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Consultation Document

# The Education (Amendments Relating to Teacher Assessment Information) (Wales) Regulations 2018

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Mae'r ddogfen yma hefyd ar gael yn Gymraeg.  
This document is also available in Welsh.

# The Education (Amendments Relating to Teacher Assessment Information) (Wales) Regulations 2018

**Overview** This consultation seeks views on the regulations The Education (Amendments Relating to Teacher Assessment Information) (Wales) Regulations 2018 which would come into force in Summer 2018 as a result of the proposed changes being made to the use of teacher assessment and National Reading and Numeracy Tests data in Wales.

**How to respond** Responses to this consultation should be e-mailed/posted to the address below to arrive by **30 January 2018** at the latest.

**Further information and related documents** **Large print, Braille and alternative language versions of this document are available on request.**

*Education in Wales: Our national mission* (2017)  
*A curriculum for Wales – a curriculum for life* (2015)  
*Successful Futures: Independent Review of Curriculum and Assessment Arrangements in Wales* (2015)  
*Teaching Tomorrow's Teachers* (University of Oxford, 2015)

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

Further details relating to curriculum reform in Wales can be accessed at [www.gov.wales/topics/educationandskills/schoolshome/curriculum-for-wales-curriculum-for-life](http://www.gov.wales/topics/educationandskills/schoolshome/curriculum-for-wales-curriculum-for-life)

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## **Data protection**

### **How the views and information you give us will be used**

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

# Contents

<b>Introduction</b>	<b>2</b>
Background	2
Proposal	3
Going forward	3
<b>Legislative detail and the proposed amending regulations</b>	<b>4</b>
<b>Consequential policy amendments</b>	<b>6</b>
<b>Research and official statistics</b>	<b>8</b>
Research and evaluation	8
Official statistics	8
<b>Other considerations</b>	<b>9</b>
Regulatory Impact Assessment	9
Children's Rights Impact Assessment	9
Data protection	9
<b>Technical amendments</b>	<b>10</b>
<b>Annex A: The Education (Amendments Relating to Teacher Assessment Information) (Wales) Regulations 2018 [not in document]</b>	
<b>Annex B: Timetable of key data collections and releases throughout the school year [not in document]</b>	
<b>Annex C: Table of guidance documents to be amended [not in document]</b>	
<b>Annex D: Regulatory Impact Assessment [not in document]</b>	
<b>Annex E: Children's Rights Impact Assessment (CRIA) [not in document]</b>	
<b>Annex F: Glossary of terms [not in document]</b>	

# Introduction

## Background

1. Following the publication of *Successful Futures* in 2015 the Welsh Government is on a journey to reform the curriculum and assessment arrangements for 3-16 year olds in schools.
2. The new school curriculum will help all children and young people to become:
  - ambitious, capable learners, ready to learn throughout their lives;
  - enterprising, creative contributors, ready to play a full part in life and work;
  - ethical, informed citizens of Wales and the world; and
  - healthy, confident individuals, ready to lead fulfilling lives as valued members of society.
3. To support this, assessment and accountability arrangements for schools also need to be aligned with these purposes. This consultation signals the start of the changes that will need to take place to the existing accountability system.
4. Our objective is to realise the benefits to learners by refocusing assessment back to its primary purpose of providing information that can guide decisions about how best to progress young people's learning and to report to their parents and carers on that progress. When assessment is used for learning purposes, it means that teaching is always adaptive, specific to the learner and supports raising standards for all. It allows schools and other bodies to plan and improve for the benefit of all learners. By so doing, assessment should improve learners' learning, teachers' teaching and parents' and carers' understanding.
5. The recent OECD report<sup>1</sup> into our education reform journey recognised that a commitment to improving the teaching and learning in our schools is visible at all levels of the education system. One of the report's recommendations was the need for Wales to move towards a new system of assessment, evaluation and accountability that aligns with the new 21st century curriculum.
6. High quality, ongoing assessment has a crucial role in teaching, learning and raising standards. It should be a natural and integral feature of classroom practice, and future assessment arrangements will give priority to this. As was recently announced in the launch of *Education in Wales: Our national mission*, the Welsh Government is developing a new accountability model. The new model will be developed to ensure it effectively supports curriculum and assessment reform. We are working with schools, Estyn, regional consortia and taking the advice of international assessment experts to ensure there is a renewed emphasis on Assessment for Learning and that the learner is at the heart of our proposals.

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<sup>1</sup> <https://www.oecd.org/edu/The-Welsh-Education-Reform-Journey.pdf>

## Proposal

7. From 2018/19 the Welsh Government will no longer publish teacher assessment data and National Reading and Numeracy Tests (test) data below the national level. Teacher Assessment and test data will no longer be included in the School Comparative Reports, All Wales Core Data Sets ('datapacks') and the My Local School website<sup>2</sup>. As a result, routine data publications from the Welsh Government to schools and local authorities will be simplified.
8. To enable these changes, the Welsh Government is proposing amendments to the requirements on the use of teacher assessment data below the national level. Draft regulations to implement the changes are attached at Annex A: '*The Education (Amendments Relating to Teacher Assessment Information) (Wales) Regulations 2018*'. It is proposed that the amending regulations come into force by Summer 2018.
9. The proposed changes will apply to the Foundation Phase, Key Stage 2 and Key Stage 3 in all primary and secondary schools maintained by Welsh local authorities. **NB. Key Stage 4 will be out of scope**, and this consultation has no direct impact on qualifications or the use of qualification data.
10. This consultation also sets out a number of minor technical amendments to existing regulations. These minor changes are not consequential to the proposal and have been included for information purposes.

## Going forward

11. From 2018/19, teacher assessment data will only be available at a national level (subject to our obligations under the Freedom of Information Act 2000). Schools, governing bodies and local authorities will continue to have access to their own data alongside national level data to evaluate how well their school(s) is performing and to inform their planning. Current arrangements in terms of the collection and validation of data via local authorities (and regional consortia) from schools will continue unchanged. A full breakdown of existing data collection and release exercises is listed at Annex B.

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<sup>2</sup> A glossary of terms is available at Annex F.

## **Legislative detail and the proposed amending regulations**

12. Current accountability arrangements are underpinned by a suite of regulations and statutory guidance<sup>3</sup>. The proposed new regulations (at Annex A) will amend a number of these existing regulations, which place duties on schools, local authorities and other bodies to use School Comparative Reports or datapacks. The regulations are listed below.

### **1. Head Teacher's Report to Parents and Adult Pupils (Wales) Regulations 2011**

13. These regulations require headteachers to report school performance to parents and adult pupils each school year and this will continue.

14. It is proposed these regulations are amended so that the report will no longer contain school comparative information (for teacher assessment and tests) which compares a school's performance with that of other schools in the local authority or in the 'family of schools'.

15. Parents will still receive reports from headteachers, including the information they need to understand the performance of their child's school. Parents will also be able to compare their child's school performance with national information.

### **2. School Governors Annual Reports (Wales) Regulations 2011**

16. These regulations require governing bodies to produce an annual report to parents and this will continue.

17. It is proposed these regulations are amended so that the governors' annual report will no longer contain the school comparative reports (for teacher assessment and tests).

18. Parents will still have access to reports from governors, including the information they need to understand the performance of their child's school.

### **3. School Information (Wales) Regulations 2011**

19. These regulations require governing bodies to produce prospectuses and this will continue.

20. It is proposed these regulations are amended so that the governing bodies' prospectuses will no longer contain the school comparative reports (for teacher assessments and tests).

21. The prospectus will still have general information about the school for parents, learners and all others with an interest. They will continue to show information about the school's own performance, and comparative information will continue to be available at a national level.

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<sup>3</sup> a list of guidance to be amended is available to view at Annex C

#### **4. The Government of Maintained Schools (Training Requirements for Governors) (Wales) Regulations 2013**

22. These regulations require local authorities to ensure that school governors receive training on understanding and utilising school data, and set the content of that training.
23. Welsh Government guidance to school governors for understanding performance data<sup>4</sup> will be amended to no longer include references to teacher assessment and test data, in relation to datapacks and the School Comparative Reports.
24. The requirement to ensure school governors continue to receive the necessary training to use data to hold schools to account will remain.

#### **5. The Education (School Development Plans) (Wales) Regulations 2014**

25. These regulations require governing bodies to draw up school development plans to promote high standards of educational achievement.
26. It is proposed these regulations are amended so that the requirement for due regard to be paid to school comparative information (the School Comparative Report) will be removed. The guidance on school development plans will be amended accordingly.
27. Access to national level data will continue to be available and governing bodies will still have data from their own schools. This will ensure schools and governing bodies continue to have the means available for self-evaluation and planning.

#### **6. School Performance and Absence Targets (Wales) Regulations 2011**

28. These regulations require governing bodies to set (and to submit to their local authority) performance targets for learners and targets to reduce school absence.
29. It is proposed that these regulations are amended to remove references to comparative data as contained within teacher assessment datapacks for key stage 2 and key stage 3.
30. All target setting requirements for all Key Stages will remain in place (which ties in with the self improving schools policy).

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<sup>4</sup> 'Understanding Performance Data – School Governors in Wales guidance' which will be published, before the amending regulations come into force (Summer 2018)



## Consequential policy amendments

31. In response to no longer publishing teacher assessment and test data below national level, the Welsh Government will streamline other processes.

- a. We are committed to continuing the development of the National School Categorisation Process, which is set against the context of the fundamental review of accountability systems. For primary schools, Step 1 of the categorisation process will no longer be used, as the teacher assessment data will no longer be available. However, improvements might include, for example, further strengthening Step 2 to ensure the process for categorising schools remains robust.
- b. Elements of the My Local School website rely on teacher assessment data collected below the national level. This includes, for example, data used in Step 1 of the school categorisation process for primary schools. Where applicable, such information will no longer be published on the website. The website will still continue to include Key Stage 4 results and attendance data. Parents will also still have access to other information about their children's schools, such as the school prospectus from governing bodies and headteachers.
- c. Welsh Government will no longer produce and publish School Comparative Reports and All Wales Core Data Sets ('datapacks') for the teacher assessment data. During inspection Estyn will only report on nationally collected and externally verified performance data.

32. Future changes to accountability arrangements are being discussed with schools, local authorities and consortia and will reinforce this new direction.

33. In the meantime, the following arrangements will remain:

- a. Children will continue to be assessed and headteachers and teachers will still provide a written report to parents that will set out individual information about the child and the progress the child has made that academic year.
- b. Teacher assessments and the National Reading and Numeracy Tests will continue in schools as part of assessment for learning.
- c. Welsh Government will continue to collect teacher assessment data and test data from schools.
- d. Current arrangements about the flow of data to local authorities (and regional consortia) from schools will not change.
- e. Schools and local authorities will continue to have access to their own data.
- f. School governors will still hold schools to account for their performance and will issue an annual report.
- g. Schools will still set performance targets, issue a school prospectus and complete their school development plan.

h. Systems for school staff performance appraisal will continue.

## Research and official statistics

### Research and evaluation

34. The Welsh Government will continue to collect individual learner level data to enable research and evaluation around particular policy interventions – for example, to understand the impact on learner outcomes on additional developmental programmes throughout the education system. Our ability to inform other policies, such as health and social services, also allows significant cross-topic research. This will ensure we continue to have an understanding and transparency around national performance trends and differences amongst groups of learners such as free school meals, special educational needs (SEN) and equality characteristics to inform policy direction.

### Official statistics

35. There are also implications for the publication of official statistics which the Welsh Government Chief Statistician has considered and which are included within this consultation.

36. The Welsh Government will continue to publish official statistics at a national level. Teacher assessment and test data for local authorities and other geographical units, such as Local Super Output Areas (LSOAs), is also currently published on [Statistics Wales](#) and [StatsWales](#). No school level outcome data is published on these sites.

37. Under the Code of Practice for Official Statistics, the Chief Statistician is solely responsible for the format, content and timing of official statistics. In order to refocus the use of teacher assessment data to support learning, the Chief Statistician of the Welsh Government proposes to cease the proactive publication of data for local authorities within the [annual statistical release](#) on national performance and associated [Stats Wales tables](#).

38. Data will continue to be proactively published for statistical and other geographies e.g. LSOAs and assembly constituencies, where the purpose, use and focus of the data is not linked to school accountability. For example, to support the production of the Welsh Index of Multiple Deprivation.

39. To meet user needs, data at geographical levels below Wales will continue to be available upon request.

## **Other considerations**

### **Regulatory Impact Assessment**

40. The Welsh Minister's Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these amending regulations. As a result a draft regulatory impact assessment has been prepared for consideration and comment. Please see Annex D.

### **Children's Rights Impact Assessment**

41. The Rights of Children and Young Persons (Wales) Measure 2011 places a duty upon Welsh Ministers to have due regard to the United Nations Convention on the Rights of the Child (UNCRC) on exercising their functions. As a result a draft children's rights impact assessment has been prepared. Please see Annex E.

