

THE WELSH IN EDUCATION STRATEGIC PLANS (WALES) REGULATIONS 2019

DRAFT REGULATORY IMPACT ASSESSMENT

1. Options

1.1 This draft Regulatory Impact Assessment considers two options.

- Option 1: Keep the status quo – Local Authorities would continue to prepare Welsh in Education Strategic Plans under the current arrangements.
- Option 2: Introduce the Welsh in Education Strategic Plans (Amendment) (Wales) Regulations 2019 as presented in the draft Regulations and accompanying consultation document.

2. Costs and benefits

OPTION 1: Keep the status quo (i.e. business as usual)

2.1 Currently, local authorities prepare plans under Section 84 of the School Standards and Organisational (Wales) Act 2013. Plans are prepared in a 3-year cycle from 1 April to 31 March (for example 1 April 2015 – 31 March 2018) and draft new plans have to be submitted to the Welsh Ministers for approval in the December of the year before existing plans are due to end. Under this option these statutory arrangements will continue.

Costs

2.2 This is the 'Business as Usual' option and as such there are no additional costs associated with this option. The following section presents a summary of the costs associated with the current requirements. The costs of the current system were originally estimated in the Regulatory Impact Assessment for the School Standards and Organisational (Wales) Act 2013¹.

Welsh Government Administration Costs

2.3 The administration costs for the Welsh Government are associated with administration of the processes involved in preparing and reviewing plans. Local authorities are required to submit their draft plans for approval and the plans are subject to annual monitoring once approved. This involves the deployment of staff to oversee the submission of plans and to undertake the

¹[http://www.assembly.wales/Laid%20Documents/PRI-LD9157-EM%20-%20Revised%20Explanatory%20Memorandum%20-%20School%20Standards%20and%20Organisation%20\(Wales\)%20Bill-08012013-241929/pri-ld9157-em-e-English.pdf](http://www.assembly.wales/Laid%20Documents/PRI-LD9157-EM%20-%20Revised%20Explanatory%20Memorandum%20-%20School%20Standards%20and%20Organisation%20(Wales)%20Bill-08012013-241929/pri-ld9157-em-e-English.pdf)

approval and monitoring process.

2.4 The tasks undertaken by Welsh Government staff include assessing each individual draft plan, providing written and verbal feedback to local authorities, receiving and responding to updates on progress and revisions, and advising Ministers on the content of plans and on progress made. The Welsh Government has administered the system since 2013 therefore have a firm evidence based understanding of the staffing levels required to deal with the system. There are currently 3 full time equivalent (FTE) MB1 officers and 1 FTE MB2 officer deployed to work on the plans. These staffing levels would continue under this option. The current recurring annual staffing costs are as follows:

Staff Grade	Number	Cost*	Total Cost (to nearest £'000)
MB2	1	£46,492	£46,000
MB3	3	£58,742	£176,000
			£222,000

*Cost is based on the average annual gross salary costs for 2017-18.

In addition to the staff costs outlined above the travel costs incurred to meet with local authorities amount to approximately **£2000**. These are annual recurring costs already funded from the Welsh Government Direct Running Costs.

Total = £224,000

Local Authority estimated costs

2.5 Costs involved in the preparation and implementation of plans:

Local authorities allocate officer time to prepare and submit plans, and respond to feedback from the Welsh Government. Officer time is also allocated to support the implementation of the plans in their local area. As a rule, this is not a full time officer role within local authorities. On the basis of Welsh Government's experience of dealing with local authorities since these arrangements are in place, we estimate that it entails the time of a FTE MB3 officer in each local authority for a period of approximately 4 months per year.

Local authorities are under duties to publish their plans. They tend to do this by publishing them on their own websites and may print copies on demand if required. The costs associated with this are negligible and most local authorities do not routinely publish hard copies of their plans.

The recurring staffing costs per annum for local authorities involved in the preparation and implementation of plans are estimated to be as follows:

Staff Grade	Number	Cost (to nearest £'000)
MB3	0.33	£19,385 x 22 (number of local authorities)
TOTAL		£426,000

2.6 Conducting surveys to measure the demand for Welsh-medium education

The Welsh in Education Strategic Plans and Assessing the Demand (Wales) Regulations 2013 requires local authorities to assess parental demand for Welsh-medium education provision. The assessments are intended to provide local authorities with direction and a better understanding of what Welsh-medium provision is needed, where it is needed, and by when.

The average costs of administering and analysing surveys is estimated at a maximum of £15,000 per survey. The guidelines recommend undertaking surveys once every 3 years. Therefore, the likely maximum average cost for conducting such surveys is estimated at a recurring cost of £5,000 per annum, per local authority. Due to their mechanisms of categorising schools, Gwynedd and Anglesey local authorities do not conduct surveys therefore the cost relevant to 20 local authorities, not 22.

