



# Collaborative Arrangements between Further Education Institutions and Schools

Guidance on The Collaboration Arrangements (Maintained Schools and Further Education Bodies) (Wales) Regulations 2008



## Guidance

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# Delivering Skills that Work for Wales

<b>Audience</b>	Maintained Schools, Further Education Institutions; Local Education Authorities; Fforwm; Estyn; Higher Education Funding Council for Wales; Unions; Professional Associations; Welsh Local Government Association; Quality Assurance Agency; Equality and Human Rights Commission; Welsh Language Board; Faith Communities Fora.
<b>Overview</b>	This guidance document provides clarification on the intended scope of The Collaboration Arrangements (Maintained Schools and Further Education Bodies) (Wales) Regulations 2008 under section 166 of the Education and Inspections Act 2006.
<b>Action required</b>	None - for information.
<b>Further information</b>	Further information about this consultation can be obtained from: Joanne Meade Department for Children, Education, Lifelong Learning and Skills Welsh Assembly Government Ty'r Afon, Bedwas Road Bedwas Caerphilly, CF83 8WT Tel: 01443 663846 Fax: 01443 663653 E-mail: <a href="mailto:Collaborationregulations@wales.gsi.gov.uk">Collaborationregulations@wales.gsi.gov.uk</a>
<b>Additional copies</b>	Further copies may be obtained at the above address. This document can also be accessed from the Welsh Assembly Government website at: <a href="http://wales.gov.uk/topics/educationandskills/publications/guidance">http://wales.gov.uk/topics/educationandskills/publications/guidance</a>
<b>Related documents</b>	One Wales The Learning Country: Vision into Action Learning Pathways 14-19 Skills that Work for Wales Transforming Education and Training Provision in Wales



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# **Guidance on The Collaboration Arrangements (Maintained Schools and Further Education Bodies) (Wales) Regulations 2008**

## **Overview**

Section 166 of the Education and Inspections Act 2006 came into force in Wales on 30 June 2008; under this section, further education colleges may collaborate formally with the governing bodies of maintained schools or other further education institutions through the use of joint committees. This guidance explains the regulations, which came into force on 31 December 2008, which determine the nature of these collaborative arrangements, including the functions of the collaborative bodies and the joint committees and the manner in which those functions may be discharged.

## **Further information**

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## **(SI 3082 (W.271))**

### **1. Introduction**

1.1 Section 166 of the Education and Inspections Act 2006 came into force in Wales on 30 June 2008 and enables the governing body of a further education college to collaborate formally with the governing body of a maintained school (“a school governing body”) and/or the governing body of other FE institutions. The section allows schools and colleges to collaborate on an equal footing and to determine arrangements jointly via ‘joint committees’. The new power is enabling which means that schools and colleges remain free to continue with existing collaboration arrangements if they wish (for example, through the use of contracts or informal partnerships). As such the regulations do not effect the terms or conditions of staff as the collaborating bodies maintain their separate legal identities.

1.2 These regulations came into force on 31 December 2008. They make provision for the nature of the collaborative arrangements, including the functions of the collaborative bodies and the joint committees and the manner in which those functions may be discharged.

1.3 Collaboration between learning providers is an intended outcome of Welsh Assembly Government, as expressed in ***One Wales: A progressive agenda for the government of Wales, The Learning Country: Vision into Action*** and the proposed ***Learning and Skills (Wales) Measure 2008***.

1.4 In the context of delivering Skills that Work for Wales, these regulations support the intention of the Welsh Assembly Government to spread best practice to all providers through collaboration and partnership. This will ensure that all learning providers are better able to meet identified learner need and demand; and increase opportunities available to learners. This will include for example those young people and adults who are more likely to experience discrimination and have access to fewer opportunities; and improving access to Welsh language provision.

### **2. General principles**

2.1 The following arrangements are based on the principle of allowing governing bodies and joint committees the freedom to determine their own arrangements, within an agreed framework of common understanding that safeguards the interests of everyone concerned.

2.2 Joint committees do not exist to operate in their own right, but act under delegated powers from the collaborating governing bodies. Those individual governing bodies retain legal responsibility and corporate liability for all decisions taken on their behalf. Governing bodies will therefore need to ensure that they receive regular reports, including signed minutes, from any joint committees they agree to establish.

### **3. Collaboration between maintained schools and further education bodies and between further education bodies and further education bodies (Regulation 3)**

3.1 One or more school governing bodies may collaborate with one or more further education governing bodies, subject to regulations 50 to 52 of the Government of Maintained Schools (Wales) Regulations 2005 (as amended).

3.2 One or more further education governing bodies may collaborate with one or more school governing bodies, subject to the provisions of their instrument and articles of government in force under section 22 or 29 of the Further and Higher Education Act 1992.

3.3 Two or more further education governing bodies may enter into collaboration arrangements with each other, subject to the provisions of their instrument and articles of government in force under section 22 or 29 of the Further and Higher Education Act 1992.

3.4 Where a school governing body enters into collaboration arrangements as described at paragraph 3.1, the Staffing of Maintained Schools (Wales) Regulations 2006 (as amended) will still apply to those members of staff employed by a school governing body.

3.5 Where a further education governing body enters into collaboration arrangements, as described at paragraphs 3.2 and 3.3, the relevant provisions of the instrument and articles of government in force under section 22 or 29 of the Further and Higher Education Act 1992.

3.6 Subject to paragraph 3.7 below, where further education and school governing bodies collaborate as described at paragraphs 3.1, 3.2 or 3.3, they may also delegate the discharge of any of their functions to a joint committee.

- 3.7
- a. Where the collaborating body is a school governing body, it may only delegate to a joint committee those functions which may be delegated to a committee under regulation 50 of the Government of Maintained Schools (Wales) Regulations 2005.
  - b. Where the collaborating body is a further education governing body, it may only delegate to a joint committee those functions which may be delegated to a committee under the relevant provisions of its instrument and articles of government in force under section 22 or 29 of the Further and Higher Education Act 1992.

### **4. Establishment of joint committees (Regulation 4)**

4.1 The governing bodies wishing to discharge their functions jointly must determine and review annually the constitution, terms of reference and membership of any joint committees they decide to establish.

4.2 The quorum for a meeting of the joint committee is one half of the membership excluding any vacancies and any members suspended from that meeting.

4.3 A joint committee must appoint a chair annually and may remove its chair from office at any time.

4.4 A joint committee must elect a member of that joint committee to act as chair in the absence of the chair appointed.

4.5 No person employed to work at the school or the further education body nor a registered pupil of the school or a registered student of the further education body, may act as chair of a joint committee.

4.6 The majority of members on any joint committees must be governors of the constituent governing bodies.

4.7 The membership of a joint committee may include non governor members and the extent to which such members are entitled to vote is to be determined by the joint committee. It is consequently a matter for the individual governing body to ensure that there is a sufficient balance of members within the joint committee so that the committee can fulfil its stated remit and responsibilities.

## **5. Clerks to joint committees (Regulation 5)**

5.1 A joint committee must appoint a clerk (who must not be a maintained school head teacher or a further education college principal) and may remove the clerk from office at any time. The appointment of the clerk is a matter for the joint committee. However, the joint committee members responsible for the appointment must be governors in their own institution or school. The joint committee is responsible for the remuneration and appraisal of the clerk.

5.2 In the absence of the clerk from a meeting, a joint committee may appoint any one of its members (except a maintained school head teacher or a further education principal) to act as clerk for the purposes of that meeting.

5.3 The clerk must:

- a. convene meetings of the joint committee;
- b. attend meetings of the joint committee and ensure that minutes of the proceedings are drawn up; and
- c. perform any other functions determined by the joint committee.

## **6. Non governor members (Regulation 6)**

6.1 Non governor members can play a valuable role in providing additional knowledge and experience to collaborating bodies. In these Regulations "non governor" means a person who is appointed by a joint committee as a

member of that committee, but who is not a member<sup>1</sup> of one of the collaborating bodies.

6.2 A non governor member will continue in office until removed.

6.3 Any person who is disqualified from holding office as a governor of a school or who is ineligible to be a member of a further education body is disqualified from holding, or continuing to hold, office as a non governor member of a joint committee.

6.4 It is for the collaborating bodies to determine the voting rights of non governor members, subject to the requirement that a non governor member must not vote on any resolution concerning:

- a. an individual pupil or student or member of staff if the non governor member was excluded from that part of the meeting at which it was considered (as described in paragraph 7.2);
- b. the budget and financial commitments of one of the collaborating bodies;
- c. staff discipline;
- d. staff dismissal; or
- e. appeals resulting from any issue of staff discipline or staff dismissal.

The requirement that a non governor member of the staff disciplinary and dismissal committee and the appeal committee cannot vote, does not apply to the non governor member required to consider child protection allegations against members of staff. In these circumstances the non governor has a vote.

6.5 A non governor member may not be a member of any joint committee which is to consider any resolution concerning:

- a. admissions; or
- b. pupil/student discipline.

6.6 A non governor member must not vote on any other business transacted by a joint committee unless he or she was aged 18 or over at the date of his or her appointment.

6.7 A joint committee may remove a non governor member from office at any time.

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<sup>1</sup> In this context the member means governor

## **7. Right of persons to attend meetings of joint committees (Regulation 7)**

7.1 Subject to regulation 9 and to the Schedule, the following persons may attend any meeting of a joint committee:

- a. any member of the joint committee, provided that he or she is not a member of a school governing body who has been suspended in accordance with regulation 49 of the Government of Maintained Schools (Wales) Regulations 2005;
- b. the head teacher of a collaborating body, whether or not he or she is a member of the joint committee;
- c. the principal of a collaborating body, whether or not he or she is a member of the joint committee;
- d. the clerk to the joint committee; and
- e. such other persons as the joint committee may determine.

7.2 A joint committee may exclude a non governor member from any part of its meeting, which they are otherwise entitled to attend, when the business under consideration concerns an individual pupil or student or member of staff.

7.3 Paragraph 7.1 (b) does not apply in relation to the committees referred to in regulations 55 and 56 of Government of Maintained Schools (Wales) Regulations 2005 or in relation to any joint committee or selection panel exercising any function under regulations 9 to 34 of the Staffing of Maintained Schools (Wales) Regulations 2006. The headteacher does not have a right to attend committees on appointment and dismissal of staff, but he/she may be invited by the governing body to do so, or given delegated responsibility to attend such meetings.

## **8. Proceedings of joint committees (Regulation 8)**

8.1 The clerk must convene meetings of the joint committee and, when exercising this function, must comply with any direction given by the joint committee or its chair (providing it is not inconsistent with any direction given by the joint committee).

8.2 Subject to any direction given under paragraph 8.1, at least five clear days in advance of a meeting, the clerk must provide the following to each member of the joint committee and to the head teachers and principals of the collaborating bodies (whether or not they are members of the joint committee):

- a. written notice of the meeting;
- b. a copy of the agenda for the meeting; and

- c. any reports or other papers to be considered at the meeting.

A shorter notice period may be given if the chair of the joint committee believes that matters need more urgent consideration, providing this is made clear in the notice for the meeting.

8.3 The proceedings of a joint committee are not invalidated by any vacancy in the membership of the committee or any defect in the appointment of any member of the committee. The provision does not remove the obligation of the governing body to rectify the defect. The regulation recognises that governors are from wide background and technical defects may arise occasionally but the business of the governing body should not be unduly hampered. Standard checks and balances, such as declaration of interest, should be utilised to ensure robustness in the process.

8.4 No vote on any matter may be taken at a meeting of a joint committee unless the majority of members of the committee present are members of a collaborating body.

8.5 Every question to be decided at a meeting of a joint committee must be determined by a majority of the votes of the members of the committee present and voting on the question.

8.6 Where there is an equal division of votes the person who is acting as chair for the purposes of the meeting has a second or casting vote, provided that person is a member of a collaborating body<sup>2</sup>.

## **9. Restrictions on persons taking part in proceedings (Regulation 9)**

9.1 In this regulation and in the Schedule, the term 'relevant person' means a member of the joint committee, a maintained school head teacher or a further education college principal of a collaborating body or the clerk to the joint committee.

9.2 Relevant persons must, if present at a meeting of the joint committee, disclose their interest, withdraw from the meeting, and not vote on a matter, if:

- a. there may be a conflict between their interests and the interests of a collaborating body; or
- b. there is reasonable doubt about their ability to act impartially in relation to a matter where a fair hearing is required; or
- c. they have a pecuniary interest in a matter.

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<sup>2</sup> In this context the member means a governor.

9.3 A joint committee may:

- a. allow any person who is able to give evidence to attend any hearing conducted by them into any matter in order to present that evidence;
- b. hear representations from a relevant person who is acting in a capacity other than that of a relevant person; or
- c. a relevant person may enter into a contract with a collaborating body from which he or she is entitled to profit.

9.4 A person who is acting as the clerk to a meeting of the joint committee is not required to withdraw from a meeting unless consideration is being given to his or her appointment to office, remuneration or disciplinary action against him/her. However, if the regulation or the Schedule would otherwise have required him or her to withdraw, he or she must not act in any other capacity than that of clerk.

9.5 Where there is any dispute as to whether a relevant person is required to withdraw from a meeting of the joint committee and not vote, it is for the other members of the joint committee present at the meeting to decide the question.

