

## **Explanatory Memorandum to the Education (Co-ordination of School Admission Arrangements and Miscellaneous Amendments) (Wales) Regulations 2024**

This Explanatory Memorandum has been prepared by the Education Directorate and is laid before Senedd Cymru 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 (Co-ordination of School Admission Arrangements and Miscellaneous Amendments) (Wales) Regulations 2024. I am satisfied that the benefits justify the costs.

**Lynne Neagle, MS**  
**Cabinet Secretary for Education**  
**29 May 2024**

## **1. Description**

- 1.1 The Education (Co-ordination of School Admission Arrangements and Miscellaneous Amendments) (Wales) Regulations 2024 (“the 2024 Regulations”) place a duty on local authorities to formulate a qualifying scheme for the co-ordination of admission arrangements for schools they maintain and, to secure the adoption of the scheme by themselves and each governing body who is the admission authority for a maintained school in their area.
- 1.2 The 2024 Regulations amend the School Information (Wales) Regulations 2011 (“the 2011 Regulations”) to require the local authority to include in its composite prospectus a summary of the local authority’s co-ordinated scheme as determined each year, alongside a clear explanation of the stages in the process of applying for a school place.
- 1.3 The 2024 Regulations also amend the Education (Admission Appeals Arrangements) (Wales) Regulations 2005 (“the 2005 Regulations”) so as to correct a mistake in regulation 3 and regulation 5 of the 2005 Regulations.

## **2. Matters of special interest to the Legislation, Justice and Constitution Committee**

- 2.1 None.

## **3. Legislative background**

- 3.1 Part 3 of the School Standards and Framework Act 1998 (“the 1998 Act”) makes provision in relation to arrangements for school admissions.
- 3.2 In particular, section 86(1) of the 1998 Act provides that local authorities must make arrangements for parents to express a preference for a school. In practice local authorities fulfil this duty by issuing parental information which includes details of all schools in the local authority area and how to apply. For community and voluntary controlled schools, the local authority is generally the admission authority, and the local authority therefore makes application forms available. For voluntary aided and foundation schools, the governing body is the admission authority.
- 3.3 Section 86(2) of the 1998 Act provides that the admission authority must normally offer a place at the preferred school if there is a place available. The duty to offer the place therefore rests with the admission authority.
- 3.4 Section 86(2A) of the 1998 Act provides that arrangements made under subsection (1) may allow the parent of a child to express preferences for more than one school. However, they are not required to do this if, in accordance with a qualifying scheme for co-ordinating admission arrangements adopted or made by a local authority by virtue of section 89B of the 1998 Act, the child is offered admission to a different school for which the parent has also expressed a preference.

- 3.5 Accordingly sections 89B and 89C of the 1998 Act make provision in relation to the co-ordination of admission arrangements for maintained schools in Wales. In particular section 89B(1) of the 1998 Act provide a power for the Welsh Ministers to make regulations which impose a duty on local authorities to formulate a qualifying scheme for co-ordinating the arrangements for the admission of pupils to maintained schools in their area. Section 89C provides that regulations may be made about the contents of qualifying schemes including the duties imposed by such schemes on local authorities and school admission authorities.
- 3.6 The powers to make the 2024 Regulations are contained in sections 89B(1), (4) and (5), 89C(1), (2), (3), (4) and (5), and 92, 94(5) and (5A), 95(3) and (3A) and 138(7) of the 1998 Act. The 2024 Regulations are subject to annulment in pursuant of a resolution of the Senedd, i.e. the negative resolution procedure.

#### **4. Purpose and intended effect of the legislation**

- 4.1 The purpose of the 2024 Regulations is to make provision for co-ordinating the admission of pupils to schools. The intended effect of the 2024 Regulations is to ensure that parents receive the offer of one school place.

##### What is the problem we want to address?

- 4.2 Parents can express a preference for any school they wish their child to attend. Local authorities must make arrangements enabling the parents of children in their area to express a preference for a school. As noted above in practice local authorities fulfil this duty by issuing information to parents that includes details of all schools and how to apply. Where a parent expresses a preference according to those arrangements, admission authorities will usually comply unless the school is full, in which case oversubscription criteria will apply.
- 4.3 As the admission authority for community and voluntary controlled schools, the local authority makes application forms available for these schools. The local authority also includes in its information for parents the oversubscription criteria relating to the voluntary aided and foundation schools, which provides an indication of the priority that would be given to applications for those schools. The local authority indicates that parents should apply to those schools direct using a form to be provided by the school, which will normally request the submission of additional information relevant to the specific oversubscription criteria.
- 4.4 At present, each individual admission authority has its own admission arrangements, although the Welsh Government's statutory School Admissions Code and School Admission Appeals Code outline common approaches that all admission authorities must adhere to. There is scope for variances, but in reality, these tend to be restricted to each admission authority's oversubscription criteria.

