



# Learning and Skills (Wales) Measure 2009

**2009 nawm 1**

## **PART 2**

### **LOCAL CURRICULUM FOR STUDENTS AGED 16 TO 18**

#### *General*

#### **21 Education and training for persons aged 16 to 18**

- (1) Section 31 of the Learning and Skills Act 2000 (c. 21) is amended in accordance with subsection (2).
- (2) In section 31(2)—
  - (a) in paragraph (a) delete “ and ”;
  - (b) at the end of paragraph (b) insert “ and ”;
  - (c) following paragraph (b) insert—

“(c) sufficient to satisfy the entitlements conferred under section 33F”.

#### **Commencement Information**

- II** [S. 21](#) in force at 14.2.2011 by [S.I. 2011/97](#), [art. 2\(2\)\(a\)](#)

#### *Formation of local curricula*

#### **22 Formation of local curricula for students aged 16 to 18**

After section 33 of the Learning and Skills Act 2000 (c. 21) insert—

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## *“The local curricula*

### **33A Formation of local curricula for students aged 16 to 18**

- (1) The Welsh Ministers must form for the area of each [<sup>F1</sup>local authority] one or more local curricula for students who are above compulsory school age but have not attained the age of nineteen.
- (2) Each local curriculum must consist of courses of study each of which—
  - (a) falls within a category in subsection (3) (the “learning domains”); and
  - (b) is from time to time selected by the Welsh Ministers to form part of that local curriculum.
- (3) The learning domains are—
  - (a) mathematics, science and technology;
  - (b) business, administration and law;
  - (c) services for people;
  - (d) arts, media, culture and languages;
  - (e) humanities, social sciences and preparation for life and work.
- (4) For the purposes of this section, a course of study falls within a particular learning domain if a direction of the Welsh Ministers so provides.”

#### **Textual Amendments**

- F1** Words in Measure substituted (5.5.2010) by [Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) \(Wales\) Order 2010 \(S.I. 2010/1148\)](#), arts. 1, **3(2)**

#### **Commencement Information**

- I2** [S. 22](#) in force at 14.2.2011 by [S.I. 2011/97](#), **art. 2(2)(b)**

## **23 Local curricula: Welsh language**

After section 33A of the Learning and Skills Act 2000 (c. 21) insert—

### **“33B Local curricula: Welsh language**

The Welsh Ministers 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.”

#### **Commencement Information**

- I3** [S. 23](#) in force at 19.1.2011 by [S.I. 2011/97](#), **art. 2(1)(a)**

## **24 Areas with more than one local curriculum**

After section 33B of the Learning and Skills Act 2000 (c. 21) insert—

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### “33C Areas with more than one local curriculum

- (1) This section applies where the Welsh Ministers form more than one local curriculum for the area of a <sup>[F1]</sup>local authority] under section 33A.
- (2) In relation to each local curriculum, the Welsh Ministers must designate the maintained schools or institutions whose relevant students are to be entitled to elect under section 33E to follow courses of study included within the curriculum.”

#### Textual Amendments

- F1** Words in Measure substituted (5.5.2010) by [Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) \(Wales\) Order 2010 \(S.I. 2010/1148\)](#), arts. 1, **3(2)**

#### Commencement Information

- I4** [S. 24](#) in force at 14.2.2011 by [S.I. 2011/97](#), **art. 2(2)(c)**

### *Entitlements*

## 25 Determination of a pupil's “relevant school or institution”

After section 33C of the Learning and Skills Act 2000 (c. 21) insert—

### “33D Determination of a pupil's “relevant school or institution”

- (1) Where, during the fourth key stage, a registered pupil of a maintained school requests that the school's head teacher determines the pupil's relevant school or institution, the head teacher must comply with that request. But this is subject to regulations made under subsection (3).
- (2) A pupil's relevant school or institution is the maintained school or institution whose governing body is, in the opinion of the head teacher, likely to be responsible for providing (or making arrangements for the provision of) the majority of the pupil's education once he or she has ceased to be of compulsory school age.
- (3) Regulations may make provision as to the making of requests and determinations under this section, including in particular provision as to the date or time by which a request or determination is to be made.
- (4) This section does not require any person to admit a pupil to a particular school or institution.”

#### Commencement Information

- I5** [S. 25](#) in force at 19.1.2011 by [S.I. 2011/97](#), **art. 2(1)(b)**

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## 26 Pupils' choices of local curriculum courses

After section 33D of the Learning and Skills Act 2000 (c. 21) insert—

### “33E Pupils' choices of local curriculum courses

- (1) A registered pupil of a maintained school has the right to elect to follow, during the period described in subsection (2) (“the entitlement period”), a course or courses of study included within the relevant local curriculum for that pupil. But this is subject to regulations made under subsection (3).
- (2) The entitlement period—
  - (a) begins on the first day of the academic year subsequent to the pupil having ceased to be of compulsory school age; and
  - (b) ends on the day on which he or she attains the age of nineteen.
- (3) Regulations may make provision as to the making of elections under this section, including in particular provision—
  - (a) specifying the maximum number of courses of study of a particular type that a pupil has the right to elect to follow;
  - (b) identifying points to be allotted to courses of study and preventing a pupil from having the right to elect to follow a combination of courses of study if their aggregate points exceed a specified amount;
  - (c) as to the period during which elections are to be made.
- (4) For the purposes of this section the “relevant local curriculum”, in relation to a pupil, means—
  - (a) where it has been determined under section 33D that a pupil's “relevant school or institution” is a school—
    - (i) where the Welsh Ministers have formed under section 33A a single local curriculum for the area of the [F1local authority] by which the school is maintained, that local curriculum; or
    - (ii) where the Welsh Ministers have formed under section 33A more than one local curriculum for the area of the [F1local authority] by which the school is maintained, the local curriculum in respect of which the school is designated under section 33C(2);
  - (b) where it has been determined under section 33D that a pupil's “relevant school or institution” is an institution—
    - (i) where the Welsh Ministers have formed under section 33A a single local curriculum for the [F1local authority] area in which the institution is situated, that local curriculum; or
    - (ii) where the Welsh Ministers have formed under section 33A more than one local curriculum for the [F1local authority] area in which the institution is situated, the local curriculum in respect of which the institution is designated under section 33C(2).”

#### Textual Amendments

- F1** Words in Measure substituted (5.5.2010) by [Local Education Authorities and Children's Services Authorities \(Integration of Functions\) \(Wales\) Order 2010 \(S.I. 2010/1148\)](#), arts. 1, **3(2)**

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#### Commencement Information

**16** [S. 26](#) in force at 19.1.2011 by [S.I. 2011/97](#), [art. 2](#)

## 27 Students' local curriculum entitlements

After section 33E of the Learning and Skills Act 2000 (c. 21) insert—

### “33F Students' local curriculum entitlements

- (1) During the entitlement period, a student who has made an election under section 33E(1) is entitled to follow the elected course of study unless—
  - (a) the governing body of the student's relevant school or institution ceases to be responsible for providing (or making arrangements for the provision of) the majority of the student's education; or
  - (b) before the beginning of the entitlement period, the head teacher or principal of the student's relevant school or institution has decided under section 33G that the student is not entitled to follow the course of study.
- (2) Where a person is entitled to follow a course of study, it is for the head teacher or principal of the relevant school or institution to decide upon which date during the entitlement period the course is to begin.”

#### Commencement Information

**17** [S. 27](#) in force at 14.2.2011 by [S.I. 2011/97](#), [art. 2\(2\)\(d\)](#)

## 28 Head teacher's or principal's decision as to entitlement

After section 33F of the Learning and Skills Act 2000 (c. 21) insert—

### “33G Head teacher's or principal's decision as to entitlement

- (1) If the head teacher or principal of a student's relevant school or institution is satisfied that any of the grounds in subsection (2) apply, the head teacher or principal may decide that the student is not entitled to follow a course of study which the student has elected to follow under section 33E.
- (2) The grounds referred to in subsection (1) are that—
  - (a) as a result of the student's level of educational attainment, the course of study is not suitable for him or her;
  - (b) as a result of other elections made by the student under section 33E(1), it is not reasonably practicable for him or her to follow the course of study;
  - (c) the amount of time likely to be spent travelling to the place at which the course is likely to be delivered would be detrimental to the student's education;
  - (d) disproportionate expenditure would be incurred if the student were to follow the course of study;

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- (e) the student's or another person's health or safety would be placed unacceptably at risk if the student were to follow the course of study.
- (3) Regulations may make provision connected with the making of decisions under subsection (1), including in particular provision—
  - (a) as to the time or date by which decisions are to be made;
  - (b) as to the procedure to be followed in connection with the making of decisions;
  - (c) for appeals against decisions to be made to the school or institution's governing body or another person specified in the regulations;
  - (d) as to the time or date by which appeals are to be determined;
  - (e) as to the procedure to be followed in connection with the determination of an appeal.
- (4) A head teacher or principal and governing body or other person charged with determining appeals under regulations made under subsection (3) must have regard to any guidance given from time to time by the Welsh Ministers as to the exercise of their functions under this section.
- (5) The Welsh Ministers may by order—
  - (a) amend or omit any paragraph of subsection (2);
  - (b) add additional paragraphs to that subsection;
  - (c) amend or omit such additional paragraphs.”

#### Commencement Information

- I8** S. 28 in force at 19.1.2011 for specified purposes by S.I. 2011/97, art. 2(1)(d)  
**I9** S. 28 in force at 14.2.2011 in so far as not already in force by S.I. 2011/97, art. 2(2)(e)

## 29 Delivery of local curriculum entitlements

After section 33G of the Learning and Skills Act 2000 (c. 21) insert—

### “33H Delivery of local curriculum entitlements

Where a student is entitled to follow a course of study under section 33F(1), the governing body of the student's relevant school or institution must ensure that during the entitlement period the course is made available to the student by or on behalf of the governing body.”

#### Commencement Information

- I10** S. 29 in force at 14.2.2011 by S.I. 2011/97, art. 2(2)(f)

## 30 Head teacher's or principal's decision to remove entitlement

After section 33H of the Learning and Skills Act 2000 (c. 21) insert—

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### “33I Head teacher's or principal's decision to remove entitlement

- (1) If the head teacher or principal of a student's relevant school or institution is satisfied that any of the grounds in subsection (2) apply, the head teacher or principal may decide that a student is no longer entitled to follow a course of study that the student was entitled to follow under section 33F.
- (2) The grounds referred to in subsection (1) are that—
  - (a) the student's or another person's health or safety would be placed unacceptably at risk if the pupil were to continue to follow the course of study;
  - (b) disproportionate expenditure would be incurred if the pupil were to continue to follow the course of study.
- (3) Regulations may make provision connected with the making of decisions under subsection (1) including in particular provision—
  - (a) as to the procedure to be followed in connection with the making of decisions;
  - (b) for appeals against decisions to be made to the school or institution's governing body or another person specified in the regulations;
  - (c) as to the effect of a decision pending determination of an appeal;
  - (d) as to the procedure to be followed in connection with the determination of an appeal.
- (4) A head teacher or principal and governing body or other person charged with determining appeals under regulations made under subsection (3) must have regard to any guidance given from time to time by the Welsh Ministers as to the exercise of their functions under this section.
- (5) The Welsh Ministers may by order—
  - (a) amend or omit any paragraph of subsection (2);
  - (b) add additional paragraphs to that subsection;
  - (c) amend or omit such additional paragraphs.”

#### Commencement Information

**I11** S. 30 in force at 19.1.2011 for specified purposes by S.I. 2011/97, art. 2(1)(e)

**I12** S. 30 in force at 14.2.2011 in so far as not already in force by S.I. 2011/97, art. 2(2)(g)

#### Joint-working

## 31 Planning the local curriculum

After section 33I of the Learning and Skills Act 2000 (c. 21) insert—

### “33J Planning the local curriculum

- (1) The following persons must assist the Welsh Ministers in planning the local curriculum or curricula for a <sup>[F1]</sup>local authority's area—
  - (a) the <sup>[F1]</sup>local authority;

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- (b) the governing body and head teacher of any maintained school maintained by the authority;
  - (c) the governing body and principal of an institution in the authority's area.
- (2) In subsection (1), “planning the local curriculum or curricula” means the process by which the Welsh Ministers decide under section 33A which courses of study to include in the local curriculum or curricula.
- (3) The persons mentioned in subsection (1) (a) to (c) must—
- (a) have regard to any guidance given from time to time; and
  - (b) comply with any directions given,
- by the Welsh Ministers as to the exercise of their functions under that subsection.”

#### Textual Amendments

**F1** Words in Measure substituted (5.5.2010) by [Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) \(Wales\) Order 2010 \(S.I. 2010/1148\)](#), arts. 1, **3(2)**

#### Commencement Information

**I13** [S. 31](#) in force at 19.1.2011 by [S.I. 2011/97](#), art. **2(1)(f)**

## 32 Delivery of local curriculum entitlements: joint-working

After section 33J of the Learning and Skills Act 2000 (c. 21) insert—

### “33K Delivery of local curriculum entitlements: joint-working

- (1) The objective of this section is to maximise the availability of courses of study included in a local curriculum formed under section 33A.
- (2) In relation to the local curriculum or curricula for a [<sup>F1</sup>local authority], the persons mentioned in subsection (4) must take all reasonable steps in order to achieve the objective of this section.
- (3) The duty under subsection (2) includes, but is not limited to, a duty to seek to enter into cooperation arrangements where, having considered whether it would further the objective of this section to do so, the persons mentioned in subsection (4) have concluded that entering into such arrangements would further that objective.
- (4) The persons are—
  - (a) the [<sup>F1</sup>local authority];
  - (b) the governing body of a secondary school maintained by the authority; and
  - (c) the governing body of an institution within the further education sector which is situated within the area of the authority.
- (5) In this section and section 33L “co-operation arrangements” means—



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- (a) arrangements under which any person provides, on behalf of the governing body of a maintained school, a course of study included within the relevant local curriculum for the school;
  - (b) arrangements under which any person provides, on behalf of the governing body of an institution, a course of study included within the relevant local curriculum for the institution;
  - (c) arrangements made under regulations under section 26 of the Education Act 2002 (collaboration between schools); and
  - (d) arrangements made under regulations under section 166 of the Education and Inspections Act 2006 (collaboration arrangements: maintained schools and further education bodies).
- (6) For the purposes of this section, “relevant local curriculum” means—
- (a) in relation to a maintained school—
    - (i) where the Welsh Ministers have formed a single local curriculum for the area of the [F1local authority] by which the school is maintained, that local curriculum; or
    - (ii) where the Welsh Ministers have formed more than one local curriculum for the area of the [F1local authority] by which the school is maintained, the local curriculum in respect of which the school is designated under section 33C(2);
  - (b) in relation to an institution—
    - (i) where the Welsh Ministers have formed a single local curriculum for the [F1local authority] area in which the institution is situated, that curriculum; or
    - (ii) where the Welsh Ministers have formed more than one local curriculum for the [F1local authority] area in which the institution is situated, the local curriculum in respect of which the institution is designated under section 33C(2).”

