

REGULATORY APPRAISAL

EDUCATION, WALES

THE GOVERNOR ALLOWANCES (WALES) REGULATIONS 2005

Purpose and intended effect of the measure

1. Schedule 11 of the Schools Standards and Framework Act 1998 makes provisions for the governing body to pay governors' expenses in accordance with the circumstances laid out in the Regulations. The Education (Governors Allowances) Regulations 1999 makes clear that governing bodies with a delegated budget can agree their own scheme to pay a governor (or non governor) allowances in respect of expenditure incurred by them to enable them to perform their governors duties. It is not mandatory for a governing body to have a scheme in place, but they may have one if they wish to pay governors allowances. The 1999 Regulations also provide for allowances to be paid to persons appointed to represent the interests of the local education authority at an institution providing further or higher education or both. The rate of subsistence may be determined by the governing body but should not exceed the rates specified in the Local Government Act 1972.
2. The intention of the new Regulations is to replicate the provisions contained in the 1999 Regulations, and update the legislative provisions under which the payments can be made to Section 100 of the Local Government Act 2000.

Risk Assessment

3. These Regulations are being made through the provisions contained in Section 19 of the Education Act 2002. If these Regulations are not in place when the new provisions are commenced, governing bodies that have established schemes to pay allowances to governors will not be able to pay governors (or non governors) expenses for carrying out their statutory duties. The policy intention is that, as volunteers, governors should not be out of pocket when carrying out their governor duties. Potentially this could be a disincentive to the recruitment of governors and could result in governors resigning, if the governing body were unable to pay expenses where it has established a scheme to do so.
4. Similarly, each Local Education Authority (LEA) would be unable to pay expenses to governors in respect of schools that do not have a delegated budget and expenses to persons appointed to represent their interests on the governing body of further and higher education institutions and governing bodies of independent schools or schools, which are not maintained by the LEA.

Options

Option 1: Do Nothing

5. If these Regulations are not made there will be no statutory basis on which to pay expenses to governors and governing bodies and LEAs would be acting unlawfully if they continued to make payments for this purpose.

Option 2: Make the Legislation

6. This will provide funding for governors' allowances for schools that have a delegated budget and where they have established a scheme for paying allowances is paid for from the schools delegated budget. Funding for payments made by the LEA in the circumstances outlined above are met from the LEA's budget.

Benefits

7. The intention of the new Regulations is to replicate the provisions contained in the 1999 Regulations. These Regulations update the legislative provisions under which the payments can be made.

Costs

8. Schools' delegated budgets will meet the costs of payment of allowances to governors where the governing body have a delegated budget and where governors have agreed that such a scheme should operate. The LEA budgets would meet the costs where the school does not have a delegated budget or to pay allowances to their representatives on other governing bodies.
9. It is understood that very few governing bodies have agreed a scheme to pay allowances to governors, as the governors consider themselves to be volunteers and should not be paid. Governors are also conscious that any allowances paid to them are using money from the schools budget, which they would prefer to spend on the pupils. It is also accepted that the circumstances where LEAs would have to pay expenses would also be limited. For these reasons there are no real cost implications or additional financial burdens for governing bodies or LEAs in connection with these new governors' allowances Regulations.
10. There are no additional financial implications associated with these Regulations for the Assembly.

Consultation

With Stakeholders

11. In October 2002 the Assembly established the Education Act Reference Group whose members had the necessary expertise to help them inform Assembly policy on the implementation of the school governance issues arising out of the 2002 Act. Membership consisted of representatives from key stakeholders; the teacher unions, Governors Wales, LEAs, diocesan

representatives, the Welsh Local Government Association, ACCAC and Estyn.

12. In January 2004 the Assembly consulted widely with the key partners mentioned above, local and national education organisations and 10% of Schools on the proposed changes to the Education (Governors' Allowances) (Wales) Regulations 1999. The consultation period ended on 26 March 2004. Respondees to the consultation indicated support for our proposals especially as essentially they replicate the existing Regulations with some minor changes.
13. A further electronic consultation was carried out on these Regulations with respondees to the first consultation and key partners between 20 May 2005 and 1 July 2005, where further support for the proposals was received.

With Subject Committee

14. The Regulations were notified to the Education and Lifelong Learning Committee via the list of forthcoming legislation (ELL2 01-05-p.9e, Item no: ELL 31-05) on 19 January 2005 and has remained on the list ever since. The Regulations were not identified for detailed scrutiny.

Review

15. The working of the Regulations will be monitored following implementation and if over time it is evident that there is a need for further change this would be considered and subject to consultation at that time.

Summary

16. Governing bodies that have delegated budgets may if they wish have a scheme in place for reimbursing governors expenses incurred in carrying out their responsibilities. These costs are borne by the schools delegated budget. If these Regulations are not in place to enable these payments to be made the governing body would be acting unlawfully if they made such payments from the schools budget. LEA's would also be acting unlawfully in respect of any allowances they paid. Payments must be made in accordance with the Local Government Act 2000.