

2003 No. 1377

EDUCATION, ENGLAND

**The School Governance (Procedures) (England) Regulations
2003**

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In exercise of the powers conferred on the Secretary of State by sections 19(3), 23, 52(3) and (4), and 210 (7) of the Education Act 2002(a) the Secretary of State for Education and Skills hereby makes the following Regulations:

PART 1

Introduction

Citation and commencement

1.—(1) These Regulations may be cited as the School Governance (Procedures) (England) Regulations 2003 and shall come into force on 1st September 2003.

(2) These Regulations shall apply only in relation to England.

Revocation

2.—(1) Paragraphs (2) and (3) of regulation 21, regulations 22 to 25, regulations 28 to 30, paragraph (1) of regulation 32, regulation 33, paragraphs (1) and paragraphs (3) to (8) of regulation 34, and regulations 35 to 57 of the Education (School Government) (England) Regulations 1999(b) are hereby revoked.

(2) Paragraph (1) of regulation 8 of the Education (Pupil Exclusions and Appeals) (Maintained Schools) (England) Regulations 2002(c) is hereby revoked.

Interpretation

3.—(1) In these Regulations:

“the 1998 Act” means the School Standards and Framework Act 1998(d);

(a) 2002 c.32; by virtue of the definition of “regulations” in section 212(1), these Regulations made by the Secretary of State apply only in relation to England.

(b) SI 1999/2163.

(c) SI 2002/3178.

(d) 1998 c.31.

“the 2002 Act” means the Education Act 2002;

“the Constitution Regulations” means the School Governance (Constitution) (England) Regulations 2003(a);

“associate member” has the meaning given by regulation 11 of the Constitution Regulations;

“clerk” means the person appointed as clerk to the governing body or, as the case may be, to a committee of the governing body;

“pupil” has the meaning given by section 3 of the Education Act 1996(b).

(2) Any reference in these Regulations to—

- (a) a committee is a reference to a committee established by the governing body to which the governing body has delegated any of its statutory functions;
- (b) a governing body or to the governing body of a school(c) is a reference to the governing body of a school to which the provision applies, and any reference to a governor is a reference to a member of such a governing body;
- (c) the local education authority is to the local education authority that maintains any school to which the provision applies; and
- (d) a school is a reference to a maintained school within the meaning of section 39(1) of the 2002 Act.

Service of notices

4. Any notice required to be served by or under these Regulations shall be served in accordance with section 572 of the Education Act 1996.

PART 2

Appointment, functions and removal of officers

Election of the chair and vice-chair

5.—(1) Subject to paragraph (2) and to section 18 of the 1998 Act(d) (*Power of Secretary of State to appoint additional governors*), the governing body shall elect a chair and a vice-chair from among their number.

(2) Prior to the election, the governing body shall determine the date on which the term of office of the chair and vice-chair shall end which shall be either—

- (a) the first meeting of the governing body after the anniversary of his election as chair or vice-chair; or
- (b) not less than one year or more than four years from the date of his election.

(3) A governor who is paid to work at the school or who is a pupil at the school is not eligible to be chair or vice-chair of the governing body of that school.

(4) The chair or vice-chair may at any time resign his office by giving notice in writing to the clerk to the governing body.

(5) The chair or vice-chair shall cease to hold office—

- (a) when he ceases to be a member of the governing body;
- (b) if he is paid to work at the school in question; or

(a) SI 2003/348.

(b) 1996 c.56; section 3 was amended by paragraph 34 of Schedule 21 to the Education Act 2002.

(c) In accordance with section 24(6) of the 2002 Act, any reference to the governing body of a school is to be construed in relation to a federated school as a reference to the governing body of the federation.

(d) Amended by section 56 of the 2002 Act.

(c) if he is removed from office in accordance with regulation 7 or replaced by a chair nominated by the Secretary of State pursuant to section 18 of the 1998 Act.

(6) Where a vacancy arises in the office of chair or vice-chair, the governing body shall at their next meeting elect one of their number to fill that vacancy, subject to paragraph (3) and to section 18 of the 1998 Act.

(7) Where the chair is absent from any meeting or there is at the time a vacancy in the office of chair, the vice-chair shall act as chair for all purposes.

Delegation of functions to the chair or vice-chair in cases of urgency

6.—(1) The chair shall have power, where in his opinion the circumstances mentioned in paragraph (2) apply, to exercise—

- (a) any function of the governing body which can be delegated to an individual; and
- (b) any function that under regulation 17(2) cannot otherwise be delegated to an individual.

(2) The circumstances are that a delay in exercising the function would be likely to be seriously detrimental to the interests of—

- (a) the school;
- (b) any pupil at the school, or his parent; or
- (c) a person who works at the school.

(3) In paragraph (2), “delay” means delay for a period extending beyond the earliest date on which it would be reasonably practicable for a meeting of the governing body, or of a committee to which the function in question has been delegated, to be held.

(4) Where it appears to the vice-chair that—

- (a) the circumstances mentioned in paragraph (2) apply, and
- (b) the chair (whether by reason of a vacancy in the office or otherwise) would be unable to exercise the function in question before the detriment referred to in that paragraph is suffered,

the reference in paragraph (1) to the chair shall be read as if it were a reference to the vice-chair.

Removal of the chair or vice-chair from office

7.—(1) Subject to paragraph (3), the governing body may by resolution remove the chair from office, unless he has been nominated by the Secretary of State pursuant to section 18 of the 1998 Act.

(2) Subject to paragraph (3), the governing body may by resolution remove the vice-chair from office.

(3) A resolution to remove the chair or vice-chair from office shall not have effect unless the matter is specified as an item of business on the agenda for the meeting, of which notice has been given in accordance with regulation 11(4).

(4) Before the governing body resolve to remove the chair or the vice-chair from office, the governor proposing his removal shall at that meeting state his reasons for doing so and the chair or vice-chair (as the case may be) shall be given an opportunity to make a statement in response, before withdrawing from the meeting.

Appointment and removal of the clerk to the governing body

8.—(1) This regulation is without prejudice to any rights and liabilities which the clerk may have under any contract with the governing body or with the local education authority.

(2) The governing body shall appoint a clerk to the governing body.

(3) The clerk to the governing body must not be—

- (a) a governor;

- (b) an associate member; or
- (c) the head teacher of the school.

(4) Notwithstanding paragraph (2), the governing body may, if the clerk fails to attend a meeting of theirs, appoint any one of their number (who is not the head teacher) to act as clerk for the purposes of that meeting.

(5) The governing body may remove the clerk to the governing body from office.

(6) If at any time the school does not have a delegated budget^(a), the local education authority may remove the clerk to the governing body and appoint a substitute, provided the local education authority consults the governing body before taking such action.

Functions of the clerk to the governing body

9. The clerk to the governing body shall—

- (a) convene meetings of the governing body in accordance with regulation 11;
- (b) attend meetings of the governing body and ensure minutes of the proceedings are produced in accordance with regulation 13(1);
- (c) maintain a register of members of the governing body and of associate members and report any vacancies to the governing body;
- (d) maintain a register of governors' attendance at meetings and report on non-attendance to the governing body;
- (e) give and receive notices in accordance with—
 - (i) regulations 17 (*Notification of Appointments*) and 22 (*Resignation*) of, and paragraph 10 of Schedule 6 (*Notification of disqualification*) to, the Constitution Regulations; and
 - (ii) regulations 5(4) and 11(4) of these Regulations;
- (f) report to the governing body as required on the discharge of his functions; and
- (g) perform such other functions as shall be determined by the governing body from time to time.

PART 3

Meetings and proceedings of governing bodies

Right of persons to attend meetings of the governing body

10.—(1) Subject to regulation 14 and to the Schedule to these Regulations the following persons shall be entitled to attend any meeting of the governing body—

- (a) subject to regulation 15, a governor;
- (b) the head teacher of the school, whether or not he is a governor;
- (c) the clerk to the governing body;
- (d) subject to paragraph (2), an associate member; and
- (e) such other persons as the governing body may determine.

(2) The governing body may exclude an associate member from any part of its meeting which he is otherwise entitled to attend when the business under consideration concerns an individual member of staff or pupil.

^(a) See section 39(2) of the 2002 Act.

Convening meetings of the governing body

11.—(1) The governing body shall hold at least three meetings in every school year.

(2) Meetings of the governing body shall be convened by the clerk and, without prejudice to paragraph (3), in exercising this function the clerk shall comply with any direction given by—

- (a) the governing body; or
- (b) the chair, so far as such direction is not inconsistent with any direction given under subparagraph (a).

(3) Any three members of the governing body may requisition a meeting by giving written notice to the clerk that includes a summary of the business to be transacted; and it shall be the duty of the clerk to convene a meeting as soon as is reasonably practicable.

(4) The clerk shall give written notice of the meeting, a copy of the agenda for the meeting and any reports or other papers to be considered at the meeting at least seven clear days in advance to—

- (a) each governor;
- (b) the head teacher (whether or not he is a governor); and
- (c) any associate member;

provided that where the chair so determines, on the ground that there are matters demanding urgent consideration, it shall be sufficient if the written notice of the meeting states that fact and the notice, copy of the agenda, reports and other papers to be considered are given within such shorter period as he directs.

(5) The power of the chair to direct that a meeting be held within a shorter period shall not apply in relation to any meeting at which—

- (a) the removal of the chair or vice-chair from office,
- (b) the suspension of any governor, or
- (c) a decision to serve notice of discontinuance of the school under section 30 of the 1998 Act

is to be considered.

Proceedings of the governing body

12.—(1) The quorum for a meeting of the governing body and for any vote on any matter at such a meeting, shall be one half (rounded up to a whole number) of the membership of the governing body when complete.

(2) Every question to be decided at a meeting of the governing body shall be determined by a majority of the votes of the governors present and voting on the question.

(3) Where there is an equal division of votes the chair or, as the case may be, the person who is acting as chair for the purposes of the meeting (provided that such person is a governor), shall have a second or casting vote.

(4) No decision to serve notice of discontinuance of the school under section 30 of the 1998 Act whether taken by the governing body or by a committee, shall have effect unless it is confirmed by the governing body at a meeting held not less than 28 days after the meeting at which the decision was made and—

- (a) the matter is specified as an item of business on the agenda for both meetings; and
- (b) notice of the second meeting is given in accordance with regulation 11(4).

(5) The proceedings of the governing body of a school shall not be 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 school having more governors of a particular category than are provided for by the instrument of government (a).

Minutes and papers

13.—(1) The clerk (or the person appointed to act as clerk for the purpose of the meeting in accordance with regulation 8(4)) shall ensure that minutes of the proceedings of a meeting of the governing body are drawn up and signed (subject to the approval of the governing body) by the chair of the next meeting.

(2) Subject to paragraph (3), the governing body shall, as soon as reasonably practicable, make available for inspection by any interested person, a copy of—

- (a) the agenda for every meeting;
- (b) the signed minutes of every such meeting; and
- (c) any report or other paper considered at any such meeting.

(3) The governing body may exclude from any item required to be made available in pursuance of paragraph (2) any material relating to—

- (a) a named person who works, or who it is proposed should work, at the school; or
- (b) a named pupil at, or candidate for admission to, the school; or
- (c) any other matter that, by reason of its nature, the governing body is satisfied should remain confidential.

Restrictions on persons taking part in proceedings

14.—(1) In this regulation and in the Schedule—

- (a) “relevant person” means a governor, an associate member, the head teacher (whether or not he is a governor) or any person appointed as clerk to the governing body or to a committee; and
- (b) any reference to “meeting of the school” is a reference to a meeting of the governing body or of a committee.

(2) Subject to paragraph (4), where—

- (a) in relation to any matter there may be a conflict between the interests of a relevant person and the interests of the governing body, or
- (b) a fair hearing is required and there is any reasonable doubt about a relevant person’s ability to act impartially in relation to any matter,

that person, if present at a meeting of the school at which the matter is the subject of consideration, shall withdraw from the meeting and not vote on the matter in question.

