

## **Explanatory Memorandum to The Maintained Schools (Partnership Agreements) (Wales) Regulations 2008.**

This Explanatory Memorandum has been prepared by the Department for Children, Education, Lifelong Learning and Skills and is laid before the National Assembly for Wales.

### **Description**

1. Section 197 of the Education Act 2002 contains a Wales only provision which enables the Assembly to make regulations requiring all local education authorities (LEAs) in Wales to enter into individual partnership agreements with the governing bodies of schools they maintain.
2. The Maintained Schools (Partnership Agreements) (Wales) Regulations 2008 introduce this requirement. The purpose of the partnership agreement is for the LEA and the governing body of a school to set out how they will discharge their respective functions on specified matters. The Regulations provide for the matters that must be included in the agreements. The regulations also provide for a partnership agreement to be reviewed at set intervals or in prescribed circumstances.

### **Matters of special interest to the Subordinate Legislation Committee**

3. None

### **Legislative Background**

4. The powers enabling the Instrument to be made are contained in section 197 of the Education Act 2002. The powers under the 2002 Act have been conferred on the Welsh Ministers. Responsibility for issues relating to the contents of these Regulations has been delegated to the Minister for Children, Education, Lifelong Learning and Skills. The Regulations are to be made using the negative resolution procedure.

### **Purpose and intended effect of the legislation**

5. The Regulations require all LEAs in Wales to enter into individual partnership agreements with the governing bodies of all the schools they maintain. A partnership agreement will set out how LEAs and governing bodies will discharge their respective functions on specified matters.
6. The Regulations implement wholly distinct Welsh policy. LEAs have a dual role of supporting and challenging their schools. Many schools and LEAs in Wales already work in close partnership. However the partnership between LEAs and schools does not always work smoothly. There is sometimes uncertainty about what LEAs should provide for their schools and what schools are expected to deliver and lack of understanding of the respective responsibilities of LEAs and schools can lead to difficulty. This detracts from successful achievement of the school improvement agenda set out in LEAs Single Education Plans and schools' development plans. This understanding needs to be sharper, particularly as schools with post 16 pupils start to deliver activity traditionally provided in further education

settings, so that LEAs and schools work together effectively to promote high standards of education.

7. The key aim of partnership agreements is therefore to sustain and enhance existing partnership working between LEAs and schools, to help raise standards in schools.
8. The Maintained Schools (Partnership Agreements) (Wales) Regulations 2008 will therefore:
  - require LEAs and governing bodies to enter into the first agreements on or before 31 March 2008;
  - Specify the arrangements for the review of agreements every 3 years and the outcome of the review;
  - Set out the matters to be covered in a partnership agreement;
  - Set out the circumstances which will trigger review sooner than 3 years; and
  - Make provision for the LEA to draw up a statement in relation to a school when agreement on a partnership agreement cannot be reached.

### **Implementation**

9. This Instrument was made on 23 October 2007 and it is intended to come into force on 12 December 2007. If these target dates for making this Instrument are not achieved LEAs may not be able to put the initial set of Partnership Agreements in place before the end of the 2007-08 financial year. This would jeopardise grant funding of £330,000 to be made available in 2007-08 to fund the initial set of Partnership Agreements. This amount of money may not be available in future years.

### **Consultation**

10. A formal consultation has been carried out. Further details of the consultation can be found in paragraph 6 of the Regulatory Impact Assessment.

## **Regulatory Impact Assessment**

A Regulatory Impact Assessment has been carried out in relation to this Instrument.

### **Options**

#### Option 1 – Do Nothing

1. If the Regulations are not made the Assembly Government could be criticised for not delivering a Learning Country commitment and for taking powers in primary legislation that it has not then used. The uncertainty about what LEAs should provide for their schools and what schools are expected to deliver would continue. There would be a risk of poor understanding of the respective responsibilities of LEAs and schools which could detract from successful achievement of the school improvement agenda. The key aim of the Regulations, to sustain and enhance existing partnership working between LEAs and schools to help raise standards, would not be implemented.

#### Option 2 – Make the Legislation

2. By making the Regulations, wholly distinct Welsh policy will be implemented. The commitment in the Learning Country will be delivered. LEAs will be required to enter into individual partnership agreements with the governing bodies of all the schools they maintain (or put in place statements where no agreement on a partnership agreement can be reached) clarifying what LEAs should provide for their schools and what schools are expected to deliver.

### **Benefits**

3. These Regulations will benefit LEAs and schools by providing a statutory basis which sets out in one agreement who is responsible for what and how functions will be discharged. This will enhance partnership working and help raise standards in schools.

### **Costs**

4. The entering into partnership agreements or the making of statements will involve a new financial burden on LEAs and maintained schools. The cost of putting in place the initial set of agreements is estimated at £330,000 in 2007-08. The cost of keeping agreements and statements under review is estimated at £110,000 per annum for 2008-09 onwards. These figures have been calculated on the basis of information provided from the consultation on the proposals. Resources have been allocated in the Education and Lifelong Learning Main Expenditure Grant. The funding will be provided to LEAs as grant under section 14 of the Education Act 2002 in 2007-08 and through the revenue support grant system thereafter. It will be for LEAs to fund schools for their element of the costs through their delegated budgets. There are no costs incurred to the Assembly Government or any other organisations from the Regulations. If the regulations were not made there would be no cost to anybody. However there might be indirect costs which could arise from LEAs and schools not working together as effectively as they might.

## **Competition Assessment**

5. Not applicable.

## **Consultation**

6. The proposals for partnership agreements were first discussed with a stakeholder group comprising representatives from ADEW, WLGA, GTCW, Governors Wales, Diocesan Authorities and the teacher unions. Formal consultation took place from 12 September 2003 to 7 November 2004 of Chief Executives of all local authorities in Wales, Directors of education, school governing bodies, diocesan authorities, Governors Wales, teacher unions and national and local bodies concerned with education in Wales. Twenty three responses were received which supported the proposals to have partnership agreements or statements. Detailed comments on the functions to be covered, duration of agreements/statements, arrangements for review, circumstances to trigger early review etc were taken account of.
7. The amended proposals were re-considered by the stakeholder group. Some of the topics that consultees wanted included in the regulations could not be included as they are not statutory requirements on LEAs and schools. These topics will be listed in guidance to accompany the regulations.
8. The former Education, Lifelong Learning and Skills Committee was notified of the regulations but did not scrutinise them.

## **Post implementation review**

9. Once introduced, the working of the Regulations will be monitored. Any changes necessary to ensure that the provisions work effectively and achieve the desired aim will be considered and would be subject to further consultation.

## **Summary**

10. The benefits of these Regulations is to sustain and enhance existing partnership working between LEAs and schools in order to help raise standards in schools. The regulations address any uncertainty about what LEAs should provide for their schools and what schools are expected to deliver. This will help LEAs and schools to work together effectively to promote high standards of education. The Regulations implement wholly distinct Welsh policy and deliver a commitment in *The Learning Country*.
11. The cost implications to LEAs and governing bodies of putting in place the initial set of agreements/statements in place, and keeping them under review, will be met through resources allocated in the Education and Lifelong Learning Main Expenditure Grant.
12. Without the Regulations the lack of clarity of the respective responsibilities of LEAs and schools could detract from successful achievement of the school improvement agenda.

