

Bill Summary School Standards and Organisation (Wales) Bill

May 2012

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



Research
Service

The National Assembly for Wales is the democratically elected body that represents the interests of Wales and its people, makes laws for Wales and holds the Welsh Government to account.

The Research Service provides expert and impartial research and information to support Assembly Members and committees in fulfilling the scrutiny, legislative and representative functions of the National Assembly for Wales.

Research Service briefings are compiled for the benefit of Assembly Members and their support staff. Authors are available to discuss the contents of these papers with Members and their staff but cannot advise members of the general public. We welcome comments on our briefings; please post or email to the addresses below.

An electronic version of this paper can be found on the National Assembly's website at: www.assemblywales.org/research

Further hard copies of this paper can be obtained from:

**Research Service
National Assembly for Wales
Cardi. Bay
CF99 1NA**

Email: Research.Service@wales.gov.uk

Twitter: [@NAWRResearch](https://twitter.com/NAWRResearch)

© National Assembly for Wales Commission Copyright 2012

The text of this document may be reproduced free of charge in any format or medium providing that it is reproduced accurately and not used in a misleading or derogatory context. The material must be acknowledged as copyright of the National Assembly for Wales Commission and the title of the document specified.

Enquiry no: 12/1255

Bill Summary
School Standards and
Organisation (Wales) Bill

May 2012

Siân Hughes and Alys Thomas

Paper number: 12/021

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



Research
Service

Contents

1. Introduction	1
2. Background	2
2.1. Existing legislative provisions	2
2.2. Policy context	2
2.3. White Paper.....	4
3. The Bill	5
3.1. Policy aims of the Bill	5
3.2. Description of Parts.....	7
Part 2 – Standards	7
Chapter 1: Intervention in conduct of maintained schools.....	7
Chapter 2 Intervention in local authorities	8
Chapter 3 – School Improvement Guidance.....	9
Part 3: School Organisation	10
Chapter 1: The Code on School Organisation.....	10
Chapter 2: School Organisation Proposals	10
Chapter 3: Rationalisation of School Places.....	12
Chapter 4: Regional Provision for Special Educational Needs	12
Chapter 5: Proposals for Restructuring Sixth Form Education.....	12
Chapter 6: Miscellaneous and Supplemental	12
Part 4: Welsh in education strategic plans	13
Part 5: Miscellaneous Schools Functions	13
Part 6: General	15
4. Response to the Bill	16

The School Standards and Organisation (Wales) Bill

1. Introduction

Introduction date: 23 April 2012.

Member in charge: Leighton Andrews AM, Minister for Education and Skills.

Assembly Committee undertaking Stage 1 scrutiny of the Bill: Children and Young People Committee

Stage 1 reporting deadline: 12 October 2012

In late 2010 the most recent Organisation for Economic Co-operation and Development (OECD) Programme for International Student Assessment (PISA) tables showed Wales falling back from its previous position in 2006.¹ In February 2011 the Minister for Education and Skills, Leighton Andrews AM, made a statement outlining a range of measures he intended to take to address standards in Welsh education.² A White Paper was published in October 2011 and the *[School Standards and Organisation \(Wales\) Bill](#)*³ was published in April 2012 along with an *[Explanatory Memorandum](#)*⁴.

The Bill will:

- provide a clearer process for school intervention with the aim of driving up school improvement through the introduction of statutory guidance;
- reform the statutory process for school organisation so that decisions are taken locally wherever possible;
- remove the requirement for School Governing Bodies to hold Annual Parents' Meetings and introduce a new right for parents to call meetings with School Governing Bodies;
- give local authorities and schools greater flexibility over the pricing of school meals;
- mainstream several grant-funded programmes to help streamline current processes;
- make local authorities accountable for planning Welsh-medium provision by making Welsh in Education Strategic Plans statutory.⁵

¹ [OECD PISA, PISA 2009 Results \[accessed 2 May 2012\]](#)

² [Cabinet Statement, Leighton Andrews AM, Minister for Education and Skills, Performance and Standards, 2 February 2011 \[accessed 2 May 2012\]](#)

³ [School Standards and Organisation \(Wales\) Bill as introduced \[accessed 8 May 2012\]](#)

⁴ [School Standards and Organisation \(Wales\) Bill as introduced; Explanatory Memorandum \[accessed 8 May 2012\]](#)

⁵ [Welsh Government, Bill to strengthen schools standards laid by Minister, Press Release, 23 April 2012 \[accessed 4 May 2012\]](#)

2. Background

2.1. Existing legislative provisions

The *School Standards and Organisation (Wales) Bill* will for the first time bring together in one place existing provisions relating to:

- intervention by local authorities in the conduct of maintained schools which are identified as a cause for concern;
- intervention by Welsh Ministers in the conduct of maintained schools which are identified as a cause for concern;
- intervention by Welsh Ministers in local authorities in the exercise of their education functions.

