

24. Schools Causing Concern and Interim Executive Boards

This chapter deals with:

- schools causing concern;
- the actions which may be taken against such schools;
- explains how measures to improve these schools are implemented; and
- explains how Interim Executive Boards (IEBs) are established and their role.

Background

1. [Section 44 of the Education Act 2005](#) defines schools causing concern if, following an Estyn Inspection, they are deemed to require special measures or significant improvement.

How is a School Identified?

2. Special measures are required to be taken in relation to a school if:
 - the school is failing to give its pupils an acceptable standard of education; and
 - the persons responsible for leading, managing, or governing the school are not demonstrating the capacity to secure the necessary improvement in the school.
3. Significant improvement is where a school does not require special measures but is performing significantly less well than it might reasonably be expected to perform, taking all circumstances into account.
4. As stated in the previous Chapter, Registered Inspectors must, on every inspection, consider if the school is in need of special measures or significant improvement.
5. If a school is identified by the Registered Inspector as requiring special measures it is Estyn's policy to arrange a corroboration visit. When Estyn have visited the school and reported on that visit, HMCI (Her Majesty's Chief Inspector of Education and Training in Wales) will decide whether or not he/she agrees with that opinion.
6. If the Registered Inspector identifies a school as requiring significant improvement then Estyn's policy is to usually corroborate that judgement from a draft report submitted by the Registered Inspector. Estyn may also arrange a corroboration visit if this is considered necessary. HMCI will decide whether or not he/she agrees with that opinion.

7. For schools requiring special measures or significant improvement, the governing body must prepare and issue an action plan within 45 working days of receiving the inspection report, or earlier if the Welsh Ministers determine it must be completed more urgently.

8. The action plan should be devised with the intention of removing the school from special measures or significant improvement as soon as possible. The governing body must send a copy of the action plan to HMCI and to the Welsh Ministers.

Powers of Intervention

9. Both LAs and the Welsh Ministers have powers to tackle the problems of schools requiring special measures or significant improvement.

10. Under [Sections 14-17](#) of the School Standards and Framework Act 1998, as amended by the [Education Act 2002](#) and the [Education Act 2005](#), where a school has been found to require special measures or significant improvement, the LA has powers to appoint additional governors as it thinks fit or to suspend the school's right to a delegated budget.

11. LAs can also issue warning notices to schools and can replace the governing body with an Interim Executive Board (IEB) if the school fails to comply with the warning notice or if the school is identified as requiring special measures or significant improvement.

12. Under [Sections 18, 18A and 19](#) of the School Standards and Framework Act 1998, as amended by the [Education Act 2002](#) and [Education Act 2005](#), where a school requires significant improvement or special measures the Welsh Ministers have the power to:

- appoint additional governors, nominate one of them to be the Chair in place of the elected Chair and determine their period of appointment; or
- after consultation with the governing body and LA, give notice to the governing body that from a specified date the governing body is to consist of interim executive members (IEMs) (these powers were commenced from 2 January 2008).

And, in the case of Special Measures only:

- after consultation with the governing body, LA and other appropriate bodies, direct the LA to close the school on a specified date.

13. [Estyn monitors schools that have been judged to require special measures termly, beginning in the term after the publication of the Section 28 inspection report, until such a time as the Chief Inspector is of the opinion that the school has improved sufficiently for the special measures to be withdrawn. Schools that are judged to be in need of significant improvement are re-inspected by Estyn 12 months after publication of the inspection report. At](#)

this visit inspectors will decide that the school has made sufficient progress and can be removed from the list; insufficient progress and there is concern over its capacity to do so, and that it requires special measures; or significant progress but is not quite at the point where it can be removed from the list and will be revisited in six months time. At this second visit the school will either be removed from the list or placed in special measures. The governing body must keep parents informed of ESTYN's finding.

14. Information on schools causing concern can be found in Annex 2 of the Guidance Handbook for the Inspection of Schools.

