



# School Standards and Organisation (Wales) Act 2013

2013 anaw 1

PART 2

STANDARDS

CHAPTER 1

INTERVENTION IN CONDUCT OF MAINTAINED SCHOOLS

**Modifications etc. (not altering text)**

- C1 Pt. 2 Ch. 1 power to modify conferred by 2011 nawm 7 s. 18(1)(a) (as substituted (20.2.2014) by [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\)](#), s. 100(4), **Sch. 5 para. 13(3)(a)**; S.I. 2014/178, art. 2(f) (with art. 3))
- C2 Pt. 2 Ch. 1 modified by 2002 c. 32, s. 34(7) (as amended) (20.2.2014) by [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\)](#), s. 100(4), **Sch. 5 para. 6(2)**; S.I. 2014/178, art. 2(f) (with art. 3)
- C3 Pt. 2 Ch. 1 excluded by 2010 c. 15, s. 87(4) (as inserted (20.2.2014) by [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\)](#), s. 100(4), **Sch. 5 para. 11(3)**; S.I. 2014/178, art. 2(f) (with art. 3))
- C4 Pt. 2 Ch. 1 modified by 1998 c. 30, s. 19(12) (as substituted (20.2.2014) by [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\)](#), s. 100(4), **Sch. 5 para. 3**; S.I. 2014/178, art. 2(f) (with art. 3))
- C5 Pt. 2 Ch. 1 applied (with modifications) by 2010 c. 15, s. 87(3)(a) (as inserted (20.2.2014) by [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\)](#), s. 100(4), **Sch. 5 para. 11(3)**; S.I. 2014/178, art. 2(f) (with art. 3))
- C6 Pt. 2 Ch. 1 modified by 1988 c. 40, s. 219(3A) (as inserted (W.) (20.2.2014) by [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\)](#), s. 100(4), **Sch. 5 para. 1(3)**; S.I. 2014/178, art. 2(f) (with art. 3))

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**C7** Pt. 2 Ch. 1 applied (with modifications) by 1998 c. 31, s. 89C(2)(a) (as substituted (20.2.2014) by [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\)](#), s. 100(4), [Sch. 5 para. 4\(5\)](#); S.I. 2014/178, art. 2(f) (with art. 3))

### *Grounds for intervention*

## **2 Grounds for intervention**

For the purposes of this Chapter, the grounds for intervention in the conduct of a maintained school are as follows—

**GROUND 1** -The standards of performance of pupils at the school are unacceptably low.

For this purpose, the standards of performance of pupils are low if they are low by reference to any one or more of the following—

- (a) the standards that the pupils might in all the circumstances reasonably be expected to attain;
- (b) where relevant, the standards previously attained by them;
- (c) the standards attained by pupils at comparable schools.

**GROUND 2** - There has been a breakdown in the way the school is managed or governed.

**GROUND 3** - The behaviour of pupils at the school or any action taken by those pupils or their parents is severely prejudicing, or is likely to severely prejudice, the education of any pupils at the school.

**GROUND 4** - The safety of pupils or staff of the school is threatened (whether by a breakdown of discipline or otherwise).

**GROUND 5** - The governing body or head teacher has failed, or is likely to fail, to comply with a duty under the Education Acts.

**GROUND 6** -The governing body or head teacher has acted, or is proposing to act, unreasonably in the exercise of any of its or his or her functions under the Education Acts.

**GROUND 7** - Her Majesty's Chief Inspector of Education and Training in Wales (“the Chief Inspector”) has given a notice under section 37(2) of the Education Act 2005 that the school requires significant improvement and that notice has not been superseded by—

- (a) the Chief Inspector giving notice under that section that special measures are required to be taken in relation to the school, or
- (b) a person making a subsequent inspection making a report stating that in his or her opinion the school no longer requires significant improvement.

**GROUND 8** - Her Majesty's Chief Inspector of Education and Training in Wales has given a notice under section 37(2) of the Education Act 2005 that special measures are required to be taken in relation to the school and that notice has not been superseded by a person making a subsequent inspection making a report stating that in his or her opinion the school no longer requires special measures.

#### **Commencement Information**

**II** S. 2 in force at 20.2.2014 by [S.I. 2014/178](#), [art. 2\(a\)](#) (with [art. 3](#))

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### *Intervention by a local authority*

#### **3 Warning notice**

- (1) If a local authority is satisfied that one or more of grounds 1 to 6 exist in relation to one of its maintained schools, the authority may give a warning notice to the governing body of the school.
- (2) The local authority must specify each of the following in the warning notice—
  - (a) the grounds for intervention;
  - (b) the reasons why the authority is satisfied that the grounds exist;
  - (c) the action the authority requires the governing body to take in order to deal with the grounds for intervention;
  - (d) the period within which the action is to be taken by the governing body (“the compliance period”);
  - (e) the action the authority is minded to take if the governing body fails to take the required action.
- (3) If the local authority gives a warning notice to the governing body of a school, it must at the same time give a copy of the warning notice to—
  - (a) the head teacher;
  - (b) if the school is a foundation or voluntary school—
    - (i) the person who appoints the foundation governors, and
    - (ii) if the school has a religious character, the appropriate religious body;
  - (c) the Welsh Ministers.

#### **Commencement Information**

**I2** S. 3 in force at 20.2.2014 by [S.I. 2014/178](#), [art. 2\(a\)](#) (with [art. 3](#))

#### **4 Power to intervene**

- (1) A local authority has the power to intervene in the conduct of one of its maintained schools under this Chapter if subsection (2), (3) or (4) applies.
- (2) This subsection applies if—
  - (a) the local authority has given a warning notice under section 3 to the governing body of the school, and
  - (b) the governing body has failed to comply, or secure compliance, with the notice to the authority's satisfaction within the compliance period.
- (3) This subsection applies if the local authority is satisfied that one or more of grounds 1 to 6 exist in relation to the school and it has reason to believe that there is a related risk to the health or safety of any person that calls for urgent intervention under this Chapter.
- (4) This subsection applies if—
  - (a) ground 7 (school requiring significant improvement) or ground 8 (school requiring special measures) exists in relation to the school, and

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- (b) a period of not less than 10 days has elapsed since the date on which the Chief Inspector gave notice to the local authority under section 37(2) of the Education Act 2005, subject to subsection (5).
- (5) The Welsh Ministers may, in relation to a particular school, determine that subsection (4) (b) has effect as if the reference to 10 days were to a shorter period specified in the determination.
- (6) Where a local authority has the power to intervene, it must keep the circumstances giving rise to the power under review.
- (7) If the authority concludes that the grounds for intervention have been dealt with to its satisfaction or that exercise of its powers under this Chapter would not be appropriate for any other reason, it must notify the governing body of its conclusion in writing.
- (8) If a local authority gives notice under subsection (7), it must at the same time send a copy of the notice to—
  - (a) in the case of a foundation or voluntary school—
    - (i) the person who appoints the foundation governors, and
    - (ii) if the school has a religious character, the appropriate religious body, and
  - (b) the Welsh Ministers.
- (9) A local authority's power to intervene continues in effect until one of the following events takes place—
  - (a) the authority gives notice under subsection (7);
  - (b) the Welsh Ministers determine that the power to intervene is no longer in effect and give notice in writing to the local authority and the governing body of their determination;
  - (c) the Welsh Ministers give a warning notice to the governing body of the school under section 10.
- (10) A local authority which has the power to intervene is not limited to taking the action it said it was minded to take in a warning notice.

#### **Commencement Information**

**I3** S. 4 in force at 20.2.2014 by [S.I. 2014/178](#), **art. 2(a)** (with **art. 3**)

## **5 Power to require governing body to secure advice or collaborate**

- (1) This section applies if a local authority has the power to intervene in the conduct of one of its maintained schools.
- (2) The local authority may, with a view to improving the performance of the school, direct the governing body of the school to do either or both of the following—
  - (a) enter into a contract or other arrangement with a specified person (who may be the governing body of another school) for the provision to the governing body of specified services of an advisory nature;
  - (b) exercise such of the powers under section 5(2) of the Education (Wales) Measure 2011 (powers to collaborate) as are specified in the direction, subject to provision made in regulations under section 6 of that Measure.

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- (3) Before giving a direction the local authority must consult—
  - (a) the governing body of the school, and
  - (b) in the case of a foundation or voluntary school—
    - (i) the person who appoints the foundation governors, and
    - (ii) if the school has a religious character, the appropriate religious body.
- (4) A direction under subsection (2)(a) may require the contract or other arrangement to contain specified terms and conditions.

#### Commencement Information

**I4** S. 5 in force at 20.2.2014 by S.I. 2014/178, art. 2(a) (with art. 3)

## 6 Power to appoint additional governors

- (1) This section applies if a local authority has the power to intervene in the conduct of one of its maintained schools.
- (2) The local authority may appoint as many additional governors to the governing body of the school as it thinks fit; and the instrument of government for the school has effect as if it provided for such appointments (despite anything in regulations under section 19 of the Education Act 2002).
- (3) The local authority may nominate one of those governors to be the chair of the governing body in place of any person who has been elected as chair of that body.
- (4) Before making any such appointment or nomination in relation to a voluntary aided school, the local authority must consult—
  - (a) the person who appoints the foundation governors, and
  - (b) if the school has a religious character, the appropriate religious body.
- (5) A governor appointed under this section is to hold office for a period determined by the local authority.
- (6) A governor nominated by the local authority to be the chair of the governing body is to be the chair for a period determined by the local authority.
- (7) The local authority may pay remuneration and allowances to governors appointed under this section.

#### Commencement Information

**I5** S. 6 in force at 20.2.2014 by S.I. 2014/178, art. 2(a) (with art. 3)

## 7 Power of local authority to constitute governing body of interim executive members

- (1) This section applies if a local authority has the power to intervene in the conduct of one of its maintained schools.
- (2) The local authority may give the governing body of the school a notice in writing stating that, as from a date specified in the notice, the governing body is to be

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constituted in accordance with Schedule 1 (governing bodies consisting of interim executive members).

- (3) Before giving a notice the local authority must—
- (a) consult the governing body of the school,
  - (b) in the case of a foundation or voluntary school, consult—
    - (i) the person who appoints the foundation governors, and
    - (ii) if the school has a religious character, the appropriate religious body, and
  - (c) obtain the consent of the Welsh Ministers.

#### Commencement Information

**I6** S. 7 in force at 20.2.2014 by [S.I. 2014/178](#), [art. 2\(a\)](#) (with [art. 3](#))

## 8 Power of local authority to suspend right to delegated budget

- (1) This section applies if—
- (a) a local authority has the power to intervene in the conduct of a maintained school, and
  - (b) the school has a delegated budget within the meaning of Part 2 of the School Standards and Framework Act 1998.
- (2) The local authority may suspend the governing body's right to a delegated budget by giving the governing body notice of the suspension.
- (3) The suspension of the right to a delegated budget takes effect on receipt of the notice by the governing body.
- (4) If the local authority gives a notice suspending the right to a delegated budget, it must give a copy of the notice to the head teacher at the same time.
- (5) A suspension imposed under this section has effect for the purposes of Chapter 4 of Part 2 of the School Standards and Framework Act 1998 (financing of maintained schools) as if made under paragraph 1 of Schedule 15 to that Act (suspension of financial delegation).

#### Commencement Information

**I7** S. 8 in force at 20.2.2014 by [S.I. 2014/178](#), [art. 2\(a\)](#) (with [art. 3](#))

## 9 General power to give directions and take steps

- (1) This section applies if the local authority has the power to intervene in the conduct of one of its maintained schools.
- (2) If the local authority thinks it is appropriate for the purposes of dealing with the grounds for intervention, the authority may—
- (a) give directions to the governing body or head teacher, or
  - (b) take any other steps.

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### Commencement Information

**18** S. 9 in force at 20.2.2014 by S.I. 2014/178, art. 2(a) (with art. 3)

## *Intervention by the Welsh Ministers*

### 10 Warning notice

- (1) The Welsh Ministers may give a warning notice to the governing body of a maintained school if—
- (a) they are satisfied that one or more of grounds 1 to 6 exist in relation to the school, and
  - (b) the local authority that maintains the school either—
    - (i) has not given a warning notice to the governing body under section 3 on one or more of those grounds, or
    - (ii) has given a warning notice, but in terms that are inadequate in the opinion of the Welsh Ministers.
- (2) The Welsh Ministers must specify each of the following in the warning notice—
- (a) the grounds for intervention;
  - (b) the reasons why they are satisfied that the grounds exist;
  - (c) the action they require the governing body to take in order to deal with the grounds for intervention;
  - (d) the period within which the action is to be taken by the governing body (“the compliance period”);
  - (e) the action they are minded to take if the governing body fails to take the required action.
- (3) If the Welsh Ministers give a warning notice to the governing body of a school, they must at the same time as they give the warning notice to the governing body give a copy of the warning notice to—
- (a) the local authority;
  - (b) the head teacher;
  - (c) if the school is a foundation or voluntary school—
    - (i) the person who appoints the foundation governors, and
    - (ii) if the school has a religious character, the appropriate religious body.

### Commencement Information

**19** S. 10 in force at 20.2.2014 by S.I. 2014/178, art. 2(a) (with art. 3)

### 11 Power of the Welsh Ministers to intervene

- (1) The Welsh Ministers have the power to intervene in the conduct of a maintained school under this Chapter if subsection (2), (3), (4) or (5) applies.
- (2) This subsection applies if—

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- (a) the local authority has given a warning notice under section 3 to the governing body of the school,
  - (b) the governing body has failed to comply, or secure compliance, with the notice to the Welsh Ministers' satisfaction within the compliance period, and
  - (c) the Welsh Ministers are satisfied that the local authority has not taken, and is not likely to take, adequate action for the purposes of dealing with the grounds for intervention.
- (3) This subsection applies if—
- (a) the Welsh Ministers have given a warning notice under section 10 to the governing body of the school, and
  - (b) the governing body has failed to comply, or secure compliance, with the notice to the Welsh Ministers' satisfaction within the compliance period.
- (4) This subsection applies if the Welsh Ministers are satisfied that one or more of grounds 1 to 6 exist in relation to the school and they have reason to believe that there is a related risk to the health or safety of any person that calls for urgent intervention under this Chapter.
- (5) This subsection applies if—
- (a) ground 7 (school requiring significant improvement) or ground 8 (school requiring special measures) exists in relation to the school, and
  - (b) a period of not less than 10 days has elapsed since the date on which the Chief Inspector gave notice to the Welsh Ministers under section 37(2) of the Education Act 2005, subject to subsection (6).
- (6) The Welsh Ministers may, in relation to a particular school, determine that subsection (5) (b) has effect as if the reference to 10 days were to a shorter period specified in the determination.
- (7) Where the Welsh Ministers have the power to intervene, they must keep the circumstances giving rise to the power under review.
- (8) If the Welsh Ministers conclude that the grounds for intervention have been dealt with to their satisfaction or that exercise of their powers under this Chapter would not be appropriate for any other reason, they must notify the governing body and the local authority of their conclusion in writing.
- (9) If the Welsh Ministers give notice under subsection (8) in relation to a foundation or voluntary school, they must at the same time, send a copy of the notice to—
- (a) the person who appoints the foundation governors, and
  - (b) if the school has a religious character, the appropriate religious body.
- (10) The Welsh Ministers' power to intervene continues in effect until they give notice under subsection (8).
- (11) Where the Welsh Ministers have the power to intervene they are not limited to taking the action they said they were minded to take in a warning notice.

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**Commencement Information**

**I10** S. 11 in force at 20.2.2014 by S.I. 2014/178, art. 2(a) (with art. 3)



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## 12 Power to require governing body to secure advice or collaborate

- (1) This section applies if the Welsh Ministers have the power to intervene in the conduct of a maintained school.
- (2) The Welsh Ministers may, with a view to improving the performance of the school, direct the governing body of the school to do either or both of the following—
  - (a) enter into a contract or other arrangement with a specified person (who may be the governing body of another school) for the provision to the governing body of specified services of an advisory nature;
  - (b) exercise such of the powers under section 5(2) of the Education (Wales) Measure 2011 (powers to collaborate) as are specified in the direction, subject to provision made in regulations under section 6 of that Measure.
- (3) Before giving a direction the Welsh Ministers must consult—
  - (a) the governing body of the school, and
  - (b) in the case of a foundation or voluntary school—
    - (i) the person who appoints the foundation governors, and
    - (ii) if the school has a religious character, the appropriate religious body.
- (4) A direction under subsection (2)(a) may require the contract or other arrangement to contain specified terms and conditions.

### Commencement Information

**III** S. 12 in force at 20.2.2014 by S.I. 2014/178, art. 2(a) (with art. 3)

## 13 Power of Welsh Ministers to appoint additional governors

- (1) This section applies if the Welsh Ministers have the power to intervene in the conduct of a maintained school.
- (2) The Welsh Ministers may appoint as many additional governors to the governing body of the school as they think fit; and the instrument of government for the school has effect as if it provided for such appointments (despite anything in the regulations under section 19 of the Education Act 2002).
- (3) The Welsh Ministers may nominate one of those governors to be the chair of the governing body in place of any person who has been elected as chair of that body.
- (4) Before making any such appointment or nomination in relation to a voluntary aided school, the Welsh Ministers must consult—
  - (a) the person who appoints the foundation governors, and
  - (b) if the school has a religious character, the appropriate religious body.
- (5) A governor appointed under this section is to hold office for a period determined by the Welsh Ministers.
- (6) A governor nominated by the Welsh Ministers to be the chair of the governing body is to be the chair for a period determined by the Welsh Ministers.
- (7) The Welsh Ministers may pay remuneration and allowances to governors appointed under this section.

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- (8) Where the Welsh Ministers have exercised their power under this section in relation to any school—
- (a) the local authority may not suspend the governing body's right to a delegated budget under paragraph 1 of Schedule 15 to the School Standards and Framework Act 1998, and
  - (b) if the local authority has already exercised that power or its power under section 8, the Welsh Ministers may revoke the suspension.
- (9) Where the Welsh Ministers have exercised their power under this section in relation to a voluntary aided school, nothing in regulations under section 19 of the Education Act 2002 is to be read as authorising the appointment of foundation governors for the purpose of outnumbering the other governors as augmented by those appointed by the Welsh Ministers under this section.
- (10) The revocation of a suspension under subsection (8)(b)—
- (a) must be notified to the local authority in writing, and
  - (b) takes effect from the date specified in that notification.

**Commencement Information**

**I12** S. 13 in force at 20.2.2014 by [S.I. 2014/178](#), [art. 2\(a\)](#) (with [art. 3](#))

**14 Power of Welsh Ministers to constitute governing body of interim executive members**

- (1) This section applies if the Welsh Ministers have the power to intervene in the conduct of a maintained school.
- (2) The Welsh Ministers may give the governing body of the school a notice in writing stating that, as from the date specified in the notice, the governing body is to be constituted in accordance with Schedule 1 (governing bodies consisting of interim executive members).
- (3) Before giving a notice the Welsh Ministers must consult—
- (a) the local authority that maintains the school,
  - (b) the governing body of the school, and
  - (c) in the case of a foundation or voluntary school—
    - (i) the person who appoints the foundation governors, and
    - (ii) if the school has a religious character, the appropriate religious body.
- (4) The Welsh Ministers are not obliged to consult the persons mentioned in subsection (3) (b) and (c) if the local authority has consulted them about the constitution of a governing body under section 7 on the basis of a power to intervene brought to an end by effect of section 4(9)(b) or (c).

**Commencement Information**

**I13** S. 14 in force at 20.2.2014 by [S.I. 2014/178](#), [art. 2\(a\)](#) (with [art. 3](#))

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## 15 Power of Welsh Ministers to direct federation of schools

- (1) This section applies if the Welsh Ministers have the power to intervene in the conduct of a maintained school (“the school causing concern”).
- (2) The Welsh Ministers may direct any of the following persons to provide for one or more of the arrangements set out in subsection (3)—
  - (a) a local authority;
  - (b) a governing body of a maintained school;
  - (c) a governing body of a federation.
- (3) The arrangements are—
  - (a) the federation of the school causing concern and one or more maintained schools;
  - (b) the federation of the school causing concern and an existing federation;
  - (c) the federation of the school causing concern and an existing federation and one or more maintained schools;
  - (d) where the school causing concern is part of a federation, the federation of that federation and one or more maintained schools;
  - (e) where the school causing concern is part of a federation, the federation of that federation and another existing federation;
  - (f) where the school causing concern is part of a federation, the federation of that federation and an existing federation and one or more maintained schools;
  - (g) where the school causing concern is part of a federation, for the school to leave that federation.
- (4) Before giving a direction under subsection (2), the Welsh Ministers must consult—
  - (a) the local authority,
  - (b) the governing bodies concerned, and
  - (c) in the case of a foundation or voluntary school—
    - (i) the person who appoints the foundation governors, and
    - (ii) if the school has a religious character, the appropriate religious body.
- (5) In this section “federation” has the meaning given by section 21(1) of the Education (Wales) Measure 2011.

### Commencement Information

**I14** S. 15 in force at 20.2.2014 by [S.I. 2014/178](#), [art. 2\(a\)](#) (with [art. 3](#))

## 16 Power of Welsh Ministers to direct closure of school

- (1) This section applies if the Welsh Ministers have the power to intervene in the conduct of a maintained school on the basis of ground 8 (school requiring special measures).
- (2) The Welsh Ministers may give a direction to the local authority requiring the school to be discontinued on a date specified in the direction.
- (3) Before giving a direction under subsection (2), the Welsh Ministers must consult—
  - (a) the local authority that maintains the school,
  - (b) the governing body of the school,

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- (c) in the case of a foundation or voluntary school—
    - (i) the person who appoints the foundation governors, and
    - (ii) if the school has a religious character, the appropriate religious body, and
  - (d) any other persons the Welsh Ministers consider appropriate.
- (4) On giving a direction to discontinue the school, the Welsh Ministers must also give notice in writing of the direction to the governing body of the school and its head teacher.
- (5) Where the local authority is given a direction under subsection (2), it must discontinue the school in question on the date specified in the direction; and nothing in Part 3 applies to the discontinuance of the school under this section.
- (6) In this section any reference to the discontinuance of a maintained school is to the local authority ceasing to maintain it.

**Commencement Information**

**I15** S. 16 in force at 20.2.2014 by [S.I. 2014/178](#), [art. 2\(a\)](#) (with [art. 3](#))

**17 General power to give directions and take steps**

- (1) This section applies if the Welsh Ministers have the power to intervene in the conduct of a maintained school.
- (2) If the Welsh Ministers think it is appropriate for the purposes of dealing with the grounds for intervention, the Welsh Ministers may—
- (a) give directions to the governing body or head teacher, or
  - (b) take any other steps.

**Commencement Information**

**I16** S. 17 in force at 20.2.2014 by [S.I. 2014/178](#), [art. 2\(a\)](#) (with [art. 3](#))

*Supplementary*

**18 Governing bodies consisting of interim executive members**

Schedule 1 (appointment of members of interim executive boards, the functions of boards, their procedures and related matters) has effect.

**Commencement Information**

**I17** S. 18 in force at 20.2.2014 by [S.I. 2014/178](#), [art. 2\(a\)](#) (with [art. 3](#))

**19 Directions**

- (1) A governing body of a maintained school or a head teacher subject to a direction under this Chapter must comply with it.

**Changes to legislation:** School Standards and Organisation (Wales) Act 2013, PART 2 is up to date with all changes known to be in force on or before 15 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (2) This includes a direction to exercise a power or duty that is contingent upon the opinion of the governing body or head teacher.
- (3) A direction under this Chapter—
- (a) must be in writing;
  - (b) may be varied or revoked by a later direction;
  - (c) is enforceable by mandatory order on application by, or on behalf of, the person who gave the direction.

#### Commencement Information

**I18** S. 19 in force at 20.2.2014 by S.I. 2014/178, art. 2(a) (with art. 3)

## 20 Guidance

In exercising its functions under this Chapter, a local authority must have regard to guidance given by the Welsh Ministers.

#### Commencement Information

**I19** S. 20 in force at 20.2.2014 by S.I. 2014/178, art. 2(a) (with art. 3)

## CHAPTER 2

### INTERVENTION IN LOCAL AUTHORITIES

#### Modifications etc. (not altering text)

- C8** Pt. 2 Ch. 2 modified by 1998 c. 30, s. 19(13) (as substituted (20.2.2014) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 3; S.I. 2014/178, art. 2(f) (with art. 3))
- C9** Pt. 2 Ch. 2 modified by 2005 c. 18, s. 114(8)(c) (as inserted (20.2.2014) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 8(3)(c); S.I. 2014/178, art. 2(f) (with art. 3))
- C10** Pt. 2 Ch. 2 applied (with modifications) by 2006 c. 21, s. 29 (as substituted (20.2.2014) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 10; S.I. 2014/178, art. 2(f) (with art. 3))
- C11** Pt. 2 Ch. 2 excluded by 2010 c. 15, s. 87(4) (as inserted (20.2.2014) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 11(3); S.I. 2014/178, art. 2(f) (with art. 3))
- C12** Pt. 2 Ch. 2 excluded by 1996 c. 56, s. 560(6) (as amended) (20.2.2014) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 2(7); S.I. 2014/178, art. 2(f) (with art. 3))
- C13** Pt. 2 Ch. 2 modified by 2004 c. 31, s. 50A(3) (as inserted (20.2.2014) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 7(3); S.I. 2014/178, art. 2(f) (with art. 3))
- C14** Pt. 2 Ch. 2 applied (with modifications) by 2004 c. 31, s. 50A(1)(2) (as inserted (20.2.2014) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 7(3); S.I. 2014/178, art. 2(f) (with art. 3))

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- C15** Pt. 2 Ch. 2 applied (with modifications) by 2010 c. 15, s. 87(3)(b) (as inserted (20.2.2014) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 11(3)**; S.I. 2014/178, art. 2(f) (with art. 3))
- C16** Pt. 2 Ch. 2 excluded by 1996 c. 56, Sch. 1 para. 6(4) (as amended) (20.2.2014) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 2(8)**; S.I. 2014/178, art. 2(f) (with art. 3)
- C17** Pt. 2 Ch. 2 excluded by 1996 c. 56, s. 484(7) (as amended) (W.) (20.2.2014) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 2(3)**; S.I. 2014/178, art. 2(f) (with art. 3)
- C18** Pt. 2 Ch. 2 applied (with modifications) by 1998 c. 31, s. 89C(2)(b) (as substituted (20.2.2014) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 4(5)**; S.I. 2014/178, art. 2(f) (with art. 3))
- C19** Pt. 2 Ch. 2 applied (with modifications) by 2000 c. 22, Sch. 1 para. 10 (as substituted (20.2.2014) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 5(2)**; S.I. 2014/178, art. 2(f) (with art. 3))
- C20** Pt. 2 Ch. 2 modified (1.4.2015) by Education (Wales) Act 2014 (anaw 5), **ss. 20, 50(4)** (with s. 20(3)); S.I. 2015/29, art. 3(j)

### *Grounds for intervention*

## **21 Grounds for intervention**

For the purposes of this Chapter, the grounds for intervention in the exercise by a local authority of its education functions are as follows—

GROUND 1 - The local authority has failed, or is likely to fail, to comply with a duty that is an education function.

GROUND 2 - The local authority has acted, or is proposing to act, unreasonably in the exercise of an education function.

GROUND 3 - The local authority is failing, or is likely to fail, to perform an education function to an adequate standard.

### **Commencement Information**

**I20** S. 21 in force at 20.2.2014 by S.I. 2014/178, **art. 2(b)** (with art. 3)

### *Warning notice*

## **22 Warning notice**

- (1) The Welsh Ministers may give a warning notice to a local authority if they are satisfied that one or more of grounds 1 to 3 exist in relation to the local authority.
- (2) The Welsh Ministers must specify each of the following in the warning notice—
  - (a) the grounds for intervention;
  - (b) the reasons why they are satisfied that the grounds exist;
  - (c) the action they require the local authority to take in order to deal with the grounds for intervention;
  - (d) the period within which the action is to be taken by the local authority (“the compliance period”);

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- (e) the action they are minded to take if the local authority fails to take the required action.

**Commencement Information**

**I21** S. 22 in force at 20.2.2014 by [S.I. 2014/178](#), [art. 2\(b\)](#) (with [art. 3](#))

*Powers of intervention*

**23 Power of Welsh Ministers to intervene**

- (1) The Welsh Ministers have the power to intervene under this Chapter in the exercise of education functions by a local authority if subsection (2) or (3) applies.
- (2) This subsection applies if—
  - (a) the Welsh Ministers have given a warning notice, and
  - (b) the local authority has failed to comply, or secure compliance, with the notice to the Welsh Ministers' satisfaction within the compliance period.
- (3) This subsection applies if the Welsh Ministers are satisfied that one or more of grounds 1 to 3 exist in relation to the local authority and they have reason to believe that—
  - (a) there is a related risk to the health or safety of any person that calls for urgent intervention under this Chapter, or
  - (b) the local authority is unlikely to be able to comply, or secure compliance, with a warning notice.
- (4) Where the Welsh Ministers have the power to intervene, they must keep the circumstances giving rise to the power under review.
- (5) If the Welsh Ministers conclude that the grounds for intervention have been dealt with to their satisfaction or that exercise of their powers under this Chapter would not be appropriate for any other reason, they must notify the local authority of their conclusion in writing.
- (6) The Welsh Ministers' power to intervene continues in effect until they give notice under subsection (5).
- (7) Where the Welsh Ministers have the power to intervene, they are not limited to taking the action they said they were minded to take in a warning notice.

**Commencement Information**

**I22** S. 23 in force at 20.2.2014 by [S.I. 2014/178](#), [art. 2\(b\)](#) (with [art. 3](#))

**24 Power to require local authority to obtain advisory services**

- (1) This section applies if the Welsh Ministers have the power to intervene in the exercise of education functions by a local authority.
- (2) The Welsh Ministers may direct the local authority to enter into a contract or other arrangement with a specified person, or a person falling within a specified class for

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the provision to the authority or the governing body of a school maintained by it (or both), of specified services of an advisory nature.

- (3) The direction may require the contract or other arrangement to contain specified terms and conditions.
- (4) In this section “specified” means specified in a direction under this section.

#### Commencement Information

**I23** S. 24 in force at 20.2.2014 by [S.I. 2014/178](#), [art. 2\(b\)](#) (with [art. 3](#))

## 25 Power to require performance of functions by other persons on behalf of authority

- (1) This section applies if the Welsh Ministers have the power to intervene in the exercise of education functions by a local authority.
  - (2) The Welsh Ministers may give such directions to the local authority or any of its officers as they think are appropriate for securing that the functions to which the grounds for intervention relate are performed on behalf of the authority by a person specified in the direction.
  - (3) A direction under subsection (2) may require that any contract or other arrangement made by the authority with the specified person contains terms and conditions specified in the direction.
- [<sup>F1</sup>(4) If a direction under subsection (2) is in force, the functions of the local authority to which it relates are to be treated for all purposes as being exercisable by the specified person.]

#### Textual Amendments

**F1** S. 25(4) inserted (14.7.2014) by [Education \(Wales\) Act 2014 \(anaw 5\)](#), [ss. 44\(2\)](#), [50\(4\)](#); [S.I. 2014/1605](#), [art. 2\(b\)](#)

#### Commencement Information

**I24** S. 25 in force at 20.2.2014 by [S.I. 2014/178](#), [art. 2\(b\)](#) (with [art. 3](#))

## 26 Power to require performance of functions by Welsh Ministers or nominee

- (1) This section applies if the Welsh Ministers have the power to intervene in the exercise of education functions by a local authority.
- (2) The Welsh Ministers may direct that the functions to which the grounds for intervention relate are to be exercised by the Welsh Ministers or a person nominated by them.
- (3) If a direction is made under subsection (2), the local authority must comply with the instructions of the Welsh Ministers or their nominee in relation to the exercise of the functions.



