

**Welsh Government**  
**Reform of school governance: regulatory framework**  
**Proposals to revise and consolidate the school governance**  
**regulatory framework**  
**February 2017**

1. The NASUWT welcomes the opportunity to comment on the proposals to revise and consolidate the school governance regulatory framework.
2. The NASUWT is the largest teachers' union in Wales representing teachers and school leaders.

**GENERAL COMMENTS**

3. The NASUWT notes that the rationale provided in the introduction of the consultation document relies on views about school governance expressed in the Robert Hill report *Future Delivery of Education Services in Wales*, successive Estyn reports, and the CBI report *Step Change – A new approach for schools in Wales* as well as the findings of a Task and Finish Group established by the previous Minister for Education and Skills to consider the fitness for purpose of the school governance framework in Wales.
4. The NASUWT questions seriously the credibility of these reports as the Robert Hill report merely reflected the views of the then Education Minister and contained proposals that were seriously concerning to the NASUWT at the time, the Estyn

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reports have added little to the debate, the CBI's vision effectively proposed a form of academisation of schools in Wales, envisaging a significant role for the private sector in the running of schools, and the Task and Finish Group appeared not to have recognised that The Government of Maintained Schools (Wales) Regulations 2005 (the 2005 Regulations) allows for the appointment of community and sponsor governors and has failed to appreciate the need for the composition of school governing body to be underpinned largely by democratic accountability.

5. The NASUWT maintains that schools are not, and should not, be viewed as institutions in which pupils are 'factory-farmed' to suit the needs of industry and commerce or, for that matter, where pupils are drilled in order to improve Wales' standing in the Programme for International Student Assessment (PISA) results.
6. The NASUWT is not suggesting that change to the structure, composition and role of school governing bodies is not necessary. Indeed, in some areas, such as addressing the inability of governors to act impartially and unfettered when considering employment matters where the livelihood of employees is under threat, change is long overdue. However, the overview of the proposals, presented in the introduction to the consultation document, reveal some fundamental flaws in the approach that that is being suggested.
7. The NASUWT considers that the problems associated with governing bodies stem from both the 1986 Education (No. 2) Act (the 1986 Act) and the 1988 Education Reform Act (the 1988 Act). These Acts provided governing bodies with powers to which they are unsuited and for which they lack the knowledge and expertise to exercise. The Union does not consider that the reforms proposed in this consultation will improve this situation.
8. As stated previously, the provisions of the 2005 Regulations present opportunities for governors with particular skills to be appointed to governing bodies and it should

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be noted that governing bodies are currently able to allow '*such other persons as the governing body may determine*' to attend meetings of the governing body [Regulation 44(d) and 59(1)(d)].

9. In any event, the NASUWT believes that all governors, regardless of their provenance, must act with integrity, impartiality and honesty by virtue of their office. The Union asserts that these attributes should be clearly set out in the terms of reference for governors and be a key aspect of governor training.
10. The suggestion that the new legislative framework, Government and Staffing of Maintained Schools (Wales) Regulations 2017 (the New Regulations), will provide a single, consistent approach to school governance across all maintained schools in Wales appears to be irreconcilable with the increased flexibility and freedoms to appoint governors, as referred to in the 'Stakeholder Plus' model.
11. In particular, the NASUWT is extremely concerned that the proposals to improve the expertise of a governing body are based on the use of 'Skills Criteria'. The Union notes with incredulity that the criteria are neither published in the consultation document nor in the New Regulations. It is, therefore, not possible to determine whether their use will be effective in any way.
12. The NASUWT considers that the New Regulations remain extremely complex and do nothing to simplify the system. Neither will they assist governing bodies in undertaking their governance role in an improved manner. The consultation document states that some governing bodies are 'considered too large to be effective' but it is difficult to understand how the proposals will address this issue, as it is also suggested that there should be no upper limit on the size of governing bodies.

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13. The NASUWT is particularly concerned about the proposal to allow changes to the timings of the start and finish of the school day for prescribed categories of schools to be made at the beginning of a school term, instead of having to wait until the beginning of a school year.
14. The NASUWT is aware of instances where governing bodies have changed their session times without following the arrangements prescribed in the 2005 Regulations and maintains that the proposed change will only serve to exacerbate such inappropriate practice.
15. The proposals demonstrate a failure to appreciate that schools are organised around an academic year, that school staff and parents will often organise childcare arrangements around the opening and closing times for the academic year and that childcare providers/minders who organise 'pick-ups' prior to and at the end of the school day could be presented with logistical difficulties.
16. The NASUWT notes that the Equality Impact Assessment (EIA) at Annex D does not consider the impact of changing school start and finishing times on persons with protected characteristics. Furthermore, the NASUWT maintains that providing governing bodies with the ability to make such changes on a termly basis could impact adversely and disproportionately on teachers and other staff who have carer responsibilities, and has the potential to breach teachers' contractual right to be able to achieve a satisfactory balance between the time required to discharge their professional duties and the time required to pursue personal interests outside work - in short, the right to a work/life balance.
17. In addition, this proposal fails to recognise that any change to the start and finish time of the school day would constitute a change to the working conditions of teachers and other school staff, and as such should require consultation with a view to reaching agreement with the recognised trade unions.

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18. Further, the NASUWT is alarmed to note that the consultation document fails to explain that this proposal could lead to governors being able to lengthen the school day with scant regard for the wellbeing of pupils, teachers and the wider school workforce, as The Changing of School Session Times (Wales) Regulations 2009 (the 2009 Regulations) do not make provision for consultation with the recognised trade unions and do not prescribe that the consultation should be with a view to reaching agreement.
19. When this proposal is viewed in the context of the proposal to reduce the number of staff governors to one, which could result in either teachers or support staff being disenfranchised from playing an active and vital role in the governance of schools in Wales, the insidious nature of the New Regulations become more apparent.
20. The Welsh Government is reminded that the NASUWT would reserve the right to ballot members on the maintenance of the *status quo* in terms of school session times should agreement not be reached at the end of a consultation.
21. Although the need for reform within the governance arrangement for schools is acknowledged and the need for greater consistency is recognised, the NASUWT asserts that there is a need to increase the democratic basis on which school governing bodies are constituted rather than decrease it by providing governing bodies with the freedom to appoint more unelected, non-representative governors.
22. The NASUWT maintains that the freedoms and flexibilities enshrined in the New Regulations have the potential to greatly increase the inconsistencies across school governing bodies in Wales and lead to competition and conflict between schools rather than encouraging the collaboration and co-operation that has been the mantra of the Welsh Government.

