



Llywodraeth Cymru
Welsh Government

Justice System Impact Identification

Form

1. Policy lead contact details

1.1. Name / Job Title	██████████ Senior Research Officer
1.2. Department / office / business area	Education Directorate
1.3. Telephone number	██████████
1.4. Email address	██████████@gov.wales
1.5. a) Date of submission of this form	Date of Submission: 28-09-18
1.6. b) When is a response required?	Response Requested by: 12-11-18

2. Additional contact details

2.1. Legal Contact	██████████
2.2. Telephone number	██████████
2.3. Email address	██████████@gov.wales

3. General information

- 3.1. Please provide a) contact details of your lead official for the appraisal of costs or savings and;
b) the Justice Policy lead if known.

a) [REDACTED], Knowledge and Analytical Services (contact details as above)
b)

- 3.2. In brief, what is your proposal? **(no more than half a page)** (*This information is provided to help MoJ officials understand the intent of the proposed change in order to be able to comment as fully as possible on its potential impacts*).

Successful Futures: Independent Review of Curriculum and Assessment Arrangements in Wales (2015) recommended 68 wide-ranging changes to the current education system in Wales. The recommendations envisaged an entirely new curriculum framework focused on four over-arching purposes with reformed assessment and accountability arrangements to support these principles. The Welsh Government accepted all 68 recommendations.

New legislation is required to give effect to some of the proposed changes. The primary objective of this legislation will be to introduce new curriculum and assessment arrangements.

The legislation will contain:

- Duties relating to the provision of a broad and balanced “Curriculum for Wales” based on the four purposes;
- Powers relating to exemptions from parts of the Curriculum for Wales;
- Duties to embed cross-curricular responsibilities across the curriculum;
- Duties and powers relating to the provision of wider knowledge and skills, including religious education, relationships and sexuality education, careers and the world of work, and bilingualism;
- Powers and duties relating to learner assessments; and
- Powers and duties relating to school self-evaluation and data sampling.

Most of these duties will be on Local Education Authorities, Schools and Governing Bodies. However, the development of the Regulatory Impact Assessment (RIA) has identified the scope of this legislation will impact or affect the following:

- Learners and parents (as the recipients of the changes);
- Schools and Settings as delivery partners;
- Local Authorities, Regional Consortia, Estyn, Qualifications Wales, Welsh Government, SACRES¹ as strategic delivery partners.

None of the provisions above require input from the Justice System. The education system itself, through accountability and the role of Estyn, enforce duties relating to curriculum and assessment.

No action has been taken against the curriculum and assessment legislation since the national curriculum was introduced in 1988.

There are no criminal offences associated with the proposed legislation.

- 3.3. Please specify the name of this (and any related) legislation. How do you expect the relevant provisions of this (new) legislation to be enacted?

¹ SACRES – Standing Advisory Councils for Religious Education in Schools.
Justice System Impact Identification (version 26 April 2018)

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It is proposed that these provisions will be part of the Curriculum and Assessment (Wales) Bill which will be enacted by Royal Assent.

- 3.4. Please indicate the anticipated date when a) the legislative changes are expected to come into force and b) the date when the first anticipated impact on the justice system will arise.

- a) Roll-out will begin in September 2022 and continue on a year by year basis with all schools adopting the new arrangements by September 2026.
b) N/A

- 3.5. If altering or introducing an offence, sanction or penalty, which of the following groups will the proposal affect and in what circumstances? (Tick all that apply)

- ☐ Individuals
☐ Private Institutions (e.g. Businesses)
☐ Public Institutions (e.g. Government Departments)

N/A

- 3.6. Does your legislation only have impact in Wales or are you working jointly with other administrations? Tick all that apply and provide brief details as appropriate, including whether your proposal will create different laws in Wales compared to England, Scotland and / or Northern Ireland.

