

Explanatory Memorandum to the Relaxation of School Reporting Requirements (Wales) (Coronavirus) Regulations 2020

This Explanatory Memorandum has been prepared by the Education and Public Services Department and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Relaxation of School Reporting Requirements (Wales) (Coronavirus) Regulations 2020. I am satisfied that the benefits justify the likely costs.

Kirsty Williams MS
Minister for Education

15 July 2020

Description

1. These Regulations amend a number of current school reporting requirements in response to the impact on schools of coronavirus.

Matters of special interest to the Legislation, Justice and Constitution Committee

2. None

Legislative background

3. The legal powers for making the proposed Regulations are section 29(3) and (5), 408(1), 537(1), (4) and (7), 537A (1), (2) and (3) and 569(4) of the Education Act 1996, sections 19(1) and 54(3) of the Education Act 1997, section 63(1) and 138(7) of the School Standards and Framework Act 1998 and sections 30(1) and 210(7) of the Education Act 2002. The above functions in the Education Act 1996, the Education Act 1997 and the School Standards and Framework Act 1998 were conferred on the Secretary of State and were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999. The above functions in the Education Act 2002 were conferred on the National Assembly for Wales. All of the above are now exercisable by the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006.
4. These sections give the Welsh Ministers the power to make Regulations in relation to the provision of information by local authorities, by maintained schools and in respect of individual pupils respectively.
5. The Regulations are being made under the negative resolution procedure.

Purpose and intended effect of the legislation

6. At a time when we are all responding to the coronavirus pandemic, the Welsh Government recognises that schools, local authorities and governing bodies may be unable to comply with certain statutory reporting requirements. They may also pose a disproportionate administrative burden on those responsible.
7. The Relaxation of School Reporting Requirements (Wales) (Coronavirus) Regulations 2020 bring into force the necessary legislative changes which:
 - **Revoke the School Performance and Absence Targets (Wales) Regulations 2011.**
 - **Amend the Head Teacher's Report to Parents and Adult Pupils (Wales) Regulations 2011.**

- Amend **the School Information (Wales) Regulations 2011**.
- Amend **the School Performance Information (Wales) Regulations 2011**.
- Amend **the School Governors' Annual Reports (Wales) Regulations 2011**.

The School Performance and Absence Targets (Wales) Regulations 2011 (“the Targets Regulations”)

8. The Targets Regulations require schools to set and publish targets which are agreed by local authorities. Due to the closure of schools, and disruption to assessments, tests and examinations, this year's attainment and attendance will either be unavailable or incomparable to previous years. It is inappropriate for schools to be required to report against targets previously set for the 2019/20 academic year or set future targets for the next academic year based on these outcomes. The Targets Regulations need to be revoked to ensure that schools are able to undertake their self-evaluation and forward planning for 2020/21 appropriately and effectively, given current circumstances. The target setting cycle, as prescribed by the Targets Regulations, occurs over a three year period. The implications of current disruption for performance and absence data affects both the reviewing, finalising and reporting against targets set in previous years, as well as the process for setting, reviewing and finalising targets for future years. This presents a particular problem with amending existing requirements; revoking the Targets Regulations is considered the only viable and practical solution. Evaluation and improvement arrangements are being developed to align to the new curriculum and will set out, following further consultation, the future approach to school improvement priorities.

The Head Teachers' Reports to Parents and Adult Pupils (Wales) Regulations 2011 (“the Reporting Regulations”)

9. The Reporting Regulations require head teachers to make a report available to all parents or adult pupils about the educational achievements of pupils, each school year. For the 2019/20 school year, some information that would ordinarily be included in a report, will be either unavailable, not meaningful, or considered inappropriate. It may also be difficult for head teachers to produce reports before the end of the academic year, or to do so in written form. It is proposed that the Reporting Regulations are amended to a “reasonable endeavours” basis. This means that any duties the Reporting Regulations impose on head teachers for reports relating to the 2019/20 school year are to be treated as discharged, if the head teacher has used reasonable endeavours to discharge the duty. The exception to “reasonable endeavours” is regulation 5(1) of the Reporting Regulations; **the requirement to provide a school leaver's report, which needs to remain an absolute duty**, so that this cohort of learners are not disadvantaged this year. The school year runs from the period beginning with the first school

term to begin after July and ending with the beginning of the first such term to begin after the following July (section 579(1) of the Education Act 1996)

The School Information (Wales) Regulations 2011 (“the School Information Regulations”)

10. The School Information Regulations require local authorities to publish a composite school prospectus and schools to publish their own individual prospectus, and prescribes the school information that must be included. It is proposed that provision is made to exclude data on authorised and unauthorised absences in respect of the 2019/20 school year from being published in any school prospectus.

The School Governors’ Annual Reports (Wales) Regulations 2011 (“the Annual Report Regulations”)

11. The Annual Report Regulations require school governing bodies to produce an annual report, including information about school performance against published targets. Whilst governing bodies will be still be able to produce a report, it would be inappropriate for reports to include data in respect of the 2019/20 school year to include performance and attendance data, as it will not be comparable to previous years. It is proposed that the Annual Report Regulations are amended to modify the content of reports produced in relation to the 2019/20 academic year so that information may not be included in any school governors’ report. **The statutory duty for governing bodies to produce a report will remain.**

12. Information to be disapplied/excluded in relation to the school in the 2019/20 school year:

- the most recent Summary of Secondary School Performance (SSSP);
- the number of authorised and unauthorised absences in the school year; and
- any information in relation to performance and absence targets, including improvements set by the governing body in respect of performance of learners, or for reducing the level of absence.

The School Performance Information (Wales) Regulations 2011 (“the Performance Regulations”)

13. The Performance Regulations provide for the reporting of teacher assessment and examination outcomes (from schools and governing bodies to local authorities and Welsh Ministers). There has been disruption to the undertaking of foundation phase and key stage teacher assessments during the 2019/20 summer term, due to school closures, and the associated Welsh Government statutory data collection was cancelled. It is, therefore, proposed that amendments are made to remove the duties on governing bodies and local authorities to provide data to local authorities and Welsh Ministers, respectively, on teacher assessment outcomes and authorised or

unauthorised absence for data in respect of the 2019/20 school year. The Welsh Government will not be reporting on 2019/20 school performance measures, including them in All Wales Core Data Sets ('data packs'), or publishing them on the My Local School website. We will, however, need to retain provision that allows Welsh Government to receive results of approved qualifications, for other purposes not related to school performance or accountability.

14. The purpose and intended effect of these legislative changes were communicated to stakeholders in May, to provide timely advice ahead of formal public consultation.

Consultation

15. A three week consultation on the legislative changes ran from 22 June to 10 July 2020. The consultation was drawn to the attention of key stakeholders including local authorities, regional consortia, school governors and the teacher unions.
16. 50 responses were received and a clear majority were in agreement with the proposed legislation. No amendments were considered necessary to the draft Regulations. A summary of the consultation responses is available on the Welsh Government website: <https://gov.wales/relaxation-school-reporting-requirements>.

Regulatory Impact Assessment

17. The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these amendments.
18. Due to the likely costs and benefits of complying with these Regulations, it is not considered necessary to carry out a Regulatory Impact Assessment. The Regulations need to be put in place quickly to ensure the removal of inappropriate or impractical burdens on schools and local authorities in response to the coronavirus pandemic.