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Consultation – summary of responses

Consultation on school term dates regulations

Proposals for regulations on the consultation process to be followed before the use of Welsh Ministers' powers of direction on school term dates

Date of issue: **May 2014**

Consultation on school term dates regulations

Audience	Local authorities in Wales, including their respective directors of education; governing bodies of voluntary aided and foundation schools in Wales; diocesan authorities; teaching unions; ESTYN; the Welsh Local Government Association; the Association of Directors of Education in Wales; the Children's Commissioner for Wales.
Overview	This document summarises the responses received to a consultation on the Welsh Government's proposals for Regulations to provide for informing the Welsh Government of the school term dates which have been set for all maintained schools in Wales.
Action required	None – for information only.
Further information	Enquiries about this document should be directed to: School Governance Branch Schools Management and Effectiveness Division Department for Education and Skills Welsh Government Cathays Park Cardiff CF10 3NQ Tel: 029 2082 6051 Fax: 029 2080 1044 e-mail: SMED2@wales.gsi.gov.uk
Additional copies	This document can be accessed from the Welsh Government's website at www.wales.gov.uk/consultations
Related documents	Education Act 2002 (English only) www.legislation.gov.uk/ukpga/2002/32/contents Education (Wales) Act 2014 http://www.senedd.assemblywales.org/mglIssueHistoryHome.aspx?lId=7186 <i>School term dates: Proposals for reforming how school term dates are set for all maintained schools in Wales</i> (2012) www.wales.gov.uk/consultations/education/schooltermdates/?jsessionid=F025D1B4BFDE587FB4AAFBECA33F5498?status=closed&lang=en

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1. Background

Background to proposals for Regulations on the consultation process to be followed before the use of Welsh Ministers' powers of direction on school term dates.

1.1 The Education (Wales) Act ("the Act") was introduced before the National Assembly for Wales on the 1 July 2013 and received Royal Assent on the 12th May 2014.

1.2 The Act makes a number of important changes to the current legislative arrangements in respect of how school term dates are set for all maintained schools in Wales. A 12-week consultation was carried out on the school term dates proposals in the Act, between 3 September 2012 and 26 November 2012, a summary of responses can be accessed at:

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

1.3 The proposed changes mean that local authorities and the governing bodies of voluntary aided and foundation schools retain the duty to set school term dates, but have a new duty placed on them to co-operate and co-ordinate with each other when setting term dates, so that the dates set are the same or as similar as possible.

1.4 The Welsh Government believes that this will lead to the harmonisation of term dates for all maintained schools across Wales. However, it is possible that, despite their best efforts, local authorities and school governing bodies are unable to agree on term dates. If this happens, or if the term dates which have been agreed need amending, then the Act gives the Welsh Ministers the power to intervene and tell local authorities and the governing bodies of voluntary aided and foundation schools what their term dates must be.

1.5 The changes also mean that Welsh Ministers will be able to alter harmonised school term dates to change dates for certain areas or schools, or change dates for all schools in Wales.

1.6 However, before the Welsh Ministers use their powers on term date-setting the Act provides that they must first carry out an appropriate consultation. In addition, the Act gives the Welsh Ministers a regulation-making power which enables them to make such further provision about the consultation process as they think necessary. This may include such matters as:

- the length of the consultation;
- who is to be consulted; and
- the method of the consultation.

The consultation proposals

- 1.7 The consultation set out 2 proposals regarding:
- a) the consultation to be carried out where Welsh Ministers are proposing to use their powers due to term dates not being harmonised by local authorities and governing bodies of voluntary aided and foundation schools; and
 - b) the consultation to be carried out where term dates are harmonised, but the Welsh Ministers believe that the dates for some or all schools should be altered.
- 1.8 Welsh Government officials, on behalf of the Welsh Ministers, undertook a web-based consultation on these proposals for just over 11 working weeks from 4 December 2013 to 21 February 2014.
- 1.9 A copy of the consultation documents can be accessed at:

<http://wales.gov.uk/consultations/education/school-term-dates-regulations/?status=closed&lang=en>

