

Network Communication Learning and Skills (Wales) Measure

1. What the Measure does

The key purpose of the Measure is to create a right for learners aged 14-19 in Wales to elect to follow a course of study from a local area curriculum.

At Key Stage 4 the Measure provides Welsh Ministers with regulation making powers, within which Welsh Ministers will stipulate the minimum number of courses of study to be included within a local curriculum, and the minimum number of vocational courses of study to ensure that local area curricula contain a wide range of options of study both academic and vocational in nature.

For Post 16 learners Welsh Ministers will form the local curricula. Welsh Ministers will set the minimum number of courses of study to be included within a local curriculum, and the minimum number of vocational courses of study to ensure that, as at Key Stage 4, local area curricula contain a wide range of options of study both academic and vocational in nature.

The Measure;

- creates a right for pupils of Maintained Schools to elect to follow courses of study from a local area curriculum. It will also enable regulations to specify the maximum amount of courses of study a pupil has the right to elect to follow;

- places a duty on Local Education Authorities in Wales to form local curricula for learners aged 14-16, and on the Welsh Ministers for learners aged 16-19 that contains a range of option choices across the specified learning domains;

- enables Welsh Ministers to specify the minimum number of courses of study to be selected for inclusion within a local curriculum, specify the

particular learning domain into which a course of study falls and specify the minimum number of vocational courses of study to be included in a local curriculum;

- specifies the grounds by which a Head Teacher/Principal may decide that a pupil is not entitled to follow a course they had elected to do and enable regulations to be made in relation to the making of those decisions;
- provides for an appeals process in respect of decisions made with regard to entitlement;
- places a duty on Governing Bodies and Head Teachers of Maintained Schools and Governing Bodies and Principals within the Further Education sector to assist a Local Education Authority or the Welsh Ministers, as appropriate, in planning local area curricula, having regard to any guidance issued and in compliance with any directions given by the Welsh Ministers, Local Education Authorities will also be under the same duty to assist the Welsh Ministers in relation to local area curricula for those learners aged 16-19;
- maximises the availability of courses of study included in a local curriculum via co-operation between Governing Bodies of Maintained Schools and Further Education Institutions, and Local Education Authorities to deliver a wide range of options of study;
- enables Welsh Ministers to issue guidance and directions in relation to joint working, cooperation and collaboration;
- gives Welsh Ministers the power to amend learning domains;
- enables Welsh Ministers to make regulations as to the making of requests and decisions in the determination of a pupils lead learning setting.

- makes provision for Local Authorities and Governing Bodies of Maintained Schools and Further Education Institutions so that they may incur expenditure, employ staff, and enter into agreements for the supply of goods and services in relation to learner support services.

2. The following areas will be regulated by statutory instrument.

- The formation of the local curriculum, for example, the minimum number of courses to be offered within the local curriculum and the minimum number of those courses that must be vocational.
- The election of local curriculum courses including specifying the maximum number of courses a pupil/student can elect to follow and the period during which choices can be made.
- The relevant time scales for head teacher's or principals decisions that a pupil cannot follow a course and more generally in relation to the making of such decisions, and appeals provision.
- The procedure to be followed should a head teacher or principal decide that a pupil is no longer entitled to follow a course of study.
- The determination of a pupils lead learning setting "relevant school or institution" and the making of pupils requests and head teachers or principals decisions, including in particular provision as to the date or time by which a request or decision is to be made.
- To apply the provisions of the Measure to institutions within the Higher Education sector.

3. Provision is also made for the future to bring forward regulations, when appropriate, to:

- apply the provisions of the Measure to children of compulsory school age who are not registered as pupils of a maintained school but are receiving education within the further education sector in Wales.
- apply the provisions of the Measure to children of compulsory school age who are registered as pupils of a maintained special school and to children over compulsory school age who are students at institutions which provide education wholly or mainly for persons with a learning difficulty.

Implications

4. Duties on LEAs

- Each Local Education Authority will be responsible for forming the local curricula for Key Stage 4 pupils.
- Each Local Education Authority must exercise their functions in relation to local curricula so as to promote access to and availability of courses of study which are taught through the medium of the Welsh language. Within two months of the end of each academic year, a local education authority must provide the Welsh Ministers with a report describing; the courses of study included in the local curricula through the medium of Welsh; how many pupils elected to follow such courses and were entitled to do so; what the authority plans to do in the following academic year(s) so that pupils are given opportunity to follow local curricula courses of study taught through the medium of Welsh.
- The local education authority must assist the Welsh Ministers in planning the local curricula for students aged 16 to 18.
- In relation to the local curriculum or curricula (for Key Stage 4 and students aged 16 to 18) for the area of a local education authority, the local education authority must take all reasonable steps in order to maximise the availability of courses of study included in a local curriculum.

Local Education Authorities will also be under a duty to have regard to a series of guidance issued by Welsh Ministers under the Measure and comply with directions of Welsh Ministers.

Regulations and guidance issued under the Measure will clearly set out detailed requirements of relevant sections.

