

Proposed amendments to the Staffing of Maintained Schools (Wales) Regulations 2006

Independent investigations of allegations against teachers and members of staff

Consultation

Response form

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Responses should be returned by **24 February 2014** to

School Governance Branch
Schools Management and Effectiveness Division
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: SMED2@wales.gsi.gov.uk

Please tick the box that best describes you as a respondent.

<input type="checkbox"/>	Local authority*	<input type="checkbox"/>	Headteacher	<input type="checkbox"/>	School governor
<input checked="" type="checkbox"/>	Union	<input type="checkbox"/>	School	<input type="checkbox"/>	Other

Please specify:

*if you have ticked LA please indicate in what capacity, i.e. LADO, HR, governing support officer, etc.

Question 1 – Do you agree that the regulations make clear that the requirement to appoint an independent investigator applies to allegations against a member of staff employed under a contract of employment to work at the school? (Regulation 7A(1))

Agree		Disagree	x	Neither agree nor disagree	
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Supporting comments

The consultation document states 4.1 (d) page 5, that

“It is perceived that the [existing] regulations are unclear that the requirement for an independent investigation relates to a member of staff employed under a contract of employment with the school”

This implies that only staff that have a contract of employment with the school would be subject to the regulations. Therefore staff that might carry out work in the school setting, but have a contract of employment with a different organisation (e.g a Further Education Institution), would not be subject to the regulations.

However the wording in the amended regulations 7A(1) states that

“This regulation applies where a person employed under a contract of employment to work at the school is the subject of an allegation....”

Therefore it is unclear whether the regulations apply only to those persons who have a contract of employment *with* the school, or whether the regulations also apply to persons who do not have a contract of employment with the school, but do have a contract of employment with a different employer, that requires them to work in a school setting.

This point needs clarification in order to avoid the inadvertent inclusion or exclusion of persons to whom the amended regulations should apply.

Question 2 – Do you agree that the regulations should make clear that the requirement to appoint an independent investigator relates to allegations of abuse, whether that be physical, sexual or emotional abuse, against teachers or members of staff employed under a contract of employment?(Regulation 7A(2))

Agree		Disagree		Neither agree nor disagree	x
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Supporting comments

The definition of ‘harm’ is clear in the amended paragraph 2 regulation 3(a) and reference is made to this in 7A(1), however this could be further clarified by restating the definition in 7A(2).

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Question 3 – Do you agree that the regulations should make clear that the requirement to appoint an independent investigator relates only to allegations that a teacher or member of staff has abused a pupil registered at the school? (Regulation 7A(2))

Agree	x	Disagree		Neither agree nor disagree	
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Question 4 – Do you agree that where an allegation of abuse is referred to the headteacher that person should inform the chair of governors, unless they are satisfied beyond reasonable doubt that the allegation is not true ? (Regulation 7A(3))

Agree		Disagree		Neither agree nor disagree	x
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Question 5 – Do you agree that the governing body should take no action in respect of the allegation until the strategy discussion/meeting has taken place?

Agree		Disagree		Neither agree nor disagree	x
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Question 6 – Do you agree that the governing body should take no action in respect of the allegation until the statutory authorities have concluded their consideration of the case and any criminal proceedings have concluded and the matter has been referred back to the governing body? (Regulation 7A(5)(c))

Agree		Disagree		Neither agree nor disagree	x
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Question 7 – Do you agree that the governing body must not decide on the next course of action and whether an independent investigation is required until they have consulted with the Local Authority Designated Officer for Child Protection and the headteacher and that a record should be kept of this discussion? (Regulations 7A(5)(c) and 7A(6))

Agree		Disagree		Neither agree nor disagree	x
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Question 8 – Do you agree with our proposals concerning when a governing body does not have to have to have an independent investigation? (Regulation 7A(7))

Agree	x	Disagree		Neither agree nor disagree	
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Question 9 – Do you agree that the report of the investigation must be given to the governing body to inform the disciplinary process with a copy provided to the headteacher? (Regulations 7A(8) and (9))

Agree		Disagree		Neither agree nor disagree	x
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Question 10 – Do you agree that following receipt of the independent investigation report the governing body must decide whether to dismiss the member of staff? (Regulation 7A (10))

Agree		Disagree		Neither agree nor disagree	x
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Question 11 – Do you agree with the additions to the list of persons who would not be considered independent for the purposes of the independent investigation? (Regulation 7A(11))

Agree		Disagree		Neither agree nor disagree	x
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Question 12 – 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.

There is a grey area as to the status of FE lecturers if engaged to teach as FE lecturers in a school and when teaching school link pupils on FE premises. They are not regarded as qualified teachers in terms of being granted QTS and yet they are an integral part of the 14 – 19 educational agenda. Therefore would the Regulations apply?

If the Education (Wales) Bill is granted royal assent, FE lecturers will be required to register with the Education Workforce Council and likely be subject to the same code of conduct as teachers in maintained schools. Consideration of the impact of changes to regulation and legislation need to seriously address the grey area of the status of FE lecturers.

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: