

**EXPLANATORY MEMORANDUM TO THE NATIONAL CURRICULUM  
(DESIRABLE OUTCOMES, EDUCATIONAL PROGRAMMES AND BASELINE  
AND END OF PHASE ASSESSMENT ARRANGEMENTS FOR THE FOUNDATION  
PHASE) (WALES) ORDER 2015**

This Explanatory Memorandum has been prepared by the 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 27.1

**MINISTER'S DECLARATION**

In my view, this Explanatory Memorandum gives a fair and reasonable assessment of the expected impact of the above Order. I am satisfied that the benefits outweigh the costs.

**Huw Lewis**  
**Minister for Education and Skills**

5 August 2015

## **DESCRIPTION**

This Order amends the Education (National Curriculum) (Foundation) (Wales) Order 2014 (“the 2014 Order”). The 2014 Order gives legal effect to a document titled “Foundation Phase Framework for Children’s Learning for 3-7 year olds in Wales” (“the 2014 framework document”) which sets out the Areas of Learning for the Foundation Phase, the desirable outcomes and educational programmes for each of those Areas of Learning. This Order substitutes a reference to the 2014 framework document to a document titled “Curriculum for Wales: Foundation Phase Framework” which sets out the revised desirable outcomes and educational programmes for each of those Areas of Learning for the Areas of Learning (“the 2015 framework document”).

The Order also introduces assessment arrangements that must be carried out by practitioners in relation to each pupil in the Reception year of the Foundation Phase. Article 7 set out that this assessment should be carried out within 6 weeks of a child first attending as a pupil in a Reception class in a maintained school or as soon as reasonably practicable after that if for exceptional reasons it cannot be carried out in that period.

Article 8 of this Order sets out the assessment arrangements that must be carried out by a practitioner in relation to each pupil in the final year of the Foundation Phase.

Article 9 places a duty on the head teacher to complete a record of attainment of the assessment.

## **MATTERS OF SPECIAL INTEREST TO THE CONSTITUTIONAL AND LEGISLATIVE AFFAIRS COMMITTEE**

None

## **LEGISLATIVE BACKGROUND**

This Order is made under section 108(2), (3) and (5), and 210 of the Education Act 2002. These powers were conferred on the National Assembly for Wales and were transferred to the Welsh Ministers by paragraphs 30 and 32 of the Government of Wales Act 2006.

This Order is being made under the negative resolution procedure.

## **PURPOSE & INTENDED EFFECT OF THE LEGISLATION**

The purpose of this Order is ensure that all schools follow the revised curriculum for Language Literacy and Communication Skills and Mathematical Development and carry out a standardised baseline assessment during the Reception year.

The intended effect of the revised curriculum is to allow for better integration of the National Literacy and Numeracy Framework (LNF) into the teaching of Language

Literacy and Communication Skills and Mathematical Development, within the Foundation Phase. They also reflect a higher level of expectation for what learners should know and be able to do at all ages and stages of education.

The intended effect of the introduction of the baseline assessment is to provide a standardised assessment method for assessing children during their Reception year. These assessments currently occur within schools; however they are varied, do not align with previous health assessments, and may miss developmental delay. The baseline is carried out using the Foundation Phase Profile.

## **CONSULTATION**

See consultation paragraphs in the Regulatory Impact Assessment attached below.

## **PART 2 – REGULATORY IMPACT ASSESSMENT**

### **OPTIONS**

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

Under this option, the 2014 Framework Document would remain in place and consequently the National Literacy and Numeracy Framework (“LNF”) would not be embedded in the curriculum for 3-7 year old learners.

#### **Option 2: Make the legislation**

By making the legislation we will:

- provide a curriculum which aligns the Language Literacy and Communication Skills and Mathematical Development Areas of Learning with the LNF;
- provide a consistent tool for all children within the Foundation Phase, which supports the Foundation Phase pedagogy and supports reporting of the LNF; and
- ensure that an assessment is carried out at the beginning of the Reception year using an appropriate tool, providing information to support the learning of individual children and the identification of developmental delay.

## **COSTS AND BENEFITS**

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

This option maintains the current policy and as such, there are no additional costs or benefits associated with this option.

However, there are potential disadvantages to not improving the current system. Firstly, by not updating the curriculum and outcome statements, we would have a curriculum and outcome statements which do not align with, or embed the LNF.

Annual national expectations for the LNF are reported to parents for learners aged from five to fourteen years old, and progression indicators for learners with additional learning needs. Therefore, if the LNF is not embedded within the curriculum it is likely that these annual national expectations for literacy and numeracy will not be reached.

