

**EXPLANATORY MEMORANDUM AND DIRECTION TO ALL LOCAL
AUTHORITIES AND ALL SCHOOL GOVERNING BODIES OF
VOLUNTARY AIDED AND FOUNDATION SCHOOLS IN WALES UNDER
SECTION 32B OF THE EDUCATION ACT 2002**

EXPLANATORY MEMORANDUM

Introduction and Background

- 1) The Welsh Ministers have powers of direction under section 32B(1) of the Education Act 2002 (“the 2002 Act”).
- 2) The purpose of this document is to provide a public and transparent statement on the decision of the Welsh Ministers to issue a direction and to outline how the Welsh Ministers will determine the school term dates for all maintained schools in Wales. It is also designed to set out for citizens, members, officers and partners of local authorities and the governing bodies of voluntary aided and foundation schools (“relevant governing bodies”) the purpose and effect of the direction.
- 3) Section 42 of the Education (Wales) Act 2014 (“the 2014 Act”) made changes to term date setting for maintained schools in Wales by inserting new sections 32A to 32C into the 2002 Act. As a result, local authorities retain the right to set term dates for community, voluntary controlled, community special and maintained nursery schools. Also, relevant governing bodies retain the right to set term dates for their schools. A local authority is under a duty to co-operate and co-ordinate with each relevant governing body in its area and every other local authority in Wales when setting term dates so that those dates are the same or as similar as can be. Similarly a relevant governing body is under a duty to co-operate and co-ordinate with every other relevant governing body in its local authority area and the local authority in whose area it is situated when setting term dates so that those dates are the same or as similar as can be.
- 4) The term “maintained school” is defined in section 32A(9) of the 2002 Act and includes a school in Wales which is a community, foundation or voluntary school (including voluntary controlled and voluntary aided schools), a community special school or a maintained nursery school. That section further defines “term dates” to mean the dates on which school terms and holidays are to begin and end.
- 5) If, despite best efforts, term dates are not agreed then section 32B(1) of the 2002 Act gives the Welsh Ministers the power to direct local authorities and relevant governing bodies on what their term dates must be.
- 6) Section 32A(5) of the 2002 Act provides that local authorities must inform the Welsh Ministers of the term dates they have determined for all

maintained schools within their respective areas. Regulations made pursuant to section 32A(6) of the 2002 Act set out the detail of how that notification is to be provided. Accordingly the effect of the Education (Notification of School Term Dates) (Wales) Regulations 2014 ("the Notification Regulations") is that the first school year for which local authorities must notify the Welsh Ministers of the term dates set for all maintained schools within their areas is 2016/17. The Notification Regulations provide that the term dates for 2016/17 are to be provided by the final working day in August (in this case, 29th August 2014).

- 7) Local authorities and relevant governing bodies were first informed of the need to start working together to agree term dates for the school year 2016-17 by letter from the Minister for Education and Skills on the 2nd July 2013. The letter further explained that local authorities and relevant governing bodies would need to begin working together immediately to agree term dates for that school year by the late summer of 2014.
- 8) The Welsh Ministers carried out a 12-week consultation from the 9th September to the 29th November 2013 on policy proposals for the Notification Regulations, which included details of the notice which must be completed by local authorities to inform the Welsh Ministers of the term dates which had been set for all maintained schools – including voluntary aided and foundation schools - within their areas.
- 9) That consultation also set out proposals that the first school year for which local authorities would need to inform the Welsh Ministers of term dates would be 2016-17, and that all notifications would need to be provided by the final working day in August two full years prior to the start of the school year. In the case of 2016-17, the consultation specified that this would mean that all notifications would need to be received by the 29th August 2014.
- 10) Welsh Government officials sent an email reminder of the need to work together when setting term dates for the school year 2016-17 onwards to all local authorities and relevant governing bodies following the completion of the 2014 Act's passage through the National Assembly for Wales. This included a link to the draft form of notification to be used when informing the Welsh Ministers of the term dates which had been set. A further email reminder was sent by Welsh Government officials to local authorities following the 2014 Act receiving Royal assent on the 12th May 2014, and an article was placed in the Welsh Government's online school news magazine which is available to all maintained schools in Wales.
- 11) In order to aid local authorities, the Notification Regulations also provide that notifications can be completed and forwarded electronically to the Welsh Ministers. As the chair or vice chair of a relevant governing body should sign the notification for their school as well as the appropriate local authority director of education, the Notification Regulations also provide that partial notices containing term dates for one or more schools may be used.

- 12) The Welsh Ministers received notifications of the term dates which had been determined for 2016-17 for community, voluntary controlled, community special and maintained nursery schools (i.e. schools for which the local authority has the responsibility to determine term dates) from all but one local authority. However, not many of the local authorities were able to provide signed notifications for the entire voluntary aided and faith schools within their respective areas.
- 13) From those notices which had been received by the Welsh Ministers they considered that the term dates were not the same (or as similar as can be) across Wales for the school year 2016-17. Therefore, in order to ensure that term dates are the same for all maintained schools in Wales so that families do not face problems with finding and financing additional child care when term dates are not harmonised, Welsh Ministers proposed to use their powers of direction.

Analysis of term date notifications received as at midday on 7 October 2014

Notifications from local authorities in Wales:

- 14) Welsh Government officials collated the proposed dates sent in for local authorities and voluntary aided and foundation schools across Wales and found that term dates were not the same (or as similar as can be). Those local authorities who forwarded notifications for their community, voluntary controlled, community special and maintained nursery schools for which they set term dates have been divided into 4 different groups in order to analyse the term dates set and these are set out in Annex A. The dates submitted to the Welsh Ministers are set out in Annex B.
- 15) All but one local authority sent in notifications for 2016/17 term dates for the maintained schools for which they have the responsibility to set term dates.
- 16) All the local authorities in group A (South Wales) set term dates for the schools for which they set the term dates that were the same as each other.
- 17) All the local authorities in local authority group B (those that are in the North Wales area) set term dates that were the same. However, the dates set in local authority group B (North Wales) were not always the same as those in local authority group A (South Wales).
- 18) For local authorities in local authority group C and local authority group D (those that are in the Mid and West Wales area), as can be seen from Annex B the dates for the beginning and ending of the school year were not the same, and these dates differed somewhat to those in local authority group B (North Wales) and local authority group A (South Wales).

- 19) All local authorities in Wales which notified the Welsh Ministers of their term dates set the Easter break so that their schools would break up on Friday 7th April 2017, and that the pupils would not therefore be in school during Holy Week (Good Friday in 2017 will be on 14th April).

Notifications from relevant governing bodies:

- 20) There was a mixed response rate in relation to receipt of term date notifications from relevant governing bodies across Wales. Out of 167 voluntary aided and foundation schools signed notifications of term dates set for 2016/17 were received for only 70 schools, which represents just fewer than 42%.
- 21) From the notifications received by the Welsh Government, while there was some degree of variation in the term dates set for voluntary aided and foundation schools across Wales, 61 of these schools (which represents 87% of the voluntary aided and foundation schools for which the Welsh Government received notifications) were content to agree to the same term dates set by their local authority for those schools which it is responsible for setting term dates (community, voluntary controlled, community special and maintained nursery schools).
- 22) However, in Wales there are 86 Roman Catholic voluntary aided schools, from which we received 37 signed notifications of term dates. Of these, 9 were not content to have the same Easter break as their local authorities, and instead preferred to select dates that meant that their pupils would continue in school during Holy Week i.e. up to and including Maundy Thursday (13th April 2017). Nevertheless, this means that 28 or just fewer than 76% of the notifications we received relating to Roman Catholic schools showed that these schools were content to align with their local authority and break up for Easter before the start of Holy Week.
- 23) Even taking into account the unverified information we received for Roman Catholic schools (usually in the form of unsigned notifications of term dates and provisional information from local authorities or the schools themselves) this would still mean that an overall majority of Roman Catholic schools are content to align their Easter break with that of their local authority. This is because of these 11 instances of unverified information 7 were content to align term dates with their local authority, while 4 were not. Including this information with the signed notifications we have, it means that we have information on the term dates preferences for 48 Roman Catholic schools of which 35 or just under 73% are content to align their term dates with those of their local authority, and that their pupils will not remain in school during Holy Week.
- 24) All Church in Wales' schools for which signed notifications were received were content to align their term dates with their local authority.