Interim Executive Boards (IEBs)

15. [Sections 57 and 58 of the Education Act 2002](#) amend the School Standards and Framework Act 1998 to insert new sections 16A and 18A into that Act. [Section 16A](#) gives local authorities additional powers to provide for a school governing body to consist of an Interim Executive Board (IEB) where a warning notice has been issued or, following inspection, Estyn has identified the school as requiring special measures or significant improvement. [Section 18A](#) gives the Welsh Ministers the power to appoint Interim Executive Members who form the IEB where a school has been identified as requiring special measures or significant improvement.

16. If the local authority wishes to appoint an IEB, they must first obtain the consent of the Welsh Ministers before serving notice on the governing body that an IEB will be appointed.

17. The powers to appoint an IEB are intended to be used in circumstances where a governing body is judged to be incapable of improving performance and turning a school around even with support. IEBs are governed by provisions set out at [section 19A](#) and Schedule 1A of the Schools Standards and Framework Act 1998 as amended by the Education Act 2002. All previously existing governors cease to hold office from the date the IEB is appointed in the notice.

What is the Procedure for a Local Authority to Appoint an IEB?

18. A LA may apply to the Welsh Ministers for permission to replace the school's governing body with an IEB where a school has failed to comply with a Warning Notice or has been identified by Estyn following inspection as requiring special measures or significant improvement.

19. The IEB is appointed by the LA and assumes all of the responsibilities of a governing body for an agreed period.

20. An IEB is charged with overseeing the development and implementation of work to ensure that pupils are provided with an acceptable standard of education. After an agreed period the IEB is replaced by a normally constituted governing body which acts in a shadow capacity before assuming the full powers of a governing body.

Appointment of an IEB at a Foundation or Voluntary School

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21. Where a LA seeks to appoint an IEB at a foundation or voluntary school, it must consult the diocesan or other appointing authority, before applying to the Welsh Ministers. Ministers will expect to see evidence of the full involvement of the diocese or appointing authority in any decision to establish an IEB.

22. Interim executive members will be required to ensure that the school's trust deed is preserved and developed, and that the character of the school is maintained.

Application to Welsh Ministers to establish an IEB

23. Where a LA decides to make an application to Welsh Ministers for consent to replace the governing body of a school with an IEB, it should:

- consult the existing governing body and, in the case of a foundation or voluntary school, the diocese or other appointing authority;
- complete and send an application to establish an IEB to the Welsh Ministers; and
- after obtaining approval from Welsh Ministers, write to the existing governing body to provide notice that the IEB will be established (a "notice of establishment"). This letter should state when the IEB will commence, and will indicate when it is anticipated that the IEB will cease to function. In the case of foundation or voluntary schools, this letter should be copied to the diocese or other appropriate appointing authority.

Information to be Provided by a LA when Applying to Welsh Ministers to Establish an Interim Executive Board (IEB)

24. The following information is required in applying for the establishment of an Interim Executive Board, it is to be drawn together by the LA with supporting background notes or appendices as appropriate:

- details of school including address, status (community, foundation, voluntary aided) and the number of pupils;
- background and reasons for application, including confirmation that the school has received a Warning Notice or has been identified by Estyn as requiring Special Measures or in need of Significant Improvement. This section should also set out a summary of the areas for improvement identified at the school and the action taken to date to address the areas identified. In particular, it must include the LA's assessment of the capacity of the current governing body to secure improvement with supporting information (e.g. Estyn reports) where available;

- confirmation that the governing body (and where appropriate other relevant bodies including the diocese) has been consulted on the intention to apply for an IEB and details of their response;
- planned date for the establishment of the IEB and details of the proposed membership. This should include an overview of the range of expertise that will be drawn together and why the authority believes that the IEB will be better placed than the existing governing body to secure improvement. It should be supported by a brief outline of the skills and experience of the proposed IEB members and confirmation of the proposed chair. An estimate should also be provided of the length of the proposed term of office for the IEB; and
- information from the Chairperson of Governors setting out the detail of the governing body's response to the application for the establishment of an Interim Executive Board and, if opposed to the establishment of an IEB, to set out details of the grounds for opposing the application.