(3) Nothing in this regulation or in the Schedule shall be construed as precluding the governing body, or a committee, from—

- (a) allowing a person who appears to them to be able to give evidence to attend any hearing conducted by them into any matter and to present his evidence; or
- (b) hearing representations from a relevant person acting in a capacity other than that of a relevant person.

(4) A person who is acting as the clerk to a meeting of the school shall not be required to withdraw from a meeting by this regulation or the Schedule unless his appointment to office, his remuneration, or disciplinary action against him is the subject of consideration, but if this regulation or the Schedule would have otherwise required him to withdraw, he shall not act in any capacity other than that of a clerk.

(a) See section 20(1) of the 2002 Act and regulation 19 of the Constitution Regulations.

(5) Where there is any dispute as to whether a relevant person is required by this regulation, or by the Schedule to withdraw from a meeting of the school and not vote, that question shall be determined by the other governors present at the meeting.

(6) The Schedule makes provision in connection with specified conflicts of interest and cases where a relevant person is required to withdraw from a meeting of the school and not vote.

Suspension of governors

15.—(1) Subject to paragraphs (2), (3) and (4), the governing body may by resolution suspend a governor for all or any meetings of the governing body, or of a committee, for a fixed period of up to 6 months on one or more of the following grounds—

- (a) that the governor, being a person paid to work at the school, is the subject of disciplinary proceedings in relation to his employment;
- (b) that the governor is the subject of proceedings in any court or tribunal, the outcome of which may be that he is disqualified from continuing to hold office as a governor under Schedule 6 to the Constitution Regulations;
- (c) that the governor has acted in a way that is inconsistent with the ethos or with the religious character of the school and has brought or is likely to bring the school or the governing body or his office into disrepute; or
- (d) that the governor is in breach of his duty of confidentiality to the school or to any member of staff or to any pupil at the school.

(2) A resolution to suspend a governor from office shall not have effect unless the matter is specified as an item of business on the agenda for the meeting of which notice has been given in accordance with regulation 11(4).

(3) Before a vote is taken on a resolution to suspend a governor, the governor proposing the resolution shall at the meeting state his reasons for doing so, and the governor who is the subject of the resolution shall be given the opportunity to make a statement in response before withdrawing from the meeting in accordance with paragraph 2(2) of the Schedule.

(4) Nothing in this regulation shall be read as affecting the right of a governor who has been suspended to receive notices of, and agendas and reports or other papers, for meetings of the governing body during the period of his suspension.

(5) A governor shall not be disqualified from continuing to hold office under paragraph 5 of Schedule 6 to the Constitution Regulations for failure to attend any meeting of the governing body while suspended under this regulation.

Delegation of functions

16.—(1) Subject to regulation 17 of these Regulations, regulation 3(2) of the Religious Character of Schools (Designation Procedure) Regulations 1998(a) and regulation 6 of the Education (School Government) (Terms of Reference) (England) Regulations 2000(b), the governing body may delegate any of its functions to—

- (a) a committee;
- (b) any governor; or
- (c) the head teacher (whether or not he is a governor).

(2) Where the governing body has delegated functions this shall not prevent the governing body from exercising those functions.

(3) The governing body must review the exercise of functions it has delegated annually.

(a) SI 1998/2535.

(b) SI 2000/2122.

Restrictions on delegation

17.—(1) The governing body may not delegate to an individual functions relating to powers conferred and the duties imposed on governing bodies by or under:

- (a) sections 28, 29, 30 and 31 of, and paragraph 5(4) of Schedule 6 to the 1998 Act (*Alteration or discontinuance of maintained schools*);
- (b) sections 28(a) and 31 of the 1998 Act as they have effect by virtue of Regulations made under Schedule 8 to the 1998 Act in relation to proposals under that Schedule (*Change of category of maintained schools*);
- (c) a scheme made by the local authority under section 48(1) of the 1998 Act, to the extent that it requires the governing body to give their approval to the first formal budget plan of the financial year;
- (d) section 61(1) to (3) of the 1998 Act (*School discipline policies*); and
- (e) sections 88, 89(b), and 89A(c) of the 1998 Act and section 3(1)(cc) of the Diocesan Boards of Education Measure 1991(d)(which relate to the determination of admission arrangements), section 90(1) of the 1998 Act (which relates to the reference to the schools adjudicator of objections about admission arrangements), or section 94(e) of the 1998 Act (in so far as it relates to the determination of appeal arrangements by the governing body).

(2) Except as provided by regulation 6, the governing body may not delegate to an individual functions relating to powers conferred and duties imposed on it by or under Regulations made under section 52(3) and (4) of the 2002 Act (*Exclusion of pupils*)(f);

(3) The governing body may not delegate to an individual any power of the governing body to determine whether any child should be admitted to the school.

(4) The governing body may not delegate functions relating to powers conferred, and the duties imposed, on governing bodies by or under the Constitution Regulations save as provided in those Regulations.

Reporting to the governing body following the exercise of delegated functions

18.—(1) This regulation applies where any function of the governing body has been delegated to or is otherwise exercisable by—

- (a) a governor (including the chair or vice-chair);
- (b) the head teacher (whether or not he is a governor); or
- (c) a committee.

(2) Any individual or committee to whom a function of the governing body has been delegated or that has otherwise exercised a function of the governing body, shall report to the governing body in respect of any action taken or decision made with respect to the exercise of that function.

(a) Amended by section 154 of the 2002 Act.

(b) Amended by paragraph 5 of Schedule 4 to the 2002 Act.

(c) Inserted by section 47(2) of the 2002 Act. Note also that section 93 and Schedule 23 to the 1998 Act are repealed by the 2002 Act.

(d) SI 1991 No.2, as amended by paragraph 14 of Schedule 4 to the 2002 Act.

(e) Amended by section 50 of, and paragraph 8 of Schedule 4 to the 2002 Act.

(f) See the Education (Pupil Exclusions and Appeals) (Maintained Schools) (England) Regulations 2002 SI 2002/3178.

PART 4

Committees of governing bodies

Application of this Part

19. This Part does not apply to any committee established by the governing body to exercise functions relating to the appointment, grievance, conduct and discipline, capability, suspension or dismissal of individual members of the school staff.

Establishment of committees of the governing body

20.—(1) The governing body must determine the constitution, membership and terms of reference of any committee it decides to establish and review them annually.

(2) The quorum for any meeting of a committee shall be determined by that committee, but in any event shall be not less than three governors who are members of the committee.

(3) A chair shall be appointed annually to each committee by the governing body or elected by the committee, as determined by the governing body.

(4) The governing body may remove the chair to any committee from office at any time.

Clerks to committees

21.—(1) The governing body shall appoint a clerk to each committee established by it, who must not be the head teacher of the school.

(2) Notwithstanding paragraph (1), the committee may, if the clerk fails to attend a meeting of theirs, appoint any one of their number (who is not the head teacher) to act as clerk for the purposes of that meeting.

(3) The governing body may remove any clerk appointed to any of their committees from office at any time.

(4) A clerk appointed to a committee of the governing body shall—

- (a) convene meetings of the committee;
- (b) attend meetings of the committee and ensure that minutes of the proceedings are drawn up; and
- (c) perform such other functions with respect to that committee as shall be determined by the governing body from time to time.

Associate members

22.—(1) The membership of any committee may include associate members.

(2) Subject to paragraphs (3) and (4) of this regulation, an associate member shall have such voting rights in a committee to which he is appointed as shall be determined by the governing body at the date of his appointment.

(3) An associate member may not vote on any resolution concerning—

- (a) admissions;
- (b) pupil discipline;
- (c) election or appointment of governors;
- (d) the budget and financial commitments of the governing body.

(4) An associate member may not vote on any other business transacted by any committee unless he was aged 18 or over at the date of his appointment.

(5) An associate member may be removed from office by the governing body at any time.

