

**Number:** WG43594

Welsh Government  
**Consultation Document**

## Assessment arrangements

Revoking the end of Foundation Phase Assessments, the end of Key Stage 2 Assessments, and the moderation of end of Key Stage 2 and 3 Assessments from 2021 to 2022 onwards

Removing the requirement on local authorities to distribute paper copies of their annual prospectus to parents and pupils in their transfer year at schools maintained by the local authority.

Date of issue: 14 February 2022  
Action required: Responses by 1 April 2022

## Overview

This consultation seeks views on revoking the requirements for the Foundation Phase and end of Key Stage 2 assessments to be undertaken from the 2021 to 2022 academic year onwards. This would remove the requirements a year early as, in September 2022, the new curriculum and assessment arrangements implemented under the Curriculum and Assessment (Wales) Act 2021 will apply to the relevant year groups.

This consultation also outlines the consequential changes proposed as a result of removing the end of Foundation Phase and end of Key Stage 2 assessments. They relate to:

- moderation of end of Key Stage 2 assessments
- reporting to parents/carers, local authorities and the Welsh Government.

Finally, it seeks views on revoking the requirements to moderate the end of Key Stage 3 assessments from 2021-22 as a consequence of removing the moderation of end of Key Stage 2 assessments and in preparation for Curriculum for Wales roll out in schools with cohorts of Year 9 learners.

This consultation does not outline the new assessment and reporting arrangements for the new Curriculum for Wales. These have been or will be the subject of a separate consultation.

This consultation also seeks views on removing the requirement on local authorities to distribute paper copies of their annual prospectus to all parents and pupils who are in the final year of schools maintained by the local authority who might transfer to other schools so maintained.

Local authorities will still be required to publish their annual prospectus on their website and make copies available on request at their offices, schools in the local authority area as well as for reference in public libraries.

## How to respond

Responses to this consultation should be emailed/posted to the address below to arrive by **1 April 2022** at the latest.

## Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

The consultation documents can be accessed from the Welsh Government's website at [gov.wales/consultations](https://gov.wales/consultations)

## Contact details

For more information:

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For further information on proposals relating to school prospectuses:

Schools Effectiveness Division  
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email: [SchoolsManagementDivision3@gov.wales](mailto:SchoolsManagementDivision3@gov.wales)

This document is also available in Welsh: [hyperlink](#)



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## **UK General Data Protection Regulation (UK GDPR)**

The Welsh Government will be data controller for any personal data you provide as part of your response to the consultation. Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, 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. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing. You should also be aware of our responsibilities under Freedom of Information legislation.

If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

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- for (in certain circumstances) your data to be 'erased'
- to (in certain circumstances) data portability
- to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection.

For further details about the information the Welsh Government holds and its use, or if you want to exercise your rights under the UK GDPR, please see contact details below:

Data Protection Officer:  
Welsh Government  
Cathays Park  
CARDIFF  
CF10 3NQ  
e-mail:  
[Data.ProtectionOfficer@gov.wales](mailto:Data.ProtectionOfficer@gov.wales)

The contact details for the Information Commissioner's Office are:  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire SK9 5AF  
Tel: 01625 545 745 or  
0303 123 1113  
Website: <https://ico.org.uk/>

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## **Introduction**

This consultation relates to proposed changes to legislation in two separate policy areas. These have been combined in order to reduce the administrative burden on respondents, at a time of continuing pressure, who in many cases are likely to be from the same organisations for example schools, local authorities, regional consortia. Respondents are under no requirement to provide a response to both policy sections of the consultation.

## Background

The Curriculum and Assessment (Wales) Act 2021 (“the Act”) received Royal Assent in April 2021. The Act establishes a legislative framework for the new curriculum and assessment arrangements for Wales, due to come into force for learners up to and including year 6 from September 2022. Providers teaching year 7 learners (including secondary schools, 3-16 schools, special schools, Pupil Referral Units, and other Education otherwise than at school providers) can opt in to start teaching the new curriculum from that date. All other providers will begin first teaching of the curriculum for both their year 7 and year 8 learners in September 2023. The rollout will then be staggered year on year, with implementation for year 11 learners in September 2026.

