



The Maintained Schools (Partnership Agreements) (Wales) Regulations 2007

Guidance for Local Education Authorities and Schools



Guidance

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The Maintained Schools (Partnership Agreements) (Wales) Regulations 2007

Audience	Local education authorities; governing bodies and headteachers of maintained schools in Wales; diocesan authorities; teaching and other unions, and other national and local bodies concerned with education in Wales.
Overview	This document provides guidance for local education authorities and governing bodies on the requirements of the Maintained Schools (Partnership Agreements) (Wales) Regulations 2007 and other information in relation to Agreements that is non-statutory.
Action required	Local education authorities and governing bodies should have regard to this guidance when entering into Partnership Agreements with each other.
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Additional copies	Further copies may be obtained at the above address. This document can also be accessed from the Welsh Assembly Government website at: http://new.wales.gov.uk
Related documents	School Effectiveness Framework – Building Effective Learning Communities Together The Maintained Schools (Partnership Agreements) (Wales) Regulations 2007 The Financing of Maintained School (Amendment) (Wales) Regulations 2003 Education Act 2002 School Government (Terms of Reference) (Wales) Regulations 2000 The Code of Practice on LEA/School Relations 1999 School Standards and Framework Act 1998 Education Act 1997 Education Act 1996



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Summary

This guidance is aimed at local education authorities (LEAs) and school governing bodies. It sets out the content and requirements of the Maintained Schools (Partnership Agreements) (Wales) Regulations 2007 which came into force on 12 December 2007 and other information in relation to Partnership Agreements and Statements which is non-statutory.

The guidance focuses on:

- The legal and policy background to the Regulations;
- The functions that must be covered by the Agreements;
- Other functions that may be covered in the Agreements;
- The duration of the Agreements;
- The timing of when the Agreements should be reviewed; and
- The circumstances that would trigger review of the Agreements.

Section 1: Legal and Policy Background

Section 197 of the Education Act 2002

1. Section 197 of the Education Act 2002 was commenced on 1 September 2003. It is a Wales only provision which enables the Welsh Ministers to make regulations requiring all LEAs in Wales to enter into individual Partnership Agreements with governing bodies of the schools they maintain. Annex A of the guidance provides the text of section 197.

2. A Partnership Agreement is defined in the Act as an agreement about how an LEA and the governing body of a school will act to discharge their functions in relation to the school. If an LEA is unable to reach agreement with a governing body, it can draw up a Statement setting out how the LEA and the governing body will discharge their functions.

Policy Background

3. Many schools and LEAs in Wales already work in close partnership. The statutory Code of Practice on LEA/School Relations put in place by the Welsh Office in 1999 has helped to foster partnership working.

4. However, the partnership between LEAs and schools does not always work smoothly. There is sometimes uncertainty about what LEAs should provide for their schools and what schools are expected to deliver. Lack of understanding or clarity of the respective responsibilities of LEAs and schools can lead to difficulty and could detract from and undermine what schools achieve.

5. The purpose of Partnership Agreements is to enhance and sustain partnership working between LEAs and schools. The Welsh Assembly Government wants to promote this way of working, which is a strong theme of the 'Making the Connections' agenda and the Beecham Report. The Welsh Assembly Government believes that working in partnership will help raise standards in Welsh Public Services and outcomes for learners. Accordingly, the Welsh Assembly Government has developed the School Effectiveness Framework to support improving children and young people's

learning and wellbeing. The School Effectiveness Framework aims to develop tri-level working between schools, local authorities and the Welsh Assembly Government, to work together for the benefit of learners and Wales. Partnership Agreements are a tool in the quest for improved School Effectiveness. The Agreements provide a formal, legal basis that will make clear the roles of LEAs and schools, by setting out how the LEA and governing body of a school will discharge their respective functions on specified matters. By setting out in one document the matters on which an LEA and a school must agree, and by the process of agreement itself, the Partnership Agreement will provide a firm basis for working together and promoting higher standards in schools.

Consultation

6. The Welsh Assembly Government consulted on proposed regulations and guidance under section 197 of the Education Act 2002 to require LEAs in Wales to enter into Partnership Agreements with their schools. The consultation sought views from Chief Executives of County Borough Councils, Directors of Education, Diocesan Directors of Education, governing bodies and headteachers of maintained schools in Wales and national and local education bodies in Wales. Twenty three responses were received and have been taken into account in making the regulations and publishing this guidance.

