
Ymateb i Ymgynghoriad / Consultation Response

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Pwnc / Subject:	Proposed amendments to school governance procedures in Wales

Background information about Estyn

Estyn is the Office of Her Majesty's Inspectorate for Education and Training in Wales. As a Crown body, Estyn is independent of the Welsh Government.

Estyn's principal aim is to raise the standards and quality education and training in Wales. This is primarily set out in the Learning and Skills Act 2000 and the Education Act 2005. In exercising its functions, Estyn must give regard to the:

- Quality of education and training in Wales;
- Extent to which education and training meets the needs of learners;
- Educational standards achieved by education and training providers in Wales;
- Quality of leadership and management of those education and training providers;
- Spiritual, moral, social and cultural development of learners; and,
- Contribution made to the well-being of learners.

Estyn's remit includes (but is not exclusive to) nurseries and non-maintained settings, primary schools, secondary schools, independent schools, pupil referrals units, further education, adult community learning, local government education services, work-based learning, and teacher education and training.

Estyn may give advice to the Assembly on any matter connected to education and training in Wales. To achieve excellence for learners, Estyn has set three strategic objectives:

- Provide accountability to service users on the quality and standards of education and training in Wales;
- Inform the development of national policy by the Welsh Government;
- Build capacity for improvement of the education and training system in Wales.

This response is not confidential.

Response

Introduction

Estyn supports the general principles of the proposed amendments to school governance procedures in Wales.

We recognise the need for these important changes in line with changes to the Mental Health Act and legislation in other parts of the UK, as well as to allow governing bodies to have the option of using available digital technology.

Estyn also recognises the importance of ensuring that wherever possible the Welsh language is not treated less favourably than the English language when governing bodies in Welsh medium and bilingual schools conduct their business, by whichever means they choose.

We have outlined a few further considerations relating to ensuring that if a governing body chooses to hold meetings virtually and to keep electronic rather than paper based records, that all members of the governing body have access to the meetings and all records. Governing bodies would also need to ensure that the chairperson signs all meeting records, school policies and important decisions. In addition, it would be the responsibility of each governing body of a Welsh medium or bilingual school to ensure that the Welsh language is not treated less favourably than the English language when conducting any business using electronic means. However, these are not reasons to prevent the proposed changes.

Consultation questions

Question 1 – Do you agree with the proposal to remove the disqualification criteria relating to the Mental Health Act 1983?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We agree with this amendment in order to align with the Mental Health Discrimination Act 2013. In line with changes outlined in the act to end this qualification for sitting MPs, company directorships and jurors on the basis of mental ill health, we agree that this is an appropriate proposal to end the disqualification of potential and existing governors on the basis of mental ill health too.

Question 2 – Do you agree with the proposal to amend the disqualification of company directors Order and the Act under which charity trustees are disqualified, bringing Wales' regulations up to date in respect of legislation from across the UK?

Agree	✓	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

We agree with the proposal to amend the disqualification of charity trustees from serving as members of a governing body. This will bring Wales' regulations up to date in respect of legislation from other parts of the UK.

Question 3 – Do you agree with the proposal to allow minutes and records to be kept electronically? 'Electronically' in this context means making and confirming decisions via e-mail, or other file-sharing tools such as Microsoft Teams, which are saved securely for audit purposes.

Agree	✓	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

It is appropriate to change the regulations to allow governing bodies to keep minutes and other records electronically. However, governing bodies should have the option to continue to keep written records instead of using electronic methods. If the governing body chooses to keep any records electronically, the chair will need to ensure that all members of the governing body are able to access all electronic records to ensure fairness and parity.

Whichever system a governing body chooses to use, it is important that the chair signs the minutes of governing body meetings as an accurate record of the meeting and of decisions that they made. This would also apply to school policies and other legal documentation that require a signature.

Question 4 – Do you agree with the proposal to allow meetings to take place via remote access i.e. through the use of a tele- or video-conferencing tools?

