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WELSH STATUTORY INSTRUMENTS

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**2011 No. 2940**

**The School Teacher Appraisal (Wales) Regulations 2011**

**PART I**

Introduction

**Title, commencement and application**

1.—(1) The title of these Regulations is the School Teacher Appraisal (Wales) Regulations 2011 and they come into force on 1 January 2012.

(2) These Regulations apply in relation to Wales.

**Revocation, savings and transitional provisions**

2.—(1) Subject to paragraph (2), the School Teacher Appraisal (Wales) Regulations 2002(1) (as amended), the School Teacher Appraisal (Amendment) (Wales) Regulations 2009(2), the School Teacher Appraisal (Wales) (Amendment No. 2) Regulations 2009(3) and the School Government (Terms of Reference) (Amendment) (Wales) Regulations 2002(4) are revoked.

(2) The savings and transitional provisions in regulations 19, 33 and 46 and in the Schedule have effect.

**Interpretation**

3.—(1) Except where the context otherwise requires, in these Regulations—

“appraisal statement” (“*datganiad gwerthuso*”) has the meaning given to it by, as the case may be, regulation 15(4), regulation 29(4) or regulation 42(4);

“authority” (“*awdurdod*”) in relation to an unattached teacher means the local authority by which the teacher is employed and if employed by more than one authority then each such authority;

“Chief Education Officer” (“*Prif Swyddog Addysg*”) means the chief education officer of the local authority (or, in the case of an unattached teacher, of the authority);

“Diocesan Authority” (“*Awdurdod Esgobaeth*”) has the meaning given to it in section 142(1) and (4) of the School Standards and Framework Act 1998(5);

“the Document” (“*y Ddogfen*”) means the document referred to in any order for the time being in force made under section 122 of the Education Act 2002;

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(1) [S.I. 2002/1394 \(W.137\)](#). The School Teacher Appraisal (Wales) Regulations 2002 were amended by the Staffing of Maintained Schools (Miscellaneous Amendments) (Wales) Regulations 2007 ([S.I. 2007/944 \(W.80\)](#)), the School Teacher Appraisal (Amendment) (Wales) Regulations 2009 ([S.I. 2009/2159 \(W.183\)](#)), the School Teacher Appraisal (Wales) (Amendment No. 2) Regulations 2009 ([S.I. 2009/2864 \(W.251\)](#)) and the Local Education Authorities and Children’s Services Authorities (Integration of Functions) (Subordinate Legislation) (Wales) Order 2010 ([S.I. 2010/1142 \(W. 101\)](#)).

(2) [S.I. 2009/2159 \(W. 183\)](#)

(3) [S.I. 2009/2864 \(W. 251\)](#).

(4) [S.I. 2002/1396 \(W.138\)](#)

(5) 1998 c. 31.

“governing body” (“*corff llywodraethu*”) in relation to a school means the governing body of the school, and a “governor” (“*llywodraethwr*”) means a member of that governing body;

“head teacher” (“*pennaeth*”) includes an acting head teacher;

“Pupil Performance Information” (“*Gwybodaeth am Berfformiad Disgyblion*”) means information about the performance of pupils in schools in Wales as specified by the Welsh Ministers from time to time;

“the relevant date” (“*y dyddiad perthnasol*”) means 1 September 2012;

“school” (“*ysgol*”) means a community, voluntary, foundation, community special or foundation special school or maintained nursery school;

“school day” (“*diwrnod ysgol*”) means a day on which the school meets;

“School Improvement Plan” (“*Cynllun Gwella'r Ysgol*”) means the strategic plan setting out the objectives to improve the school’s provision and performance;

“School Performance Information” (“*Gwybodaeth am Berfformiad Ysgolion*”) means information about the performance of schools in Wales as specified by the Welsh Ministers from time to time;

“School Performance Management Policy” (“*Polisi Rheoli Perfformiad yr Ysgol*”) means the written policy setting out how the staff appraisal policy in the school will be implemented;

“school teacher” (“*athro neu athrawes ysgol*”) means a teacher employed by a local authority or by the governing body of a foundation, voluntary aided or foundation special school, but does not include a teacher employed under a short term contract;

“school term” (“*tymor ysgol*”) includes (a) a period of time short of a full school term by no more than one week and (b) two consecutive half terms;

“school which has a religious character” (“*ysgol sydd â chymeriad crefyddol*”) means a foundation or voluntary school designated as a school having such character under section 69(3) of the School Standards and Framework Act 1998;

“short term contract” (“*contract cyfnod byr*”) means a contract of employment for a fixed term of less than one school term;

“statement of objectives” (“*datganiad amcanion*”) means the written statement of objectives recorded under regulation 12(5), regulation 26(5) or regulation 39(5), as the case may be;

“unattached teacher” (“*athro neu athrawes ddigyswllt*”) means a teacher employed by the authority falling within one of the following categories—

- (a) a teacher not attached to a particular school;
- (b) a teacher employed to provide primary or secondary education otherwise than at a school;  
or
- (c) a teacher employed at a pupil referral unit (including a teacher in charge of a unit);

but does not include a teacher employed under a short term contract; and

“the 2002 Regulations” (“*Rheoliadau 2002*”) means the School Teacher Appraisal (Wales) Regulations 2002.

(2) Any reference in these Regulations to—

- (a) a numbered regulation is a reference to the regulation bearing that number in these Regulations;
- (b) a numbered paragraph is a reference to the paragraph bearing that number in the regulation in which the reference appears; and
- (c) the Schedule is a reference to the Schedule to these Regulations.

### **Duty to appraise**

4.—(1) It is the duty of the governing body and head teacher of a school to exercise their functions under these Regulations with a view to securing that the performance of school teachers and head teachers in discharging their duties at the school is regularly appraised in accordance with these Regulations.

