

**Explanatory Memorandum to the Education (National Curriculum)  
(Assessment Arrangements on Entry to the Foundation Phase)(Wales)  
Order 2011**

This Explanatory Memorandum has been prepared by Department for Education and Skills and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.

**Minister's Declaration**

In my view this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Education (National Curriculum)(Assessment Arrangements on Entry to the Foundation Phase)(Wales) Order 2011.

I am satisfied that the benefits outweigh any costs.

Leighton Andrews AM, Minister for Education and Skills  
29 July 2011

## **Description**

This order will apply to all practitioners/teachers and head teachers of maintained schools that are delivering the Foundation Phase from September 2011 and to leaders of funded non-maintained settings from September 2012.

This order will require all children to be assessed, against six Developmental Areas when they first enter the Foundation Phase. Those areas are:

- Personal, Social and Emotional;
- Speaking and Listening;
- Reading and Writing;
- Sort, Order and Number;
- Approach to Learning, Thinking and Reasoning; and
- Physical.

Although the prime purpose will be to inform each child's developmental needs around which their learning programmes can be prepared; the information will also be collected centrally to provide a national picture of each cohort's basic skills and developmental needs.

## **Matters of special interest to the relevant Assembly Committee**

There are no matters of special interest raised by the statutory instrument.

## **Legislative Background**

The Order is made in exercise of the power conferred upon Welsh Ministers by sections 108(2)(b)(iii), (5), (6) and (9) and 210 of the Education Act 2002.

The Statutory Instrument is to be made using the negative resolution procedure.

## **Purpose and intended effect of the legislation**

This order introduces assessment arrangements appropriate to the new Foundation Phase curriculum which will be fully implemented from the start of the 2011/12 school year.

The Education (Baseline Assessment) (Wales) Regulations 1999 currently contain the assessment arrangements for the start of the first key stage. However, all references to the first key stage will be removed from primary legislation to coincide with the Foundation Phase being fully rolled out on 1 September 2011. The Foundation Phase will of course replace the first key stage. These regulations will therefore become redundant and will have no legal effect. The enabling power under which those regulations were made has in any event been repealed, albeit that the repeal has not been

commenced. It is our intention to commence this repeal on 1 September 2011.

A new Child Development Assessment Profile has been developed for use with the Foundation Phase and will be used by all schools and funded non-maintained settings that are delivering the curriculum for 3 to 7-year-olds. The introduction of the Profile will ensure that all learners will be assessed against the same developmental areas when they enter the Foundation Phase. The Order will require schools and funded non-maintained settings to use the Profile.

We intend to collect the results of the assessments centrally to provide a national picture of each cohort's basic skills and developmental needs. Without the introduction of this new Order and the single national assessment profile it would not be possible to collect any meaningful data.

## **Consultation**

There is no statutory requirement to consult prior to making the Order. Officials have and will continue to engage with stakeholder on the development of supporting guidance.

## **Regulatory Impact Assessment**

### **a) Options**

#### **Option 1: Do nothing**

If the Education (National Curriculum) (Assessment Arrangements on Entry to the Foundation Phase) (Wales) Order 2011 is not made, the result would be that:

- there will be no consistency or standardisation on how children's developmental needs are assessed on-entry to the Foundation Phase in order to take their learning programmes forward;
- the funded non-maintained settings would continue to have no statutory duty to undertake any assessment of children as they enter the Foundation Phase;
- schools would be required to administer assessment arrangements which are not fit for purpose.

#### **Option 2: Introduce new Order**

If the Education (National Curriculum) Assessment Arrangements on Entry to the Foundation Phase) (Wales) Order 2011 is made, the result will be that:

- all children will be statutorily assessed on entry to the Foundation Phase (whether in a funded-non maintained setting or in a maintained setting) against the same developmental areas;
- we will be able to introduce the Child Development Assessment Profile which has been developed to specifically address the assessment requirements of the Foundation Phase and to replace the current schemes which are not fit for purpose;
- the introduction of a single national assessment profile will enable meaningful data to be collected centrally which will provide a national “baseline” of children as they enter the Foundation Phase.

## **b) Costs and Benefits**

### **Option 1: Do nothing**

There are no discernible or specific benefits or costs from not introducing the Order.

If it is not made, schools will continue to be required to administer a baseline scheme that is not fit for purpose or relevant to the Foundation Phase.

Funded non-maintained settings would not be required to undertake a statutory assessment of their children on entry to the Foundation Phase and potentially not providing the appropriate developmental learning programmes for all children.

### **Option 2: Introduce Order**

A number of benefits will accrue from implementation of this Order;

- there will be a uniform assessment procedure in place for all providers delivering the Foundation Phase whether in a funded non-maintained setting or a maintained school;
- children’s developmental needs will be assessed on-entry to the Foundation Phase against the same developmental areas in order to take their learning programmes forward;
- the introduction of a single national assessment profile will enable meaningful data to be collected centrally which will provide a national “baseline” of children as they enter the Foundation Phase.

This is the most effective option which fully addresses the policy aims and objectives of the Foundation Phase – the delivery of a holistic development curriculum which aims to give all children the best possible start in life and meet the diverse needs of children including those who are at an earlier stage of development and those who are more able.

The costs of providing these rich experiences for children of 3 to 7- years is directly supported by a specific grant to local authorities to support the implementation of the Foundation Phase and the associated workforce development and training. The introduction of the Profile and the on-entry assessment requirements will be accommodated and funded by this specific grant. The costs of £60,000 of producing the Profile and the associated guidance will be met from DfES publications budget.

**c) Competition Assessment**

The Order will have no detrimental effect on competition.

**d) Consultation**

There is no statutory requirement to consult prior to making the Order. Officials have and will continue to engage with stakeholders on the development of supporting guidance.

**e) Post implementation review**

The effect of the Order and the introduction of the profile will form part of the full evaluation of the Foundation Phase which will commence during the Summer of 2011. That evaluation will consider the administrative arrangements for the on-entry assessment both in schools and non-maintained settings, the appropriateness of the Profile and the benefits that accrue to children as they move through the Foundation Phase and into Key Stage 2.