#### Textual Amendments

**F1** Words in Measure substituted (5.5.2010) by [Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) \(Wales\) Order 2010 \(S.I. 2010/1148\)](#), arts. 1, **3(2)**

#### Commencement Information

**I14** [S. 32](#) in force at 19.1.2011 by [S.I. 2011/97](#), art. **2(1)(g)**

### 33 Joint-working: guidance and directions

After section 33K of the Learning and Skills Act 2000 (c. 21) insert—

#### “33L Joint-working: guidance and directions

- (1) A [F1local authority], a governing body of a maintained school and the governing body of an institution must have regard to any guidance given from time to time by the Welsh Ministers as to the discharge of their duties under section 33K.
- (2) Guidance given under subsection (1) may relate to the contents of co- operation arrangements.

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- (3) The persons mentioned in subsection (1) must comply with any direction given by the Welsh Ministers as to the entering into of co-operation arrangements.
- (4) A direction under subsection (3)—
- (a) may require persons to enter into specified arrangements;
  - (b) may specify the terms upon which arrangements are to be entered into (whether generally or in respect of specified arrangements);
  - (c) in the case of a direction to enter into specified arrangements with a person who is not mentioned in subsection (1), must not be given unless that person consents to the direction.”

#### Textual Amendments

**F1** Words in Measure substituted (5.5.2010) by [Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) \(Wales\) Order 2010 \(S.I. 2010/1148\)](#), arts. 1, **3(2)**

#### Commencement Information

**I15** [S. 33](#) in force at 19.1.2011 by [S.I. 2011/97](#), art. **2(1)(h)**

### Supplemental

## 34 Power to amend learning domains

After section 33L of the Learning and Skills Act 2000 (c. 21) insert—

### “33M Power to amend learning domains

The Welsh Ministers may by order—

- (a) amend or omit any paragraph of subsection (3) of section 33A;
- (b) add additional paragraphs to that subsection;
- (c) amend or omit such additional paragraphs.”

#### Commencement Information

**I16** [S. 34](#) in force at 19.1.2011 by [S.I. 2011/97](#), art. **2(1)(i)**

## 35 The local curriculum: interpretation

After section 33M of the Learning and Skills Act 2000 (c. 21) insert—

### “33N The local curriculum: interpretation

- (1) In sections 33A to 33L—

“academic year” means the period of 12 months beginning on 1 September;

“course of study” means a course of education and training which leads to a qualification or set of qualifications approved under section 99 for the purposes of section 96;

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“entitlement period” means the period described in section 33E(2);  
[<sup>F2</sup>“fourth key stage” is to be construed in accordance with section 103 of the Education Act 2002;]

“institution” means an institution within the further education sector in Wales unless the institution provides education wholly or mainly for persons with a learning difficulty (within the meaning of section 41);

“local curriculum” and “local curricula” are to be construed in accordance with section 33A;

[<sup>F1</sup>“local authority”] means a [<sup>F1</sup>local authority] in Wales;

“maintained school” means a community, foundation or voluntary school maintained by a [<sup>F1</sup>local authority] in Wales provided that it is also a secondary school;

“principal”, in relation to an institution, means the principal or other head of the institution;

“regulations” means regulations made by the Welsh Ministers;

“relevant school or institution”, in relation to a person, is to be construed in accordance with section 33D;

“relevant student”, in relation to a maintained school or institution, means a student for whom the school or institution is his or her relevant school or institution;

“student” means a person who has made an election under section 33E.

- (2) Unless the context otherwise requires, an expression used in sections 33A to 33N, 33P and 33Q and also the Education Act 1996 is to bear for the purposes of those sections the meaning given to it for the purposes of that Act.”