Right of persons to attend meetings of committees

23.—(1) Subject to regulation 14 and to the Schedule to these Regulations the following persons shall be entitled to attend any meeting of a committee—

- (a) any member of the committee, provided he is not a governor who has been suspended in accordance with regulation 15;
- (b) the head teacher of the school, whether or not he is a member of the committee;
- (c) the clerk to the committee; and
- (d) such other persons as the governing body or the committee may determine.

(2) A committee may exclude an associate member from any part of its meeting which he is otherwise entitled to attend when the business under consideration concerns an individual member of staff or pupil.

Meetings of committees

24. (1) Meetings of a committee shall be convened by the clerk to that committee who, when exercising this function, shall comply with any direction given by—

- (a) the governing body;
- (b) the chair of that committee, so far as such direction is not inconsistent with any direction given under sub-paragraph (a).

(2) Subject to any direction given in accordance with paragraph (1), at least seven clear days in advance the clerk shall give to each member of the committee and to the head teacher (whether or not he is a member of the committee)—

- (a) written notice of the meeting,
- (b) a copy of the agenda for the meeting, and
- (c) any reports or other papers to be considered at the meeting;

provided that where the chair of the committee so determines on the ground that there are matters demanding urgent consideration, it shall be sufficient if the written notice of the meeting states that fact and the notice, agenda and reports or other papers to be considered at the meeting are given within such shorter period as he directs.

(3) The proceedings of a committee shall not be invalidated by—

- (a) any vacancy among their number; or
- (b) any defect in the appointment of any member of the committee.

(4) No vote on any matter shall be taken at a meeting of a committee unless the majority of members of the committee present are governors.

(5) Every question to be decided at a meeting of a committee shall be determined by a majority of the votes of the members of the committee present and voting on the question.

(6) Where there is an equal division of votes the person who is acting as chair for the purposes of the meeting shall have a second or casting vote, provided that such person is a governor.

(7) Minutes of the proceedings of a meeting of a committee shall be drawn up by the clerk to the committee or by the person acting as the clerk for the purposes of the meeting; and shall be signed (subject to the approval of the committee) by the chair of the next meeting of the committee.

(8) Subject to paragraph (9) the committee shall, as soon as reasonably practicable, make available for inspection by any interested person a copy of—

- (a) the agenda for every committee meeting;
- (b) the signed minutes of every such meeting; and
- (c) any report or other paper considered at any such meeting.

(9) The committee may exclude from any item required to be made available in pursuance of paragraph (8) any material relating to—

- (a) a named person who works, or who it is proposed should work, at the school;
- (b) a named pupil at, or candidate for admission to, the school;
- (c) any other matter that, by reason of its nature, the committee is satisfied should remain confidential.

23rd May 2003

David Miliband
Minister of State
Department for Education and Skills

SCHEDULE

Regulation 14

Restrictions on persons taking part in proceedings of the governing body or its committees

Pecuniary interests

1.-(1) Subject to sub-paragraphs (5) and (6), if a relevant person (as defined by regulation 14) has any pecuniary interest, direct or indirect, in a contract, proposed contract or other matter and is present at a meeting of the school at which the contract or other matter is the subject of consideration, he shall at the meeting, and as soon as practicable after its commencement, disclose that fact and withdraw from the meeting during the consideration or discussion of the contract or matter and he shall not vote on any question with respect to the contract or matter.

(2) Subject to this paragraph a relevant person may enter into a contract with the governing body from which he is entitled to profit.

(3) A person shall be treated as having an indirect pecuniary interest in a contract, proposed contract or other matter if—

- (a) he is himself a person with whom the contract was made or has a direct pecuniary interest in the matter under consideration;
- (b) he was nominated or appointed to office by a person with whom the contract was made or is proposed to be made or who has a direct pecuniary interest in the matter under consideration; or
- (c) he is a partner of a person, or he was nominated or appointed to office by a person with whom the contract was made or is proposed to be made or who has a direct pecuniary interest in the matter under consideration;

provided that a person shall not by virtue of this sub-paragraph be treated as having such an interest by reason only of his nomination or appointment by, his membership of, or his employment by, any public body; or by reason of his membership of a corporation or other body if he has no financial interest in any securities of that corporation or other body.

(4) For the purposes of this paragraph, a person shall be treated as having a direct or indirect pecuniary interest in a contract, proposed contract or other matter if a relative (including his spouse or some one living with that person as if he or she were that person's spouse), to his knowledge has, or would be treated as having, such an interest.

(5) For the purposes of this paragraph, a relevant person who is paid to work at the school shall not be treated as having a direct or indirect pecuniary interest in a contract, proposed contract or other matter by reason only of having an interest in the contract or other matter that is no greater than the interest of the generality of those paid to work at the school.

(6) Members of the governing body shall not, by reason of their pecuniary interest in the matter, be prevented from considering and voting upon proposals for the governing body to take out insurance protecting members against liabilities incurred by them arising out of their office and the governing body shall not, by reason of the pecuniary interest of its members, be prevented from obtaining such insurance and paying the premiums.

Office of governor, chair, vice-chair or clerk

2.—(1) This sub-paragraph applies where a relevant person is present at a meeting of the governing body at which a subject of consideration is—

- (a) his own appointment, reappointment, suspension or removal as a member of the governing body;

- (b) his own appointment or removal from office as clerk to, or chair or vice-chair of, the governing body;
- (c) if he is a sponsor governor, any determination under paragraph 2 of Schedule 5 to the Constitution Regulations as to the provision in the instrument of government for sponsor governors.

(2) In any case where sub-paragraph (1) applies, the relevant person shall withdraw from the meeting during the consideration or discussion of the matter in question and shall not vote on any question with respect to that matter.

Pay or appraisal of persons working at the school

3.—(1) This sub-paragraph applies where a relevant person who is paid to work at a school other than as head teacher is present at a meeting of the school at which a subject of consideration is the pay or performance appraisal of any particular person employed to work at the school.

(2) This sub-paragraph applies where a head teacher of a school is present at a meeting of the school at which a subject of consideration is his own pay or performance appraisal.

(3) In any case where sub-paragraph (1) or (2) applies, the person first mentioned in that sub-paragraph shall withdraw during the consideration or discussion of the matter in question and shall not vote on any question with respect to that matter.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations deal with the procedures to be adopted by governing bodies of all maintained schools (including maintained nursery schools) in England from 1st September 2003, whether or not the governing body has yet adopted a new constitution under the School Governance (Constitution) (England) Regulations 2003 SI 2003/ 348.

Part 1 provides for the Regulations to come into force on 1st September 2003 and contains interpretation provisions and provision for service of notices.

Part 2 deals with the appointment and removal of officers of the governing body, and their functions. Regulation 6 deals with delegation of functions to the chair or vice-chair in cases of urgency. Under regulation 8 the governing body is required to appoint a clerk to the governing body, and has the power to remove the clerk from office at any time. Regulation 9 sets out the functions of the clerk to the governing body.

Part 3 provides for meetings and proceedings of the governing body. This part includes provisions for access to meetings, convening meetings, quorum, minutes and their publication. Decisions on all matters are to be made by majority of governors voting.

Regulation 14 and the Schedule deal with conflicts of interest and the circumstances in which governors and others who are otherwise entitled to attend meetings of the governing body or its committees must withdraw and not vote. The general principle is that where there is a conflict between the interests of such a person and the interests of the governing body, or where the principles of natural justice require a fair hearing and there is any reasonable doubt about that person's ability to act impartially, he should withdraw from the meeting and not vote.

Regulation 15 sets out the circumstances in which a governor may be suspended from meetings for up to 6 months. Regulations 16 to 18 relate to delegation of governing body functions.

Part 4 deals with the establishment and proceedings of committees of governing bodies, including clerking arrangements, convening meetings, quorum, voting and publication of minutes. Committees exercising delegated functions relating to the appointment, conduct and discipline, capability, suspension or dismissal of individual school staff are excluded from this Part of the Regulations. Schedules 16 & 17 of the 1998 Act will continue to apply to the exercise of these functions until new Regulations are made under sections 35 & 36 of the 2002 Act.

Regulation 22 deals with the appointment of associate members to committees.

STATUTORY INSTRUMENTS

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