

SECTION 1. WHAT ACTION IS THE WELSH GOVERNMENT CONSIDERING AND WHY?

The Welsh Ministers are required to issue a code on school organisation, which they may from time to time revise. The Code imposes requirements in respect of school organisation with which the following must comply and includes guidelines to which they must have regard:

- the Welsh Ministers;
- local authorities;
- governing bodies of maintained schools;
- the Commission for Tertiary Education and Research;
- promoters of proposals to establish voluntary schools.

The current Code was issued in 2018. We reviewed the Code after over five years of operation and identified the need for a number of changes. The majority of these changes reflect policy and legislation that has come into force since the 2018 Code was issued or reinforce requirements relating to legislation in place at that time. The legislation and policy in question, which is listed below, delivers on the Welsh Government's Programme for Government commitments and wellbeing objectives in respect of our long term programme of education to raise standards and reduce inequalities and the push towards a million Welsh speakers.

The Welsh Language Standards (No.1) Regulations 2015 specify standards relating to the conduct of certain bodies (including the Welsh Ministers and councils). This includes service delivery standards, policy making standards, operational standards, promotional standards, and record keeping standards.

Schedule 2 of these regulations sets out policy making standards which require bodies to ensure that due consideration is given to the effects of policy decisions on opportunities to use the Welsh language and not to treat the Welsh language less favourably than English. Policy making standards 88-97 are relevant as bodies **must** comply with them when making all policy decisions, including school organisation proposals, relating to all maintained schools, regardless of their language category.

Under standards 91, 92 and 93, consultation documents **must** consider the impact of a policy decision on the Welsh language and also seek views on the impact of the policy decision on the Welsh language. These are separate requirements, which means that there has to be an impact assessment and then questions have to be asked about that assessment. The Code has been updated to reflect and reinforce the 2015 Regulations. In doing so it requires a Welsh Language Impact Assessment (WLIA) to be undertaken for all statutory proposals.

The Code has been aligned with ***Cymraeg 2050***, the Welsh Government's strategy for a million Welsh-speakers, and targets set within each local authority's 10-year Welsh in Education Strategic Plan (WESP) which support that ambition. Given the importance of the education sector as a whole in creating new Welsh speakers, the Welsh Government expects that planning and development of school organisation proposals reflect ***Cymraeg 2050*** ambitions and support the targets within the local authority's WESP.

The Additional Learning Needs and Education Tribunal (Wales) Act 2018 establishes the statutory system in Wales for meeting the additional learning needs (ALN) of children and young people (the ALN system). It replaces the system for meeting the special educational needs (SEN) of children in schools and learning difficulties and/or disabilities (LDD) in further education.

Implementation of the 2018 Act commenced from 1 September 2021. The ALN system is being phased in over a period of four years up until summer 2025. During this time the ALN system will operate in parallel with the SEN system. Until such time that the 2018 Act is fully in force, all references to Special Educational Needs (SEN) and SEN provision (SEP) within the Code read as SEN/Additional Learning Needs (ALN) and SEP/additional learning provision (ALP) respectively.

The Curriculum and Assessment (Wales) Act 2021 established new curriculum and assessment arrangements as part of a wider programme of education reform in Wales.

The Tertiary Education and Research (Wales) Act 2022 established the Commission for Tertiary Education and Research. The Commission is the regulatory body responsible for the funding, oversight and regulation of tertiary education and research in Wales encompassing post-16 education, including local authority-maintained school sixth forms. It has a statutory duty to secure and fund the provision of proper facilities for the further education and training of post-compulsory learners aged 16–19.

The Welsh Ministers' powers, under sections 71 to 76 of the 2013 Act, to re-structure sixth form education, are removed. A new Chapter 3A has been inserted into Part 3 of the 2013 Act to enable the Commission to take a more strategic approach, offering a wider perspective to school sixth form provision and ensuring it can support learner choice and progression.

Local authorities and governing bodies of foundation and voluntary schools retain their functions in relation to bringing forward proposals relating to the organisation of school sixth forms. The Commission's functions do not result in any loss of existing protections in relation to the publication, consultation, and ability to object to proposals and other significant provisions in the 2013 Act remain in place.