- 4.5 Each admission authority has an application form for its schools. Therefore, if for example, a parent wishes to apply for a place at a community school and a voluntary aided or foundation school, they will need to complete two application forms. Once applications are received, all admission authorities will assess their applications against their own specific oversubscription criteria and prioritise all applicants.
- 4.6 Once applicants are prioritised, all admission authorities will send out placement offers to children on the common offer date. This means that some parents can receive multiple offer letters from different admission authorities. Not all local authorities limit offers to the highest-ranked preferred place they can offer, instead offering a place for each of the preferences for which they can offer a place. This means that under the current system it is not uncommon for some parents to be offered multiple places whilst other parents could potentially have no offer of a place for any of the preferences expressed.
- 4.7 As there is no requirement for parents to confirm which offer they are taking up, this blocks a number of school places until each September when it becomes known which school the child will be attending.
- 4.8 Parents will often appeal for places at preferred schools, rather than accept an offer of a place at a school for which they have not expressed a preference. In doing so they are in effect “holding” a place at a school in reserve. This is costly and time consuming for admission authorities and tends to prolong uncertainty. Although parents who have been offered places are normally asked to decide whether to accept the place within a set deadline, admission authorities invest a great deal of time chasing these responses, sometimes unsuccessfully. The “holding” of places prevents the allocation of places to those without a place.
- 4.9 Parents of children who may not have been offered a place at their preferred school, and therefore accepted a place at an alternative school, may subsequently be notified that there is a place available at their preferred school. This not only causes turbulence of not being offered a place at their preferred school but also the inconvenience of then having to decide whether to change schools in September.
- 4.10 In the absence of a co-ordinated admission arrangement scheme, an admission authority is under a duty to offer a place to every applicant if there is one available regardless of whether other admission authorities are also offering a place.

#### The 2011 Regulations

- 4.11 Local authorities are required to publish an annual composite prospectus containing information for all maintained schools in their area. The composite prospectus must be published before 1 October in the publication year and not later than six weeks before the date up to which parents may express a preference for a school.

- 4.12 The 2011 Regulations specify the general information about the school that must be published in the composite prospectus.
- 4.13 Alongside the introduction of co-ordinated admission arrangements we propose to amend the 2011 Regulations to require the local authority to include in its prospectus the following information:
- (a) a brief description of how an application to apply for a place at a school under the qualifying scheme can be made, including how to apply and by what date,
  - (b) a brief description of when offers of places will be communicated to parents under the qualifying scheme,
  - (c) a brief description of when appeals will be heard,
  - (d) a brief description of how applications made otherwise than in the normal course of a normal admissions round will be decided under the qualifying scheme, and
  - (e) a copy of the common application form.
- 4.14 The aim of the change is to ensure that parents and pupils have all the relevant information on how to apply for a place under the new arrangements.

What improvements will the legislation make to the current situation?

- 4.15 Under the new arrangements the local authority will receive all requests for admissions on a single application form, though parents may also name schools for which the local authority is not the admission authority. Parents will be able to name more than one school in preference order. Once forms are submitted, the local authority will refer the applications for schools for which it is not the admission authority to the school governing bodies (who are the admission authority) in question. Those governing bodies will then draw up a list showing all the applications in rank order using the oversubscription criteria where there are more applications than places available. These lists will then be returned to the local authority which issues a single offer for the most preferred school.
- 4.16 The 2024 Regulations will ensure that parents receive the offer of only one place, taking into account their expressed preferences. This avoids the potential for multiple offers to be held by some parents whilst other parents could potentially have no offer of a place for any of the preferences expressed. Parents will still be able to appeal if they have not been allocated a place which was preferred ahead of the place offered.
- 4.17 The procedure results in more pupils being offered places promptly and reduces the period of uncertainty for parents and pupils when applying for a school place. It will help to stop the holding up of places and in turn will allow quicker allocation of places to others. This will reduce the turbulence for parents who have not being offered a place at their preferred school and the inconvenience of then having to change schools in September where a place becomes available. This will also help to stabilise the knock on effects for local authorities and admission authorities with regard to managing surplus places

and pupil admission numbers.

How will the 2024 Regulations enable sectors to operate more efficiently?

- 4.18 The 2024 Regulations will enable local authorities and other admission authorities to operate more efficiently by helping to reduce the cost and time that comes with the holding up of school places by families who have received more than one school offer.

What are the risks if the 2024 Regulations were not made?

- 4.19 If the 2024 Regulations were not made some parents will continue to hold multiple offers of places where other parents may have none. If amendments were not made to the 2011 Regulations parents and pupils may not have the information they need to make an application for a school place.

**5. Consultation**

- 5.1 A 12-week consultation on the 2024 Regulations ran from 28 November 2023 to 23 February 2024. The consultation was published on the Welsh Government website and drawn to the attention of local authorities, admissions authorities, schools, and diocesan authorities. 22 responses were received. The consultation documents and a summary of the responses are available at: [Co-ordinated school admission arrangements | GOV.WALES](#) . The main points are included below.
- 5.2 A large majority (77%) of respondents agreed with the 2024 Regulations for the co-ordination of school admission arrangements. Many respondents believe the proposal will streamline the admission process, which in turn could reduce the time and effort spent by both parents and admission authorities. Some smaller local authorities envisage an increase in workload, especially in areas where there is no issue with oversubscription.
- 5.3 The majority of respondents (73%) confirmed that the 2024 Regulations should apply to all local authorities, with some stating that applying the requirement to all local authorities will provide consistency across Wales. Some indicated that applying the requirements to only certain local authorities could cause confusion, particularly for parents/carers should they wish to move cross border or to other areas of Wales. However, 18% of respondents felt strongly the 2024 Regulations should only apply to certain local authorities. It was suggested that the requirements should only apply to those areas where schools are oversubscribed, as it is felt those areas without this issue would not benefit.
- 5.4 Almost half of respondents considered the proposed 2024 Regulations will result in additional costs for local authorities. Although it was difficult to quantify what those additional costs would be, a couple of local authorities suggested this would result in the need for additional resource. It was however acknowledged that whilst introducing a new streamlined system for some local authorities would increase workload at the beginning of the admissions round, this would somewhat be offset at the end of the process with less work involved

in co-ordinating multiple offers made to parents. It was also suggested that co-ordinated arrangements speed up the admissions process and frees up valuable time and resources at schools.

- 5.5 Furthermore, almost half of respondents suggested there would be no cost savings for local authorities, school, parents and carers. Of those who answered 'yes', some stated there will be time and cost savings by lessening unnecessary appeal panels and chasing decisions.
- 5.6 The majority of respondents agreed that the local authority should be required to include in its composite prospectus a summary of the local authority's co-ordinated scheme each year. It was suggested that this will ensure parents should be well informed of the process.
- 5.7 No changes have been made to the 2024 Regulations as a result of the consultation.

## PART 2 – REGULATORY IMPACT ASSESSMENT

### 6. Options

6.1 Two options are considered:

- *keep the status quo – no requirement for admission authorities to co-ordinate their admission arrangements.*
- *make the 2024 Regulations – make the 2024 Regulations so as to place a duty on local authorities to formulate a qualifying scheme for the co-ordination of admission arrangements.*

***Option 1: keep the status quo – no requirement for admission authorities to co-ordinate their admission arrangements.***

6.2 Maintaining the status quo would mean there is no requirement for admission authorities to co-ordinate their admission arrangements. Although there is nothing stopping local authorities and governing bodies from voluntarily developing a scheme for the co-ordination of admission arrangements (many do so on a voluntary basis), not requiring them to do this means that in some authorities, some parents are holding onto more than one school offer resulting in other parents potentially have no offer of a place for any of the preferences expressed.

6.3 This situation prolongs uncertainty for some families and admission authorities. As there is no requirement on parents to confirm which offer they are taking up, this blocks a number of school places until each September when it becomes known which school the child will be attending. Although parents who have been offered places are normally asked to decide whether to accept the place within a set deadline, admission authorities invest a great deal of time and resource chasing these responses, sometimes unsuccessfully. The holding of places prevents the allocation of places to those without a place.

