Education (Wales) Measure 2011

2011 nawm 7

PART 1

COLLABORATION BY EDUCATION BODIES

1 Education bodies

For the purposes of this Part, an "education body" means—

(a) a local authority in Wales;

(b) the governing body of a maintained school in Wales;

(c) a further education corporation (as defined by section 17(1) of the Further and Higher Education Act 1992) in Wales;

(d) the governing body of a designated institution (as defined by section 28(4) of that Act) in Wales, which—

(i) is a body incorporated by virtue of section 143(5) of the Learning and Skills Act 2000, and

(ii) is exclusively or mainly providing full-time education for persons who are above compulsory school age but who have not attained the age of 19.

Commencement Information

I1 S. 1 in force at 16.11.2012 by S.I. 2012/2656, **art. 2**

2 The collaboration objective

(1) The objective of this Part is the effective and efficient use of public resources by an education body in respect of the provision of education and training suitable to the requirements of persons who have not attained the age of 19.

(2) This objective is referred to in this Part as "the collaboration objective".

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Commencement Information
I2 S. 2 in force at 16.11.2012 by S.I. 2012/2656, **art. 2**

3 Duty of education body to collaborate

(1) An education body must consider from time to time whether the exercise of its powers of collaboration would further the collaboration objective in the exercise of its other functions.

(2) If an education body concludes that the exercise of a power of collaboration would further the collaboration objective in the exercise of its functions, it must seek to exercise, or cause to be exercised, the power.

(3) The duty in subsection (1) applies to the bodies mentioned in paragraphs (c) and (d) of section 1 in so far as it relates to the provision of secondary and further education suitable to the requirements of persons who have not attained the age of 19.

(4) The duty in subsection (1) is without prejudice to the duties in—
- (a) section 33K of the Learning and Skills Act 2000 (delivery of local curriculum entitlements for students aged 16 to 18: joint working);
- (b) section 116J of the Education Act 2002 (delivery of local curriculum entitlements for pupils in Key Stage 4: joint working);
- (c) section 12 of the Local Government (Wales) Measure 2009 (duty to consider the exercise of powers of collaboration for the purpose of duties under that Measure).

Commencement Information
I3 S. 3 in force at 16.11.2012 by S.I. 2012/2656, **art. 2**

4 Meaning of "powers of collaboration"

For the purposes of this Part, "powers of collaboration" means—
- (a) the powers in section 5;
- (b) in the case of a local authority—
  - (i) its power to authorise a person (or the person's employees) to exercise a function on the authority's behalf under an order made under section 70 of the Deregulation and Contracting Out Act 1994;
  - (ii) its power under section 101(1)(b) and (5) of the Local Government Act 1972 (arrangements for the discharge of local authority functions);
  - (iii) a power of the executive of the authority (or a committee or specified member of the executive) to make arrangements for the discharge of their functions under regulations made under section 19(1) of the Local Government Act 2000 (arrangements for the discharge of functions of the executive of a local authority by another local authority etc);
  - (iv) a power of the authority to make arrangements for the discharge of its functions under regulations made under section 19(2) of the Local

Government Act 2000 (arrangements for the discharge of functions of a local authority by the executive etc of another local authority).

Commencement Information
I4 S. 4 in force at 16.11.2012 by S.I. 2012/2656, **art. 2**

5 Powers to collaborate

(1) An education body has the powers in subsection (2) for the purpose of discharging or facilitating the discharge of—
- (a) its duty under section 3,
- (b) its duty under section 33K of the Learning and Skills Act 2000,
- (c) its duty under section 116J of the Education Act 2002, or
- (d) the duty of another education body under those provisions.

(2) The powers are—
- (a) to provide financial assistance (whether by way of grant or loan) to any person;
- (b) to enter into arrangements or agreements with any person;
- (c) to co-operate with, or facilitate or co-ordinate the activities of, that person;
- (d) to exercise on behalf of any person any functions of that person (whether alone or jointly);
- (e) to make arrangements for any of the education body's functions to be carried out with one or more other education bodies, or by one or more other education bodies;
- (f) to make arrangements for any of the education body's functions to be carried out by joint committees of two or more education bodies;
- (g) to provide staff, goods, services or accommodation to any person;
- (h) to share and use information for the purpose of exercising any powers of collaboration.

(3) These powers are—
- (a) without prejudice to any other powers of an education body, and
- (b) subject to provision made under section 6.

