

21. Collaboration and Federation

This chapter outlines the legislation, conditions and processes allowing:

- maintained schools to adopt collaborative arrangements with other maintained schools, including joint meetings of governing bodies and joint committees (collaboration);
- maintained schools to adopt collaborative arrangements with further education bodies, including joint meetings of governing bodies and joint committees (collaboration); and
- for maintained schools to federate under one governing body (federation).

Background

1. One of the WAG's key aims is to raise standards in all educational establishments in Wales. Making regulations that establishments work together collaboratively will help achieve that aim. It also supports the WAG's policy for public service organisations to work together where it will benefit the public.

2. It has always been possible for establishments to work together on an informal basis but decision making could sometimes be slow and collaborative working was not always fully exploited. When considering joint ventures, the individual bodies would have to agree the proposals separately. Thus collaborative working tended to be limited and was usually undertaken by head teachers and members of the senior staff rather than at governing body level.

3. The Collaboration Between Maintained Schools (Wales) Regulations 2008 (SI 2008/168) and The Collaboration Arrangements (Maintained Schools and Further Education Bodies) (Wales) Regulations 2008 (SI 2008/3082) ("the Collaboration Regulations") have introduced a framework to allow two or more maintained schools and two or more maintained schools and FE bodies to work together collaboratively.

4. The Regulations set out the regulatory framework and arrangements for collaborative working, as detailed in this chapter.

Collaboration between Governing Bodies of Maintained Schools

5. The WAG's commitment to the principle of collaboration between public bodies is well known.

6. Bringing schools together under collaboration arrangements can make better use of resources, pool expertise, and allow schools to explore ways of doing things more effectively and efficiently.

7. Decision making on collaborative activities will be more streamlined which will benefit schools and make it more attractive for them to work together by enabling them to more easily share, benchmark and develop good practices etc which individual schools would find difficult to sustain.

8. Some examples of the types of issues on which governing bodies could collaborate are:

- bringing weaker schools into a cluster with stronger schools;
- exploiting economies of scale;
- cross phase arrangements; and
- raising standards by sharing curriculum delivery, school leadership and joint action to tackle inclusion.

Legislative Position

9. The Collaboration Between Maintained Schools (Wales) Regulations 2008 came into force on 16 March 2008 and were made under section 26 of the Education Act 2002. All maintained schools are able to have increased collaborative arrangements with other maintained schools, including joint meetings of governing bodies and joint committees.

Collaboration between Maintained Schools

10. Two or more governing bodies (“collaborating governing bodies”) may arrange for any of their functions to be discharged jointly, subject to the school’s instrument of government, and regulations 50 to 52 of The Government of Maintained Schools (Wales) Regulations 2005 (as amended), which prescribe the functions a governing body may or may not delegate to a committee. Governing bodies may not delegate to a committee functions about: categories of governors; constitution of governing bodies; removal of governors; instruments of government; election and removal of chairs and vice-chairs; appointment and removal of the clerk of the governing body; suspension of governors; delegation of functions; the establishment of committees; or head teacher or deputy head teacher selection panels.

11. Where collaborating governing bodies make such arrangements in respect of any of their functions relating to individual members of the school staff, The Staffing of Maintained Schools (Wales) Regulations 2006 apply to the discharge of such functions.

12. Collaborating governing bodies may delegate the discharge of any of their functions that may be delegated to a committee under regulation 50 of The Government of Maintained Schools (Wales) Regulations 2005, to a joint committee established by them.

13. Unless otherwise specified in paragraph 21 below, all references to “committees” in the chapter dealing with governing body procedures should be read as “joint committees”.

14. The Government of Maintained Schools (Wales) Regulations 2005 apply to joint meetings of collaborating governing bodies in the same way as they apply to meetings of individual governing bodies not part of a formal collaboration arrangement.

Collaboration between Further Education Bodies and Governing Bodies of Maintained Schools

Legislative Position

15. 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. The Collaboration Arrangements (Maintained Schools and Further Education Bodies) (Wales) Regulations 2008 came into force on 31 December 2008.

Collaboration Between Maintained Schools and Further Education Bodies and Between Further Education Bodies and Further Education Bodies

16. One or more school governing bodies may collaborate with one or more further education governing bodies, subject to the school's instrument of government, and regulations 50 to 52 of The Government of Maintained Schools (Wales) Regulations 2005 (as amended), which prescribe which functions a governing body may or may not delegate to a committee.

17. 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.

18. 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.

19. Where a school governing body enters into collaboration arrangements as described, The Staffing of Maintained Schools (Wales) Regulations 2006 (as amended) will apply to those members of staff employed by a school governing body.

20. Subject to paragraph 21 below, where further education and school governing bodies collaborate as described at paragraphs 16, 17, 18 or 19 above, they may also delegate the discharge of any of their functions to a joint committee.

