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## Consultation Document

# Schools causing concern: draft statutory guidance to local authorities

Date of issue: **4 March 2013**

Action required: Responses by **29 April 2013**

# Schools causing concern: draft statutory guidance to local authorities

<b>Overview</b>	This consultation document seeks views on draft statutory guidance to local authorities on schools causing concern. The statutory guidance provides information to local authorities on the new legislative requirements for intervening in schools causing concern provided for in the School Standards and Organisation (Wales) Act 2013. It is for local authorities when they are considering intervening in schools causing concern in their area. It also sets out the approach the Welsh Ministers will take in exercising their own intervention and consent functions.
<b>How to respond</b>	Responses to this consultation should be e-mailed/posted to the address below to arrive by <b>29 April 2013</b> at the latest.
<b>Further information and related documents</b>	<p>Large print, Braille and alternate language versions of this document are available on request.</p> <p>The consultation documents can be accessed from the Welsh Government's website at <a href="http://www.wales.gov.uk/consultations">www.wales.gov.uk/consultations</a></p> <p>The School Standards and Organisation (Wales) Bill can be found at <a href="http://www.senedd.assemblywales.org/mglssueHistoryHome.aspx?lId=3633">www.senedd.assemblywales.org/mglssueHistoryHome.aspx?lId=3633</a></p>
<b>Contact details</b>	<p>For further information: School Effectiveness Branch Schools Management and Effectiveness Division Department for Education and Skills Welsh Government Cathays Park Cardiff CF10 3NQ</p> <p>e-mail: <a href="mailto:SMED1@wales.gsi.gov.uk">SMED1@wales.gsi.gov.uk</a> Tel: 029 2082 6363 Fax: 029 2080 1044</p>

## **Data protection**

### **How the views and information you give us will be used**

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

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## Introduction

The School Standards and Organisation (Wales) Act 2013 was passed by the National Assembly for Wales on the 15<sup>th</sup> January 2013 and is expected to receive Royal Assent towards the end of February 2013. For the purposes of this consultation, it has been assumed that Royal Assent has been given and that the Bill is now the School Standards and Organisation (Wales) Act 2013 (the Act).

Chapter 1 of the Act relates to intervention by local authorities and Welsh Ministers in schools causing concern. Many of the provisions in Chapter 1 of the Act are re-enactments of previous legislation, but there have been changes to ensure that fewer schools become a cause for concern. Section 20 of the Act includes a new power for Welsh Ministers to issue statutory guidance to local authorities in relation to intervention in schools causing concern.

This statutory guidance is for local authorities when they are considering using their powers to intervene in schools causing concern. The provisions in the Act and accompanying statutory guidance aim to ensure that local authorities are clear about their powers of intervention and those of Welsh Ministers and that they use their powers decisively and effectively to bring about the rapid improvement of underperforming schools. These provisions form part of the Minister for Education and Skills' concerted programme of action to raise school standards in Wales.

The reforms in the Act respond to concerns that in many local authorities a few schools have been allowed to underperform over a long period of time, mainly because authorities do not use the full range of their powers to improve schools quickly enough. Evidence suggests that very few local authorities have issued warning notices in such circumstances. Informal consultation with local authorities suggested that the law as it stood was unclear and the criteria for issuing warning notices dissuaded them from issuing them sufficiently early. The School Standards and Organisation (Wales) Act consolidates, clarifies and reforms the law in relating to intervention in schools causing concern and includes a new power for Welsh Ministers to issue statutory guidance to local authorities in this regard.

The statutory guidance sets out clearly the procedures to be followed by local authorities in ensuring that schools causing concern make the necessary changes as early as possible.

## Overview of the statutory guidance

The statutory guidance is issued under section 20 of the School Standards and Organisation (Wales) Act 2013 (the Act). Local authorities must have regard to the guidance when considering using their powers of intervention to intervene in a school causing concern

The guidance provides information on the legislative requirements for intervening in schools causing concern. All those using the statutory guidance, particularly local authorities, should also be familiar with the actual wording of the legislation to which this guidance relates, particularly the School Standards and Organisation (Wales) Act 2013.

For the purposes of the guidance a 'school causing concern' is a school which is:

- Subject to a warning notice issued under the 2013 Act.
- One which is not subject to warning notice but meets one or more of the grounds for intervention one to six and there is a related risk to the health and safety on any person that calls for urgent intervention.
- Deemed by Estyn to require significant improvement.
- Deemed by Estyn to require special measures.

The statutory guidance sets the grounds for intervention and the types of information that might indicate they exist and the requirements that must be satisfied when issuing warning notices to school governing bodies.

It provides information on local authorities' powers of intervention, their purpose and the circumstances where they are best used and the additional requirements that must be satisfied before local authorities use their powers.

It also sets out the approach the Welsh Ministers will take in exercising their own intervention and consent functions although the expectation is that the local authority will intervene in the first instance. Welsh Ministers will only intervene where a local authority has failed to act or acted inadequately.

The statutory guidance will replace Welsh Government Circular No: 004/2012 Schools causing concern: Guidance for schools and local authorities.

## **Purpose and status of the statutory guidance**

Once finalised and made, this guidance will be issued to all local authorities in Wales as Statutory Guidance to which all local authorities must have regard when exercising their functions under Chapter 1 of the School Standards and Organisation (Wales) Act 2013. Departures from this guidance could give rise to legal challenge and a court, in reviewing any departure from the guidance, will scrutinise the reasons for the departure to ensure there is sufficiently convincing justification in the circumstances. It is good practice to ensure any such reasons are appropriately evidenced.

In addition to the provision of Statutory Guidance to local authorities, this guidance also serves to inform governing bodies of maintained schools and other key stakeholders of the legislative requirements for intervening in schools causing concern.