

SL(5)256 – School Organisation Code

Background and Purpose

This Code on School Organisation (“the Code”) is made under Sections 38 and 39 of the School Standards and Organisation (Wales) Act 2013 (“the 2013 Act”).

Section 38 requires the Welsh Ministers to issue a Code that may impose requirements and include guidelines in respect of school organisation on the following (known collectively in this Code as “relevant bodies”):

- the Welsh Ministers;
- local authorities;
- the governing bodies of maintained schools;
- the promoters of proposals to establish voluntary schools.

The Code applies to proposals in respect of maintained schools as defined at Section 98 of the 2013 Act. That is a school in Wales, which is a community, foundation or voluntary school, a community special school or a maintained nursery school. This does not include pupil referral units (PRUs).

The Code contains the following elements:

1. It imposes requirements in accordance with which relevant bodies (or persons exercising a function for the purpose of the discharge, by a local authority or the governing body of a maintained school, of functions in Part 2 (changes which require proposals)) must act. Failure by a relevant body to comply with the requirements set out in this Code may result in a complaint to the Welsh Ministers or to the Public Services Ombudsman for Wales. Where mandatory requirements are imposed by the Code or by the 2013 Act or another statute or statutory instrument, it is stated that the relevant bodies must comply with the particular provision. Where practices are prohibited, it is stated that the relevant bodies must not use this practice.
2. It includes statutory guidance to which relevant bodies must have regard and sets out the policy context, general principles and factors that should be taken into account by those bringing forward proposals to reconfigure school provision and by those responsible for determining proposals. Where guidance is given by the Code, it is stated that relevant bodies should follow this guidance unless they can demonstrate that they are justified in not doing so.
3. It provides a description of the statutory requirements set out in the 2013 Act.

This second edition of the Code makes special arrangements for rural schools (defined within the Code), establishing a procedural presumption against the closure of rural schools. This requires proposers to follow a more detailed set of procedures and requirements in formulating a rural school closure proposal and in consulting on and reaching a decision as to whether to implement a rural school closure proposal.



Procedure

Section 38 of the Act requires the Welsh Ministers to issue a code on school organisation (“the Code”).

Section 39 of the Act requires that before issuing or revising a Code, the Welsh Ministers must lay a draft copy before the National Assembly for Wales. If, before the end of 40 days, the National Assembly resolves not to approve the draft, the Welsh Ministers must not issue the proposed Code in the form of the draft. If no such resolution is made before the end of the 40 day period, the Welsh Ministers must issue the Code (or revised Code) in the form of the draft. This will be done by an appointed day order.

Scrutiny under Standing Order 21.7

No points are identified for reporting under Standing Order 21.7 in respect of the Code.

Implications arising from exiting the European Union

No points are identified for reporting under Standing Order 21.7 in respect of the Code.

Government Response

No government response is required.

Legal Advisers

Constitutional and Legislative Affairs Committee

26 September 2018

