

Explanatory Memorandum to the Inspection of Education and Training (Wales) Regulations 2026

This Explanatory Memorandum has been prepared by the Education, Culture and Welsh Language Department of the Welsh Government and is laid before Senedd Cymru 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 view of the expected impact of the Inspection of Education and Training (Wales) Regulations 2026. I am satisfied that the benefits justify the likely costs.

Vikki Howells
Minister for Further and Higher Education
6 March 2026

PART 1

1. Description

1.1 The Inspection of Education and Training (Wales) Regulations 2026 (“the 2026 Regulations”) will revoke and replace the Inspection of Education and Training (Wales) Regulations 2001 (“the 2001 Regulations”) under the powers contained in sections 57(4), 63(9)(b), 143(2) and 146(1)(a) and (2) of the Tertiary Education and Research (Wales) Act 2022 (“the 2022 Act”) to make regulations in respect of inspection intervals and reporting periods in relation to the inspection of further education and training.

2. Matters of special interest to the Legislation, Justice and Constitution Committee

2.1 None.

3. Legislative background

3.1 Sections 57 to 68 of the 2022 Act contain the functions of Estyn, which were previously set out in Part 4 of the Learning and Skills Act 2000 (“LSA 2000”), in respect of the inspection of post-16 education and training, along with the duties of persons responsible for providing the education or training being inspected and the role of the Commission for Tertiary Education and Research (now known as Medr).

3.2 Section 57(4) of the 2022 Act enables the Welsh Ministers to make Regulations specifying the intervals at which inspections of specific education and training are required to be conducted and the period in which reports on such inspections are required to be made by Estyn.

3.3 Section 63(9)(b) of the 2022 Act enables the Welsh Ministers to make Regulations specifying the period in which reports on area inspections are required to be published by Estyn.

3.4 Section 143(5) of the 2022 Act, read with section 37E of and paragraph 5 of Schedule 1A to the Legislation (Wales) Act 2019 (“the 2019 Act”), provides for the Regulations to be subject to the Senedd annulment procedure and to be made by Welsh statutory instrument (section 37A of the 2019 Act).

3.5 These Regulations are due to be made alongside the Tertiary Education and Research (Wales) Act 2022 (Commencement No.7, Transitory, Transitional and Savings Provisions) Order 2026 which will bring into force sections 57 to 68 of Part 2 (Chapter 2) of the 2022 Act, and repeal relevant provision within LSA 2000 on 1 April 2026, amongst other things.

4. Purpose and intended effect of the legislation

4.1 The purpose of the 2026 Regulations is to revoke and replace the 2001 Regulations, under sections 57(4), 63(9)(b), 143(2) and 146(1)(a) and (2) of the

2022 Act, to take account of the new role of Medr and its responsibilities in relation to the inspection of further education and training.

- 4.2 Welsh Government policy in respect of inspection intervals in relation to inspections of specific further education or training has not changed, with the 2026 Regulations providing for a six yearly inspection cycle in line with the provision made in the 2001 Regulations.
- 4.3 In order to ensure no gap in the inspection of further education and training, the 2026 Regulations provide for a number of scenarios:
- Where the education or training has not been inspected under section 77 of the LSA 2000 or section 57 of the 2022 Act, an inspection must be completed within six years of Estyn being subject to a duty to inspect the education or training under those sections;
 - Where the education or training has been inspected under section 77 of LSA 2000 but that inspection did not occur between 1 September 2024 and 31 March 2026, an inspection must be completed at least once between 1 April 2026 and 31 August 2030;
 - In all other cases, an inspection must be completed at least once within the period of six years beginning with 1 September 2030, and at least once within every subsequent six-year period beginning at the end of the previous period.
- 4.4 The 2026 Regulations alter the reporting period for Estyn to make a report following the completion of an inspection of specified further education and training. Such reports must now be made within a period of 35 working days – starting with the working day after the day an inspection is completed.
- 4.5 The 2001 Regulations required such report to be made within 70 working days from the date on which the inspection is completed, and the change has been made to ensure the reporting period for inspections of further education and training is consistent with the reporting period applicable to school inspections. The 2026 Regulations also require Estyn to publish a report following completion of an area inspection within the period of 35 working days beginning with the working day after the day the area inspection is completed.

5. Consultation

- 5.1 Section 57(5) of the 2022 Act requires the Welsh Ministers, before making Regulations under section 57, to consult Medr and Estyn.
- 5.2 An 8-week consultation ran from 28 April 2025 to 20 June 2025 on the 2026 Regulations and was published on the Welsh Government website. The consultation was drawn to the attention of Medr and Estyn.
- 5.3 A total of 9 responses were received, including Medr and Estyn, who supported the proposed changes to the 2026 Regulations. A [summary of responses](#) to the consultation was published on 15 August 2025.

PART 2 – REGULATORY IMPACT ASSESSMENT

6. Options

6.1 This Regulatory Impact Assessment (“RIA”) assesses the potential impacts of the 2026 Regulations. The assessment considers three options:

- **Option 1:** Do nothing – the Welsh Ministers do not make regulations under TERA in respect of the inspection of further education and training.
- **Option 2:** Make regulations under the 2022 Act to replace the 2001 Regulations with no policy changes.
- **Option 3:** Make regulations under the 2022 Act to replace the 2001 Regulations and include new policy in relation to the reporting period.