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23. Consequently, the NASUWT finds very little merit in the proposals and urges the Welsh Government to return to the drawing board in order to preserve the fundamental ethos of the Welsh education system.

**SPECIFIC COMMENTS**

24. The NASUWT offers the observations and comments that follow in relation to the questions posed on the consultation response form.

**Question 1** – Do you agree with our plans for skilled governing bodies?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

The NASUWT maintains that there is a need for governors to be able to demonstrate common sense and be able to recognise injustices and unfairness. It is unclear how these plans allow for the introduction of ‘highly skilled individuals’ any more than the full use of the existing provisions that do allow for a broad skills mix. The proposals must avoid giving disproportionate power and influence to any particular constituency, including governors from the business community being given control of school governing bodies.

**Question 2** – Do you think that the skills criteria is appropriately defined? !

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

The NASUWT maintains that the question is misguided as the only definitions of the Skills Criteria contained in the consultation document refers to the possibility of a person with experience in the business community being viewed as having the skills

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necessary to be a school governor and that the skills will be opined by the person or body appointing governors.

The fact that this question has been asked of consultees when the skills have not been defined but are referenced on over 60 occasions in the consultation document raises serious questions about the credibility of many of the proposals contained in the document.

**Question 3** – Do you agree with the proposal to have appointed parent governors who are appointed for the skills they can offer?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

The NASUWT disagrees with this proposal for the reasons given in answer to question 2 and because it suggests that parent governors should be appointed rather than elected.

**Question 4** – Do you agree with the proposal to allow parents of former pupils at the school to be appointed as parent governors under category (ii) or (iii)?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

The NASUWT disagrees with this proposal as the persons concerned would no longer be a parent of any pupils attending the school and may not have the confidence of the parents of pupils at the school.

The Union notes that there is no time limit placed on this provision. This could result in a person remaining as a parent governor even when their children are grown up and have children of their own. Neither is there any geographical limit in relation to

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the school at which such parent governors would be serving, which could result in a person remaining on a school governing body when they have moved away from the school and have no links with the community in which the school is situated or any links to current parents or pupils. The proposal, therefore, lacks both credibility and merit.

**Question 5** – Do you agree that it should be mandatory for the number of elected parent governors not to outnumber appointed parent governors?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

The NASUWT disagrees with this proposal as it undermines the democratic basis which should underpin school governing bodies.

**Question 6** – Do you agree that a person should be disqualified from becoming a parent governor if they work at the school, irrespective of the hours they work and even if they are a parent of a pupil at the school?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

The NASUWT disagrees with this proposal as it merely seeks to limit the number of people working at a school from being governors.

**Question 7** – Do you agree with our proposals for staff governors, including amalgamating the categories of teacher and staff governor?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

The NASUWT stands firmly and resolutely opposed to these proposals as they

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would disenfranchise one of the categories of governors from being able to serve on school governing bodies. Indeed, the Union maintains that the number of elected governors in both categories should be increased rather than decreased as the school workforce is knowledgeable and skilled in the education service as well as best placed and equipped to govern schools.

**Question 8** – Do you agree with our proposals for local authority governors? !

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input type="checkbox"/>	<b>Neither agree nor disagree</b>	<input checked="" type="checkbox"/>
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**Supporting comments !**

The NASUWT maintains that since the vast majority of schools in Wales remain under the control of local authorities, there is a case for more than one local authority governor on school governing bodies.

**Question 9** – Would you wish to see any other category of person disqualified from becoming a local authority school governor, e.g. an elected local authority member? !

<b>Agree</b>	<input checked="" type="checkbox"/>	<b>Disagree</b>	<input type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

In noting that the question appears to be loaded by the example given, and despite some bad experiences when dealing with elected local authority members on governing bodies, the NASUWT disagrees with the proposal to disqualify such category of person from serving on governing bodies in schools in their local authority as they are the *de facto* employer.

However, should this proposal be implemented, the NASUWT would expect governors aspiring to the new category of co-opted governor to be similarly disqualified from serving on governing bodies on the basis of the same criteria, as

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the process must be consistent and transparent.

In addition, the NASUWT would expect employees of the Regional Consortia to be disqualified from serving on governing bodies of schools covered by the consortium area.

**Question 10** – Do you agree with our proposals for community governors? !

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input type="checkbox"/>	<b>Neither agree nor disagree</b>	<input checked="" type="checkbox"/>
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**Supporting comments !**

The NASUWT maintains that there may be a case for more than one community governor on school governing bodies, not least to mitigate the influence of an influx of co-opted governors from the business community.

**Question 11** – Do you agree with our proposals for foundation governors? !

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input type="checkbox"/>	<b>Neither agree nor disagree</b>	<input checked="" type="checkbox"/>
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**Supporting comments !**

The NASUWT has concerns about the proposals for foundation governors for voluntary aided schools as they would result in the number of appointed governors exceeding the number of elected governors. The Union maintains that this approach undermines the democratic basis on which governing bodies should be constituted.

The NASUWT has similar concerns about the proposals for voluntary controlled and foundation schools with a foundation when viewed in the context of the increases proposed for the numbers of appointed governors.

In noting the reference that specifies that 'the person or body making the appointment must be of the opinion that prospective candidate fulfils the Skills

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Criteria', the NASUWT refers to the views expressed in answer to question 2 over the lack of definition of the skills, but also notes the lack of clarity over the nomination and appointment process to be used, and over the person or body making the appointments.

**Question 12** – Do you agree with our proposals for partnership governors? !

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input type="checkbox"/>	<b>Neither agree nor disagree</b>	<input checked="" type="checkbox"/>
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**Supporting comments !**

The NASUWT has similar misgivings over the proposal for partnership governors to those expressed in answer to questions 2 and 11.

The Union also questions the proposal to appoint partnership governors if the number nominated is insufficient. There is no clarity about who would be making the nomination and why it could be considered that a suitable partnership governor was not nominated in the first place. The Union maintains that this process would be open to abuse as a governing body could appoint whoever they chose without restriction.

**Question 13** – Do you agree with our proposals for co-opted governors; will they give governing bodies the flexibility needed to fill any skills gaps?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

The NASUWT disagrees with this proposal for the reasons given in paragraphs 4 to 12 and 21 to 23 of this response, and in answer to questions 1 and 2.

