

Explanatory Memorandum to the Collaboration Arrangements (Maintained Schools and Further Education Bodies) (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.

- (i) **Description** – These regulations will enable governing bodies of maintained schools and further education (FE) bodies to work collaboratively through the establishment of joint committees. Joint committees will have the authority to take decisions on behalf of each participating school/FE college governing body, in respect of those matters which are delegated to it.
- (ii) **Matters of special interest to the Subordinate Legislation Committee** – None
- (iii) **Legislative Background** – The power to make these Regulations was conferred on the National Assembly for Wales in section 166 of the Education and Inspections Act 2006. That function has now been transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006. These Regulations are subject to the negative resolution procedure.
- (iv) **Purpose and intended effect of the legislation** –
Collaboration between learning providers is an intended outcome of Welsh Assembly Government policy, as expressed in *One Wales: A progressive agenda for the government of Wales, The Learning Country: Vision into Action and Learning Pathways 14-19*.

Currently there are a number of drivers towards the development of collaborative arrangements between providers of education and training. These include 14-19 Learning Pathways, Geographic Pathfinders, Estyn Area Inspections and other reports. Informal collaboration between schools and FE colleges is possible and indeed occurs. However, at the moment, the legislative framework which would permit such collaboration to be placed on a formal basis is limited. This situation is limiting the range of collaborative options available for learning providers as they seek to respond to policy drivers, for example through the outcomes of Geographic Pathfinder reviews. This is an immediate issue for the Pathfinder implementation in Rhondda Cynon Taf.

Introducing this power will allow schools and colleges to collaborate formally through joint committees rather than through contractual arrangements in which one party is clearly seen to be taking the lead, or informally. This should lead to a higher level of collaboration between schools and colleges.
- (v) **Implementation** – It is intended that this instrument will come into force on 31 December 2008.

(vi) **Consultation** – Details of the consultation undertaken on these regulations are included in the Regulatory Impact Assessment below.

(vii) **Regulatory Impact Assessment** –

(a) Options

Option one – do nothing

Option two – Commence section 166 of the Education and Inspection Act 2006 and make the Regulations and permit the establishment of joint committees.

(b) Benefits -

Option one

Maintained schools and colleges will still be able to collaborate informally or through contractual arrangements. However, the lack of formal governance arrangements, where all parties involved have equal powers to take decisions, is a disincentive for some providers and causes difficulties in determining satisfactory workable arrangements.

Option two

These regulations will facilitate collaboration between main providers of education and training. Introducing this power will allow schools and colleges to collaborate equally rather than through contractual arrangements in which one party is clearly seen to be taking the lead. This should lead to a higher level of collaboration between schools and colleges.

(c) Costs -

Option1: There are no direct costs associated with this option, though limiting the potential of schools and FEIs to formally collaborate may lead to missed opportunities for efficiencies. Hence there may be opportunity losses.

Option 2: The introduction of this power should be cost neutral. Collaboration by other means would incur similar administration costs and limit the cost benefits associated with long term collaborative efficiencies.

(d) Sectors and groups affected - This power applies to maintained schools and further education sector colleges in Wales.

(e) Competition Assessment Not applicable. The legislation only affects maintained schools and FE colleges.

(f) Consultation - Consultation on these regulations was carried out for a period of 13 weeks from 1 July to 30 September 2008. A list of consultees is included in Annex A.

In total 24 consultation responses were received. Overall the consultation responses were supportive of the proposed regulations. Some responses requested the production of explanatory guidance to accompany the regulations. Additionally, questions were raised regarding procedural aspects of the joint committees, and concerns raised regarding the legal status of the collaborating Governing Bodies. The Welsh Assembly Government plans to produce and issue guidance in the near future. The concerns raised by respondents in the consultation period will be considered when the guidance is drafted.

Minor amendments to the regulations have been made as a result of the consultation responses.

(g) Post implementation review - The regulations will determine the nature of the collaborative arrangements, the functions of the collaborative bodies and joint committees and the manner in which these functions may be discharged. Once in place, schools and colleges will be left to decide themselves if or when to use the power.

(h) Summary – The regulations will facilitate better collaboration between schools and colleges and will help drive forward *One Wales: A progressive agenda for the government of Wales, The Learning Country: Vision into Action and Learning Pathways 14-19*.

List of Consultees

Maintained Secondary Schools

Further Education Institutions

Local Education Authorities

Fforwm

Estyn

Higher Education Funding Council for Wales

Teaching Unions

Professional Associations

Welsh Local Government Association

Quality Assurance Agency

Equality and Human Rights Commission

Welsh Language Board

Faith Communities Fora