5. Duties on Head teachers and Governing Bodies of Maintained Schools

- Where a pupil is entitled to follow a course of study (Key Stage 4), the governing body of the pupil's school must ensure that the course is made available to the pupil. Similarly where a student is entitled to follow a course of study (16 to 18) the governing body of the student's relevant school (or institution) must ensure that the course is made available to the student.
- The governing body and head teacher of maintained secondary schools must assist the local education authority and Welsh Ministers in planning the local curricula for pupils in key stage 4 and for students aged 16 to 18 respectively.
- In relation to the local curriculum or curricula (for Key Stage 4 and students aged 16 to 18) for the area of a local education authority, the governing body of a maintained secondary school must take all reasonable steps in order to maximise the availability of courses of study included in a local curriculum.
- A head teacher must comply with any request from a registered pupil of their school to determine the pupil's relevant institution once he or she has ceased to be of compulsory school age.
- A head teacher must provide pupils of the school with a learning pathway document, recording his or her learning pathway, including the courses of study the pupil is entitled to follow and the learner support services to be provided.

If a head teacher is satisfied that, in relation to decisions as to entitlement, any of the grounds set out on the face of the Measure apply, then the head teacher may decide

that a pupil is not entitled to follow a course of study which he/she had elected to follow.

Similarly, if a head teacher is satisfied that, in relation to decisions to remove entitlement, any of the grounds set out on the face of the Measure apply, then the head teacher may decide that a pupil is no longer entitled to follow a course of study that he/she was entitled to follow.

Head teachers and governing bodies of maintained secondary schools will also be under a duty to have regard to a series of guidance issued by the Welsh Ministers under the Measure and comply with directions of the Welsh Ministers.

Regulations and guidance issued under the Measure will clearly set out detailed requirements of relevant sections.

6. Duties on Principals and Governing Bodies of Further Education Institutions

- Where a student is entitled to follow a course of study (16 to 18) the governing body of the student's relevant institution must ensure that the course is made available to the student.
- The governing body and principal of an institution within the FE sector must assist the local education authority and Welsh Ministers in planning the local curricula for pupils in key stage 4 and for students aged 16 to 18 respectively.
- In relation to the local curriculum or curricula (for Key Stage 4 and students aged 16 to 18) for the area of a local education authority, the governing body of an institution within the FE sector situated within that area must take all reasonable steps in order to maximise the availability of courses of study included in a local curriculum.
- A principal must provide students (16 to 18) of the FE institution with a learning pathway document, recording his or her learning pathway, including

the courses of study the student is entitled to follow and the learner support services to be provided.

If a principal is satisfied that, in relation to decisions as to entitlement, any of the grounds set out on the face of the Measure apply, then the principal may decide that a student is not entitled to follow a course of study which he/she had elected to follow.

Similarly, if a principal is satisfied that, in relation to decisions to remove entitlement, any of the grounds set out on the face of the Measure apply, then the principal may decide that a student is no longer entitled to follow a course of study that he/she was entitled to follow.

Principals and governing bodies of institutions within the FE sector will also be under a duty to have regard to a series of guidance issued by the Welsh Ministers under the Measure and comply with directions of the Welsh Ministers.

Regulations and guidance issued under the Measure will clearly set out detailed requirements of relevant sections.

7. Statutory guidance

Networks will be consulted on draft statutory guidance during the Summer Term, formal Statutory Guidance will then be issued during the Autumn Term.

- **Local curricula: Welsh language**

LEA to have regard to any guidance to a particular local authority or class of authorities regarding the promotion of access and availability to courses of study taught through the medium of the Welsh language

- **Head teacher's or principal's decision as to entitlement**

A Head teacher or principal and governing body or other person charged with determining appeals must have regard to guidance by Welsh Ministers

- **Head teacher's or principal's decision to remove entitlement**

A Head teacher or principal and governing body or other person charged with determining appeals must have regard to guidance by Welsh Ministers

- **Planning the local curriculum**

Governing bodies, head teachers and principals of FEIs must have regard to any guidance by Welsh Ministers as to exercise of their functions

- **Joint-working: guidance and directions**

LEAs, governing bodies of maintained secondary schools and FEIs must have regard to any guidance from Welsh Ministers as to discharge of their duties. Guidance may relate to content of co-operation arrangements.

- **Provision of services by maintained schools and further education institutions**

Direction

- may require governing body to have regard to guidance given by Welsh Ministers.
- May require a governing when making arrangements with other persons to require them to have regard to guidance given by Welsh Ministers.

- **The learning pathway document**

Head teachers of a maintained secondary schools and principals of a institutions within the FE sector must have regard to any guidance given from time to time by the Welsh Ministers as to the exercise of their functions.

8. Learning Pathways 14-19 Guidance

It is also appropriate that the full Learning Pathways 14-19 Guidance (2) is reviewed at this stage to ensure each of the 6 key elements of the policy are afforded appropriate development.

9. The Measure Process

The draft Learning and Skills Measure was issued for consultation in 15th January 2008 and closed on the 29th of April. Consultation also took place during February and March, within the Skills That Work for Wales consultation events, Schools Effectiveness Framework events and in a series of consultation events held by each Network.

91 responses were received. Responses were supportive of the principle of legislating to underpin the implementation of 14-19 Learning Pathways policy. Consultation feedback resulted in a number of changes being made to the proposed Measure as formally introduced on 7th July 2008. The key changes made at this stage are:

- The grounds for a head teachers decision as to entitlement and the removal of entitlement were placed on the face of the Measure;
- Provision for local authority areas to have more than one local curriculum, recognising local cluster partnership developments
- The definition of co-operation within the Measure was extended to include more formal collaboration arrangements.

At this stage the Deputy Minister also responded to concerns over introduction over the proposed Measure and announced the intention to implement the proposals with a controlled roll out starting with year 10, and introduced a transitional banding, taking into account the relative state of readiness of individual local authority areas.

Stage 1 Committee

The Stage 1 Committee was established on 9th July 2008 to consider and report on the general principles of the Proposed Measure. The committee received evidence from a wide range of stakeholders and issued the Stage 1 Committee Report which contained a number of recommendations. The recommendations were given full consideration and the Government tabled a number of amendments at Stage 2 to address some of the concerns expressed by the

Stage 1 committee. Stage 1 ended with a plenary debate on general principles of the proposed Measure on 9th December. The Measure received the support of the National Assembly to proceed to Stage 2.

Stage 2 Committee

At Stage 2 the Government brought forward substantive amendments in relation to Welsh Language, Appeals, Joint working cooperation and impartiality, all of which were passed by the Stage 2 committee. The substantive stage 2 amendments that were not reversed at Stage 3 are;

- **Welsh Language**

A duty is imposed on local education authorities in relation to their local curriculum functions in respect of pupils in Key Stage 4 and the Welsh Ministers in relation to their local curriculum functions in respect of pupils aged 16 to 18, to promote access to courses taught in Welsh when exercising their functions in relation to the local curriculum.

The effect of this amendment is that local education authorities and the Welsh Ministers will be under this duty when, for example, they plan and form the local curricula for a particular area.

Local education authorities will also be required to have regard to guidance issued by the Welsh Ministers as to how they fulfil their duty in this area and will have to report to the Welsh Ministers annually on which Welsh-taught courses they have included in their curriculum, on how many pupils chose, and were given an entitlement, to follow, those courses and on what the authority plans to do in the following academic year to give pupils access to courses taught in Welsh.

- **Appeals**

This amendment gives the Welsh Ministers the power to provide for an appeals system in regulations in respect of decisions not to give an entitlement, or to remove an entitlement, to follow a course of study. The

regulations may set out the procedure for these appeals, including the person or body who will hear the appeals and the time limits by which they will have to be determined. .

- **Delivery of local curriculum: joint working cooperation**

This amendment places a duty on Local Education Authorities and governing bodies of schools and FE institutions to take all reasonable steps in order to maximise the availability of courses in the local curriculum for their area. As part of that duty bodies must seek to enter into co-operation arrangement if they consider this would further the maximisation of availability.

- **Impartiality**

This amendment ensures that information provided as part of learner support services is given in an impartial manner. The amendment also provides that the advice given as part of those services must be for the purpose of promoting the best interests of the young person concerned and further that it must not seek to promote, contrary to the best interests of the learner, the interests of any particular school, institution or person.

Stage 3 Assembly Debate

1. Stage 3 plenary debate took place on 17th March. The substantive changes to the Measure focused upon Welsh Language and Application to institutions within the Higher education Sector, there were also a number of technical amendments.

- **Welsh Language**

At Stage 2 a Government Amendment was passed placing Welsh Language on the face of the Measure, with a duty on LEAs to promote access to courses taught through the medium of Welsh when exercising functions in the formation of local curricula.

This was extended and strengthened by a further Government Amendment at

Stage 3 so that the duty will be to promote access to **and availability of** courses taught through the medium of Welsh.

In addition, statutory guidance issued under the Measure will stipulate that local authorities will be expected to demonstrate that full consideration has been given to linguistic continuity and progression in developing courses for the local curriculum at Key Stage 4. Welsh Ministers will ensure full consideration is given to linguistic continuity in relation to the local curriculum for 16 to 18 year olds.

- **Application to institutions within the Higher Education Sector**

Government Amendments were passed providing that Welsh Ministers may make regulations applying the Measure provisions for 16-18 year olds to institutions within the Higher Education Sector.

This is relevant to situations where an FEI ceases being an autonomous FEI and falls under the control of an institution within the Higher Education sector. A case in point would be that of Merthyr College which merged with the University of Glamorgan.

Stage 4

Stage 4 is a vote on the Measure in its final form. This followed immediately after Stage 3 debate on 17th March and at this stage the Measure received the support of the National Assembly for Wales to progress to the final stage of its passage to the Privy Council for Royal Assent.

Next steps

The Measure will be considered by the Privy Council in May.