Submission of the Application

25. The application must cover all of the above areas, be signed by a representative of the LA and sent to:

Head of School Management and Effectiveness Division
Department for Children, Education, Lifelong Learning and Skills,
Welsh Assembly Government
Crown Building
Cathays Park
Cardiff
CF10 3NQ.

What is the Role of an IEB?

26. An IEB is the governing body of a school for the time it is in office.

27. An IEB has a statutory duty to conduct the school so as to secure, so far as practicable to do so, the provision of a sound basis for future improvement in the conduct of the school. It will take on all the responsibilities of a governing body, including the management of the budget, the curriculum, staffing, pay and performance management and the appointment of the head teacher and deputy head teacher. The IEB's main functions are to secure a sound basis for future improvement in the school and promote high standards of educational achievement.

28. The IEB may determine its own procedures and may make such arrangements as they think fit for the discharge of their functions by any other person.

29. The Government of Maintained Schools (Wales) Regulations 2005, The Staffing of Maintained Schools (Wales) Regulations 2006 and the Governor Allowances (Wales) Regulations 2005 do not apply in relation to IEBs. Furthermore, the instrument of government of the school does not have effect in relation to the IEB.

What will be the Composition of the IEB?

30. An IEB will be made up of a number of Interim Executive Members (IEMs). There is no maximum number of IEMs for an IEB but there must be at least two. In applying to the Welsh Ministers to establish an IEB the local authority will, however, need to set out the range of expertise to be drawn together, and why the authority believes that the IEB will be better placed than the existing governing body to secure improvement. Applications will need to be supported by a brief outline of the skills and experience of the proposed IEMs. An existing governor may be appointed as an IEB member.

31. Every appointment of an IEM must be made in writing setting out the terms of his or her appointment. The appropriate authority may remove an IEM from office at any time for misbehaviour or for incapacity, and shall also be able to terminate the IEM's appointment by notice.

What will be the Term of Appointment for IEMs?

32. It is anticipated that members will be appointed for the full period of time that the IEB is expected to be in place in order to meet its objectives and turn the school around.

What will be the Selection Criteria for IEMs?

33. IEMs should be chosen on a case by case basis depending on the school's needs. Existing governors may be appointed as IEMs to the IEB. Once the IEB has been established, further Interim Executive Members can be appointed at any time. IEMs may be removed by the appointing body.

34. The appropriate body (ie the LA or Welsh Ministers, dependant upon the body giving the notice for the establishment of the IEB) should produce a notice of appointment for each IEM. Copies of this notice should be sent to all other members of the IEB, the school's existing governing body, the Welsh Ministers or LA depending on who is establishing the IEB, and – in the case of foundation or voluntary schools – the diocesan or other appropriate appointing authority.

35. The appropriate body may also nominate an IEM to be chair of the IEB.

Remuneration

36. The LA or the Welsh Ministers may choose to pay IEMs for their work on the IEB. The sum to be paid is at the discretion of the establishing authority and, there is no set amount.

Delegated Budget

37. An IEB has a right to a delegated budget. If the school's budget has previously been withdrawn from the governing body, then the LA must restore the budget from the date the IEB commences its work.

38. If a notice has been given to the existing governing body specifying a date when it is proposed to withdraw the right to a delegated budget, the notice will cease to be valid from the date of commencement of the IEB.

Can an IEB Recommend Closure of a School?

39. An IEB may recommend to a LA and the Welsh Ministers that a school should be closed, but the IEB cannot itself publish proposals for closure.

40. Where such a recommendation is made and, following the statutory consultation and other procedures required to be undertaken, it is agreed that the school will be closed, the IEB should continue to hold office until the implementation date of the proposal (i.e. the date the school closes).

Transition from an IEB to a Normally Constituted Governing Body

41. The transition from an IEB to a normally constituted governing body needs to be carefully managed. Schedule 1A to the School Standards and Framework Act 1998, as amended by the Education Act 2002, provides that arrangements for the transition may be prescribed by the Welsh Ministers in regulations. At the time of writing of this guide such regulations are yet to be made.

The Law

The School Standards and Framework Act 1998
The Education Act 2002
The Education Act 2005

Guidance

The Guidance Handbook for the Inspection of Schools