

CYPE(5)-20-20 - Paper to note 16

Curriculum and Assessment Bill – functions of the Governing Body in respect of the curriculum as conferred by the Bill

Curriculum adoption (section 11)

The head teacher must (under section 10) design the curriculum which is to be adopted.

The governing body and head teacher must (under section 11) adopt the curriculum designed for the school's pupils, and publish a summary of the adopted curriculum.

Curriculum review and revision (section 12)

The governing body and head teacher of a school must keep the adopted curriculum under review, and ensure that it continues to comply with requirements.

In doing so the governing body and head teacher must have regard to information derived from any assessment arrangements.

The governing body and head teacher must revise the adopted curriculum if they consider it necessary to do so to ensure that it continues to comply with requirements.

All of the above functions are exercisable jointly.

The governing body and head teacher may also revise the adopted curriculum if they consider it appropriate to do so at any time, and if they do so must publish a summary of the revised curriculum.

Disapplication of English as a mandatory element: maintained schools and maintained nursery schools (section 26)

The governing body and head teacher of a maintained school or maintained nursery school may make a determination in relation to the mandatory element of English.

The governing body and head teacher of a maintained school or maintained nursery school may also revoke their determination.

These functions are exercisable jointly.

Duty to ensure implementation of adopted curriculum (section 29)

The governing body of a school must exercise its functions with a view to ensuring that the adopted curriculum is implemented for the school's pupils in accordance with the Bill.

Reviews and appeals relating to pupil choice (section 35)

Where a head teacher has made a determination under section 33 (disapplication of pupil choice), the pupil concerned, or the pupil's parent, may require the head teacher to review the determination. If dissatisfied with the decision made on review, the pupil (or the pupil's parent) may appeal to the governing body of the school against that decision.

On an appeal, the governing body—

- (a) may confirm the head teacher's decision on the review or direct the head teacher to take the action that it considers appropriate, and
- (b) must give written notice of its decision to—
 - (i) the pupil,
 - (ii) the pupil's parent, and
 - (iii) the head teacher.

The head teacher must comply with a direction given by the governing body.

The governing body and head teacher must publish information setting out a procedure for reviews and appeals. This is a joint function

Development work and experiments (section 40)

The Welsh Ministers may give a direction under this section to the head teacher and governing body of a school in order to enable development work or experiments to be carried out. The direction can require the head teacher and governing body to report on specified matters.

Development work and experiments: conditions (section 41)

This section sets out the conditions that must be met before a head teacher can give a direction under section 40. Those conditions include a requirement that the governing body must either make the application or agree to it being made. In a community school, community special school or maintained nursery school where the governing body is the applicant the application must be made with the local authority's agreement.

The result of these provision is that the Welsh Ministers will not be able to give a direction under section 40 without the governing body's agreement (or unless the governing body has applied for it).

Development work and experiments: conditions (section 42)

The head teacher and governing body of the school must publish a summary of the curriculum that will be implemented as a result of a direction made by Welsh Ministers to enable development work and experiments.

Provision of information about temporary exceptions (section 46)

A head teacher who makes, varies or revokes a determination under regulations made under section 44 (temporary exceptions for individual pupils) must give the information described in this section to the governing body.

Appeals about temporary exceptions for individual pupils (section 47)

Where the head teacher of a school makes, varies or revokes a determination under section 44 relating to a pupil, or fails to make a determination on being requested to do so, the pupil (or the pupil's parent) may appeal to the governing body.

If an appeal is made, the governing body may—

- (a) direct the head teacher, in writing, to take the action that it considers appropriate in respect of the determination, or

(b) inform the head teacher, in writing, that no such direction will be given.

The governing body must give written notice of its decision to—

- (a) the pupil, and
- (b) the pupil's parent.

The head teacher must comply with a direction given by the governing body under this section.

Assessment and progression (section 58)

This section enables regulations to make provision about assessment arrangements. The regulations may impose duties on a governing body.

General curriculum requirement (section 61)

The head teacher and governing body of a maintained school must ensure that the curriculum for the school's pupils is a balanced and broadly based curriculum that—

- (a) promotes the spiritual, moral, cultural, mental and physical development of the pupils and of society, and
- (b) prepares the pupils for the opportunities, responsibilities and experiences of later life.

This is a joint duty.

Curriculum requirement: Religion, Values and Ethics (section 62)

The head teacher of a maintained school must ensure that teaching and learning in Religion, Values and Ethics is provided in accordance with this section. The governing body of a maintained school must exercise its functions with a view to ensuring that teaching and learning in Religion, Values and Ethics is provided in accordance with this section.

Duty to have regard to guidance (section 66)

In exercising their functions, the governing body must have regard to any guidance issued by the Welsh Ministers.

Power to make provision for children receiving education in more than one setting etc. (section 67)

This section allows the Welsh Ministers to make regulations for or in connection with teaching and learning to be secured of compulsory school age children. Regulations may in particular confer functions on any person listed in sub-section (8), including the governing body.

Background on the role of the governing body and head teacher in existing legislation

Governing bodies have a range of duties and powers in legislation. The governing body is primarily responsible for the conduct of the school. The head teacher is

responsible for the day to day management of the school and in most cases will be a member of the governing body.

At a maintained school with a delegated budget, the governing body's duties include amongst other things:

- conducting the school with a view to promoting high standards of educational achievement and behaviour;
- taking general responsibility for the conduct of the school - in practice this means policy making and how, in broad strategic terms, the school should be run;
- managing the school's budget.

The governing body also has responsibilities in respect of the curriculum. It must (under section 100 of the Education Act 2002) exercise its functions with a view to ensuring that the curriculum for the school is balanced and broadly based. The head teacher of the school, and the local authority, are under an equivalent duty. The governing bodies and head teachers must (under section 109 of the Education Act 2002) exercise its functions with a view to ensuring that the National Curriculum is implemented for the school. An equivalent duty is placed on the local authority.

The head teacher is required to ensure that the National Curriculum is implemented for the school). The head teacher is responsible for the internal organisation, management and control of the school, and the implementation of the strategic framework established by the governing body.

In addition the head teacher shall advise the governing body on the establishment and review of the strategic framework, and in particular shall formulate the following (which may be adopted (with or without modifications) or rejected by the governing body):

- aims and objectives for the school;
- policies for the school for achieving the aims and objectives set by the governing body; and
- targets for the achievement of those aims and objectives.