Total Cost: £5000 per annum in 20 local authorities = **£100,000** recurring cost per annum.

Total Administration Costs of the Status Quo option

2.7 The **total recurring administration per annum costs** are as follows:

Welsh Government staff costs	£222,000
Local authority staff costs	£426,000
Conducting Surveys	£100,000
TOTAL	£748,000

Costs of implementing the plans

2.8 Once the plans are approved by the Welsh Ministers they should be implemented by local authorities. There are costs associated with increasing the provision of Welsh-medium education. These costs may include building new schools or running immersion centres. However, this should be regarded as expenditure on the education system rather than expenditure on delivering Welsh language policy. To a degree, expenditure on increasing Welsh-medium education provision displaces expenditure that would be spent otherwise on educating through the medium of English.

2.9 Funding for statutory age education in schools in Wales, as for other services delivered by local government, is provided in the main by the Welsh Government through the local government revenue settlement (Revenue Support Grant – “RSG”). The funding is not ring-fenced, as the Welsh Government considers that local authorities are best placed to judge local needs and circumstances and to fund schools accordingly. The WESPs assist them in identifying needs and deciding how to plan their schools expenditure. Once the RSG has been distributed to local authorities, it is the responsibility of individual authorities to set budgets for their schools which are determined by a local funding formula. The School Funding (Wales) Regulations 2010 require 70% of funding for schools’

budgets to be distributed on the basis of pupil numbers.

- 2.10 Authorities have discretion to distribute the remaining 30% on the basis of a range of factors so that they can take account of individual school circumstances. In accordance with the regulatory framework, local authorities may take into account in their funding formula whether a pupil is being educated through the medium of Welsh and fund schools accordingly, taking into account the costs involved with delivering the same service through the medium of the Welsh language.
- 2.11 The Welsh Government also provides the Education Improvement Grant (“EIG”) to the four regional education consortia. The purpose of this funding programme is to support the regional consortia and the related authorities within the consortia in delivering the aspirations and priorities for schools and education outlined within the Welsh Government’s national strategy, *Prosperity for All*, and our plan of action for education, *Education in Wales: Our national mission*.
- 2.12 *Education in Wales: Our national mission* sets out how the school system will move forward over the period 2017-21, securing implementation of the new curriculum with a focus on leadership, professional learning, and excellence and equity within a self-improving system. The action plan focuses on raising standards for all, reducing the attainment gap, and delivering an education system that is a source of national pride and public confidence, which are our overarching aspirations for education in Wales.
- 2.13 The funding should contribute to support the delivery of local authority Welsh in Education Strategic Plans in working towards the aims of our Welsh-medium Education Strategy.
- 2.14 Therefore, the duty to ensure that suitable educational provision is made available to all children rests with Local Authorities and the amount of funding each authority sets aside for school budgets is entirely for the authority to determine. Local authorities are expected to organise their schools as efficiently as possible in order to make the best use of resources for the benefit of all pupils. **Implementing their WESPs and the costs linked to that should therefore be viewed within the wider context of funding the authority’s education system.**

Benefits and dis-benefits

- 2.15 The benefits of this current status quo option is the Welsh Ministers and local authorities take a shared responsibility for creating a more effective planning system for Welsh-medium education which reflects local needs. The statutory requirement on local authorities to prepare a plan, and the requirement that the Welsh Ministers must approve and monitor that plan, ensures that there is a local and national planning and accountability system for Welsh-medium education. The fact that plans are statutory has improved Welsh-medium education planning insofar as they enable local authorities to

plan Welsh-medium education within a structured framework.

2.16 The main dis-benefit of this status quo option is that the current pace of change in Welsh-medium education provision is not sufficient in order to effectively contribute to the Government's target of a million Welsh speakers by 2050. This has been supported by an enquiry by the Assembly's Children, Young People and Education Committee in 2015² and by a thematic review of WESPs by Estyn in 2016³. Both came to similar conclusions which were that the plans were not well enough aligned with the Welsh Government's vision for Welsh-medium education and that the partnership between local authorities and the Welsh Government in setting targets in WESPs could be strengthened.

2.17 A Rapid Review of WESPs was undertaken by Aled Roberts in 2017 in response to Ministerial concerns regarding the draft plans received from local authorities for 2017-20⁴. A Ministerial Advisory Board was then convened to advise on the implementation of the recommendations in the Rapid Review. The draft Regulations being consulted upon (option 2, below) emanate from the recommendations made by the Advisory Group and address the dis-benefits of the status quo option.

