

## **Explanatory Memorandum to the School Budget Shares (Prescribed Purposes and Consequential Amendments) (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 in accordance with Standing Order 24.1.

### **Description**

1. Some schools are using part of their delegated budgets to fund the education of and/or associated services for, pupils who are not registered at that particular school. These schools re-claim expenditure from the pupil's registered school.
2. The Assembly Government is in favour of schools working together but the current law does not enable them to do so in the most practical and flexible way.
3. These Regulations will set out additional purposes on which the governing body of a school can spend its budget share. These purposes are the provision of teaching and of associated services and items to children and young persons who are not registered pupils at the school.

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

4. None.

### **Legislative Background**

5. The powers enabling this Instrument to be made are contained in sections 47 and 50(3) (b) of the School Standards and Framework Act 1998. The powers under the 1998 Act have been conferred on the Welsh Ministers. The Regulations will be made by the negative resolution procedure.

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

6. The Assembly Government favour schools using part of their delegated budgets to fund the education and/or associated services of pupils who are not registered at that particular school if doing so broadens or improves educational opportunities or makes the delivery of education financially more efficient. Collaboration between schools and FE Institutions is encouraged by the 14-19 agenda which is a key education policy. The Regulations will regularise an existing practice carried out by schools and allow schools to fund the education of pupils who are not registered with them.

7. The Regulations also require the governing body to report annually to its local education authority on such expenditure.

8. These Regulations will amend the Schools Budget Shares (Wales) Regulations 2004 (which provides the statutory basis on which a local education authority determine the amount to be allocated to each school as its budget share for a financial year) so as to allow local authorities to include sums in the budget shares of maintained

schools in respect of provision made in accordance with these regulations.

### **Implementation**

9. It is intended that this Instrument will come into force on 31 August 2008. If the legislation is not implemented, schools would be unable to use their delegated budgets to provide services to children and young people not registered as pupils, which would run counter to Welsh Assembly Government policy for the 14-19 agenda and collaboration between schools.

### **Consultation**

10. No consultation has been carried out. The proposed regulations make technical changes that legislate to bring the law into line with policy and existing practice.

### **Regulatory Impact Assessment**

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

#### **a) Options**

##### Option 1 – Do Nothing

If the Regulations are not made, schools will not have the flexibility to collaborate in the most effective way and some schools may be carrying out unlawful activity. This would be contrary to the Assembly Government's policy of encouraging collaboration between schools and FE institutions through the 14-19 agenda. It could reduce learning opportunities and harm education in Wales.

##### Option 2 – Make the legislation

By making the Regulations, we are providing schools with greater flexibility and a statutory basis to continue with existing practice to allow expenditure of the budget share of a maintained school to be used for the provisions of education for children and young persons who are not registered pupils at the school.

#### **b) Benefits**

Option 1 – has no benefit and would harm education in Wales.

Option 2 – would bring the law into line with Assembly Government policy and widespread practice which benefits learners.

#### **c) Costs**

There are no costs incurred by the Assembly Government, LEAs or schools by making the Regulations. If the Regulations were not made there would be no financial cost to anybody but it would mean that the delivery of education provision might be less efficient and there would be opportunity costs.

**d) Competition Assessment**

Not applicable.

**e) Post implementation review**

The regulations will simply regularise existing practice. We will monitor their impact through casework.

**f) Summary**

The benefit of these Regulations is to sustain and promote the collaborative working between schools and FE Institutions encouraged by the 14-19 agenda. The Regulations will provide a statutory basis to a practice that is working well in schools and that the Assembly Government actively encourages. The ability of schools to collaborate amongst themselves and or with FEIs in this way makes available to pupils particular courses/activities that they would not have had the opportunity to take part in if it was not offered by their registered school. Without the Regulations, some schools may be acting unlawfully. Making the Regulations brings the law into line with Assembly Government policy and widespread and beneficial education practice. There are no cost implications for the Assembly Government, LEA or school as a result of these Regulations.