These provisions are currently found in the [*School Standards and Framework Act 1998*](#)⁶ and the [*Education Act 1996*](#)⁷.

Other provisions amend sections of the [*Education Act 2002*](#)⁸, the [*Education Act 2005*](#)⁹ and the [*Learning and Skills Act 2000*](#)¹⁰.

2.2. Policy context

In late 2010 the most recent Organisation for Economic Co-operation and Development (OECD) Programme for International Student Assessment (PISA) tables placed Wales 38th for reading, 40th for maths and 30th for the tests for science, out of 67 countries,¹¹ falling back from its previous position in 2006.¹² PISA is the world's biggest international education survey, involving schools and students in over 60 countries. It assesses the knowledge and skills of 15-year-olds in maths, reading and science and was developed jointly by member countries of the OECD. The PISA survey has a three year cycle, focusing in turn on maths, reading and science.¹³

The Minister for Education and Skills, Leighton Andrews AM reacted strongly to the results:

These results are disappointing. They show an unacceptable fall in our overall performance - everyone involved in the education sector in Wales should be alarmed.

There can be no alibis and no excuses. Countries with less money spent on education than Wales have done better than Wales.

⁶ [*School Standards and Framework Act 1998 \(c.31\)*](#) [accessed 8 May 2012]

⁷ [*Education Act 1996 \(c.52\)*](#)[accessed 8 May 2012]

⁸ [*Education Act 2002 \(c.32\)*](#)[accessed 8 May 2012]

⁹ [*Education Act 2005 \(c.18\)*](#)[accessed 8 May 2012]

¹⁰ [*Learning and Skills Act 2000 \(c.21\)*](#) [accessed 8 May 2012]

¹¹ [BBC News, *PISA Tests show pupils in Wales falling behind, 2 December 2010*](#) [accessed 4 May 2012]

¹² [OECD PISA, *PISA 2009 Results*](#) [accessed 2 May 2012]

¹³ [National Foundation for Educational Research, *PISA Survey 2012*](#) [accessed 2 May 2012]

Schools, local authorities and ourselves as government need to look honestly at these results and accept responsibility for them. If we are to secure a successful educational future for Wales we cannot tolerate complacency in the classroom.

These results have made it clear that schools in Wales are simply not delivering well enough for students at all levels of ability. This can only be described as a systemic failure; we all share responsibility for this and we must equally share in the difficult task of turning things around.

The young people of Wales have the same potential as young people across the world. We need to refocus on higher standards, set our ambitions and expectations high and look for improvement in every aspect of our system.

Let me be clear – we need to address this as a matter of absolute urgency. It requires honesty, leadership and a new approach to accountability.¹⁴

In February 2011, the Minister made a statement outlining a range of measures he intended to take to address standards in Welsh education.¹⁵ He stated that he was “setting some clear targets” and was aiming for Wales :

to be in the top 20 of school systems measured in the PISA scores in 2015. We will aim to improve our results in the next PISA assessment in 2012 over the 2009 results. This is not an alternative to improving GCSE results – we need to increase performance, including performance in reading and mathematics, and reduce variation across the system.¹⁶

The Welsh Labour manifesto for the 2011 Assembly election stated:

We face more fundamental challenges in Wales; our literacy levels, especially amongst boys, are not as high as they should be; we know that we are not ambitious enough for some of our learners and that we and they sometimes set our expectations too low; there is too much variability between schools. While we have many excellent schools we need to raise the standards of all our schools and aim to achieve excellence in all.¹⁷

It included pledges to:

produce Statutory Guidance for school improvement, which sets out the best practice currently available in Wales and elsewhere. This will include kite-marked teaching strategies. We will focus on literacy, numeracy and tackling disadvantage.¹⁸

and:

Legislate to ensure that most school closure decisions are taken locally and more quickly than current arrangements allow.¹⁹

