

EXPLANATORY MEMORANDUM
The Education (Information About Children in Alternative Provision)
(Wales) Regulations 2009

This Explanatory Memorandum has been prepared by the Department for Children, Education and Lifelong Learning and is laid before the National Assembly for Wales in accordance with Standing Order 24.1.

Description

1. Regulations to enable the collection of pupil level data from local authorities on children receiving funded education outside the maintained school sector. These regulations also set out the requirements on the providers of such funded education in relation to reporting to parents.

Matters of special interest to the Subordinate Legislation Committee

2. There are no matters of special interest in relation to these regulations.

Legislative Background

3. Section 164 of the Education and Inspections Act 2006 inserted a new section 537B into the Education Act 1996 which relates to the provision of information about children receiving funded education outside of school. This section allows the Welsh Ministers to make Regulations to oblige the providers of such 'alternative educational provision' to supply the Welsh Ministers or a local authority prescribed items of information about individual children, when required to do so, and further stipulates the persons who can exchange such information.
4. This Statutory Instrument will follow the negative resolution procedure.

Purpose and intended effect of the legislation

5. Section 4 of the Education and Inspections Act 2006 inserts a new section 436A into the Education Act 1996 by inserting a new section which requires all local education authorities to make arrangements to enable them to establish (so far as it is possible to do so) the identities of children in their area who are not receiving a suitable education.
6. The duty applies in relation to children of compulsory school age who are not on a school roll, and who are not receiving a suitable education other than at school (EOTAS). The duty does not apply to children who are registered at a school who are not attending regularly nor does it apply to children whose parents elect to home educate them.
7. Local authorities will be responsible for meeting the requirements of the duty. They will need to put in place arrangements for joint working and appropriate information sharing with other local education authorities. This will not be in isolation to what they are already doing to meet their duties under sections 25-29 of the Children Act 2004 in relation to improving the well being of children and young people in each local authority area.

8. The purpose of the duty is to make sure that children missing from education are identified quickly and that effective monitoring systems are put in place to ensure that action is taken to provide them with suitable education once found.
9. The policy responsibility for children missing education sits within the School Information & Improvement Branch. A key tenet of the work within the Branch is not only to support local authorities in the safe, accurate exchange of pupil level data so that teachers and education professionals are informed of children's prior engagement, experience and achievements, but also the development of policy around 'plugging the data gaps' to help local authorities to effectively track pupils and to ensure they are well informed about the children for whom they are responsible.
10. For this reason and in support of the new duty we plan to introduce an annual collection of individual level data for learners educated other than at school. The collection will focus on children receiving funded education otherwise than at school as defined in Section 19(1) of the Education Act 1996 i.e. those children of compulsory school age who, by reason of illness, exclusion or otherwise may not for any period receive suitable education.
11. Early scoping uncovered significant variation in the quality and coverage of information held about these learners. The collection will help inform evidence based policy for this group. It is expected that the data which is used to complete the return will be regularly maintained and monitored by the local authority providing them with ongoing data about this vulnerable group of children. Such information would also support local authorities in meeting their statutory duties to improve outcomes, reduce inequalities and to plan appropriate intervention strategies early.

Implementation

12. The Welsh Assembly Government is committed to promoting continuous improvement and reducing inequalities between groups of learners. Systems are in place to support the secure provision of this data. If this legislation is not made then we will not be able to collect pupil level data on these learners. We have worked closely with commercial software suppliers who develop the local authority management information systems which will enable local authorities in Wales to submit quality data in a secure manner.

Consultation

13. Policy development supporting this proposed new collection has been developed through collaborative working with stakeholders across Wales over a period of some months. This work is closely aligned to and supports work on Children Missing Education and the new statutory duty on local authorities to identify children in their area not receiving education.
14. Local authorities are aware that we plan to undertake the first collection data on children educated otherwise than at school in January 2010. Detailed bilingual guidance in relation to this collection has been developed in

collaboration with local authority stakeholders and was circulated, in draft format, in September 2009.

15. We consulted on the draft Regulations in November for a period of four weeks. The responses received broadly supported the essence of the proposals and made suggestions for possible future developments.

REGULATORY IMPACT ASSESSMENT

Options

Option 1: Do Nothing

16. In the event of the instrument not coming into force; then we would not be able to collect pupil level data on this group of children. It would also result in a gap in data upon which to support evidential policy planning.

Option 2: Make the Legislation

17. The Assembly will be granted powers to collect data from local authorities on children receiving funded education otherwise than in school.

Benefits

18. The main benefit of introducing these regulations will be that they will help inform policy by providing a far more detailed evidential base for a group of children and young people whom historically we have had little or no data on.
19. They also support key to support our policy drive to 'plug the data gaps' so as to ensure local authorities are well informed about the children for whom they are responsible.

Cost

20. The new regulation has no direct financial implication for the Assembly or schools. Local authorities will need to ensure they have appropriate information systems in place within the authority in enable them to submit the data required. In order to help facilitate this process the Welsh Assembly Government has worked with commercial software suppliers of local authority Management Information Systems (MIS) to specifying the requirements for the data return for inclusion as part of their software development cycle.

Consultation

21. As paragraphs 13-15.

Post implementation assessment

22. The requirements as a result of these Regulations will be monitored through the local authority pupil level data return.

Summary

23. These Regulations enable the collection of pupil level data from local authorities on children receiving funded education outside the maintained

school sector. Collecting such data will help inform evidence based policy on a group that historically we have had little data on. Such information would also support local authorities in meeting their statutory duties to improve outcomes, reduce inequalities and to plan appropriate intervention strategies early.