21. 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; or
 - 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.

Collaborative Procedures

22. The following procedures apply where a maintained school agrees to work collaboratively with one or more other maintained schools and/or further education body(ies).

Establishment of Joint Committees

23. The collaborating governing bodies must determine and review annually the constitution, terms of reference and membership of any joint committee(s) they decide to establish. For further information on the establishment of committees for maintained schools, see Chapter 4 of this Guide entitled Governing Body Procedures and Meetings.

24. A joint committee must appoint a chair annually and may remove its chair from office at any time. In the absence of the chairperson, the joint committee must elect a member of the committee to act as chair in his or her absence. No person who is 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.

25. The quorum for a meeting of the joint committee and for any vote on any matter at such a meeting, is one-half (rounded up to a whole number) of the membership of the joint committee excluding any vacancies and any members suspended from that meeting.

26. The majority of members on any joint committee must be governors of the constituent governing bodies.

27. The membership of a joint committee may include non-governor members (ie a person who is not a member of any of the collaborating governing bodies) and the extent to which such members are entitled to vote is to be determined by the joint committee, but the majority of members on any joint committee must be governors.

28. The Collaboration Regulations do not amend The Government of Maintained Schools (Wales) Regulations 2005 relating to the establishment of committees dealing with staff disciplinary and dismissal issues. The requirements for the membership and responsibilities of these committees remain as set out in Chapter 10 of this Guide entitled Staffing.

Clerks to Joint Committees

29. A joint committee must appoint a clerk (who cannot be one of the head teachers or further education college principals) and may remove the clerk from office at any time. In the absence of the clerk from a meeting, a joint committee may appoint any one of their number (except for the head teachers or further education college principals) to act as clerk for the purposes of that meeting.

30. The functions of the clerk to the joint committee are to:

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

Non Governor Members

31. Non governor members can play a valuable role in providing additional knowledge and experience to collaborating bodies. In the regulations "non governor" means a person who is appointed to a joint committee as a member of that committee, but who is not a member of one of the collaborating bodies.

32. 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.

33. It is for the collaborating bodies to determine the voting rights of non governor members.

34. For maintained schools, the voting rights of non-governor members are prescribed in the 2005 School Government Regulations and Chapter 4 of this Guide entitled Governing Body Procedures and Meetings. References to "governing bodies" should read "collaborating governing bodies" and references to "committees" should read "joint committees".

35. The information relating to non-governor members of committees is not to be read in relation to the independent non governor member required on Staff Disciplinary and Dismissal Panels and Staff Disciplinary and Dismissal Appeal Panels convened to hear allegations in relation to child protection issues. For information refer to Chapter 10 entitled Staffing.

Right of Persons to Attend Meetings of Joint Committees

36. Subject to regulation 9 of the Collaboration Regulations, the following persons are entitled to attend any meeting of a joint committee:

- a. any members of the joint committee, provided they have not been suspended by one of the collaborating governing bodies;
- b. the head teachers, whether or not they are members of the joint committee;
- c. the principal of a collaborating body, whether or not they are a member of the committee;
- d. the clerk to the joint committee; and
- e. such other persons as the joint committee may determine.

37. A joint committee may exclude a non governor member from any part of its meeting when the business under consideration concerns an individual pupil or member of staff.

38. Paragraph 36b will not apply in relation to the committees referred to in regulations 55 and 56 of The 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.

39. In such circumstances, a head teacher does not have the right to attend a meeting of a joint committee as a member of that Committee. This does not preclude a head teacher from being present at such a meeting, as required/allowed and/or invited by the governing body under regulations, to present evidence or provide advice.

Proceedings of Joint Committees

40. 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).

41. 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):

- written notice of the meeting;
- a copy of the agenda for the meeting; and
- any reports or papers to be considered at the meeting.

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

42. 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.

43. 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.

44. 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.

45. 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. (In this context the member means a governor).

Minutes

46. 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 must be signed (subject to the approval of the joint committee) by the chair of the next meeting of the joint committee.

47. The joint committee must supply its LA with a copy of the draft or signed minutes of any of its meetings on request by that LA.

48. 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 consecutively numbered but in that case the person signing the minutes must initial each page. Such minutes must include the names of those persons present and voting and of any other person present at the meeting.

49. Subject to paragraph 50, the joint committee must, as soon as reasonably practicable, make available for inspection at each of the collaborating schools by any interested person and give to the collaborating governing bodies:

- the agenda for every meeting;
- the signed minutes of every such meeting;
- any report or other paper considered at any such meeting; and
- the draft minutes of any meeting, if they have been approved by the person acting as chair of that meeting.

