

RESIDENTIAL OUTDOOR EDUCATION (WALES) BILL

**STATEMENT OF POLICY INTENT FOR SUBORDINATE
LEGISLATION AND GUIDANCE TO BE MADE UNDER THIS
BILL**

NOVEMBER 2023

RESIDENTIAL OUTDOOR EDUCATION (WALES) BILL

STATEMENT OF POLICY INTENT FOR SUBORDINATE LEGISLATION AND GUIDANCE TO BE MADE UNDER THIS BILL

Introduction

This document provides an indication of the current policy intention for the subordinate legislation, guidance and other documents that the Welsh Ministers are empowered or required to make or issue under the provisions of the Residential Outdoor Education (Wales) Bill ('the Bill'), as introduced on 24 November 2023. It has been prepared in order to assist Senedd Committees and Senedd Members during the scrutiny of the Bill and should be read in conjunction with the Bill and the Explanatory Memorandum and Explanatory Notes which accompany it.

Overview of the Bill

The Bill establishes a framework to provide that all pupils in maintained schools in Wales will be entitled to experience residential outdoor education which is to be funded by the Welsh Government.

The Bill amends the Curriculum and Assessment (Wales) Act 2021 ("the 2021 Act"), to impose a duty on the Welsh Ministers to take all reasonable steps to ensure that the opportunity to experience residential outdoor education is afforded to all pupils in maintained schools in Wales once, free of charge. Such steps include making a course of residential outdoor education part of the Curriculum for Wales under the 2021 Act; issuing a Residential Outdoor Education Code which will set out how residential outdoor education is to be provided under the new provisions of the 2021 Act; and issuing guidance to persons specified in the 2021 Act which will set out the detail of how residential outdoor education is to be provided in practice.

The Bill makes specific provision for the Welsh Ministers to provide additional funding to local authorities to meet the cost of the duties imposed on local authorities as a result of the Bill. It also makes it clear that no charge can be made in respect of the cost of board and lodging on a residential outdoor education experience provided under the Bill.

Subordinate legislation making powers in the Bill

The Bill contains one regulation making power in section 4 which is subject to the affirmative Senedd procedure as set out in Standing Order 27.5.

The Bill also imposes a duty upon the Welsh Ministers in section 1(2) to publish a Residential Outdoor Education Code which will be subject to the negative

Senedd procedure as set out in Standing Order 27.2, and a duty to issue guidance which will not be subject to any Senedd scrutiny procedure.

The information contained in this Statement on the subordinate legislation making powers in the Bill corresponds to the information provided in Chapter 6 of the Explanatory Memorandum (Power to make subordinate legislation).

Section 5 of the Bill (Commencement) specifies that sections 1 to 3 will come into force at the end of the period of 3 months beginning with the day on which the Bill receives Royal Assent. The remaining sections come into force on the day after the day on which the Bill receives Royal Assent.

Section 1(2) – the Residential Outdoor Education Code

This provision introduces a new section 64A into the 2021 Act which places the Welsh Ministers under a duty to issue a Residential Outdoor Education Code setting out the way in which a curriculum is to make provision for residential outdoor education. The Welsh Government may consider giving more detail in the Code of what is meant by residential outdoor education, potentially including a definition.

The Code can be issued only after being laid before the Senedd and will not be issued if within 40 days the Senedd resolves not to approve it. The first Residential Outdoor Education Code must be issued within 1 year of section 1(2) coming into force.

The fundamental policy intent of the Residential Outdoor Education Code is to set out the way in which a curriculum is to make provision for residential outdoor education. This will assist schools to develop their curriculum and ensure consistency across the country as to the manner in which residential outdoor education is provided. It is likely that amendments may be required over time to reflect the changing needs of pupils, changes within the residential outdoor education sector, or indeed changes in society. As such it is appropriate that this detail is issued as a Code rather than being contained in the Bill.

Residential outdoor education provided under the 2021 Act must accord with the Residential Outdoor Education Code.

Section 1(3) - Duty to issue guidance in respect of residential outdoor education

This provision introduces a new section 71A into the 2021 Act which requires the Welsh Ministers to issue guidance under section 71 of the 2021 Act in respect of residential outdoor education. Consultation with those that the Welsh

Ministers consider to be appropriate is required under section 71 before such guidance can be issued.

The new section 71A of the 2021 Act will list the matters which must or may be included in the guidance. The intention is that the Welsh Ministers will be able to issue guidance which provides the detail of the practical aspects of providing residential outdoor education under the Bill. It may be necessary for the Welsh Ministers to amend the guidance to reflect changing circumstances within the education sector or the residential outdoor education sector and therefore it is more appropriate for the details to be included in guidance rather than on the face of the Bill.

Section 71 of the 2021 Act sets out who must have regard to the guidance.

Section 4 – Power to make transitional provision

Section 4 of the Bill inserts a new section 74A into the 2021 Act to state that the Welsh Ministers may make transitional provision in respect of the coming into force of the new sections 64A, 64B and 71A of the 2021 Act.

Section 4 is intended to provide flexibility in the introduction of the new duty to offer residential outdoor education to all pupils whilst they are registered at maintained schools. This is to enable the Welsh Ministers to introduce the duty on a phased basis if required.