

## SCHEDULES

### SCHEDULE 18

Section 67.

#### APPEALS AGAINST EXCLUSION OF PUPILS

##### *Time limits and notices waiving right to appeal*

- 1 (1) No appeal under section 67(1) against a decision not to reinstate a pupil may be made after the 15th school day after the day on which the relevant person is given notice in writing under section 66(6)(b).
- (2) Any notice in writing given by the relevant person to the local education authority which states that he does not intend to appeal against a decision not to reinstate the pupil shall be final.

##### *Constitution of appeal panels*

- 2 (1) An appeal pursuant to arrangements made by a local education authority under section 67(1) shall be to an appeal panel constituted in accordance with this paragraph.
- (2) An appeal panel shall consist of three or five members appointed by the authority from—
  - (a) persons who are eligible to be lay members; and
  - (b) persons who have experience in education, are acquainted with educational conditions in the area of the authority or are parents of registered pupils at a school.
- (3) Of the members of an appeal panel—
  - (a) at least one must be a person who is eligible to be a lay member and is appointed as such; and
  - (b) at least one must be a person falling within sub-paragraph (2)(b).
- (4) For the purposes of this paragraph a person is eligible to be a lay member if he is a person without personal experience in the management of any school or the provision of education in any school (disregarding any such experience as a governor or in any other voluntary capacity).
- (5) Sufficient persons may be appointed by the authority under this paragraph to enable two or more appeal panels to sit at the same time.
- (6) No person shall be a member of an appeal panel if he is disqualified by virtue of sub-paragraph (7).
- (7) The following persons are disqualified for membership of an appeal panel—
  - (a) any member of the authority or of the governing body of the school in question;

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- (b) any person employed by the authority or the governing body, other than a person employed as a teacher;
  - (c) any person who has, or at any time has had, any connection with—
    - (i) the authority or the school, or with any person within paragraph (b), or
    - (ii) the pupil in question or the incident leading to his exclusion, of a kind which might reasonably be taken to raise doubts about his ability to act impartially in relation to the authority, the school or the pupil in question.
- (8) A person employed by the authority as a teacher shall not be taken, by reason only of that employment, to have such a connection with the authority as is mentioned in sub-paragraph (7)(c).
- (9) Where, at any time after an appeal panel consisting of five members have begun to consider an appeal, any of the members—
- (a) dies, or
  - (b) becomes unable through illness to continue as a member,
- the panel may continue with their consideration and determination of the appeal so long as the number of the remaining members is not less than three and the requirements of sub-paragraph (3) are satisfied.

#### *Allowances for members*

- 3 (1) For the purpose of the payment of financial loss allowance under section 173(4) of the Local Government Act 1972, that provision shall apply, with any necessary modifications, to any member of an appeal panel constituted in accordance with paragraph 2 as it applies to any member of a parish or community council; and such an appeal panel shall be included in the bodies to which section 174 of that Act (travelling and subsistence allowances) applies.
- (2) In section 174(1) of that Act, in its application to a panel in accordance with sub-paragraph (1), the reference to payments at rates determined by the body in question shall be read as a reference to payments at rates determined by the local education authority.

#### *Duty to advertise for lay members*

- 4 Regulations may require any local education authority who are required by section 67(1) to make arrangements under that provision—
- (a) to advertise, in such manner and at such times as may be prescribed, for persons eligible to be lay members of any appeal panel required to be constituted for the purposes of such arrangements to apply to the authority for appointment as such members, and
  - (b) in appointing persons as such members, to consider any persons eligible to be so appointed who have applied to the authority in response to an advertisement placed in pursuance of sub-paragraph (a) above.

#### *Indemnity*

- 5 Any local education authority required to make arrangements under section 67(1) shall indemnify the members of any appeal panel required to be constituted for the purposes of those arrangements against any reasonable legal costs and expenses

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reasonably incurred by those members in connection with any decision or action taken by them in good faith in pursuance of their functions as members of that panel.

*Procedure on an appeal*

- 6 In the following provisions of this Schedule “appeal” means an appeal under section 67(1).
- 7 An appeal shall be by notice in writing setting out the grounds on which it is made.
- 8 (1) The appeal panel shall meet to consider an appeal on such date as the local education authority may determine.
- (2) Subject to sub-paragraph (3), the date so determined must not be later than the closing date for appeals, namely the 15th school day after the day on which the appeal is lodged.
- (3) If the relevant person requests the local education authority to do so, they may in exceptional circumstances determine under sub-paragraph (1) a date later than the closing date for appeals.
- 9 (1) For the purpose of fixing the time (in accordance with paragraph 8) at which the hearing of an appeal is to take place, the local education authority shall take reasonable steps to ascertain any times falling on or before the closing date for appeals when—
- (a) the relevant person, or
- (b) any other person who wishes, and would be entitled, to appear and make oral representations in accordance with paragraph 10, would be unable to attend.
- (2) Where in accordance with sub-paragraph (1) the authority have ascertained any such times in the case of any such person, they shall, when fixing the time at which the hearing is to take place, take those times into account with a view to ensuring, so far as it is reasonably practicable to do so, that that person is able to appear and make such representations at the hearing.
- 10 (1) The appeal panel shall give the relevant person an opportunity of appearing and making oral representations, and shall allow him to be represented or to be accompanied by a friend.
- (2) The panel shall also allow—
- (a) the head teacher to make written representations and to appear and make oral representations,
- (b) the local education authority and the governing body to make written representations,
- (c) an officer of the authority nominated by the authority, and a governor nominated by the governing body, to appear and make oral representations, and
- (d) the governing body to be represented.
- 11 Appeals shall be heard in private except when the local education authority direct otherwise; but—
- (a) if the panel so direct, one member of the local education authority may attend, as an observer, any hearing of an appeal by an appeal panel; and

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- (b) one member of the Council on Tribunals may attend, as an observer, any meeting of an appeal panel at which an appeal is considered.
- 12 Two or more appeals may be combined and dealt with in the same proceedings if the appeal panel consider that it is expedient to do so because the issues raised by the appeals are the same or connected.
- 13 In the event of a disagreement between the members of an appeal panel, the appeal under consideration shall be decided by a simple majority of the votes cast and, in the case of an equality of votes, the chairman of the panel shall have a second or casting vote.
- 14 The decision of an appeal panel and the grounds on which it is made shall—
- (a) be communicated by the panel in writing to the relevant person, the local education authority, the governing body and the head teacher, and
  - (b) be so communicated by the end of the second school day after the conclusion of the hearing of the appeal.
- 15 (1) Subject to paragraphs 7 to 14, all matters relating to the procedure on appeals shall be determined by the local education authority.
- (2) The local education authority shall, in setting any time limits in connection with appeals, have regard to the desirability of securing that appeals are disposed of without delay.

#### *Notices*

- 16 (1) Where in accordance with section 66(6)(b) notice in writing is required to be given to a person, the notice may be given either—
- (a) by delivering it to the person's last-known address, or
  - (b) by properly addressing, pre-paying and sending by first class post to the person's last-known address a letter containing the notice.
- (2) For the purposes of calculating the period referred to in paragraph 1(1), a notice shall be taken to have been given—
- (a) where first class post is used, on the second school day after the date of posting, or
  - (b) where the notice is delivered, on the date of delivery,
- unless (in either case) the contrary is shown.

#### *Meaning of "the relevant person"*

- 17 In this Schedule "the relevant person" means—
- (a) in relation to a pupil under the age of 18, a parent of his;
  - (b) in relation to a pupil who has attained that age, the pupil himself.

#### *Power of Secretary of State to make amendments*

- 18 The Secretary of State may by order make such amendments of this Schedule as he considers expedient.