6.4 Option 1 would not reflect feedback from the majority of respondents to the consultation on the 2024 Regulations who supported the proposal for co-ordinated admission arrangements.

***Option two: make the 2024 Regulations – make the 2024 Regulations so as to place a duty on local authorities to formulate a qualifying scheme for the co-ordination of admission arrangements.***

6.5 Making the 2024 Regulations means local authorities will be required to formulate a qualifying scheme for the co-ordination of admission arrangements for schools they maintain. They will need to secure the adoption of the scheme by themselves and each governing body who is the admission authority for a maintained school in their area. They will also be required to include in their composite prospectus a summary of the local authority's co-

ordinated scheme as determined each year, alongside a clear explanation of the stages in the process of applying for a school place.

- 6.6 This option will lead to more pupils being offered places promptly and reduces the period of uncertainty for parents and pupils when applying for a school place. It will help to stop the holding up of places and in turn will allow quicker allocation of places to others. It will reduce the blocking of school places that would otherwise happen until each September when it becomes known which school the child will be attending.
- 6.7 Many of the respondents to the consultation felt that this approach will help to streamline admission arrangements and some highlighting the importance of a consistent approach across Wales. Although some recognised the potential to reduce time and effort spent by both parents and admission authorities in co-ordinating admission arrangements, a few smaller local authorities suggest there would be an increase in workload for them as they currently do not have any issues with oversubscription in their schools.
- 6.8 77% of respondents agreed with the 2024 Regulations for the co-ordination of school admission arrangements and 73% confirming that the regulations should apply to all local authorities.

## **7. Cost and benefits**

### ***Option 1: keep the status quo – no requirement for admission authorities to co-ordinate their admission arrangements.***

- 7.1 Although keeping the status quo wouldn't add any financial pressures, there would be a missed opportunity for efficiency savings to be made at a local authority level and for some schools, if there was a requirement to co-ordinate admission arrangements.
- 7.2 Currently, where the adoption of an admission scheme has not been undertaken by all admission authorities within a local authority, the local authority invests a lot of time and resource in chasing responses from parents who have been provide multiple offers for school places.

### ***Option two: make the 2024 Regulations – make the 2024 Regulations so as to place a duty on local authorities to formulate a qualifying scheme for the co-ordination of admission arrangements.***

- 7.3 As well as the benefits of reducing the period of uncertainty for parents and pupils, we know from discussions with members of the ADEW School Admissions Officer Group that the co-ordination of admission arrangements will result in saving time and resource for local authorities who chase responses from parents who hold more than one offer for a school place. However, whilst this was a similar message from some who responded to the consultation on the 2024 Regulations, a couple of smaller local authorities suggested this would increase administrative burden and require additional resource to administer a co-ordinated admission scheme.

- 7.4 We did not receive sufficient information to enable us to produce a robust estimate of aggregate annual savings for most local authorities or additional costs that could apply in some others. However, it was acknowledged that whilst introducing a new streamlined system for some local authorities would increase workload at the beginning of the admissions round, this would somewhat be offset at the end of the process with less work involved in co-ordinating multiple offers made to parents. It was also suggested that co-ordinated arrangements speed up the admissions process and frees up valuable time and resources at schools.
- 7.5 Although we would expect some upfront cost for those local authorities establishing a co-ordinated scheme for the first time and that there is some additional work for local authorities at the front end of the admission round when co-ordinating applications for school places, evidence from those authorities who already undertake co-ordinated admission arrangements suggests that the time and resource savings are made as a result of issuing a single offer, as this leads to less chasing of offers and potential appeals from those parents who would otherwise be without an offer for any of their preferences they submitted.
- 7.6 Sections 1 and 8 of the integrated impact assessment for this proposal for subordinate legislative change can be found here: [Co-ordinated school admission arrangements | GOV.WALES](#)
8. **Competition Assessment**
- 8.1 A competition assessment has not been undertaken as the proposal does not affect business, charities or the voluntary sector.
9. **Post implementation review**
- 9.1 The Welsh Government will monitor implementation of the 2024 Regulations to ensure that they are having the intended effect. Furthermore, implementation of any changes to the School Admissions Code to reflect the 2024 Regulations will be closely monitored.
- 9.2 The Welsh Government continues to regularly liaise with the ADEW School Admissions Officer Group which has representation from all local authorities and diocesan authorities in Wales. This continued engagement will include feedback on the implementation of the 2024 Regulations.