

Explanatory Memorandum to The Child Poverty Strategy (Wales) Regulations 2011

This Explanatory Memorandum has been prepared by the Department for Social Justice and Local Government 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 Child Poverty Strategy (Wales) Regulations 2011.

Huw Lewis, Deputy Minister for Children

DATE

1. Description

The Children and Families (Wales) Measure 2010 (“the Measure”) provides that all relevant Welsh authorities have a legislative duty to prepare and publish a strategy for contributing to the eradication of child poverty in Wales. The Child Poverty Strategy (Wales) Regulations 2011 (“the Regulations”) implement Section 5(3) of the Measure. The Regulations make provision as to the format and timings for the preparation, consultation, publication and review of child poverty strategies prepared by Welsh authorities.

2. Matters of special interest to the Constitutional Affairs Committee

There are no matters of special interest to the Constitutional Affairs Committee.

3. Legislative background

These regulations are made under section 5(3) of the Measure. Section 5(3) of the Children and Families (Wales) Measure 2010 confers powers on the Welsh Ministers to specify:

- the period to which a strategy is to relate;
- when and how a strategy must be published;
- keeping a strategy under review;
- consultation to be carried out before a strategy is published.

The regulations will follow the negative resolution procedure and therefore will be subject to annulment.

4. Purpose & intended effect of the legislation

The Measure makes statutory provision to take forward the Welsh Assembly Government’s commitment to eradicate child poverty. The Measure, among other things, sets out provision about the child poverty strategies to be prepared by Welsh authorities. In these regulations the Welsh Ministers and local authorities are excluded from the definition of Welsh authorities, as they are subject to different parts of the Measure.

Section 5(3) provides the Welsh Ministers with powers to make regulations which will specify the format and timings, by which the Welsh authorities must prepare, consult on, publish and review their child poverty strategies.

The Welsh authorities to which these regulations applies are:

- A Local Health Board;
- a Welsh fire and rescue authority, that is an authority in Wales constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 (c. 21) or a scheme to which section 4 of that Act applies;
- a National Park authority in Wales;
- the Countryside Council for Wales;
- the Higher Education Funding Council for Wales;

- the Public Health Wales National Health Service Trust;
- the National Museum of Wales;
- the Arts Council of Wales;
- the National Library of Wales;
- the Sports Council for Wales.

The regulations, supported by guidance will provide a framework to ensure that the relevant authorities are fully aware of their duties under the Measure and to help assure a consistent approach across the child poverty strategies produced by the Welsh authorities.

5. Consultation

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

6. Regulatory Impact Assessment

The Measure aims to ensure that all relevant Welsh authorities have a legislative duty to prepare and publish a strategy for contributing to the eradication of child poverty in Wales. The Regulations set out the format and timings by which the Welsh authorities must prepare, consult on, publish and review their child poverty strategies.

7. Options

Option 1 to make the Regulations as drafted

Option 2 Not to make the Regulations

Costs and benefits

Option 1

For those Welsh authorities (who have not entered into an arrangement under section 25 of the Children Act 2004) there will be an additional requirement to prepare and publish a strategy for contributing to the eradication of child poverty. There are likely to be some compliance costs associated with the preparation and publication of a strategy. It is anticipated that these additional demands will be minimal and can be accommodated within their existing budgets. It is also anticipated that these additional demands will be proportionate to the size of the organisation and reflect the likely contribution the Welsh authority could make. The Regulations also allow for the publication of a strategy on its website as a means to control costs.

The Welsh Assembly Government is providing grant funding to Save the Children over three years to support the extension of the Child Poverty Solutions Wales project. The project aims to further develop an online toolkit as well as helping to advise and support public bodies to meet their statutory obligations under the Measure. A total grant of c. £187k was provided by the Welsh Assembly Government over three years (2010-11, 2011-12 and 2012-13).

The benefits of this approach is that the strategies will help to deliver a number of short and long term interventions designed to eradicate poverty. Without the legislative impetus such strategies may not be sufficiently prioritised.

Option 2

Option 2 would incur no additional costs on the Welsh authorities or the Welsh Assembly Government. However, without the Regulations which set out the format and timings for the preparation, consultation, publication and review of child poverty strategies then the preparation of these strategies will be severely

adversely affected. The information contained within the regulations provides a clear and practical framework to usefully assist Welsh authorities in meeting their legislative duty pursuant to the Measure.

Recommended Option

For the reasons outlined above option 1 is recommended.

Consultation

The proposal to place a duty on public agencies to make and demonstrate their contribution to ending child poverty was first consulted on from 11 June 2008 to 30 September 2008 in the *Taking Action on Child Poverty* document.

Following the approval of the Measure a further consultation was conducted with the Welsh authorities named in section 4 above between 24 January and 26 February 2011.

All the organisations which responded supported the draft Regulations. Some respondents raised concerns that the proposed timings for publication and review of the first child poverty strategies were too ambitious as such strategies would need to be cleared for instance by a board of trustees, and be subject to public consultation over the summer period before the final strategy is published.

To meet these concerns and to ensure the eventual coherence with the Children and Young Peoples Planning process the draft Regulations have been amended so that the first child poverty strategy must relate to the period from 1 April 2012 to 31 March 2014. The Regulations provide that the Welsh authorities are to publish their first child poverty strategy on or before 31 March 2012. Accordingly, Welsh authorities may publish their first strategy anytime before 31 March 2012 or on this date. The Regulations will come into force on 6 April 2011 and accordingly Welsh authorities could publish their first child poverty strategy anytime from 6 April 2011 to 31 March 2012. The guidance accompanying the Regulations has been amended to highlight to Welsh authorities that while the Regulations provide a date to meet their legal duty they are encouraged to produce their child poverty strategies earlier if possible. No other changes to the Regulations are proposed as a result of the consultation.

Post Implementation Review

An implementation review will be conducted in September 2014 three years after the implementation of these regulations.