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Llywodraeth Cymru  
Welsh Government

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Welsh Government

## Consultation Document

### Consultation on school term dates regulations

Proposals for regulations on the consultation process to be followed before the use of Welsh Ministers' powers of direction on school term dates

Date of issue: **4 December 2013**

Action required: Responses by **21 February 2014**

# Consultation on school term dates regulations

- Overview** These proposed regulations form part of the Welsh Government's plans to harmonise school term dates across Wales, as set out in the Education (Wales) Bill.
- The Welsh Government would like regulations to be made which provide for the consultation which is to be undertaken before the Welsh Ministers use their powers to direct the determination of school term dates for all maintained schools in Wales.
- This consultation document seeks your views on these proposals.
- How to respond** Responses to this consultation should be e mailed/posted to the address below to arrive by **21 February 2014** at the latest.
- Further information and related documents** Large print, Braille and alternate language versions of this document are available on request.
- The consultation documents can be accessed from the Welsh Government's website at [www.wales.gov.uk/consultations](http://www.wales.gov.uk/consultations)
- Contact details** For further information:  
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## **Data protection**

### **How the views and information you give us will be used**

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

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# 1. Ministerial foreword

As the Minister for Education and Skills, I am aware of the difficulties faced by many hard working families across Wales as a result of variations in school term dates and therefore school holidays.

In order to address this anomaly, I have included legislative provisions to achieve harmonisation of school term dates in the Education (Wales) Bill, which I introduced in the National Assembly for Wales on 1 July 2013.

Whilst the “Bill” is currently undergoing the scrutiny process in the National Assembly for Wales, subject to the Bill passing and receiving Royal Assent I am confident that the changes will benefit the people of Wales. The changes include plans for Welsh Ministers to be able to direct local authorities and the governing bodies of voluntary aided and foundation schools on what their term dates must be.

However, before making such a direction it will be necessary to carry out an appropriate consultation on the term dates which I am proposing to set. The Bill contains a regulation-making power which will enable Welsh Ministers to provide for how such consultations are to be carried out.

The proposals for these regulations are published for consultation. Your contributions will help to ensure that we get the right set of regulations in place for Wales. I therefore invite and welcome views from all key stakeholders on the ideas put forward in this consultation.



**Huw Lewis AM**  
**Minister for Education and Skills**

## **2. Introduction**

- 2.1 The Education (Wales) Bill (“the Bill”) was introduced in the National Assembly for Wales on the 1 July 2013.
- 2.2 The Bill, subject to passing the scrutiny process of the Assembly and receiving Royal Assent, will make a number of important changes to the current legislative arrangements in respect of how school term dates are set for all maintained schools in Wales.
- 2.3 A 12-week consultation was carried out on the school term dates proposals in the Bill, between 3 September 2012 and 26 November 2012, a summary of responses can be accessed at:  
<http://wales.gov.uk/consultations/education/schooltermdates/?status=closed&lang=en> .
- 2.4 One of the legislative changes involves giving the Welsh Ministers a power to direct local authorities and the governing bodies of voluntary aided and foundation schools on the term dates they set, so that if these bodies have been unable to agree on term dates, or the term dates which have been agreed need to be altered, the Welsh Ministers will be able to tell local authorities and the governing bodies of voluntary aided and foundation schools what their term dates must be.
- 2.5 Before exercising their power to direct, the Bill provides that the Welsh Ministers must carry out such consultation as they believe to be appropriate. In addition, the Bill proposes that the Welsh Ministers are given a regulation-making power which will enable them to provide for how such a consultation is to be carried out.
- 2.6 Making regulations on the consultation process means that interested parties will have greater certainty about the process to be followed.