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[<sup>F2</sup>(4) If a direction under subsection (2) is in force, the functions of the local authority to which it relates are to be treated for all purposes as being exercisable by the Welsh Ministers or their nominee.]

#### Textual Amendments

**F2** S. 26(4) inserted (14.7.2014) by Education (Wales) Act 2014 (anaw 5), ss. 44(3), 50(4); S.I. 2014/1605, art. 2(b)

#### Commencement Information

**I25** S. 26 in force at 20.2.2014 by S.I. 2014/178, art. 2(b) (with art. 3)

### 27 Power to direct exercise of other education functions

- (1) If the Welsh Ministers think it is expedient, a direction under section 25 or 26 may relate to the performance of education functions in addition to the functions to which the grounds for intervention relate.
- (2) The Welsh Ministers may have regard (among other things) to financial considerations in deciding whether it is expedient that a direction should relate to education functions other than functions relating to the grounds for intervention.

#### Commencement Information

**I26** S. 27 in force at 20.2.2014 by S.I. 2014/178, art. 2(b) (with art. 3)

### 28 General power to give directions and take steps

- (1) This section applies if the Welsh Ministers have the power to intervene in the exercise of education functions by a local authority.
- (2) If the Welsh Ministers think it is appropriate in order to deal with the grounds for intervention, the Welsh Ministers may—
  - (a) give directions to the local authority or any of its officers, or
  - (b) take any other steps.

#### Commencement Information

**I27** S. 28 in force at 20.2.2014 by S.I. 2014/178, art. 2(b) (with art. 3)

## Supplementary

### 29 Directions

- (1) A local authority, or an officer of an authority, subject to a direction or instruction under this Chapter must comply with it.
- (2) This includes a direction or an instruction to exercise a power or duty that is contingent upon the opinion of the local authority or an officer of the authority.

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- (3) A direction under this Chapter—
- (a) must be in writing;
  - (b) may be varied or revoked by a later direction;
  - (c) is enforceable by mandatory order on application by, or on behalf of, the Welsh Ministers.

#### Commencement Information

**I28** S. 29 in force at 20.2.2014 by S.I. 2014/178, art. 2(b) (with art. 3)

### 30 Duty to co-operate

- (1) A local authority and the governing body of a maintained school must give the Welsh Ministers and any person specified in subsection (3) as much assistance in connection with the exercise of functions under or by virtue of this Chapter as they are reasonably able to give.
- (2) The governing body of a maintained school and the local authority that maintains the school must also secure, so far as reasonably practicable, that persons who work at the school do the same.
- (3) The specified persons are—
  - (a) any person authorised for the purposes of this section by the Welsh Ministers;
  - (b) any person acting under directions under this Chapter;
  - (c) any person assisting—
    - (i) the Welsh Ministers, or
    - (ii) a person mentioned in paragraph (a) or (b).

#### Commencement Information

**I29** S. 30 in force at 20.2.2014 by S.I. 2014/178, art. 2(b) (with art. 3)

### 31 Powers of entry and inspection

- (1) A person falling within subsection (2) has at all reasonable times—
  - (a) a right of entry to the premises of the local authority in question and any school maintained by it;
  - (b) a right to inspect, and take copies of, any records or other documents kept by the authority or any school maintained by it, and any other documents containing information relating to the authority or any such school, which the person considers relevant to the exercise by the person of functions under or by virtue of this Chapter.
- (2) The following persons fall within this subsection—
  - (a) the person specified in a direction under section 24 or, where the direction specifies a class of persons, the person with whom the local authority enter into the contract or other arrangement required by the direction;
  - (b) the person specified in a direction under section 25;
  - (c) the Welsh Ministers in pursuance of a direction under section 26;

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- (d) the person nominated by direction under section 26.
- (3) In exercising the right under subsection (1)(b) to inspect records or other documents, a person (“P”)—
- (a) is entitled to have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records or other documents in question, and
  - (b) may require the following persons to provide any assistance P may reasonably require (including, among other things, the making of information available for inspection or copying in a legible form)—
    - (i) the person by whom or on whose behalf the computer is or has been so used;
    - (ii) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material.
- (4) Any reference in this section to a person falling within subsection (2) includes a reference to any person assisting that person.
- (5) In this section “document” and “records” each include information recorded in any form.

#### Commencement Information

**I30** S. 31 in force at 20.2.2014 by [S.I. 2014/178](#), [art. 2\(b\)](#) (with [art. 3](#))

## CHAPTER 3

### SCHOOL IMPROVEMENT GUIDANCE

#### 32 Meaning of “school authority”

In this Chapter “school authority” means—

- (a) a local authority in the exercise of its education functions;
- (b) the governing body of a maintained school;
- (c) the head teacher of a maintained school.

#### 33 Power to issue school improvement guidance

- (1) The Welsh Ministers may issue guidance to a school authority on how the authority should exercise its functions with a view to improving the standard of education provided by any maintained school in respect of which the authority exercises functions (“school improvement guidance”).
- (2) The Welsh Ministers—
  - (a) may issue school improvement guidance to school authorities generally or to one or more particular authorities;
  - (b) may issue different school improvement guidance to different school authorities;
  - (c) may revise or revoke school improvement guidance by further guidance;

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- (d) may revoke school improvement guidance by issuing a notice to the school authorities to which it is directed.
- (3) The Welsh Ministers must ensure that school improvement guidance, or a notice revoking such guidance, states—
  - (a) that it is issued under this section, and
  - (b) the date on which it is to take effect.
- (4) The Welsh Ministers must arrange for school improvement guidance, or a notice revoking such guidance, to be published.