### *Removing end of Foundation Phase and end of Key Stage 2 assessments*

To support both learners and practitioners as we move towards the new curriculum and assessment arrangements, in an Oral Statement to the Senedd on 6 July, the Minister for Education and the Welsh Language announced his proposal to remove the requirements for practitioners to undertake assessments at the end of the Foundation Phase and the end of Key Stage 2 a year early, both from the 2021-22 academic year.

This proposal helps create more space for practitioners to prepare their curriculum and assessment arrangements for September 2022. It also creates some flexibility for them to move towards the approach to assessment that forms part of the Curriculum for Wales framework, seen in [Supporting Learner Progression: Assessment Guidance](#).<sup>1</sup> This guidance clearly states that the purpose of assessment is to support individual learner progress with the emphasis on understanding where a learner is in their learning, how they got there and looking forward to their next steps, identifying the support needed to move forward. Removing the end of Foundation Phase and end of Key Stage 2 assessments, and creating more space, will therefore help practitioners plan a smoother transition for learners as they move towards the new arrangements. The statutory requirements that remain in place for 2021-22, including the baseline assessment, continuous assessment of literacy and numeracy and the online personalised assessments, further enable the focus on supporting learner progression and the role of assessment as a key part of teaching and learning. Please see page 5 for further details. A separate consultation on the proposed subordinate legislation on assessment under Curriculum for Wales closed on 31 October 2021. The summary of responses can be found [here](#).

### [Removing the moderation of end of Key Stage 2 and end of Key Stage 3 assessments](#)

As a consequence of removing the end of Key Stage 2 assessments, schools would no longer be required to undertake the related moderation process. As secondary schools and their feeder primary schools moderate their end of Key Stage 2 and end of Key Stage 3 assessments together, in practice without amendment this would lead to secondary schools having to put interim arrangements in place to moderate end of Key Stage 3 assessments with other secondary schools until Curriculum for Wales roll out reaches year 9. To avoid placing this additional burden on secondary schools and to create some space for them to prepare for Curriculum for Wales roll out, we are proposing to remove both the moderation of end of Key Stage 2 and end of Key Stage 3 assessments from the 2021-22 academic year.

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<sup>1</sup> This guidance was published in draft form in January 2020. It will be published again as statutory guidance pursuant to section 71 of the Curriculum and Assessment (Wales) Act 2021.



The power for Welsh Ministers to set out assessment arrangements to support the current national curriculum is in Section 108 of the Education Act 2002 (“the 2002 Act”). The 2002 Act allows Welsh Ministers to set out in an Order such assessment arrangements as they consider appropriate for a Foundation Phase Area of Learning or a Key Stage foundation subject. This consultation document outlines how we propose to use the powers under Section 108 of the 2002 Act to revoke the requirements for end of Foundation Phase and end of Key Stage 2 assessments to be undertaken from the 2021-22 academic year, a year before the new curriculum and assessment arrangements begin to roll out. It also proposes to use the same powers to remove the requirement to moderate end of Key Stage 2 and end of Key Stage 3 assessments from 2021-22 onwards.

## Overview

### *Removing the end of Foundation Phase and end of Key Stage 2 assessments*

To remove the end of Foundation Phase and end of Key Stage 2 assessments from 2021-22 onwards, we have identified that there are two pieces of subordinate legislation that would need to be amended or revoked under Section 108 of the 2002 Act.

The following Order would need to be amended, with Part 4 being revoked, to remove the end of Foundation Phase assessments:

- National Curriculum (Desirable Outcomes, Educational Programmes and Baseline and End of Phase Assessment Arrangements for the Foundation Phase) (Wales) Order 2015.

The following Order would need to be revoked in its entirety to remove the end of Key Stage 2 teacher assessments:

- The National Curriculum (Key Stage 2 Assessment Arrangements) (Wales) Order 2004

The implications of these proposals are considered in more detail in the next section of this document.

There would be a number of consequential amendments that would need to be made as a result of the legislative proposals set out in this document. In light of the end of Foundation Phase and Key Stage 2 assessments being revoked, these consequential changes would include revoking the requirements for schools to report to parents/carers, local authorities and the Welsh Government on the outcomes of end of Foundation Phase and end of Key Stage 2 assessments. Further information can be found on page 6.

### *Removing the moderation of end of Key Stage 2 and end of Key Stage 3 assessments*

The following Order would need to be revoked in its entirety to remove the moderation of end of Key Stage 2 and end of Key Stage 3 assessments:

- The National Curriculum (Moderation of Assessment Arrangements for the Second and Third Key Stages) (Wales) Order 2015

Further information about this proposal can be found on page 8.

## **Next steps**

You are invited to submit your views on these proposals. You will note that we have also included a question that allows you to outline any wider implications relating to the transition from the current assessment arrangements to the new assessment arrangements as part of Curriculum for Wales that are not addressed in this document.

Responses should be emailed by 1 April 2022 at the latest. 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 indicate in your response.

Subject to the outcome of this consultation it is intended that the subordinate legislation will be made to come into force at least twenty working days before the end of the summer term, 2022.

# **Policy intent and legislative detail on proposed amendments to/revoking of subordinate legislation**

## **Removing end of Foundation Phase assessments**

The National Curriculum (Desirable Outcomes, Educational Programmes and Baseline and End of Phase Assessment Arrangements for the Foundation Phase) (Wales) Order 2015 sets out the requirements for head teachers to make arrangements for an assessment to be carried out by a practitioner in relation to each pupil in the final year of the Foundation Phase to determine their level of attainment in each of the following assessment Areas of Learning:

- language, literacy and communication skills
- mathematical development
- personal and social development and well-being and cultural diversity

The assessment must be completed and a record of attainment made no later than 20 working days before the end of the summer term; or as soon as reasonably practicable, if exceptionally and for reasons outside the control of the head teacher, the assessment and record of attainment could not be completed within the timeframe given.

The Foundation Phase curriculum and the baseline assessment have remained in place for the 2021-22 academic year. Therefore, this consultation document addresses specifically our intention to amend the National Curriculum (Desirable Outcomes, Educational Programmes and Baseline and End of Phase Assessment Arrangements for the Foundation Phase) (Wales) Order 2015 to remove the requirement for end of phase assessment by revoking Part 4. This must be done at least twenty working days before the end of the summer term, 2022.

The rest of the Order will be revoked ahead of September 2022, removing the Foundation Phase curriculum and the baseline assessment as part of the long planned and consulted on roll out of Curriculum for Wales.

## **Removing end of Key Stage 2 assessments**

The National Curriculum (Key Stage 2 Assessment Arrangements) (Wales) Order 2004 outlines that the head teacher must make arrangements for each pupil in the final year of Key Stage 2 to be assessed by a teacher during the summer term, and a record made of the outcome, in each of the following subjects:

- English
- Welsh (*this does not include Welsh Second Language*)
- mathematics
- science

The assessment must take place no later than twenty working days before the end of the summer term. A teacher may take account of the results of any previous assessment of the pupil.

We intend to revoke The National Curriculum (Key Stage 2 Assessment Arrangements) (Wales) Order 2004 in its entirety, along with the 2011 amendment. This must be done at least twenty working days before the end of the summer term, 2022.

## **Assessing Foundation Phase and Key Stage 2 learners during the 2021-22 academic year**

We are intending to remove the end of Foundation Phase and end of Key Stage 2 assessments a year ahead of the Curriculum for Wales roll out. However, some statutory requirements for assessment have remained in place during the 2021-22 academic year.

The statutory requirement for the baseline assessment to be completed for every learner within the first 6 weeks of the reception year has remained in place in the 2021-22 academic year. This assessment is an important tool for practitioners to gain an understanding of a learner's needs as they begin their statutory schooling, helping to identify their strengths, their next steps and the support needed to make progress. In line with the roll out of the new curriculum and assessment arrangements, from 2022-23 a new approach to on-entry assessment arrangements will be introduced. Further information about this can be found [here](#).

The requirement for a head teacher to make arrangements for each learner in the Foundation Phase and Key Stage 2 to be assessed throughout the year for the purpose of monitoring and supporting their progress in relation to literacy and numeracy (using the Literacy and Numeracy Framework) also remains in place until the relevant year groups transition to Curriculum for Wales. This reflects the ongoing priority of literacy and numeracy, which, along with digital competence, will form the mandatory Cross-Curricular Skills under Curriculum for Wales. Continuous assessment will be a fundamental part of the new assessment arrangements under Curriculum for Wales, supporting learners to make progress across the curriculum. It will be intrinsic to day to day teaching and learning by helping to understand how a learner is progressing and identify their next steps and the support needed to take their learning forward. This will form the basis for discussions between practitioner and learner as well as communication with parents/carers.

In line with the continuing focus on literacy and numeracy, learners in year 2 and all year groups within key stage 2 continue to be required to undertake the Online Personalised Assessments during the 2021-22 academic year. These assessments have been developed in line with the new approach to assessment under Curriculum for Wales and provide schools with a tool to reflect on learners' strengths and possible next steps to take their learning forward. These personalised assessments will continue to be an important part of our statutory assessment arrangements as Curriculum for Wales is rolled out.

Removing the end of Foundation Phase and end of Key Stage 2 assessments will mean that outcomes and levels will not be used as criteria against which to assess learners at a set point in time. Schools continue to deliver the National Curriculum in academic year 2021-22, which includes the Foundation Phase Framework and the National Curriculum Programmes of Study (including the related attainment targets). Practitioners therefore continue to draw on the outcomes and levels included in these documents to inform teaching and learning and help support Foundation Phase and Key Stage 2 learners to make progress. The requirements of the National Curriculum will be removed in primary schools in September 2022 as Curriculum for Wales is rolled out.

## **End of Key Stage 3 teacher assessments**

The proposals set out in this document do not impact the arrangements for end of Key Stage 3 teacher assessments. Curriculum for Wales roll out won't reach year 9 until 2024-25 and in

the meantime, year 9 learners will continue to undertake the end of Key Stage 3 assessment arrangements that support the current National Curriculum. These cohorts of learners will not be transitioning to the new arrangements. However, in relation to day to day teaching and learning and supporting learners to make progress, practitioners can draw on the approach to assessment outlined in *Supporting Learner Progression: Assessment Guidance* should they wish.

## **Consequential amendments as a result of removing end of Foundation Phase and end of Key Stage 2 assessments**

### *Implications for reporting to parents/carers, sharing of information and data collection*

As we are proposing to remove the end of Foundation Phase and Key Stage 2 assessments, the requirements to report on them would also need to be revoked. The Head Teacher's Report to Parents and Adult Pupils (Wales) Regulations 2011 require head teachers to make a report available to all parents or adult pupils about the educational achievement of pupils each school year. The requirement for the content of reports to include teacher assessment outcomes in respect of pupils at the end of Foundation Phase and Key Stage 2 would need to be revoked for the 2021-22 school year onwards.

As a school year is rolled out on Curriculum for Wales, assessment data based on current arrangements will cease to exist. Once all year groups are fully rolled out, the Head Teacher's Report to Parents and Adult Pupils (Wales) Regulations 2011 will be revoked. A new set of arrangements for head teacher reporting will be put in place for year groups which have been rolled out and these have been the subject of a separate [consultation](#).

The School Performance Information (Wales) Regulations 2011 require governing bodies to report on teacher assessment, national test and examination outcomes to local authorities. They also require local authorities to provide the same information to Welsh Ministers. The requirement for governing bodies to report teacher assessment outcomes for pupils at the end of Foundation Phase and Key Stage 2 to local authorities would need to be revoked. In addition, the requirement for local authorities to report teacher assessment outcomes at the end of Foundation Phase and Key Stage 2 to the Welsh Government would also need to be revoked. As a school year is rolled out on Curriculum for Wales, the assessment data that relates to that school year will not be reported. Any new reporting requirements included in these regulations will be the subject of a separate consultation.

