
WELSH STATUTORY INSTRUMENTS

2011 No. 2940

The School Teacher Appraisal (Wales) Regulations 2011

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.