



National Assembly for **Wales**
Cynulliad Cenedlaethol **Cymru**

Legislative proposals in the Education White Paper

This information note outlines the legislative proposals in the education White Paper, Higher Standards, Better Schools for All, which was published on 25 October 2005.

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Cynulliad National
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Legislative proposals in the Education White Paper

1 Introduction

The Queen's Speech on 17 May 2005 contained a statement that the Government would further reform the education system with the aim of improving quality and choice in the provision of schooling. The forthcoming Bill was subsequently remitted to the Education and Lifelong Learning Committee. The White Paper outlines the policy objectives which will be contained in the forthcoming Bill. Information on Wales is set out on page 4 of this paper.

2 The White Paper

The Education White Paper, *Higher Standards, Better Schools for All*¹ was published by the Department for Education and Skills on 25 October 2005. The document combines a description of recent changes with proposals for the future. The proposals include:

- ◆ Establishment of 'Trust' schools –in effect, independent schools within the maintained sector. Like Foundation schools they will employ their own staff, control their own assets and set their own admission arrangements (subject to the Admissions Code of Practice). Trusts will be able to apply to the Secretary of State for Education and Skills for flexibilities, which might include additional curriculum flexibilities and freedoms over pay and conditions for staff. They will be funded as other local schools, subject to the Code of Practice on admissions and to all of the accountability mechanisms that apply to other state schools;
- ◆ The establishment of the Office of the Schools Commissioner to act as a national champion for the development of Trust schools, linking authorities to Trusts, identifying opportunities for successful Trusts to form partnerships with more schools and supporting independent schools wishing to join the maintained sector;
- ◆ More information for, and involvement of, parents;
- ◆ School transport;
- ◆ School discipline; and
- ◆ A new role for local authorities.

3 Legislative proposals

The White Paper sets out the following proposals for legislation.

3.1 School system

- ◆ A statutory procedure for schools to become 'Trust schools'. The legislation will provide for some minimum requirements in relation to the establishment and status of their 'Trusts';
- ◆ Existing regulations will be amended to allow the 'Trust' to appoint the majority of school governors;
- ◆ There will be legislation to extend the existing 'Power to Innovate' provisions and enable the 'Trust' to apply for freedoms on behalf of all their schools;
- ◆ A new duty will be placed on local authorities to respond to representations from parents (and prospective parents) who are not satisfied with the provision of schools in their area;

¹ *Higher Standards, Better Schools for All* - Department for Education and Skills – October 2005
<http://www.dfes.gov.uk/publications/schoolswhitepaper/pdfs/DfES-Schools%20White%20Paper.pdf>

- ◆ The UK government will take powers to allow maintained schools and further education colleges to collaborate formally (in the same way that maintained schools can currently collaborate with each other).

3.2 Schools causing concern

- ◆ A new duty will be placed on local authorities (in relation to maintained schools) and on the proprietors of independent schools to consider the full range of their powers immediately on receipt of notice of an adverse Ofsted report and to consider how to involve parents in the school improvement;
- ◆ There will be legislation to provide local authorities with new powers to require a failing school to take advice from an external partner and to require a failing school to take steps to collaborate or federate with a strong school;
- ◆ There will be some amendments relating to the Secretary of State for Education and Skills' role in maintained schools' delegated budgets, giving more powers to local decision-makers; and
- ◆ The legislation governing formal warning notices will be amended to enable local authorities to tackle school failure and underperformance more quickly and effectively.
- ◆ The Code of Practice on local authority and maintained school relations will be removed in line with the New Relationship with Schools².

3.3 Choice and access

- ◆ Local authorities will be required to provide free transport for disadvantaged pupils (i.e. those eligible for free school meals or whose parents are in receipt of the maximum level of Working Tax Credit, and children in local authority care) to attend any of three suitable secondary schools closest to their home, where these schools are more than two (and less than six) miles away;
- ◆ The powers of the Learning and Skills Council will be extended to provide home to school and college transport for students between the ages of 16 and 19.

3.4 Admissions

In relation to admissions there will be legislation to:

- ◆ allow for banding³ in schools' admission arrangements;
- ◆ prevent new and expanded schools from amending their admission arrangements for three years from the date on which they open;
- ◆ prevent admission authorities, which have had an objection against their admission arrangements upheld by the Schools Adjudicator or Secretary of State for Education and Skills, from amending that aspect of their admission arrangement for three years.

3.5 14-19

- ◆ Curriculum entitlements for learners aged 14-19 (including the delivery of the commitment made in the 14-19 White Paper⁴ to entitle learners to double science) will be prescribed.

² The aim of the New Relationship with Schools is to help schools raise standards, with clearer priorities, less bureaucracy for schools and more information for parents. There will be an improved data collection system, streamlined communications and a School Improvement Partner (described as a 'critical friend'), with the aim of giving schools greater autonomy and freedom.

³ Banding is where schools offer places based either on the range of abilities of applicants, or on the local or national ability range, to achieve an all-ability intake.