(2) In the case of a school teacher or head teacher employed at two or more schools, performance at each school must be appraised and accordingly “school” in paragraph (1) is to be read as referring to each school.

(3) Where the authority has delegated to a school teacher some or all of the duties imposed on an appraiser as permitted by regulation 36(2), it is the duty of the governing body and head teacher of the school to exercise their functions under these Regulations with a view to securing the performance of the unattached teacher in discharging their duties at that school and at other schools is regularly appraised in accordance with these Regulations.

(4) It is the duty of the authority to exercise their functions under these Regulations with a view to securing that the performance of unattached teachers in discharging their duties to the authority is regularly appraised in accordance with these Regulations.

### **School Performance Management Policy**

5.—(1) Prior to commencement of the appraisal cycle the governing body, the local authority and the head teacher must establish and maintain a School Performance Management Policy.

(2) The governing body, the local authority and the head teacher must review, and, if they so decide, amend, the School Performance Management Policy at least annually.

(3) The governing body and the local authority may delegate to the head teacher the formulation of a draft of or draft amendments to the School Performance Management Policy for their consideration.

(4) In the event that agreement cannot be reached the local authority must determine the School Performance Management Policy.

(5) Prior to the establishment or amendment of the School Performance Management Policy the governing body (or, if so directed by the governing body, the head teacher) must consult with the school teachers at the school on the content of or proposed changes to the School Performance Management Policy.

(6) The governing body and the head teacher must implement the School Performance Management Policy.

(7) At least once during each school year the head teacher must make a written report to the governing body about the operation of the School Performance Management Policy under these Regulations, the effectiveness of the school’s appraisal procedures, and the training and development needs of the school teachers and the head teacher.

(8) The governing body must make a copy of the School Performance Management Policy available for inspection at the school on school days.

## **PART II**

### **Appraisal of Head Teachers**

#### **Application of Part II**

6. Regulations 7 to 19 apply to the appraisal of head teachers only.

### **Appointment of appraisers**

7.—(1) The governing body of a school must appoint as appraisers of a head teacher at least two governors, at least one of whom must be a foundation governor of the school if it is a school which has a religious character or a voluntary aided school which does not have a religious character.

(2) The governing body may at any time appoint a new appraiser in place of any existing appraiser appointed under paragraph (1).

(3) No governor who is a teacher or other member of staff at the school may be appointed as an appraiser of the head teacher.

(4) The local authority may appoint one or two appraisers in relation to the appraisal of a head teacher.

(5) The governing body may make a request at any time to the local authority for the appointment of a new appraiser in place of an existing appraiser appointed by the local authority but such appointment must be at the local authority's discretion and any refusal must be accompanied by a written explanation of the reasons for the refusal.

(6) Where the appraisal is of a head teacher of a school which has a religious character, the Diocesan Authority may appoint an appraiser of the head teacher.

### **The appraisal cycle**

8.—(1) Subject to the following provisions of this regulation, and to regulation 9, the governing body must determine the timing of the appraisal cycle for the head teacher of the school.

(2) Except as provided for in paragraph (3) and regulation 9(3) the length of an appraisal cycle will be one year and will begin after 1 September and before 31 December unless the local authority and the governing body agree otherwise.

(3) In the case of the first appraisal cycle under these Regulations of a head teacher in post on the date on which these Regulations come into force, the governing body may determine that the length of that appraisal cycle is a period other than one year provided that it begins no earlier than 1 January 2012 and ends no later than 31 December 2012.

(4) Once begun, appraisal cycles for every head teacher are continuous.

(5) The appointment of a new appraiser does not cause a head teacher's appraisal cycle to begin again.

### **New appraisal cycle**

9.—(1) If a head teacher moves to a post as head teacher in another school, the appraisal cycle begins again.

(2) Where a school teacher (who is not a head teacher) becomes a head teacher (in the same or in another school) so that regulations 7 to 19 apply to the appraisal, the timing of the appraisal cycle will as soon as practicable be determined afresh by the governing body under regulation 8(1).

(3) Where the appraisal cycle of a head teacher begins again under paragraph (1), or is determined afresh under paragraph (2), the governing body may determine that the length of the head teacher's first appraisal cycle in the new post will be a period of less than one year.

### **First appraisal cycle**

10. The governing body must take all reasonable steps to secure that the first appraisal cycle for a head teacher of the school in post on the date on which these Regulations come into force begins no later than 31 December 2012.

## **School performance management policy**

11. The appraisal of the head teacher must be in accordance with the provisions of the School Performance Management Policy.

### **Planning of appraisal and setting of objectives**

12.—(1) Before or at the start of the appraisal cycle, all the appraisers and the head teacher must meet to plan and prepare for the appraisal and to seek to agree the head teacher’s objectives which must take account of such relevant evidence as the appraisers and the head teacher agree (or, in the absence of agreement, such relevant evidence as the appraisers decide) but which will include the School Performance Information, and must relate to—

- (a) school leadership and management;
- (b) the head teacher’s job description;
- (c) any relevant pay progression criteria;
- (d) any relevant whole-school or team objectives specified in the School Improvement Plan;
- (e) the professional standards for head teachers as specified by the Welsh Ministers from time to time; and
- (f) any national priorities for school improvement set by the Welsh Ministers from time to time.

(2) The head teacher’s objectives described in paragraph (1) may also take into account the head teacher’s professional aspirations.

(3) The head teacher’s objectives will be such that, if they are achieved, they will contribute to improving the progress of pupils at the school.

(4) If objectives are not agreed under paragraph (1), the appraisers must set out in writing such objectives as they consider appropriate, and the head teacher may add comments in writing.

(5) The objectives agreed under paragraph (1), or where objectives have not been agreed the objectives set out in writing under paragraph (4), and the head teacher’s written comments, must be recorded in a written statement of objectives.

