

Number: WG16419



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Consultation – summary of responses

Consultation response report on the School Governance (Transition from an Interim Executive Board) (Wales) Regulations 2012

Date of issue: September 2012

Consultation response report on the School Governance (Transition from an Interim Executive Board) (Wales) Regulations 2012

Audience	Chief executives and directors of education in county and county borough councils in Wales; diocesan authorities; headteachers and governing bodies of maintained schools in Wales; teaching unions; Estyn.
Overview	This document summarises the responses received to a consultation on the Welsh Government's proposals to make provision under the School Governance (Transition from an Interim Executive Board) (Wales) Regulations 2012 which set out the arrangements for the transition from an Interim Executive Board (IEB) to a normally constituted governing body.
Action required	None – for information only.
Further information	School Management and Effectiveness Division Department for Education and Skills Welsh Government Cathays Park Cardiff CF10 3NQ e-mail: sef@wales.gsi.gov.uk
Additional copies	Both this document and the consultation documents can be accessed on the Welsh Government's website at www.wales.gov.uk/educationandskills
Related documents	Education Act 2002 (English only) www.legislation.gov.uk/ukpga/2002/32/contents School Standards and Framework Act 1998 (English only) www.legislation.gov.uk/ukpga/1998/31/contents

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Introduction

The consultation period ran from 28 February 2012 to the 22 May 2012. This report is based on 11 responses to the consultation document.

Throughout the report, percentages are expressed as a measure of those answering each question, not as a measure of all respondents.

The organisational breakdown of respondents was as follows:

Local authority	3	27%
Trade union	4	36%
School governors	2	18%
Charity	1	9%
Other	1	9%

The consultation set out the arrangements for ensuring the smooth transition from an Interim Executive Board back to a normally constituted governing body and invited views on the approach proposed.

The consultation was conducted electronically and was drawn to the attention of a wide audience including schools, Governors Wales, Local Authorities, Estyn and teachers unions.

This report starts with a background, followed by an overview and then a summary analysis of each question within the consultation. A copy of the consultation document can be accessed at:

<http://wales.gov.uk/consultations/education/governance/?lang=en&status=closed>

Background

Paragraph 19(2) and (3) of schedule 1A to the School Standards and Framework Act 1998 provide local authorities and Welsh Ministers with powers to replace a school governing body with an Interim Executive Board (IEB).

An IEB is a small body appointed on a short-term basis by a local authority to turn around a school that is judged to be in urgent need of improvement. An IEB replaces the governing body of a school that has either been placed in special measures or deemed as in need of significant improvement by Estyn, or that has not complied with a warning notice from its local authority.

The IEB's main functions are to secure a sound basis for future improvement in the school and promote high standards of educational achievement. Once a decision has been taken for the local authority to put in place an IEB at a school, it issues a notice which provides that from a date specified, the governing body is to consist of interim executive members. This notice may also specify the date when the IEB is to become a normally constituted governing body, or this may be specified in a later notice.

Schedule 1A to the School Standards and Framework Act 1998 provides that arrangements for the transition from an IEB back to a normally constituted governing body may be prescribed in regulations made by Welsh Ministers.

These regulations make provision relating to the transition of a school's governing body from being constituted as an interim executive board in accordance with Schedule 1A to the School Standards and Framework Act 1998 to being a governing body constituted in accordance with Section 19(1) of the Education Act 2002.

These regulations require that at least six months before the IEB ceases to operate the local authority make arrangements to establish a Shadow Governing Body (SGB). The SGB will be constituted in the same way as the school's governing body. The IEB may delegate functions to the SGB during this period. When the IEB steps down, the SGB is treated as if it were the normally constituted governing body of the school.

Overview of consultation responses

Eleven responses were received to the consultation. The majority of respondents agreed with all of the proposals within the consultation. The questions posed and the main points are set out below:

Question 1: Do you agree that a shadow governing body should be established at least six months before an Interim Executive Board (IEB) steps down? (As set out in regulation 5.)

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	Other
4	6	0	0	0	0
40%	60%	0%	0%	0%	0%

There was full consensus that the shadowing governing body needs to be in place for six months before the IEB steps down to provide sufficient time to handover issues efficiently and to ensure continuity and consistency.

One respondent suggested that the proposed minimum 6 month timescale would provide a very small number of school weeks for the SGB and IEB to make a positive impact, if they were established in the summer term and suggested that the time period would be better referred to in academic terms. For example; a minimum period of two school terms.

Response: The six months timescale is a minimum timescale. Welsh Government guidance on intervention in schools causing concern recognises that it may be necessary for a shadow governing body to work alongside an IEB for longer than six months. For example, a full academic year which would allow the shadow governing body to experience a complete year of the planning and management cycle.

Question 2: Do you agree that the composition and constitution of the Shadow Governing Body should mirror that of a normally constituted governing body? (Regulations 6–8.)

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	Other
5	5	1	0	0	0
45%	45%	9%	0%	0%	0%

There was broad agreement consensus that the composition of the shadow governing body should mirror that of a normally constituted governing body. Respondents commented that this would increase transparency, consistency and accountability and would be necessary in order to measure efficiency and effectiveness.

One respondent stated that the consultation document does not indicate whether governors from the previous governing body could/should be eligible.

Response: There is nothing to prevent existing governors being appointed to an IEB and similarly existing governors may be appointed to a shadow governing body. The appointment of Interim Executive Members and Shadow Governors is a matter for the local authority and members should be chosen on a case by case basis depending on the school's needs.