In addition to this, teachers are currently required to carry out a statutory end of Foundation Phase assessment, at the end of school Year 2, for three of the Foundation Phase Areas of Learning. The Areas of Learning assessed are:

- Language Literacy and Communication Skills;
- Mathematical Development; and
- Personal and Social Development, Well-being and Cultural Diversity.

As part of these assessments teachers are required to review and assign an appropriate outcome statement, which reflects the child's attainment. If these statements did not align with the LNF, it would be likely that reporting would be more burdensome for teachers, as two separate frameworks would need to be followed.

The Order also includes the introduction of a baseline assessment during the Reception year. If the Order was not introduced, practitioners would continue to use a variety of assessment tools to carry out their baseline assessment. As a variety of tools are used by different settings and schools, this means that additional assessments would be required to be carried out to ensure practitioners have the information they need to support the child's development. Therefore this approach causes burden, administration and distrust which could be avoided by introducing the legislation.

## **Option 2: Make the legislation**

### **Costs**

#### **Foundation Phase Framework**

The revised curriculum was published on the Learning Wales website at <http://learning.gov.wales> as good practice whilst implementing the LNF. These revised Areas of Learning were published alongside a public consultation which ran from 26 March 2014 until 13 June 2014. The cost of developing the revised Foundation Phase Framework is therefore considered to be a sunk cost and as such is not recorded here.

As the revision to the Language, Literacy and Communication Skills and Mathematical Development Areas of Learning embed the LNF, which practitioners and teachers are already familiar with, there are not expected to be any additional training costs.

The only potential additional cost that has been identified from this would be costs to ensure that schools and settings which are funded to provide the Foundation Phase have access to the new Areas of Learning. The Welsh Government will be publishing the 2015 Framework Document on the Welsh Government website, and publicising this through several channels. The Foundation Phase Framework was published on 3 August 2015 at:

<http://gov.wales/topics/educationandskills/earlyyearshome/foundation-phase/>.

As maintained schools with responsibility for 3 to 7 year olds have internet access they will be able to access the document. However, it is likely that non-maintained settings will not have access to the internet; therefore the Welsh Government will be providing a printed copy of the Foundation Phase Framework to each non-maintained setting at a total cost of approximately £7,500.

Providing the 2015 Framework Document will ensure that activities or lessons planned for the revised Areas of Learning would embed the LNF, and would therefore require no additional planning.

### **Baseline assessment**

Baseline assessments are already carried out on a voluntary basis by all schools who deliver the Foundation Phase, using different tools. There is no specific legal obligation to carry out a baseline assessment although head teachers must make arrangements for each pupil in the foundation phase to be assessed throughout the year by a teacher for the purpose of monitoring and supporting the pupil's educational progress in relation to the educational programmes for the relevant Areas of Learning (the National Curriculum (Assessment Arrangements for the Foundation Phase and the Second and Third Key Stages) (Wales) Order 2014).

A 'train the trainer' approach has been developed with consortia and local authorities. They have set-up training sessions, which ran for approximately 6 hours, on the Foundation Phase Profile for all schools and non-maintained settings during June and July 2015. The cost of attending these courses, for consortia, local authorities and practitioners who attended has been covered through the Foundation Phase element of the Education Improvement Grant.

Additional support will also be made available through a dedicated phone line, until 31 March 2016, which has been funded by the Welsh Government. This was included as part of the Early Years Development and Assessment Framework contact awarded to GL Education in August 2013.

In relation to costs to ensure that schools which are funded to provide the Foundation Phase have access to the Foundation Phase Profile, which is required for the baseline assessment. The Welsh Government have published the Foundation Phase Profile on the Welsh Government website (3 August 2015) at: <http://gov.wales/topics/educationandskills/earlyyearshome/foundation-phase/foundation-phase-profile/>.

This will be publicised through several channels including the newsletter Dysg.

This Order places a duty on maintained schools to carry out the baseline assessment. All of these schools have internet access, therefore they will be able to access the document published on the Welsh Government website. In addition to this, whilst this Order does not make the baseline assessment statutory for non-maintained settings, who will not necessarily have access to the internet, the Welsh Government will be providing a printed copy of the Foundation Phase Profile to each non-maintained setting (approximately 700) so nurseries can support transition into Reception classes, at a total cost of approximately £7,500.

### **Recording Assessments**

In relation to costs associated with recording the baseline assessment, the Welsh Government will be publishing a free spreadsheet, which will allow teachers and practitioners with computer access to record the assessments. It is envisaged that no additional training or time is required in order to record the assessments as this is currently common practice.

In addition to this, the Welsh Government has provided an updated specification to management information system suppliers so they can embed the baseline assessment within management information systems currently used by schools. Contract costs with management information system suppliers are negotiated by local authorities and/or schools, therefore any costs of upgrading software would be included in this. The majority of management information systems are updated three times a year, therefore schools and local authorities will be familiar with the process.

### **Benefits**

The 2015 Foundation Framework document embeds the National Literacy and Numeracy Framework into the curriculum thus increasing the likelihood that annual national expectations for literacy and numeracy skills will be achieved.

Introducing a nationally consistent baseline assessment provides a large number of benefits for settings and schools delivering the Foundation Phase.

The baseline assessment has been developed to support the Foundation Phase pedagogy, whilst also aligning to developmental assessments carried out before children enter statutory education.

Introducing a statutory baseline assessment during the Reception year also allows schools to track progress of children throughout the Foundation Phase, as it also aligns with the end of phase assessment that is carried out. The baseline also supports reporting of progress to parents and carers, and transition between different schools.

Introducing a baseline assessment also provides schools, settings, local authorities, regional consortia, Welsh Government and other interested parties with consistent information for monitoring and planning provision and policy development.

The Foundation Phase Profile, the tool used for the baseline assessment, was trialled with 174 schools and settings across Wales from January to March 2015. The results of the trial were very positive, and provided thorough comments that were reviewed in order to fine tune the Foundation Phase Profile.

Nursery and Reception practitioners and teachers were also asked if the Foundation Phase Profile would aid with transition between nursery settings and Reception classes. 93 per cent (78 respondents) agreed that it would aid with this transition process.

As part of the trial, 64 schools and settings were requested to feedback on the process of carrying out the baseline assessment.

Practitioners were asked how useful they found the Foundation Phase Profile. Where 1 is not at all useful and 5 is very useful, 84 per cent of Nursery and Reception practitioners and teachers rated the usefulness of the assessment as 3 (out of 5) or higher.

Practitioners were also asked how manageable they found the Foundation Phase Profile. Where 1 is not at all manageable and 5 is very manageable, 85 per cent of Nursery and 78 per cent of Reception practitioners and teachers rated the manageability of the assessment as 3 (out of 5) or higher.

### **Summary of the preferred option**

The preferred option is Option 2, this option will:

- provide a consistent model of practice for all children within the Foundation Phase;
- ensure that assessments are appropriately timed, with appropriate tools;
- provide an assessment tool which aligns with the Foundation Phase pedagogy and supports the learning of individual children and the identifying developmental delay; and to
- build trust between schools and settings on information being passed along with the child, providing information to develop the child's development plan.

### **COMPETITION ASSESSMENT**

The Order will have no detrimental effect on competition.

### **CONSULTATION**

Consultation on the proposals to make these revisions took place between 26 March and 13 June 2014 as part of Phase 1 of the review of literacy and numeracy arrangements. The main focus of this consultation was to seek stakeholders views on proposals to revise:

- Foundation Phase Areas of Learning (AoL) in Language, Literacy and Communication Skills; and Mathematical Development; and
- Programmes of Study (PoS) from Key Stages 2 to 4 for English, Welsh (first language) and mathematics to complement the LNF.

A summary of responses was published on 17 October 2014 at: <http://wales.gov.uk/consultations/education/curriculum-for-wales-revised-literacy-and-numeracy-arrangements/?status=closed&lang=en>

Specifically, on the revision of the Areas of Learning, the public consultation asked the following question.

*“1. One way of presenting the additional expectation statements from the Areas of Learning (AoL) and programmes of study (PoS) is to incorporate them directly with the National Literacy and Numeracy Framework (LNF) statements. This has been done for the Language, Literacy and Communication Skills and Mathematical Development Areas of Learning and the mathematics programme of study. Do you agree?”*

94 per cent (157 respondents) of those that responded to this question agreed with this proposal. The comments supplied with this answer suggested that revising the Areas of Learning would be far easier to use and would help schools with planning and implementation.

Further amendments to the AoL and PoS were proposed. Subsequently, changes were made to the content and presentation of the AoL and PoS to strengthen and support the teaching of literacy and numeracy providing greater opportunity and challenge to schools and settings as they consider how best to plan and provide appropriate, relevant and motivating experiences for all learners.

There was also support for the introduction of a baseline assessment; however a specific question on this this was not included within the consultation.

## **POST IMPLEMENTATION ASSESSMENT**

The Welsh Government is planning to monitor the success of the implementation of the revised Areas of Learning and baseline assessment during the first year of statutory application. Also, monitoring of compliance will be carried out by consortia, local authorities and Estyn as part of their existing duties.