(6) When the objectives are set, the appraisers and the head teacher must seek to agree on the support required for the head teacher to meet the objectives. If agreement cannot be reached the local authority will determine the support that is required.

(7) The head teacher must during the course of the appraisal cycle keep an up-to-date record of—

- (a) the head teacher’s own assessment of performance against the objectives recorded in the statement of objectives;
- (b) particulars of any professional development activities undertaken or other support provided and how this is contributing to achievement of the objectives; and
- (c) particulars of any factors which the head teacher considers are affecting performance against the recorded objectives.

(8) Her Majesty’s Inspectorate for Education and Training in Wales<sup>(6)</sup> may request, and upon receipt of such request the chair of the governing body must provide it with, a copy of the head teacher’s statement of objectives.

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(6) Commonly known as “Estyn”.

### **Revising objectives**

13.—(1) A head teacher's objectives may be revised by the appraisers at any time during the appraisal cycle.

- (2) Where a head teacher's objectives are revised under paragraph (1)—
- (a) the statement of objectives must be amended to show the revised objective, the date of the revision and the reason for the revision;
  - (b) references in these Regulations to the head teacher's objectives will be read as references to the revised objectives; and
  - (c) references in these Regulations to the head teacher's statement of objectives will be read as references to the amended statement of objectives.

### **Monitoring progress**

14.—(1) All the appraisers and the head teacher must seek to agree at a meeting held under regulation 12(1) on the procedures for monitoring the head teacher's performance against the objectives agreed under regulation 12(1) or where objectives have not been agreed the objectives set out in writing under regulation 12(4).

(2) If procedures are not agreed under paragraph (1), the appraisers must set out in writing such procedures for monitoring the head teacher's performance as they consider appropriate.

(3) Subject to paragraph (4), an appraiser may not obtain from any other person information, whether written or oral, relevant to the head teacher's performance unless the head teacher consents or the information is obtained in accordance with the procedures agreed under paragraph (1) or where procedures have not been agreed, the procedures set out in writing under paragraph (2).

(4) Paragraph (3) does not apply to any information which an appraiser is entitled to receive under any other provision of these Regulations.

### **The appraisal review and the appraisal statement**

15.—(1) At or near the end of the appraisal cycle all the appraisers and the head teacher must hold an appraisal review, with the object of—

- (a) determining whether there has been successful overall performance as considered against the professional standards for head teachers as specified by the Welsh Ministers from time to time;
- (b) assessing the extent to which the head teacher has met the objectives recorded in the statement of objectives as set out in regulation 12(1), taking into account relevant evidence gathered through the monitoring process set out at regulation 14 and the record kept by the head teacher in accordance with regulation 12(7); and
- (c) identifying the need for additional support, training or development and how such needs may be met, taking account the record described in regulation 12(7).

(2) The date on which an appraisal review is to be held must be determined by the appraisers, but at least 10 school days notice (in writing) must be given to the head teacher of that date.

(3) The head teacher must, at least five school days before the appraisal review, submit to the appraisers the record maintained under regulation 12(7) and the record must be considered at the appraisal review.

(4) Within 10 school days after each appraisal review all the appraisers must prepare a written statement recording the main points made by the appraisers and the head teacher at the review and the conclusions reached, and there must be recorded in an annex to the statement (which will form part

of the statement) the training and developmental needs and ways of meeting such needs identified at the review.

(5) An appraisal review under paragraph (1) may be combined with a meeting under regulation 12 in relation to the following appraisal cycle.

(6) The appraisers must give the head teacher a copy of the statement, prepared under paragraph (4) within 10 school days after the appraisal review.

(7) The head teacher may, within 10 school days of receiving a copy of that statement, add to it comments in writing, and such comments will form part of the statement prepared under that paragraph.

## **Appeals**

**16.**—(1) A head teacher is entitled to appeal against an appraisal under these Regulations within 10 school days of receiving a copy of an appraisal statement under regulation 15(6).

(2) An appeal must be made in writing to the governing body.

(3) In relation to a school other than one which has a religious character, the chair of the governing body will be one of the appeals officers in relation to such an appeal, but where the chair of the governing body has participated in the appraisal which is the subject of the appeal, the governing body will appoint a governor who has not participated in that appraisal as an appeals officer in relation to such an appeal in place of the chair of the governing body. The governing body will also appoint another governor who has not participated in that appraisal as an appeals officer in relation to such an appeal.

(4) No governor who is a teacher or other staff member at the school can be appointed as an appeals officer for the head teacher at the school.

(5) In relation to a school other than one which has a religious character, the local authority will appoint two people as appeals officers in relation to such appeal who have not participated in the appraisal which is the subject of the appeal.

(6) In the case of a school which has a religious character, the governing body will appoint one governor as an appeals officer in relation to such appeal, who will be the chair of the governing body, but where the chair of the governing body has participated in the appraisal which is the subject of the appeal, the governing body will appoint a governor who has not participated in that appraisal as an appeals officer in relation to such an appeal in place of the chair of the governing body. The local authority will appoint two appeals officers and the Diocesan Authority will appoint one appeals officer, none of whom may have participated in the appraisal which is the subject of the appeal.

(7) The appeals officers must within 10 school days of receiving the appraisal statement under regulation 17(3) conduct and conclude a review of the appraisal, and in so doing must take account of any representations made by the head teacher.

(8) The appeals officers may—

(a) order the appraisal statement to stand with or without observations of the appeals officers;  
or

(b) with the agreement of all the appraisers amend the appraisal statement; or

(c) order that the appraisal statement be expunged and order a new appraisal.

(9) Where a new appraisal is ordered under paragraph (8)(c) all the appraisers must be replaced by new appraisers appointed in accordance with regulation 7 and the appeals officers must determine which appraisal procedures must be repeated.