¹⁴ [Welsh Government, *Minister responds to PISA results*, Press Release, 7 December 2010 \[accessed 2 May 2012\]](#)

¹⁵ [Cabinet Statement, Leighton Andrews AM, Minister for Education and Skills, *Performance and Standards*, 2 February 2011 \[accessed 2 May 2012\]](#)

¹⁶ *Ibid.*

¹⁷ [Welsh Labour Party, *Standing up for Wales*, Welsh Labour Manifesto 2011 \[accessed 2 May 2012\]](#)

¹⁸ *Ibid.*

¹⁹ *Ibid.*

2.3. *White Paper*

On 10 October 2012, the Welsh Government published the *School Standards and Organisation (Wales) Bill White Paper*. Youth and children friendly versions were also produced. The White Paper sought views on the Welsh Government's proposals for legislation in the following areas:

- Intervention for schools causing concern;
- School improvement;
- School organisation;
- Welsh in Education Strategic Plans;
- Reducing bureaucracy:
 - Annual parents meetings;
 - Post-16 learners with special educational needs (SEN) in schools;
 - Primary school free breakfast initiative;
 - School-based counselling;
 - Flexible charging for school meals.

Subsequent to the consultation, the Welsh Government decided that the transfer of post-16 SEN funding into the Revenue Support Grant will no longer be included within the *School Standards and Organisation Bill* and will be accomplished through the normal transfer mechanisms with the local authority.

The responses and a summary were published by the Welsh Government in March 2012. Seventy-two responses were received:

- 61 per cent agreed with all or most of the proposals;
- 29 per cent agreed/disagreed with some; and
- 10 per cent disagreed with most or all of the proposals.

These percentages apply broadly to all areas of the proposals in the White Paper. However, there was some variation in responses in relation to the proposals on school improvement guidance, where 49 per cent of respondents agreed with the proposal; 35 per cent agreed/disagreed with some and 16 per cent disagreed with most or all the proposal.

3. The Bill

3.1. *Policy aims of the Bill*

Laying the Bill before the National Assembly for Wales, the Minister stated:

Education is at the heart of our Programme for Government. All children and young people in Wales should have access to the best education which will benefit them throughout their lives. Reducing bureaucracy and improving school standards is a crucial element of this.

The Bill laid before the National Assembly will enable us to raise and strengthen school standards by providing statutory school improvement guidance to local authorities which will ensure good practice is applied consistently across the whole of the country.

It will support local authorities by ensuring they understand their powers to intervene where schools are underperforming. The Bill will also streamline the school organisation process especially when closing schools with few or no pupils. This will reduce uncertainty that parents and pupils currently face.

The Bill will give local authorities greater flexibility over charging for school meals to help children of families on low incomes not eligible for free school meals.

It will also help support the development of the Welsh language by ensuring local authorities have in place strategic plans to support and enhance Welsh medium provision in education.

I have been clear in my desire to raise standards and performance in education in Wales across the board. The Bill I have laid today represents a major step forward in delivering this.²⁰

The Bill includes provisions in the following areas in which the Explanatory Memorandum states that the Welsh Government are seeking immediate improvement:

Intervention in schools causing concern

The Welsh Government believes that local authorities' reluctance to use their current powers of intervention in schools that are causing concern may be due to unclear and ambiguous legislation. The Bill aims to bring together in one place all the powers of intervention for both local authorities and Welsh Ministers and provide local authorities and Ministers with the same grounds for intervention. The Bill also strengthens and reforms the powers of intervention.

²⁰ [Welsh Government, *Bill to strengthen schools standards laid by Minister*, Press Release, 23 April 2012 \[accessed 4 May 2012\]](#)

School Improvement Guidance

The stated aim of providing powers to Welsh Ministers to issue statutory school improvement guidance is to accelerate the process of school improvement across Wales and bring more consistent performance across all schools.

School Organisation

The Bill makes provision for most school organisation proposals to be determined at a local level, either by the proposer or by a Local Determination Panel. Welsh Ministers would continue to determine certain proposals. The intention is that the process would be quicker.

Welsh in Education Strategic Plans

Currently, non-statutory Welsh in Education Strategic Plans (WESPs) provide the means by which the Welsh Government monitors the way in which local authorities respond to and contribute to the Welsh-medium Education Strategy. The Bill puts WESPs on a statutory footing with the intention that there is an improved local authority planning system for Welsh-medium education; publication of regular annual data and reports on progress on national targets for Welsh-medium education by local authorities; more opportunities for learners to access Welsh-medium education; and more learners with higher-level skills in Welsh.

Annual Parents Meetings

Currently governing bodies are required to hold an annual meeting with parents or carers. The Welsh Government considers this unnecessary and burdensome. The Bill would remove this requirement while retaining a right for parents to request a meeting should they wish to do so.

School-based counselling and primary free school breakfasts

The Welsh Government intends to transfer the currently ring-fenced grants for the provision of primary free school breakfasts and school based counselling to the Revenue Support Grant (RSG). The Bill places duties on local authorities to make provision for school based counselling and primary school free breakfasts to ensure their continuation.

Flexible charging for school meals

Currently where local authorities charge for milk, meals or refreshments, they must charge the same price for every person for the same quantity of the same item. The Bill would introduce flexibility for local authorities in their pricing structure so they could provide reduced prices for certain groups of pupils.

3.2. *Description of Parts*

The Bill is divided into 6 parts. **Part 1 provides an overview** of the key provisions in the Bill.

Part 2 – Standards

Chapter 1: Intervention in conduct of maintained schools.

This Chapter reforms the existing law in respect of intervention by local authorities and Welsh Ministers in the **conduct of schools** maintained by local authorities and intervention by Welsh Ministers in the exercise of education functions by **local authorities**. The Welsh Government states that it will be for the local authority to take action in respect of schools causing concern in the first instance, and the Welsh Ministers will generally only take action where the authority has failed to do so, or where it has taken action, it has done so inadequately.

Section 2 sets out the specific eight grounds for intervention by Welsh Ministers or local authorities. These include at Ground 1, where the standards of performance of pupils at the school are unacceptable low. The section sets out how the standards are to be judged. The Grounds also include issues in relation to a breakdown in the way in which a school is managed or governed (Ground 2); pupil behaviour (Ground 3); safety of staff or pupils (Ground 4); failure of the governing body or the headteacher to comply with a duty under the Education Acts (Ground 5); the unreasonable actions of the governing body or the headteacher in their functions under the Education Acts (Ground 6); notice from Her Majesty's Chief Inspector of Education and Training (Estyn) that the school requires significant improvement (Ground 7); and notice by Estyn that special measures are required (Ground 8).

Sections 3 to 19 make provisions for the issuing of warning notices by local authorities and Welsh Ministers to the governing bodies of schools, (generally the start of the process of intervention) and the circumstances where intervention powers may be exercised. They provide for instances where a warning notice does not have to be issued (risk to health and safety or where Grounds 7 or 8 exist). They provide for the appointment of additional governors or a specially constituted governing body (an interim executive board), the suspension of a school's delegated budget and powers of direction and to take steps.

Section 5 provides a **new power for a local authority** to direct the governing body of a school to make arrangements or enter into a contract for the provision of advisory services or to collaborate in order to improve the school's performance.

Section 19 provides that a head teacher or governing body of a school must comply with a direction given to them by a local authority or the Welsh Ministers in respect of intervention in the conduct of maintained schools. A direction must be in writing and may be enforced by a mandatory order of a court.

Section 20 provides a power for the Welsh Ministers to issue guidance to local authorities in relation to the exercise of its functions under Chapter 1 of Part 2 of the Bill, with which local authorities must have regard.

Schedule 1 (introduced by Section 18) makes further provision in relation to interim executive boards. It deals with the transition from a normally constituted body to one consisting of interim executive members, and the transition from a governing body consisting of interim executive members back to a normally constituted governing body.

Chapter 2 Intervention in local authorities

This Chapter sets out the circumstances in which the Welsh Ministers can intervene in the way a local authority is exercising its education functions.

Section 21 sets out the grounds for intervention that must exist for the Welsh Ministers to intervene in a local authority. If one or more these grounds exist, the Welsh Ministers will be able to begin the process for intervention. The Grounds are the authority:

- failing or likely to fail to comply with a duty that is an education function;
- acting or proposing to act unreasonably in the exercise of an education function; and
- failing or likely to fail to perform an education function to an adequate standard.