Conclusion

- 25) The Welsh Ministers considered all notifications very carefully and decided to propose a set of term dates that they believe took into account some aspects of term dates from each main region in Wales, and reflected the opinions of the majority of voluntary aided and foundation schools around the Easter break.
- 26) Specifically as a result of these statistics the Welsh Ministers considered that it was reasonable to propose term dates for 2016/17 which have all schools breaking up for Easter before the start of Holy Week.

Consultation on proposed term dates for 2016/17 and Direction

- 27) Before using their powers of direction Welsh Ministers are under a duty to carry out an appropriate consultation in accordance with the Education (Consultation on School Term Dates) (Wales) Regulations 2014. Consequently a 12 week consultation on the term dates Welsh Ministers proposed to set ran from 10 November 2014 to 2 February 2015. The consultation asked whether the consultees agreed with our proposals for term dates for the school year 2016/17 and the proposed draft direction. The proposed dates for 2016/17 on which Welsh Ministers consulted were:

First day of the school year	Thursday 1 September 2016
Autumn half term holiday	Monday 24 October 2016 to Friday 28 October 2016
Christmas Holiday	Monday 19 December 2016 to Monday 2 January 2017 (i.e. return to school on Tuesday 3 January 2017)
Spring half term	Monday 20 February 2017 to Friday 24 February 2017
Easter Holiday	Monday 10 April 2017 to Friday 21 April 2017
Summer half term	Monday 29 May 2017 to Friday 2 June 2017
Final day in school	Friday 21 July 2017

Summary of consultation responses

- 28) A full summary of consultation responses can be accessed at: <http://gov.wales/consultations/education/harmonising-school-term-dates/?skip=1&lang=en>. The main points are as follows:
- 29) 48 responses were received to the consultation. 22 respondents (46%) agreeing with the proposed dates and direction, 21 respondents (44%) disagreeing and 5 respondents (10%) neither agreeing nor disagreeing.
- 30) Those who agreed included:
- 15 local authorities;
 - 4 respondents (in addition to Powys Local Authority) who agreed on the basis that the dates do not impact on the Royal Welsh Show. This included St Michael's Church in Wales School;
 - 1 community primary school;

- the Children's Commissioner for Wales; and
- Estyn.

31) Those who disagreed included:

- One local authority on the basis that keeping in time with calendared dates for Easter means that where Easter falls late there is a long spring term and a very short lead in time to support and prepare for exams;
- A headteacher of a community school on the basis of unequal term lengths;
- 7 responses from 3 Roman Catholic schools on the basis of the importance of the Easter period and the various events and celebrations of the Catholic faith;
- 7 responses from parents, and parishioners and others associated with 3 Roman Catholic schools on the similar basis;
- The Catholic Diocese of Wrexham;
- NASUWT on the basis of teachers pre-agreed holidays; and
- 3 respondents including 2 on the incorrect assumption that the dates impacted on the Royal Welsh Show and 1 who although he had no issue with the 2016/17 dates disagreed as he was unclear how future Royal Welsh Shows might be impacted.

32) There was little difference between the number who agreed with the consultation proposals (22) and those who disagreed (21). However it should be noted that 2 respondents disagreed on an incorrect assumption about the Royal Welsh Show, whilst another had no problem with the dates for 2016/17 but was concerned about the impact of future dates on the Royal Welsh Show. Were we to discount these 3 responses there would be a larger majority of those who agreed (22) to those who disagreed (18).

