

SL(6)374 – School Admission Appeals Code

Background and Purpose

The School Admission Appeals Code, which was issued in 2013, has been revised to reflect the changes made by the Education (Admission Appeals Arrangements) (Wales) (Amendment) Regulations 2023 (“the 2023 Regulations”) that came into force on 3 May 2023.

The 2023 Regulations amended the Education (Admission Appeals Arrangements) (Wales) Regulations 2005 (“the 2005 Regulations”) to include an option for admission appeals to be undertaken remotely, as well as in person, or a mixture of both. They codify certain temporary arrangements that were introduced in response to the coronavirus pandemic.

The 2023 Regulations apply to both types of admission appeal hearings dealt with under the 2005 Regulations; namely appeals against an admission authority’s refusal to admit a child and appeals by governing bodies against a local authority’s decision to admit a child who has been permanently excluded from two or more schools.

This Code also includes some technical amendments which reflect legislative changes since the previous code was issued in 2013.

For information, this Code was initially laid on 10 May 2023. The LJC report that was circulated on 17 May 2023 identified a substantial number of errors in the instrument, and the Code was subsequently withdrawn by the Welsh Government on 26 May 2023. It was re-laid on 7 August 2023.

Procedure

Draft Negative.

The Welsh Ministers have laid a draft of the Code before the Senedd. If, within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the draft being laid, the Senedd resolves not to approve the draft Code then the Welsh Ministers must not issue the Code.

If no such resolution is made, the Welsh Ministers must issue the Code (in the form of the draft).

Scrutiny under Standing Order 21.7

The following points are identified for reporting under Standing Order 21.7 in respect of this code:



1. In paragraph 3.3, there is a statement regarding people “...who have experience in the conduct of **enquiries** or disciplinary hearings” [**emphasis added**]. Given the context, it appears that it should refer to “**inquiries**” rather than “**enquiries**”. This assessment is reinforced by the fact that, in the Welsh text, the statement refers to “**inquiries**” rather than “**enquiries**” by using the word “**ymchwiliadau**” rather than “**ymholiadau**”.
2. In paragraph 4.23, there is a statement in parentheses regarding the appellants waiving “**their right to a period of 14 days’ notice of their appeal**” followed by a signpost to the paragraph in which that right to notice is set out (paragraph 4.4). However, paragraph 4.4 provides that the appellants must be given “**at least 10 working days written notice of the date of their appeal hearing**”. This inconsistency is likely to cause confusion for the reader, and as such paragraph 4.23 should be amended to correctly reference what is set out in paragraph 4.4.
3. In paragraph 7.3, in the Welsh text, it might be more appropriate to use a different term such as “**cyflwyno**” for the translation of “**lodged**”. The existing term “**cofrestru**” suggests that the date on which the appeal panel will meet is to be no later than the 15th school day after the day on which an appeal has been **registered** rather than the day on which it is presented or received.
4. In Annex A, in paragraph A.20, in the Welsh text, the words “**as a pupil**” are missing from the translation of the phrase “**admit a child as a pupil**” [**emphasis added**].

Government response

Technical Scrutiny point 1:

The Welsh Government agrees with the reporting point. However, we consider that the legislative intent is clear, and nobody will be misled as to the use of “enquiries”, which is consistent with the previous version of this Code and has not caused any confusion. Nonetheless at the next revision of the Code we will amend to refer to “inquiries”.

Technical Scrutiny point 2:

The Welsh Government agrees with the reporting point. The better approach would be to refer to the notice period in the same way. However, both references accurately describe the number of days required for the notice period. We do not think anyone will be misled but at the next revision of the Code we will ensure paragraph 4.23 is amended to mirror the terminology in paragraph 4.4.



Technical Scrutiny point 3:

The Welsh Government accepts that “cyflwyno” would have been a more direct translation of “lodged” but is satisfied that in context, the use of “cofrestru” conveys the intended meaning and will not mislead anyone.

Technical Scrutiny point 4:

The Welsh Government agrees with the reporting point. However, in the full context of the paragraph we do not consider that anyone will be misled by the omission of those words in the Welsh text and we believe that the meaning is clear. However, at the next revision of the Code we will address this omission.

Committee Consideration

The Committee considered the instrument and Government response at its meeting on 11 September 2023 and reports to the Senedd in line with the reporting points above.