2. The consultation

The consultation process

- 2.1 The consultation document published by the Welsh Government on its website asked for feedback on the consultation proposals.
- 2.2 Respondents were invited to consider specific questions about the proposals, and were encouraged to make any other points relating to them that they considered necessary. They were also asked to consider the potential impact of the proposals on equality issues.
- 2.3 As well as the consultation document being published on the Welsh Government's website, the consultation exercise was promoted via direct electronic mailings to local authorities and diocesan authorities, governing bodies of foundation and voluntary aided schools, teaching unions and other interested parties such as Her Majesty's Inspectorate for Education and Training in Wales (ESTYN) and Governors Wales.

Responses received

- 2.4 In total, we received 34 responses to the consultation. One of the responses, from the Catholic Education Service, was from outside Wales and reflected the views of many of the governing bodies of voluntary aided schools and diocesan authorities within Wales who responded to the consultation.
- 2.5 The 34 respondents may be categorised as follows:

Local Authorities	4
Diocesan Authorities	2
Unions	8
Schools/Headteacher	5
Representative and other bodies	5
Individuals/anonymous	10

Findings from consultation

- 2.6 An analysis of the responses to this consultation is set out in the following pages.
- 2.7 This report does not address any consultation responses which were outside the scope of this consultation. Where appropriate, these responses were passed on to the relevant branch within the Department for Education and Skills to be considered and taken forward.

3. Overview of the consultation responses

- 3.1 The consultation document asked 2 specific questions on the proposals for regulations on the consultation to be carried out by the Welsh Ministers prior to use of their term date-setting powers, and 2 more general questions.
- 3.2 Unless stated otherwise, throughout this report percentages are expressed as a measure of all respondents. All such percentages have been rounded up or down to the nearest whole number.

Q1. Do you agree with our proposals for the consultation process which is to be carried out where school term dates are not harmonised by local authorities and governing bodies of voluntary aided and foundation schools? (Please see paragraphs 4.1 to 4.4 of section 4).

- 3.3 From 34 responses, 20 of those agreed with the proposal, whilst 4 did not agree, 2 neither agreed nor disagreed and 8 made no direct comment.
- 3.4 This means that 59% of respondents agreed and only 12% disagreed with this proposal.
- 3.5 Several respondents who agreed with this proposal - as well as a couple who disagreed - commented on the principle of school term date harmonisation which was covered in the earlier consultation on proposals to bring forward legislative changes to term date setting. Details of this consultation may be found at:
- <http://wales.gov.uk/consultations/education/schooltermdates/?status=closed&lang=en>
- 3.6 Amongst those who disagreed, one local authority response commented that there was no *“clarity regarding the criteria the Minister would follow in reaching a final decision”* and went on to ask *“Does the Welsh Government view outweigh local opinion?”*
- 3.7 Comments from those who agreed with this proposal included Governors Wales who commented *“Whilst it is envisaged that the powers of direction will only be used in rare circumstances etc. the consultation process as set out seems appropriate”*.

Response

- 3.8 It is the Act which places a duty on the Welsh Ministers to carry out an “appropriate” consultation before using their term date setting powers. Regulations simply provide the detail, so that interested parties know what to expect by way of consultation.

3.9 Any consultation on the use of Welsh Ministers powers must be exercised in a reasonable manner; to do otherwise would risk legal challenge under the public law. This means that all responses to any consultation on Welsh Ministers' proposals for term dates would have to be duly and properly considered before the Welsh Ministers used their powers.

Q2. Do you agree with our proposals for the various consultation processes which are to be carried out where term dates have been harmonised, but the Welsh Ministers believe that dates for some or all schools should be altered? (Please see paragraphs 4.5 to 4.18 of section 4).

3.10 This second proposal proved to be more controversial than the first. 11 respondents agreed with the proposal, 9 respondents did not agree, 6 neither agreed nor disagreed and 8 made no direct comment.

3.11 This means that 32% agreed with the proposal, 26% disagreed, 18% neither agreed nor disagreed and 24% made no comment.

