

REGULATORY APPRAISAL THE SCHOOL BUDGET SHARES (WALES) REGULATIONS 2004

Purpose and intended effect

Currently, the Financing of Maintained Schools Regulations 1999 (as amended), set out the rules governing the local formula used to allocate delegated budgets to schools and provide a general list of the items that must be covered in an authority's scheme for financing schools.

The Schools Budget Shares (Wales) Regulations 2004 will replace Part 3 and schedule 3 of the Financing of Maintained Schools Regulations 1999 and will cover the rules for allocating the Schools Budget to individual schools.

These Regulations relate to the factors which authorities have to include in their formula for delegating funding to schools and also offer a range of factors which authorities can choose to include in their formula, having consulted schools and the schools budget forum. The major changes being proposed are:-

- Percentage of funding which has to be delegated in primary and secondary schools' budgets by reference to pupil led factors reduced from 75% to 70%.
- A requirement that authorities include in the formula a factor or factors to reflect the incidence of social deprivation, the factor or factors to be determined by the LEA following consultation.
- Introduction of the requirement that LEAs should distribute funding provided by ELWa – National Council for post 16 pupils in accordance with any conditions applied by ELWa – National Council to the grant under Section 36 of the Learning and Skills Act 2000.

The Education (LEA Financial Schemes)(Wales) Regulations 2004 will replace Part 4 and schedule 5 of the Financing of Maintained Schools Regulations 1999 and will define the items which have to be covered in the authority's scheme for financing schools. The scheme sets out the financial relationship between the Authority and the maintained schools that it funds and contains requirements relating to financial management and associated issues, binding on both the Authority and on schools.

The Assembly must approve the schemes and all subsequent revisions. Schedule 14 of the school Standards and Framework Act 1998 require local authorities to submit details of their financing schemes for schools to the Assembly. The Assembly Government has to approve each authority's scheme and any subsequent revisions. The Assembly must approve authorities schemes and all subsequent revisions.

If an authority fails to submit a scheme or that an authority's scheme does not accord with any guidance given by the Assembly, then the Minister for Education and Lifelong Learning can, after consulting the authority impose a scheme under Section 48 of the Act as is considered appropriate

The major changes are:-

- A requirement that authorities must have a monitoring regime in place for balances which amount to 5% or more of the individual delegated budget for the school.
- Provision for schemes to set out restrictions on governing body activity in exercise of the power conferred by section 27 of the Education Act 2002 – powers of governing bodies to provide community facilities.

Risk Assessment

There are no risks to LEAs or schools associated with these regulations. They replace and update existing regulations. They do not make fundamental changes to the existing arrangements.

Options

There are two short term options:

- (i) Do nothing for now - the existing regulations remain in place.
- (ii) Adopt the regulations – which incorporate changes LEAs, schools and others support; and take account of legislative and other changes since the current regulations were introduced.

Benefits

The proposed changes to the regulations will allow LEAs to reduce the percentage of funding which has to be delegated to primary and secondary schools budgets by reference to pupil led factors to 70% giving them enhanced scope to take account of other factors. They will require LEAs to include a locally determined factor or factors to recognise the incidence of social deprivation. They require LEAs to distribute funding to schools for post 16 pupils in accordance with any conditions applied by ELWa – National Council to the grant under Section 36 of the Learning and Skills Act 2000.

Costs

There should be no financial implications for LEAs in relation to the implementation of these regulations.

There may be some additional administrative work for LEAs when they reconfigure their budgets but this is not likely to be significant. Local authorities are expected (and in most cases do) keep their funding formula and financing scheme under review and update them periodically.

The only costs to the Assembly of implementing these regulations will be in respect of supplying hard copies of the Statutory Instrument to local authorities and other educational bodies. This is likely to be in the region of £500 and will be accommodated within existing budgets held by Schools Management Division.

Consultation

In March 2003 a consultation document was issued which looked at proposals for replacing the existing Financing of Maintained Schools Regulations 1999 (the 1999 regulations). When the original regulations came

into force in January 1999 they covered England and Wales. Since then England have introduced their own regulations to cover the Financing of Maintained Schools, a number of amendments have been made to the regulations specifically for Wales and parts of the regulations have been replaced already by the LEA Budget, Schools Budget and Individual Schools Budget (Wales) Regulations 2003. The remainder of the existing regulations need revision and the replacement regulations will consolidate the amendments as well as covering new provisions in the Education Act 2002.

The consultation was sent out to key partners and stakeholders including local authorities, teaching and other unions, Governors Wales, Church Diocesan authorities, and a 10% sample of schools. Responses to the consultation informed the content of the draft regulations.

Consultation on the final draft of both sets of regulations commenced on 24 March 2004 and ended on 14 May 2004. The draft regulations were sent to all LEAs and to others who had responded to the initial consultation on the replacement of the Financing of Maintained School Regulations in April 2003. There were 18 responses. Overall the analysis of the consultation showed that the respondents agreed with the proposed changes to the draft regulations.

Review

There are a number of new areas of responsibilities for LEAs and schools under the Education Act 2002. Some of these have not yet come into force. They may require LEAs to make changes in the formulae for allocating schools' budget shares and in the content of financing schemes. Authorities are already required to consult locally on changes and the expectation (and practice in most authorities) is that the local funding formula and financing scheme are kept under review and amended a circumstances change.

Summary

These regulations will affect LEAs in the main. However, the prescribed changes to Part 3 and schedule 3 and Part 4 and schedule 5 of the new regulations will allow an LEA greater flexibility when delegating funding to its schools to meet local needs and pressures.