6.2 The RIA aims to identify any potential benefits or cost implications associated with each option.

7. Costs and Benefits

Option 1: Do Nothing

7.1 Doing nothing would mean that the 2001 Regulations would fall away once sections 77(2) and (4), 80(4), 83 (9) and 84(5) of LSA 2000 are repealed by paragraph 14(23) of Schedule 4 to the 2022 Act. These provisions will be repealed on 1 April 2026 through the Tertiary Education and Research (Wales) Act 2022 (Commencement No.7, Transitory, Transitional and Savings Provisions) Order 2026.

Costs

7.2 This is the baseline option and as such there are no additional financial costs associated with this option.

Advantages of this option

7.3 Should this option be chosen, the Welsh Ministers would not formulate nor implement any new regulations governing the inspection of further education and training. This course of action would negate the need for legislative changes or administrative measures to be taken in order to facilitate the inspection process within this sector.

Disadvantages of this option

7.4 Once the 2001 Regulations cease to apply, there would be no standardised approach in relation to the intervals at which inspections of further education and training are undertaken in Wales. This could lead to inconsistencies in how inspections are conducted and the quality of such provision, causing confusion to the sector, students and parents.

Option 2: Make regulations under the 2022 Act to replace the 2001 Regulations with no policy changes

7.5 This option involves revoking and replacing the 2001 Regulations with the 2026 Regulations under the new 2022 Act framework with no change in policy.

Costs

7.6 This option is primarily administrative, with no financial costs associated with the transition to the 2026 Regulations. However, maintaining differing reporting timeframes may incur indirect costs related to administrative inefficiencies.

Advantages of this option

7.7 The key benefit of this option is the preservation of existing policies and procedures, which ensures stability and continuity within the inspection framework. It avoids the need for significant legislative or procedural adjustments and reduced the administrative burden.

Disadvantages of this option

7.8 Whilst this option would maintain the status quo in respect of inspection cycles, Estyn would have differing reporting timeframes for further education and training inspections compared to school inspections.

Option 3: Make regulations under the 2022 Act to replace the 2001 Regulations and include new policy in relation to the reporting period

7.9 This option involves revoking and replacing the 2001 Regulations with the 2026 Regulations under the new 2022 Act framework.

7.10 This option would maintain the current policy in respect of inspection cycles, ensuring consistency and supporting transition from the inspection regime under LSA 2000 to the new regime under the 2022 Act.

7.11 This option would also involve a change in policy in respect of the reporting period for Estyn inspections, from 70 to 35 working days. The primary benefit of this change is the alignment of the reporting period for further education and training with that of school inspections, fostering consistency across the education sector, however this would not change the time the sector would have to respond to the inspection reports.

Costs

7.12 Similarly to Option 2, the costs associated with this option are primarily administrative and refer to opportunity costs in relation to Estyn staff involved in the process.

7.13 The transition to the 2026 Regulations is not expected to result in a substantial increase in direct financial expenditure and similarly the preparation of the reports is expected to have minimal impact on costs.

7.14 Estyn have been actively involved in the development of these options, and they believe that any costs can be accommodated within its current resources. Estyn will potentially need to enhance their existing quality assurance processes to ensure timely preparation of reports and mitigate any delays caused by translation or staff absences, however, they believe this is manageable and believe this change would support their internal processes.

Advantages of this option

7.15 A significant benefit of this option is the continuation of the current inspection cycle, ensuring that all providers are inspected at least once within each six-year period. This consistency in the inspection schedule allows for a comprehensive evaluation of all educational institutions, maintaining high standards across the board and offering a reliable measure of quality. It also ensures that the inspection process remains predictable and fair for all providers, fostering a culture of continuous improvement and accountability.

7.16 An additional benefit is the reduction of the Estyn inspection report completion period from 70 to 35 working days. This adjustment brings the reporting timeline for further education and training in line with that of school inspections, enhancing uniformity across the education sector. Such consistency supports a more integrated approach to educational oversight by ensuring inspection feedback is both prompt and standardised.

7.17 Crucially, this adjustment does not alter the time available for the sector to respond to inspection reports, which remains unchanged. While Estyn will need to expedite their reporting process, providers will maintain their ability to address inspection findings adequately.

Disadvantages of this option

7.18 A perceived disadvantage of this option could be the allowing of less time for Estyn to prepare their report following an inspection of further education and training. However, as stated above, Estyn support the proposed change and believe it can be delivered within existing resources.

Outcome

7.19 Having weighed the costs and benefits, the option chosen was Option 3, to make regulations under the 2022 Act to replace the 2001 Regulations and include new policy in relation to the reporting period.

7.20 The proposed changes are expected to have minimal impact on costs while potentially leading to a more effective use of resources. Timely and reliable inspection reports could enhance confidence among stakeholders, students, and

parents. This aligns with the Welsh Government's objectives of improving the quality and accountability of further education and training.

8. Competition Assessment

- 8.1 The competition filter test has been completed. These regulations are not expected to have a significant impact on competition in Wales or the competitiveness of Welsh businesses.

9. Post Implementation Review

- 9.1 A post-implementation evaluation of the 2022 Act will be undertaken by Welsh Government, who will continue to work with the Commission, Estyn, providers, and representative bodies.
- 9.2 A long-term plan to gather evidence of costs and benefits will be needed to provide a value for money assessment when the Act has been fully implemented. It is intended that these are reviewed at a three year and a five-year interval. The implementation of Option 3, which involves replacing the 2001 Regulations with the 2026 Regulations under the new 2022 Act framework and introducing a new policy relating to the inspection reporting period, will be closely monitored to assess its effectiveness and impact.