50. The joint committee may exclude from the above, any material relating to:

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

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

Restrictions on Persons Taking Part in Proceedings

52. In the regulations 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.

53. 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:

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

54. A joint committee may:

- 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; and
- hear representations from a relevant person who is acting in a capacity other than that of a relevant person.

55. A relevant person may enter into a contract with a collaborating body from which he or she is entitled to profit.

56. 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.

57. 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.

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

Federation of Governing Bodies of Maintained Schools in Wales

59. Since the School Standards and Framework Act 1998, and subsequently the Education Act 2002, every maintained school in Wales has had its own governing body.

60. The Education Act 2002 permits the Welsh Ministers to make regulations allowing two or more governing bodies to formally unite to create one federated governing body (“federate”). This process involves each separate governing body dissolving and in its place there is one governing body for all the schools in the federation. The schools are not dissolved and retain their separate identities.

61. Circumstances in which governing bodies might consider federation, are:

- grouping small or rural schools together to exploit economies of scale and expertise in management (including governor support), staffing and curriculum issues;
- supporting cross phase arrangements e.g. secondary schools and their feeder primaries; or junior schools and their feeder infant schools;
- bringing weaker schools into a cluster with better schools; and
- raising educational standards and school effectiveness by encouraging schools to work together to share ideas and good practice (eg on the curriculum, leadership or an inclusion issue).

62. Before federating, schools will need to be confident that they have:

- a sense of common purpose, for example through geographical proximity, a common theme such as being schools with religious character or Welsh medium schools;
- trust and commitment in each other demonstrated in a shared sense of openness and willingness to operate in a joined-up way; and
- willingness to commit time and resources to ensure that joint working will be effective and sustainable.

63. Schools that form or join a governing body federation continue to be individual schools in law, keeping their existing category, identity and character. No school that has a religious character in accordance with the provisions in sections 58-60 of the Schools Standards and Framework Act 1998 will change. Voluntary aided schools that join a mixed federation (ie involving community or voluntary controlled schools) will continue to maintain their responsibilities for admissions, staffing, parent/teacher governor elections etc.

Legislative Position

64. Section 24 of the 2002 Act allows the Welsh Ministers to make regulations for school governing bodies to federate under a single governing body. The Federation of Maintained Schools and Miscellaneous Amendments (Wales) Regulations 2010 ('the Federation Regulations') came into force on 12 April 2010.

65. It is for governing bodies to decide whether or not they wish to federate. Should they wish to do the Federation Regulations set out::

- the process enabling up to 5 governing bodies of any category of school to establish or join a federation;
- the size of a federated governing body, with a minimum of 15 governors and a maximum of 25;
- the categories of governors and the principles of proportional membership taking account of different categories of school; and
- the process for governing bodies to leave a federation or to dissolve it.

66. The Federation Regulations prescribe the decision making process that leads to federation, which includes consultation with the maintaining LA, parents, head teachers and school staff, the diocesan authority (where applicable) and trade unions with members working at the schools. The federation proposal must be available for inspection at all reasonable times at each school in the proposed federation. The proposed federation date must be no less than 125 days after the proposal is published. After the consultation ends the governing bodies must consider any responses and decide whether:

- to proceed as proposed;
- to proceed with modifications to the proposal as the governing bodies think appropriate; or
- to not federate.

67. The Federation Regulations set out the procedures for how a federated governing body should conduct its business: for example, the appointment and election of governors, meetings and procedures for federated governing body and committee meetings, instruments of government, qualifications and disqualifications etc. These provisions replicate those for governing bodies of individual schools in the 2005 School Government Regulations. Other than

the 2005 regulations, all other regulations for school governance and applying to governing bodies apply to federated governing bodies as they do for governing bodies of individual schools.

68. Governing bodies may federate with governing bodies of maintained schools in the same or another LA. In these circumstances it is for the local authorities concerned to decide which one will be the 'maintaining authority'. The 2010 federation regulations do not allow school governing bodies to federate with a Further Education Institution or an independent school.

The Law

The Education Reform Act 1988: Section 198 and Schedule 10

The School Standards and Framework Act 1998: Sections 28, 58- 60, and 69

The Education Act 2002

The Government of Maintained Schools (Wales) Regulations 2005

The Staffing of Maintained Schools (Wales) Regulations 2006 (as amended by The Staffing of Maintained Schools (Miscellaneous Amendments) (Wales) Regulations 2007)

The Education and Inspections Act 2006:

http://www.opsi.gov.uk/acts/acts2006/ukpga_20060040_en_14-pt9-pb6-l1g166

The Collaboration Between Maintained Schools (Wales) Regulations 2008
SI No. 168/2008

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

The Federation of Maintained Schools and Miscellaneous Amendments (Wales) Regulations 2010