The NASUWT views this proposal as the most insidious aspect of the New

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Regulations as it seeks to open school governing bodies to the influence of, and possible exploitation by, those who may not be fully committed to the public service ethos on which an effective and equitable education system is based and is founded on seeking to introduce a far more punitive culture into school governance.

**Question 14** – Do you agree that co-opted governors ought to fulfil the co-opted criteria, rather than simply the skills criteria?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

The NASUWT maintains that the concept of 'Co-opted Criteria' is as misconceived as the question itself, since the skills criteria have not been defined, as referred to in answer to question 2, and the only rationale given for distinguishing the co-opted criteria from the skills criteria is an added criterion of having a primary aim of wanting a school to secure the best possible outcomes for its pupils.

To put it bluntly, the Union views this additional criterion to be an insult to the many community, sponsor and representative governors who have given, and continue to give, their time to serve on school governing bodies throughout Wales and often bring a wide range of skills and expertise.

**Question 15** – Do you agree that it is no longer necessary to have the categories of additional community, sponsor and representative governors?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

The NASUWT disagrees with this proposal for the reasons given in answer to questions 13 and 14.

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**Question 16** – Do you agree with our proposals for associate members who are appointed to specific committee(s)?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input type="checkbox"/>	<b>Neither agree nor disagree</b>	<input checked="" type="checkbox"/>
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**Supporting comments !**

The NASUWT maintains that the question is misconceived as neither the skills criteria nor the co-opted criteria have been defined. It is, therefore, not possible to identify the skills gaps which may need to be plugged.

In any event, the 2005 Regulations present opportunities for governors with particular skills to be appointed to governing bodies and it should be noted that governing bodies are currently able to allow *‘such other persons as the governing body may determine’* to attend meetings of the governing body [Regulation 44(d) and 59(1)(d)].

Further, the example given in relation to appointing a qualified auditor as an associate governor appears either to ignore the role of local authorities in monitoring the local management of school budgets or demonstrates a complete unawareness of the services provided to school governing bodies by local authorities.

**Question 17** – Do you agree in general with our proposals for the membership of governing bodies?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

The NASUWT believes that the proposals are misconceived for the reasons expressed elsewhere in this response and, if they were to be progressed, they would inevitably lead to greater inconsistencies across school governing bodies in Wales and would undermine the democratic basis on which governing bodies should be

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constituted.

Although the consultation document states that governing bodies are free to have a greater number of parent, staff and co-opted governors, the NASUWT believes that in practice this will not be the case, in particular for staff governors.

The Union maintains that increasing the involvement of the business community in the governance of schools might give rise to concern that the Welsh Government's intention is to replicate some of the more unacceptable practices in respect of the involvement of the private sector in the state education system in England.

The NASUWT urges the Welsh Government to return to the drawing board in order to preserve the fundamental ethos of the Welsh education system.

**Question 18** – Do you agree with the suggested minimum size for governing bodies? !

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

The NASUWT asserts that the question is entirely disingenuous as the minimum number is designed to reduce the number of elected governors and the involvement of local authorities and communities in the governance of schools, in order to pave the way for an influx of co-opted governors.

The Union notes with alarm that the proposals limit staff governors to just one place on a school governing body, as referred to in paragraph 19 of this response, whereas pupil governors are provided with two places.

**Question 19** – Do you agree that there should be no upper limit on the size of a governing body?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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				<b>disagree</b>	
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**Supporting comments !**

The NASUWT has no option other than to disagree with the proposals as it could lead to the establishment of super-sized governing bodies. The proposal is inconsistent with the conclusions elsewhere in the consultation document that some governing bodies are ‘considered too large to be effective’.

**Question 20** – Do you support the flexibility of being able to have minimum and maximum numbers of parent, staff and co-opted governors (and potentially foundation and partnership governors, subject to the constraints detailed in paragraphs 72 and 73) provided this is reflected in the Instrument of Government?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input type="checkbox"/>	<b>Neither agree nor disagree</b>	<input checked="" type="checkbox"/>
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**Supporting comments !**

The NASUWT is unable to offer agreement to this proposal because, as constructed, the minimum and maximum numbers ensure that the appointed governors outnumber the elected governors, and the number of staff governors is limited to two.

The Union maintains that what is presented as flexibility and a freedom to have a greater number of parent, staff and co-opted governors is in fact subject to constraint on the elected parent and staff representatives.

**Question 21** – Do you agree with the proposal that the basis for the removal of surplus governors should be the extent to which they meet the skills criteria?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

The NASUWT has no alternative other than to disagree with this proposal for the

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reasons given elsewhere in this response which relate to the failure to define the Skills Criteria and/or the Co-opted Criteria.

**Question 22** – Do you have any views on whether the vote to remove surplus governors should be conducted by secret ballot?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

The NASUWT maintains that any decision to remove governors must be open to scrutiny and, if voting was considered an appropriate way forward, all votes should be recorded by the Clerk to the governing body.

The Union notes that the proposals in the New Regulations have been changed from the current process. The person whom it is proposed to remove has to withdraw from the meeting once they have been given the opportunity to make a statement in response. The person proposing their removal, on the other hand, may remain. The Union considers that this is unfair and carries the potential for bias and intimidation. The NASUWT asserts that in order to be fair, both parties must withdraw or both should stay. In any case, the vote should be by secret ballot.

However, the Union refers also to the answer to question 21.

**Question 23** – Do you agree with our proposal regarding the notification of appointments?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

The NASUWT maintains that the responsibility for notifying the person or body responsible for appointing governors should remain with the Clerk to the Governing

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body. The Union notes that no evidence is provided to demonstrate that the current practice is overly bureaucratic and the proposal relies on those persons, as yet undefined, who are responsible for appointing governors to know when terms of office end.

**Question 24** – Do you agree with our proposal to end the restriction on persons being governors in more than two schools?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

The NASUWT disagrees with this proposal as it could lead to private sector ‘takeover’ of schools by stealth as individuals from the private sector could take over the governance of chains of schools in Wales as referred to in answer to question 17 and elsewhere in this response.

**Question 25** – Do you agree with governors and associate members being appointed for between one to four years?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

The NASUWT maintains that the vast majority of governors should be elected representatives and serve for a period of four years.

All other governors should be appointed on a one-year term of office.

**Question 26** – Do you agree that a governing body should set the term of office for all governors except:

- i. ex-officio governors

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- ii. foundation and partnership governors where the terms of their school's trust or foundation deed means that that the governing body may not specify their term of office?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input type="checkbox"/>	<b>Neither agree nor disagree</b>	<input checked="" type="checkbox"/>
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**Supporting comments !**

Whereas it is accepted that the terms of office for ex-officio governors, and foundation and partnership governors whose terms of office cannot be specified as described in the question, are correctly identified as exceptions to the proposals, the NASUWT has made its position on terms of office for governors clear in the answer given to question 25.

**Question 27** – Do you have concerns that the requirement for all governors to undertake mandatory governor training means that a minimum term of one year is too short?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Comments !**

The NASUWT agrees that a one-year term of office is too short for elected governors. It is on this basis that a four-year term of office for elected governors has been suggested in answer to question 25.

However, given that it is suggested that other categories of governors are to be appointed because of the skills (as yet undefined) that they possess, then the Union maintains that a one-year term of office would be more appropriate as it would allow governor underperformance to be addressed more effectively.

**Question 28** – Do you have any concerns with keeping a similar governor removal process to that in the 2005 Regulation? If so, why?

**Comments**

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The NASUWT views the question as ambiguous, as the answer would be 'no' if no changes were made to the process prescribed in the 2005 Regulations. However, the answer would be 'yes' if the proposals in the New Regulations, were adopted, as the process for removal of governors has been modified to the detriment of the governor who is being removed, as referred to in answer to question 22.

**Question 29** – Do you have any comments about these proposals on removal of governors?

**Comments**

Yes. Please refer to the answer given to question 22. !

**Question 30** – Do you support the proposal to elect chairs and vice chairs for up to a four-year period?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

The NASUWT maintains that the position of chair and vice-chair of governors should be subject to an annual election or an election following a vote of no confidence.

**Question 31** – Do you support these proposals on electronic communication, minutes and record keeping?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input type="checkbox"/>	<b>Neither agree nor disagree</b>	<input checked="" type="checkbox"/>
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**Supporting comments !**

The NASUWT maintains that any governor, or interested party, who requests a copy of these communications, minutes and records, should be provided with the same, either by hard copy or electronically, without having to physically attend the school.

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In addition, the Union believes that copies of all the relevant paperwork should be required to be posted on the school website, as is already frequently the case.

The agenda, papers and minutes should also be able to be sent to governors electronically in the same way as prescribed at Regulation 211 of the New Regulations in relation to collaboration between education bodies.

The Union believes that further work must be done concerning the viability of the use of video conferencing for governors to take part in a governing body meeting.

**Question 32** – Do you have any views on the proposals regarding committees of the governing body and associate members?

**Comments**

Yes. Please refer to the answer given to question 16 and the comments made in paragraph 8 of this response.

**Question 33** – Do you agree that all staff disciplinary committees should have an independent person?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

The NASUWT does not agree with this proposal as experience demonstrates that, all too often, such governors have proven to be anything but impartial.

The Union would not support extending a flawed system to all staff disciplinary cases.

The NASUWT maintains that the regulations identifying suitable independent governors are fundamentally flawed as they are based on criteria for exclusion rather

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than appointment.

The Union maintains that the regulations should set out explicitly the definition of independence and how it should be tested. The example given in the consultation document suggests that an independent person could be a headteacher from a different local authority. However, this would not preclude that person being well-known to the headteacher of the school in question, which could result in accusations of bias.

**Question 34** – Do you agree with our proposals to extend the criteria by which an individual will be deemed to be ‘independent’?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

No. Please refer to the answer given to question 33. !

**Question 35** – Do you agree that associate members should be able to be independent persons, provided they fulfil the independence criteria discussed in paragraph 113?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input type="checkbox"/>	<b>Neither agree nor disagree</b>	<input checked="" type="checkbox"/>
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**Supporting comments !**

Whereas the NASUWT believes that the additional independence criteria are helpful, they do not address the concerns referred to in the answers given to question 33.

**Question 36** – Do you agree with the principle of the governance structure of federations being similar to that of an equivalent single school?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments**

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Whereas the spirit of this proposal is acknowledged, the NASUWT has no alternative other than to reject it, as it is based on structures proposed in this consultation which are unacceptable to the Union, as referred to elsewhere in this response.

**Question 37** – Do you agree with these proposals for revision of the skills and co-opted criteria for federations?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

No. Please refer to the comments and criticisms about the proposals for the skills and co-opted criteria referred to elsewhere in this response.

**Question 38** – Do you agree with these proposals for parent governors of a federation? !

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

No. The NASUWT maintains that one parent governor should be elected to serve on the governing body of a federation from each of the schools within the federation.

**Question 39** – Do you agree with this proposal for staff governors of a federation? !

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

No. The NASUWT would expect one teacher and one support staff governor to be elected to serve on the governing body of a federation from each of the schools in the federation.

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**Question 40** – Do you agree with this proposal for local authority governors of a federation?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

No. The NASUWT maintains that each local authority with a school in a federation should be able to nominate governors to serve on the governing body of the federation.

**Question 41** – Do you agree with this proposal for community governors of a federation?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

The NASUWT disagrees with this proposal as it seeks to disenfranchise school communities from the governing bodies of federations.

**Question 42** – Do you agree with these proposals for foundation governors? !

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input type="checkbox"/>	<b>Neither agree nor disagree</b>	<input checked="" type="checkbox"/>
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**Supporting comments !**

The NASUWT notes that it is suggested that the proposals should not present a problem for foundation governors in federations of either voluntary controlled or voluntary aided schools, or a mixed federation of the same, but recognises that this suggestion is based on a premise rather than firm evidence.

**Question 43** – Do you agree with these proposals for partnership governors?

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<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input type="checkbox"/>	<b>Neither agree nor disagree</b>	<input checked="" type="checkbox"/>
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**Supporting comments !**

The NASUWT is uncertain about these proposals for the reasons given in answer to questions 2, 11 and 12.

**Question 44** – Do you agree with our proposals for the membership of federated governing bodies?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

The NASUWT disagrees with the proposals for reasons given elsewhere in this response, in particular but not exclusively the answer given to question 17, in relation to the need to maintain a democratic basis for the composition of single school governing bodies and to ensure that elected governors outnumber appointed governors.

The Union maintains that those reasons should apply equally to the membership of federated governing bodies.

**Question 45** – Do you agree with our proposals for the membership of federated governing bodies?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

Rather than repeat the previous question, the question should have read '*Do you agree there should be no upper limit on the size of a federated governing body?*'.

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The NASUWT disagrees with the proposal that there should be no upper limit on the size of a federated governing body for the reason given in answer to question 19.

**Question 46** – Do you support the flexibility of being able to have minimum and maximum numbers of governors in a federation, provided this is reflected in the Instrument of Government?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

No. The NASUWT disagrees with this proposal for the reason given in answer to question 20.

**Question 47** – Do you agree with these proposals for federation of new schools? !

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

No. The NASUWT cannot agree with the proposals for the federation of new schools, as they seek to replicate proposals for single schools which are unacceptable to the Union, as referred to elsewhere in this response.

**Question 48** – Do you support these changes for federations? !

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

No. The NASUWT is not able to support the changes for federations for the reasons given elsewhere in this response in answer to the questions on the proposal relating to surplus governors, appointments, disqualification, terms of office and removal of

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governors, meetings and proceedings, and committees (including staff disciplinary and dismissal committees).

**Question 49** – Do you agree with the differences in governors and membership for temporary school governing bodies?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

The NASUWT disagrees with this proposal as it reflects many of the changes proposed in this consultation which are unacceptable to the Union, as referred to elsewhere in this response.

In addition, the NASUWT notes that the reference to 'experience criteria' at Regulation 19 of The New Maintained Schools (Wales) Regulations 2005 (the New 2005 Regulations) is aligned to the skills and co-opted criteria, which are not defined in the consultation document or in the New Regulations.

**Question 50** – Do you agree that appointed governors should also fulfil the skills criteria (or co-opted criteria in the case of co-opted governors)?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

The NASUWT disagrees with this proposal for reasons given elsewhere in this response and, not least, since neither the skills criteria nor the co-opted criteria have been defined in the consultation document or in the New Regulations.

**Question 51** – Do you agree with these proposals regarding committees of temporary governing bodies?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

The NASUWT disagrees with these proposals as they include proposals which are unacceptable to the Union, as referred to elsewhere in this response.

**Question 52** – Do you agree with our proposals to extend the criteria which a prospective independent investigator must satisfy to be deemed ‘independent’? !

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input type="checkbox"/>	<b>Neither agree nor disagree</b>	<input checked="" type="checkbox"/>
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**Supporting comments !**

In noting that the criteria proffered for a person to qualify as an independent person has some merit, as referred to in answer to questions 33, 34, and 35, the NASUWT is not able to offer agreement to this proposal as it relates to the proposal to have an independent non-governor on all disciplinary and dismissal committees which is opposed by the Union, for reasons referred to in answer to question 33.

**Question 53** – Do you agree that a headteacher should not receive a copy of the investigation report where they are a witness to the alleged incident in which the pupil was harmed?

<b>Agree</b>	<input checked="" type="checkbox"/>	<b>Disagree</b>	<input type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

The NASUWT agrees with this proposal and suggests that any witness to an alleged incident should not play any part in the disciplinary proceedings other than to be interviewed and appear as a witness.

However, where a headteacher has witnessed an alleged allegation which is demonstrably false, then they should be able to report the same to the person or persons charged with the responsibility of deciding whether an investigation is necessary before a decision is made.

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**Question 54** – Do you agree with our proposals regarding the advertising of headteacher vacancies?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

The NASUWT disagrees with this proposal as no evidence has been presented to support the suggestion that allowing a teacher to act up has a detrimental effect on standards of attainment and pupil wellbeing and the reference to ‘head teacher examinations’ is risible.

**Question 55** – Do you support this proposal to have an independent person on headteacher and deputy headteacher selection panels?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

The NASUWT disagrees with this proposal as the current arrangements allow for non-governors to be members of selection panels and to determine whether or not they have a vote. In addition, the chief education officer (CEO) is entitled to attend all proceedings relating to the appointment of headteachers and deputy headteachers as prescribed in Regulation 13 of The Staffing of Maintained Schools (Wales) Regulations 2006 (the 2006 Regulations).

Given that a local authority holds the contracts of employment for all staff in maintained schools, other than foundation, voluntary aided or foundation special schools, as prescribed in Schedule 10, paragraph 3-(1) of the School Standards and Framework Act 1998 (the 1998 Act), the NASUWT questions seriously the motivation behind this proposal.

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**Question 56** – Do you agree with our proposal that an associate member may be an independent person, provided they meet the ‘independence criteria?’

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

The NASUWT disagrees with the inclusion of an independent person on the appointments panel and for reasons given in answer to question 16 and elsewhere in this response in relation to the concept of associate members.

**Question 57** – Do you agree with our proposal to give the CEO of the appropriate local authority voting rights?

<b>Agree</b>	<input checked="" type="checkbox"/>	<b>Disagree</b>	<input type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

The NASUWT agrees with this proposal as the local authority holds the contracts of employment, as referred to in answer to question 55.

**Question 58** – Do you agree with our proposals to give diocesan authority representatives voting rights?

<b>Agree</b>	<input checked="" type="checkbox"/>	<b>Disagree</b>	<input type="checkbox"/>	<b>Neither agree nor disagree</b>	<input checked="" type="checkbox"/>
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**Supporting comments !**

The NASUWT agrees with these proposals in so far as they appear to accord with the Union’s view that this should be a matter for the governing bodies of a voluntary aided school or a foundation school which is a Church of England, Church in Wales or Roman Catholic Church School, as the 1998 Act allows such schools to enter into contracts of employment with teachers and other staff.

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**Question 59** – Do you agree with our proposals for the size and membership of head and deputy head selection panels?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

The NASUWT disagrees with these proposals for the reasons given for rejecting the proposals for placing independent members on the selection panels, as referred to in the answers to questions 55 and 56, and other comments in relation to independent persons referred to elsewhere in this response.

**Question 60** – Do you support these proposals to end whole governing body appointment panels and allow selection panels to interview all suitable applicants for the post of headteacher?

<b>Agree</b>	<input checked="" type="checkbox"/>	<b>Disagree</b>	<input type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

On balance, and subject to views expressed elsewhere in this response in relation to the Union’s proposals for the appointment of headteachers and deputy headteachers being accepted, the NASUWT finds merit in this proposal.

**Question 61** – Do you support our proposals that the local authority must be informed whenever staff are suspended or dismissed from voluntary aided and foundation schools?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

The NASUWT is unable to agree to this proposal as it would undermine the neutrality of suspension and breach the confidentiality of the school disciplinary process.

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The NASUWT maintains that The Safeguarding Vulnerable Groups Act 2006 and the Education (Supply of Information) (Wales) Regulations 2009 as explained in Annex D of the Welsh Government Circular no: 002/2013 *Disciplinary and dismissal procedures for school staff* (Circular 002/2013), are suitably robust for the purposes of reporting dismissal.