Commencement Information
I5 S. 5 in force at 16.11.2012 by S.I. 2012/2656, **art. 2**

6 Regulations about the power to collaborate

(1) Regulations may provide for—
- (a) the circumstances in which the duty in section 3(1) does not apply;
- (b) the circumstances in which an education body is not required to, or is not permitted to, exercise powers of collaboration;
- (c) the functions of an education body which may not be delegated under paragraphs (d), (e) and (f) of section 5(2);
- (d) conditions that must be met for the exercise of powers of collaboration;

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(e) the manner in which functions are to be discharged under collaboration arrangements;

(f) any other matters that are relevant to the exercise of powers of collaboration.

(2) Regulations may provide for—

(a) the establishment by education bodies of a joint committee of those bodies for the purpose of arrangements under section 5(2)(f) ("a joint committee");

(b) the appointment of persons to serve on a joint committee (including provision as to the restrictions or other requirements relating to any such appointments) and their removal from office;

(c) the appointment of a clerk to a joint committee (including provision as to the restrictions or other requirements relating to any such appointment) and the removal of the clerk from office;

(d) the appointment by a joint committee of one of their number to act as clerk for the purposes of a meeting where the clerk fails to attend;

(e) rights of persons to attend meetings of a joint committee;

(f) restrictions on persons taking part in the proceedings of a joint committee;

(g) the dissolution of joint committees;

(h) sub-committees of joint committees (including provision for the exercise of functions of the joint committee by a sub-committee and provision in relation to sub-committees that may be made in relation to a joint committee under this section);

(i) other matters relating to the constitution or procedure of a joint committee.

(3) The power in subsection (4) applies in relation to—

(a) the functions of the education bodies which are to be discharged under paragraphs (d), (e) and (f) of section 5(2);

(b) the education bodies by whom those functions are to be discharged.

(4) Regulations may provide that any enactment is to have effect subject to all necessary modifications in its application in relation to those functions and the bodies by whom they are to be discharged.

Commencement Information

I6 S. 6 in force at 16.11.2012 by S.I. 2012/2656, **art. 2**

7 Guidance

In exercising its functions under this Part, an education body must have regard to guidance given from time to time by the Welsh Ministers.

Commencement Information

I7 S. 7 in force at 16.11.2012 by S.I. 2012/2656, **art. 2**

8 Interpretation of this Part

In this Part—

"collaboration arrangements" ("*trefniadau cydlafurio*") means an activity performed in the exercise of an education body's powers of collaboration;

"collaboration objective" ("*amcan y cydlafurio*") has the meaning given by section 2;

"education body" ("*corff addysg*") has the meaning given by section 1;

"functions" ("*swyddogaethau*") means powers and duties, and in the case of a local authority means powers and duties that are education functions;

"maintained school" ("*ysgol a gynhelir*") means a community, foundation or voluntary school, a community or foundation special school, a maintained nursery school or a pupil referral unit;

"powers of collaboration" ("*pwerau cydlafurio*") has the meaning given by section 4.

Commencement Information

I8 S. 8 in force at 16.11.2012 by S.I. 2012/2656, **art. 2**

9 Minor and consequential amendments

(1) In section 57(5A) of the Further and Higher Education Act 1992, for "make collaboration arrangements (within the meaning of section 166 of the Education and Inspections Act 2006) with such bodies" substitute " exercise powers under section 5(2)(b) to (f) and (h) of the Education (Wales) Measure 2011 to collaborate with such persons ".

(2) In section 33K(5) of the Learning and Skills Act 2000—

(a) after paragraph (b) insert—

"(ba) arrangements made in exercise of the powers of collaboration described in section 4 of the Education (Wales) Measure 2011.";

(b) omit paragraphs (c) and (d).

(3) In the Education Act 2002—

(a) in section 26(a), after "schools" insert " in England ";

(b) in section 116J(5)—

(i) after paragraph (a) insert—

"(aa) arrangements made in exercise of the powers of collaboration described in section 4 of the Education (Wales) Measure 2011.";

(ii) omit paragraphs (b) and (c).

(4) In section 166(6) of the Education and Inspections Act 2006—

(a) in the definition of "further education body"—

(i) after "(c.13))" insert " in England ";

(ii) after "section 28(4) of that Act)" insert " in England ";

(b) in the definition of "maintained school" after "means" insert " a school in England which is ";

(c) in the definition of "regulations" omit "or the Assembly (in relation to Wales)".

Commencement Information

I9 S. 9 in force at 16.11.2012 by S.I. 2012/2656, **art. 2**

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