Please note that, with the exception of the devolved tribunals, the MoJ administers the justice system in England and Wales only. Please talk directly to the MoJ devolution unit if you anticipate your proposal could have an impact on courts or prisons in Scotland or Northern Ireland.

- ☒ Wales only
☐ England
☐ Scotland
☐ Northern Ireland
☐ Other (Please Specify)

- 3.7. If your legislation could directly impact visitors to Wales or other people not normally resident in Wales, or if your legislation is significantly different from elsewhere in England, Scotland or Northern Ireland;-

- a) what arrangements have you made to ensure ongoing awareness raising of the different legislative approach on this issue in Wales?

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- b) what will be the implications on the enforcement agencies of taking forward action against individuals not usually resident in Wales?

N/A

- 3.8. What are the options under consideration and how does this change the existing situation?

N/A

- 3.9. If you are creating a new civil sanction or penalty which court or tribunal, in your opinion, should deal with it?

N/A

Criminal Offences and Civil Penalties and Sanctions

3.10. Which of the following are you creating / amending? (Tick all that apply)

- ☐ Civil Sanctions
- ☐ Fixed Penalties
- ☐ Civil Orders
- ☐ Criminal Sanctions
- ☐ Criminal Offences
- ☐ Other (Please Specify)

N/A

3.11. If you are creating a criminal offence, is it:

- ☐ Summary Only (heard before a bench of lay magistrates / judge only)
- ☐ Triable Either Way
- ☐ Indictable Only (heard before a judge and jury)

3.12. Who will be responsible for the enforcement of your legislative proposal and how will they take this role forward? Will there be a reduced need for enforcement action?

N/A

3.13. What is the anticipated number of cases per year? Please provide details of any evidence of assumptions on which estimates are based.

N/A

3.14. Do you expect proceedings to be heard in the Magistrates' Court, the Crown Court, or a Civil Court? What will the proportions be?

N/A

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- 3.15. Please state the maximum associated fine and/or custodial penalties. In the case of offences involving penalties of a fine or custody, please indicate and explain the circumstances which would result in a custodial sentence upon conviction and the proportion of custodial penalties which will be at the maximum level.

N/A

- 3.16. Please provide details of any proxy or current offences and / or penalties on which the proposed penalties are based.

N/A

- 3.17. Please provide details of the relevant legislation (where appropriate) and confirm whether the creation or amendment of criminal offences and penalties has been agreed in line with the guidance available at <https://www.gov.uk/government/publications/making-new-criminal-offences>.

n/a

- 3.18. What will be the short, medium and lifelong implications for an individual found guilty of this offence, and how is this proportionate to the offence created?

N/A

- 3.19. Does this legislation impose any duty on the public sector? If so, please provide your assessment of the likelihood of individuals or businesses taking action against the public sector for non-compliance with this legislation.

This is discussed in response to question 3.2.

4. HM Courts & Tribunals Service and the Welsh Tribunals Service

Estimating the change to caseload of the Courts and Tribunals Service (including devolved tribunals)

- 4.1. Do you expect there to be a change in Court or Tribunals process or an increase / decrease in applications / cases to HM Courts and Tribunals Service and / or the Welsh Tribunals through the creation or amendment of this law? Please provide an estimate of the change to volumes of cases going through the court system as a whole, explain any changes in process and outline the evidence and sources that support these estimates.

N/A

- 4.2. Please confirm if the courts / tribunals would be under any duty to inform any regulatory authorities of any convictions made under this offence.

☐ No

☐ Yes (please provide details)

N/A

Appeal Rights

- 4.3. Does your proposal create a new right of appeal or expand an existing jurisdiction in the Unified Tribunals System or route to judicial review? If so, how do you expect these to be handled (i.e. administered by HM Courts & Tribunals Service or Welsh Tribunals)?

N/A

- 4.4. Do you expect to establish a new tribunal jurisdiction? If so, has this been discussed with the Welsh Tribunals Unit / Ministry of Justice?

N/A

Alternative Dispute Resolution

- 4.5. To what extent could the use of alternative dispute resolution (ADR) procedures (including mediation) be appropriate? How will success in ADR be measured?

N/A

Prosecution and Enforcement

- 4.6. If the proposal is to add a new offence, will the Crown Prosecution Service act to prosecute defendants? If not, please identify who will prosecute.

N/A

- 4.7. Will the proposal require enforcement mechanisms for civil debts, civil sanctions or criminal penalties? If yes, who do you expect to enforce these?

N/A

HMCTS Procedural Rules, Sentencing and Penalty Guidelines

- 4.8. Do you anticipate that Court and/or Tribunal procedural rules will have to be amended? If so, when is the likely date for the changes?

N/A

- 4.9. Will the proposals require sentencing and / or penalty guidelines to be amended?

N/A

5. Legal Aid and Court Fees

5.1. What evidence is there that individuals affected by your proposal will be able to afford:

- a) legal representation and legal advice in order to secure a fair hearing of their case
- b) associated court fees

What legal costs for a typical case could each party bear and what provisions exist for a party found innocent to recover all or any of their legal costs?

N/A

5.2. Once implemented, is your proposal likely to require individuals to seek legal advice and to apply for legal aid in any of the following areas? In each case please provide supporting evidence.

- ☐ Criminal
- ☐ Civil (including Family)
- ☐ Asylum
- ☐ Legal aid not available (please provide supporting evidence)

N/A

5.3. If legal aid may be affected, would legal aid costs increase or be reduced (and by what margin)?

N/A

6. Prisons and Offender Management Services

Impact on HM Prison Services

6.1. Will the proposals result in a change in the number of offenders being committed to custody (including on remand) or probation (including community sentences)? If so, please provide an estimate and reasoning behind it, an estimated timeframe to reach this number of sentences, what evidence this is based on, and the source for your information.

N/A

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- 6.2. Does the proposal create, remove or change an existing offence with a custodial or probationary sentence, or change the way offenders go through the prison / probation service? If so, please provide details, including the expected impact on probationary services.

N/A



7. Main Justice System Impacts Identified

7.1. Volumes and Costs or Savings (please lengthen if necessary):-

NB in all cases, assume an average annual figure or make clear if a different timespan is being considered. Where there may be significance variance from average in the first years of implementation, please add additional information in the notes below.

Identify the court or tribunal or MoJ service that will be affected by this proposal?	Volumes (please provide both numeric estimates and min-max ranges)	Type (e.g. prison place, tribunal hearing, fixed penalty, etc.)	Estimated recurring annual costs or savings (both numeric estimate and min-max range) (£)	Estimated initial set up costs (£)	Additional Information
Criminal Offences and Sanctions					
Civil Penalties					
HM Courts & Tribunals Services					
Welsh Tribunals					

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Identify the court or tribunal or MoJ service that will be affected by this proposal?	Volumes (please provide both numeric estimates and min-max ranges)	Type (e.g. prison place, tribunal hearing, fixed penalty, etc.)	Estimated recurring annual costs or savings (both numeric estimate and min-max range) (£)	Estimated initial set up costs (£)	Additional Information
Legal Aid					
Notes:-					

7.2. Prisons and Offender Management Services (lengthen if necessary, only complete if maximum penalty is something other than a fine):

Offence	Maximum Penalty	No. of prosecutions brought per annum (numeric estimate and min-max range)	Likely proportion sentenced to immediate custody	Likely average custodial sentence length given	Estimated costs or savings p.a. (£)² (please provide numeric estimate and min-max range)
Notes:					

² The MoJ publish statistics on "Prison cost per place and cost per prisoner:" - see <https://www.gov.uk/government/statistics/announcements/prison-cost-per-place-and-cost-per-prisoner-2017-to-2018>

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Please be aware that any costs or savings identified as a result of any changes to the justice system /additional work must be factored in to the financial assessment of your legislation.