2.18 The external reviews referred to in 2.16 (above), the Rapid Review, and the work of the Ministerial Advisory Board undertaken in 2017, as well as Welsh Government's experiences in approving and monitoring WESPs all point towards the main dis-benefit of the current system and strengthen the case for change. That being if the way most local authorities plan their Welsh-medium education provision does not change, the additional number of children needed in Welsh-medium education to deliver the national targets set by Cymraeg 2050 will not be met.

OPTION 2: Introduce the Welsh in Education Strategic Plans (Wales) Regulations 2019

Costs

2.19 Option 1, above identifies the following categories of costs:

- Welsh Government Administration Costs
- Local Authority costs (administration / surveys)
- Costs of implementing the plans

2.20 We do not believe that following option 2 and introducing these Regulations would have an impact on Administration Costs associated with preparing and monitoring plans. The move from producing 3 year plans to producing a 10 year plan will reduce the number of plans that have to be

² <http://www.assembly.wales/laid%20documents/cr-ld10475/cr-ld10475-e.pdf>

³ <https://www.estyn.gov.wales/thematic-reports/local-authority-welsh-education-strategic-plans>

⁴ <https://gov.wales/sites/default/files/publications/2018-02/rapid-review-of-the-welsh-in-education-strategic-plans-2017-20.pdf>

prepared, however on a practical basis this will not impact upon the Welsh Government's work of monitoring the plans' implementation or on the work of advising authorities and updating Ministers on progress as the plans will have to be continually monitored throughout their 10 year lifespan. Also, the fact that authorities will have to prepare an annual progress report, and may have to produce revised plans if the progress is not satisfactory, will have a negligible impact upon the workload of local authorities.

- 2.21 The Regulations that will be presented if option 2 is pursued removes the duties on local authorities to plan their provision of Welsh-medium education based on the results of a parental assessment of need. Under the costs section of option 1, it was estimated that this duty incurs a total recurring cost per annum of £100,000 (total cost across 20 local authorities). Under option 2 this cost would not be incurred therefore would be saved.
- 2.22 There are potential increased costs in the work of preparing plans under option 2 compared to the status quo. These costs would be administrative in the sense that authorities may have engage with more staff during the target setting process, including statistical, finance and school organisational colleagues. However, this would not be an annual incurred cost but a one off cost which would be incurred during the preparation of the 10 year plan.
- 2.23 It is the view of the Welsh Ministers that there are negligible differences in the administration costs between options 1 and 2.

Costs of implementing the plans

- 2.24 As noted in option 1, above, the costs of implementing plans developed under the proposed Regulations will still have to be met from the local authorities' revenue settlement as provided to them by Welsh Government. Under this option, the regional consortia will also continue to receive EIG funding from the Welsh Government to support the delivery of the aspirations and priorities for schools and education outlined within the Welsh Government's national strategy, Prosperity for All, and the plan of action for education, Education in Wales: Our national mission.
- 2.25 It is expected that the Regulations proposed under this option 2 will lead to a step change in the planning and ultimately in the provision of Welsh-medium education. This will be required if the target of having a million Welsh speakers by 2050 is to be met. This will mean a re-organisation of education provision in many local authorities resulting in more learners receiving Welsh-medium education.
- 2.26 However, the Regulations in themselves will not lead to authorities having to educate more children as the Regulations will not impact upon population or demographic trends. But more school places may need to be considered in order to provide an adequate provision of school places.
- 2.27 As an indirect consequence of increasing Welsh-medium provision in line with the Plans, there may be a need for an additional Welsh-medium

teaching capacity in some areas. This is already being considered as part of wider education reforms due to the targets in *Cymraeg 2050* to increase the Welsh-medium workforce. Therefore the costs involved are not being accounted for in this draft RIA.

2.28 The 1996 Education Act defines a local authority's 'education functions'. It states that local authorities have a statutory duty to secure provision of sufficient school places and, in so doing, to have regard to the general principle that pupils should be educated in accordance with the wishes of parents, so far as that is compatible with the provision of efficient instruction and the avoidance of unreasonable public expenditure. If the proposed Regulations are made then authorities would still have to comply with those core duties when planning their education provision.