### **Data protection**

42. To ensure data security, we will follow existing practices which comply with the Data Protection Act 1998, and from 25 May 2018 with the General Data Protection Regulation (GDPR). All information shared under these clauses will be held and transferred through secure electronic file transfer systems and websites that have been rigorously tested and adhere to international information security standards.
43. Information that identifies individual learners will not be published. Any information which is published will be in an anonymous, aggregated form. Published statistics will use standard protocols to 'suppress' figures relating to small numbers of students (typically where a course or group of students is five or below) to minimise the risk of identifying an individual student.

## Technical amendments

44. As mentioned in paragraph 11, there are a number of unrelated minor technical amendments. These amendments are set out below.

Regulations to be amended	Reason for amendment
<p><b>The Education (Information about Individual Pupils) (Wales) Regulations 2007</b></p>	<p>There is a change in the way that sixth form data is collected. In contrast to previous years, this data is now collected retrospectively. Amendments are made to reflect this change in practice.</p>
	<p>In 2013, Basic Skills was removed from the Pupil Level Annual School Census (PLASC). This data is now captured by a different system, provided by other regulations. Amendments are made to reflect this policy change.</p>
	<p>Unique Learner Numbers (ULNs) are obtained from the Learning Records Service. The LRS portal was originally managed by the Skills Funding Agency (SFA). However in April this year the SFA became The Education and Skills Funding Agency (ESFA). This is an executive agency, sponsored by the <a href="#">Department for Education</a> which creates a single funding agency accountable for funding education and training for children, young people and adults. In order to obtain ULNs, Welsh Government is required to provide information to this body. Amendments are made to reflect the change of name.</p>
<p><b>The School Performance and Absence Targets (Wales) Regulations 2011</b></p>	<p>One of the recommendations of the review of qualifications for Key Stage 4 included amending the pupil population on which we measure pupil attainment to Year 11 pupils from 2016, rather than those aged 15 at the start of the academic year as we have historically done. This change is being made to ensure that the cohort reported for Key Stage 4 performance includes all pupils who are at the end of their Key Stage 4 programme of study and reflect more accurately the reality of schools' attainment levels. Amendments are made to give effect to that change of policy.</p>

	<p>There have been two policy changes in terms of the requirements at Key Stage 4: From 2017:</p> <ul style="list-style-type: none"> <li>• there will be no reporting on the Core Subject Indicator (CSI), and</li> <li>• we will no longer capture the figure for leavers without qualifications.</li> </ul> <p>Therefore, there is no longer a requirement for schools to set Key Stage 4 targets in respect of these two areas. Amendments are made to remove those targets.</p> <p>A minor amendment at 8 (2) (a) (i) and 8 (2) (a) (iii) to correct a typographical error in the current Regulations.</p>
<p><b>The Head Teacher’s Report to Parents and Adult Pupils (Wales) Regulations 2011</b></p>	<p>An amendment to regulation 3(8)(b) to update cross-references in that regulation. The effect of this is that the head teacher has longer to report to parents and adult pupils on certain information set out in Schedule 2 to the 2011 Regulations, namely:</p> <ul style="list-style-type: none"> <li>• External qualifications attained by pupils;</li> <li>• Assessment in reading and numeracy tests</li> <li>• Progress in the literacy and numeracy framework;</li> <li>• Brief account of the pupil’s progress in the relevant areas of learning (defined in the 2011 regulations);</li> <li>• Brief account of the pupil’s progress in the relevant subjects (defined in the 2011 regulations) for those pupils in the second and third key stages.</li> </ul>
<p><b>School Teacher Appraisal (Wales) Regulations 2011</b></p>	<p>Amendment of terminology from “professional development” to “professional learning” to:</p> <ol style="list-style-type: none"> <li>1. reflect the terminology of the national approach to professional learning and the language of the professional standards</li> <li>2. reinforce the position and create a common lexicon of professional learning for the system here in Wales, and</li> <li>3. ensure practitioners themselves recognise the change in culture and approach.</li> </ol>
<p><b>Education (School Development Plans) (Wales) Regulations 2014</b></p>	<p>As above for the <b>School Teacher Appraisal (Wales) Regulations 2011</b>. Amendment of the term “professional development” in the identified schedule to be consistent with the more encompassing term “professional learning”.</p>