
Ymateb i Ymgynghoriad / Consultation Response

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Pwnc / Subject:	Proposed changes to the suite of Regulations under which independent schools in Wales operate

Background information about Estyn

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

Our principal aim is to raise the standards and quality education and training in Wales. This is primarily set out in the Tertiary Education and Research Act 2022 and the Education Act 2005. In exercising its functions, we 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.

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

We may give advice to the Welsh Parliament on any matter connected to education and training in Wales. To achieve excellence for learners, we have 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

Overall, we agree with the proposed changes to the suite of Regulations under which independent schools in Wales operate.

We welcome the move to create parity between maintained and independent schools where appropriate and we support the intention to improve the quality of education and welfare, health and safety of pupils in independent schools.

In our responses we have suggested a few areas where the proposals might be further strengthened or amended to ensure clarity for proprietors and their schools.

Consultation questions

Overarching changes

Question OC1 – Do you agree with the proposed overarching changes relating to the ultimate responsibility of the proprietor for compliance with the Regulations and to retain references to learners with statements during the phasing-in of the additional learning needs and education tribunal (ALNET) system?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Don't know	<input type="checkbox"/>
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Please provide your rationale

We agree with the proposed change relating to the proprietor having ultimate responsibility for compliance with the Regulations. This change will make it clearer to all schools where responsibility lies and who should be held accountable for any issues of non-compliance. We suggest strengthening the current list of responsibilities for the proprietor to include the responsibility for ensuring the 'provision of information'.

In addition, as the ALNET legislation is being phased in over a period of time it does make sense to retain the reference to statements within the Regulations.

Welsh Government may wish to consider the rewording of the following paragraph for clarity.

Following an inspection under section 163(1) of the 2002 Act a copy of the report of the inspection is published and maintained on the school's internet website and, by a date specified by the body who conducted the inspection. Where the registered pupil has an individual development plan or statement, the local authority with responsibility for maintaining the IDP.

We believe this should instead read:

Following an inspection under section 163(1) of the 2002 Act a copy of the report of the inspection is published and maintained on the school's internet website and, by a date specified by the body who conducted the inspection. Where the registered pupil has an individual development plan or statement, the local authority with responsibility for maintaining the IDP should also receive a copy of the report from the school.

Question OC2 – Do you have any other comments in relation to the overarching changes?

Please provide additional comments

We agree with the principle of removing references to named documents, but rather to reference policy intent to future proof the Regulations.

We also strongly agree with the principle of creating parity between maintained and independent schools where appropriate. We believe this principle is particularly important when considering what constitutes a full-time education, as our inspection activity is identifying inconsistency in the amount of taught time over the period of a week across the independent sector.

We believe that the requirement to register with the EWC is a positive step. However, we are aware that currently the EWC registration system does not hold an accurate list of independent schools to allow staff to register under their named school. It will be important for Welsh Government to keep the EWC informed with the latest register of independent schools on a regular basis.

Standard 1 – Quality of education provided

Question 1.1 – Do you agree with the proposed changes to Standard 1?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Don't know	<input type="checkbox"/>
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Please provide your rationale

Overall, we agree with the proposed changes to Standard 1.

We welcome the proposal to raise the level of expectation from adequate or satisfactory to good or effective. We also support strengthening the Standard to ensure that the needs of individual pupils are met and the school is **implementing** and **utilising** policies and resources.

In addition, we welcome the proposal to ensure that teaching does not undermine the values of democracy, rule of law and mutual respect and tolerance of those with different faiths and beliefs. We welcome the incorporation of the Equality Act 2010 into the

standard as it allows schools of different character to exist, for example different faith schools, whilst recognising that everyone is equal.

The removal of the references to 'class time', 'classroom' etc reflects the change in educational landscape and the move to a blended approach to learning. However, it is not clear from the consultation whether education provided exclusively online by a provider will require it to register with Welsh Government as an 'independent school'. We think that online schools who meet the requirements to register as an independent school should be required to do so, with an exemption on some of the requirements in relation to accommodation.

Welsh Government may wish to remove the duplication in the bullet points below:

- The proprietor ensures that the teaching at the school enables pupils to acquire new knowledge and make good progress according to their ability so that they increase their understanding and develop their skills in the subjects taught.
- Enables pupils to acquire new knowledge and make good progress according to their ability so that they increase their understanding and develop their skills in the subjects taught

Question 1.2 – Do you have any other comments in relation to the quality of education provided?

Please provide additional comments

Currently within Standard 1 there is a requirement for schools to provide a full-time supervised education for pupils of compulsory school age. We believe there should be clear guidance to proprietors to indicate what is regarded as full-time education i.e number of taught hours per week and / or number of days in a school year. As there is no legal definition of full-time education, Welsh Government may wish to change the wording of the requirement to be 'provide the **substantive** supervised education for pupils of compulsory school age'.

Regulation 1(2)(g) requires appropriate careers education for **secondary age pupils only**. We believe there should be consideration of widening this requirement to provide appropriate careers education to **all pupils** at a school in line with the Curriculum for Wales in the maintained sector.

Standard 2 – Spiritual, moral, social and cultural development of pupils

Question 2.1 – Do you agree with the proposed changes to Standard 2?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Don't know	<input type="checkbox"/>
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Please provide your rationale

Overall, we agree with the proposed changes to Standard 2.

We welcome the proposed changes to strengthen the Regulation with respect to the values of democracy, civil and criminal law etc. and the preclusion of the promotion of partisan political views.

The additional detail to clarify the contribution pupils should be encouraged to make to their school and local community is welcomed as too often the current regulation is interpreted by schools as only applying to activities within the school.

Question 2.2 – Do you have any other comments in relation to the spiritual, moral, social and cultural development of learners?

Please provide additional comments

No further comments

Standard 3 – Welfare, health and safety of pupils

Question 3.1 – Do you agree with the proposed changes to Standard 3?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Don't know	<input type="checkbox"/>
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Please provide your rationale

Overall, we agree with the proposed changes to Standard 3.

We welcome the strengthening of this standard to ensure that proprietors actively promote the well-being of learners.

We believe the regulation could be slightly reworded to include all staff:

- For the proprietor to ensure that **all staff**, but particularly those who have leadership and management responsibilities in the school, actively promote the well-being of the learners

This will allow for greater urgency in action and ensure the accountability of proprietors.

We welcome the strengthening of the arrangements for safeguarding training to ensure the safety of all learners and agree that it would not be appropriate to be prescriptive about who should provide such training. In addition, we would welcome the strengthening

of Keeping Learners Safe by including governors in the group of staff that are required to have safeguarding training.

The new requirement to review school policies regularly and ensure they reflect relevant **Welsh** legislation, guidance and policy is welcomed. This will address issues that we find during our inspection activity where schools do not reflect the most recent guidance or inaccurately focus on English legislation or guidance. Overall, we find that most providers routinely review policies and so the additional requirement would not be onerous.

We agree with strengthening guidance on the use of restrictive practice and restraint. This is particularly relevant given the changes to Welsh Government guidance in reducing restrictive practices.

Question 3.2 – Do you have any other comments in relation to the welfare, health and safety of learners?

Please provide additional comments

No further comments

Standard 4 – The suitability of the proprietor and staff

Question 4.1 – Do you agree with the proposed changes to Standard 4?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Don't know	<input type="checkbox"/>
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Please provide your rationale

To ensure the safety of all learners, we believe that all people who have regular contact with learners carrying out regulated activities should be subject to enhanced DBS checks.

We welcome both the extension of the requirements for DBS checks and increasing the frequency of carrying out DBS checks. We also welcome the requirement for staff employed in independent schools to register with the EWC.

Welsh Government may wish to consider the phrasing of the requirement for school governors to have these checks to be broader to cover the range of contexts found in independent schools.

For example;

- School governors, board of trustees, advisory panels and those with leadership and management responsibilities

Whilst welcoming these changes, DBS should not be relied upon as the sole mechanism to establish suitability to work with children. All schools should complete a range of pre-employment checks and these should be recorded.

Question 4.2 – Do you have any other comments in relation to the suitability of the proprietor and staff?

Please provide additional comments

We would welcome the addition of a requirement for all schools to hold a single central register, which includes details of the background checks undertaken and by whom.

Including the requirement to:

- Check identification
- Check qualifications
- Check for gaps in employment history
- Collect at least two professional references
- Check right to work in the UK
- Complete overseas police checks – (where necessary)
- Complete a prohibition from teaching check

The requirement to undertake and record the outcomes of these checks will help ensure robust safer recruitment practises are implemented which will help to keep pupils safe.