### **34 Consultation and National Assembly for Wales procedures**

- (1) Before issuing or revising school improvement guidance, the Welsh Ministers must consult the following persons on a draft of the guidance—
  - (a) school authorities likely to be affected by the guidance,
  - (b) Her Majesty's Chief Inspector of Education and Training in Wales, and
  - (c) any other person the Welsh Ministers consider appropriate.
- (2) If the Welsh Ministers wish to proceed with the draft (with or without modifications) they must lay a copy of the draft before the National Assembly for Wales.
- (3) If, before the end of the 40 day period, the National Assembly resolves not to approve the draft of the guidance, the Welsh Ministers must not issue it in the form of that draft.
- (4) If no such resolution is made before the end of that period, the Welsh Ministers must issue the guidance (or revised guidance) in the form of the draft.
- (5) The 40 day period—
  - (a) begins on the day on which the draft is laid before the National Assembly, and
  - (b) does not include any time during which the National Assembly is dissolved or is in recess for more than four days.
- (6) Subsection (3) does not prevent a new draft of proposed guidance or proposed revised guidance from being laid before the National Assembly.

### **35 Duty to follow school improvement guidance**

- (1) A school authority must follow the course set out in school improvement guidance issued to it in accordance with this Chapter when exercising a power or duty (including a power or duty that is contingent upon the opinion of the school authority); but this is subject to the following provisions of this section.
- (2) A school authority that is a local authority is not subject to the duty under subsection (1) so far as—
  - (a) the authority thinks there is good reason for it not to follow the guidance in particular categories of case or at all,
  - (b) it decides on an alternative policy for the exercise of its functions in respect of the subject matter of the guidance, and
  - (c) a policy statement issued by the authority in accordance with section 36 is in effect.
- (3) A school authority that is the governing body of a maintained school or its head teacher is not subject to the duty under subsection (1) so far as—

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- (a) the governing body thinks there is good reason for it or the head teacher not to follow the guidance in particular categories of case or at all,
  - (b) the governing body decides on an alternative policy for the exercise of its, or the head teacher's, functions in respect of the subject matter of the guidance, and
  - (c) a policy statement issued by the governing body in accordance with section 36 is in effect.
- (4) Where subsection (2) or (3) applies in the case of a school authority, the authority—
- (a) must follow the course set out in the policy statement, and
  - (b) is subject to the duty under subsection (1) only so far as the subject matter of the school improvement guidance is not displaced by the policy statement.
- (5) The duties in subsections (1) and (4) do not apply to a school authority so far as it would be unreasonable for the authority to follow the school improvement guidance or policy statement in a particular case or category of case.

### **36 Policy statements: requirements and ancillary powers**

- (1) A policy statement issued under section 35(2) or (3) must set out—
- (a) how the local authority or governing body (as the case may be) proposes that functions should be exercised differently from the course set out in the school improvement guidance, and
  - (b) the authority's or the body's reasons for proposing that different course.
- (2) An authority or body that has issued a policy statement may—
- (a) issue a revised policy statement;
  - (b) give notice revoking a policy statement.
- (3) A policy statement (or revised statement) must state—
- (a) that it is issued under section 35(2) or (3) (as the case may be), and
  - (b) the date on which it is to take effect.
- (4) The authority or body that issues a policy statement (or revised statement), or gives a notice under subsection (2)(b), must—
- (a) arrange for a statement or notice to be published;
  - (b) send a copy of any statement or notice to the Welsh Ministers.

### **37 Directions**

- (1) Subsection (2) applies if, in relation to a policy statement issued by a school authority, the Welsh Ministers consider that the authority's alternative policy for the exercise of functions (in whole or in part) is not likely to improve the standard of education provided at a school to which the policy statement relates.
- (2) The Welsh Ministers may direct the school authority to take any action which the Welsh Ministers consider appropriate for the purpose of securing the exercise of functions by the authority in accordance with the school improvement guidance issued to the authority in accordance with this Chapter.
- (3) A school authority subject to a direction under this section must comply with it.

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- (4) This includes a direction to exercise a power or duty that is contingent upon the opinion of the school authority.
- (5) A direction under this section—
  - (a) must be given in writing;
  - (b) may be varied or revoked by a later direction;
  - (c) is enforceable by mandatory order on application by, or on behalf of, the Welsh Ministers.

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 3 Ch. 3A inserted by [2022 asc 1 Sch. 4 para. 29\(7\)](#)
- s. 1(9A) inserted by [2022 asc 1 Sch. 4 para. 29\(2\)\(a\)](#)
- s. 38(2)(ca) inserted by [2022 asc 1 Sch. 4 para. 29\(3\)\(a\)](#)
- s. 38(5)(ca) inserted by [2022 asc 1 Sch. 4 para. 29\(3\)\(b\)](#)
- s. 39(1)(ca) inserted by [2022 asc 1 Sch. 4 para. 29\(4\)](#)
- Sch. 2 para. 19(2)(c)(i) word inserted by [2022 asc 1 Sch. 4 para. 29\(12\)\(b\)](#)