**Question 62** – Do you agree with our proposals to strengthen the role of the governing body?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

The NASUWT disagrees with the proposals for the reasons given throughout this response.

**Question 63** – Do you agree with our proposals to amend the role of the headteacher? !

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

The NASUWT disagrees with the proposals as they significantly undermine the role of headteachers and would, if implemented, place far too much power in the hands of largely unelected and unrepresentative governing bodies subject to the undue influence of the business community.

**Question 64** – Do you agree with our proposals to enable changes to the start and finish of the school day to be made at the beginning of any school term?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments**

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The NASUWT disagrees with the proposals for the reasons given in paragraphs 13 to 20 of this response.

The Union notes that there has only been one instance of a change being required to the change of session times at the beginning of a school term, other than at the start of the year. This resulted in The Eastern High School (Change to School Session Times) Order 2015. The Union believes that the 2009 Regulations are necessarily restrictive.

The Union also notes that there is a word missing at the end of Regulation 206 (4) of the New Regulations. The Union suspects that this word is 'term' but the NASUWT firmly believes that this should only be the case when the times of the lunch break are being amended as prescribed in the 2009 Regulations. If the times of the beginning or end of the school day are to be changed, the Union insists that this should remain as only being allowed at the beginning of the academic year.

**Question 65** – Do you agree with our proposals to amend the Collaboration Between Education Bodies (Wales) Regulations 2012 to enable electronic record and minute keeping and clarify delegation of functions, as described in paragraph 5?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input type="checkbox"/>	<b>Neither agree nor disagree</b>	<input checked="" type="checkbox"/>
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**Supporting comments !**

As referred to in the answer to Question 31, the NASUWT notes that documents may be distributed by e-mail for these bodies and believes that this should also be available to school governing bodies.

**Question 66** – Do you agree with our proposals to amend the Education (Pupil Referral Units) (Application of Enactments) (Wales) Regulations 2007 and the Education (Pupil Referral Units) (Management Committees etc.) (Wales) Regulations 2014?

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<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input type="checkbox"/>	<b>Neither agree nor disagree</b>	<input checked="" type="checkbox"/>
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**Supporting comments !**

The NASUWT considers that there are no substantial changes as the result of this amendment.

**Question 67** – Are these proposals for implementation acceptable and workable for school governing bodies and local authorities?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input type="checkbox"/>	<b>Neither agree nor disagree</b>	<input checked="" type="checkbox"/>
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**Supporting comments !**

The NASUWT believes that although there appears to be adequate time for individual governing bodies to make amendments to their Instrument of Government (IoG) and to effect the changes, the Union is concerned in regard to the workload of local authorities in bringing this about within the timeframe.

**Question 68** – Do you agree with our proposals to allow a further six months for completion of staff disciplinary and dismissal and headteacher and deputy headteacher selection processes under the current regulatory framework?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

The NASUWT is firmly of the opinion that any disciplinary procedure commenced under the current regulatory framework must be completed under those regulations.

The Union considers that headteacher and deputy headteacher appointments are a different matter to disciplinary procedures and that the transition is justifiable in this case.

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**Question 69** – Do you agree with our estimated costs for local authorities to change the Instruments of Government for their schools, and give advice and support to governing bodies to prepare them for being constituted under the new Regulations?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

Although the NASUWT is not best placed to assess the time and costs of local authorities redrafting and approving an IoG, the Union considers that the calculation of two hours per IoG to be a significant under-estimation. Clearly, local authority Governor Support Officers (GSOs) will have to attend at least one, and probably many more, governing body meetings where the IoG are being discussed. Each of these meetings alone would involve at least two hours.

The NASUWT is also concerned regarding the workload of GSOs as referred to in the answer to question 67, as this work is likely to be additional to the existing workload of GSOs.

**Question 70** – Do you agree that there will be no further costs to local authorities as a result of the new Regulations?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

The NASUWT cannot agree that there will not be any further costs to local authorities in view of the answers to questions 67 and 69.

**Question 71** – Do you agree that there will be no notable monetary benefits to local authorities as a result of the new Regulations?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input type="checkbox"/>	<b>Neither agree nor disagree</b>	<input checked="" type="checkbox"/>
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**Supporting comments !**

Whilst it is agreed that there will be no monetary benefit to local authorities as a result of the proposed changes, the NASUWT cannot agree with the statement in the consultation document that the proposals will result in more effectively governed schools. Indeed, the Union believes that the opposite will prove to be the case, resulting in additional time and resources being spent by local authorities to address issues that will inevitably arise.

**Question 72** – Do you agree that placing a focus on skilled governors – and changing constitutional requirements so that governing bodies may be more flexible – will not be of cost to governing bodies?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input type="checkbox"/>	<b>Neither agree nor disagree</b>	<input checked="" type="checkbox"/>
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**Supporting comments !**

The NASUWT does not believe that enactment of the proposed changes will have the effect that the Welsh Government desires. Consequently, it is not possible to assess whether there will be additional costs to governing bodies.

**Question 73** – Do you agree with our estimated costs for governing bodies to have an independent person for all staff disciplinary and dismissal committees?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

The NASUWT considers that the Welsh Government’s estimate of 48 governing body hearings per year is a vast underestimation. Consequently, the costs are likely to far exceed those set out in the explanatory memorandum and the Regulatory Impact Assessment (RIA).

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The Union is also extremely concerned that the Welsh Government has established from local authorities that in some cases independent members of disciplinary panels are paid for their services. This would bring into question their independence on the basis of ‘who pays the piper, calls the tune’.

Furthermore, the Union is also gravely concerned that local authorities may be using commercial consultancies to source so-called ‘independent persons’. The NASUWT considers this to be completely unacceptable.

**Question 74** – Do you agree with our estimated costs for governing bodies to have an independent person for headteacher and deputy headteacher appointment panels?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input type="checkbox"/>	<b>Neither agree nor disagree</b>	<input checked="" type="checkbox"/>
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**Supporting comments !**

The NASUWT is deeply concerned that the Welsh Government estimates that approximately 300 additional independent persons would be required to support the proposals that headteacher and deputy headteacher appointment panels have an independent person.

As the consultation document has suggested that headteachers from neighbouring local authorities could be used for this purpose, and for disciplinary panels, this would impact significantly on the time that such headteachers spent in their own schools, with the potential for a consequential detrimental impact on the quality of education.

