

## SCHEDULES

### SCHEDULE 8

#### SIXTH FORM COLLEGE SECTOR

8 After section 56D (inserted by Schedule 6) insert—

**“56E Intervention by LEAs: sixth form colleges**

- (1) This section applies in relation to a sixth form college if the responsible local education authority are satisfied as to one or more the matters listed in subsection (2) in relation to the sixth form college; and it is immaterial whether or not a complaint is made by any person.
- (2) The matters are—
  - (a) that the sixth form college’s affairs have been or are being mismanaged by its governing body;
  - (b) that the sixth form college’s governing body have failed to discharge any duty imposed on them by or for the purposes of any Act;
  - (c) that the sixth form college’s governing body have acted or are proposing to act unreasonably with respect to the exercise of any power conferred or the performance of any duty imposed by or under any Act;
  - (d) that the sixth form college is performing significantly less well than it might in all the circumstances reasonably be expected to perform, or is failing or likely to fail to give an accepted standard of education or training.
- (3) If this section applies the authority may do one or more of the things listed in subsection (6).
- (4) Before doing one or more of those things, the authority must give the Secretary of State and the YPLA a notice stating—
  - (a) the matter or matters listed in subsection (2) as to which the authority are satisfied;
  - (b) the reasons why the authority are so satisfied;
  - (c) the thing or things that the authority propose to do;
  - (d) the reasons why the authority propose to do that thing or those things.
- (5) If the authority do one or more of those things, the authority must at the same time give the sixth form college’s governing body a notice stating—
  - (a) the matter or matters listed in subsection (2) as to which the authority are satisfied;
  - (b) the reasons why the authority have decided to do that thing or those things.

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*Status: This is the original version (as it was originally enacted).*

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- (6) The authority may—
  - (a) remove all or any of the members of the sixth form college's governing body;
  - (b) appoint new members of that body if there are vacancies (however arising);
  - (c) give to that body such directions as the authority think expedient as to the exercise of the body's powers and performance of the body's duties.
- (7) The directions that may be given to a governing body under this section include a direction requiring a governing body to make collaboration arrangements (within the meaning of section 166 of the Education and Inspections Act 2006) with such bodies and on such terms as may be specified in the direction.
- (8) Directions may be given to a governing body under this section despite any enactment making the exercise of a power or performance of a duty contingent on the body's opinion.
- (9) The authority may not direct a governing body under subsection (6)(c) to dismiss a member of staff.
- (10) But subsection (9) does not prevent the authority, where the authority consider that it may be appropriate to dismiss a member of staff whom the governing body have power under the governing body's articles of government to dismiss, from giving the governing body such directions under this section as are necessary to secure that the procedures applicable to the consideration of the case for dismissal of that member of staff are given effect to in relation to that member of staff.
- (11) A governing body must comply with any directions given to them under this section.
- (12) An appointment of a member of a governing body under this section shall have effect as if made in accordance with the governing body's instrument of government and articles of government.

#### **56F Appointment by LEAs of members of sixth form college governing body**

- (1) The responsible local education authority for a sixth form college may appoint a person to be a member of the governing body of the sixth form college.
- (2) But no more than two members of the governing body of a sixth form college may at any given time have been appointed under this section.
- (3) Before exercising the power conferred by subsection (1) in relation to a governing body, the responsible local education authority must consult the governing body.
- (4) A member of the governing body of a sixth form college who was appointed before the relevant commencement date by the Learning and Skills Council for England under section 11 of the Learning and Skills Act 2000 is, on and after that date, to be treated for the purposes of subsection (2) of this section as appointed by the responsible local education authority under this section.

- (5) “The relevant commencement date” is the date on which section 123 of the Apprenticeships, Skills, Children and Learning Act 2009 comes into force.

### **56G Intervention policy: sixth form colleges**

- (1) The YPLA must—
- (a) prepare a statement of the policy to be followed by local education authorities with respect to the exercise of their powers under section 56E,
  - (b) keep the statement under review, and
  - (c) if it considers it appropriate in consequence of a review, prepare a revised statement.
- (2) When preparing a statement or revised statement, the YPLA must—
- (a) undertake such consultation as it thinks appropriate;
  - (b) consider any representations made to it about the policy to be set out in the statement.
- (3) Guidance given to the YPLA under section 76 of the Apprenticeships, Skills, Children and Learning Act 2009 in connection with the performance of its functions under this section may, in particular, relate to the form and content of the policy to be set out in a statement or revised statement.
- (4) The YPLA must send a copy of the statement or revised statement prepared by it to the Secretary of State.
- (5) If the Secretary of State approves it the Secretary of State must lay a copy of it before each House of Parliament.
- (6) The YPLA must publish—
- (a) the statement of its policy approved by the Secretary of State;
  - (b) where the Secretary of State approves a revised statement of its policy, the revised statement.
- (7) A local education authority must have regard to the statement most recently published under subsection (6) in exercising, or deciding whether to exercise, any of their powers under section 56E in relation to a sixth form college.

### **56H Intervention by YPLA**

- (1) This section applies if—
- (a) the YPLA proposes to secure the provision of education or training at a sixth form college in the exercise of the power conferred by section 66 of the Apprenticeships, Skills, Children and Learning Act 2009, and
  - (b) the YPLA is satisfied—
    - (i) as to one or more of the matters listed in section 56E(2) in relation to the sixth form college, and
    - (ii) that the circumstances are such that it would be appropriate for the responsible local education authority to do one or

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more of the things listed in section 56E(6) in relation to the sixth form college.

- (2) If this section applies the YPLA may do one or more of the things listed in subsection (5).
- (3) Before doing one or more of those things, the YPLA must give the Secretary of State a notice stating—
  - (a) the matter or matters listed in section 56E(2) as to which the YPLA is satisfied;
  - (b) the reasons why the YPLA is so satisfied;
  - (c) the thing or things that the YPLA proposes to do;
  - (d) the reasons why the YPLA proposes to do that thing or those things.
- (4) If the YPLA does one or more of those things, it must at the same time give the sixth form college's governing body a notice stating—
  - (a) the matter or matters listed in section 56E(2) as to which the YPLA is satisfied;
  - (b) the reasons why the YPLA has decided to do that thing or those things.
- (5) The YPLA may—
  - (a) remove all or any of the members of the sixth form college's governing body;
  - (b) appoint new members of that body if there are vacancies (however arising);
  - (c) give to that body such directions as the YPLA thinks expedient as to the exercise of the body's powers and performance of the body's duties.
- (6) The directions that may be given to a governing body under this section include a direction requiring a governing body to make collaboration arrangements (within the meaning of section 166 of the Education and Inspections Act 2006) with such bodies and on such terms as may be specified in the direction.
- (7) Directions may be given to a governing body under this section despite any enactment making the exercise of a power or performance of a duty contingent on the body's opinion.
- (8) The YPLA may not direct a governing body under subsection (5)(c) to dismiss a member of staff.
- (9) But subsection (8) does not prevent the YPLA, where it considers that it may be appropriate to dismiss a member of staff whom the governing body have power to dismiss under their articles of government, from giving the governing body such directions under this section as are necessary to secure that the procedures applicable to the consideration of the case for dismissal of that member of staff are given effect to in relation to that member of staff.
- (10) A governing body must comply with any directions given to them under this section.

- (11) An appointment of a member of a governing body under this section shall have effect as if made in accordance with the governing body's instrument of government and articles of government.

**56I Appointment by YPLA of members of sixth form college governing body**

- (1) The YPLA may appoint a person to be a member of the governing body of a sixth form college.
- (2) But no more than two members of the governing body of a sixth form college may at any given time have been appointed under this section.
- (3) Before exercising the power conferred by subsection (1) in relation to a governing body, the YPLA must consult the governing body.
- (4) A member of the governing body of a sixth form college who was appointed before the relevant commencement date by the Learning and Skills Council for England under section 11 of the Learning and Skills Act 2000 is, on and after that date, to be treated for the purposes of subsection (2) of this section as appointed by the YPLA under this section.
- (5) "The relevant commencement date" is the date on which section 123 of the Apprenticeships, Skills, Children and Learning Act 2009 comes into force.

**56J Notification by Chief Executive of Skills Funding of possible grounds for intervention**

- (1) This section applies if the Chief Executive of Skills Funding is of the view that any of the matters listed in section 56E(2) applies in relation to a sixth form college.
- (2) The Chief Executive must notify the responsible local education authority and the YPLA of that view.
- (3) The responsible local education authority must have regard to the Chief Executive's view in deciding whether to exercise their powers under section 56E.
- (4) The YPLA must have regard to the Chief Executive's view in deciding whether to exercise its powers under section 56H."