33) Consultation responses suggest a mixed response to the harmonisation process from those associated with Roman Catholic schools. For example all north Wales schools, including every school in the Wrexham diocesan area for which notifications were received indicated that they were content to align their dates with their local authority including the Easter break. However, in his consultation response the Catholic Diocese of Wrexham disagreed with the proposed term dates.

34) Outside the formal consultation process 185 standard template campaign letters were sent to the Minister's constituency office and Welsh Government by parents and others associated with 3 Roman Catholic schools located in two local authority areas. The letters did not directly respond to the consultation questions but argued:

- (a) That the legislation had been rushed through with little or no consultation;
- (b) That the respondent had not seen, and that there was no evidence that an Equality Impact Assessment had been undertaken; and

- (c) That in the respondent's school spiritual events may occur during Holy Week or they may keep children in school up to a few days before Christmas and that the governing bodies of Roman Catholic schools should be free to set their own school term dates

Respondents were informed that the Education (Wales) Act 2014 had been subject to extensive consultation and were provided with a link to the equality impact assessment that was undertaken. They were also encouraged to submit a response to the consultation within the consultation period. Nevertheless we have considered the content of the letters which identified only 3 Roman Catholic schools out of a total of 86 Roman Catholic schools, located within two local authority areas. It should be noted that notifications were not received for these schools and that the school's themselves did not respond to the consultation. However, if we were to add the 3 schools to those Roman Catholic schools for which signed notifications or unverified information was received it means that we would have received information for some 51 of the total 86 Roman Catholic schools with 35 of those 51 schools (69%) content to align with their local authority and break up the week before Holy Week.

The respondents also made reference to the spiritual events that occur during Holy Week and Christmas – which were matters that were brought to the attention of Welsh Ministers by the consultation responses and were considered.

However, in determining the final term dates to be set we have weighed up the letters alongside the opinions of 21 local authorities that submitted notification which set term dates which mean that schools are closed during Holy Week and the opinions of 61 of the 70 voluntary aided and foundation schools (including 37 for Roman Catholic schools) for which notifications were received that were content to align with their local authority. We have also taken account of unverified information in the form of unsigned notifications which indicate that a further 7 Roman Catholic schools are content to align with their local authority.

We also consider that local authorities, voluntary aided and foundation schools and others received significant forward notice of the proposals to harmonise school terms dates and were given ample opportunity to express their views, including three separate consultations prior to the Education (Wales) Act 2014 coming into force on 12 May 2014.

Whilst it would go against the opinions of the majority of local authorities, voluntary aided and foundation schools that have taken part in the harmonisation process, we have also considered the alternative option of schools remaining open during Holy Week. However this would result in a very short summer term in 2016/17 and a reduced lead in time for support and preparation for examinations.

- 35) Welsh Ministers have therefore considered all consultation responses carefully along with the original notifications received and have decided not to amend the proposed dates and direction which were subject to consultation for the following reasons:
- The proposed term dates reflect the opinions of the majority of respondents to the 12 week consultation who agreed with the proposals;
 - The proposed dates also reflect the opinions of the 21 local authorities that originally returned notifications, all of which set the two week Easter break to allow schools to break up on Friday 7 April 2017, meaning that schools would not be open during Holy Week;
 - They also reflect the opinion of 61 of the 70 voluntary aided and foundation schools (including 28 Roman Catholic voluntary aided schools) for which notifications were received that were content to agree the dates set by their local authority;
 - Unverified information in the form of unsigned notifications indicates that a further 7 Roman Catholic schools were content to align their term dates with those set by the local authority. This means that information from some 48 of the total 86 Roman Catholic schools was received and that 35 (73%) of these were content to align with the local authority and break up for Holy Week;
 - The direction therefore reflects the opinions expressed by the majority of local authorities and voluntary aided and foundation schools in Wales, including the opinions expressed by the majority of Roman Catholic schools, in their notifications around the Easter break and also reflect the majority of all responses received to the consultation;
 - The dates which have been set take into account some aspects of term dates from each main region in Wales;
 - Amending the dates so that schools remain open during Holy Week would mean that term lengths would be unequal with the summer term shorter than both the autumn 2016 and spring 2017 at just 11 weeks. This would lead to a reduced lead in time for support and preparation for examinations;
 - The proposed dates also take into account the significant work undertaken by those local authorities and relevant school governing bodies that worked together to agree school term dates.
- 36) Specifically as a result the Welsh Ministers consider that it is reasonable to set term dates for 2016/17 which have all schools breaking up for Easter before the start of Holy Week.