Section 2: Application and Content of Partnership Agreements

Scope of the Maintained Schools (Partnership Agreements) (Wales) Regulations 2007

7. The Maintained Schools (Partnership Agreements) (Wales) Regulations 2007:

- require LEAs and governing bodies to enter into an Agreement on or before 31 March 2008 (although regulation 7 provides a safety net if LEAs and governing bodies do not enter into Partnership Agreements by this date, see paragraph 11 for further information);
- specify the arrangements for the review of Agreements every 3 years and the outcome of the review;
- set out in Schedule 1 the matters to be covered in a Partnership Agreement;
- set out in Schedule 2 the circumstances which will trigger review sooner than 3 years;
- make provisions for the LEA to draw up a Statement in relation to a school when agreement on a Partnership Agreement cannot be reached with a governing body.

8. The Maintained Schools (Partnership Agreements) (Wales) Regulations 2007 can be found on the Office of Public Sector Information website at:

http://www.opsi.gov.uk/legislation/wales/wsi2007/wsi_20073066_en_1

9. The Maintained Schools (Partnership Agreements) (Wales) Regulations 2007 takes the place of much of the Code of Practice on LEA-School Relations and the Code will need to be revised in due course.

Requirement to Make a Partnership Agreement within a Set Timescale

10. LEAs must enter into Partnership Agreements with the governing body of each school they maintain. This includes maintained nursery schools but excludes pupil referral units.

11. Regulation 6 requires LEAs and governing bodies to enter into the first Partnership Agreements by 31 March 2008. However regulation 7 provides a safety net if LEAs and governing bodies do not enter into the first Partnership Agreement by this date. Regulation 7 permits the LEA to have until 1 September 2009 to enter into Partnership Agreements with governing bodies of all schools within their authority. LEAs should take the lead in drawing up Agreements and encourage governing bodies to enter them. Although Regulation 7 grants more time, we expect LEAs to make reasonable efforts to put them in place without undue delay.

Statutory Functions to be included in a Partnership Agreement

12. The following statutory functions, described below in broad general terms (with cross reference in brackets to the relevant part of schedule 1), must be covered in a Partnership Agreement; Schedule 1 of the regulations provides the full description of the obligatory contents of an Agreement. In drawing up Agreements, LEAs should have regard to the Financing of Maintained School (Amendment) (Wales) Regulations 2003, including its financing scheme for schools under those regulations, and the School Government (Terms of Reference) (Wales) Regulations 2000.

13. The Agreement must include for all schools:

- how the LEA will promote high standards and support schools in particular those giving cause for concern, in special measures or requiring significant improvement (Schedule 1, paragraphs 1 a, e and f) and the factors that the LEA will take into account in identifying schools giving cause for concern. The agreement should include what support authorities will provide for governing bodies where the authority has exercised its powers of intervention or suspended the right to a delegated budget (paragraph 1 a i), and in instances where an inspection of a school causes concern (paragraph 1 a ii) or the authority appoints additional governors (paragraph 1 e);
- responsibility of the LEA to provide governors with support and training (paragraph 1 b);
- the reports which the governing body provides to the LEA on discharge of its functions (paragraph 1 c);
- responsibility of the school and LEA for health and safety matters and their duties to employees and other persons in respect of these matters (paragraph 1 d);
- responsibility of the school and LEA for the control of school premises and their maintenance and repairs and how the governing body may exercise its powers to provide community facilities (paragraph 1 h); and
- LEA duties regarding the defrayment of expenses of maintaining schools (paragraph 6 applies for voluntary aided schools, paragraph 7 applies for other categories of school).

14. For schools providing primary education the Agreement must include:

- the exercise by LEA and governing body of functions that will promote high standards and secure effective transition of pupils from key stage 2 to 3 (paragraph 2 a); and
- LEA target setting in relation to education plans (paragraph 2 b) and governing body target setting in relation to pupil performance and absence (paragraph 2 c).

15. For schools providing secondary education the Agreement must include:

- the exercise by LEA and governing body of functions that will promote high standards and secure effective transition of pupils from key stage 2 to 3 and from key stage 3 to 4 (paragraph 3 a); and
- LEA target setting in relation to education plans (paragraphs 3 c, 4 and 5) and governing body target setting in relation to absence (paragraph 3 b).

16. From 1 August 2008 references to Single Education Plans should be read to mean Children and Young People's Plans which have to be adopted by local authorities and partners by 31 July 2008.

Non-statutory Functions that may be included in a Partnership Agreement

17. Section 197 only permits the regulations to include statutory requirements on LEAs or schools. Thus some of the matters suggested in consultation for inclusion are not included because they are not statutory requirements. There is no reason why LEAs and governing bodies could not decide voluntarily to include them in Agreements. It is for them to decide what these matters are and how they are incorporated in the Agreement. Below is a list which is not exhaustive of matters that LEAs and governing bodies may wish to include in Partnership Agreements:

- targets for exclusions;
- data/information about how the LEA develops and maintains effective information systems with schools and how schools maintain, update and use data;
- the circumstances where the school will seek LEA advice on complaints and disciplinary matters;
- how schools and LEAs will manage transition for pupils from Key Stage 4 to post 16 provision;
- how schools and LEAs will manage transition from nursery school to primary school;

- policy for Special Education Needs (SEN) provision;
- communication/consultation arrangements with a view to minimising bureaucratic burdens on schools (and to assess the impact of proposals on schools).

Level of Detail to be Included in Partnership Agreements

18. The Partnership Agreement should include a statement of principles that both the LEA and the school must adhere to. It must include the topics that are in Schedule 1 of the regulations. The Agreement should have sufficient detail to specify the roles of the LEA and the school in dealing with each topic as a minimum. This may include timescales for each party and methods of working. However, LEAs and schools should bear in mind that operational flexibility and discretion will be needed, especially for topics/matters that are complex, in order to ensure that Partnership Agreements are tools that work. Agreements which are too detailed will be inflexible and will become barriers to working together effectively.

If the LEA and a Governing Body Cannot Reach Agreement

19. Under section 197(3) of the Education Act 2002, the Welsh Assembly Government expects LEAs and governing bodies to engage positively and put in place Partnership Agreements. Nevertheless, should agreement not be reached, the LEA may draw up a Statement setting out how the LEA and the governing body will discharge their respective functions in relation to the school regarding the matters prescribed in the regulations.

20. The Welsh Assembly Government expects that where a Statement has been put in place, both the LEA and the school should seek to change this into an Agreement as soon as possible.

Scope of a Statement

21. The content of a Statement should be the same as the content of a Partnership Agreement.

Section 3: Duration and Review of Agreements and Statements

Duration and Review of Agreements and Statements

22. The duration of Agreements and Statements is 3 years.

23. Regulation 8 requires that a Partnership Agreement or Statement must be reviewed within 3 years of being set up, and at intervals of no more than 3 years after that. The Welsh Assembly Government recommends that review of Agreements and Statements should be commenced 6 months before they are due to expire.

Specific Circumstances that may Trigger a Review of Agreements and Statements

24. A review of Agreements and Statements can be triggered automatically by circumstances prescribed in Schedule 2 of the regulations. These earlier reviews would be triggered if:

- a school goes into special measures or significant improvement are identified by inspection;
- the LEA uses its power to appoint additional governors;
- The Welsh Ministers direct closure of a school;
- The Welsh Ministers confirm proposals to restructure the provision of sixth form education;
- Statutory proposals are made and come into effect leading to:
 - amalgamations of infant and primary schools;
 - changes to SEN provision;
 - introduction of permitted pupil selection arrangements (pupil banding);
 - alteration from single sex to co-education or vice versa;
 - change of language medium of the school;
 - introduction or ending of boarding provision; and
 - where an Authority makes, or Minister approves school re-organisation proposals which could mean the establishment, alteration or discontinuance of schools.
- If the LEA uses its power to suspend the governing body's right to a delegated budget;

25. In addition to the circumstances in Schedule 2 of the regulations the LEA and/or school may agree that other matters

warrant a review of Agreements and Statements such as consistent and upheld complaints by stakeholders against a school.

26. Once a circumstance in Schedule 2 occurs that merits a review, regulation 10 grants the school and LEA 6 months to review, and if necessary revise their Partnership Agreement or Statement.

27. A review could lead to:

- no change;
- amendment of the Agreement or Statement;
- replacement with a new Agreement or Statement; or
- the LEA drawing up a Statement if the school did not agree to changes to an Agreement.

28. When reviewing an Agreement or Statement because a circumstance in Schedule 2 has occurred, if another circumstance comes to light, regulation 11 states that there is no need to carry out a separate review for the second circumstance. Instead it can be reviewed together with the first circumstance. Regulation 11 specifies that the LEA and school has one year from the date of the second circumstance occurring to carry out the review. If during this year, a third or more circumstances occur under Schedule 2, LEAs and schools would have the 1 year specified in regulation 11 to carry out the review.

29. Once the review has been concluded and changes have been or have not been made to the Agreement or Statement, if another circumstance in Schedule 2 occurs (after the statutory period for reviewing such circumstances ends, i.e. - after 6 months for one circumstance, or 1 year if 2 or more circumstances have occurred), the timing for review of the new circumstance will revert to 6 months as specified in regulation 10.

Variance in Review Timescale

30. Under regulations 12 and 13, when an Agreement or Statement is reviewed under circumstances in Schedule 2, but no change is made, up to 4 years may elapse after the circumstance which triggered the review took place before the LEA and school have to review the Agreement or Statement again.

Section 4: Administration Arrangements

31. The Welsh Assembly Government recognises that the requirement to enter into Partnership Agreements places a new financial burden on LEAs. The Welsh Assembly Government has made £330,000 available in 2007-08 which provides individual LEAs with a grant of £15,000 to enter into Partnership Agreements with all the schools within their authority. The grant is paid under section 14 of the Education Act 2002. LEAs across Wales were issued with a grant award letter and terms and conditions of grant on 7 February 2008 detailing the conditions of grant and how to claim the grant.

32. Funding of £5,000 per annum per LEA will be made available from 2008-09 onwards, distributed through the Revenue Support Grant system to support the continuation of Partnership Agreements.

Annex A

Section 197 of the Education Act 2002 - Partnership Agreements and Statements

- (1) The National Assembly for Wales may by regulations require any local education authority in Wales to enter into a partnership agreement with the governing body of each school maintained by that authority, or each such school of a prescribed class.
- (2) For the purposes of this section, a partnership agreement is an agreement about how a local education authority and the governing body of a school are to discharge their respective functions in relation to the school as regards -
- (a) such matters as may be prescribed, and
 - (b) such other matters as the authority and the governing body may agree.
- (3) Where a local education authority fail to reach agreement with the governing body of a school for the purposes of subsection (1), the authority may draw up a statement setting out how they and the governing body are to discharge their respective functions in relation to the school as regards the matters prescribed under subsection (2) (a).
- (4) Regulations under this section may -
- (a) require the parties to a partnership agreement to review the agreement, and
 - (b) require a local education authority that has drawn up a statement under this section and the governing body to which that statement relates to review the statement, at such intervals, or in such circumstances, as may be prescribed.
- (5) Following a review of a partnership agreement, the parties may agree -
- (a) not to change the agreement,
 - (b) to amend the agreement in such a manner that it remains a partnership agreement, or
 - (c) to replace the agreement with a new partnership agreement, but, where they fail to do so, subsection (3) applies as it applies where a local education authority and governing body fail to reach agreement for the purposes of subsection (1).

(6) Following a review of a statement under subsection (3), the local education authority and governing body in question may agree to replace the statement with a partnership agreement, but, where they fail to do so, the authority may amend the statement or draw up a new one (provided the amended or replacement statement is one that could have been drawn up under subsection (3)).

(7) Regulations under this section may make provision for the time by which a local education authority or governing body must comply with any requirement imposed on them by or under the preceding provisions of this section.

(8) In the discharge of their functions in relation to a school maintained by a local education authority in Wales -

(a) the authority, and

(b) the governing body and head teacher of the school, must have regard to any partnership agreement or statement under this section which for the time being has effect in relation to the school.