

Explanatory Memorandum to the Relaxation of School Reporting Requirements (Wales) (Coronavirus) Regulations 2021

This Explanatory Memorandum has been prepared by the Education and Public Services Group 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 Relaxation of School Reporting Requirements (Wales) (Coronavirus) Regulations 2021. I am satisfied that the benefits justify the likely costs.

Jeremy Miles MS

Minister for Education and Welsh Language

25 May 2021

Description

1. These Regulations amend a number of current school reporting requirements in response to the impact on schools of coronavirus.

Matters of special interest to the Senedd

2. None.

Legislative background

3. The legal powers for making the proposed Regulations are section 29(3) and (5), 408(1), 537(1), (4) and (7), 537A (1), (2) and (3) and 569(4) of the Education Act 1996, sections 19(1) and 54(3) of the Education Act 1997 and sections 30(1) and 210(7) of the Education Act 2002. The above functions in the Education Act 1996 and the Education Act 1997 were conferred on the Secretary of State and were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999. The above functions in the Education Act 2002 were conferred on the National Assembly for Wales. All of the above are now exercisable by the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006.
4. These sections give the Welsh Ministers the power to make Regulations in relation to the provision of information by local authorities, by maintained schools and in respect of individual pupils respectively.
5. The Regulations are being made under the negative resolution procedure.

Purpose and intended effect of the legislation

6. At a time when we are all continuing to respond to the coronavirus pandemic and its implications, the Welsh Government recognises that schools, local authorities and governing bodies may be unable to comply with certain statutory reporting requirements. They may also pose a disproportionate administrative burden on those responsible.
7. The Relaxation of School Reporting Requirements (Wales) (Coronavirus) Regulations 2021 bring into force the necessary legislative changes which:
 - Amend **the School Governors' Annual Reports (Wales) Regulations 2011**.
 - Amend **the Head Teacher's Report to Parents and Adult Pupils (Wales) Regulations 2011**.
 - Amend **the School Information (Wales) Regulations 2011**.
 - Amend **the School Performance Information (Wales) Regulations 2011**.

The School Governors' Annual Reports (Wales) Regulations 2011 ("the Annual Report Regulations")

8. The Annual Report Regulations require school governing bodies to produce an annual report, including information about school performance against published targets. It would be inappropriate for reports to include data in respect of the 2020/21 school year to include performance and attendance data, as it will not be comparable to previous years. Therefore, regulation 2 of these Regulations amend the Annual Report Regulations to modify the content of reports produced in relation to the 2020/21 academic year, so that information on school performance and attendance data may not be included in any school governors' report. **The statutory duty for governing bodies to produce a report will remain.**
9. Information to be excluded in relation to the school in the 2020/21 school year:
- the most recent Summary of Secondary School Performance (SSSP); and
 - the number of authorised and unauthorised absences in the school year.

The Head Teacher's Report to Parents and Adult Pupils (Wales) Regulations 2011 ("the Reporting Regulations")

10. The Reporting Regulations require headteachers to make a report available to all parents or adult pupils about the educational achievements of pupils, each school year. For the 2020/21 school year, some information that would ordinarily be included in a report, will be either unavailable, not meaningful, or considered inappropriate. Whilst **the provision of reports in respect of all learners will remain an absolute duty**, regulation 3 of these Regulations amends the requirements in the Reporting Regulations so that the content of reports about educational achievements of learners is amended to a "reasonable endeavours" basis. This means that any duties that regulation 3(3) of the Reporting Regulations imposes on headteachers for reports relating to the 2020/21 school year are to be treated as discharged, if the headteacher has used reasonable endeavours to discharge the duty.

The School Information (Wales) Regulations 2011 ("the School Information Regulations")

11. The School Information Regulations require local authorities to publish a composite school prospectus and schools to publish their own individual prospectus, and prescribes the school information that must be included. Regulation 4 of these Regulations amends the School Information Regulations to exclude data on authorised and unauthorised absences in respect of the 2020/21 school year from being published in any school prospectus.

The School Performance Information (Wales) Regulations 2011 (“the Performance Regulations”)

12. The Performance Regulations provide for the reporting of teacher assessment and examination outcomes (from schools and governing bodies to local authorities and Welsh Ministers). It has been announced that, for 2020/21, end of key stage (Foundation Phase, Key Stages 2 and 3) teacher assessments and associated moderation requirements will be disapplied and that continuous and personalised assessments (Foundation Phase, Key Stages 2 and 3) will continue on a “reasonable endeavours” basis. Therefore, regulation 5 of these Regulations amend the Performance Regulations to remove the duties on governing bodies and local authorities to provide data to local authorities and Welsh Ministers, respectively, on statutory assessment outcomes in respect of the 2020/21 school year.

Consultation

13. A three week consultation on the legislative changes was held in accordance with section 408(5) of the Education Act 1996 and ran from 5 March to 26 March 2021. The consultation was drawn to the attention of key stakeholders, including local authorities, regional consortia, school governors and the teacher unions.

14. 21 responses were received and most (20) were in agreement with the proposed legislation. No amendments were considered necessary to the draft Regulations. A summary of the consultation responses is available on the Welsh Government website: <https://gov.wales/relaxation-school-reporting-requirements-2021>.

Regulatory Impact Assessment

15. The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations.

16. Due to the likely costs and benefits of complying with these Regulations, it is not considered necessary to carry out a Regulatory Impact Assessment. The Relaxation of School Reporting Requirements (Wales) (Coronavirus) Regulations 2021 need to be put in place to ensure the removal of inappropriate or impractical burdens on schools and local authorities in response to the coronavirus pandemic.