Agree	✓	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

During the recent lockdown period, many governing bodies across Wales used technology successfully to enable them to hold virtual meetings and to conduct other governing body business.

Although in the current regulations this is not precluded, we agree that it is a sensible proposal to make it clearer in the regulations that governing bodies have the option to conduct meetings remotely as long as this is a suitable platform for all governors to access.

Question 5 – The proposed amendments include conditions to allow meetings to take place via remote access. The 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.

Do you agree with these conditions?

Agree	✓	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Supporting comments

Although during the recent lockdown period, many governing bodies across Wales used technology effectively to hold virtual meetings, there were instances where members of a governing body were unable to take part in meetings due to technology issues/competence. Governing bodies therefore need to ensure that if they choose to use this method of communication, it is accessible by all governors to enable them all to discharge their functions and to make individual representation.

In our publication '**Cameos and ideas from schools and PRUs on continuing with school business**' (Estyn, May 2020) we provided a cameo of how a governing body used technology effectively to conduct governing body meetings during lockdown in the Estyn document. The link to the cameo can be [found here](#).

Governing bodies would need to make sure that they use secure and accessible platforms, which have an agreed policy to guide their procedures and systems to keep a record of decisions that they had made. This would help ensure that all meetings were held fairly and transparently.

Welsh Government may consider producing guidance for governing bodies to accompany the regulation changes. This would ensure that all governing bodies had access to the latest information regarding keeping safe and secure when conducting their business online.

Question 6 – We would like to know your views on the effects that these changes to school governance procedures would have on the Welsh language, specifically on:

- i) opportunities for people to use Welsh
- ii) treating the Welsh language no less favourably than the English language.

What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Supporting comments

Each Welsh medium and bilingual school's governing body would need to have a policy for the language of their meetings. Each governing body consists of governors with differing language needs and their ability to participate in meetings delivered through the medium of Welsh will vary. It will be up to each governing body to discuss this when agreeing their policy on using technology to hold and record meetings.

If governing bodies have an existing policy of holding bilingual meetings or meetings conducted wholly through the medium of Welsh, there appears to be no reason why this could not continue. It will be the responsibility of each individual governing body of Welsh medium and bilingual schools to ensure that, wherever possible, the Welsh language is treated no less favourably than the English language.

Similarly, if they choose this method, there appears to be few barriers to governing bodies recording electronic minutes that are bilingual.

Question 7 – Please also explain how you believe the proposed actions could be formulated or changed so as to have:

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language
- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Supporting comments

As outlined in the response to Question 6, each governing body of Welsh medium and bilingual schools may have members with differing Welsh language competencies. These governing bodies often include members who have little or no Welsh and therefore it would be very difficult for these groups conduct meetings wholly through the medium of Welsh without any translation facilities.

It would therefore be difficult to introduce any actions nationally to determine the language medium of individual school's governing body business. It is however important to continue with a policy of ensuring that overall, and wherever possible, the Welsh language is treated no less favourably than the English language when governing bodies in Welsh medium and bilingual skills conduct their business.

Question 8 – 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.

If more governing bodies choose to conduct meetings using technology, there could be training implications for existing governors and clerks which regional consortia and/or local authorities would need to address.

It may also be beneficial for governing bodies to use Hwb to store their electronic records. This would require individual schools to set up each governor with an Hwb email address and to establish a SharePoint area for the governing body to store records etc securely.

It might be beneficial for Welsh Government to establish a task and finish group to build on these proposed regulation changes to help produce guidance for governing bodies on how to conduct business remotely and to keep all information safe online.

There are useful examples and case studies of how schools successfully use digital platforms, particularly to share school documentation, in our thematic report, '[Preparing for the Digital Competence Framework](#)' (Estyn, July 2018)

These case studies might be helpful in supporting governing bodies to use technology effectively to conduct their business.

In addition, there is useful guidance to support governing bodies to work remotely in our publication '[Advice for school and PRU leaders and governors on how to continue with school and PRU business during the Covid-19 pandemic](#)' (Estyn, April 2020)

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here: