

**2013 No. 1624**

**EDUCATION, ENGLAND**

**The School Governance (Roles, Procedures and Allowances)  
(England) Regulations 2013**

|                               |         |                           |
|-------------------------------|---------|---------------------------|
| <i>Made</i>                   | - - - - | <i>1st July 2013</i>      |
| <i>Laid before Parliament</i> |         | <i>8th July 2013</i>      |
| <i>Coming into force</i>      | - -     | <i>1st September 2013</i> |

The Secretary of State for Education, in exercise of the powers conferred by sections 19(3), 19(8), 21(3), 23, 24, 34(5) and 210(7) of the Education Act 2002(a) and sections 519 and 569(4) of, and paragraphs 3, 15(1)(b), 15(2)(c), 15(2)(e), 15(2)(f) and 15(2)(h) of Schedule 1 to the Education Act 1996(b) makes the following Regulations:

**PART 1**

**Introduction**

**Citation, commencement and application**

**1.**—(1) These Regulations may be cited as the School Governance (Roles, Procedures and Allowances) (England) Regulations 2013 and come into force on 1st September 2013.

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

(3) Parts 2 to 6 of and Schedules 1 and 2 to these Regulations apply only in relation to maintained schools.

(4) Regulation 4 and Schedule 2 to these Regulations make certain amendments, including amendments to the School Governance (Federations) (England) Regulations 2012(c) to apply these Regulations, with modifications, to governing bodies of federations.

(5) Part 7 of and Schedule 3 to these Regulations make amendments to the Education (Pupil Referral Units) (Management Committees etc) (England) Regulations 2007(d) to apply these Regulations to pupil referral units.

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(a) 2002 c.32 (“the 2002 Act”). See section 212 of the 2002 Act for the definition of “regulations”. Section 19 of the 2002 Act was amended by section 38 of the Education Act 2011 (c 21).

(b) 1996 c.56 (“the 1996 Act”). See section 579(1) of the 1996 Act for the definition of “regulations”. Section 569(4) of the 1996 Act was amended by the Education (Wales) Measure 2009 (2009 no.5). Paragraph 3 of Schedule 1 to the 1996 Act was amended by S.I. 2010/1158. Paragraph 15 of Schedule 1 to the 1996 Act was inserted by section 48 of the Education Act 1997 (1997 c.44) and was amended by section 140(1) and (3) of, and paragraph 184 of Schedule 30 to, and Schedule 31 to, the School Standards and Framework Act 1998 (1998 c.31 “the 1998 Act”); S.I. 2010/1158; and section 54(1) of, and paragraph 9 of Schedule 13 to, the Education Act 2011.

(c) S.I. 2012/1035.

(d) S.I. 2007/2978, which was amended by S.I. 2012/1825 and S.I. 2012/3158.

## Interpretation

### 2. In these Regulations—

“the EA 1996” means the Education Act 1996;

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

“the EA 2002” means the Education Act 2002;

“the EIA 2006” means the Education and Inspections Act 2006(b);

“the Constitution Regulations 2007” means the School Governance (Constitution) (England) Regulations 2007(c);

“the Constitution Regulations 2012” means the School Governance (Constitution) (England) Regulations 2012(d);

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

in relation to a governing body to which the Constitution Regulations 2007 apply, “associate member” has the meaning given in regulation 11 of the Constitution Regulations 2007, and in relation to a governing body to which the Constitution Regulations 2012 apply, “associate member” has the meaning given in regulation 12 of the Constitution Regulations 2012;

“a committee” means a committee established by the governing body to which the governing body has delegated any of its functions;

“a governing body” or “the governing body” of a school means the governing body of a school to which the provision applies, and “a governor” means a member of such a governing body;

“the local authority” means the local authority that maintains any school to which the provision applies;

“meeting of the school” means a meeting of the governing body or of a committee;

“receipt” includes other evidence establishing the amount of any expenditure; and

“a school” means a maintained school within the meaning of section 39(1) of the EA 2002.

## Revocation

3. The Education (School Government) (Terms of Reference) (England) (Regulations) 2000(e), the Education (Governors’ Allowances) (England) Regulations 2003(f) and the School Governance (Procedures) (England) Regulations 2003(g) are revoked on 1st September 2013.

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(a) 1998 c.31.

(b) 2006 c.40.

(c) S.I. 2007/957.

(d) S.I. 2012/1034.

(e) S.I. 2000/2122, which was amended by S.I. 2006/2661, S.I. 2010/1172 and S.I. 2012/1845.

(f) S.I. 2003/523, which was amended by S.I. 2010/1172 and S.I. 2012/979.

(g) S.I. 2003/1377, which was amended by S.I. 2003/1916, S.I. 2004/450, S.I. 2007/959, S.I. 2007/3464, S.I. 2009/2680 and S.I. 2010/1172.

## **Amendments to the School Governance (Collaboration) (England) Regulations 2003 and the School Governance (Federations) (England) Regulations 2012**

4. The amendments made by Schedule 2 have effect.

### **Service of notices**

5. Any notice required to be served by or under these Regulations is to be served in accordance with section 572 of the EA 1996.

## **PART 2**

### **Roles of the Governing Body and Head Teacher**

- 6.—(1) The functions of the governing body include the following core functions —
- (a) ensuring that the vision, ethos and strategic direction of the school are clearly defined;
  - (b) ensuring that the head teacher performs his or her responsibilities for the educational performance of the school; and
  - (c) ensuring the sound, proper and effective use of the school's financial resources.
- (2) In exercising their functions the governing body shall—
- (a) act with integrity, objectivity and honesty and in the best interests of the school; and
  - (b) be open about the decisions they make and the actions they take and in particular shall be prepared to explain their decisions and actions to interested parties.
- (3) The governing body must appoint a clerk with a view to ensuring their efficient functioning and must have regard to advice from the clerk as to the nature of the governing body's functions.
- (4) The head teacher's responsibilities include—
- (a) the internal organisation, management and control of the school; and
  - (b) the educational performance of the school.
- (5) The head teacher is accountable to the governing body for the performance of all his or her responsibilities.
- (6) The head teacher must comply with any reasonable direction of the governing body.
- (7) In this regulation the term "governing body" includes the temporary governing body of a new school.

## **PART 3**

### **Appointment, Functions and Removal of Officers**

#### **Election of the chair and vice-chair**

- 7.—(1) Subject to section 67 of the EIA 2006 (power of Secretary of State to appoint additional governors), the governing body must elect a chair and a vice-chair from among their number.
- (2) Prior to the election of the chair and vice-chair, the governing body must determine the date on which the term of office of the chair and vice-chair will end.
- (3) A governor who is employed at the school as a teacher or as any other member of the school's staff 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 their office by giving notice in writing to the clerk to the governing body.
- (5) The chair or vice-chair ceases to hold office—

- (a) if that person ceases to be a member of the governing body;
- (b) if that person is employed at the school as a teacher or as another member of the school's staff; or
- (c) if that person is removed from office in accordance with regulation 9 or replaced by a chair nominated by the Secretary of State pursuant to section 67 of the EIA 2006.

(6) Where a vacancy arises in the office of the chair or vice-chair, the governing body must elect one of their number to fill that vacancy at their next meeting.

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

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

**8.**—(1) Where paragraph (2) applies, the chair may exercise—

- (a) any function of the governing body which can be delegated to an individual; and
- (b) any function that under regulation 19(2) cannot otherwise be delegated to an individual.

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

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

(3) In paragraph (2), “delay” means delay until 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 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 is to be read as if it were a reference to the vice-chair.

### **Removal of the chair or vice-chair from office**

**9.**—(1) The governing body may by resolution remove the chair from office, unless the chair has been nominated by the Secretary of State pursuant to section 67 of the EIA 2006.

(2) The governing body may by resolution remove the vice-chair from office.

(3) A resolution to remove the chair or vice-chair from office will not have effect unless the matter is specified as an item of business on the agenda for the meeting.

(4) Before the governing body resolve to remove the chair or vice-chair from office, the governor proposing the chair or the vice-chair's removal must at that meeting state their reasons for doing so and the chair or vice-chair, as the case may be, must 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**

**10.**—(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 authority.

(2) In fulfilling their duty under regulation 6(3) the governing body must ensure that the clerk is not—

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(a) “Pupil” is defined at section 3 of the 1996 Act.

- (a) a governor; or
- (b) the head teacher of the school.

(3) Notwithstanding regulation 6(3), the governing body may, if the clerk fails to attend a meeting of the school, appoint any one of their number (who is not the head teacher) to act as clerk for the purposes of that meeting.

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

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

### **Functions of the clerk to the governing body**

**11.** The clerk to the governing body must—

- (a) attend meetings of the governing body and ensure minutes of the proceedings are produced in accordance with regulation 15(1);
- (b) maintain a register of members of the governing body and of associate members and report any vacancies to the governing body; and
- (c) perform such other tasks as may be determined by the governing body from time to time.

## **PART 4**

### **Meetings and Proceedings of Governing Bodies**

#### **Right of persons to attend meetings of the governing body**

**12.—**(1) Subject to regulations 12(2), 16 and 17 and to Schedule 1, the following persons are entitled to attend any meeting of the governing body—

- (a) a governor;
- (b) the head teacher of the school, whether or not that person is a governor;
- (c) the clerk to the governing body;
- (d) 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 the associate member is otherwise entitled to attend when the business under consideration concerns an individual member of staff or pupil.

#### **Convening meetings of the governing body**

**13.—**(1) The governing body must hold at least three meetings in every school year.

(2) Meetings of the governing body are to be convened by the clerk to the governing body and in exercising this function the clerk must 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 to the governing body, and the clerk must convene a meeting as soon as is reasonably practicable.

(4) Subject to paragraph (5), the clerk of the governing body must give written notice of the meeting and a copy of the agenda for the meeting at least seven clear days in advance to—

- (a) each governor;

- (b) the head teacher (whether or not that person is a governor);
- (c) any associate member; and
- (d) the local authority, where an agenda item for the meeting involves consideration of a change of school category.

(5) Where the chair so determines, on the ground that there are matters demanding urgent consideration, it will be sufficient if the written notice of the meeting states that fact and the notice and the copy of the agenda are given within such shorter period as the chair directs.

(6) The power of the chair to direct that a meeting be held within a shorter period does 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 SSFA 1998,

is to be considered.

(7) At the discretion of the chair, any item of business may be discussed at a meeting irrespective of whether the matter is specified as an item of business on the agenda for the meeting, subject to the exceptions at regulations 14(5), 14(6) and 17(2) of these Regulations and at regulation 7(2) of the School Governance (Federations) (England) Regulations 2012(a).

### **Proceedings of the governing body**

**14.**—(1) The quorum for a meeting of the governing body and for any vote on any matter at such a meeting, is one half (rounded up to a whole number) of the membership of the governing body.

(2) For the purposes of paragraph (1) the membership of the governing body does not include vacant positions on the governing body.

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

(4) 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), will have a second or casting vote.

(5) No decision to serve notice of discontinuance of the school under section 30 of the SSFA 1998 whether taken by the governing body or by a committee, will 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 the matter is specified as an item of business on the agenda for both meetings.

(6) No decision to change the name of the school will have effect unless the matter is specified as an item of business on the agenda for the meeting.

(7) The proceedings of the governing body of a school 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) any person not having received written notice of the meeting or a copy of the agenda for the meeting.

(8) Notwithstanding the requirements of paragraphs (1) to (3), the governing body may approve alternative arrangements for governors to participate or vote at meetings of the governing body including but not limited to by telephone or video conference.

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(a) S.I. 2012/1035.

## **Minutes and papers**

**15.**—(1) The clerk to the governing body (or the person appointed to act as clerk for the purpose of the meeting in accordance with regulation 10(3)) must 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 at the next meeting.

(2) Subject to paragraph (3), the governing body must, 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;
- (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**

**16.** In this regulation and in Schedule 1—

- (a) “relevant person” means a governor, an associate member, the head teacher (whether or not that person is a governor) or any person appointed as clerk to the governing body or to a committee.
- (b) Subject to sub-paragraph (d), where in relation to any matter—
  - (i) there may be a conflict between the interests of a relevant person and the interests of the governing body,
  - (ii) a fair hearing is required and there is any reasonable doubt about a relevant person’s ability to act impartially, or
  - (iii) a relevant person has a pecuniary interest,that person, if present at a meeting of the school at which the matter is the subject of consideration, must disclose his or her interest, withdraw from the meeting and not vote on the matter in question.
- (c) Nothing in this regulation or in Schedule 1 may be construed as precluding—
  - (aa) the governing body, or a committee, from 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 or her evidence; or
  - (bb) the governing body, or a committee, from hearing representations from a relevant person acting in a capacity other than that of a relevant person; or
  - (cc) a relevant person from entering into a contract with the governing body from which the relevant person is entitled to profit.
- (d) A person who is acting as the clerk to a meeting of the school is not required to withdraw from a meeting by this regulation or Schedule 1 unless the person’s appointment to office, remuneration, or disciplinary action against that person is the subject of the consideration, but if this regulation or Schedule 1 would have otherwise required the person to withdraw, that person must not act in any capacity other than that of a clerk.
- (e) Where there is any dispute as to whether a relevant person is required by this regulation or by Schedule 1 to withdraw from a meeting of the school and not vote, that question must be determined by the other governors present at the meeting.
- (f) Schedule 1 makes provision about pecuniary interests and other specified conflicts of interest.

## **Suspension of governors**

**17.**—(1) Subject to paragraphs (2) to (4), the governing body may by resolution suspend a governor for all or any meetings of the school, 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 or her employment;
- (b) that the governor is the subject of proceedings in any court or tribunal, the outcome of which may be that the governor is disqualified from continuing to hold office as governor under Schedule 6 to the Constitution Regulations 2007 or Schedule 4 to the Constitution Regulations 2012;
- (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 the office of governor into disrepute; or
- (d) that the governor is in breach of the duty of confidentiality to the school or to any member of staff or pupil at the school.

(2) A resolution to suspend a governor from office does not have effect unless the matter is specified as an item of business on the agenda for the meeting.

(3) Before a vote is taken on a resolution to suspend a governor, the governor proposing the resolution must at the meeting state the reasons for doing so, and the governor who is the subject of the resolution must be given the opportunity to make a statement in response before withdrawing from the meeting in accordance with regulation 16(b).

(4) Nothing in this regulation may 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 their suspension.

(5) A governor may not be disqualified from continuing to hold office under paragraph 5 of Schedule 6 to the Constitution Regulations 2007 or paragraph 9 of Schedule 4 to the Constitution Regulations 2012 for failure to attend any meeting of the governing body while suspended under this regulation.

## **Delegation of functions**

**18.**—(1) Subject to regulation 19 of these Regulations and regulation 3(2) of the Religious Character of Schools (Designation Procedure) Regulations 1998<sup>(a)</sup> the governing body may delegate any of its functions to—

- (a) a committee;
- (b) any governor other than a governor who is the head teacher; or
- (c) where the function being delegated does not directly concern the head teacher, the head teacher (whether or not that person is a governor).

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

(3) The governing body must review the exercise of functions they have delegated, annually.

## **Restrictions on delegation**

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

- (a) section 30 of the SSFA 1998 and sections 15 and 16 of the EIA 2006 (discontinuance of maintained schools);

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(a) S.I. 1998/2535, which was amended by S.I. 2003/1558 and S.I. 2005/2912.



(b) a scheme made by the local authority under section 48(1) of the SSFA 1998, to the extent that it requires the governing body to give their approval to the first formal budget plan of the financial year; and

(c) regulation 17 (suspension of governors).

(2) Except as provided by regulation 8, 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 51A of the EA 2002 (exclusion of pupils).

(3) The governing body may not delegate functions relating to powers conferred, and the duties imposed, on governing bodies by or under the Constitution Regulations 2007 or the Constitution Regulations 2012, as the case may be, save as provided in those Regulations.

(4) The governing body may not delegate functions relating to powers conferred, and the duties imposed, on governing bodies by or under regulations made under sections 35 and 36 of the EA 2002 save as provided for in those regulations.

### **Reporting to the governing body following the exercise of delegated functions**

**20.**—(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 that person 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, must report to the governing body in respect of any action taken or decision made with respect to the exercise of that function.

## **PART 5**

### **Committees of Governing Bodies**

#### **Application of this Part**

**21.** 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**

**22.**—(1) The governing body must determine the constitution, membership and terms of reference of any committee they decide to establish and review them annually.

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

(3) A chair must 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**

**23.**—(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 authority.

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

(3) Notwithstanding paragraph (2), 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 a clerk for the purposes of that meeting.

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

(5) A clerk appointed to a committee of the governing body must—

- (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 tasks with respect to that committee as may be determined by the governing body from time to time.

### **Associate members**

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

(2) Subject to paragraph (3), an associate member has such voting rights in a committee to which that person is appointed as are determined by the governing body.

(3) An associate member may not vote on any business transacted by any committee unless the associate member is aged over 18.

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

### **Rights of persons to attend meetings of committees**

**25.**—(1) Subject to regulation 16 and to Schedule 1 the following persons are entitled to attend any meeting of a committee—

- (a) any member of the committee, provided that the member of the committee is not a governor who has been suspended in accordance with regulation 17;
- (b) the head teacher of the school, whether or not that person 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 the associate member is otherwise entitled to attend when the business under consideration concerns an individual member of staff or pupil.

### **Meetings of committees**

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

- (a) the governing body;
- (b) the chair of the 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 must give to each member of the committee and to the head teacher (whether or not that person is a member of the committee)—

- (a) written notice of the meeting; and
- (b) a copy of the agenda for the meeting,

provided that where the chair of the committee so determines on the ground that there are matters demanding urgent consideration, it will be sufficient if the written notice of the meeting states that fact and the notice and agenda are given within such shorter periods as the chair directs.

(3) The proceedings of a committee will 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 may be taken at any 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 must 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 will have a second or casting vote, provided that such person is a governor.
- (7) Minutes of the proceedings of a meeting of a committee must be drawn up by the clerk to the committee or the person acting as the clerk for the purposes of the meeting; and must be signed (subject to the approval of the committee) by the chair at the next meeting of the committee.
- (8) Subject to paragraph (9) the committee must, 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.

## PART 6

### Governors' Allowances

#### **Interpretation**

**27.** In this Part—

- (a) “governing body” includes a temporary governing body constituted under section 34 of the EA 2002; and
- (b) “governor” includes a member of a temporary governing body.

#### **Schools with delegated budgets**

**28.—**(1) The governing body of a maintained school which has a delegated budget<sup>(a)</sup> may determine to pay a member of that governing body or any associate member payments by way of allowance referred to in paragraph (2).

(2) Such payments by way of allowance are in respect of expenditure necessarily incurred for the purpose of enabling the governor or associate member to perform any duty, being either payments made under regulation 30, or payments at a rate determined by the governing body, and made on provision of a receipt for the relevant amount.

#### **Schools without delegated budgets**

**29.—**(1) The allowances referred to in paragraph (2) are prescribed as allowances which a local authority for a maintained school which does not have a delegated budget, may—

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(a) “Delegated budget” has the same meaning as at Part 2 of the 1998 Act.

- (a) pay to a governor of the school, in accordance with the provisions of a scheme made by the local authority for the purposes of section 519 of the EA 1996;
- (b) pay to an associate member of the governing body of the school.

(2) Such payments by way of allowance are in respect of expenditure necessarily incurred for the purpose of enabling the governor or associate member, to perform any duty, being either payments made under regulation 30, or payments at a rate determined by the authority, and made on provision of a receipt for the relevant amount.

### **Travel payments for private vehicles**

**30.** Payments for travel expenses incurred through the use of private cars, pedal cycles and motorcycles must be at a rate not exceeding Her Majesty's Revenue and Customs' Approved Mileage Rate(a) as published from time to time.

## **PART 7**

### **Pupil Referral Units**

**31.** The amendments made by Schedule 3 have effect.

1st July 2013

*Lord Nash*  
Parliamentary Under Secretary of State  
Department for Education

## **SCHEDULE 1**

Regulation 16

### **Pecuniary Interests and Other Specified Conflicts of Interest**

#### **Pecuniary interests**

**1.**—(1) For the purposes of regulation 16(2), a pecuniary interest includes an interest in a contract or a proposed contract where—

- (a) a relevant person was nominated or appointed to office by a person with whom the contract was made or is proposed to be made;
- (b) a relevant person is a business partner of a person with whom the contract was made; or
- (c) a relative of a relevant person (including the relevant person's spouse, civil partner or someone living with the relevant person as if the other person were the relevant person's spouse or civil partner), to the knowledge of the relevant person had, or would be treated as having, such an interest.

(2) For the purposes of regulation 16(b), a relevant person will not be treated as having a pecuniary interest in any matter—

- (a) provided that the value of the relevant person's pecuniary interest is no greater than that of the pecuniary interest commonly held by those paid to work at the school;
- (b) by reason only of the fact that the relevant person was nominated or appointed to office by, is a member of, or is employed by, any public authority; or

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(a) HMRC's Approved Mileage Rates are available at: <http://www.hmrc.gov.uk/rates/travel.htm>

- (c) by reason only of the fact that the relevant person is a member of a corporation or other body if the relevant person has no financial interests in any securities of that corporation or other body.

(3) For the purposes of this paragraph “public authority” includes any person who performs functions which are of a public nature.

(4) Governors are not, by reason of their pecuniary interest in the matter, prevented from considering and voting upon proposals for the governing body to take out insurance protecting their members against liabilities incurred by them arising out of their office and the governing body is not, by reason of the pecuniary interest of their members, 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) the relevant person’s own appointment, reappointment, suspension or removal as a member of the governing body;
- (b) the relevant person’s own appointment or removal from office as clerk to, or chair or vice-chair of, the governing body; or
- (c) if the relevant person is a sponsor governor, any determination under paragraph 2 of Schedule 5 to the Constitution Regulations 2007 as to the provision in the instrument of government for sponsor governors.

(2) In any case where sub-paragraph (1) applies the relevant person’s interests will be treated for the purpose of regulation 16(b) as being in conflict with the governing body’s interests.

### **Pecuniary interests**

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 the head teacher’s own pay or performance appraisal.

(3) In any case where sub-paragraph (1) or (2) applies, the relevant person’s interest will be treated for the purpose of regulation 16(b) as being in conflict with the governing body’s interests.

## **SCHEDULE 2**

Regulation 4

### **Amendments**

#### **Amendments to the School Governance (Collaboration) (England) Regulations 2003**

1.—(1) In the School Governance (Collaboration) (England) Regulations 2003(a)—

- (a) in regulation 2 for the definition of “the Procedures Regulations” substitute the following definition—

““the Procedures Regulations” means the School Governance (Roles, Procedures and Allowances) (England) Regulations 2013;”;

- (b) for regulation 3 substitute—

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(a) S.I. 2003/1962, which was amended by S.I. 2007/957.

**“3.—(1)** Two or more governing bodies (“collaborating governing bodies”) may arrange for any of their functions to be discharged jointly, subject to regulations 18(2), 18(3), 19(3), 19(4) and 20(2) of the Procedures Regulations.

(2) Where collaborating governing bodies make arrangements in accordance with paragraph (1) in respect of their functions relating to individual members of the school staff, the regulations made under sections 35 and 36 of the EA 2002 apply to the discharge of such functions.

(3) Where collaborating governing bodies make arrangements in accordance with paragraph (1), they may also delegate the discharge of any of their functions that may be delegated to a committee under regulation 18 of the Procedure Regulations, to a committee established by them.

(4) For the purposes of these Regulations, in regulations 17 to 19 of the Procedures Regulations—

“committee” means a committee established in accordance with paragraph (3);

“governor” means a member of any of the collaborating governing bodies;

“governing body” means a collaborating governing body; and

“head teacher” means the head teacher of any of the schools.”;

(c) in paragraph (4) of regulation 6, after “Regulations 2007” insert “or regulation 17 of, and paragraphs 2 to 15 of Schedule 4 to the School Governance (Constitution) (England) Regulations 2012”; and

(d) in sub-paragraph (a) of paragraph (1) of regulation 7, for “15” substitute “17”.

## **Amendments to the School Governance (Federations) (England) Regulations 2012**

**2.** In the School Governance (Federations) (England) Regulations 2012(a)—

(a) In regulation 5 for ““the Procedures Regulations” means the School Governance (Procedures) (England) Regulations 2003” substitute ““the Roles and Procedures Regulations” means the School Governance (Roles, Procedures and Allowances) (England) Regulations 2013”.

(b) After Regulation 20 insert—

## **“Part 3A**

### **Roles of the governing body and head teacher**

**20A—(1)** The functions of the governing body include the following core functions—

(a) ensuring that the vision, ethos and strategic direction of the federation and each federated school are clearly defined;

(b) ensuring that the head teacher of the federation or of each federated school performs his or her responsibilities for the educational performance of the school or schools as the case may be; and

(c) ensuring the sound, proper and effective use of the financial resources of the federation and each federated school.

(2) In exercising their functions the governing body shall—

(a) act with integrity, objectivity and honesty and in the best interests of the federation; and

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(a) S.I. 2012/1035.

- (b) be open about the decisions they make and the actions they take and in particular shall be prepared to explain their decisions and actions to interested parties.
- (3) The governing body must appoint a clerk with a view to ensuring their efficient functioning and must have regard to advice from the clerk as to the nature of the governing body's functions.
- (4) The responsibilities of the head teacher of the federation or of each federated school include—
  - (a) the internal organisation, management and control of the federated schools, or school as the case may be; and
  - (b) the educational performance of the federated schools, or school as the case may be.
- (5) The head teacher of the federation or of a federated school is accountable to the governing body for the performance of all his or her responsibilities.
- (6) The head teacher of the federation or of a federated school must comply with any reasonable direction of the governing body.
- (7) In this regulation the term “governing body” includes the temporary governing body of new schools intending to federate.”
- (c) In regulation 7 in paragraph 2, for “regulation 11(4) of the Procedures Regulations” substitute “regulation 13(4) of the Roles and Procedures Regulations”.
- (d) In regulation 24 for “The Procedures Regulations” substitute “The Roles and Procedures Regulations”.
- (e) For Schedule 6 substitute—

## “SCHEDULE 6

Regulation 24

### Modification of the Roles and Procedures Regulations

1. In Regulation 2—
  - (a) for “in relation to a governing body to which the Constitution Regulations 2007 apply, “associate member” has the meaning given in regulation 11 of the Constitution Regulations 2007, and in relation to a governing body to which the Constitution Regulations 2012 apply, “associate member” has the meaning given in regulation 12 of the Constitution Regulations 2012;” substitute ““associate member” has the meaning given by regulation 20 of the School Governance (Federations) (England) Regulations 2007 or regulation 20 of the School Governance (Federations) (England) Regulations 2012 as the case may be”; and
  - (b) after “a committee” means a committee established by the governing body to which the governing body has delegated any of its functions;” insert “a reference to a federation that includes schools maintained by more than one local authority is to be taken as a reference to each local authority;”.
2. Omit regulation 6.
3. In regulation 10(2) and 10(3) for “regulation 6(3)” substitute “regulation 20A(3) of the School Governance (Federations) (England) Regulations 2012.
4. In regulation 7 for paragraph (3) substitute the following paragraph—
 

“(3) A governor who is employed at a federated school as a teacher or as any other member of the school’s staff is not eligible to be chair or vice-chair of the governing body of the federation in question.”.
5. In regulations 7(5)(b), 8(2)(a), 8(2)(b), 8(2)(c), 13(6)(c), 14(5), 14(6), 15(3)(a), 15(3)(b), 17(1)(c), 17(1)(d), 26(9)(a) and 26(9)(b), and at paragraph 3(1) of Schedule 1, for “the school” substitute “a federated school.”.

6. In regulation 14(7) for “a school” substitute “a federation”.
7. In regulations 10(3), 16(a) 18(1)(b), 18(1)(c), 20(1)(b) and 23(3) for “head teacher” substitute “head teacher of the federation or of a federated school.”.
8. In regulations 10(2)(b), 12(1)(b), 23(2), 25(b) and at paragraph 3(2) of Schedule 1, for “head teacher of the school” substitute “head teacher of the federation or of a federated school.”.
9. In regulations 13(4)(b) and 26(2) for “head teacher” substitute “the head teacher of the federation or of each federated school”.
10. In regulation 21 for “the school staff” substitute “a federated school’s staff”.
11. In regulation 10(5) for “if at any time the school does not have a delegated budget” substitute “if at any time neither the federation nor any federated school within it has a delegated budget”.
12. In regulation 28 for “maintained school which has a delegated budget” substitute “federation where the federation or any maintained school within it, as the case may be, has a delegated budget”.
13. In regulation 29 for “maintained school which does not have a delegated budget” substitute “a federation where the federation, or each of the schools within it, as the case may be, does not have a delegated budget”.
14. In Schedule 1, in sub-paragraph 1(2)(a), for “provided that the value of the relevant person’s pecuniary interest is no greater than that of the pecuniary interest commonly held by those paid to work at the school;” substitute “provided that the value of the relevant person’s pecuniary interest is no greater than that of the pecuniary interest commonly held by those paid to work at one or more schools within the federation;”.

## SCHEDULE 3

Regulation 31

### Pupil Referral Units

#### **Amendment to the Education (Pupil Referral Units) (Management Committees etc) (England) Regulations 2007**

1.—(1) The Education (Pupil Referral Units) (Management Committees etc) (England) Regulations 2007 are amended as follows.

(2) For regulation 21 substitute—

#### **“Application of the School Governance (Roles, Procedures and Allowances) (England) Regulations 2013**

21. Regulation 2 and Parts 2 to 5 of, and Schedule 1 to the School Governance (Roles, Procedures and Allowances) (England) Regulations 2013 apply in relation to units as they apply in relation to maintained schools to the extent and with the modifications prescribed in Schedule 3 (and in those regulations as so applied any expression defined in regulation 2 has the same meaning as in that regulation).”

(3) For Schedule 3 substitute—



## “SCHEDULE 3

### Application and amendment of regulations regarding school governance

#### **Application, with modification, of the School Governance (Roles, Procedures and Allowances) (England) Regulations 2013**

1. Wherever they appear—
  - (a) for references to the “governing body” substitute references to the “committee”;
  - (b) for references to the “governor” substitute references to a “member”;
  - (c) for references to the “school” substitute references to the “unit or, as the case may be, the group of units”;
  - (d) for references to a “committee” substitute references to a “sub-committee of the committee”; and
  - (e) omit references to associate members.
2. In regulation 2(2)—
  - (a) following the definition of “a committee” insert the following definition—

“a reference to “the functions of the committee” is a reference to the functions conferred on, or applied to, the committee by any enactment and functions delegated to the committee by the local authority”;
  - (b) omit the definition of “a school”.
3. In regulation 7—
  - (a) in paragraph (1), omit “Subject to section 67 of the EIA 2006 (Power of Secretary of State to appoint additional governors)”;
  - (b) in sub-paragraph (5)(c), omit “or replaced by a chair nominated by the Secretary of State pursuant to section 67 of the EIA 2006”.
4. In regulation 9(1) omit “, unless the chair has been nominated by the Secretary of State pursuant to section 67 of the EIA 2006”.
5. In regulation 13(6) omit sub-paragraph (c).
6. In regulation 14 omit paragraphs (5) and (6).
7. In regulation 17—
  - (a) in sub-paragraph (1)(b) for “Schedule 6 to the Constitution Regulations” substitute “Schedule 2 to these Regulations”;
  - (b) in sub-paragraph (1)(c) omit “or with the religious character”; and
  - (c) in paragraph (5) for “paragraph 5 of Schedule 6 to the Constitution Regulations 2007” substitute “paragraph 4 of Schedule 2 to these Regulations”.
8. In regulation 18(1) omit “and regulation 3(2) of the Religious Character of Schools (Designation Procedure) Regulations 1998”.
9. Omit regulation 19(1), (3) and (4).
10. In regulation 23—
  - (a) for paragraph (2) substitute—

“(2) The committee must appoint a clerk to each sub-committee, who must not be the teacher in charge of the unit or, as the case may be, of any unit in the group of units.”; and

(b) in paragraph (3) omit “of theirs”.