The NASUWT believes that the Welsh Government should reconsider the impact of the proposals.

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**Question 75** – Do you agree that there will be no further costs to governing bodies as a result of the new Regulations?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input type="checkbox"/>	<b>Neither agree nor disagree</b>	<input checked="" type="checkbox"/>
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**Supporting comments !**

The NASUWT does not believe that enactment of the proposed changes will have the effect that the Welsh Government desires. Consequently, the Union maintains that it is not possible to assess whether there will be additional costs to governing bodies.

**Question 76** – Do you agree with our views on benefits to governing bodies? !

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input type="checkbox"/>	<b>Neither agree nor disagree</b>	<input checked="" type="checkbox"/>
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**Supporting comments !**

The NASUWT does not believe that enactment of the proposed changes will have the effect that the Welsh Government desires. Consequently, the Union maintains that it is not possible to assess whether there will be any benefits to governing bodies.

**Question 77** – Do you agree with our estimate of costs and benefits to the Welsh Government and other bodies?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input type="checkbox"/>	<b>Neither agree nor disagree</b>	<input checked="" type="checkbox"/>
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**Supporting comments !**

The NASUWT does not believe that enactment of the proposed changes will have the effect that the Welsh Government desires. Consequently, the Union maintains that it is not possible to assess whether there will be additional costs to the Welsh

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Government or other bodies. !

**Question 78** – Do you agree with our analysis of the possible effects of the new Regulations on the four areas mentioned above?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments !**

The NASUWT believes that this question refers to the four areas of equality of opportunity, the Welsh language, sustainable development and the rights of the child, as set out in the consultation document.

The NASUWT disagrees with the Welsh Government's assessment of the impact on equality of opportunity as set out in the RIA, as this fails to take into account the provisions of the Equality Act 2010 and the Public Sector Equality Duty.

The NASUWT does not believe that there will be any discernible impact on Welsh language, sustainable development and the rights of the child.

**Question 79** – An Equalities Impact Assessment (EIA) is attached at Annex D. We would welcome your views on the EIA and the potential impact of all of our proposals on:

- disability
- race
- gender and gender reassignment
- age
- religion and belief and non-belief
- sexual orientation
- human rights.

**Comments**

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As noted at paragraph 16 of this response, the EIA does not consider the impact of changing school start and finishing times on persons with protected characteristics.

In general, the NASUWT considers that the EIA is insufficient as it does not properly consider the impact on persons with protected characteristics. It is not sufficient to state that, as the proposals affect all schools, there is an equal impact on governing bodies, parents, pupils and staff.

**Question 80** – A Children’s Rights Impact Assessment (CRIA) is attached at Annex E. We would welcome your views on the CRIA and the potential impact of our proposals on children.

**Comments**

The NASUWT does not believe that there will be any discernible impact on Welsh language, sustainable development and the rights of the child.

**Question 81** – We have asked a number of questions about our proposals for school governance and the new Regulations, including requesting feedback on the RIA, EIA and CRAI. If you have any related issues or comments in addition to these questions, please use this space to report them.

**Comments**

The NASUWT has no further comment on these areas. !

**Question 82** - We would like to know your views on the effects that the reform of school governance regulatory framework would have on the Welsh language, specifically:

- i) opportunities for people to use Welsh
- ii) on treating the Welsh language no less favourably than English.

**Comments**

The NASUWT does not believe that there will be any discernible impact on the

Welsh language. !

**Question 83** – What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Please also explain how you believe the reform of school governance regulatory framework could be formulated or changed so as to have:

- i) ! positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language
- ii) ! no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

### Comments

The NASUWT does not believe that there will be any discernible impact on the Welsh language.

**Question 84** – Do you agree that our proposal to revise and consolidate the school governance regulatory framework does not have any cost implications?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input type="checkbox"/>	<b>Neither agree nor disagree</b>	<input checked="" type="checkbox"/>
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Please refer to the answers given to questions 67 to 77. !

**Question 85** - We have asked a number of questions about our proposals for school governance and the new Regulations, including requesting feedback on the RIA, EIA and CRAI. If you have any related issues or comments in addition to these questions, please use this space to report them.

### Comments

Please refer to the answers given to questions 78 to 83. !

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**Question 86** – We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them. !

Notwithstanding that the NASUWT fundamentally disagrees with the purpose and detail of many of the proposals, the Union would wish to draw attention to a number of errors, omissions and lack of clarity in the New Regulations. !

Part 2, Regulation 5 !

The NASUWT is concerned that there is a definition of ‘working day’ used throughout the New Regulations, which relates to the meaning of section 1 of the Banking and Financial Dealings Act 1971. As these Regulations pertain to schools, the definition of ‘working day’ should relate to the 195 days that schools are open. !

Part 5, Chapter 1, Regulations 23(2)(d); 24(1)(d); 25(1)(d) and 26(1)(d) !

To avoid any confusion, the wording in these Regulations should be the same as the wording in Part 5, Chapter 2, Regulations 31(2)(a); 32(2)(a); 33(2)(a); 34(2)(a) and 35(2)(a). !

That is ‘*the head teacher, unless that person resigns the position in accordance with regulation 41*’ should be replaced by ‘*the head teacher, unless that person resigns the **office of governor** in accordance with regulation 41*’.

Similarly, in Regulation 41, the words ‘*as office of governor*’ should be added after ‘*withdraw their resignation*’.

The NASUWT questions why it is that it is only the headteacher who is afforded this right and not any governor who resigns.

Part 5, Chapter 5, Regulation 52

The election or the chair or vice-chair should only take place if the matter has been

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specified as an item of business on the agenda for the meeting, similar to the conditions in Part 5, Chapter 1, Regulation 29(4)(d) and Part 5, Chapter 3, Regulation 44(2)(d) relating to the removal of governors. Otherwise, a meeting could elect a new chair or vice-chair without all eligible members of the governing body being made aware. This would be undemocratic.

The NASUWT suggests that the following wording be added to Regulation 52 as a new paragraph (4) and renumber accordingly:

- (4) In determining which governors are to be elected as the chair or vice-chair in accordance with paragraph (1)—*
- (a) the governing body must hold a vote in respect of who is to be elected as the chair or vice-chair; and*
  - (b) the matter of the governor's the election of chair or vice-chair must be specified as an item of business on the agenda for the meeting, of which notices have been given in accordance with regulation 59.*

Part 5, Chapter 6, Regulation 59(6) !