- 37) The Welsh Ministers are, therefore, satisfied that the direction should be issued to all local authorities in Wales and all relevant governing bodies in Wales. This direction is required to ensure that term dates in Wales are the same.
- 38) The Welsh Ministers have conscientiously taken into account the views of relevant stakeholders in considering whether to make this direction. The Welsh Ministers believe that it is appropriate to use their powers of direction to ensure that term dates for all maintained schools across Wales are the same. In addition to the reasons given in paragraph 35, this will also ensure that those families who would otherwise have to find and often finance additional child care due to term dates not being harmonised do not have to do so.
- 39) For example, if term dates are not harmonised then families with children in schools within different local authority areas, or with one child in a voluntary controlled school and another in a voluntary aided or foundation school, may need to find additional child care. This may mean a parent taking time off work and losing holiday entitlement or part of their salary as a result. Alternatively it may mean families having to find the money to pay for additional childcare from an already tight family budget.
- 40) By harmonising school term dates for all maintained schools across Wales the Welsh Ministers can ensure that families do not face the difficulties described in the paragraph above.

Approach

- 41) In deciding whether and how to intervene, the Welsh Ministers have taken into account the following principles:
- 42) The Welsh Ministers recognise that this direction is a serious step and have not taken the decision to issue it lightly. The Welsh Ministers are satisfied that it is reasonable to determine term dates so that they are the same for all maintained schools in Wales. The Welsh Ministers have allowed adequate time for local authorities and relevant governing bodies to agree dates between themselves. They have also undertaken an appropriate consultation of 12 weeks to seek views on the proposed dates and the direction. They are therefore satisfied that this direction is justified.
- 43) Intervention should be proportionate. The term dates set out by the Welsh Ministers in the direction apply for the 2016/2017 school year. This gives everybody affected by those dates adequate opportunity to plan accordingly. The Welsh Ministers have not set term dates for any other school years and local authorities and governing bodies will still be expected to seek to agree term dates that are the same (or as similar as possible). The term dates set by the Welsh Ministers take into account some aspects of the term dates set by each main region in Wales (North,

South, Mid and West Wales). They also take into account the responses received to a 12 week consultation on the proposed dates.

Ongoing Review of the Direction

44) It is open for the Welsh Ministers to revoke or amend the direction at any time and its effectiveness will be reviewed by the Welsh Ministers from time to time.

Enforcement of the Direction

45) The effect of the direction is to oblige local authorities and relevant governing bodies to set the term dates for all schools in Wales as set out in the direction.

Signed by..........

Huw Lewis AM
Minister for Education and Skills, one of the Welsh Ministers

Date: ^{23/6}(insert date) 2015

DIRECTION

- 1) The Welsh Ministers having considered all the information set out in the Explanatory Memorandum are satisfied that the term dates determined by local authorities in Wales and the governing bodies of voluntary aided or foundation schools are not the same (or as similar as can be). They have also undertaken an appropriate consultation on the proposed term dates the Welsh Ministers propose to set and taken into account consultation responses.
- 2) The Welsh Ministers consider that it is reasonable that the term dates should be the same. Accordingly, the Welsh Ministers direct the local authorities in Wales and the relevant governing bodies in Wales to determine the term dates for the school year 2016/17 as set out in the Schedule to this direction.
- 3) This direction is made without prejudice to any future directions by the Welsh Ministers.
- 4) This direction comes into effect at 9am on the day after it is signed.

Signed by..........

Huw Lewis AM
Minister for Education and Skills, one of the Welsh Ministers

Date:  (insert date) 2015

SCHEDULE

TERM DATES DETERMINED BY THE WELSH MINISTERS FOR THE SCHOOL YEAR 2016/2017

First day of school year	Thursday 1 st September 2016
Autumn half term holiday	Monday 24 th October 2016 to Friday 28 th October 2016
Christmas holiday	Monday 19 th December 2016 to Monday 2 nd January 2017 (i.e. return to school on Tuesday 3 rd January 2017)
Spring half term	Monday 20 th February 2017 to Friday 24 th February 2017
Easter holiday	Monday 10 th April 2017 to Friday 21 st April 2017
Summer half term	Monday 29 th May 2017 to Friday 2 nd June 2017
Final day in school	Friday 21 st July 2017

ANNEX A

NOTIFICATIONS OF TERM DATES AGREED

<u>Local Authority Groupings</u>		
<u>Local Authority Group A</u>	<u>Local Authority Group B</u>	<u>Local Authority Group C</u>
Blaenau Gwent	Conwy	Ceredigion
Bridgend	Denbighshire	Pembrokeshire
Caerphilly	Flintshire	
Cardiff	Gwynedd	
Merthyr Tydfil	Wrexham	
Monmouthshire	Ynys Môn	
Neath Port Talbot		
Newport		
Rhondda Cynon Taf		
Swansea		
Torfaen		
Vale of Glamorgan		
<u>Local Authority Group D</u>		
Powys		

ANNEX B

GROUPINGS OF LOCAL AUTHORITIES

Annex – Local authority school term/holiday dates for 2016/17				
School term/holiday dates	Local authority group A	Local authority group B	Local authority group C	Local authority group D
<i>First day of school year 2016-17</i>	Monday 5 th September 2016	Thursday 1 st September 2016	Monday 5 th September 2016	Friday 2 nd September 2016
<i>Autumn half term holiday (i.e. dates when pupils are <u>not</u> in school)</i>	Monday 24 th October 2016 to Friday 28 th October 2016	Monday 31 st October 2016 to Friday 4 th November 2016	Monday 31 st October 2016 to Friday 4 th November 2016	Monday 31 st October 2016 to Friday 4 th November 2016
<i>Christmas holiday (i.e. dates when pupils are <u>not</u> in school)</i>	Monday 19 th December 2016 to Monday 2 nd January 2017 (i.e. return to school Tuesday 3 rd January 2017)	Monday 26 th December to Friday 6 th January 2017 (i.e. break up for Christmas on Friday 23 rd December 2016)	Monday 26 th December to Friday 6 th January 2017 (i.e. break up for Christmas on Friday 23 rd December 2016)	Monday 26 th December to Friday 6 th January 2017 (i.e. break up for Christmas on Friday 23 rd December 2016)
<i>Spring half term holiday (i.e. dates when pupils are <u>not</u> in school)</i>	Monday 20 th February 2017 to Friday 24 th February 2017	Monday 20 th February 2017 to Friday 24 th February 2017	Monday 20 th February 2017 to Friday 24 th February 2017	Monday 20 th February 2017 to Friday 24 th February 2017
<i>Easter holiday (i.e. dates when pupils are <u>not</u> in school)</i>	Monday 10 th April 2017 to Friday 21 st April 2017	Monday 10 th April 2017 to Friday 21 st April 2017	Monday 10 th April 2017 to Friday 21 st April 2017	Monday 10 th April 2017 to Friday 21 st April 2017
<i>Summer half term (i.e. dates when pupils are <u>not</u> in school)</i>	Monday 29 th May 2017 to Friday 2 nd June 2017	Monday 29 th May 2017 to Friday 2 nd June 2017	Monday 29 th May 2017 to Friday 2 nd June 2017	Monday 29 th May 2017 to Friday 2 nd June 2017

<i>Final day of school year 2016-17</i>	Tuesday 25 th July 2017	Thursday 20 th July 2017	Monday 24 th July 2017	Friday 21 st July 2017
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