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Y Gweinidog dros Blant, Addysg, Dysgu Gydol Oes a Sgiliau  
Minister for Children, Education, Lifelong Learning and Skills



Llywodraeth Cynulliad Cymru  
Welsh Assembly Government

TO: - Chairs of Governing Bodies -  
maintained schools in Wales.

1 December 2009

Dear Chair

**The Staffing of Maintained Schools (Wales) (Amendment) Regulations 2009 and the Apprenticeships, Skills, Children and Learning Act.**

Following my announcement in April this year about Welsh Assembly Government proposals to amend the current staffing regulations in Wales I would like to inform you that amended regulations came into force on 2 November 2009. These can be found at:

[http://www.opsi.gov.uk/legislation/wales/wsi2009/wsi\\_20092708\\_en\\_1](http://www.opsi.gov.uk/legislation/wales/wsi2009/wsi_20092708_en_1)

The regulations have been amended in order to bring them up to date and reflect what is new relating to teachers' conditions of employment since the regulations were first made.

The purpose of the regulations is to:

- strengthen the aspects of the National Agreement on *Raising Standards and Tackling Workload* that relate to head teachers' work/life balance and
- impose a new duty on governing bodies to manage their staff (i.e. Head Teachers) in accordance with their conditions of employment.

In addition to these regulations, the Apprenticeships, Skills, Children and Learning Act 2009 (ASCL Act) has given the Welsh Assembly Government the power from January 2010 to ensure that schools and their governing bodies comply with the provisions of the School Teachers' Pay and Conditions Document (STPCD) and also with arrangements for performance management and induction of teachers. As you will be aware, the duties of

schools, local authorities and governing bodies with regard to compliance are made explicit within the STPCD.

The power to set out teachers' pay and conditions is not devolved to the Welsh Ministers. However, the ASCL Act creates powers for the Welsh Ministers to serve warning notices on local authorities in Wales where there is evidence of non-compliance.

I believe that non-compliance, should there be any, is more likely to result from misunderstanding rather than a deliberate decision and some schools may need additional support in order to be fully compliant. Issues are best resolved at a local level and I certainly would only want to use the new powers where it becomes reasonable and proportionate to do so, after all other efforts have failed. It will be important for robust and consistent arrangements to be in place at local, regional and national level throughout Wales.

Governing bodies have a particularly important role in securing compliance and ensuring that all staff at the school benefit fully from their legal entitlements. Governing bodies need to be clear what their duties and responsibilities are in these matters including their role in identifying and resolving issues of non-compliance in their schools. I would, therefore, like to take this opportunity to remind you of the new statutory duties of governing bodies, as outlined in The Staffing of Maintained Schools (Wales) (Amendment) Regulations 2009, in relation to the head teacher's duties and entitlements: -

- (1) The governing body must ensure that the head teacher at the school
  - (a) complies with the duties imposed upon the head teacher;  
and
  - (b) benefits from any entitlement conferred upon the head teacherby any order under section 122 of the 2002 Act (teachers' pay and conditions).
- (2) In discharging its duty under paragraph (1)(a), the governing body must have regard to the desirability of the head teacher being able to achieve a satisfactory balance between the time spent discharging the professional duties of a head teacher and the time spent by the head teacher pursuing personal interests outside work.

In practice, this means that governing bodies must ensure that the head teacher complies with and benefits from the provisions of the STPCD and that regard is given to the head teacher achieving a satisfactory work/life balance.

It would be helpful if you would bring this to the attention of your governing body and review what arrangements you have in place to ensure these

statutory duties are being met. Further advice and guidance on the duties referred to above can be obtained through the governor support services provided by your local authority.

A handwritten signature in black ink that reads "Jane Hutt". The signature is written in a cursive style with a large initial 'J' and a long, sweeping underline.

CC: - Jane Morris, Director, Governors Wales  
Local Authority Governor support officers  
Local Authority Directors of Education  
Diocesan Directors of Education