#### Textual Amendments

- F1** Words in Measure substituted (5.5.2010) by [Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) \(Wales\) Order 2010 \(S.I. 2010/1148\)](#), arts. 1, **3(2)**
- F2** Words in s. 35 omitted (1.9.2022 for specified purposes) by virtue of [The Curriculum and Assessment \(Wales\) Act 2021 \(Consequential Amendments\) \(Primary Legislation\) Regulations 2022 \(S.I. 2022/744\)](#), reg. 1(3), **Sch. 2 para. 11(2)**

#### Commencement Information

- I17** [S. 35](#) in force at 19.1.2011 by [S.I. 2011/97](#), **art. 2(1)(j)**

## 36 Local curriculum: directions

After section 33N of the Learning and Skills Act 2000 (c. 21) insert—

### “33O Local curriculum: directions

Any direction given by the Welsh Ministers under sections 33A(4), 33J(3) and 33L(3) may be varied or revoked by a further direction.”

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#### Commencement Information

**I18** S. 36 in force at 19.1.2011 by S.I. 2011/97, art. 2(1)(k)

### 37 Application of local curriculum provisions to students who are registered pupils of special schools or who have learning difficulties

After section 33O of the Learning and Skills Act 2000 (c. 21) insert—

#### “33P Application of local curriculum provisions to students who are registered pupils of special schools or who have learning difficulties

- (1) Regulations may apply the provisions of sections 33A to 33L, 33N and 33O and the provisions of any regulations made under section 46 of the Learning and Skills (Wales) Measure 2009 in respect of a person who falls, or is likely to fall, within subsection (3).
- (2) The regulations may apply those provisions with such modifications as appear to the Welsh Ministers to be necessary or expedient.
- (3) A person falls within this subsection if he or she—
  - (a) is above compulsory school age; and
  - (b) either—
    - (i) a registered pupil of a community or foundation special school which is maintained by a [<sup>F1</sup>local authority] in Wales and is not established in a hospital; or
    - (ii) receiving the majority of his or her education at an institution which provides education wholly or mainly for persons with a learning difficulty (within the meaning of section 41).”

#### Textual Amendments

**F1** Words in Measure substituted (5.5.2010) by Local Education Authorities and Children’s Services Authorities (Integration of Functions) (Wales) Order 2010 (S.I. 2010/1148), arts. 1, 3(2)

#### Commencement Information

**I19** S. 37 in force at 19.1.2011 by S.I. 2011/97, art. 2(1)(l)

### 38 Application of local curriculum provisions to institutions within the higher education sector

After section 33P of the Learning and Skills Act 2000 (c. 21) insert—

#### “33Q Application of local curriculum provisions to institutions within the higher education sector

- (1) Regulations may apply the provisions of sections 33A to 33L, 33N and 33O and the provisions of regulations made under section 46 of the Learning and Skills (Wales) Measure 2009 in relation to an institution, or institutions, within

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the higher education sector in Wales as those provisions apply in relation to an institution within the further education sector in Wales.

- (2) The regulations may also apply those provisions in relation to the principal or governing body of an institution within the higher education sector in Wales (or to persons with functions that are similar to those of a principal or governing body) as they apply in relation to the principal or governing body of an institution within the further education sector in Wales.
- (3) The regulations may apply those provisions with such modifications as appear to the Welsh Ministers to be necessary or expedient.”

#### Commencement Information

**I20** [S. 38](#) in force at 19.1.2011 by [S.I. 2011/97](#), [art. 2\(1\)\(m\)](#)

### 39 Regulations and orders: procedure

After section 152(4) of the Learning and Skills Act 2000 (c. 21) insert—

- “(4A) Any statutory instrument containing regulations made by the Welsh Ministers under section 33D(3), 33E(3), 33G(3), 33I(3), 33P or 33Q is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (4B) No order shall be made by the Welsh Ministers under section 33G(5), 33I(5) or 33M unless a draft of the instrument containing the order has been laid before, and approved by a resolution of, the National Assembly for Wales.”

#### Commencement Information

**I21** [S. 39](#) in force at 19.1.2011 by [S.I. 2011/97](#), [art. 2\(1\)\(n\)](#)

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Measure associated Parts and Chapters:**

Whole provisions yet to be inserted into this Measure (including any effects on those provisions):

- s. 43(7) inserted by [2022 asc 1 Sch. 4 para. 25\(3\)](#)