3.12 Once again, Governors Wales were supportive of this proposal saying :

"It seems sensible to allow for some flexibility for unknown circumstances should they occur, after term dates have been confirmed. We would envisage however that this would not be a frequent occurrence".

3.13 The responses which disagreed with this proposal included some from teaching unions, which raised concerns about the possible use of Welsh Ministers' powers to force teachers to make up teaching days which were "lost" due to emergency or other circumstances. Some unions were also concerned that use of Welsh Ministers' powers could bring about changes to teachers' working patterns and holiday entitlement contrary to the School Teachers Pay and Conditions Document (STPCD).

3.14 Further concerns raised included worries that arrangements which had been made by parents or teachers which entailed payment in advance - such as family holidays etc - could be scuppered by the Welsh Ministers altering term dates without a full 12 week consultation and at least 1 year's notice. For example, the NASUWT commented:

"failure to recognise the need to give notice of changes to school term datesis a grave error of judgement".

3.15 A few respondents also commented that Welsh Ministers should not have the final "say" on effectively setting term dates for voluntary aided faith schools.

Response

3.16 If Welsh Ministers did not have the power/flexibility to alter term dates speedily where appropriate, they would be open to severe criticism if a

situation arose which necessitated such a change and we were not able to react promptly to alleviate a crisis.

- 3.17 There is no hidden agenda to amend the STPCD and teachers holiday entitlement in Wales. In any event control of the STPCD is not devolved to Wales, but rests with the Secretary of State in the UK Government.
- 3.18 Under the Education (School Day and School Year) (Wales) Regulations 2003 if school sessions are missed the school does not have to make up for the lost sessions unless it is reasonable to do so (regulation 4(3)). If the Welsh Ministers decide to close a school due to unforeseen circumstances it is unlikely to be reasonable to expect teachers or families to lose money or miss out on pre-booked holidays, and therefore it could not be expected that “lost” time would be made up.
- 3.19 Welsh Ministers have a public law duty to exercise their powers in a reasonable manner – if not, they could be challenged in the courts.
- 3.20 The Welsh Government anticipates that it will examine whether any consultation processes have worked smoothly as part of the general review into the operation of school term dates harmonisation under the Act.

Q3. Equality Impact Assessment

We would welcome your views on the potential impact of all of our proposals on:

- a) disability**
- b) race**
- c) gender and gender reassignment**
- d) age**
- e) religion and belief and non-belief**
- f) sexual orientation**
- g) human rights**

- 3.21 Many respondents either chose not to comment, or responded along the lines that either they did not see any equality issues, or did not feel that the proposals would have a “negative” or “disproportionate” impact. This was the case for 23 of the 34 total responses, which makes up 68% of all responses.
- 3.22 ESTYN commented that the proposals were “*unlikely to affect any particular group disproportionately*”.
- 3.23 Where respondents did see potential issues, it was usually due to the possible impact on faith schools and faith/religious beliefs including non-Christian faiths. This was raised by 9 of the 34 total responses, which makes up 26% of all responses.

- 3.24 Concerns included the possible impact on voluntary aided “faith” schools, and some respondents choose to again voice their opposition to the principle of the Welsh Ministers being able to set term dates if they were not harmonised - particularly around the festival of Easter. One respondent commented that there would be *“a disproportionate effect on voluntary aided schools”*.
- 3.25 Comments raising concerns for faiths/beliefs other than Christian included that *“religious festivals/ observants should be considered when setting term times to accommodate Wales’ ever increasing multi cultural population.”*

Response

- 3.26 A majority of respondents to the consultation saw no potential equality issues with the proposals, or did not feel that the proposals would have a negative or disproportionate impact.
- 3.27 However, the Welsh Government notes the issues raised in relation to faith/religious beliefs, including non-Christian. In the main, these relate to concerns that the proposals to harmonise school term dates will impact upon the religious requirements of faith schools.
- 3.28 Should the Welsh Ministers need to exercise their powers to direct, an appropriate consultation would take place on their proposed term dates. Any concerns of faith schools or faiths other than Christian regarding those dates may be raised in response to that consultation.