(10) All appraisal procedures determined to be repeated under paragraph (9) must be completed within 15 school days from the date of the order of the appeals officers under paragraph (8)(c).

(11) Appeals officers may not—

- (a) determine that new objectives be agreed or set in accordance with regulation 12; or
- (b) determine that the objectives agreed or set under regulation 12 be revised.

(12) References in this regulation and regulations 17 and 18 to an appraisal statement are references to a statement prepared under regulation 15(4), including, in the case of regulations 17 and 18, any observations added by the appeals officers under paragraph (8)(a).

### **Provision and retention of appraisal statements**

17.—(1) The appraisers must provide a copy of the appraisal statement to—

- (a) the head teacher;
- (b) the chair of the governing body;
- (c) the Chief Education Officer;
- (d) any governors responsible for advising about, or taking decisions in relation to, the promotion, discipline or dismissal of school teachers or the use of any discretion in relation to pay, upon request by those governors; and
- (e) in the case of the head teacher of a school which does not have a delegated budget (within the meaning of Chapter IV of Part II of the School Standards and Framework Act 1998) any officer or adviser specifically designated by the Chief Education Officer to be responsible for advising about, or taking decisions in relation to, the use of any discretion in relation to pay, upon request by such officer or adviser.

(2) The chair of the governing body must provide a copy of the appraisal statement to any officer or adviser specifically designated by the Chief Education Officer to be responsible for advising about, or taking decisions in relation to, the performance of head teachers pursuant to regulation 6 of the Staffing of Maintained Schools (Wales) Regulations 2006(7), upon receipt of a request by such officer or adviser.

(3) The chair of the governing body must provide any appeals officer with a copy of the appraisal statement and the statement of objectives within five school days of the governing body receiving notice of an appeal under regulation 16(2).

(4) Where a new appraiser is appointed otherwise than at the beginning of an appraisal cycle, the chair of the governing body must provide that person with a copy of any current statement of objectives.

(5) The chair of the governing body must provide a copy of the annex to the appraisal statement referred to in regulation 15(4) to the person or persons responsible for planning the training and development of the head teacher in the school.

(6) A head teacher must keep a copy of an appraisal statement until at least three years after the next appraisal statement has been finalised.

(7) The governing body must keep a copy of the head teacher's appraisal statement until at least three years after the next appraisal statement has been finalised.

### **Information from appraisal statements**

18.—(1) Relevant information from appraisal statements may be taken into account by school governing bodies (including committees of governing bodies), Chief Education Officers or any officers or advisers specifically designated by a Chief Education Officer under regulation 17(1)(e) or (2) in taking decisions, and in advising those responsible for taking decisions, about the promotion, dismissal or discipline of head teachers or the use of any discretion in relation to pay.



(2) Appraisal procedures in respect of a head teacher as described in these Regulations will not constitute any steps that must be taken in disciplinary or dismissal procedures brought against a head teacher.

### **Transitional provision**

**19.** Regulations 17 and 18 apply in relation to appraisal records produced and maintained under the Education (School Teacher Appraisal) (Wales) Regulations 1999<sup>(8)</sup> or under the School Teacher Appraisal (Wales) Regulations 2002 as they apply in relation to appraisal statements.

## **PART III**

### **Appraisal of School Teachers other than Head Teachers**

#### **Application of Part III**

**20.** Regulations 21 to 33 apply to the appraisal of school teachers other than head teachers.

#### **Appointment of appraisers for school teachers**

**21.—**(1) Subject to regulation 30(8) the head teacher must appoint as appraiser for every school teacher at the school, a school teacher at the school or the head teacher.

(2) The head teacher may appoint a new appraiser in place of an existing appraiser at any time.

#### **The appraisal cycle**

**22.—**(1) Subject to the following provisions of this regulation, and to regulation 23, the head teacher must determine the timing of the appraisal cycle for every school teacher at the school.

(2) Except as provided for in paragraphs (3), (4) and (5) and regulation 23(3), the length of an appraisal cycle will be one year.

(3) In the case of a school teacher employed under a contract of employment for a fixed term of less than one year the length of the appraisal cycle is the period of the fixed term.

(4) In the case of the first appraisal cycle under these Regulations of a school teacher in post on the date on which these Regulations come into force, the head teacher may determine that the length of the appraisal cycle will be a period other than one year provided that it ends no later than 31 December 2012 .

(5) In the case of the first appraisal cycle under these Regulations of a school teacher not in post on the date which these Regulations come into force, the head teacher may determine that the length of the cycle will be a period of less than one year.

(6) In the case of a school teacher at a maintained nursery school in post on the relevant date, the head teacher may determine that the length of the first appraisal cycle is a period other than one year provided that it ends no later than 31 December 2012.

(7) In the case of a school teacher employed under a contract of employment for a fixed term of less than one year (but not being a short term contract) in post on the relevant date, performance must be appraised throughout the unexpired period of the contract as at the relevant date and reviewed at the end of the fixed term.

(8) Once begun, appraisal cycles for every school teacher will be continuous.

(9) The appointment of a new appraiser will not cause a school teacher's appraisal cycle to begin again.

### **New appraisal cycle**

**23.**—(1) If a school teacher moves to a post as a school teacher in another school, the appraisal cycle will begin again.

(2) If a school teacher moves to a new post as a school teacher in the same school, the head teacher may determine that the appraisal cycle will begin again.

(3) Where a school teacher's appraisal cycle begins again under paragraph (1) or (2), the head teacher may determine that the length of the school teacher's first appraisal cycle in the new post will be a period of less than one year.

### **First appraisal cycle**

**24.** The governing body must take all reasonable steps to secure that the first appraisal cycle for every school teacher at the school in post on the date on which these Regulations come into force begins no later than 31 December 2012.