9.6 Provision for pecuniary interests and other specified conflicts of interest is set out in the Schedule to the Regulations.

## **10. Minutes (Regulation 10)**

10.1 Minutes of the proceedings of a meeting of a joint committee must be drawn up by the clerk, or by the person acting as the clerk for the purposes of the meeting and, subject to the approval of the joint committee, must be signed by the chair of the next meeting of the joint committee.

10.2 The joint committee must supply its local education authority with a copy of the draft of signed minutes of any of its meetings on request by that local education authority.

10.3 The minutes of proceedings must be entered into a book kept for the purpose by the clerk and may be entered on loose-leaf pages consequently numbered but in that case the person signing the minutes must initial each page.

10.4 Immediately before the recording the minutes of the meeting, the clerk must record the names of those members of the joint committee and any other person present at the meeting concerned.

10.5 The joint committee must, as soon as reasonably practicable make available for inspection by any interested person and give to the collaborating bodies a copy of the agenda and signed minutes (or the draft minutes if

approved by the chair) for every meeting of the joint committee and any report or other paper considered at the meeting.

10.6 The joint committee may exclude from any item specified in paragraph 10.2 any material relating to:

- a. a named person who works, or who it is proposed should work, for a collaborating body;
- b. a named pupil or student at, or candidate for admission to, a collaborating body; and
- c. any other matter that, by reason of its nature, the joint committee is satisfied should remain confidential.

10.7 Each page of published copies of any draft minutes of proceedings of meetings approved by the chair must indicate that they are draft minutes.

## **SCHEDULE**

Pecuniary interests and other specified conflicts of interest. (see regulation 9)

### **1 Pecuniary interests**

1.1 A pecuniary interest in a contract, proposed contract or other matters would include:

- a. where a relevant person is nominated for or appointed to office as a member of a collaborating body by a person with whom the contract is made or is proposed to be made;
- b. where a relevant person is a partner of a person, or is in the employment of a person, with whom the contract is made or is proposed to be made; or
- c. where a relative of a relevant person e.g. spouse, civil partner, to the knowledge of that person, has or would be treated as having such an interest.

1.2 A relevant person shall not be treated as having a pecuniary interest in any matter by reason only of:

- a. if he or she is paid to work for a collaborative body and has an interest in the matter that is no greater than the general level of interest of those who are paid to work for the collaborating body;
- b. his or her nomination or appointment by, membership of, or employment by any public body; and
- c. his or her membership of a corporation or other body if he or she has no significant financial interest in any securities of that corporation or other body.

1.3 Members of a joint committee are not, by reason of their pecuniary interest in the matter, prevented from considering and voting upon proposals for one or more of the collaborating bodies to take out insurance which protects its members against liabilities incurred by them arising from their office. A collaborating body is not, as a consequence of the pecuniary interests of its members, prevented from obtaining such insurance and paying the premiums. This reflects the current position in the Government of Maintained Schools (Wales) Regulations 2005 and 2008 Regulations and the relevant provisions of the instrument and articles of government in force under section 22 or 29 of the Further Education Act 1992, and the usual funding of maintained schools and further education institutions apply.

## **2 Appointment as a member of the joint committee, chair or clerk**

2.1 Where a relevant person is present at a meeting of the joint committee at which a subject of consideration is:

- a. his or her own appointment, re-appointment or removal as a member of the joint committee; or
- b. his or her own appointment or removal from office as clerk to, or chair of, the joint committee; or
- c. if he or she is a sponsor governor

The relevant person's interests shall be treated as being in conflict with the interests of the collaborating bodies, for the purpose of regulation 9(2).

## **3 Pay or appraisal of persons working at one of the collaborating bodies**

3.1 Where a relevant person who is paid to work for a collaborating body other than as a head teacher or a principal is present at a meeting of the joint committee at which a subject of consideration is the pay or the performance appraisal of any particular person employed to work for a collaborating body; or

3.2 Where a maintained school head teacher or a further education college principal of a collaborating body is present at a meeting of the joint committee at which a subject of consideration is his or her own pay or performance appraisal.

3.3 The relevant person's interests shall be treated as being in conflict with the interests of the collaborating bodies, for the purpose of regulation 9(2).

## **4. Persons who are members of more than one collaborating governing body**

4.1 If a person is a member of a joint committee of a collaborating governing body at more than one school or further education body it is not under any circumstances to be considered a conflict of interest for the purpose of these Regulations.