Sections 22 and 23 provide that if one or more of the three grounds set out above exist, the Welsh Ministers may issue a warning notice to the local authority, (generally the start of the intervention process) and sets out the circumstances where the powers to intervene in a local authority may be exercised by the Welsh Ministers. They also set out instances where warning notices need not be issued (health and safety risk or that the local authority is unlikely to be able to comply or secure compliance with a warning notice) before exercising powers of intervention.

Section 24 and 25 provide a power for the Welsh Ministers to require the local authority to obtain advisory services from a third party or to use the services of a third party to carry out its functions. **Section 26** allows the Welsh Ministers to

require that a local authority's functions are carried out by the Welsh Ministers or by a person nominated by the Welsh Ministers.

Section 27 enables the Welsh Ministers, when issuing directions under sections 25 or 26, to include directions that relate to **any of the local authority's education functions**, and not just those functions to which the powers to intervene relate.

Sections 28, 29 and 30 provide a general power to give directions to a local authority and take steps in relation to it where a power to intervene exists; that a local authority must comply with a direction (a direction must be in writing and may be enforced by a mandatory order of a court); and require local authorities and governing bodies to assist with the action required to comply with directions.

Section 31 sets out rights of access in connection with the carrying out of directions.

Chapter 3 – School Improvement Guidance

This Chapter provides for the Welsh Ministers to issue guidance to headteachers, governing bodies and local authorities about how to exercise their functions so as to improve standards of education.

Sections 32 and 34 define a 'school authority' to whom guidance may be issued (a local authority, governing body or head teacher of a maintained school in Wales); provide a power for the Welsh Ministers to issue guidance to school authorities setting out how they are to improve the standards of education in schools; and set out the procedure that the Welsh Ministers must follow before issuing school improvement guidance, including consultation and laying before the National Assembly.

Sections 35 and 36 place a duty on school authorities to comply with the guidance. They allow for school authorities to depart from the guidance. Where a school authority wishes to do so, it must issue a policy statement detailing its alternative policy for exercising the education functions concerned. It must then follow that alternative policy. Policy statements must set out the different course a school authority wish to follow and the reasons for following a different course.

Section 37 provides for the Welsh Minister to issue a direction to a school authority to comply with the guidance if the Welsh Minister considers that the alternative course of action set out in a school authority's policy statement is not likely to improve educational standards.

Part 3: School Organisation

Part 3:

- reforms and brings together in one place the law relating to school organisation for Wales;
- requires the publication of a new Code on School Organisation; and,
- creates a new framework for the determination of proposals which receive objections, including the setting up of local determination panels and a simplified process for proposals to close schools with fewer than ten pupils.

Chapter 1: The Code on School Organisation

Sections 38 and 39 create a requirement for the Welsh Ministers to issue and publish a code on school organisation with which listed persons must act in accordance if the Code requires them to do so. The Code may also include guidelines setting out aims, objectives and other matters to which the named persons must have regard. They set out the procedure that the Welsh Ministers must follow before issuing the Code, including consultation and the laying of the Code before the National Assembly for Wales.

Chapter 2: School Organisation Proposals

Section 40 requires that the opening or closing of a maintained school, or the making of a significant alteration should be done in accordance with the processes set out in this Part – except where the Welsh Ministers are using their power of intervention to direct that school be closed under section 16 (school requiring special measures). It prohibits any alteration to a maintained school that changes its religious character or causes it to acquire or lose a religious character.

Sections 41 – 44 and Schedule 2 give local authorities the power to make proposals to establish, discontinue and make regulated alterations to certain schools and with the consent of the Welsh Ministers, make a regulated alteration to open or close a school's sixth form at a voluntary or foundation school. Also any person may make a proposal to establish a voluntary school and the governing body of a foundation, voluntary or foundation special school may make proposals to make a regulated alteration to the school or to discontinue the school. **Schedule 2** sets out in detail the regulated alterations that may be made to a school and provide the Welsh Ministers with a power to add, change or remove a regulated alteration by Order.

Sections 45 to 48 detail who may make proposals to change a school's category. No school may change category to become a foundation school. In order to

become a voluntary aided school a governing body must satisfy the Welsh Ministers that they are able to meet the funding obligations for a period of at least five years after the change of category takes place. A change of category does not authorise a change in a school's religious character, or authorise it to establish, join or leave a foundation body.

If a school is to become a community or community special school, it must enter into the transfer agreements detailed in Schedule 5. This Schedule provides for and sets out the process by which governing bodies and local authorities must implement the proposals to change schools. The Welsh Ministers are provided with a regulation making power in connection with how changing category affects the government of the school.

Sections 49 and 50 require that school organisation proposals are consulted upon and published. However, **the requirement to consult does not apply in the case of proposals to discontinue schools with fewer than ten registered pupils** on the date that the Annual Schools Census currently takes place. They enable any person to object in writing to a proposal within 28 days of the publication date and require proposers to publish a summary of the objections together with their responses within 28 days of the end of the objection period.

Sections 51- 55 and Schedule 3 set out that any person may object to a proposal, but whether a person falls within one of the three categories of objectors (set out in section 51) will dictate who determines the proposal. Objections in relation to the closure of a school with fewer than ten pupils are determined by the proposer regardless of category. The sections relate to the provision of documents to the Welsh Ministers or local determination panel and how to deal with related proposals. They provide a framework in relation to the membership, procedure and miscellaneous matters relating to a local determination panel. The local determination panel members will be able to be paid allowances and expenses in accordance with the *Local Government (Wales) Measure 2011*. It will also be a body within the jurisdiction of the Public Services Ombudsman for Wales.

Section 56 and Schedules 4 and 5 require that proposals which have been approved, or the proposer has determined that they should be implemented, must be implemented in the form in which they were approved or determined, and in accordance with Schedules 4 and 5. Schedules 4 and 5 provide further detail about the implementation of statutory proposals including the provision of premises and assistance and the transfer of staff and land.

Chapter 3: Rationalisation of School Places

Sections 58 - 64 set out powers of the Welsh Ministers to direct local authorities and governing bodies to make proposals to increase or decrease the number of school places in their area to address insufficient or excessive provision. Welsh Ministers are provided with powers to make their own proposals to rationalise places if the local authority fails to do so. **Section 62** allows for a local inquiry where Ministers have made proposals where there have been objections within the objection period.

Chapter 4: Regional Provision for Special Educational Needs

Sections 65 – 71 set out the powers of the Welsh Ministers to direct local authorities to consider making regional provision for children with special educational needs, or to direct local authorities and governing bodies to make arrangements or proposals for regional provision or to make their own proposals in respect of regional provision.

Chapter 5: Proposals for Restructuring Sixth Form Education

Sections 72 – 78 provide the Welsh Ministers with the power to make proposals for the establishment of new community, community special or foundation special schools to provide sixth form education only; the addition or removal of sixth form education from any existing maintained schools; and the discontinuation of any existing sixth form school. They set out the procedures to be followed if the Welsh Ministers publish proposals for restructuring sixth forms and make consequential amendments in respect of inspection reports on sixth form education.

Chapter 6: Miscellaneous and Supplemental

Sections 79 to 82:

- allow proposals to establish a new school to include the establishment of the school as a federated school, that is a school which is part of a group of schools with a single governing body;
- prevent the establishment of a school in England which would be maintained by a local authority in Wales;
- enable the governing body of a foundation or voluntary school to discontinue their school by serving at least two years' notice on the Welsh Ministers and local authority;

- allow the Welsh Ministers to direct a local authority to discontinue (without the need for proposals under section 44) a community or foundation special school if they consider it expedient to do so in the interests of health, safety or welfare of pupils. Before doing so the Welsh Ministers are required to consult specified persons. The Welsh Ministers must also provide notice to the relevant governing body and headteacher.

Part 4: Welsh in education strategic plans

Part 4 makes it a statutory requirement for local authorities to have Welsh in education strategic plans (WESPs) in place. This replaces a voluntary scheme.

Sections 85 and 86 set out what a WESP should contain and place a duty on all local authorities to prepare a plan, keep it under review and revise it if necessary. They set out with whom a local authority is required to consult in preparing or revising its WESP. They provide that each local authority will be required to submit its WESP to Welsh Ministers for approval. The Welsh Ministers may approve, modify or reject a WESP (imposing their own plan in its place). It places a duty on a local authority to take all reasonable steps to implement its approved WESP.

Section 87 provides a power for the Welsh Ministers to make regulations which require local authorities to assess parental demand for Welsh-medium provision in certain circumstances.

Section 88 gives Welsh Ministers powers to make regulations which will make further provisions on matters such as the form and content of a WESP, its timing and duration, keeping the WESP under review, consultation and submission of the WESP for approval to the Welsh Ministers and its publication. Regulations may also make provision enabling a joint plan by two or more local authorities. This section also provides a power for the Welsh Ministers to issue guidance which local authorities must have regard to when exercising their functions under Part 4.

Part 5: Miscellaneous Schools Functions

This part makes provision for the **primary school breakfast scheme**, school based counselling and flexible charging for school meals.

Sections 89 and 90 require a local authority to provide free breakfasts for pupils at a primary school it maintains if the governing body of the school has made a written request to the local authority for breakfasts to be provided. The duty will not apply if the governing body has asked the local authority to stop providing breakfasts, or the local authority decides that it would be unreasonable to

provide, or continue to provide, breakfasts at the school. The section sets out the requirements that must be met by a local authority when making breakfast arrangements and provides the Welsh Ministers with a power to issue guidance to which local authorities and governing bodies must have regard. Section 90 contains transitional provisions relating to schools where free breakfasts are already provided or where such a request has been made prior to these powers coming into force.

Section 92 repeals the requirement²¹ that any charge made for the provision of milk, meals and other refreshments in a school must be the same for every person for the same quantity of the same item. Local authorities and governing bodies of maintained schools are prevented from charging more than the cost of providing milk, meals or other refreshments to pupils. Currently, there is no cap on how much a pupil can be charged.

Section 93 requires a local authority to make reasonable provision for an independent counselling service for secondary school pupils, pupils in their last year of primary education and other persons in the local authority area aged between 11 and 19. It sets out the requirements that must be met by a local authority and provides the Welsh Ministers with a power to make regulations requiring local authorities to provide counselling services at locations specified in the regulations.

Section 94 enables the Welsh Ministers to obtain information from a local authority about its independent counselling service. It requires a local authority to comply with a direction of the Welsh Ministers by providing and compiling information about the counselling service and prevents the disclosure of an individual's identity. It also sets out the position where the person providing the counselling service is not the local authority.

Sections 95 and 96 provide that a governing body must hold a parents' meeting if four conditions are met. These are: the receipt of a petition from specified percentages or numbers of parents; the meeting is for the purpose of discussing a matter relating to the school; there will be no more than three such meetings in a school year; and there are enough school days left in the school year in which to hold the meeting. The section sets out the procedures for informing parents and that governors must have regard to guidance issued by Welsh Ministers. The current duty to hold annual parents' meetings is repealed.

²¹ Under the *Education Act 1996*

Part 6: General

Sections 98, 99 and 100 set out the regulations and orders under the Bill to be made by statutory instrument and the National Assembly for Wales procedure in respect of these instruments; defines terms used in the Bill and contains an index of terms that are defined for the purpose of some provisions of the Bill; and give effect to Schedule 6, which contains minor and consequential amendments as a result of the provisions in Parts 2, 3 and 5.

4. Response to the Bill

In his legislative statement to Plenary on the Bill, the Minister stated:

The proposals within this Bill will strengthen school standards, enhance local determination and reduce complexity. The Bill will consolidate, rationalise and reform the current law on intervention in schools that are causing concern, providing much-needed clarity to local authorities. Where a school is giving cause for concern, it is the local authority that is best placed to intervene. It is therefore essential that authorities are clear about their powers of intervention and those of the Welsh Ministers, to ensure that they are used decisively and effectively to bring about an early and effective intervention, where it is required. A new power for the Welsh Ministers to issue statutory guidance on schools causing concern will be instrumental in achieving this early and effective intervention.²²

Conservative education spokesperson, Angela Burns AM, broadly welcomed the Bill but identified areas where she would be seeking further clarification during scrutiny process, including:

In relation to school organisation, I totally agree with your commentary that the practice of one objector, particularly one with no direct interest, being able to bounce a proposal to Welsh Ministers must stop. However, I will be seeking to introduce safeguards, such as where proposers have really done their homework, so that certain groups are not being unfairly disadvantaged, and that elements such as rurality or the delivery of the 14-19 learning pathways in regard to sixth forms, for example, have really been considered. I would like to see safeguards being built in there.²³

Simon Thomas AM. Plaid Cymru education spokesperson, also indicated that his group would be willing to support the Bill subject to issues being clarified during the scrutiny process. He noted that:

There are two themes running through the Bill that we should be guarded about. First, are we giving parents the appropriate right to intervene in this process? I am not saying that the Bill is deficient in this regard, but this is one of the things that we should ensure permeates the Bill. Secondly, we should always ask, when any Minister introduces a Bill, whether the Bill gives the Minister too much power, or whether the power it gives is appropriate to respond to the demands and the policy set by the Government. That is what we should bear in mind in considering such a Bill. That, certainly, is what we in Plaid Cymru will be doing as this Bill progresses through the Senedd.²⁴

William Powell AM also indicated that the Liberal Democrats were also broadly supportive of the Bill.²⁵

²² [RoP, 24 April 2012 \[accessed 4 May 2012\]](#)

²³ *Ibid.*

²⁴ *Ibid.*

²⁵ *Ibid.*

The Welsh Local Government Association welcomed the Bill:

The Welsh Local Government Association welcomes the publication of the School Standard and Organisation (Wales) Bill and supports efforts by the Welsh Government to improve outcomes and reduce bureaucracy. Local government has been working with the Welsh Government to develop aspects of the Bill and much of the detailed work is yet to come. The WLGA will continue to work with the Welsh Government to raise standards in education across Wales.²⁶

NUT Cymru stated:

There is much to welcome in this Bill which will hopefully lead to significant improvements across a number of areas within the school system. Certainly, proposals around free school meal charging, provisions for pupils with special educational needs, school based counselling and the reduction of bureaucracy, are all positive steps forward.

Where we exercise caution is in relation to proposals around interventions in schools by local authorities. What we would like to see is a system of cooperation and collaboration between parents, schools and the local authority to ensure that any school which requires assistance is given the necessary support. There must also be agreement on what assistance is required and the challenges which currently exist.

What would be a cause for concern is if this Bill was used by local authorities as a green light to intervene when they may not understand the challenges faced by a particular school, or may not have the capacity to offer the support needed.

We are encouraged that the Education Minister has stated publicly that he does not want to see banding as the sole driver in determining interventions. It will be important to keep a close eye on the practical application of the proposals to ensure that local authorities take a number of factors into consideration, and do not simply revert to interventions based on a fundamentally-flawed banding system, which many in the education sector continue to oppose.²⁷

The Association of School and College Leaders stated:

The proposals in the education bill to remove the requirement on governing bodies to hold an annual parent meeting is hugely sensible. In many schools attendances at governor parent meetings have been consistently very low over the years. Times and technology have moved on and there are more effective ways that schools are engaging with parents.

The current process for school reorganisation can be painfully slow and even result in situations where schools are open but with no students. Reform of the statutory process is long overdue.”

Whether clarifying the process for school intervention will actually deliver what the minister

²⁶ [WLGA, WLGA welcomes the publication of the School Standard and Organisation \(Wales\) Bill , Press Release, 23 April 2012 \[accessed 8 May 2012\]](#)

²⁷ [NUT Cymru, NUT comment on Standards and Organisation Bill, Press Release, 24 April 2012 \[accessed 8 May 2012\]](#)

seeks, namely an improvement in standards and outcomes, is a matter for debate. It could well be counterproductive in the long run, in terms of recruitment and retention of high quality school leaders, if the LAs use intervention as a means of deflecting attention from their own failure to match robust challenge with positive support for schools which are deemed to be underperforming.²⁸

Mudiadau Dathlu'r Gymraeg-Celebrating Our Language, an umbrella group for Welsh language education campaigning bodies stated:

We'd like to congratulate the Minister for keeping to his original promise of tabling the Bill according to his original timetable. We look forward to co-operating with the Minister and Assembly Members during the scrutiny process as the Bill goes forward. Our movements' aim is to ensure that Wales delivers the milestone in the Welsh-medium Education Strategy ensuring that learners of every age can get good and convenient access to Welsh-medium education. We also hope that there will be recognition in the legislation that the ability to communicate in Welsh is an essential skill for all, not just a minority of children. Welsh is an inheritance for all of us in Wales and the education system shouldn't deprive a single child of fluency in our unique language.²⁹

²⁸ [ASCL, *Bill proposals on school reorganisation 'long overdue'*, Press Release, 24 April 2012 \[accessed 8 May 2012\]](#)

²⁹ [Mudiad Dathlu'r Iaith-Celebrating our Language, *Education Bill- language groups' reaction*, Press Release, 24 April 2012 \[accessed 8 May 2012\]](#)