11. Omit regulation 24.”

**Amendment to the Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007(a)**

2. Omit regulation 25 of the Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007.

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations deal with procedures to be adopted by governing bodies of all maintained schools in England from 1st September 2013. They simplify the requirements that were previously in the Education (School Government) (Terms of Reference) (England) Regulations 2000, the Education (Governors’ Allowances) (England) Regulations 2003 and the School Governance (Procedures) (England) Regulations 2003, all of which are revoked by these Regulations.

Part 2 makes provision for the roles of the governing body and head teacher and replaces, in a reduced form, requirements which were previously provided for in the Education (School Government) (Terms of Reference) (England) Regulations 2000. It introduces 3 core functions on which governing bodies should focus. Regulation 6(3) places a new obligation on governing bodies to have regard to advice from the clerk to the governing body as to the nature of the governing body’s functions.

Part 3 deals with the appointment and removal of officers of the governing body, and their functions. The main changes from the School Governance (Procedures) (England) Regulations 2003 are to simplify some of the requirements in relation to the setting of the chair’s and vice-chair’s term of office in regulation 7 and to reduce the list of functions of the clerk to the governing body in regulation 11.

Part 4 provides for meetings and proceedings of the governing body. The main changes from the previous regulations include the provision at regulation 14(7)(d) that the proceedings of a governing body are not invalidated by any person not having received written notice of the meeting or a copy of the agenda for the meeting. In addition, regulation 14(8) provides the governing body may approve alternative arrangements for governors to participate or vote at meetings of the governing body including but not limited to by telephone or video conference. A number of restrictions on a governing body delegating its functions have also been removed.

Part 5 deals with the establishment and proceedings of committees of governing bodies.

Part 6 deals with allowances to be paid to governors and associate members and replaces, in a reduced form, requirements which were previously provided for in the Education (Governors’ Allowances) (England) Regulations 2003.

Regulation 4 and Schedule 2 to these Regulations make amendments including to the School Governance (Federations) (England) Regulations 2012 (“the Federations Regulations”). The amendments to the Federations Regulations have the effect of applying these Regulations, with modifications, to governing bodies of federations.

Part 7 and Schedule 2 to these Regulations make amendments to the Education (Pupil Referral Units) (Management Committees etc) (England) Regulations 2007 (“the MCR”) by applying Regulation 2 and Parts 2 to 5 of, and Schedule 1 to these Regulations to management committees of Pupil Referral Units. Section 19 of the Education Act 1996 (“EA 1996”) requires local

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(a) S.I. 2007/2979, paragraph 1 to Schedule 3 of which was revoked by S.I. 2008/3093. S.I.2007/2979, was also amended by S.I.2010/1074 (which was revoked by S.I. 2010/1919), S.I. 2012/1201, S.I.2012/1825 and S.I. 2012/3158.

authorities (“LAs”) to make arrangements for the provision of suitable education at school or otherwise than at school for those children of compulsory school age who, by reason of illness, exclusion from school or otherwise may not for any period receive suitable education unless such arrangements are made for them. Any school established and maintained by a local authority which is specially organised to provide education for such children is known as a Pupil Referral Unit (“unit”) (see section 19 (2B) of EA 1996). Paragraph 3 of Schedule 1 to EA 1996 provides for adaptations and modifications of the application of enactments to units. Paragraph 15 of Schedule 1 to EA 1996 provides that regulations may make provision for the delegation of LA functions, or for the prohibition of delegation of LA functions, to the management committees of units.

Regulation 31 provides that the MCR are amended as set out in Schedule 2. New regulation 21 of the MCR applies these Regulations to units with the modifications set out in the new Schedule 3 to the MCR.

Paragraph 2 of Schedule 1 to the EA 1996 provides that references in any enactment to the head teacher of a school must be read in relation to a unit as a teacher in charge of the unit (whether known as the head teacher or not).

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen since the net impact is to reduce burdens and constraints on governing bodies, and it will not impose any additional cost or increase the workload for schools or local authorities.

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£5.75

UK2013070223 07/2013 19585

<http://www.legislation.gov.uk/id/uksi/2013/1624>

ISBN 978-0-11-110085-1



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