One respondent ticked neither agree/disagree that the composition and construction of the shadow governing body should mirror that of a normally constituted governing body. The supporting comments stated that although you should try to reflect the normal governing body composition it is not always possible to do so completely.

Response: Regulations 6-8 refer to the shadow Governing body's compliance with the government regulations, which suggests that the respondent may not have not fully understood the question.

Question 3: Do you agree with the proposed arrangements for the appointment of a Chair, Vice Chair and a Clerk of the Shadow Governing Body and minuting of meetings? (As set out in Regulations 9, 10, 13 and 14.)

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	Other
5	5	0	0	0	0
50%	50%	0%	0%	0%	0%

There was full unanimous agreement to the proposals for the appointment of a Chair, Vice Chair and Clerk and minuting of meetings. Respondents commented that these are in keeping with the normal expected practices for forming and supporting governing bodies and that given that the Shadow Governing Body should act as any other GB at the earliest opportunity it is recommended that they would facilitate all functions in the required manner.

Question 4: Do you agree that the Shadow Governing Body should be able to determine its own procedures and that it must carry out any functions delegated to it by the IEB? (Regulations 11 and 12.)

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	Other
1	7	1	0	1	0
10%	70%	10%	0%	10%	0

80 % of respondents agreed to the proposal that the shadowing governing body should determine its own proceedings in order to encourage strong management. One respondent felt that the shadow body should follow proceedings in accordance with the Government of Maintained Schools (Wales) Regulations 2005.

Several respondents considered that this question was ambiguous and that the proposal to allow the Shadow Governing Body to determine its own procedures needed further clarification.

Response: The Government of Maintained Schools (Wales) Regulations 2005 and the Governor Allowances (Wales) Regulations 2005 do not apply in relation to IEBs and it follows that as the IEB will be coaching the Shadow Governing Body during the transition period and delegating functions that the Shadow Governing Body is able to determine its own procedures during the transition period. However, at the end of the transition period the Shadow Governing Body should be treated as the normally constituted governing body and as such be subject to the same regulations.

One respondent considered it unlikely that the IEB would wish to delegate anything during the 6 month period and had some concern regarding the wording of “must carry out any functions delegated to it by the IEB” which they considered could be being interpreted as the IEB working in a superior capacity to the newly appointed shadow governing body.

Response: IEB Members would have been chosen based on their suitability skills and experience to respond to secure a step change in the leadership and management of the school. The main purpose of this parallel running and for the IEB to be able to delegate functions is to allow IEB members to coach the shadow governing body and for the SGB to mirror good behaviours.

Question 5: Do you agree that from the date the IEB stands down the shadow governing body should be treated as a normally constituted governing body? (Regulation 15.)

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	Other
3	7	0	0	0	0
30%	70%	0%	0%	0%	0%

All those who responded to this question agreed that the shadow governing body should be treated as a normally constituted governing body once the IEB stands down. Respondents commented that the new Governing Body should be able to operate to a clear plan formulated in conjunction with the IEB. Given that the shadow governing body would have been in operation alongside the IEB, treating it as a normally constituted body after the IEB is wound up would provide stability and continuity for the school in the future.

One respondent suggested that there would be the need to ensure an appropriate hand over period for the clerk particularly if the clerk has no previous experience of clerking governing bodies.

Response: Given that the Clerk to the Shadow Governing Body would have been in place for at least 6 months in a shadow capacity and that the Shadow Governing Body will be considered the normally constituted governing body once the IEB steps down, we consider that six months will provide sufficient time for the clerk to develop the necessary expertise.

Another respondent offered qualified agreement that this proposal provided consistency of governance, but it could also provide for the continuation of a governing body that has lost the confidence of the school workforce.

Response: The purpose of the appointment of an IEB is to secure a step-change in the leadership and management of a school. It is best used where the existing governing body is providing insufficient challenge to the Headteacher or senior management team of the school, is providing an obstacle to progress, or where there has been a breakdown in working relationships that is having an impact on standards. It would be for the local authority to determine that the shadow governing body has the necessary skills and prerequisites to provide the necessary challenge and to ensure that the shadow governing body enjoys the confidence of the school and the workforce.

Question 6: We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

One respondent considered that the appointment of an IEB should be regarded as a last resort and not a substitute for partnership working.

Response: Agree. Local authorities are expected to engage schools effectively through a professional dialogue to address any issues causing the local authority concern. If the school shows little evidence of improvement following these discussions and after support commissioned by the local authority the local authority should then consider issuing a warning notice in order to bring the necessary support to bear before the issues of concern result in school failure. There are clear criteria for issuing warning notices set out in legislation. A school would be eligible for intervention where they have failed to comply with a warning notice or are deemed by Estyn to require significant improvement or special measures. Appointment of an IEB is one of the powers open to a local authority where a school is eligible for intervention and will be considered where there has been a breakdown in management and governance. Before a local authority can appoint an IEB it must first seek the consent of Welsh Ministers.

The Welsh Government would like to take this opportunity to thank all those who responded to this consultation exercise.

Next steps

The regulations as drafted will go forward through the legislative process within the National Assembly for Wales. The target date for the regulations to be made is 2 July 2012 subject to approval by the National Assembly for Wales, the new regulations will come into force on 1 September 2012.

List of respondents

1. Chair, Interim Executive Board, St Albans Catholic School
2. NUT Cymru
3. Estyn
4. Governors Wales
5. Participation Cymru
6. Directorate of Education and Leisure, Caerphilly County Council
7. Swansea School and Governor Support Services, Swansea County Council
8. NASUWT
9. NAHT Cymru
10. Gwynedd County Council
11. Responder wishes to remain anonymous