

Jane Hutt AC/AM

**Y Gweinidog dros Blant, Addysg, Dysgu Gydol Oes a Sgiliau
Minister for Children, Education, Lifelong Learning and Skills**



Llywodraeth Cynulliad Cymru
Welsh Assembly Government

Eich cyf/Your ref:
Ein cyf/Our ref: LF/JH/00084/09

Mike German AM,
Chair of Legislation Committee Number 4.
National Assembly for Wales,
Cardiff Bay,
Cardiff,
CF991NA

25th November 2009

Dear Mike,

Thank you for inviting me to appear before your Committee on 12th November.
I look forward to returning on the 10th December 2009.

I have instructed officials to provide your Committee with a note on the issues raised during my appearance and this will be with you soon. However, I am also aware that there continues to be a level of confusion about what is included in the LCO in relation to staffing and finance following the scrutiny meetings with the Welsh Local Government Association and Estyn and also that Governors Wales has asked for greater clarity on Matter 5.2A. Therefore I have decided to provide you with a note on this specific issue to facilitate greater understanding of what is within the scope of the LCO; what is out of the scope of the LCO given that devolved powers already exists within Schedule 5, Field 5 of the Government of Wales Act 2006; and what powers are not being sought via this LCO.

Within scope of the LCO

This LCO would enable the National Assembly for Wales to consider legislation in relation to the quality of governance for a Maintained school and also the system of governance, including who is to exercise the whole range of statutory functions that relate to maintained schools. When we talk of functions, we mean statutory powers and duties that are undertaken a part of the governance role within schools.

The scope of the LCO has been drafted to encompass the whole of the school governance framework within which school governors currently operate, and persons are held to account. In relation to school governing bodies this would mean the processes, systems and functions of governing bodies and

governors, and the way and manner in which they conduct themselves and discharge their functions, duties and responsibilities.

This includes setting the strategic framework for the school by setting aims and objectives and setting policies and targets to achieve those aims and objectives. The current School Government (Terms of Reference) (Wales) Regulations 2000 and associated guidance in Circular NAFW 34/2000 gives further advice on the existing roles and responsibilities of school governors and governing bodies. It also includes responsibility for forming committees to deal with the appointment and dismissal of staff (including redundancies); and dealing with staff capability and staff grievance matters; and managing the delegated budget effectively i.e., not going into a deficit budget.

Existing competence that the LCO complements

The National Assembly for Wales already has extensive competence for education within Field 5 of Schedule 5 to the Government of Wales Act 2006. In summary, these include the following in relation to schools maintained by an LEA:

- Categories of schools
- The establishment and discontinuance of schools or their change from one category to another
- Admissions of pupils to schools
- Curriculum provided in maintained schools
- School attendance, behaviour of pupils at school, pupils discipline and exclusion of pupils
- Provision of education for pupils who have been excluded from school
- Entitlement to primary, secondary (and Further) education and training
- Provision of food and drink provided on school premises
- Travel arrangements for nursery, primary, secondary (and FE) to and from school.

What powers are not being sought via this LCO

The LCO excludes staffing issues and the apportionment and allocation of funding to schools.

Staffing

Teachers pay and conditions issues as set out in the School Teachers Pay and Conditions Document 2009 and guidance on School Teachers' Pay and Conditions are not devolved to Wales. The Secretary of State for Children, Schools and Families in England has responsibility for determining these matters for England and Wales and for issuing guidance to schools and local authorities who are required to have regard to the statutory guidance. The 2009 Document sets out the framework for issues such as:

- Pay and allowances for Head Teachers, Leadership Groups, teachers and class room assistants;
- Conditions of Employment for all heads, deputies, assistant heads and teaching staff; and
- Framework of professional standards

However, governing bodies do have some flexibility and discretion to determine specific pay ranges for their school and head teacher within the agreed framework, but they cannot amend or alter the framework or work outside it.

The functions that governing bodies currently exercise in relation to staffing will remain the same; a Measure made under this LCO cannot substantively amend the law on staffing. However, a Measure would be able to "re-allocate" a "staffing" function to another person within the education system.

Financing of Schools

The Assembly Government is committed to delegating funding to Local Authorities as they are best placed to determine local priorities. LAs in Wales receive their funding via the Revenue Support Grant (RSG) and they determine how much of that is earmarked for education. LAs also determine the budget for each school using an agreed formula and delegate that funding to the governing body to manage.

But the delegation of the RSG from Welsh Assembly Government to LAs, and LAs determination of how much is earmarked for education and subsequently for each school are Local Authority functions and are not therefore within the scope of the LCO.

The functions that governing bodies currently exercise in relation to finance will remain the same; a Measure made under this LCO cannot substantively amend the law on school finance. However, a Measure would be able to "re-allocate" a "finance" function to another person within the education system.

Therefore in summary the LCO has been drafted to ensure issues which are linked to roles and responsibilities of governors are included but existing UK and NAFW powers for staffing and finance are unaffected.

Best wishes

A handwritten signature in cursive script that reads "Jane Hutt".