3.6 Food in schools

- ◆ There will be legislation to permit nutritional standards to be applied to all food and drink supplied on school premises, and to change the duty to charge into a power to charge.

3.7 Parents

- ◆ Existing regulations will be amended to require all maintained schools to give parents thrice yearly information on the progress of their child;
- ◆ *The Education (School Government) (Terms of Reference) (England) Regulations 2000*⁵ will be amended to put a new duty on the governing bodies of maintained schools to have regard to the views of parents in their conduct of the school;
- ◆ The governing bodies of Trust schools will be required, at which the majority of governors are those appointed by the Trust, to establish parents' councils to ensure that parental influence in the running of the school is secured.

3.8 School discipline

- ◆ After consultation, there will be legislation to introduce a right for teachers to discipline pupils;
- ◆ The scope of parenting orders and parenting contracts in particular will be extended, so that governing bodies can use them to make parents take responsibility for their children's behaviour at school;
- ◆ Parents will be required to take responsibility for excluded pupils in their first five days of exclusion, whether fixed term or permanent, and requirements will be introduced for governing bodies and ultimately local authorities to provide for supervision and alternative provision in longer exclusions. Fixed penalty notices will be introduced for parents where excluded pupils are found in a public place during school hours without reasonable excuse.

3.9 Local authorities

- ◆ New duties will be placed on local authorities to promote choice, diversity and fair access to schools, when carrying out their existing duties relating to the provision of schools in their areas and the sufficiency of such provision;
- ◆ There will be a new duty on local authorities to identify children missing from education;
- ◆ Decisions relating to school organisation matters will be placed with local authorities (abolishing school organisation committees).
- ◆ The right for local authorities to publish their own proposals for the establishment of new community schools will be abolished. Local authorities will decide competitions but if they have themselves made proposals for a new self-governing (Foundation) school, the Schools Adjudicator will decide the competition;
- ◆ There will be a mediation duty on local authorities and governing bodies of 'Trust' and voluntary schools, with recourse to the Schools Adjudicator instead of requiring the consent of the Secretary of State for Education and Skills for land transfers (consent relating to playing fields will remain with the Secretary of State for Education and Skills);

⁴ *14-19 Education and Skills* – Department for Education and Skills – February 2005 - <http://www.dfes.gov.uk/publications/14-19educationandskills/pdfs/14-19WhitePaper.pdf>

⁵ <http://www.opsi.gov.uk/si/si2000/20002122.htm>

- ◆ Powers will be taken to update all of the references in legislation to 'local education authorities' and "children services authorities", making it clear that they are all the same (integrated) local authority.

4 Wales

The policy objectives set out in the White Paper relate to England. However, the Bill will cover England and Wales, but most of the provisions will apply only in England. The White Paper states that:

the Welsh Assembly Government has welcomed the opportunity to participate in the proposed legislation for more robust standards in school food.

With regard to other legislative changes proposed, the Welsh Assembly Government will consider which changes might apply to Wales and whether to take the opportunity described in the White Paper, *Better Governance for Wales* to seek framework powers in relation to some topics dealt with in the Bill. This would give the National Assembly more permissive powers to determine how these proposals might be implemented in Wales at a later stage.

In his capacity as an MP, Peter Law has tabled a series of Parliamentary Questions to Whitehall departments. He has asked how they intend to “implement paragraph 3.12⁶ of the White Paper, *Better Governance for Wales* (Cm 6582), in respect of any bill (they) introduce in the current session of Parliament”. The answer received from the Department for Education and Skills was:

I intend to implement the Government's policy as stated in paragraph 3.12 of the White Paper, *Better Governance for Wales*. My Department is in discussion with the Assembly Government on the issues concerned.⁷

4.1 Minister for Education and Lifelong Learning's initial response

In her report to the Education and Lifelong Learning Committee on 9 November 2005⁸, the Minister for Education and Lifelong Learning confirms that she would wish to extend to Wales the proposed power to set in regulations nutritional standards for all food served in schools. She states that the Welsh Assembly Government continues to support a system of community comprehensive schooling and that this is the right solution for Wales. The Minister also states that she will want to look at the practitioners' group report, *Learning Behaviour*⁹ which forms the basis of many of the proposals concerning behaviour. The Minister states that she has yet to take a view on other matters, and will want to take the views of the Committee and the sector.

⁶ "...the Government intends for the future to draft Parliamentary Bills in a way which gives the Assembly wider and more permissive powers to determine the detail of how provisions should be implemented in Wales."

⁷ HC Deb 12 September 2005 c2377w

⁸ Minister's Report, 9 November 2005 - <http://www.wales.gov.uk/assemblydata/N0000000000000000000000037192.pdf>

⁹ *Learning Behaviour: the Report of the Practitioners' Group on School Behaviour and Discipline* – October 2005 - http://www.dfes.gov.uk/behaviourandattendance/about/learning_behaviour.cfm