Similarly to Regulation 52 above, the election of the chair and vice-chair should also be specified as requiring proper notice. !

Part 5, Chapter 6, Regulation 60(7) !

The NASUWT is very concerned that Regulation 46(5) of the 2005 Regulations remains unaltered in the proposed New Regulations at: !

- (7) The proceedings of the governing body are not invalidated by—*
- (a) any vacancy among their number;*
  - (b) any defect in the election, appointment or nomination of any governor;*
  - (c) any defect in the appointment of the chair or vice-chair; or*
  - (d) the governing body having more governors of a particular category*

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*than are provided for by the instrument of government. &*

This Regulation appears to render meaningless all the other regulations relating to the composition of the governing body. A governing body could continue making decisions even if it was unconstitutional. The NASUWT believes that this regulation should be removed.

Part 5, Chapter 7, Regulation 70(8) !

Although unchanged from the 2005 Regulations this regulation appears to prohibit a member of the staff disciplinary and dismissal committee from attending an appeal hearing as a witness. !

*Where a disciplinary and dismissal appeals committee is considering an appeal against a decision of the staff disciplinary and dismissal committee, no member of the staff disciplinary and dismissal committee whose decision is subject to appeal may take part in the proceedings of the disciplinary and dismissal appeals committee.*

This section lacks clarity. The NASUWT believes that it is intended to prohibit any member of the first committee from being a member of the appeals committee but it can be interpreted to mean that they are prohibited from attending the hearing in any capacity. The Union believes that this should be more precisely worded.

Welsh Government Circular 002/2013 contains the advice that:

*Members of the governing body must at all times treat all information they receive relating to allegations against members of staff with the utmost confidentiality.*

The NASUWT believes that it is important that this advice is set out in the New Regulations, probably as part of Regulation 70.

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Part 5, Chapter 7, Regulations 67 to 77 !

The NASUWT raised with the Welsh Government, before the consultation commenced, that the Union believes that the establishment of a Pay Committee and a Pay Appeals Committee should be required by regulation. !

The impact of the changes to the School Teachers' Pay and Conditions Document (STPCD) since 2013 places a requirement for there to be a Pay Committee and a Pay Appeals Committee of the governing body. This has become necessary due to the requirement that teachers' pay is linked directly to performance. However, neither the 2005 Regulations nor the New Regulations contain a requirement for the governing body to establish such a committee. The NASUWT considers that this is, at the least, unhelpful, in the new circumstances. !

The NASUWT requests, therefore, that consideration is given to amending the New Regulation to place a requirement on governing bodies to establish Pay and Pay Appeals Committees. The Union suggests that this should be inserted as a new Regulation 73, with the subsequent regulations re-number accordingly. !

Part 6, Chapter 1, Regulation 81(2)(h) and 81(5) !

The NASUWT insists that the timescale set out in this Regulation must relate to days when the school is open and that the word 'school' should be included between '125' and 'days' Regulation 81(5). !

Part 6, Chapter 1, Regulation 82(1)(b) !

The NASUWT is concerned that the proposals to federate include the proposed arrangements for staff and that, following the initial consultation, a governing body may proceed having made '*such modifications as the governing body considers appropriate*'. The Union notes that there is no obligation placed on the governing body to respond to the consultees as would be required under other legislation !

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relating to potential redundancy. There is a similar issue in Part 6, Chapter 1, Regulation 85(2)(b). !

The NASUWT insists that if these modifications result in changes to the staffing arrangements, further consultation would need to be undertaken. !

Part 6, Chapter 1, Regulation 83(2) !

As this refers to a new school, there would not be any staff with whom to consult, and neither would there be any consultation with any trade unions as they would not have at that time any '*members paid to work at the school*'. !

The NASUWT insists, therefore that this Regulation is amended so that there must be consultation with any trade union likely to have members paid to work at the school. !

Part 6 Chapter 1 Regulation 84(3) !

The NASUWT notes that this Regulation requires a local authority to publish proposals on its website. The Union believes that this should also be a requirement of schools under Part 6, Chapter 1, Regulation 81. !

Part 6, Chapter 1, Regulation 86 !

The NASUWT is very concerned that there is no requirement for the governing body to consult the staff or any trade union on changes to the staffing of the federation in a small school. The Union maintains that this needs to replicate the provisions of Regulation 81(3), taking into account the Union's comments on Part 6, Chapter 1, Regulation 82(1)(b). !

Part 6, Chapter 3, Regulation 92(8) !

The NASUWT maintains that this Regulation should not only say that the matter of leaving a federation does not have effect if it is not specified as an item of business,

but also that it must so be specified. !

Part 7, Chapter 6, Regulation 130 !

The NASUWT maintains that this Regulation also needs to refer to the direction of Welsh Ministers under The Education (Notification of School Term Dates) (Wales) Regulations 2014 (the 2014 Regulations). !

Part 8, Chapter, Regulation 157 and Regulation 162 !

The NASUWT considers that the New Regulations present an opportunity to equalise the provisions between headteachers and deputy headteachers and other school staff in appointment to vacancies where they exist. !

The NASUWT has a long-held view that teacher redundancy could be avoided if the power was restored to local authorities to redeploy staff into vacancies. !

The NASUWT acknowledges that this may require an amendment to be made to the 1986 Act and would be willing to assist and support this endeavour. !

At the very least, the NASUWT believes that the words '*as it sees fit*' should be deleted from Part 8, Chapter 2, Regulation 162(6)(a), in order to provide staff, whose posts are at risk elsewhere, a guaranteed interview at schools where there are vacancies, following nomination by local authorities. !

Schedule 6, paragraph (3) !

The NASUWT is opposed to this paragraph as it prevents a teacher from not only being a member of a governing body's committee where pay and pay appeals would be considered, but would also mean that they would potentially have to withdraw from the main governing body meeting when such matters were reported, including the report of the pay of the headteacher. A meeting of the school is defined in Part 5, Chapter 8, Regulation 78: The definition is unacceptable and not in accordance with

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the Terms of Reference for governing bodies given in Part 3, Regulation 7(4). Consequently, the NASUWT calls for paragraph 3 of Schedule 6 to be deleted.

The NASUWT maintains that due to the importance of these New Regulations, the complexity of the changes made and those requested by the Union, the Welsh Government should convene a meeting with all the relevant trades unions to undertake a line-by-line examination of the New Regulations.

Chris Keates (Ms)

**General Secretary**

For further information on the Union's response, contact Rex Phillips, National Official for Wales.

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