### **School Performance Management Policy**

**25.** The appraisal of school teachers at a school must be in accordance with the provisions of the School Performance Management Policy.

### **Planning of appraisal and setting of objectives**

**26.**—(1) Before or at the start of the appraisal cycle, the appraiser and the school teacher must meet to plan and prepare for the appraisal and to seek to agree the school teacher's objectives which must take account of such relevant evidence as the appraiser and the school teacher agree (or, in the absence of agreement, such relevant evidence as the appraiser decides) but which will include the Pupil Performance Information and must relate to—

- (a) developing and improving the school teacher's professional practice;
- (b) the school teacher's job description;
- (c) any relevant pay progression criteria;
- (d) any relevant whole-school or team objectives specified in the School Improvement Plan; and
- (e) the professional standards for school teachers as specified by the Welsh Ministers from time to time.

(2) The school teacher's objectives described in paragraph (1) may also take into account—

- (a) the school teacher's professional aspirations; and
- (b) any national priorities for school improvement set by the Welsh Ministers from time to time.

(3) The school teacher's objectives will be such that, if they are achieved, they will contribute to improving the progress of pupils at the school.

(4) If objectives are not agreed under paragraph (1), the appraiser must set out in writing such objectives as the appraiser considers appropriate, and the school teacher may add comments in writing.

(5) The objectives agreed under paragraph (1), or where objectives have not been agreed the objectives set out in writing under paragraph (4), and the school teacher's written comments, must be recorded in a written statement of objectives.

(6) When the objectives are set, the appraiser and the school teacher must seek to agree on the support that will be required for the school teacher to meet the objectives. If agreement cannot be reached the appraiser will determine the support that is required.

(7) The school teacher must during the course of the appraisal cycle keep an up-to-date record of—

- (a) the school teacher's own assessment of performance against the objectives recorded in the statement of objectives;
- (b) particulars of any professional development activities undertaken or other support provided and how this is contributing to achievement of the objectives; and
- (c) particulars of any factors which the school teacher considers are affecting performance against the recorded objectives.

### **Revising objectives**

**27.**—(1) A school teacher's objectives may be revised by the appraiser at any time during the appraisal cycle.

(2) Where a school teacher's objectives are revised under paragraph (1)—

- (a) the statement of objectives must be amended to show the revised objective, the date of the revision and the reason for the revision;
- (b) references in these Regulations to the school teacher's objectives will be read as references to the revised objectives; and
- (c) references in these Regulations to the school teacher's statement of objectives will be read as references to the amended statement of objectives.

### **Monitoring progress**

**28.**—(1) The appraiser and the school teacher must seek to agree at a meeting held under regulation 26(1) on the procedures for monitoring the school teacher's performance against the objectives agreed under regulation 26(1) or where objectives have not been agreed the objectives set out in writing under regulation 26(5).

(2) If procedures are not agreed under paragraph (1), the appraiser must set out in writing such procedures for monitoring the school teacher's performance as the appraiser considers appropriate.

(3) The procedures agreed under paragraph (1) or where procedures have not been agreed the procedures set out in writing under paragraph (2) must include a requirement for the appraiser in appraising a school teacher to observe the school teacher teaching on at least one occasion during the appraisal cycle.

(4) Subject to paragraph (5), an appraiser may not obtain from any other person information, whether written or oral, relevant to the school teacher's performance unless the school teacher consents or the information is obtained in accordance with the procedures agreed under paragraph (1) or where procedures have not been agreed the procedures set out in writing under paragraph (2).

(5) Paragraph (4) does not apply to any information which an appraiser is entitled to receive under any other provision of these Regulations.

### **The appraisal review and the appraisal statement**

**29.**—(1) At or near the end of the appraisal cycle the appraiser and the school teacher must hold an appraisal review, with the object of—

- (a) assessing the extent to which the school teacher has met the objectives recorded in the statement of objectives as set out in regulation 26(1), taking account of the record that the school teacher must keep in accordance with regulation 26(7);
- (b) determining whether there has been successful overall performance as considered against the professional standards for school teachers as specified by the Welsh Ministers from time to time; and
- (c) identifying the need for additional support, training or development and ways of meeting such needs also taking account of the record described in regulation 26(7).

(2) The date on which an appraisal review is to be held will be determined by the appraiser, but at least 10 school days notice (in writing) must be given to the school teacher of that date.

(3) The school teacher must, at least five school days before the appraisal review, submit to the appraiser the record maintained under regulation 26(7) and the record must be considered at the appraisal review.

(4) Within 10 school days after each appraisal review, the appraiser must prepare a written statement recording the main points made by the appraiser and the school teacher at the review and the conclusions reached, and there must be recorded in an annex to the statement (which will form part of the statement) the training and developmental needs and ways of meeting such needs identified at the review.

(5) An appraisal review under paragraph (1) may be combined with a meeting under regulation 26 in relation to the following appraisal cycle.

(6) The appraiser must give the school teacher a copy of the statement prepared under paragraph (4) within 10 school days after the appraisal review.

(7) The school teacher may, within 10 school days of receiving a copy of that statement add to it comments in writing, and such comments will form part of the statement prepared under that paragraph.

### **Appeals**

**30.**—(1) A school teacher is entitled to appeal against an appraisal under these Regulations within 10 school days of receiving a copy of the appraisal statement under regulation 29(6).

(2) An appeal must be made in writing to the governing body.

(3) The appeals officer in relation to such an appeal must be the head teacher, except where the appraiser is the head teacher, when the appeals officer must be the chair of the governing body.

(4) Where the appeals officer is the chair of the governing body, the local authority must appoint a representative to assist the appeals officer.

(5) The appeals officer must within 10 school days of receiving the appraisal statement under regulation 31(2)(b) conduct and conclude a review of the appraisal and must take account of any representations made by the school teacher.

(6) The appeals officer may—

- (a) order the appraisal statement to stand with or without observations of the appeals officer; or
- (b) with the agreement of the appraiser amend the appraisal statement; or
- (c) order that the appraisal statement be expunged and order a new appraisal.

(7) Where a new appraisal is ordered under paragraph (6)(c), a new appraiser must be appointed in accordance with regulation 21 and the appeals officer must determine which appraisal procedures must be repeated.

(8) Where it appears to the appeals officer that there is no suitable new appraiser who can be appointed for the school teacher under regulation 21, the appeals officer must appoint as a new appraiser for the school teacher a member of the school's governing body.

(9) No governor who is a teacher or other member of staff at the school may be appointed as an appraiser of a school teacher under paragraph (8).

(10) All appraisal procedures determined to be repeated under paragraph (7) must be completed within 15 school days from the date of the appeals officer's order under paragraph (6)(c).

(11) The appeals officer may not—

- (a) determine that new objectives be agreed or set in accordance with regulation 26; or
- (b) determine that the objectives agreed or set under regulation 26 be revised.

(12) References in this regulation and in regulations 31 and 32 to an appraisal statement are references to a statement prepared under regulation 29(4), including, in the case of regulations 31 and 32, any observations added by an appeals officer under paragraph (6)(a).

### **Provision and retention of appraisal statements**

**31.**—(1) The appraiser must give a copy of the appraisal statement to the head teacher.

(2) The following persons may request a copy of the appraisal statement and the head teacher must upon such request make a copy of the appraisal statement available to that person—

- (a) the appraiser;
- (b) any appeals officer within five school days of the governing body receiving notice of an appeal under regulation 30(2), who must also be given a copy of the statement of objectives;
- (c) any governors responsible for advising about, or taking decisions in relation to, the promotion of school teachers or the use of any discretion in relation to pay; and
- (d) in the case of a school teacher employed at a school which does not have a delegated budget (within the meaning of Chapter IV of Part II of the School Standards and Framework Act 1998) the Chief Education Officer or any officer or adviser specifically designated by the Chief Education Officer to be responsible for advising about, or taking decisions in relation to, the promotion of school teachers or the use of any discretion in relation to pay.

(3) Where the school teacher is eligible for pay progression under the Document, the appraiser must provide to the head teacher a recommendation on pay progression, having regard to the school teacher's appraisal statement.

(4) The head teacher must provide a copy of the annex to the appraisal statement referred to in regulation 29(4) to the person or persons responsible for planning the training and development of school teachers at the school.

(5) The head teacher must make a school teacher's current statement of objectives available to a new appraiser appointed otherwise than at the beginning of an appraisal cycle.

(6) A school teacher's appraisal statement must be kept by the head teacher until at least three years after the next appraisal statement has been finalised.

### **Information from appraisal statements**

**32.**—(1) Relevant information from appraisal statements may be taken into account by head teachers, school governing bodies (including committees of governing bodies), Chief Education

Officers or any officers or advisers specifically designated by a Chief Education Officer under regulation 31(2)(d) in taking decisions, and in advising those responsible for taking decisions, about the promotion, dismissal or discipline of school teachers or the use of any discretion in relation to pay.

(2) Appraisal procedures in respect of a school teacher as described in these Regulations will not constitute any steps that must be taken in disciplinary or dismissal procedures brought against the school teacher.

### **Transitional provision**

**33.** Regulations 31 and 32 apply in relation to appraisal records produced and maintained under the Education (School Teacher Appraisal) (Wales) Regulations 1999 or under the School Teacher Appraisal (Wales) Regulations 2002 as they apply in relation to appraisal statements.

## **PART IV**

### **Appraisal of Unattached Teachers**

#### **Application of Part IV**

**34.**—(1) Regulations 35 to 45 apply to the appraisal of unattached teachers.

(2) In this Part IV “school” (“ysgol”) includes a pupil referral unit and references to a head teacher include reference to a teacher in charge of a pupil referral unit.

#### **Requirement on authority to produce a performance management policy**

**35.**—(1) The authority must have a written policy (“the performance management policy”) setting out how the appraisal of unattached teachers is to be implemented.

(2) The authority must review the performance management policy every school year.

(3) Following such review the authority must if it sees fit amend the performance management policy.

(4) Before establishing or amending the performance management policy the authority must consult all their unattached teachers about the formulation of the performance management policy or its amendment.

(5) The authority must implement the performance management policy.

(6) The authority must make a copy of the performance management policy available for inspection at any reasonable time by:

- (a) any unattached teacher;
- (b) any person involved in the inspection of the operation of the unattached teacher appraisal system;
- (c) any appraiser appointed in accordance with these Regulations.

#### **Appointment of appraisers for unattached teachers**

**36.**—(1) Subject to the following paragraphs the authority is the appraiser for every unattached teacher.

(2) The authority may delegate some or all of the duties imposed on an appraiser to a school teacher at a school where the predominant part of the working time of the unattached teacher is spent, or to such other person whom they consider best placed to manage and review the unattached teacher’s performance.

(3) The authority may appoint a new appraiser in place of an existing appraiser at any time or they may perform those duties themselves.

### **The appraisal cycle**

**37.**—(1) Subject to the following provisions of this regulation the authority must determine the timing of the appraisal cycle for every unattached teacher employed by it.

(2) Except as provided for in paragraphs (3), (4) and (5) the length of an appraisal cycle is one year.

(3) In the case of the first appraisal cycle under these Regulations of an unattached teacher in post on the relevant date, the authority may determine that the length of the appraisal cycle is a period other than one year.

(4) In the case of the first appraisal cycle under these Regulations of an unattached teacher not in post on the relevant date, the authority may determine that the length of the first appraisal cycle is a period of less than one year.

(5) In the case of an unattached teacher employed under a contract of employment for a fixed term of less than one year, performance must be managed throughout the term of the contract and reviewed at the end of that term.

(6) The authority must take all reasonable steps to secure that the first appraisal cycle for every unattached teacher in post on the relevant date begins no later than 31 December 2012.

(7) Once begun, appraisal cycles for every unattached teacher will be continuous.

(8) The appointment of a new appraiser will not cause an unattached teacher's appraisal cycle to begin again save as may be provided for in paragraph (9).

(9) Where an unattached teacher transfers to a new post within the authority part way through an appraisal cycle, the authority must determine whether the cycle is to begin again and if so whether to appoint a new appraiser.

### **Appraisal procedures**

**38.**—(1) Subject to paragraph (2) and to regulations 39 to 43 the authority must determine the procedures for the appraisal of unattached teachers.

(2) If some or all of the authority's duties in respect of an unattached teacher have been delegated to a teacher at a school in accordance with regulation 36(2) then subject to regulations 39 to 43 the procedures for the appraisal of that unattached teacher must be those determined by the school's governing body pursuant to regulation 25.

### **Planning of appraisal and setting of objectives**

**39.**—(1) Before or at the start of the appraisal cycle, the appraiser and the unattached teacher must meet to plan and prepare for the appraisal and to seek to agree the unattached teacher's objectives which must take account of such relevant evidence as the appraiser and the unattached teacher agree (or, in the absence of agreement, such relevant evidence as the appraiser decides) but which will include the Pupil Performance Information and must relate to—

- (a) developing and improving the unattached teacher's professional practice;
  - (b) the unattached teacher's job description;
  - (c) any relevant pay progression criteria;
  - (d) any relevant whole-school or team objectives specified in the School Improvement Plan;
- and

- (e) the professional standards for school teachers as specified by the Welsh Ministers from time to time.
- (2) The unattached teacher's objectives described in (1) may also take into account—
  - (a) the unattached teacher's professional aspirations; and
  - (b) any national priorities for school improvement set by the Welsh Ministers from time to time.
- (3) The unattached teacher's objectives will be such that, if they are achieved, they will contribute to improving the progress of pupils at schools where the unattached teacher works.
- (4) If objectives are not agreed under paragraph (1), the appraiser must set out in writing such objectives as the appraiser considers appropriate, and the unattached teacher may add comments in writing.
- (5) The objectives agreed under paragraph (1), or where objectives have not been agreed the objectives set out in writing under paragraph (4), and the unattached teacher's written comments, must be recorded in a written statement of objectives.
- (6) When the objectives are set, the appraiser and the unattached teacher must seek to agree on the support that will be required for the unattached teacher to meet the objectives. If agreement cannot be reached the appraiser will determine the support that is required.
- (7) The unattached teacher must during the course of the appraisal cycle keep an up-to-date record of—
  - (a) the unattached teacher's own assessment of performance against the objectives recorded in the statement of objectives;
  - (b) particulars of any professional development activities undertaken or other support provided and how this is contributing to achievement of the objectives; and
  - (c) particulars of any factors which the unattached teacher considers are affecting performance against the recorded objectives.

### **Revising objectives**

- 40.**—(1) An unattached teacher's objectives may be revised by the appraiser at any time during the appraisal cycle.
- (2) Where an unattached teacher's objectives are revised under paragraph (1)—
    - (a) the statement of objectives must be amended to show the revisions;
    - (b) references in these Regulations to the unattached teacher's objectives will be read as references to the revised objectives; and
    - (c) references in these Regulations to the unattached teacher's statement of objectives will be read as references to the amended statement of objectives.

### **Monitoring progress**

- 41.**—(1) The appraiser and the unattached teacher must seek to agree at a meeting held under regulation 39 on the procedures for monitoring the unattached teacher's performance against the objectives agreed under regulation 39(1) or where objectives have not been agreed, the objectives set out in writing under regulation 39(4).
- (2) If procedures are not agreed under paragraph (1) the appraiser must set out in writing such procedures for monitoring the unattached teacher's performance as the appraiser considers appropriate.



(3) Procedures whether agreed under paragraph (1) or set out in writing under paragraph (2) must include:

- (a) a requirement for the appraiser in appraising the unattached teacher to observe the unattached teacher teaching on at least one occasion during the appraisal cycle;
- (b) a requirement for the appraiser to seek information from those with relevant professional knowledge of the unattached teacher at other places at which the unattached teacher regularly spends part of their working time.

(4) Subject to paragraphs (3) and (5) an appraiser may not obtain from any other person information, whether written or oral, relevant to the unattached teacher's performance unless the unattached teacher consents or the information is obtained in accordance with procedures agreed under paragraph (1) or where procedures have not been agreed the procedures set out in writing under paragraph (2).

(5) Paragraph (4) does not apply to any information which the appraiser is entitled to receive under any other provision of these Regulations.

### **The appraisal review and the appraisal statement**

**42.**—(1) At or near the end of the appraisal cycle the appraiser and the unattached teacher must hold an appraisal review, with the object of—

- (a) assessing the extent to which the unattached teacher has met the objectives recorded in the statement of objectives as set out in regulation 39(1), taking account of the record that the unattached teacher must keep in accordance with regulation 39(7);
- (b) determining whether there has been successful overall performance as considered against the professional standards for school teachers as specified by the Welsh Ministers from time to time; and
- (c) identifying the need for additional support, training or development and ways of meeting such needs also taking account of the record described in regulation 39(7).

(2) The date on which an appraisal review is to be held will be determined by the appraiser, but at least 10 school days notice (in writing) must be given to the unattached teacher of that date.

(3) The unattached teacher must, at least five school days before the appraisal review, submit to the appraiser the record maintained under regulation 39(7) and the record must be considered at the appraisal review.

(4) Within 10 school days after each appraisal review, the appraiser must prepare a written statement recording the main points made by the appraiser and the unattached teacher at the review and the conclusions reached, and there must be recorded in an annex to the statement (which will form part of the statement) the training and developmental needs and ways of meeting such needs identified at the review.

(5) An appraisal review under paragraph (1) may be combined with a meeting under regulation 39 in relation to the following appraisal cycle.

(6) The appraiser must give the unattached teacher a copy of the statement prepared under paragraph (4) within 10 school days after the appraisal review.

(7) The unattached teacher may, within 10 school days of receiving a copy of that statement add to it comments in writing, and such comments will form part of the appraisal statement.

(8) Where the appraiser is not the authority, the appraiser must send a copy of the appraisal statement to the authority and to the head teacher of any school at which the unattached teacher regularly spends part of their working time.

(9) Where the authority is the appraiser, the authority must send a copy of the appraisal statement to the head teacher of any school at which the unattached teacher regularly spends part of their working time.

## Appeals

**43.**—(1) An unattached teacher is entitled to appeal against an appraisal under these Regulations within 10 school days of receiving a copy of the appraisal statement under regulation 42(6).

(2) Where the appraiser is a teacher at a school the provisions of regulation 30(2) to (12) will apply, save that reference in those paragraphs to an appraisal statement will be references to a statement prepared under regulation 42(4) including for the purposes of regulations 31 and 32 any observations added by an appeals officer under paragraph (6)(a) of regulation 30.

(3) Where the authority is the appraiser any appeal will be made in writing to the authority in accordance with their appeals procedures applicable to all staff save as may be inconsistent with this regulation.

(4) The appeals officer must within 10 school days of receiving the appraisal statement under regulation 44(2)(b) conduct and conclude a review of the appraisal and must take account of any representations made by the unattached teacher.

(5) The appeals officer may—

- (a) order the appraisal statement to stand with or without observations of the appeals officer; or
- (b) with the agreement of the appraiser amend the appraisal statement; or
- (c) order that the appraisal statement be expunged and order a new appraisal.

(6) Where a new appraisal is ordered under paragraph (5)(c), a new appraiser must be appointed in accordance with regulation 36 and the appeals officer must determine which appraisal procedures must be repeated.

(7) Where it appears to the appeals officer that there is no suitable school teacher at a school where the unattached teacher spends the predominant part of their working time to be a new appraiser who can be appointed for the unattached teacher, the appeals officer must appoint as a new appraiser for the unattached teacher a member of that school's governing body (other than a governor who is a teacher or other member of staff) or any other person suitable to manage and review the unattached teacher's performance.

(8) All appraisal procedures determined to be repeated under paragraph (6) must be completed within 15 school days from the date of the appeals officer's order under paragraph (5)(c).

(9) The appeals officer may not—

- (a) determine that new objectives be agreed or set; or
- (b) determine that the objectives agreed or set under regulation 39(1) be revised.

(10) References in this regulation and in regulations 44 and 45 to an appraisal statement are references to a statement prepared under regulation 42(4), including, in the case of regulations 44 and 45, any observations added by an appeals officer under paragraph (5)(a).

## Provision and retention of appraisal statements

**44.**—(1) The appraiser must give a copy of the appraisal statement to—

- (a) the head teacher at every school at which the unattached teacher regularly spends part of their working time; and
- (b) the authority.

(2) The following persons may make a request for a copy of the appraisal statement and the authority must upon such request make a copy of the appraisal statement available to that person—

- (a) the appraiser;
- (b) any appeals officer within five school days of the authority receiving notice of an appeal under regulation 43 who must also be given a copy of the statement of objectives; and
- (c) the Chief Education Officer or any officer or adviser specifically designated by the Chief Education Officer to be responsible for advising about, or taking decisions in relation to, the promotion of unattached teachers or the use of any discretion in relation to pay.

(3) Where the unattached teacher is eligible for pay progression under the Document, the appraiser must provide to the authority a recommendation on pay progression, having regard to the unattached teacher's appraisal statement.

(4) The authority must provide a copy of the annex to the appraisal statement referred to in regulation 42(4) to the person or persons responsible for planning the training and development of school teachers at any school at which the unattached teacher regularly spends part of their working time.

(5) The authority must make an unattached teacher's current statement of objectives available to a new appraiser appointed otherwise than at the beginning of an appraisal cycle.

(6) An unattached teacher's appraisal statement must be kept by the authority until at least three years after the next appraisal statement has been finalised.

#### **Information from appraisal statements**

**45.**—(1) Relevant information from appraisal statements may be taken into account by an authority, Chief Education Officers or any officers or advisers specifically designated by a Chief Education Officer under regulation 44(2)(c) in taking decisions, and in advising those responsible for taking decisions, about the promotion, dismissal or discipline of unattached teachers or the use of any discretion in relation to pay.

(2) Appraisal procedures in respect of an unattached teacher as set out in these Regulations will not constitute any steps that must be taken in disciplinary or dismissal procedures brought against an unattached teacher.

#### **Transitional provision**

**46.** Regulations 44 and 45 apply in relation to appraisal records produced and maintained under the School Teacher Appraisal (Wales) Regulations 2002 as they apply in relation to appraisal statements.

#### **Amendment to the School Government (Terms of Reference) (Wales) Regulations 2000**

**47.**—(1) In regulation 2(1) omit the definitions of “school teacher”, “school term” and “short term contract”.

- (2) At the end of regulation 2(2)(a) insert “and” and in regulation 2(2)(b) omit “and”.
- (3) Delete regulation 2(2)(c).
- (4) Delete regulation 10.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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6 December 2011

*Leighton Andrews*  
Minister for Education and Skills, one of the  
Welsh Ministers