

**Explanatory Memorandum
The Education (Parenting Contracts and Parenting Orders) (Wales)
Regulations 2010**

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 in conjunction with the above subordinate legislation and in accordance with Standing Order 24.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Education (Parenting Contracts and Parenting Orders) (Wales) Regulations 2010 and I am satisfied that the benefits outweigh any costs.

Leighton Andrews

Minister for Children, Education and Lifelong Learning

10 December 2010

Description

1. The new Education (Parenting Contracts and Parenting Orders) (Wales) Regulations 2010 introduce new powers which allow for a parenting contract or order for sufficient misbehaviour. The new Regulations revoke the Education (Parenting Orders)(Wales) Regulations 2006 (The 2006 Regulations continue to apply to parenting orders made or applied for before 5 January 2011) and make changes to schools' and local authorities' powers and duties.

Matters of special interest to the Constitutional Affairs Committee

2. There are no matters of special interest in relation to these Regulations.

Legislative background

3. The powers to make these Regulations are contained in sections 20(1) and (2A), 22A, 24 and 94 of the Anti-social Behaviour Act 2003 (as amended by the Education and Inspections Act 2006). The powers of the National Assembly in these sections were transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006.
4. This Statutory Instrument follows the negative resolution procedure.

Purpose and intended effect of the legislation

5. The regulations are required to fully implement amendments to Part 2 of the Anti-social Behaviour Act 2003 made by Chapter 2 of Part 7 of the Education and Inspections Act 2006. The amendments allow for: schools and local authorities (LAs) to offer parenting contracts as an earlier intervention for pupils at risk of exclusion and, parenting orders to be applied for in cases of serious misbehaviour.
6. The Regulations set out the detail for those using school-behaviour related parenting contracts and parenting orders. The regulations prescribe:
 - Conditions to be met before an application can be made for a parenting order.
 - Where the pupil lives in one authority but attends school at another, the local authority where the pupil attends school will have the power to apply for a parenting order or enter into a parenting contract. The authority of residence could do so with agreement from the educating authority.
 - In the case of a permanently excluded pupil the authority of residence would have the power to apply for a parenting order or enter into a parenting contract. In this case the educating authority may also do so with the agreement from the authority of residence.

- Where more than one body has the power to apply for parenting orders or enter into parenting contracts the body proposing to exercise the power must consult with each other body.
- Where an organisation is proposing to use these powers they must request information from any other body which may be able to also use the powers to decide whether this is the best course of action, to avoid multiple applications.
- The costs of the parenting order or contract would be borne by the body making the application or entering into the contract although these may be recovered from another body by agreement.

Consultation

7. A consultation exercise took place between 26 November 2009 and 17 February 2010. The 'Safe and Effective Intervention' consultation sought views on new legislation covering behaviour and discipline contained in the Education and Inspections Act 2006; revised guidance on the use of force; and new powers to search for weapons contained in the Violent Crime Reduction Act 2006
8. We received 19 responses to the consultation from stakeholders including governing bodies and head teachers of schools and pupil referral units in Wales, local authorities, teaching and other unions and national and local bodies within Wales with an interest in education. The new powers and proposed introduction of regulations for parenting contracts and parenting orders were supported by consultation respondents

REGULATORY IMPACT ASSESSMENT

Options

Option 1: Do nothing

9. In the event of the instrument not coming into force, then parenting contracts and orders would continue to be used for cases of exclusions from schools and truancy.

Option 2: Make the legislation

10. By making the legislation we would be able to extend the use of parenting contracts and orders to include sufficient misbehaviour and thus fully implement amendments to Part 2 of the Anti-social Behaviour Act 2003 made by Chapter 2 of Part 7 of the Education and Inspections Act 2006, where there is reason to believe that a pupil has behaved in such a way as to cause, or be likely to cause, significant disruption to the education of other pupils or significant detriment to the welfare of that pupil or other pupils or to the health or safety of any staff; or form part of a pattern of behaviour which if continued could lead to the pupil being excluded.

Costs and benefits

11. These new Regulations have no direct financial implication for the Welsh Assembly Government.
12. The main benefit of these regulations is that they provide an additional option for parenting contracts and orders to include serious misbehaviour so that it can be dealt with without resorting to exclusion.

Consultation

13. As paragraphs 7 and 8.

Post implementation assessment

14. Local authorities will monitor the use of Parenting Contracts and Parenting Orders and provide details of frequency of use to the Welsh Assembly Government upon request.

Summary

15. The new Education (Parenting Contracts and Parenting Orders) (Wales) Regulations 2010 introduce new powers which allow for a parenting contract or order for sufficient misbehaviour. The new Regulations amend the

Education (Parenting Orders) Regulations 2006 (The 2006 Regulations continue to apply to parenting orders made or applied for before 5 January 2011) and make changes to schools' and local authorities' powers and duties.