



11 May 2009

Dear Sir / Madam

Consultation on *proposed Education (Wales) Measure*

As part of its Stage 1 consideration, the National Assembly for Wales' Legislation Committee No.3 is calling for evidence on the general principles of the [proposed Education Measure](#).

[What is a Measure?](#)

A Measure is a piece of law made by the Assembly, which has a similar effect to an Act of Parliament. The Assembly is able to pass Measures on any 'matter' listed in [Schedule 5](#) to the Government of Wales Act 2006. The proposed Education (Wales) Measure uses matters relating to education and training.

While a Measure is in progress through the Assembly, it is known as a 'proposed Measure'.

There is a four stage process for the consideration of a proposed Measure. Stage 1 involves consideration of the general principles of the proposed Measure by a committee (which includes the taking of written and oral evidence from interested parties and stakeholders), and the agreement of those general principles by the Assembly.

What does this proposed Measure seek to achieve?

The Explanatory Memorandum that accompanies the proposed Measure states:

"The proposed Education (Wales) Measure is to extend children's entitlement by providing them with rights to make special educational needs (SEN) appeals and claims of disability discrimination to the Special Educational Needs Tribunal for Wales (the Tribunal). It will amend the law that gives parents the right to make appeals and claims to the Tribunal."

What is the committee's role?

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The role of Legislation Committee No. 3 is to consider and report on the general principles of the proposed Measure. In doing so, the Committee has agreed to work within the following framework:

To consider:

- i) the need for a proposed Measure to deliver the stated objectives of:
 - providing rights for children and young people to make special educational needs (SEN) appeals and claims of disability discrimination to the SEN Tribunal for Wales (the Tribunal)
 - amending the law providing for parents in Wales to make appeals and claims to the Tribunal, as set out in the Education Act 1996 (as amended) and the Special Educational Needs and Disability Act 2001;
- ii) whether the proposed Measure achieves its stated objectives;
- iii) the key provisions set out in the proposed Measure and whether they are appropriate to deliver its objectives;
- iv) potential barriers to the implementation of the key provisions and whether the proposed Measure takes account of them;
- v) the views of stakeholders who will have to work with the new arrangements.

How you can help - the consultation questions

Further details of the proposed Measure and the accompanying Explanatory Memorandum can be found on the National Assembly's website at:

<http://www.assemblywales.org/bus-home/bus-legislation/bus-leg-measures/business-legislation-measures-cf.htm>

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The Committee would like to invite you to submit written evidence to assist in its scrutiny of the proposed Measure. In particular, we would welcome your views on the questions listed in **Annex 1**.

If you wish to submit evidence, please send an electronic copy of your submission to APSLegislationCommitteeNo3@wales.gsi.gov.uk and entitle the e-mail *Consultation - Proposed Education Measure*.

Alternatively, you can write to:

Ruth Hatton, Deputy Committee Clerk, Legislation Office, National Assembly for Wales, Cardiff Bay, CF99 1NA.

Submissions should arrive by 8 June 2009. It may not be possible to take into account responses received after this date.

Further information on the legislative process can be found at:

<http://www.assemblywales.org/bus-home/bus-legislation/bus-legislation-guidance/bus-legislation-guidance-measures.htm>

When preparing your submission, please keep the following in mind:

- your response should address the issues before the Committee. Please reference your response using the title applied above;
- the National Assembly normally makes responses to public consultation available for public scrutiny and they may also be seen and discussed by Assembly Members at Committee meetings. **If you do not want your response or name published, it is important that you clearly specify this in your submission;**
- please indicate whether you are responding on behalf of an organisation, or as an individual; and
- please indicate whether or not you would be prepared to give oral evidence to the Committee.

The Committee welcomes contributions in English and Welsh and will consider responses to the written consultation during the spring term.

If you have any queries, please contact Fay Bowen, Committee Clerk on 029 2089 8041 or Ruth Hatton, Deputy Clerk on 029 2089 8019.

Yours faithfully



Dai Lloyd AM
Committee Chair

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Annex 1

1. Is there a need for legislation to be made to allow children the right to make appeals and claims to the Special Educational Needs Tribunal for Wales and if so why?
2. Are the sections of the proposed Measure appropriate in terms of reforming legislation relating to Special Educational Needs appeals? If not, how does the proposed Measure need to change?

In considering this question, consultees *may* wish to consider, in particular, the nature of the provisions in the proposed Measure that:

- (a) local authorities must inform children of their right to appeal (**Section 4**);
 - (b) local authorities must make arrangements for partnership and disagreement resolution services and inform children about their right to access them (**Sections 5 & 12**);
 - (c) local authorities must provide access to independent advocacy services for children. Advocates will be expected to be able to assist children in resolution processes, appeal/claim case preparation and support or represent them at hearings (**Section 6 & 13**);
 - (d) the current regulation making powers to in relation to the Tribunal's disability discrimination procedures should be transferred from the Secretary of State for Justice to Welsh Ministers (**Section 15**); and
 - (e) the responsibility for considering complaints about non-implementation of Disability Discrimination Orders should be transferred from the Secretary of State for Justice to Welsh Ministers (**Section 15**);
 - (f) there should be an initial pilot and evaluation phase in some local authority areas, before the legislation is implemented throughout Wales (**Sections 17-19**).
3. How will the proposed Measure change what organisations do currently and what impact will such changes have, if any?

4. What are the potential barriers to implementing the provisions of the proposed Measure (if any) and does the proposed Measure take account of them?
5. What are the financial implications of the proposed Measure for organisations, if any? In answering this question you may wish to consider Section 2 of the Explanatory Memorandum (the Regulatory Impact Assessment), which estimates the costs and benefits of implementation of the proposed Measure.
6. What are your views on powers in section 18 for Welsh Ministers to amend existing, primary legislation, by secondary legislation (by order) such as the Education Act 1996 and Disability Discrimination Act 1995?
7. Are there any other comments you wish to make about specific sections of the proposed Measure?

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