

20. New schools and temporary governing bodies

Where a decision has been taken to establish a new maintained school, there will be a requirement to establish:

- a shadow or temporary governing body in advance of the incorporation of the school
- a permanent governing body with effect from the date of establishment of the school.

Background

1. New schools may be established for various reasons, such as a result of the amalgamation of two or more existing schools or where a new school is needed to meet growing demand for places. In all cases the maintaining LA is responsible for making the arrangements for setting up a temporary governing body.

2. [The New Maintained Schools \(Wales\) Regulations 2005](#) ("the 2005 Regulations") set out the procedures for the government of new maintained schools in Wales.

3. The 2005 Regulations prescribe the timescale for the establishment of temporary governing bodies, the number and types of governors and how they are to be nominated and appointed.

Arrangements made in anticipation of approval of proposals

4. Regulation 5 of the 2005 Regulations provides that, where any proposals to establish a new maintained school are published, the LA may make arrangements under Section 34 of the Education Act 2002 to establish a temporary governing body in anticipation of approval.

5. If the school to be established is to be a voluntary controlled school, the LA must consult the promoters as to:

- whether the power given to the LA to make arrangements in anticipation of approval should be exercised
- if the LA proposes to exercise it, as to the date on which the arrangements should be made.

6. If the school to be established is to be a voluntary aided school, the LA and the promoters must consider:

- whether the power given to the LA to make arrangements in anticipation of approval should be exercised
- where they agree that it should, on what date the arrangements should be made.

7. Where proposals to establish a voluntary school are published by promoters, the maintaining LA must not make arrangements relating to temporary governors for the school without the agreement of the promoters.

8. In the event of any disagreement between the LA and the promoters regarding the arrangements in paragraphs 6 or 7, either party may refer the issue to the Welsh Ministers, who must give such direction as they think fit.

Experience required of temporary governors

9. Any person responsible for the appointment of a temporary governor must take into consideration the desirability of that person being suitably qualified.

10. A person is considered as suitably qualified if they have served as a governor or temporary governor of any maintained school and, where existing schools are to close and pupils are to transfer to a new school, they have served as a governor or temporary governor of the schools which are to close.

Categories of temporary governor

11. The membership of a temporary governing body reflects that of a permanent governing body, as outlined in chapter 3 of this guide Governing body constitution and regulations 13 to 20 of [The Government of Maintained Schools \(Wales\) Regulations 2005](#). Where discretion is allowed as to the number of permanent governors of a particular category, for a temporary governing body it will be the lower number.

Temporary parent governors

12. A temporary parent governor is a person appointed to be a member of the temporary governing body of a new school as outlined below.

13. Appointments for temporary parent governors are agreed by the relevant persons, as follows:

- the LA for a school that is to be a community, voluntary controlled, community special or maintained nursery school where the proposals for its establishment were published by the LA
- the promoters, for a school that is to be a voluntary aided school where the proposals for its establishment were published by the promoters.

14. Where one or more maintained schools are to be discontinued and a substantial number of the existing pupils are expected to transfer to a new school, the LA or the promoters (as applicable) may allow the governing bodies of the discontinued schools to appoint some or all of the temporary parent governors of the new school.

15. In a voluntary controlled school the LA cannot appoint anyone as a temporary parent governor unless it has first consulted the promoters.

16. Any person appointed as a temporary parent governor must be the parent of a child who is or is likely to become a registered pupil at the school. Where it is not reasonably practicable to appoint such a person, the governing body may appoint a parent of a child of compulsory school age, or in the case of a new maintained nursery school, the parent of a child of or under compulsory school age.

17. A person appointed as a temporary parent governor of a new community special school (not established in a hospital) must be a parent of a child who is or is likely to become a registered pupil at the school. Where it is not reasonably practicable to do so, the governing body may appoint:

- the parent of a child of compulsory school age with special educational needs
- the parent of a person of any age with special educational needs
- a parent of a child of compulsory school age.

These alternatives must be considered in descending order of preference.

18. No person may be appointed as a temporary parent governor if they are:

- an elected member of the LA
- employed by the LA in connection with its education functions as a LA
- paid, or likely to be paid, to work at the school for more than 500 hours in any twelve month period commencing on 1 August and finishing on 31 July.

19. A person may continue to hold office as a temporary parent governor when he or she ceases to fulfil any of the requirements set out in paragraph 18, unless they are otherwise disqualified under the 2005 Regulations.

Temporary staff governors

20. A temporary staff governor is a person appointed to be a member of a temporary governing body of a new school in accordance with regulation 10 of the New Maintained Schools (Wales) Regulations 2005

21. Appointments for temporary staff governors are agreed by the relevant persons, as follows:

- the LA for a school that is to be a community, voluntary controlled, community special, or maintained nursery school where the proposals for its establishment were published by the LA
- the promoters, for a school that is to be a voluntary aided school where the proposals for its establishment were published by the promoters.

22. The LA or the promoters must determine whether a temporary staff governor should be included on the temporary governing body, and must appoint a person to the position.

23. The person appointed must, at the time of their appointment, be employed to work at a maintained school other than as a teacher, and will be disqualified from continuing to hold office if they cease to be employed.

Temporary teacher governors

24. A temporary teacher governor is a person appointed to be a member of a temporary governing body of a new school in accordance with regulation 11 of [the New Maintained Schools \(Wales\) Regulations 2005](#). The person appointed must, at the time of their appointment, be employed as a teacher at a maintained school, and will be disqualified from continuing to hold office if they cease to be employed.

25. Appointments for teacher governors are agreed by the relevant persons, as follows:

- a. the temporary governing body, for a school that is to be a community, voluntary controlled, community special or maintained school where the proposals for its establishment were published by the LA
- b. the LA, following nominations by the promoters, for a school that is to be a voluntary aided school where the proposals for its establishment were published by the promoters.

26. Where one or more maintained schools are to close and the pupils from the schools are expected to transfer to a new school, the LA in the case of paragraph 26(a), or the promoters in the case of paragraph 26(b), may provide for the governing bodies of the closing schools to appoint some or all of the teacher governors for the new school.

27. In a voluntary controlled school the LA cannot appoint anyone as a temporary teacher governor unless it has first consulted the promoters.

Temporary LA governors

28. A temporary LA governor is a person appointed by the LA.
29. A person cannot be appointed as a temporary LA governor if they are eligible to be a temporary teacher or staff governor of a school.

Temporary community governors

30. A temporary community governor is a person appointed to the temporary governing body by the other temporary governors.
31. Those appointed will be people who live or work in the community to be served by the school and who, in the opinion of the governing body, are committed to the good governance and success of the new school.
32. A person is disqualified from appointment as a temporary community governor if:
- they are or are likely to become a registered pupil of the new school
 - eligible to be a temporary staff or teacher governor of the new school
 - an elected member of the LA.

Additional temporary community governors

33. For a community, voluntary or maintained nursery school to be established in an area for which there are one or more community councils, the temporary governing body must include an additional temporary community governor place.
34. If the new school is to serve an area for which there are two or more community councils, the governing body may invite nominations to the place from one or more of the councils.
35. The restrictions outlined in paragraph 33 do not apply for additional temporary community governors.

Temporary representative governors

36. In the case of a community special school the LA must appoint a temporary representative governor to take the place of one of the community governors.
37. For such a school established in a hospital, the LA must designate either one or more of the local health boards acting jointly or the National Health Service Trust as the appropriate body and invite that body to nominate a person to that place.

38. For such a school not established in a hospital, the LA must designate one or more voluntary organisations associated with the school to nominate a person to that place.

Temporary sponsor governors

39. Where a new school has one or more sponsors, the temporary governing body may appoint one or two governors nominated by those sponsors as temporary sponsor governors.

40. A sponsor may include someone who has given substantial financial assistance (including benefits in kind) other than under a statutory obligation or any other person, not otherwise represented on the governing body, who provides or has provided substantial services to the school.

The head teacher as a temporary governor

41. Where two or more schools are to be discontinued and the registered pupils at those schools are to transfer to a new school, the head teachers of the discontinued schools are entitled to attend any meetings of the temporary governing body until such time as the head teacher for the new school is appointed.

Joint appointments

42. Where there is disagreement between persons acting jointly in the appointment of temporary governors, the appointment will be made by, or in accordance with, a direction of the Welsh Ministers.

Resignation and removal of temporary governors

43. Any member of a temporary governing body may resign at any time by giving notice to the clerk.

44. An ex-officio governor may resign from a temporary governorship. This would not affect any successor in the office to which the ex-officio governorship relates, being appointed as a temporary governor.

45. Any temporary governor of a new school may be removed by the persons who appointed them.

46. The temporary governing body can remove their own appointees – that is temporary community governors, temporary sponsor governors and temporary teacher governors (where appointed by the temporary governing body of a new school not being established following the closure of other schools). To do so, they must pass a resolution at a meeting, in line with the procedures outlined in Regulation 24 of the 2005 Regulations.

47. In cases other than the above, the appointing body may remove a temporary governor appointed by them, to do so they must give written notice to the clerk, the governing body and the governor to be removed.

Qualifications and disqualifications

48. The regulations relating to the qualification and disqualification for temporary governors are the same as those for permanent governors, as detailed in chapter 3 of this guide and [Schedule 5 of The Government of Maintained Schools \(Wales\) Regulations 2005](#), as amended.

49. The regulation which restricts governors from holding not more than two positions at any one time does not apply in the case of temporary governorships.

Expenses

50. The LA is under the same duty to pay the expenses incurred by the temporary governing body as they would be if the proposals had been implemented by the governing body of the school.

Provision of information

51. The LA must ensure that the members of the temporary governing body are provided, free of charge, with such information as the authority considers necessary to enable the governing body to discharge its functions effectively.

Conduct of the school before the opening date

52. [Part 6 of the 2005 Regulations](#) places matters relating to the conduct of the school which require to be determined before the date of opening, under the direction of the temporary governing body.

Conduct of the school after the opening date

53. During the period from the school opening date to the time when the permanent governing body for the school is constituted under the instrument of government, the general powers and duties of a permanent governing body in Schedule 1 of the [Education Act 2002](#), apply to the temporary governing body.

Officers of the temporary governing body – chair, vice chair and clerk

54. The first clerk to the temporary governing body will be appointed by:
- the LA for a school that is to be a community, voluntary controlled, or community special school where the proposals for its establishment were published by the LA
 - the promoters, for a school that is to be a voluntary aided school where the proposals for its establishment were published by the promoters.

55. The first meeting of a temporary governing body is to be called by the clerk. Where the clerk fails to call a meeting within a period considered by the LA to be reasonable, the LA must call it.

56. The temporary governing body must elect a chair and vice chair at that first meeting.

Meetings and proceedings of the governing body

57. The regulations relating to meetings and proceedings of temporary governing bodies are as those for permanent governing bodies outlined in chapter 4 of this guide and Part 8 of the [Government of Maintained Schools \(Wales\) Regulations 2005](#).

Committees of temporary governing bodies

58. The regulations relating to committees of temporary governing bodies are as those for permanent governing bodies outlined in chapter 4 of this guide and Part 9 of the Government of Maintained Schools (Wales) Regulations 2005.

Restrictions on persons taking part

59. The regulations relating to the restrictions on persons taking part in meetings of a temporary governing body, or its committees, are as those for permanent governing bodies outlined in chapter 4 of this guide and Part 10 of the Government of Maintained Schools (Wales) Regulations 2005.

Transition from a temporary governing body to a governing body

60. The LA must ensure that an instrument of government is made before the school opening date.

61. The LA determines the date when the governing body in waiting will be constituted under the instrument of government.

62. This is the incorporation date, which must be as soon as reasonably practicable after the opening date but no later than the last day of the first term the new school is open.

63. The LA must secure that appointments or elections of governors required by the instrument of government take place in accordance with that instrument before the incorporation date and take effect from that date.

64. Election and appointment of governors to the governing body of the new school will be operated in line with the procedures outlined in chapter 3 of this guide and Part 2 of the [Government of Maintained Schools \(Wales\) Regulations 2005](#).

Property rights and liabilities

65. On the incorporation date, all land and property vested in the temporary governing body, together with all its rights and liabilities, including liabilities under a contract of employment, are transferred to the permanent governing body.

Information for successors

66. The temporary governing body is required to prepare a report to be presented to the permanent governing body, outlining the action taken in the discharge of its functions.

67. All minutes and papers relating to the temporary governing body, including the above report, must be made available to the new governing body.

The Law

[The Education Act 2002](#)

[The New Maintained Schools \(Wales\) Regulations 2005](#)

[The Government of Maintained Schools \(Wales\) Regulations 2005](#)