Standard 5 – Premises of and boarding accommodation at schools

Question 5.1 – Do you agree with the proposed changes to Standard 5?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Don't know	<input type="checkbox"/>
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Please provide your rationale

Overall, we agree with the proposed changes to Standard 5 and welcome the proposed changes to ensure all facilities are accessible to all learners. We are aware that this requirement will be challenging for some schools, due to the historical and listed nature of their buildings.

Question 5.2 – Do you have any other comments in relation to the premises of and boarding accommodation at schools?

Please provide additional comments

We consider that schools operating delivering learning online should still be required to register as independent schools where they meet other relevant criteria. It would be helpful to consider and identify which aspects of Standard 5 could be exempt in these cases.

Standard 6 – The provision of information

Question 6.1 – Do you agree with the proposed changes to Standard 6?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Don't know	<input type="checkbox"/>
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Please provide your rationale

Overall, we agree with the suggested strengthening of Standard 6.

We will also find it useful for schools to publish their term dates as this will help us when planning our inspection activity.

We welcome the strengthening of the requirement to inform Welsh Government of proposed changes **in advance** of the changes being made. Occasionally during inspection activity, we become aware of buildings and facilities that are being used that are not part of a school's registration.

Question 6.2 – Do you have any other comments in relation to the provision of information?

Please provide additional comments

No further comments

Standard 7 – The manner in which complaints are to be handled

Question 7.1 – Do you agree with the proposed changes to Standard 7?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Don't know	<input type="checkbox"/>
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Please provide your rationale

Overall, we agree with the strengthening of Standard 7 to include reference to pupils and boarders.

Question 7.2 – Do you have any other comments in relation to the manner in which complaints are to be handled?

Please provide additional comments

No further comments

Other proposed legislation

Question OPL1 – Do you agree with the proposed amendments to the Independent Schools (Provision of Information) (Wales) Regulations 2023 and Independent Schools (Prohibition on Participation in Management) Regulations 2023?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Don't know	<input type="checkbox"/>
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Please provide your rationale

We agree with the proposed amendments to the Independent Schools (Provision of Information) (Wales) Regulations 2023 and Independent Schools (Prohibition on Participation in Management) Regulations 2023. Particularly the details of other business interests as this will highlight any conflicts of interest.

The changes proposed ensure that Welsh Government will hold the most up to date information about schools and ensure that learners' safety is given the highest priority by ensuring that only suitable individuals are able to operate independent schools.

Question OPL2 – Do you have any other comments in relation to the Independent Schools (Provision of Information) (Wales) Regulations 2023 and Independent Schools (Prohibition on Participation in Management) Regulations 2023?

Please provide additional comments

We welcome the requirement to include Tier 4 details in the school annual return.

Duty to report a child at risk of harm

Question DTR1 – Do you agree with the proposal to introduce a requirement on proprietors, governors or trustees of independent schools and all staff and volunteers to inform the local authority where they know or reasonably suspect that a child, who is a pupil at the school, is experiencing or is at risk of abuse, neglect or harm?

Yes	✓	No	<input type="checkbox"/>	Don't know	<input type="checkbox"/>
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Please provide your rationale

We strongly agree with the proposal to introduce a requirement on proprietors, governors or trustees of independent schools and all staff and volunteers to inform the local authority where they know or reasonably suspect that a child, who is a pupil at the school, is experiencing or is at risk of abuse, neglect or harm.

Question DTR2 – Do you have any other comments in relation to this proposal or its potential impacts?

Please provide additional comments

No further comments

Mandatory questions

Mandatory question 1 – We would like to know your views on the effects that the proposed Independent School Standards (Wales) Regulations 2023, Independent Schools (Provision of Information) (Wales) Regulations 2023 and Independent Schools (Prohibition on Participation in Management) Regulations 2023 would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

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

Supporting comments

We believe these regulations will have no significant effect upon the Welsh language as the revised regulations continue to make the delivery of Welsh in independent schools optional.

Mandatory question 2 – Please also explain how you believe the proposed policy could be formulated or changed so as to have 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, and 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

No further comments

Mandatory question 3 – 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:

No further comments

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: