

EXPLANATORY MEMORANDUM TO
THE FEDERATION OF MAINTAINED SCHOOLS AND MISCELLANEOUS
AMENDMENTS (WALES) REGULATIONS 2010

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.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Federation of Maintained Schools (Wales) Regulations 2010.

Leighton Andrews

Minister for Children, Education and Lifelong Learning, one of the Welsh Ministers

7 March 2010

Description

1. The Federation of Maintained Schools and Miscellaneous Amendments (Wales) Regulations 2010 prescribe arrangements for the establishment, constitution, and dissolution of federations of governing bodies of maintained schools in Wales. The regulations are permissive; school governing bodies may choose whether to federate. A federation may comprise between two and five maintained schools with a single governing body of fifteen to twenty five governors.

Matters of Special Interest to the Subordinate Legislation Committee

2. None.

Legislative Background

3. Section 19(1) of the Education Act 2002 requires each maintained school to have a governing body. Under section 24 of the same Act the governing bodies of two or more maintained schools may federate however. Sections 24 and 25, in conjunction with section 210, provide a power to make regulations that prescribe the federation procedure and conditions for federation. The enabling powers do not permit any person to compel a governing body to establish or join a federation.
4. The powers in the Education Act 2002 were conferred on the National Assembly for Wales by the National Assembly for Wales (Transfer of

Functions) Order 1999, and then on the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006. Regulations are made by the Negative Resolution procedure.

Purpose and Intended Effect of the legislation

5. The purpose and intended effect of the regulations are to permit governing bodies to federate if they choose to do so.
6. Since 1998 every school has had a governing body, irrespective of a school's size. Prior to 1998 schools could share governing bodies. The purpose of the 1998 change was the proposition that a school's governance and management would improve if it had its own governing body, dedicated only to it. However, in practice, improvement has depended on the quality of the governing body. Each school having its own governing body can mean a greater demand on local education authorities which have to provide governors with support, training and advice. Small schools, with a small pool of parents and stakeholders available and willing to be governors, can struggle to fill governing body posts and usually have a smaller pool of 'social capital' of skills and knowledge amongst the persons who are willing to be governors.
7. The Welsh Assembly Government's policy objective is to promote collaboration between all parts of the education system. The expectation is that collaboration will spread best practice, and it will encourage sharing of resources and expertise in an efficient and effective manner. These should, in turn, raise educational attainment standards.
8. Governing bodies naturally focus on their own school but there is much potential benefit from them working with other schools. This already happens informally, especially amongst teaching staff and head teachers. The Collaboration Between Maintained Schools (Wales) Regulations 2008 permit two or more governing bodies to establish a joint committee to have responsibility for, and make decisions about, specific matters. These collaboration regulations speed up decision making and help facilitate working together. This can be particularly beneficial and attractive for schools in similar circumstances for example: primary schools which all feed the same secondary; Welsh medium schools; schools with religious character; schools on shared sites or in close proximity.
9. The objective of the Federation of Maintained Schools and Miscellaneous Amendments (Wales) Regulations 2010 is to take the concept of getting schools to work together further by permitting the amalgamation of entire governing bodies. One

governing body will be able to put in place a common strategic framework for all the schools it serves, within which a united leadership team will work. The federated governing body will put in place common policies and procedures. It will be able to draw on the best practice of all the schools in the federation and ensure that it is spread throughout.

10. The regulations permit the governing bodies of between two and five maintained schools to choose to federate. The regulations prescribe how a federation may be proposed, established, constituted and how one or all schools may leave it. Other than minor details, the federated governing body will have the same make-up as governing bodies for individual schools established under the Government of Maintained Schools (Wales) Regulations 2005.
11. It is anticipated that the regulations will lead to a gradual reduction in the number of governing bodies and governors in Wales as federation is taken up. This will have benefits for local authorities who will be able to concentrate support and training for governors on fewer governing bodies.
12. Potential benefits for schools are: more strategic use of resources across a group of schools; common policies and procedures based on best practice; pooling governors' expertise and 'social capital'; growing governors' perspective by having involvement in several schools and the different contexts and dynamics of them; opportunities to develop better provision for pupils by sharing resources between schools; opportunities for school staff to work in more than one school so that they can acquire new skills and/or specialise (in small schools such opportunities are limited); opportunities to strengthen the school leadership team.
13. The regulations prescribe the arrangements for proposing and establishing a federation, its constitution and membership, and the process for one or all schools leaving a federation. The regulations allow all categories of school to federate, as well as schools in different local authority areas.
14. Schools with a federated governing body will continue to be separate legal entities retaining their own name and registered pupils and budget. Admission arrangements for each school will be determined by the appropriate admissions authority. A school will be regarded on its own for any statutory school organisation proposals. A school will retain its own religious ethos and character.

Extent

15. This instrument extends to Wales.

Policy Background

16. School governing bodies have had extensive responsibilities since the Locally Managed School model of governance was introduced by the Education Reform Act 1988. The governing body must set a strategic framework of goals for the school, supported by policies and procedures of its choice, within which the head teacher and leadership team must work. The governing body is responsible for the school's performance in terms of educational attainments and the well-being of pupils. The governing body is delegated a budget by the local education authority which it may use as it decides in pursuance of effective and efficient education provision. The governing body is responsible for the employment, discipline and dismissal of school staff.
17. The Welsh Assembly Government expects local authorities to maintain an efficient and effective network of schools. This includes providing governing bodies with sufficient support, advice and training so that they can discharge their duties effectively. The Welsh Assembly Government is placing increasing emphasis on all parts of the education system working together; the School Effectiveness Framework is the principal initiative to achieve this.

Miscellaneous amendments

18. None.

Consultation

19. The Welsh Assembly Government undertook a consultation exercise between 1 September 2008 and 24 October 2008. Local and Diocesan Authorities, Governors Wales, the school staff unions, Estyn and a 10% sample of school governing bodies were invited to reply. Twenty eight responses were received. Respondents broadly welcomed the draft regulations, subject to suggestions for some relatively minor changes. Following this exercise changes to the proposed draft regulations were made in respect of the size of the federated governing body and the numbers of governors in specific categories of governor. In response to the consultation, the regulations now make provision for separate teacher and support staff representation on the governing body, and for the school staff unions to be included in the statutory consultees for federation proposals.

Regulatory Impact Assessment

20. A RIA has not been prepared because the regulations make a permissive change and do not place any new obligation, duty or cost on another body. There is no impact on the statutory duties (sections 77 -79 GOWA 06) or statutory partners (sections 73-75 GOWA 06).