Q4. 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.

- 3.29 Out of the 34 respondents, 21 (62%) took the opportunity to make further comments.
- 3.30 Some of the issues raised were outside the scope of this consultation. Such issues are not always commented upon here but have been passed, where appropriate, to the relevant branch with the Department for Education and Skills.
- 3.31 9 respondents took the opportunity to make generally supportive comments such as *“the proposals are an appropriate response”* and *“standardising the school holiday dates is necessary”*.
- 3.32 4 further respondents suggested changing the pattern of the school year, including ending the 3 term model. A few commented on matters which are outside the scope of this consultation, such as possible fines for parents taking children out of school during term time.

- 3.33 Some respondents choose to comment on and/or voice their opposition to the principle of school term date harmonisation, which was covered in the earlier consultation on proposals to bring forward legislative changes to term date setting. This included 3 comments from those representing faith schools and other religious bodies.
- 3.34 One respondent was of the view that the current term date proposals as a whole would make it harder for working parents to take time off with their children during school holidays, and that the majority would “*in most cases be best served by different local authorities having different term times*”.
- 3.35 Several unions also took the opportunity to again raise concerns about teachers being forced to make up for lost days etc, which is discussed at paragraphs 3.13 to 3.20 above.

Response

- 3.36 It can be seen from the response to the two consultation proposals underpinning plans for the harmonisation of school term dates (which are covered in Qs.1 -2 of the consultation responses) that there is more support than disagreement for these proposals to bring forward Regulations which provide for an appropriate consultation process to be undertaken before use of Welsh Ministers’ powers.
- 3.37 The suggestions to consider moving away from the 3 term model, or altering the lengths of current holidays (e.g. shortening the summer term and having longer half terms) are welcomed. However, implementing such suggestions could be viewed as altering the pattern of the school year, which is not being considered as part of these proposals.
- 3.38 As explained in relation to the Welsh Government’s response to the consultation on equality impact at paragraph 3.28, the needs of “faith” schools and non-Christian faiths should be addressed as part of the consultation process.
- 3.39 Regarding union concerns about teachers being force to make up for lost school days etc, if the Welsh Ministers decide to close a school due to unforeseen circumstances it is unlikely to be reasonable to expect teachers/schools to do this. There is also no possibility of the STPCD being altered due to these proposals. (Please paragraphs 3.17-19 above).
- 3.40 The Welsh Government expect to review how school term date setting is operating following school year 2016-17, and report in the autumn of 2018.

4. List of respondents

- 4.1 St John Lloyd RC Primary School, Cardiff
- 4.2 Llantwit Major School, Bridgend
- 4.3 James Mansfield
- 4.4 Association of School and College Leaders
- 4.5 Diocese of Minevia
- 4.6 Raymond Greenwood
- 4.7 Catwg Primary, Neath Port Talbot
- 4.8 Ceredigion Scouts
- 4.9 Pencae School, Conwy
- 4.10 Damian Gillespie
- 4.11 National Union of Teachers (NUT) Cymru
- 4.12 Bridgend County Borough Council
- 4.13 National Association of Headteachers (NAHT) Cymru
- 4.14 Gemma Emmanuel
- 4.15 Rhiannon Mainwaring
- 4.16 Governors Wales
- 4.17 Merthyr Tydfil County Borough Council
- 4.18 Rhondda Cynon Taff County Borough Council
- 4.19 Association of Teachers and Lecturers (Cymru)
- 4.20 Conwy County Borough Council
- 4.21 Catholic Education Service
- 4.22 Estyn
- 4.23 University and College Union (Wales)
- 4.24 Undeb Cenedlaethol Athrawon Cymru (UCAC)

4.25 National Association of Schoolmasters Union of Women Teachers (NASUWT)
Cymru

4.26 Association of School and College Leaders (ASCL) Cymru

4.27 Len Hough

In addition to the above respondents there were 7 respondents who wished to remain anonymous.