

National Assembly for Wales

Education and Lifelong Learning Committee

Secondary Legislation: 28 April 2004

The Committee considered six items of secondary legislation at a meeting on Wednesday 28 April 2004:

- The Education (Pupil and Exclusions and Appeals) (Maintained Schools) Regulations 2003;
- The Education (Pupils and Exclusions and Appeals) (Pupil Referral Units) (Wales) Regulations 2003;
- The Education (School Teachers' Qualifications) (Wales) Regulations 2004;
- The Education (Specified Work and Registration) (Wales) 2004;
- The General Teaching Council for Wales (Functions) (Amendment) Regulations 2004; and
- The School Teachers (Consequential Amendments) Regulations 2004

The Education (Pupil and Exclusions and Appeals) (Maintained Schools) Regulations 2003; and The Education (Pupils and Exclusions and Appeals) (Pupil Referral Units) (Wales) Regulations 2003;

The Minister said that pupil exclusions procedures are currently provided for in these regulations. The Minister stated that it was intended to make amendments to these regulations on 6 July 2004: to come into force on 1 September 2004.

The main change to the regulations involves reverting back to the balance of probabilities to be used as the standard of proof for decision-making for all exclusions. The Minister explained that other changes were for the purposes of clarification and improved information. Changes made to the regulations will be reflected in changes to associated guidance.

The Minister explained that the first amendment was necessary to resolve practical difficulties, resulting from a judgement in the Court of Appeal. The second amendment clarified the responsibilities and obligations of governing bodies, with regards to exclusions. The third amendment required governing bodies to provide the date of birth of an excluded pupil, to facilitate the accurate collection and monitoring of exclusion data.

The Committee welcomed the opportunity to discuss these proposed amendments. Members supported the underlying principle that the standard of proof used in all exclusion cases should be the civil standard of the balance of probabilities. The Committee supported all the proposed amendments.

**The Education (School Teachers' Qualifications) (Wales) Regulations 2004;
The Education (Specified Work and Registration) (Wales) 2004;
The General Teaching Council for Wales (Functions) (Amendment)
Regulations 2004; and
The School Teachers (Consequential Amendments) Regulations 2004**

Members were provided with copies of the regulations, a summary of the consultation responses and also the Assembly Government's comments on these responses; together with their proposed amendments. Members were also provided with briefing by the Members' Research Service, setting out the background to the regulations.

The Minister introduced the regulations, and made the following points:

- From the summary of responses to the consultation on the draft regulations and guidance, the majority of respondents had been in favour of the Welsh Assembly Government's proposals;
- Regulations ELL 14-04 mainly supported the implementation of tackling teachers' workload;
- The regulations did not make it compulsory for support staff to be used, but offered opportunities under statutory definitions. There was no guidance currently available;
- The regulations set clear conditions for when support staff could carry out specified work; and
- The Minister said that she opposed Janet Ryder's amendment, but she was content to accept the principle of Mark Isherwood's proposed amendments to the guidance.

The Chair then invited Janet Ryder to introduce her amendment and she made the following points:

- Classroom assistants already made a significant contribution in support of classroom teachers and this was welcomed;
- The duties set out in regulation 6 of ELL 14-04 were acceptable for qualified teachers but not for non-qualified teachers;
- Neither UCAC nor NUT Cymru supported these regulations;
- Paragraph 8 would create the potential for a two-tier teaching system; and
- Teaching should be carried out only by qualified teachers.

The Chair asked the Minister to clarify the interpretation of paragraph 8b: did a teacher have to present in the classroom with a higher level teaching assistant (HLTA), or could the teaching assistant be left alone to supervise a class?

Some Members supported the amendment, and pointed out that two teaching unions, NUT Cymru and UCAC, had not signed up to the national workload agreement.

The Minister made the following points in response:

- The Welsh Assembly Government wanted to support the teaching profession by helping to reduce their workload;
- A whole range of support staff currently operated in schools; e.g. clerical staff, teaching assistants, SEN assistants and school nurses;
- Non-teaching unions had signed up to the regulations and guidance;
- There was no evidence that teaching would become a two-tier profession;
- The National Association of Headteachers (NAHT) and the Secondary Headteachers' Association (SHA) had fully signed up to the regulations;
- The concerns of NUT Cymru and UCAC were ill founded as the Assembly Government had no intention of downgrading the profession by removing its graduate status;
- The Welsh Assembly Government had specified in the regulations what teachers were required to do; and
- Mike Harper, Head of the Teaching and Leadership Division, responded to the Chair's query and said that a HLTA could be left alone to supervise a class, provided that the teacher and headteacher were content. The Minister added that the teacher would have to develop work plans.

The Chair then invited the Committee to vote on Janet Ryder's amendment:

Amendment 1 (in the name of Janet Ryder AM)

The Education (Specified Work and Registration) (Wales) Regulations 2004

Schedule 2: Delete paragraph 8.

For the amendment: Peter Black, David Davies, Mark Isherwood, Owen John Thomas and Janet Ryder

Against the amendment: Leighton Andrews, Jane Davidson, Jeff Cuthbert, Irene James and Denise Idris Jones

The vote was tied at five votes for and five against. In accordance with Presiding Officer's guidelines, the Chair used his casting vote to defeat the amendment.

The Chair invited Mark Isherwood to introduce his amendments, and he made the following points:

- There was a need for the delivery mechanisms of SEN to be acknowledged in paragraph 2.8 of the guidance;
- There was a need to acknowledge the reward of good behaviour and the management of bad behaviour;
- For ELL-13-04 The Education (School Teachers' Qualifications)(Wales) Regulations 2004, there should be a requirement for deaf awareness training for teachers of hearing impaired pupils and also for FE qualifications being applicable in schools; and

- There was also a need for dual evaluation of further education lecturers and school sixth form teachers; in terms of parity of pay, and performance management.

The proposed amendments were as follows:

Amendment 2 (in the name of Mark Isherwood AM)

Professional Standards for Higher Level Teaching Assistants (Guidance)

Paragraph 2.8: Add at the end... "and know the key factors that that can affect the way SEN pupils learn."

Amendment 3 (in the name of Mark Isherwood AM)

Professional Standards for Higher Level Teaching Assistants (Guidance)

Paragraph 2.9: Delete remainder of sentence after "...to establish a..." and replace with "...purposeful and disciplined learning environment, to promote good behaviour and to manage bad behaviour."

The Minister said that she was content to accept both amendments, in principle, but would seek legal advice on the exact terminology. The regulations were scheduled to be debated in plenary for 28 June 2004, which would provide an opportunity for Members to comment on the amended regulations.

The Committee unanimously supported the principles of these amendments, and so the Chair decided that there was no need for a vote.

Peter Black AM
Committee Chair