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Llywodraeth Cymru  
Welsh Government

Welsh Government  
Consultation Document

## Proposed amendments to school governance procedures in Wales

The Government of Maintained Schools (Wales) (Amendment)  
Regulations 2020 and The Federation of Maintained Schools (Wales)  
(Amendment) Regulations 2020

Date of issue: 12 August 2020  
Action required: Responses by 23 September 2020

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.  
This document is also available in Welsh.

# Proposed amendments to school governance procedures in Wales

**Overview** Welsh Government would like to make some amendments to the regulations for school governing bodies.

The changes will benefit governing bodies by permitting electronic record keeping and virtual remote access meetings, as well as revoking an outdated disqualification criteria around the Mental Health Act 1988.

**How to respond** Responses to this consultation should be e-mailed/posted to the address below to arrive by 23 September 2020 at the latest.

**Further information and related documents** **Large print, Braille and alternative language versions of this document are available on request.**

The consultation documents can be accessed from the Welsh Government's website at [gov.wales/consultations](http://gov.wales/consultations)

**Contact details** For further information:

School Governance, Organisation and Admissions Branch  
Schools Effectiveness Division  
Education Directorate  
Welsh Government

e-mail: [SMED2@gov.wales](mailto:SMED2@gov.wales)  
Tel: 0300 025 0355



@WG\_Education



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## General Data Protection Regulation (GDPR)

The Welsh Government will be data controller for any personal data you provide as part of your response to the consultation. Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, 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. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation

If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

## Your rights

Under the data protection legislation, you have the right:

- to be informed of the personal data held about you and to access it
- to require us to rectify inaccuracies in that data
- to (in certain circumstances) object to or restrict processing
- for (in certain circumstances) your data to be 'erased'
- to (in certain circumstances) data portability
- to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection.

For further details about the information the Welsh Government holds and its use, or if you want to exercise your rights under the GDPR, please see contact details below:

e-mail: [Data.ProtectionOfficer@gov.wales](mailto:Data.ProtectionOfficer@gov.wales)

The contact details for the Information Commissioner's Office are:

Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

Tel: 01625 545 745 or  
0303 123 1113

Website: <https://ico.org.uk/>

## Summary

Changes are required to the Government of Maintained Schools (Wales) Regulations 2005 (“the Governance Regulations”) and the Federation of Maintained Schools (Wales) Regulations 2014 (“the Federation Regulations”) to remove the disqualification from being a school governor if a person is liable to be detained under the Mental Health Act 1983.

At the same time, we would like to take the opportunity to make some other important changes such as allowing governing body minutes and records to be kept electronically and amending key sections to bring Wales’ regulations up to date in respect of legislation in Scotland and Northern Ireland.

In addition, while the current regulations do not preclude it, we would like to make explicit the option for governing bodies to meet via remote access.

This consultation asks for your views on the proposed changes. We have expressed these changes in a policy context as opposed to providing the two sets of draft regulations. This is to make it easier to understand the impacts of the changes.

We do not believe that any of the proposed changes are contentious and therefore this consultation will last for six weeks, rather than the usual 12 weeks.

## Detailed description of proposed changes

### **1. Schedule 5 of the Governance Regulations and Schedule 7 of the Federation Regulations: remove the disqualification criteria relating to the Mental Health Act 1983.**

This disqualification criteria is not appropriate for school governors and should be removed. The Mental Health Discrimination Act 2013 ended the disqualification for the same reason for sitting MPs, company directorships and jurors.

In practice this means that potential governors and existing governors must not be disqualified from office on the basis of mental ill health.

### **2. Schedule 5 of the Governance Regulations and Schedule 7 of the Federation Regulations: Update legislation in relation to Northern Ireland and Scotland.**

This disqualification criteria needs to be updated to reflect the latest Order. The amended regulations will cite the Company Directors Disqualification (Northern Ireland) Order 2002 instead of the Companies (Northern Ireland) Order 1989, and the Charities and Trustee Investment (Scotland) Act 2005 instead of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990.

In practice this means that school governing bodies are directed to the most up to date legislation.

### **3. Regulation 47 and 61 of the Governance Regulations and Regulation 59 and 73 of the Federation Regulations: allow minutes and records to be kept electronically.**

It is now common practice for the proceedings of meetings to be recorded electronically, as opposed to on paper and signed by the Chair. These parts of the Regulations should be updated to reflect this.

In practice this means that electronic record keeping, including email chains and minutes of meetings, will be permitted practice for governing bodies.

### **4. Regulation 45 and 60 of the Governance Regulations and Regulation 57 and 72 of the Federation Regulations: allow meetings to take place by remote access.**

It is increasingly common practice to conduct meetings 'virtually' by remote access, using video- and tele-conferencing tools. There is nothing in the existing regulations that specifically precludes meeting virtually but we are taking this opportunity to make it clear that this is permitted.

'Virtually' or by 'remote access' in this context means meeting through the use of a tele- or video-conferencing tool. 'Electronically' in this context means making and confirming decisions via email, or other file share tools such as MS Teams, which are saved securely for audit purposes.

In practice this means that governing bodies may conduct their business electronically and by remote access. Virtual or remote access meetings would be permitted if certain conditions are met. These conditions are as follows:

- (1) participants will be fully able to make representations/discharge functions
- (2) participants agree to the meeting being held using remote access
- (3) each participant has access to the electronic means to allow them to hear/be heard, see/be seen
- (4) meeting is capable of being held fairly and transparently.

Clerks to governing bodies will need to choose a virtual meeting tool based on its availability to all parties, its security, and its practicality for conducting the business at hand.