Other changes strengthen current requirements imposed by the Code. This includes a new requirement to publish key documents, such as the consultation document, on the local authority's website, as well as the proposer's own, where different. We have also extended the list of parties who must be advised of the availability of these documents. We have also expanded the information which must be included within the consultation document and the Welsh Language Impact Assessment (WLIA) (which must be undertaken for all proposals), to ensure impact assessments are robust and include sufficient information to enable stakeholders to provide an informed response. The full list of changes to the Code is appended to the consultation document. We do not consider that these changes impose additional costs on proposers.

Before issuing or revising the Code the Welsh Ministers must consult on a draft. A 12-week consultation will run from 8 November 2024 to 14 February 2025.

SECTION 8. CONCLUSION

How have people most likely to be affected by the proposal been involved in developing it?

The Code is kept under review and as part of this we monitor any feedback received from those involved in undertaking statutory proposals and others those with an interest to inform future changes. Welsh Government officials also meet regularly with the Association of Directors of Education (ADEW) Planning of School Places group which has representation from all local authorities in Wales along with representatives from diocesan authorities. We have engaged with the group to seek their views on any changes they consider necessary to the Code based on their experience of using the Code over more than five years of its operation.

In addition, a 12-week consultation will take place from 8 November 2024 to 14 February 2025.

What are the most significant impacts, positive and negative?

The majority of changes being made to the Code reflect policy and legislation that has come into force since the 2018 Code was issued or reinforce requirements relating to legislation in place at that time. The legislation and policy in question delivers on the Welsh Government's Programme for Government commitments and wellbeing objectives in respect of our long term programme of education to raise standards and reduce inequalities and the push towards a million Welsh speakers. As such these changes will have a positive impact in ensuring the Code is consistent with key policy and is accurate and up to date.

The changes being made to the Code will have a positive impact on the Welsh Language in that they reflect the Welsh Language Standards (No.1) Regulations 2015 and reinforce requirements imposed by those regulations.

The Welsh Language Standards (No.1) Regulations 2015 specify standards relating to the conduct of certain bodies (including the Welsh Ministers and county and county borough councils. This includes service delivery standards, policy making standards, operational standards, promotional standards, and record keeping standards.

Schedule 2 of these regulations sets out policy making standards which require bodies to ensure that due consideration is given to the effects of policy decisions on opportunities to use the Welsh language and not to treat the Welsh language less favourably than English. Policy making standards 88-97 are relevant to school organisation proposals as bodies **must** comply with them when making all policy decisions, including school organisation proposals. The duty applies to proposals relating to all maintained schools regardless of their language category.

Under standards 91, 92 and 93, consultation documents **must** consider the impact of a policy decision on the Welsh language and also seek views on the impact of the policy decision on the Welsh language. These are separate requirements, which means that there has to be an impact assessment and then questions have to be asked about that assessment.

The Code has been updated to reflect the 2015 Regulations. In doing so it requires a Welsh Language Impact Assessment (WLIA) to be undertaken for all statutory proposals, regardless of the language category of the schools subject to the proposals. The Code has also been amended to require additional information to be included in the WLIA.

The Code has also been aligned with *Cymraeg 2050*, the Welsh Government’s strategy for a million Welsh-speakers, and targets set within each local authority’s 10-year Welsh in Education Strategic Plan (WESP) which supports that ambition. Given the importance of the education sector as a whole in creating new Welsh speakers the Welsh Government expects that planning and development of school organisation proposals reflect *Cymraeg 2050* ambitions and support the targets within the local authority’s WESP. The Welsh Language Impact Assessment is available at **annex E** below.

The Code sets a high standard for consultation ensuring all those with an interest have an opportunity to express their views and have their views taken into account as part of the statutory process. Other changes being made to the Code including the requirement for key documents, for example the consultation document to be published on the local authority’s website as well as the proposer’s own, increasing the list of those who must be advised on the availability of these documents and increasing the information required in the consultation document and the Welsh Language Impact assessment will have a positive impact on what are already robust arrangements.

How will the impact of the proposal be monitored and evaluated as it progresses and when it concludes?

The School Organisation Code is kept under review and is subject to amendment at least every five years or sooner as necessary. We will continue to meet with the ADEW Planning of School Places Group and monitor any feedback. We also meet regularly with Estyn to seek their views.