Benefits and dis-benefits

2.29 The main benefit of introducing the Regulations as proposed in this option is policy related in that it responds to the challenges set by the Welsh Government's 2017 Welsh language strategy, *Cymraeg 2050*, and its headline target to have a million Welsh speakers by 2050. Expanding Welsh-medium education is critical to the successful implementation of the strategy. 438,000 additional Welsh speakers are needed to achieve the 1 million target by 2050. For this to be achieved, certain transformational changes within the education sector must take place. These include the following new outcomes:

- More nursery children/3 year olds receiving their education through the medium of Welsh
- More reception class children/ 5 year olds receiving their education through the medium of Welsh
- More children continuing to improve their Welsh language skills when transferring from one stage of their statutory education to another
- More learners studying for assessed qualifications in Welsh (as a subject) and subjects through the medium of Welsh
- More opportunities for learners to use Welsh in different contexts in school.
- An increase in Welsh-medium education provision for learners with additional learning needs (in accordance with duties determined by the ALN Act)
- An increase in the number of teaching staff able to teach Welsh (as a subject) and teach through the medium of Welsh

2.30 Benefits will also arise from changing the plans from following a three year cycle as is the case in option 1, to a ten year cycle as proposed in this option. The introduction of WESPs as 3-year plans emanate from financial rather than strategic policy delivery needs. Prior to the current arrangements, the Welsh Language Board had been using its powers under the Welsh Language Act 1993 to require local authorities to draw up and agree a Welsh Education Scheme (WES). These WES were produced in addition to local authorities' Welsh Language Schemes. Both schemes followed a 3-year cycle. Although this change entails preparing a single plan

for a 10 year period we do not believe that this will result in any financial cost savings. Local authorities will still have to prepare an annual monitoring report and will have to prepare a progress report at the 5 year stage. Therefore the administrative tasks and workload associated with preparing, implementing and monitoring a plan is unlikely to decrease.

2.31 The plans developed under these draft Regulations should lead to more Welsh-medium schools opening, built or extended, as well as planning the implementation of other innovative proposals to enable more children the opportunity of becoming confident Welsh speakers. Major policy and capital developments such as these can take a number of years to achieve. Therefore there would be benefits associated in moving towards 10-year plans:

- The timeframe for plans would coincide with the Welsh Government's capital funding schemes.
- The Census, which remains our most reliable source of data to assess the vitality of the Welsh language and is the main indicator of progress in line with the *Cymraeg 2050* trajectory, is conducted every 10 years.
- Other planning considerations relevant to planning Welsh-medium education provision, such as the Childcare Sufficiency Assessments required under the Childcare Act 2006, and individual development plans (IDPs) for children and young people with additional learning needs (ALN) introduced by the Additional Learning Needs and Education Tribunal (Wales) Act 2018 are both reviewed every 5 years.

It is logical and beneficial therefore that the plans developed under these Regulations are for a longer period than the current three years so that they are better aligned with the above planning cycles. It would encourage a more long-term, meaningful and ambitious planning of Welsh-medium education. In addition, the proposed Regulations would result in having plans that would come into force on 1 September. Having plans that operate in line with the academic school year would also be beneficial to the planning process.

2.32 There is a risk that option 2 could result in a dis-benefit by removing the statutory duty on local authorities to assess parental demand for Welsh-medium education - this option could create a void in locally sourced data and evidence. However, whilst the assessments were originally intended to provide local authorities with direction and a better understanding of what Welsh-medium provision was needed, there has not been sufficient evidence that they have given local authorities a robust evidence base on which to base their planning upon. In addition, the assessment can become quickly out-dated. We therefore believe that the approach proposed by option 2, that will see local authorities setting their own targets having given due regard to Welsh Government guidance, will produce better planning approaches that will be consistent with the long-term strategic aims of *Cymraeg 2050*.

Conclusion

2.33 As noted above, the Welsh Government believes that the difference in administration costs incurred by option 2 compared to option 1 would be negligible therefore the policy related benefits that would result from pursuing option 2 are justified. It is possible that option 2 would lead to increased implementation costs through having to create more school places to offer an effective choice to parents. However this would still be within the constraints of the revenue support provided to authorities and would be subject to the local democracy process and the duty in the 1996 Education Act to secure provision whilst avoiding unreasonable public expenditure. Considering that this change is required in order to meet the aspirations of *Cymraeg 2050* the Welsh Ministers propose that option 2 is followed and believe that any additional costs are justified.

3. Consultation

The draft Regulations and this draft RIA will be subject to a public consultation between 30 May and 2 September 2019.

4. Competition Assessment

The proposed legislation has no effect on business, charities or the voluntary sector therefore a competition assessment has not been undertaken.

5. Post implementation review

The new process for developing WESPs outlined by the proposed legislation will include a number of monitoring steps in order for local authorities and Welsh Government to have a consistently clear understanding of progress and made. A 10 year plan will be produced and annual progress report will be produced. This process will entail a consistent dialogue between the Welsh Government and local authorities over the lifetime of the plan. This will enable local authorities and Welsh Government to quickly identify any difficulties with the legislation, and any adjustments that need to be made, as well as enable the Welsh Government to ascertain the support needed by local authorities.