### **3. Legislative background to the proposed regulations**

- 3.1 The Welsh Government's aim in introducing changes to the current legislative arrangements on term date setting is to ensure that school term dates are harmonised for all maintained schools across Wales, with variations in dates occurring very occasionally and only where they can be justified.
- 3.2 The proposed changes will mean that local authorities and the governing bodies of voluntary aided and foundation schools retain the duty to set school term dates, but have a new duty placed on them to co-operate and co-ordinate with each other when setting term dates, so that the dates set are the same or as similar as possible.
- 3.3 The Welsh Government believes that this will lead to the harmonisation of term dates for all maintained schools across Wales. However, it is possible that, despite their best efforts, local authorities and school governing bodies are unable to agree on term dates. If this happens, or if the term dates which have been agreed need amending, the Bill proposes that the Welsh Ministers will have the power to intervene and tell local authorities and the governing bodies of voluntary aided and foundation schools what their term dates must be.
- 3.4 The proposed changes also mean that Welsh Ministers will be able to alter harmonised school term dates to change dates for certain areas or schools, or change dates for all schools in Wales.
- 3.5 It is likely that the powers of direction to alter harmonised school term dates would only be used in rare circumstances and only where such alterations could be justified.
- 3.6 Before exercising their power to direct, the Welsh Ministers will need to carry out such consultation as they think is appropriate.
- 3.7 The Bill gives the Welsh Ministers a regulation-making power which enables them to make such further provision about the consultation process as they think necessary. This may include such matters as:
  - the length of the consultation;
  - who is to be consulted; and
  - the method of the consultation.

## 4. What are our proposals for the regulations?

*Where term dates are not harmonised by local authorities and governing bodies of voluntary aided and foundation schools*

4.1 The Bill places a duty on local authorities to inform the Welsh Ministers of the term dates set for all maintained schools in their respective areas. It is proposed that this will need to be carried out by the final working day of August, two “clear” years prior to the school year in question. For example, all notices of term dates for the school year 2016-17 will need to be given by Friday 29 August 2014.<sup>1</sup>

4.2 While it is hoped that these term dates are the same across Wales it is possible that, despite their best efforts, term dates have not been agreed by all local authorities and governing bodies of voluntary aided and foundation schools.

4.3 If this happens, it is likely that the Welsh Ministers will consider using their powers to ensure that term dates are harmonised across Wales and so will need to consult on their proposals.

4.4 In such cases it is proposed that the regulations provide for:

- i. the length of the consultation. It is proposed that a 12-week consultation is carried out;
- ii. who is to be consulted. It is proposed that the group of mandatory consultees includes the local authority directors of education, the governing bodies of all voluntary aided and foundation schools, all diocesan authorities, the governing bodies of a 10% sample of maintained schools, all teaching and support staff trade unions and “interested” bodies such as the Catholic Education Service and the Children’s Commissioner; and
- iii. the method of consultation. It is proposed that the consultation is carried out electronically and published on the Welsh Government’s website, with all mandatory consultees being informed of the launch of the consultation by email. In addition, the electronic newsletter to schools which is published on the Learning Wales website – currently known as DYSG, or Pre 11 Dysg in the case of the newsletter to foundation and primary schools - will contain notification of the launch of the consultation.

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<sup>1</sup> This proposal was set out in the consultation on the Notification of School Term Dates Regulations, which can be found at:

<http://wales.gov.uk/consultations/education/;jsessionid=3C90E9178AFA81AB7A9F57ECB77E0D6E?lang=en>



*Where term dates are harmonised, but the Welsh Ministers believe that the dates for some or all schools should be altered.*

4.5 The Welsh Ministers' power of direction in the Bill is not limited to where harmonisation of term dates has not been achieved by local authorities and the governing bodies of voluntary aided and foundation schools. This is to allow alteration of harmonised term dates for certain areas or schools, or to change dates for all schools in Wales.

4.6 It is believed that harmonised term dates would need to be altered in this way very rarely, and only where such alterations could be justified.

4.7 However, given that the school term date setting process takes place well in advance of the school year in question, such flexibility may be needed to deal with circumstances which were not known about at the time when term dates were harmonised.

4.8 For example, school term dates may have been harmonised before plans for a major sporting or other national event are known about. While most major sporting events are planned a few years in advance, it is possible changes in circumstances may necessitate an alteration in venue only a year or so before the event is held.

4.9 Such events may be potentially Wales-wide, or confined to a locality in the case of an event such as the Ryder Cup. Where there is a major sporting event in a particular locality it may be problematic to have large numbers of children travelling to and from school at the same time as large numbers of people are travelling to and from the sporting event in question. This may place too large a strain on the transport infrastructure in some exceptional cases.

4.10 Alternatively, an emergency circumstance such as a measles or influenza epidemic may occur. If this emergency circumstance is sufficiently serious, it may be prudent to consider altering school term dates either in a specific locality (if the emergency is localised) or throughout Wales. In an emergency situation such as this the Welsh Ministers could direct that the school term ends sooner than planned so as to prevent children from being in school in a particular area, and therefore helping to prevent the spread of the disease amongst school children at the schools affected.

4.11 This power may also be necessary to allow for situations such as where a particularly early autumn half term break has been agreed by local authorities and the governing bodies of voluntary aided and foundation schools, but there is evidence to suggest that it would be better for pupils to have a later half term break to allow for more equal time in school before and after the half term holiday. In such circumstances, Welsh Ministers may consider altering the term dates so that the autumn half term break takes place a week or so later.

4.12 Given the wide variety of circumstances in which the Welsh Ministers may have to consider using their powers to alter term dates which have been harmonised, it will not be possible for the regulations to insist that the same consultation process is followed on all occasions. This is because a full 12 week consultation will not be possible in situations where the Welsh Government has only a few months' or weeks' notice of sporting or national events. In the case of emergency circumstances such as a measles epidemic, there may be difficulties in giving all but the briefest of notifications of alteration to term dates.

4.13 In order to accommodate all possible events and circumstances within the prescribed consultation process, it is proposed that the form of consultation which is adopted reflects the amount of notice which is given of that event or circumstance.

4.14 The table below shows the proposals for the consultation process, depending upon the length of notice given to the Welsh Government:

<b><u>Length of Notice</u></b>	<b><u>Consultation period</u></b>	<b><u>Who is to be consulted</u></b>	<b><u>Mode of Consultation</u></b>
1 year or more	At least 12 weeks	The persons/bodies in paragraph 4.4ii	Electronic means as described in paragraph 4.4iii
1 year or less but more than 6 months	At least 6 Weeks	The persons/bodies in paragraph 4.4ii	Electronic means as described in paragraph 4.4iii
6 months or less but more than 3 months	At least 3 weeks	The persons/bodies in paragraph 4.4ii	Electronic means as described in paragraph 4.4iii
3 months or less but more than 4 weeks	At least 1 week	The persons/bodies in paragraph 4.4ii	Electronic means as described in paragraph 4.4iii
4 weeks or less	At the discretion of the Welsh Ministers	At the discretion of the Welsh Ministers	At the discretion of the Welsh Ministers

4.15 As notice of less than 4 weeks will include "emergency" situations of varying degree such as a measles or influenza outbreak, it would not be practical for regulations to attempt to set out the consultation length or other consultation requirements. For this reason, it is intended to rely on the discretion of the Welsh Ministers where such short notice is given.

4.16 Welsh Ministers would be under a public law duty to act reasonably when exercising their discretion. For example, if notice of over 3 weeks was given it is unlikely to be reasonable for only a 24 hour consultation to be carried out, and for key stakeholders such as local authorities and the governing bodies of voluntary aided and foundation schools not to be informed of planned alterations to term dates.

4.17 Finally, these proposals mean that there would usually be a Wales-wide consultation even if the proposed alteration to term dates was only in relation to a specific area or certain schools. For example, a sporting event such as the Ryder Cup may mean that alteration to term dates was being proposed for schools within a 20 mile radius of the venue only.

4.18 The Welsh Government is confident that a Wales-wide consultation is appropriate in such circumstances. This is because the Welsh Ministers would be proposing altering term dates which had previously been agreed and harmonised across Wales.

## **5. Consultation questions**

In relation to these proposals for regulations regarding the consultation on school term dates, the Welsh Government would welcome your views on the following questions. Please use the template provided in this consultation to record your answers.