## **Removing Moderation Arrangements for end of Key Stage 2 and end of Key Stage 3 Teacher Assessments**

The National Curriculum (Moderation of Assessment Arrangements for the Second and Third Key Stages) (Wales) Order 2015 sets out the requirements for the moderation of teacher assessments during the final year of Key Stages 2 and 3. The Order covers the:

- Duty to join a school moderation cluster group
- Duty to implement determinations and decisions of the school moderation cluster group
- Attendance at school moderation cluster group meetings

- Procedure of school moderation cluster group meetings

### *Moderation of end of Key Stage 2 assessments*

As a consequence of removing the end of Key Stage 2 assessments from 2021-22, the requirement to moderate these teacher assessments would also need to be disapplied.

### *Moderation of end of Key Stage 3 assessments*

We are aware that secondary schools and their feeder primary schools come together to form school moderation cluster groups to moderate end of Key Stage 2 and end of Key Stage 3 teacher assessments. Therefore, if the requirement for schools to come together to moderate end of Key Stage 2 assessments is disapplied, secondary schools would have to make new arrangements with other secondary schools to moderate end of Key Stage 3 assessments during the interim period until Curriculum for Wales rolls out to year 9. As the levels of attainment included in the National Curriculum Programmes of Study are well-established and have been used by practitioners for many years, we do not wish to add to secondary schools' workload by requiring this.

We are also mindful that as Curriculum for Wales is introduced, schools will be required to put arrangements in place to enable their practitioners to participate in professional dialogue within the school and with other schools and settings to develop a shared understanding of progression in relation to the new curriculum. This process has been the subject of a separate [consultation](#). During the interim period as Curriculum for Wales rolls out in schools with cohorts of year 9 learners, we do not feel it appropriate to require them to support both the moderation process and the process of developing a shared understanding of progression at the same time. We wish to create space for practitioners to prepare for the new arrangements.

Therefore, we are proposing to revoke The National Curriculum (Moderation of Assessment Arrangements for the Second and Third Key Stages) (Wales) Order 2015 in its entirety from the 2021/22 academic year. The [end of Key Stage 3 assessments will remain in place until Curriculum for Wales roll out reaches year 9 in 2024-25. Therefore, we also propose to outline in guidance our expectation](#) that schools continue to ensure consistency for their learners in the manner in which they are assessed at the end of the Key Stage 3, within their school. This should not lead to a separate bureaucratic process.

# **Proposed amendments to the School Information (Wales) Regulations 2011 relating to the local authority prospectus.**

## **Background**

The School Information (Wales) Regulations 2011 place a duty on local authorities to publish an annual composite prospectus containing specified information for every maintained school within the local authority area. Schedule 2 to the 2011 Regulations sets out the general information that must be contained in the prospectus. The purpose of the duty is to ensure that parents have access to a range of relevant information to enable them to make an informed decision on the school they would like their child to attend.

The prospectus **must** be published no later than 1 October in the publication school year and not later than six weeks before the date by which parents may express a preference for a school in respect of the admission school year. Regulation 5(2) requires that a composite prospectus must be published:

- (a) by copies being made available for distribution without charge to parents on request at the offices of the LA who are publishing it, and at every school maintained by that authority; and
- (b) by copies being made available for reference by parents and other persons at the public libraries in that LA's area; and
- (c) by copies being distributed without charge to parents and pupils at schools maintained by the LA, other than special schools or PRUs, who are in the final year at such schools and might transfer to other such schools so maintained; and
- (d) by displaying a copy on the local authority's website.

## **Why are we proposing change?**

Increasingly more and more people are accessing information online through the internet. This includes a range of information on schools, for example Estyn inspection reports and various school data on the My Local School Website.

Parents and young people who have access to the internet are able to access a copy of the local authority prospectus online. Those who do not have access to the internet are able to obtain a copy on request from the local authority offices or from any school in the local authority area or for reference at public libraries.

## **What changes are we proposing and anticipated impact?**

We therefore propose to amend the School Information (Wales) Regulations 2011 to remove regulation 5(2)(c) - the requirement on local authorities to distribute paper copies of their prospectus to all parents and pupils in their transfer year, whether they want one or not. The change will remove an unnecessary administrative and financial burden on local authorities, reducing time and costs associated with printing, distribution and storage which would better be spent on raising school standards. The change will also ensure that parents and pupils in their transfer year who do not wish to receive a copy of the prospectus don't receive one and help to ensure that local authorities' processes are more sustainable and environmentally friendly.