaboration a useful and powerful too;
- Putting choice into the hands of governing bodies – there is no obligation for governing bodies to collaborate but they can do so if it would help and be beneficial;

- Permitting governing bodies to set up effective working parties to deliver a more co-ordinated approach to delivering services to schools;
- Bringing weaker schools into a cluster with better schools;
- Smaller rural schools working together to exploit economies of scale and opening up opportunities to share expertise in management, staffing and curriculum issues;
- Cross phase arrangements eg secondary schools and their feeder primaries or junior schools and their feeder infant/nursery schools; and
- Raising educational standards by encouraging schools to work together on curriculum delivery, shared leadership, and joint action to tackle inclusion or provision of community services.

Costs – There are no direct costs for the Assembly Government in making these regulations other than the costs of printing and distributing the regulations. Schools that form joint committees may incur some small costs in terms of administration charges ie cost of photocopying papers for meetings, producing minutes and perhaps an additional cost of paying for a clerk to attend meetings. However, the financial gains to schools are likely to far outweigh these minor costs. Collaborating governing bodies can pool resources (finance, staff, school buildings and facilities) to obtain the best value services and outcomes for the school. Joint working should help to drive up standards of achievement and attainment. Any such costs would be met from existing school budgets.

(d) Competition Assessment – Not applicable to these regulations.

(e) Consultation - The Welsh Assembly Government has not consulted on these regulations. There are several reasons why we have judged that consultation is unnecessary.

The Welsh Assembly Government's commitment to the principle of collaboration between public bodies is well known. The regulations support that principle and are a tool for governing bodies to put it into practice. It is acknowledged in the education sector in Wales that there are benefits from schools working together. Collaboration already takes place. Schools and local education authorities recognise that collaboration can bring benefits. By working together schools can make better use of resources, pool expertise, and find ways of doing things more efficiently and effectively. The regulations are long anticipated in the education sector. Similar regulations have been in place in England since 2003. The Welsh Assembly Government has advised local education authorities of its intention to make collaboration regulations through its contacts with LEA governor support officers and Governors Wales. These persons have welcomed the intention to make regulations. Given that the regulations do not alter the policy to encourage collaboration in education, there are no grounds to consult on the principle of the regulations.

With regards to the scope of the regulations and how they will work, the regulations give governing bodies a tool to make it easier to collaborate.

There is no obligation on governing bodies to collaborate however; the regulations are enabling. It is for governing bodies alone to decide whether to set up a joint committee under the regulations. Thus the regulations do not impose a burden or a cost on governing bodies or any other person.

Furthermore, the regulations permit governing bodies to establish and give joint committees decision making powers over the widest range of matters permissible. There is thus no question to be tested by consultation that the regulations are not broad enough in scope. Conversely, the regulations contain the risk that a joint committee might exceed its remit by requiring the sponsoring governing bodies to review the committee's constitution and terms of reference each year. Thus there is no question to be tested by consultation that the regulations do not put in place a safeguard to ensure that joint committees do not exceed their authority.

(f) Post implementation review – Assembly Government officials will monitor the regulations by gathering intelligence from Governor Support Officers in each LEA. Such intelligence might include how many governing bodies have taken advantage of the provisions and formed joint committees. As LEAs receive a copy of all governing body minutes we would also know what issues were being considered by the joint committees and what action if any was being taken.

(g) Summary – Option 2 – making the regulations - offers governing bodies the opportunity to work together efficiently and effectively. Making the regulations give governing bodies a tool to make collaboration much easier. The regulations put in place a framework within which governing bodies can make joint decisions quickly. This will make collaboration more attractive. Collaboration, in turn, should bring benefits to schools by helping them pool resources and expertise. There would be some very minor costs for schools in relation to administration costs. However these would be outweighed by the benefits that could be gained.